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## **Africa Power and Politics Programme: A research progress report**

Presented to the Consortium Advisory Group, Nov 2009

Edited by David Booth



« Pour une action publique ancrée dans les réalités locales »

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# 1 Overview

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## 1 Introduction

The five-year objective of the Africa Power and Politics Programme is a body of policy-relevant, grounded theory about ‘what works’. We are driven by the observation that in much of Africa things that ought to work, or indeed used to work, do not do so. We start from a sense that some of this has to do with the kinds of approaches to institutional transformation that have been advocated and implemented on the African continent over the last 50 years. Africa’s development over this long period has been stunted at best; and we think reasons include the promotion– by nationalist leaders, donor agencies, NGOs and others – of institutional arrangements which fail to connect with the reality of how people live, work and do politics in the region. Rather than being embedded in local realities, institutional solutions have been sought in the realm of abstract ideals, with often perverse consequences. Our aim is to use research to map out the elements of an alternative approach.

*As the programme approaches its mid-term, we need to be asking where we stand in relation to this objective.* We should be revisiting the question, addressed in previous meetings of the Consortium Advisory Group, of whether it is a reasonable objective to have. Does the research so far provide pointers to the kind of policy alternatives that are worth considering, at least in broad terms? What are the indications that the kind of research we are undertaking is capable of generating the kind of findings we require?

There is also a more specific question. The empirical research we are doing is addressing the APPP’s overarching research problem through the lens of particular institutional areas. We have seven research streams, each focused on a distinct cluster of empirical topics. Where do we now stand with regard to the challenge of pulling together the threads of this work so that they can be woven into a single tapestry of analytical conclusions?

This progress report offers an upbeat set of answers to these questions. Its focus is strictly on research and ideas. Readers wanting a more comprehensive account of the programme’s progress with respect to its outputs in the areas of research training, organisational capacity strengthening and policy influence, will find this in our second Annual Report, dated July 2009. As explained in overview here and illustrated with reference to the seven work-streams in the subsequent sections, the prospects of being able to answer all of the above questions in a positive way are looking good.

There are three aspects to this, which are treated in turn:

- The research streams are taking broadly shared approach to empirically grounded theory development. Even though they are operating on various geographical scales and time schedules, using a variety of techniques, they are exploring the issues in ways that conform to a common conceptual structure.

- ❑ The convergence on substance is deepening. Not only the initial ‘hunches’ or working hypotheses, but also some of the emerging findings, of the different research streams are exhibiting clear affinities, and intellectual synergies are beginning to develop.
- ❑ The potential for shedding light on our questions through research is by no means exhausted by the work that is under way. Most of the streams have identified avenues of enquiry or additional research questions that they need to pursue but in order to do so that will require financial support beyond what is now in the programme’s budget.

## 2 Common approach

*The common approach to building theory, which we claimed this time last year as a recent and somewhat untested acquisition, has been consolidated.* At the same time, the affinities between the seven research streams in terms of their basic conceptual structure have become stronger.

With respect to commonality of approach, the streams are now all firmly led within the perspective of moving from an initial hunch or loosely formulated working hypothesis towards more carefully conceptualised and more clearly testable propositions about the institutional determinants of better and worse development outcomes. We are using both surveys and purely ethnographic methods in different parts of the programme, but we share a commitment to close observation of ‘real governance’ patterns, and to digging beneath the surface of things. To enable us to move from evidence of what is happening to analytical propositions about cause and effect, we are drawing inspiration from the rich body of methodological thinking that now exists on the roles of case studies and multi-case comparison in causal inference and theory development. The initial thinking and discussion which enabled us to reach a degree of consensus on these matters is now part of the programme’s published record.

With regard to common conceptual structure, there are two main points. First, the streams are all investigating the determinants of better and worse performance in terms of the provision of key public goods. The actual public goods that are most relevant obviously vary across the streams (market coordination in Business and Politics 2; accessible dispute resolution in Local Justice, and so on). Some streams (e.g. Local Governance) have had to take some hard decisions to focus only on a limited set of important public goods from a potentially very long list. Thus the commonality of focus is achieved at quite an abstract level. Nonetheless, the adoption of a common way of conceptualising the outcomes at this high level does help the research streams to speak to each other and to the same overarching agenda.

As explained a year ago, the public goods concept has several attractions for APPP. First, it captures better than the obvious final outcome variables (e.g. growth rates or human development scores) the common core of what is wrong with African development performance. It relates well to the stark coexistence of private opulence and public squalor which characterises both fast-growing and slow-growing economies, and to the very widespread pattern in which the rich typically find private solutions to most of their problems while the poor continue to be unable to address theirs in even elementary ways.

Second, it facilitates access to a body of analytical methods relating to stakeholder choices, collective action problems and interactive ‘games’ which has the potential to enrich our thinking on what it means to say that a particular institutional arrangement or approach to governance reform is ‘not

working'. This does not mean that we are committed to working with highly abstract and simplified choice models. It does mean that we are encouraged to think seriously about what to say about the individual and collective choices that lie between institutional patterns and their outcomes.

While the focus on variations in public goods provision (or, as some of us still prefer to say, the provision of public goods and services) gives us a common handle on outcomes, the streams are also relating to each other in that they are giving priority to examining counter-conventional institutional approaches. This is best illustrated with the following summary statement, from the Second Annual Report, of the current working hypotheses of the streams:

- ❑ ***Business and politics I*** (developmental patrimonialism?): Patron-client relations per se are not bad for business and pro-poor economic growth, but rather the way clientelism is organised (or not organised), in Africa as in Asia.
- ❑ ***Business and politics II*** (cotton sector reform): Imported organisational models work better when embedded in local political realities and informal solutions to collective action problems.
- ❑ ***Local governance and leadership***: 'Traditional' and other non-elective leaderships can be better for the provision of essential public goods because they can attain a more effective combination of authoritative decision-making and embeddedness in local society.
- ❑ ***Parliamentarians***: Getting more effective legislative oversight involves recognising and managing, not ignoring, the conflicting pressures on MPs from constituents and other clients.
- ❑ ***State bureaucracies***: Limited formalisation of informal practices may control predatory behaviour better than standard, western/bureaucratic, reforms.
- ❑ ***Local justice provision***: Informal provision is better for overcoming the widespread denial of justice, but informal does not necessarily mean traditional or non-state; in fact, hybrid state-supported institutions may provide informal justice which is more accessible, effective and legitimate.
- ❑ ***Religion and education***: Public education may work better, on balance and in important respects, after reincorporating or borrowing elements from Islamic schools.

### 3 Further convergence on substance

As the progress reports which follow make clear, *a number of research streams have already put a significant amount of flesh on the bones represented by the summaries above using some combination of secondary and primary research*. In all cases, the suggestions are tentative, but there is quite enough evidence to make clear that interesting and non-standard conclusions are likely to be reached. Some of the elements are also capable of being expressed as 'nuggets of insight' for the purposes of showing the immediate relevance of the research to our funders.

For example, Business and Politics 1 is working with a three-part hypothesis about the institutional mix that creates a good investment climate, other things being equal. This adapts to the African context some elements taken from theorisation about Asia by Mustaq Khan, Dani Rodrik and Peter Evans, and brings these together with elements relating specifically to the ways politics has been structured in African history. What we expect to emerge is a validated causal theory which not only describes certain regularities in the way institutional patterns are associated with the outcomes that

interest us, but also reveals the mechanisms by which the causal linkages work. For example, what accounts for the different implications of centralised and decentralised political rent collection turns out to be mechanisms analogous to the ones involved in classic treatments of the ‘tragedy of the commons’ and the means by which it can be avoided.

In the Local Governance and Leadership stream, fieldwork is most advanced in Malawi. It remains to be seen to what extent similar patterns emerge from the current research in the other countries. However, at least for Malawi there seems to be a good deal of evidence from different quarters about both the proximate and the policy-related institutional causes of common forms of breakdown in public goods provision. The proximate causes that are in the frame involve some typical ‘social mechanisms’ – weakening of rule-enforcement, resulting in free-riding; breakdown of trust, preventing effective collective action; and vicious circles of change. The policy-related institutional factors that are in the dock include ‘democracy’ as understood and promoted in Malawi; the weakness of efforts (other than those of some evangelical churches) to give people back the sense of responsibility for each other that they have lost as a result of urbanisation and horizontal economic diversification; and ambitious but insufficiently coordinated public sector reforms.

This seems to me promising work. What we need in the programme are research conclusions that, like these, go beyond pointing out that extant approaches to institutional reform (donor supported and otherwise) have perverse outcomes, and begin to specify in some detail *why* this is the case – again, spelling out what the mechanisms are. Research which takes the first step is common enough – indeed, it is one of the mainstays of academic research in Africa. The second is much harder, and this is one reason why so little research gives any real clues as to how policies might be restructured to better effect.

So far, in the Local Governance and Leadership stream, we are mostly working with examples of inadequate and even deteriorating public goods provision. We have not yet stumbled upon any examples which show the way forward ‘in action’, so to speak – although we have yet to hear about what is potentially the most suggestive experience, that of Rwanda. This makes it particularly important that we are capable, if necessary, of reasoning from the detail of how things are breaking down now to conclusions about how they could be expected to work if policies were reconstructed in suggested ways.

The case of the State Bureaucracies stream may be different. The initial research for this stream, which has focused on the forest services in Senegal and Niger, suggests an illuminating contrast between the little that has been achieved by top-down reforms of the New Public Management and Good Governance sort, and what appears to be achievable with bottom-up ‘micro-reforms’ and other local management initiatives. Unlike the official reforms, these informal initiatives start from the actual governance pattern, which includes considerable informal privatisation of public service delivery, and ameliorate the way this works, apparently with benefits for service users and the public as well as for the providers themselves.

This very interesting initial finding needs to be confirmed by further fieldwork. In particular, we need to know more about whether the initiatives in question are to any extent replicable. It will be helpful in this sense if we are able to support the proposed extension of the research stream to livestock and irrigation services in Niger. It is already clear, however, that we may in due course be able to offer some generalisations about how the *purposes* of key government services might be met more effectively if a pragmatic bending of those organisations’ *rules*, to adapt them better to reality, were

more often possible. This would be a second-best solution, no doubt, but an improvement compared with what would otherwise be likely.

The Ghana component of the Local Justice stream is suggesting another type of conclusion. It has found that the first-best solution to some public service challenges may be neither *ad hoc* pragmatism on the part of front-line providers, nor on the other hand the revival of chiefly institutions, but a modern yet domestic hybrid in which formal rules are combined with informal, socially rooted, codes. The experience of the CHRAJ, discussed in some detail in section 7 of this report, seems to be an example. Evidence which will permit us to reflect further on this theme of how formal institutions can be blended in more and less productive and enabling ways is also being generated by Business and Politics 2 (the concept of the ‘culture of cotton’), the stream on Parliamentarians (alternative patterns of response to clientelist pressures) and the Religion and Education stream (embedding public education socially without compromising fundamentals).

#### **4 New initiatives requiring funding**

***APPP has reached the point where its ability to deliver on its principal objectives is constrained by funding.*** The two years of support from Irish Aid permitted the Local Governance and Leadership stream to get established in six countries and to make particular headway in Malawi, Tanzania and Uganda. However, these funds are now fully spent. The five-year DFID funds have been front-loaded, with a particularly large proportion of the total budget scheduled for spending in the current 2009/10 financial year. This reflects the fact that major fieldwork has now been launched in all the streams. This has two effects. First, the plans for 2010/11 which are described in the following sections are in several instances somewhat under-funded. Second, the new activities included in the proposals are not funded at all. We are therefore seeking the support of the CAG for a request to DFID to release additional funds for these initiatives, as well as for continued efforts to gain the support of donor agencies other than DFID which share the programme’s main objectives.

The particular proposals for which we propose to bid for supplementary funding are:

- The sector case studies for Business and Politics 1 in Rwanda (mining, horticulture and Tristar).
- Further fieldwork to open up the black box of the ‘cotton’ culture in West Africa, and link up with researchers on the same topic in Côte d’Ivoire, Cameroon or Togo.
- The final phase of Local Governance and Leadership research, including additional fieldworker training, in Malawi, Rwanda, Tanzania and Uganda.
- Broadening of the Parliamentarians research to encompass party systems and at least one additional country.
- Extension of the State Bureaucracies stream by means of the proposed re-analysis of existing LASDEL data on livestock and irrigation services in Niger and a scoping of one administrative service in one other country (possibly the district court bureaucracy in Ghana).
- Full replication of the Ghana Local Justice research in Uganda, with substantial involvement of Ghanaian researchers.
- Scoping of the feasibility of extending the Religion and Education stream to Muslim-minority or religiously divided countries and Anglophone countries.

Although communications and training issues are not discussed in this report, it ought to be mentioned that we are also developing initiatives in these areas which can only be pursued with additional funding. In particular:

- We are facing a staffing bottleneck in providing enough overall coordination to our international communications team.
- The APPP Management Board committed itself to the early organisation of a team-building and training event for the relatively large and dynamic cadre of junior researchers now involved in the different streams of work. This has been provisionally scheduled for early 2010 somewhere in Africa.

## 2 Business and politics 1: Developmental patrimonialism?

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### 1 Rationale

Business and Politics Stream 1 (subtitled ‘Developmental Patrimonialism’) is premised on the idea that *the current orthodoxy on business and politics in Africa is flawed*. Conventional good governance wisdom holds that poverty-reducing growth in Africa depends upon liberalized markets, a transparent regulatory environment, strong, formal property rights underpinned by the rule of law, arm’s length relations between the state and business interests (pursued through formal business associations), and a macro-accountability context of competitive multi-party elections.

APPP is sceptical of this viewpoint for three main reasons:

- ❑ It does not fit the experience of business-politics relations in East and South-East Asian countries, which have made dramatic reductions in poverty over the past few decades.
- ❑ It does not fit the experience of African economies in periods during which they have attracted the most investment and grown most rapidly.
- ❑ There are historical, political, and financial reasons to think that property rights will remain loosely defined, and African business-politics relations clientelistic for some time; there is also evidence that multi-party politics can erode investor confidence in prevailing African conditions.

In consequence, it is incumbent on analysts and donors *to find ways of working with the grain of African business-politics realities* that are more growth-enhancing than the present arrangements. To this end, the APPP is employing *a twin-track approach*: firstly taking a fresh look at the variables that underpin enhanced investment through a *rigorous and systematic comparative analysis* of Asian and African cases; secondly conducting *intensive field studies* in more promising African countries.

### 2 Work to date

Following an inception phase (Year One), Year Two was spent mining the business and politics literature for insights into the variables that have historically underpinned improved growth and investment in Asia and Africa, and in translating these insights into a conceptual and theoretical framework. Outputs include:

- ❑ A literature review of five African and six Asian countries (Kelsall and Cooksey), which has informed
- ❑ A paper on concepts and methods in the study of business and politics (Kelsall), informing,
- ❑ A planning workshop for the business and politics programme, held in Tanzania in February 09 (Kelsall, Booth, Cooksey and Shao attending).
- ❑ A paper presented to a workshop on business and the state, organized by the PAPI team at IDS Sussex (Kelsall and Booth with Cooksey, 2009).

Year Three has built on this analysis, exploring and refining the variables via cross-country fuzzy-set Boolean analysis, more intensive historical process-tracing reviews of select countries, and fieldwork with our local partners in Tanzania. A summary of work to date follows:

- Initial work on a diverse comparative case analysis of business and politics in four coastal and four landlocked countries, designed to test our emergent hypotheses (Kelsall and Booth).
- Authored in draft form historical surveys of business and politics in Tanzania and Malawi, dating from the colonial period to the present day (Kelsall, Cooksey, Shao, Cammack).
- Initial work on business and politics relations in four sectors of the Tanzanian economy: tourism, sugar, horticulture, gold.
- Design of a programme of research in Rwanda.

### 3 Findings to date

The Year Two literature reviews, when combined with our conceptual and theoretical analysis, led us to the *proto-hypothesis* that the climate for investment and business rests on three crucial variables:

- The degree to which the economic technocracy is insulated from political interference
- The degree to which politics is managed so as to forestall ethnic or religious conflict, and
- The degree to which economic rent collection is centralized

These insights *distinguish our approach* from orthodox and counter-orthodox positions on the business-investment climate in a number of ways:

- ❑ The orthodox approach regards large-scale rent-seeking as unequivocally bad for business and investment. Our approach hypothesizes that *rent-seeking need not be fatal*, and in some cases can actually facilitate a strong business and investment climate, *provided it is organized in the right way*.
- ❑ The counter-orthodox approach of Mushtaq Khan and others recognizes that organization of rent-seeking is a crucial variable. However, this contention has *not been systematically explored in an African context*, nor has its interaction with more political variables.
- ❑ The orthodox approach regards competitive multi-party elections as the accountability mechanism most likely to ensure investment and growth-friendly economic policy. By contrast, our approach postulates that in some conditions, for example where ethnic or religious cleavages are prominent, *a more inclusive and less competitive form of democracy may be more appropriate*.

In Year Three we have begun to explore, test, and refine these hypotheses, via a desk-based study of 4 landlocked (Malawi, Uganda, Rwanda, Burkina Faso) and 4 coastal (Tanzania, Kenya, Ivory Coast, Ghana) countries examining, in particular, patterns of multiple and conjunctural causation. Preliminary results suggest that insulating the economic technocracy from political pressures is *a necessary but not sufficient* contributor to a good investment and business climate. The latter obtains only if sound technocracy *is combined* with one or both of the following: centralized rent-seeking or managed democracy. We are still in the process of deepening our analysis and refining our variables, but insofar as these variables are found to hold, it suggests that *policy-makers in Africa need to pay attention to managing both rents and politics in unorthodox ways* (ways which might, nevertheless, be closer to the historical grain of things). Another way of looking at this is to say that developmental

states in Africa are *likely to be hybrid*, borrowing economic technocratic methods from the West, but combining them with modes of political organization and resource extraction that are more characteristically ‘African’ (although these modes, part-patrimonial in nature, are not uncharacteristic of the early-modern history of the West).

Year Three has also seen us begin fieldwork in Tanzania, which for several years has been one of the continent’s biggest recipients of non-oil FDI. We are concentrating on four particularly promising sectors: tourism, sugar, horticulture, and gold. Early findings from tourism in Zanzibar show that in spite of large-scale rent-seeking and the prevalence of informal rather than formal procedures in site acquisition, the investment and business climate is reasonably predictable and secure: lack of transparency has not prevented rapid development in the tourism industry. However, further investment is currently being delayed, among other things, by uncertainty surrounding the forthcoming elections, when there will be a presidential change. This prompts questions, already apparent from the cross-country case analyses, about how to minimize the disruption caused by political successions. Findings from sugar, meanwhile, suggest that while around 2/3 of the industry is dominated by relatively productive, efficient operations, generating employment and incomes through, among other things, outgrower schemes, the remaining chunk has all the characteristics of a major rent-seeking operation. We are trying to ascertain the extent to which the decision to award this part of the industry to its current operators is an example of politically strategic rent-generation with pay-offs (for example in terms of political stability), and the extent to which it is merely an opportunistic exercise in looting. Further research into these and other sectors is likely to reveal much more about the way in which informal institutions deter or facilitate investment, and where the line falls between the two.

Later this year we plan to embark on an intensive study of selected economic sectors in Rwanda, providing a point of comparison with Tanzania. Landlocked and resource poor, Rwanda seems an unpropitious environment for investment, but it has been growing quite strongly, and has recently been recognized by the World Bank for its business reforms.

#### **4 Forthcoming outputs**

The coming financial year should see the completion of our comparative case analysis of four coastal and four landlocked countries: a journal article or articles are expected. It should also see the completion of sector analyses in Tanzania and Rwanda. Working papers and or articles/proto book chapters are anticipated.

#### **5 Future work**

Although we are only at mid-point, it is becoming evident that the Business and Politics research could be expanded in a number of directions, time and funding permitting:

- *Expanding the data set.* Additional countries could be added to the current set of coastal and landlocked countries, leading to a complete set. Where their analysis reveals unusual or unlikely causal combinations either facilitating or undermining investment, these should be researched in more depth.

- ❑ ***More work on causal mechanisms and underlying variables.*** With centralized rent-seeking a key variable, we ought to dig deeper into the underlying causal mechanisms (for example tragedy of the commons problems) that make decentralized rent-seeking so destructive. In addition, we need to explore the *contexts* and *processes* that make rent-centralization likely or possible. We ought also to dig deeper into the contexts where *managed politics* becomes necessary and possible. As relationships between variables are revealed, more work should be done on the direction of causality, if any, between them. For example, is centralized rent-seeking more likely where politics is managed?
  
- ❑ ***Additional sector analysis.*** Successful sectors could be paired with less successful sectors in neighbouring countries, providing additional causal leverage. Potentially highly developmental sectors, for example manufacturing, could also be added. Additional studies could focus on investment by specific ethno-racial groups, e.g. Indians, Chinese, Lebanese, Africans, with a view to examining potential variation in the kinds of signals different categories of investor need to feel confident, and the types of networks, formal and informal, that facilitate investment practice.
  
- ❑ ***The problem of political succession.*** Our work so far suggests that political succession crises play a crucial role in undermining promising investment climates. Research could be undertaken to investigate the institutional arrangements in which the damaging effects of succession crises are minimized.

### *Reference*

Kelsall, Tim, and David Booth with Brian Cooksey (2009) 'Developmental Patrimonialism? The Management of Clientelist Crises and Business-Politics Relations'. Paper presented to the workshop on Public Action and Private Investment, hosted by the Centre for the Future State, Brighton, April.

### 3 Business and politics II: Institutions, power and norms in African cotton sector reforms

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#### 1 Research motivations

Economic reform programs have been undertaken in most African cotton sectors since the early 1990s. Though varying in character and modalities, such reforms aim to enhance competition and liberalization, in the hope to increase profitability in the sector. Attention to cotton is justified by the fact that this commodity is one of the few cash crops with important poverty reduction implications, and was one of the top items in the (now suspended) Doha Round of WTO negotiations. Research has, to some extent, caught up with this heightened level of international attention to cotton. An interesting body of research has accumulated on the complex features of cotton sector value chains, on both national (e.g. stagnant productivity) and international (e.g. subsidies) constraints to African countries' production and exports, and on the implications of reforms for sector economic performance across different countries.

However, putting in place a new institutional framework for cotton and merely changing market incentives will not be sufficient to improve performance in the sectors. Market failures actually increased in the early reforming countries (Uganda, Tanzania and to some extent Zambia), and may falter even in those countries which are striving to establish a organizational framework that supports market coordination (Mali, Burkina). This is so, because the degree of market coordination does not depend just on the formal organizational structure (degree of market competition, regulation of market operations, and so on) but on underlying political realities, informal relations between actors, and prevailing norms about cotton production. Some research exists on the role of institutional and cultural factors in shaping sector governance and policies, but rests mainly on single case studies.

In other words, we need to understand much better and *in a more systematic way* how governance *works in practice* within cotton sectors, so to be able to identify which elements and mechanisms underlying the functioning of the sector (prevailing practices, shared norms, rules of the game, and power relations) may be more supportive of the type of change that leads to better developmental outcomes. By taking an explicitly comparative approach, our research aims to generate conclusions and policy implications that are generalizable to a greater extent, thus contributing towards building a theory on 'governance that works' within African productive sectors.

In order to minimize the variability induced by different historical trajectories, we have chosen to focus on the West African Francophone cotton producing countries, since they share some common elements in the way cotton production was organized during the late colonial period, and subsequently restructured. The commonalities and the path dependency of a recognizable 'French model' (even in its diversity) enable us to focus on the variability that matters the most to this project: differences in the underlying institutional, political and cultural realities that may operate within similar formal organizations and structures. The three main producer countries of Benin, Burkina Faso and Mali have been chosen for this first stage of the study.

## 2 Research questions

The project research questions may be summarized as follows:

- What are the main market failures in the cotton sectors under study? To what extent have the recent and ongoing reform programs tried to improve the degree of market coordination?
- How do the various stakeholders view the situation? What are their main goals, intentions and actions? What is the role of informal institutions, social norms and principles in affecting actors' strategies and constraints? And what are the associated outcomes, in terms of market coordination?
- What is the relationship between the sphere of formal rules and that of informal norms? Is there any systematic relationship between the way formal and informal spheres interact with one another and the likelihood that positive developmental outcomes occur?
- What are the similarities of the identified mechanisms and relationships across our selected countries? Which distinctive social, political, institutional and cultural features in each country increases or decreases the chance that cotton sectors market failures are improved upon?

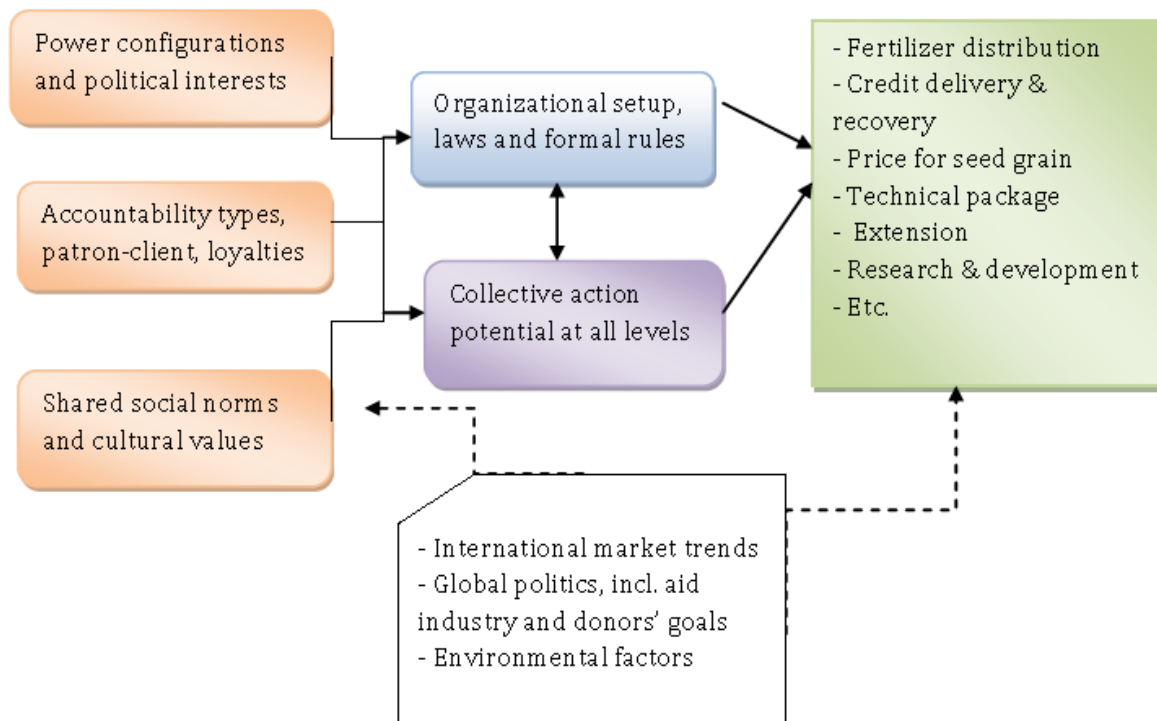
The research aims to address these questions by analyzing the different ways in which i) the formal goals and modalities that typically dominate reforms in productive sectors (e.g. cost reduction, efficiency of operations, privatization, liberalization, stakeholders' consultation), have been modified, adapted or otherwise incorporated in the reform process actually carried out by the three chosen countries; and ii) the informal rules of behavior, locally shared norms, and political realities have shaped the course of the reform process itself and affected outcomes. A positive developmental outcome in the cotton sector reform process is associated with an increased degree of market coordination (coordination between the essential operations and phases of cotton production and marketing along the value chain).

## 3 Hypotheses

As part of the wider APP program, this research project espouses the notions that: i) political actions and people's choices do not generally follow formal rules and codified laws, but are more likely shaped by a host of informal norms, unwritten principles, and social obligations that better account for people's motives and interests; and ii) successful development outcomes may ensue from harnessing some of the positive forces residing in traditional norms and institutions, and in unwritten but widely locally accepted practices; all resources that too often donors and policymakers fail to recognize.

The diagram below lays out a framework for understanding the determinants of cotton sector market coordination. Key components of the latter are: a timely delivery of high-quality fertilizers, pesticides, and seeds; sufficient credit provision coupled with good repayment records; prompt payment of farmers for seed grains after harvest; technical assistance, and so on.

Our main hypothesis is that cotton sector performance along these key dimensions cannot be simply explained in terms of the formal organizational variables (intermediate variables), as commonly done in the economic literature. Underlying configurations of power, norms and institutions (ultimate determinants to the far left) actually shape the ways in which the organizational set up operates. Moreover, these ultimate determinants may also influence performance outcomes through channels that are outside the formal sphere, by affecting collective action potential, from the local community level to the level of national politics. Our research endeavors to uncover the mechanisms, if any, through which societal, political and cultural factors are harnessed in collective initiatives so to enhance market coordination; and test their relative strengths vis-à-vis solutions founded on more formal and legalistic approaches.



#### 4 Activities during 2008-2009

The period from summer 2008 until spring 2009 (FY 2) was mostly spent in the following activities: i) a scoping visit to Mali; ii) locate researchers and build the country teams; and iii) identify the main research questions and the methodologies for investigating them. Let me state few points for each.

My visit to Mali in June 2008 was useful for understanding the main debates and sentiments regarding cotton sector reforms. The fear that the slow pace of the reform process could impair the chance to say anything conclusive was actually unfounded: the pace of the reform itself appears to be highly revelatory of the clash between opposing notions of how cotton sectors ought to be managed, and of the various political, social and cultural forces that are at work behind each of them. Mali thus provides a very interesting case for comparison: due to the high stakes at play and the highly contested reform climate, in what was until recently the largest Sub-Saharan African cotton producer, key actors seem to act very cautiously and move in ways meant to preempt threats from potential opponents, and mistakes. A model of compromise and consensual politics is emerging: it remains to

be seen whether it will effectively restore the so much needed market coordination to the cotton sector, and, if so, how – whether by buying in key stakeholders by offering something valuable to each, or by appealing to sentiments of national pride, or by giving a newer space to cotton producer national associations. The process deserves, in any event, to be closely observed.

The team building exercise took a lot of time in terms of both selection of associates and relation building. The network of researchers includes, for each country team, people from the following institutions:

- Mali : *Institut d'Economie Rural* in Bamako; *Centre de Cooperation Internationale en Recherche Agronomique pour le Développement*, CIRAD
- Burkina Faso: University of Ouagadougou, Burkina; University of Jerusalem, Israel
- Benin: *Laboratoire d'Etudes et de Recherche sur les Dynamiques Sociales et le Développement Local*, LASDEL ; *Laboratoire d'Analyse Régionale et d'Expertise Sociale*, LARES ; and *Danish Institute for International Studies*, DIIS, Copenhagen).

Once the teams were established, we then worked on identifying the key research questions and an appropriate mixed methodology to address these. The latter includes semi-structured interviews with key stakeholder representatives in the three capitals, questionnaires for individual cotton producers and other key players at village level, as well as focus group discussions with cotton cooperatives.

The period from spring 2009 to spring 2010 (FY 3) has been for fieldwork (spring-summer 2009), and is now being devoted to data analysis and write-up. Fieldwork in each of the three countries consisted of two components, the national and the village level, which are highly interdependent. While reforms are decided mainly in the capital, one can realize their specific impact only by looking at what happens in the rural areas. Moreover, while power configurations and the political and social capital at the national level clearly set the context for any reform process, local norms and practices may actually be the specific resources that enable, or alternatively, constrain the implementation of the agreed upon policy.

A workshop was organized in Bamako, Mali, on May 18-19, 2009 in order to get the three teams together in one place for planning purposes; key stakeholders in Mali were also invited to participate in the discussion. The workshop was very productive and useful and there were about 25 participants each day.

## **5 Research progress: emerging themes**

Not only do stakeholders in the cotton sectors have different goals and objectives, but individual decisions also respond to a multiplicity of priorities and considerations, some of which coincide with the actors' short-term interests, while some others do not. For instance, many cotton producers base their production decisions on food security considerations and family obligations, more than on the goal of maximizing income derived from cotton. Local banks may extend credit decisions based on personal knowledge and proximity with farmers rather than on proven reliability. Government officials may feel the pressure to contain losses in the cotton sector rather than to maximise its growth and poverty reducing potential; and so on. All these multiple factors, economic and non-economic, self-interested and altruistic, short and long-term, by affecting cotton related decisions, also impinge on the degree of market coordination, which is our dependent variable.

Failure to gauge these factors appropriately in current analyses of cotton sectors, and consequently to design policies that explicitly take them into account, may explain why reforms often do not lead to the desired results (at least not in terms of market coordination). Donors in Mali express often the frustration with the fact that the cotton sector is run as a social enterprise, while they would like to turn it into a business. These comments show limited appreciation of the context of individual decision making at all levels, from the high-rank politician to the farmer. The challenge should be not one of changing the way people think (although this can ultimately occur as an effect of institutional changes and incentives), but one of adapting policies to the way people think ('working with the grain'). If actors' main motives encompass more than profit (or utility) maximization, then reforms that provide just new economic incentives cannot alter much people's decision-making. The findings from our fieldwork support this type of conclusion. Positive outcomes, when they have occurred in our three countries, seem to have arisen out of situations where the gap between institutional arrangements and the driving forces behind individual actions was somewhat narrowed. In other words, when widely shared norms and principles could emerge.

Two examples can be cited: the emergence of unconventional paradigms, and the 'culture of cotton' as a resource for collective action. As far as the first is concerned, it is striking to note that the reformed cotton sector in Burkina Faso, which is considered (generally, and by donors in particular) the most successful cotton sector among our three countries, is also the least close to the canonic privatized and liberalized model. After having privatized the main cotton company, changed incentive structures within and improved performance, the state subsequently repurchased the company's majority share, allegedly to rescue it from financial difficulties and intervening management problems. As a consequence of this reshuffling and other reforms in the sector, the state finds itself as the majority shareholder in a reformed cotton system, and where market coordination has indeed increased. Far from the textbook model, this privatization 'à la Burkinabe' seems to have worked well (there are actually a number of caveats but these do not depend on the adopted 'privatization model'). I would call this an example of *unconventional paradigm*, which resumes the idea that policies are the most successful when they combine the mixture of autochthon and imported ideas that best suits the case in point. The context at hand is one, for instance, where privatization of companies in key sectors is frowned upon, and where it is still too costly to set up appropriate systems for regulating private economic operators. In the APPP language, this is an example of hybrid institutional solution.

The same goes for liberalization: entry of private operators, despite the formal commitment to liberalization, is in practice limited in both Burkina and Mali (more correctly, it will be so once the reform is completed), because the widely shared support for a vertical integration model is much stronger than the principle of competition (perceived as foreign and distant), even if the latter could bring about higher prices to producers. Our interviews in Mali show, indeed, that farmers put a premium on a stable relationship with a powerful company, if the later is able to deliver all the inputs required at the right time – even at the price of their own profit. It is not pushing this point too far by stating that, to farmers, it seems better to be the weak actor in a known and predictable patron-client relationship, rather than a party to a potentially more egalitarian relationship, which may be, however, out of reach in practice due to the lack of necessary capabilities and negotiating instruments. In Burkina Faso, deeply-rooted political practices and the persistence of an oligarchic system go hand in hand with a supposedly modernized institutional and regulatory framework. The friction between efficiency concerns and private political interests goes up or down, according to the level of accountability of farmer leadership, and their willingness and ability to pressure officials to maintain a correct contractual environment for smallholders. Finally, in Benin, where the degree of market

liberalization is in principle the greatest, the collusion between officials and private traders is a staple ingredient in their 'network' model of liberalization; and price collusion is as high as in the less liberalized markets.

As a result, we can tentatively advance the dual thesis that: i) behind any set of formal institutions and their history there exist distinctive practices, know-how, shared principles among the actors involved, which can be referred to, in our case, as the 'culture of cotton'; and ii) the latter may persist sometimes after formal organizational change, and subsequently restrict the number of options that are considered 'normatively' acceptable by the actors concerned. This 'culture of cotton', which some donors and economists refer to as a set of traditional, narrow-minded, and misplaced practices and beliefs, is often perceived as a constraint to reforms, and an obstacle to the development of the cotton sector. Our research instead turns the question upside down and asks: could this set of elements be harnessed instead as a resource for development? How and under what conditions?

## **6 Expected outputs and future plans**

The project is expected to yield, during winter 2009/10, a series of working papers, presenting and discussing results from fieldwork in each of the country studied, as well as a comparative analysis. Work in progress in Mali and Burkina will be presented at a panel on the 'future of cotton sector reforms' at the African Studies Association Annual Meeting, which will take place in New Orleans on November 19-22, 2009.

In the next financial year, we would like to build upon these findings and expand the research, both by carrying out more in depth study in the three countries, and by including more case studies. Our past fieldwork will yield some interesting results and provide some tentative hypotheses, but these will need to be investigated more closely. For instance, the concept of unconventional paradigms is insightful and reasonable, yet we should examine to a greater extent whether the apparently positive results can be sustained over time. Can hybrid solutions last over time on the basis of conformity to actors' motivations, preferences and actions? Or are they subject to reversal, because their foundation is tenuous and is, for instance, an expedient devised by one party to achieve a favorable outcome that is only superficially acceptable to others? Concerning the notion of 'cotton culture' as a set of resources for solving collective action, we would need to examine it better so that it does not remain a 'black box', a ready-made expedient. We should understand to a greater extent, for instance, how its elements are affected by the reform policy process itself, and how the two relate to one another. Further work in each of the studied countries should probe further some of the issues identified in this initial phase, and yield a more thorough investigation of the relationship between reform policies, institutional and normative factors, and developmental outcomes.

Inclusion of more case studies is also necessary to increase the range of elements under study, and assess to what extent factors relevant to one context are also present in another. Moreover, a study covering more countries in the Francophone cotton producing area would increase the depth of our comparison, and thus the leverage of both our research findings and associated policy implications. One or two countries may be added during FY 4, to choose from Cote d'Ivoire, Cameroon and Togo, based on two criteria: feasibility and relevance. While we have already contacts which would make fieldwork possible in all three countries, we need to verify which among them exhibits characteristics that are the most interesting. Initial scoping visits will be needed to test the existence of both these conditions.

Ultimately, we would like to produce a book, which, by including a sufficient number of case studies, takes the comparative analysis of African cotton sectors to new grounds, and explains the key social mechanisms behind the performance of productive sectors in the continent.

## 4 Local governance and leadership

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### 1 Local Leadership research and the APPP

The local governance and leadership (LL) stream of research centres on the question: Under what institutional conditions do local leaderships act in ways that are relatively less predatory and relatively more developmental? (APPP, 2008b) Specifically, we are concerned with which local institutional arrangements, modes of governance, hybrid political orders, and forms of authority, legitimacy and accountability are more (and less) conducive to leaders acting to correct the under-provision of vital public goods in their jurisdictions?

An alternative formulation that has been suggested is: Under what conditions do you get synergy between government action at local level and effective community self-help (i.e., 'synergy across the public/private divide')? In other words, when does it happen that the actions of the state (or of actors within the state) facilitate the ability of local people to cooperate and control barriers to collective action such as free-riding, and that local communities are able to obtain from the state those public goods, including regulation of private action, which only the state can provide? (Booth, 2009a).

In exploring these questions we are directly addressing the challenge that the APPP programme has set for itself (APPP, 2008a). That is, can the local leadership team, through a rigorous, well-designed and integrated research programme, identify hybrid institutional patterns that are currently, or have in the past been functional for developmental outcomes? Specifically, how will these patterns differ from those forms of neopatrimonialism that have proven themselves irremediably anti-developmental? Can we find a positive and distinctive African approach to governance for development?

### 2 Preliminary debates in the Local Leadership team

Discussion in the early phase of the LL programme centred on two related issues: what are the causal variables that might explain the provision of public goods and the presence or absence of synergy between the state and citizens; and what method should we use to explore these variables.

Tim Kelsall was commissioned to write a 'think piece' based on the initial scoping studies carried out in several countries. This laid out his views about the key causal variables relevant to explaining whether state and society can work together to produce 'public goods' (Booth, 2008a) and, secondly, how the LL team should proceed to investigate these and other variables (Kelsall, 2008). Regarding key causal variables, he conjectured that

collective goods provision is stronger where there is a strong desire for the good in question, where the arena in which decisions are made is fairly small, where the arrangements for making decisions build upon arrangements that have existed for generations, where the decision-making arena is relatively culturally homogenous, and where it is relatively independent of government authorities or interventions (Kelsall, 2008).

Further he advised our going into the field already armed with ‘hunches’ and using a method of ‘typologically theorising’ such that our initial case studies would provide ‘feedback ... to assess, refine, or alter the theoretical framework in which explanation of individual cases will be couched and to identify components of a useful typology’. He proceeded to outline a ‘diverse case method’ where the team would ‘find cases with maximum variation on the (independent) variables we think might be causally important or interesting’ (Kelsall, 2008).

Debate within the team focused on both the causal variables Kelsall identified and the research approach he proposed. Firstly, it was argued that the causal variables he outlined were not relevant and/or were grounded in a culturalist-traditionalist paradigm. Secondly, it was suggested that a more open-ended research method should be adopted in a first phase of research in order to allow consideration of as many relevant modes of governance and potential variables influencing public-goods production as possible (e.g., Olivier de Sardan, 2008b).

### **3 Design decisions, April 2009**

In April 2009 senior members of the team, in addition to some PhD students attached to the LL group, met in Paris to discuss our method of field work and to prepare a budget for 2009-10. After a week of intensive discussion we made significant progress in designing a first phase of research that would foster discovery of the institutional variables that are sufficiently interesting to be the basis for more systematic case selection and comparisons across all 6 country teams in a second phase during 2010-11 (LL Stream, 2009).

That is, rather than beginning by investigating pre-defined modes of governance or explanatory variables, we decided that the teams would proceed to the field to explore how four key public goods are being produced now and have been produced historically in the same location. We would then work backwards to determine which combination of actors/modes of governance and institutional arrangements seem to produce these with different degrees of success and are worthy of further investigation. The public goods are those relating to:

- reduced rates of maternal mortality (safe birthing);
- improved sanitation and clean water;
- public order and security; and
- a favourable environment for enterprise and markets.

Thus, we are interested in how the various state/civil actors combine and coordinate to solve the collective action problems that undermine the production and delivery of the goods in these four areas, and to identify processes that lead to good or better outcomes at the local level. At this stage, we aim to determine what level and kind of explanatory variables appear to ‘work’ to explain the production of public goods, rather than refining an already agreed set of causal propositions.

### **4 Site selection and field research preparation**

Each team was to select its own field sites based on its understanding of the country and local contexts, while the method of research was to be informed by ethnographic techniques, especially observations, in-depth interviews *in situ* and case studies, rather than simply asking questions and collecting statistics

The LASDEL team, being ethnographers who have worked together in the field for some years, were better prepared than other country teams. Thus the Niger group of 14 researchers and three others (Nana Issaley, Fred Golooba-Mutebi and Vikki Chambers) held a 'collective enquiry' in June 2009 at Ballayera, one of its three chosen sites, which produced a background note on the production and delivery of the four goods and defined and tested qualitative indicators. It used the ECRIS method of field research developed previously by the team (Bierschenk and Olivier de Sardan, 1997). The team agreed that each lead researcher would undertake 10 days fieldwork at each of three chosen sites, while each would also be allocated funding for one research assistant for a period of two months.

Other teams were in more need of ethnographic training and two different sessions were held – the first in mid-March 2009 was directed by Tim Kelsall for the senior members of the Tanzanian and Malawian teams, plus David Booth and Vikki Chambers from ODI and two PhD candidates, Anna Workman and Tam O'Neil. This group met and worked together in Karonga, Malawi, for 5 days' reading, field exercises, writing up field notes, and holding discussions about ethnographic research and note taking. Later Edge Kanyongolo and Diana Cammack used the same training methods to teach four Malawian research assistants (RAs) how to do observation, field 'jottings' and the like. Tim Kelsall is doing similar training of junior Tanzanian research staff in mid-September 2009. A second training session was held in Uganda in June 2009, directed by Jan Kees van Donge, an anthropologist from the Centre for African Studies at Leiden, and Fred Golooba Mutebi and Charles Lwanga Ntale, senior members of the Rwanda and Uganda research teams, respectively; and a third one, directed by Tim Kelsall in Rwanda in October.

## 5 Status of country teams' fieldwork

As of September 2009:

The *Niger* team from LASDEL completed its field work in August and is analysing its findings;  
The *Malawi* team did field work in three urban sites and completed that in late October;  
The *Tanzania* team is researching in two wards of Dar es Salaam from September for several weeks;  
The *Rwanda* team has hired a country research director, designed its research plan, trained field staff in October and is now heading for research sites;  
The *Ugandan* team is in the field in central and eastern regions from August to November; and  
The *Senegal* team will undertake field work in the new year in one medium-sized town and one rural zone.

Several students who are receiving some degree of support from APPP have been attached to the LL team as their research is highly relevant:

*Anna Workman*, in Sierra Leone. Enrolled at LSE, London in Political Science. Her field work (2008-09) has been done in Makeni, a small-scale urban environment, and she is writing her dissertation.

*Charles Ankisiba*, in Ghana. From October 2009 at IDS, Sussex, UK in Development Studies. His will study how traditional leadership and institutions in the management of customary land and natural resources can lead to development.

*Charlotte Cross*, in Tanzania. Enrolled at Institute for Development Studies, Sussex, UK from Oct 2009. She will focus on governance arrangements delivering public security, comparing state-

imposed and 'bottom-up' institutions in providing public security and investigating the potential for indigenous institutional resources to mobilize citizens for collective action.

*Hassan Ibrahim Moussa*, in Niger, is in the process of writing his research proposal and will be registering at the EHESS in Marseille in October/November 2009.

*Tam O'Neil*, in Malawi. Enrolled at the Institute of Development Studies, Sussex University, UK in Political Science. She will look at the authority (e.g. roles, powers, legitimacy, accountability) of traditional chiefs in Malawi.

*Veronica Temesio Gomez*, in Senegal. Enrolled at University of Marseille, France in Anthropology. She will undertake exploratory field work in late 2009.

## **6 Key findings as of 1 November 2009**

Country reports on the first phase of the research will be completed and circulated in January 2010. However, fieldwork on 'town chiefs' in Malawi was fast-tracked with the support of the Irish Aid funding in 2008, and has already generated a detailed report (Cammack et al., 2009). In the current phase, the fieldwork is somewhat more advanced as a consequence. Information from the Malawi case is presented here to indicate the kinds of fieldwork data expected from the stream. This shows how the findings, along with conceptual refinements and the data from the other countries, are expected to provide the basis for a body of middle-range theory that explains comprehensively why public goods are adequately provided in some areas or on some occasions and not others.

Malawi is one of Africa's least developed countries, partly due to its being landlocked and having no resources to trade. Under Dr. Banda the national economy (based on export agriculture) grew steadily until international crises exacerbated local policy and capacity weaknesses. Governance was autocratic, with significant human rights abuses. From 1980s onward the economy struggled but generally grew slowly, until the transition to democracy (1994) when growth turned negative, corruption and crime escalated, and public service delivery collapsed. Neopatrimonial politics under Mr Muluzi were chaotic. Since the coming of President Mutharika in 2004 the economy (especially agriculture) has recovered, while residents note an improvement in the state's delivery of public services. The centralisation of power in the hands of the Executive is noted, though rights abuses are no worse than under Mr Muluzi.

The study of public goods provision in three urban areas must be seen in this larger political context; the sites selected were Ndirande, the oldest and largest informal settlement in Malawi; Kasungu, a market town in the central region; and Rumphu, a small urban centre in the north with relatively high social indicators. Here for 17 weeks research assistants have lived amongst locals and researched the delivery of four sets of public goods (relating respectively to reduction of rates of maternal mortality, improvements in the enterprise environment and markets, establishment of public security and order, and the delivery of clean water and improved sanitation).

Briefly their data show that fast-growing Ndirande is poorly provided for generally, in part due to the attitude of local government which eschews helping informal settlements for fear that any support might encourage further immigration. Chiefs retain some authority in this urban area, though their powers are curtailed by law. The population of Ndirande has been highly politicised since at least the 1950s, and political parties influence many aspects of life, e.g., food sales in the market and the delivery of water. Kasungu, home of Dr Banda, is better run, with the active involvement of the city authorities in the management of the town. Both 'traditional' and town chiefs are involved in the daily

affairs of people, including the delivery of public services. While party politics disrupted service delivery during Mr Muluzi's era, today residents manage to form groups and work without political interference. Rumphu, with the highest literacy rates in the country, is growing quickly and service providers appear to take their duties seriously. The nearby Tumbuka Paramount Chief, along with the chiefs in the Boma, take an active interest in town affairs. Nonetheless, relatively poor (and politicised) service delivery marked the Muluzi period (as in Ndirande and Kasungu) and capacity and funding problems continue to plague the delivery of goods at all levels.

Findings from the Malawi case suggest three emerging hypotheses about why the provision of public goods has varied through time and space.

***a) Where constitutional reforms create a situation in which sanctions regimes are weak and rules are not enforced, free-riding becomes the norm.***

The lack of sanctions – commands and rules that are enforced through threats and punishment – has resulted from the breakdown of chiefly (and previously, colonial) authority, so that old ways of doing things are not (or are barely) practiced now. (For instance, some chiefs had their own police forces and prisons, which were abolished). The single-party regime (1964-94) established a regulatory environment that was strictly implemented, though some rules were unenforceable because of weak capacity. People now praise the Banda regime's relatively good delivery of services, including peace and order, though they complain of local abuses (forced purchase of party cards) then. Regulations and enforcement were swept away by the democratic transition, which included the abolition of state-instruments of repression (e.g., the Young Pioneers) and the adoption of donor-inspired neoliberal policies (e.g., privatisation, decentralisation and civil service reform). Electioneering and clientelism undermined rule enforcement. People often state that 'there is too much freedom' and blame what they think of as 'democracy' (a lifting of restrictions, rules and orders, and an extension of privileges without restraints or responsibilities) for an increase in crime and unrest and for a deterioration in the delivery of public goods in the 1990s especially. Today local government remains weak and underfunded, while Malawians recognise that Dr Mutharika is creating a regime similar to Dr Banda's, and many praise it because public services have improved.

Tim Kelsall has explored issues related to sanctions regimes in a new theoretical piece, 'Public Goods and Social Mechanisms in Africa' (Sept 2009). He argues for explanations that include factors such as the effectiveness of sanctions and mechanisms for monitoring people's behaviour to ensure compliance with rules, while also paying attention to the role of social cohesion based on ethnicity or other shared values, in creating incentives for conforming to rules. Motivations for following rules may also come from shared beliefs and ideologies as well as more negative emotions like fear and ostracism.

***b) Structural changes in societies and political systems which break up old communities without enabling people to construct new shared identities can reduce cooperation between stakeholders at all levels, resulting in ineffective public goods and services provision.***

Where socio-economic or political differentiation creates communities that are unable or unwilling to come together to solve their own collective action problems, little development is to be expected. Lack of cooperation in Malawi is partly a result of divisions within communities – based on party affiliation, fear of witchcraft, different origins, etc. For instance, at local level communal water delivery and market committees may be party politicised, and services are disrupted during elections

and if the national-ruling party changes. Newcomers don't take an active role in communal endeavours because they feel they don't 'own this place' – i.e., they come from outside the local ethnic group and are not landholders. Witchcraft accusations are common, and foster fear and disrupt cooperation between neighbours. There is little cooperation between chiefs, government officials and service deliverers, or between officials from different bodies (e.g., Ministry of Health and the Town Assembly) in some places, which results from a lack of vision and professionalism amongst leaders and bureaucrats, and unbridled competition for power.

Tim Kelsall (Sept 2009) also explores collective action problems, and the solutions to these that a shared religious faith or ethnicity may offer. He also recognises that other cohesive groups/classes may be created to address issues collectively. That people don't come together to solve problems may be because they are forced by their circumstances to prioritise other goods. Taking his example, in the Malawi case we might say that leaders in Ndirande value party affiliation (and what that brings them) to creating committees that deliver water efficiently.

*c) Where public sector reforms result in a situation where coordination between key administrators and leaders is poor and there are overlapping jurisdictions, this tends to result in gaps in the delivery of public goods.*

To provide services consistently requires agencies to share information, to be internally organised, to share a vision and ethic of service delivery, and to coordinate with others. These capacities appear weak generally, as local authorities seem unable to motivate and manage themselves, let alone collaborate in a regular and sustained manner with other agencies. Thus, we find service failures where agencies are not well connected (e.g., local water boards and town administrators). Where the state has effectively withdrawn and other powerful actors such as chiefs have ill-defined powers, the public will find themselves living in organisational 'gaps' served by no one. In addition to looking at capacity and funding weaknesses, the incentives that guide the behaviour of various actors within different bureaucracies need to be explored in order to explain why they do not perform well. It may be (as Tim Kelsall theorises in another case) that short-termism and a lack of commitment to specific developmental goals may be part of the answer, and that rent-seeking may play a role. Tam O'Neil (email, 13-10-09) suggests that the more in-depth study of the nature of political-administrative linkages will explain the motivations of public-goods providers.

The differences between rural and urban sites, between heterogeneous and homogeneous communities, and between single-party and multi-party regimes are as yet unknown, but are likely to help us refine our causal determinants. Thus, we eagerly await the data of other country teams. Generally, though, the Local Leadership team is committed to doing comparative field work guided by 'hunches' and hypotheses, and to creating mid-level theory based on a combination of theorising by others, internal debate, and on the data emerging from our various country-case studies.

## **7 Looking forward to Phase 2**

Each country-team leader will provide a written field report in January 2010, including conclusions and implications for the design of Phase 2. These will be presented at a meeting in the first week of February 2010. At that time the stream's research methodology will be refined. Discussions will focus on the explanatory variables suggested by the country exercises, and the feasibility of basing the Phase 2 case selection on all or some of these. Decisions will also be needed on the suitability of

Boolean-style qualitative comparison à la Ragin (1987); the costs and benefits of expressing emerging hypotheses in the way required by this approach (reduction to a small number of dichotomous variables, 'fuzzy sets', etc.); and, relatedly, the relative weight to be given to within-case comparison, process-tracing (causal story-telling) and other relatively informal modes of analysis in the final methodological mix.

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### *Other outputs*

#### **Internal papers**

- Booth, David (2008b) 'Comments on think pieces by Tim Kelsall and Jean-Pierre Olivier de Sardan'. Dec.
- Chambers, Vikki (2009) 'Niger Local Governance and Leadership Stream: Progress report – April to July 2009', Aug.
- Kelsall, Tim (2009) 'Response to the Local Leadership team'. Jan.

#### **Publications**

- Booth, David (2009b) *Elites, governance and the public interest in Africa: working with the grain?*, APPP Working Paper 6, July.
- Olivier de Sardan, Jean-Pierre (2008a) *Researching the practical norms of real governance in Africa*, APPP Discussion Paper 5, Dec.

#### **Engagement with policy networks**

- Edge Kanyongolo and Diana Cammack are preparing a submission for the Malawi Law Commission on Witchcraft, as it currently is considering amending the national Witchcraft Act.
- Diana Cammack is producing a paper on Accountability and the APPP programme for a forthcoming publication by the law faculties of the University Cape Town and Warwick University.

# 5 Parliamentarians

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## 1 Rationale

In their day-to-day roles, MPs face a variety of formal and informal institutional pressures to supply public, collective, and private goods. The conventional wisdom is that in most African countries, informal pressures to provide private goods take precedence over public and collective goods provision. The role of the African politician, as depicted in much of the literature on African politics is about providing small amounts of ‘club’ goods to communities and private rewards to supporters, the former by means of formal or informal relations with government ministries and external donors, the latter by means of informal, sometimes illicit, sometimes ethnic, personalized and clientelistic networks.

For many observers, the experiments with multiparty elections since the early 1990s, have not changed the fundamental nuts and bolts of African politics. Bratton (1998) argued Africa quickly returned to neopatrimonial politics while others saw no change at all (Akinrinade, 1998), semi-authoritarianism (Carothers, 1997), elections without democracy (van de Walle, 2002), ‘virtual democracies’ rather than true democratization (Joseph, 1997, 1998), or just a return to the usual ‘big man’, neopatrimonial, clientelist, informalized and disordered politics that had characterized African politics (e.g. Ake, 1996; Chabal and Daloz, 1999).

These analyzes, however, have little to say about the role of the legislator in Africa. In fact, while there is about to emerge a small literature on *legislatures* (Barkan, 2009), studies of *legislators* and their role in government and in development, as representatives of the citizens and possibly brokers in clientelistic networks, is in an abysmal state. However, the recent explorative research (Lindberg, 2009a, 2009b, forthcoming 2010; Weghorst and Lindberg, 2009), demonstrates that MPs are subject to very strong contradictory pressures to supply both collective and private goods. These pressures take the form, among other things, of powerful informal institutional expectations about the role of the MP, expectations which we do not expect to change drastically overnight.

*Not enough is known about how effective MPs manage the different demands of formal and informal institutions, or about the circumstances in which hybrid institutional pressures lead to better development outcomes.* The Parliamentarians research stream of APPP is addressing this gap in knowledge.

## 2 Work to date and forthcoming outputs

*The stream has made relatively rapid progress towards production of a stream of research outputs.* It undertook survey research in Ghana in mid-2008 and again in mid-2009; that is, both before and since the recent elections which returned the NDC to power. An APPP Working Paper based on the first, exploratory survey, is scheduled for journal publication 2010. Three further papers by Staffan Lindberg and Goran Hyden are under consideration for APPP Working Paper publication in the near

future. These contributes add substantially to knowledge regarding how much of private, collective and public goods MPs actually provide – in the eyes of their constituents – in one African democracy.

### 3 Findings to date

The following is an extract from the conclusion of Lindberg (forthcoming), with emphasis added:

Democracy has come a long way in Ghana since the inauguration of the Fourth Republic in 1993. In the process, the institution of MP has developed a hybrid character, consisting of a combination of standard formal expectations of constituency representation, legislation and executive oversight, and informal norms indicated by being a ‘family head’ of the constituency. Many of the features described above are probably not peculiar to Ghana, or perhaps even to Africa. The hybridisation of the MP’s office may thus well indicate a more general phenomenon which has a series of direct and indirect consequences. The summary below is not an exclusive list, and *since the negative effects of political clientelism in Africa are so well known, I also take this opportunity to highlight some positive effects of the hybridised MP institution.*

The grafting of the informal ‘family head’ institution onto the MP role puts enormous pressures on office holders to be responsive to constituents’ needs and priorities, and has also brought in an extra dimension for sanction. While sanction in the formal sense is possible at the ballot box every four years, the informal institution provides everyday tools of shame, harassment, collective punishment of the family, and loss of prestige and status. In effect, the accountability relationship between representative (agent) and citizens (principal) is much stronger than might appear from looking at the formal side of the institution only. There are already some manifest positive effects of this strong accountability relationship. Office holders feel pressured to speak on the floor of the House to bring to bear knowledge of their people’s needs on the issues for debate. The norms of ‘parental’ responsibility that force MPs to contribute to the public discourse and constituency representation are positive in effect, even if at this early stage people seem less concerned with *what* is said by their MP as long as they feel represented. With increased information and civic education, this may become a strong tool for effecting democratic responsiveness and make policy better adapted to the needs of constituents.

Most MPs report that the pressures for personal assistance, besides their negative sides, enhance their knowledge of the problems facing their constituency, which in turn improves their competence as law makers, although it rarely informs executive oversight. The informal institution of being a ‘family head’ also plays an enhancing role in making it a primary concern of MPs to bring development projects to their communities. Here it should also be noted that the traditional duties of the chiefs to represent and look out for their communities, rather than for certain individuals, also seem to play a positive role in promoting the provision of club and collective, rather than private, personal goods.

*A very interesting observation that may force us to refine some of our theoretical models is that the intense pressures for clientelistic accountability for strictly private needs can lead to office holders seeking to provide collective goods.* When MPs seek general policy or at least community development solutions, as a means of alleviating some of the pressures for personal benefits arising from unsustainable clientelistic demands, the effect is the provision of collective goods. Widespread pressures to pay for individuals’ hospital bills become a national health

insurance scheme, invariant demands for payment of school fees become scholarship schemes, and so on. *Political clientelism can endogenously undermine the conditions of its own existence.*

Among the negative effects are, to mention but a few, the local party organisation members holding MPs accountable for increasingly expensive individual benefits; the executive demanding more or less absolute loyalty; and constituents' accountability pressures taking away from their time and energy. These all act in ways to undermine serious legislative activity and executive oversight. In the case of Ghana, a contributing fact is the use of primaries in the two major parties, and the way these are structured to allow only local party executives to participate. But part of the problem is also the lack of civic education and access to information which, in combination with poverty, makes clientelism a less expensive means of getting loyal followers than it is in a more affluent society.

In theoretical terms, this analysis suggests that while our existing theoretical models based on rationality assumptions take us a long way to understand the causes and effects of political clientelism, *the literature has overlooked an important source of variation.* Political clientelism is not necessarily prominent because state institutions are weak, as the current literature suggests. Political clientelism can also be prevalent when institutions are strong, just in ways that favour the provision of private goods.

The more detailed and representative survey of 2009 provides the basis for one of the papers by Lindberg currently under consideration, which concludes (emphasis added):

This paper has outlined the contours of a new empirical method of measuring political strategies employed by legislators in single-member district systems using survey data that could be collected on a cross-national basis. Building on established theories of clientelistic politics and incentives created by differing level of competition in poor, new democracies, *the analysis also shows significant variation in levels of clientelism and focus on provision of private goods as the main reelection strategy. This variation, within one and the same country, is a finding that runs contrary to much of the established literature on African politics*, especially the finding that four out of ten (almost half) of the incumbent MPs prioritize collective and club goods associated with more programmatic strategies, in their activities as MPs seeking reelection.

Even this relatively close inspection of a few constituencies in one country (Ghana) cannot validate theoretical claims about causal mechanisms. Yet, with the groundwork laid in this analysis, an informed selection of a few of the typical positive and negative cases can be done for a forthcoming political ethnographic study. Finally, the analysis also identifies a few puzzling outcomes and suggest that not only two typical cases be investigated with ethnographic methods but also one of the puzzling outcomes – provision of collective goods in a highly clientelistic environment – should be included in an in-depth study.

#### 4 Future work in the stream

The mentioned ethnographic study will be taking place alongside further analysis of the survey data during the remainder of the 2009/10 financial year. While Staffan Lindberg will be providing guidance on case selection and other methodological issues during this period, leadership of the

stream has now passed to E. Gyimah-Boadi, and the ongoing research in Ghana is being coordinated by Kojo Asante and other staff of CDD.

Discussion has begun on how best to build on the results of parliamentarians research. Issues under consideration include the appropriateness of the mix of survey and ethnographic work adopted so far, the rationale for any extension of the work to one or more additional country and the advantages that might be gained from widening the institutional scope of the stream, so that it encompasses party systems and cultures, and the way these structure the individual and collective choices that are open to parliamentarians. The draft paper by Goran Hyden, titles 'Political Accountability in Africa: Is the Glass Half-full or Half-empty?', discusses the way forward in these terms.

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## 6 State bureaucracies

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### 1 Main research questions

The inclusion of a research stream on state bureaucracies in the APPP reflects the obvious relevance of the topic to the objectives of the programme. However, more specifically this research stream aims to address prevailing biases affecting both policy studies and anthropological research concerning the state in Africa. Typical approaches to the analysis of administrative services in Africa are both unduly normative and too exclusively ‘externalist’.

A widespread approach to the dysfunctions of state bureaucracies in the region limits itself to deploring the various ways in which the practices of state officials deviate from the formal norms that are supposed to govern them. We think there is a need to begin the search for new policy directions by examining closely the ‘real governance’ of the provision of public goods and services within African state bureaucracies. The most common research approaches also adopt the perspective of actors external to the service, donor agencies or service users, without a serious attempt to get inside how and why the organisations behave in the way that they do. To the extent that recent research has focused on the interfaces between providers and users of public services, it has tended to concentrate on what might be called the ‘front office’. We think there is also a need to explore too the opaque world of the ‘back office’, focusing on the specific universe inhabited by the officials themselves.

The research stream is interested in how state organisations of a hybrid kind (that is, based on a blend of formal and informal norms, institutions and actors) work to provide collective or public goods and services. We want to know whether and under what conditions such provision is associated with positive outcomes contributing to economic and social development. Our starting assumption is that state bureaucracies are an important site of the production and reproduction of informality, because the behaviour of the actors that inhabit them is governed by at least three sets of norms, the combination of which constitutes the professional culture of the service:

- official norms;
- social norms;
- ‘practical’ professional norms, which the official learns in the course of his professional socialisation.

The research is focused on identifying and analysing how the behaviour of the state agents varies, depending on the way the normative hybridisation actually works out in practice. We are interested in the role played in this by the location of the individual’s post within the organisational hierarchy, his professional formation, the influence of the parent ministry, the donor influence, and the relationships established with the various pressure groups (economic, political, associational and ‘traditional’).

Thus, there are two central research questions:

- What are the ‘practical norms’ that influence the behaviour of the officials?

- ❑ Which among these can, under circumstances that can be established empirically, have positive effects on the provision of public goods and services by African states?

## 2 The field of application: forest services in Niger and Senegal

It was agreed in November 2008 that, in the first phase of research, it would be sensible to build on a body of previous research focused on the Forest and Water Services in two countries, Niger and Senegal. These services are central to the provision of a large number of critical environmental public goods including reforestation, soil regeneration, combating desertification, protection of gazetted forests and national parks, rational exploitation of forest products for urban construction and wood-fuel supply, protection of wild animals, and so on. Although agents of these services are present throughout the national territories, they constitute a relatively manageable group from the point of view of the research – around 500 in Senegal and 770 in Niger. They are an ageing group, as a consequence of the freezing of public appointments between 1990 and 2006, and they are in some important respects a bureaucratic example of the ‘face-to-face societies’ studied by the classics of anthropology. They were trained in the same establishments. Frequent transfers have implied frequent interactions and exchanges; everyone knows nearly everyone. It is therefore very easy to establish facts about delicate matters concerning, for example, political appointments, internal conflicts and cases of corruption.

## 3 Research to date

This progress report is based on two research missions by Giorgio Blundo in the framework of the APPP – to Niger 3-15 August 2008, and to Senegal 11 July to 2 Aug 2009. It also draws substantially on data and reflections arising from previous research starting in April 2005. The research methods being employed are following the classical ethnographic approach (direct observation *in situ* of the activities undertaken by the state agents, semi-structured interviews, collection of professional life-histories). This is combined with the collection of official and unofficial reports from the forest services themselves, as well as documentation produced by development agencies (World Bank, FAO, Dutch cooperation) over many years.

## 4 Emerging findings

The preliminary results of our research relate to two closely linked aspects of the study: a) the internal organisation and operation of the forest services, and b) their relations with the public and their involvement in the provision of public goods and services.

### 4.1 *Internal organisation*

Close study of the processes by which officials are appointed and transferred is revealing that human resource management in the two services is suspended between a clientelistic logic and the search for effectiveness. The management tries to juggle with two apparently contradictory imperatives: to respond to the pressures of various clienteles, and to provide for some measure of operational effectiveness. In practice, however, the allocation of resources is strongly skewed. The management privileges those regions that are capable of generating significant financial resources, and neglect the regions that are ‘dry’ from the point of view of rent extraction, although they suffer from grave environmental challenges. There is also a strong centralist bias in resource allocation. *Under these*

*circumstances, the agents posted in the field are very poorly resourced and are left largely to their own devices* (even having to provide their own uniforms). They have few formal contacts with their regional supervisors and almost none with headquarters.

Under conditions of such structural penury, the field officials acquire almost complete autonomy and their operations are effectively privatised. The members of local teams organise to provide themselves collectively or individually with the transport and other equipment they need in order to offer a minimal level of service. Collectively, they can have recourse to local sponsors (private operators, firms, development projects) or draw funds from a common pot into which members of the team channel income from fees and fines. Individually, they can invest some of the illicit gains obtainable from policing the forests in buying a motorcycle, a new uniform or furniture for the office. ***This informal privatisation is not synonymous with predation and is not incompatible with providing a public service.***

In fact, corruption can in certain circumstances ensure the survival of the public service. Thus, for example, in Koungheul and Birkelane in Senegal we have found young section heads who have completely privatised their services but who at the same time reject the classic professional culture of the Water and Forest Service regarding internal patronage, corruption and repression of service users. They have in this sense undertaken small reforms on their own initiative aimed at formalising, in order to control better, the informal arrangements that their predecessors had worked out with the local population.

Under these circumstances, the kind of team leader who is appreciated is one who is prepared to share technical and financial means with his subalterns; communicates with them and holds them responsible; upholds their interests and the interests of the service in general; and is capable of maintaining a relationship with the Minister without becoming too 'political'. In short, he should be a patron to his subordinates without ceasing to be a client of his superiors. One of the hypotheses suggested by these first observations is that ***a service characterised by hierarchical relations of a patron-client type is often better managed than one where the leading official attempts to apply the principles of 'good governance' in a literal way.*** In the former situation, it seems often to be the case that the agents are more motivated, more bonded as a team and better placed to offer a quality service.

#### *4.2 Relations with the public*

At this stage in the research, we know that the way the forest services relate to the social and political environment in which they operate has been changing in important ways. This has happened partly in response to a series of top-down reforms intended to introduce new forms of accountability to service users. One of the effects has been to encourage the development of a new professional culture in which the elements of rigour and discipline are increasingly pushed aside by an emphasis on negotiation and the capacity to discover consensual solutions to environmental issues, solutions which preserve social peace.

We cannot yet conclude whether these top-down reforms have had any useful effects from the point of view of the quality of public service provision. It is clear that the discretionary powers conferred on the forestry agents as implementers of the Forest Code are exercised under the influence of multiple pressures coming from a variety of formal and informal interests and actors. This complicates the logics of accountability to which they are subject and results in forms of public goods provision that

are governed by hybridised norms and informalised administrative procedures. Under these circumstances, *the ability of top-down reforms to deliver significant benefits seems doubtful; but, in contrast, there seem to be good reasons for expecting some gains from what we would call micro-reforms from the bottom-up.* In line with the emerging findings mentioned above about what works to produce sensible forms of internal organisation of the service, there seems to be significant scope for local innovations which in effect formalise some of the more constructive features of the informal *habitus*, or the way things work in actual reality. This hypothesis will be an important avenue of enquiry in the next phase of research, which will include comparative studies of different sub-sectors and sites of activity where state agents interact with clients and populations in different ways.

## 5 Programme of activities for 2010/11

Budget permitting, the following activities are planned for financial year 2010/11:

- Completion of the fieldwork and analysis on the forest services in Niger and Senegal.
- Widening of the research stream to include, at least, parallel studies of state livestock and irrigation services in Niger.
- Organisation of feedback workshops in Niger and Senegal and a colloquium in Europe.
- Drafting of reports and articles, and preparation of a book.

### 5.1 *Completion of the fieldwork and analysis on the forest services in Niger and Senegal*

At the moment, the research is more advanced in Senegal than in Niger. In the first country, a research assistant has recently started fieldwork on which a final report will be provided in February 2010. A second assistant is expected to carry out complementary investigations in the region of Kaffrine in the course of autumn 2009. Depending on the results, Giorgio Blundo will be in a position to undertake a final study mission in the course of 2010.

Giorgio Blundo will be spending three weeks in Niger during October 2009 exploring further the avenues of enquiry identified above, while also identifying a researcher and research assistant who can pursue the required studies of agent/public interactions in Niamey, Tillabery, the National Park of the W., the Kouré reserve and Zinder. Blundo will undertake second mission, following submission of reports by the local researchers, to complete and validate the results obtained.

In both countries we shall try to deepen, in particular, the theme of the possible positive implications, for economic and social development, of the hybridity and informality exhibited by the actual modes of operation of the services. It will also be necessary to obtain more material based on direct observation of interactions between state agents and populations, and carry out ethnographic interviews with the principal formal and informal partners of the forest services (charcoal producers, herders, cultivators, customary authorities, patrons (mécènes), project managers, NGOs and elected councillors).

### 5.2 *Widening of the research stream*

It seems essential to widen the research stream to get a more representative picture of the interface between state bureaucracies and the provision of key public goods in Africa. As a first step,

discussions have been had with LASDEL, who are ready to embark on analysis of a large body of information collected, using methods and an analytical perspective similar to Blundo's, on the administrative cadres responsible for the livestock industry and irrigation in Niger.

This would be a highly cost-effective extension of the research stream. The original data collection was not inspired by the APPP's search for *de facto* governance arrangements that work better for development by 'working with the grain' or being 'anchored in local realities'. However, it took place over a number of years and represents an exceptionally rich data base, possibly unique in Africa. Moreover, the material is certainly susceptible to analysis in terms of the APPP research question regarding 'what works'. The proposal is to interrogate these data in the same way LASDEL is doing in the context of its Local Governance and Leadership study for APPP, using the NVivo qualitative-analysis software recently acquired.

The inclusion of analysis of the Nigérien livestock and irrigation services has the potential to enrich significantly the emerging findings from the stream. Preliminary analysis has revealed, among other things:

- Novel forms of collaboration between state agents, *communes*, development projects and local associations – which solve in innovative ways the collective action problems that cannot be resolved when the state or local government acts on its own (e.g. regarding the marking of corridors for movement of cattle, livestock vaccination, fencing of wells for pastoralists and villagers, maintenance of water tanks, etc.).
- New 'semi-privatised' arrangements which have the effect of widening access to public services – e.g. 'topping up' payments for veterinary services by pastoralists or irrigation services by local councils.
- The existence of 'islands of functionality', or oases of reform, where local innovations within the service make a difference to otherwise poorly functioning systems.
- The existence of an *esprit de corps* uniting veterinarians and pastoralists on the one hand and irrigation people on the other.
- Transformations in the roles of customary chiefs in these areas, with chiefs invoking traditional or 'neotraditional' rules in an attempt to 'stay in the game'.

A number of other proposals are being considered for strengthening the state bureaucracies stream and linking it to other parts of the programme. Richard Crook is interested in contributing case studies on the bureaucracies of the District Courts in Ghana. He has also suggested that two of the doctoral candidates associated with the APPP under his supervision might be associated with the bureaucracies stream (Ursula Stelman, local government in Kampala, and Edem Selormey, 'Citizens' demands, FM radio and bureaucratic responsiveness in Ghana').

### *5.3 Organisation of feedback workshops in Niger and Senegal and a colloquium in Europe.*

In autumn 2010, we plan to organise feedback workshops on the principal results of the research. We have already discussed this with the key officials in Senegal, who have shown interest. We foresee the same approach to the new Director in Niger, whom we know. These workshops will be an opportunity to bring together the different components of the Water and Forest Service (engineers, technicians and agents), representatives of the cooperatives of forest users, representatives of the NGOs that are involved in the debate on the reform of the state, and local researchers.

At the beginning of 2011, we intend to hold an international colloquium on the theme 'Bureaucratic cultures and the production of public goods in Africa' drawing on a network of researchers and young researchers. At this stage, we visualise inviting the following participants in addition to those directly involved in the research stream:

- Thomas Bierschenk (education services in Bénin, University of Mainz)
- Thomas Cantens (customs in Cameroun, Docteur at EHESS-Paris)
- Mathilde DEBAIN (administrative careers in Gabon, doctorante, Université Paris I)
- Joël Glasman (police in colonial Togo, PhD student, Universität Leipzig)
- Julie Poppe (forest services in Burkina Faso, University of Leiden)
- Cheikh Tidiane Dieye (customs in Sénégal, ENDA, Dakar)
- Gerhard Anders (civil service reform in Malawi, University of Zurich)
- Mirko ... (police in Niger, doctorant at University of Mainz)

### *5.4 Drafting of reports and articles, and preparation of a book*

In addition to presenting a research report for the programme, Giorgio Blundo plans an article for submission to an international journal with the provisional title 'Seeing like a state agent: bureaucratic cultures, hybridity and development'. However, our major output, already in hand, is the preparation of a book on the subject of the anthropology of forest services.

## 7 Local justice provision

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### 1 Main research questions

The research is concerned with one of the most fundamental public goods which an effective and legitimate state is expected to provide: a 'rule of law' for all citizens. By rule of law we mean more than just the current neo-liberal conception of a legal system which protects private property and facilitates the market economy. Rule of law refers to the provision of a justice system which sustains the security of all citizens, particularly the most vulnerable, protects against the exercise of arbitrary power by the state or the powerful, and provides for the public regulation of civil disputes in ways which are effective, legitimate and trustworthy.

Our general research questions are:

1. To what extent are African states providing, through their judicial institutions, laws and dispute resolution procedures which are effective, accessible, legitimate and trusted by their citizens? (These characteristics are our indicators of the 'performance' of judicial institutions). Ghana and Uganda were selected as the initial cases for investigation.
2. What explains the existence, or not, of such positive outcomes, and their variation?
3. A subsidiary question is: which classes of persons benefit most from the operations of state-supported judicial institutions? Do accessibility, legitimacy and trustworthiness vary according to values deriving from social class, gender, ethnicity, local culture or community?

Our first hypothesis is derived from the APP programme: we are testing whether better performance of judicial institutions is associated with the extent to which they are 'hybrids' which combine formality with informal codes and procedures derived from local social institutions and beliefs (the 'grain' of local society). The substantive content of those informalities is a matter for empirical investigation; no prior assumptions have been made about the acceptability of so-called 'customary' traditions. What is the optimum balance or mix of formality and informality is also a matter for empirical determination.

The second explanation of performance which we are investigating is the effect of the actual codes of law or principles of adjudication which are being applied on the different classes of person who use the judicial institutions. These may well be linked to the kinds of informalities which are found.

Thirdly, we expect that the political, administrative and power positions of the judicial institutions will impact on their performance; is autonomy important, or are linkages with powerful elites and the central state more important in generating good performance?

## 2 Research design and methodology

Ghana and Uganda were chosen as case studies because in both countries new state-supported dispute settlement institutions (DSIs) have recently been created which attempt to use more informal kinds of law and procedure to resolve disputes. (The local or first instance level was chosen as this is the setting where most ordinary citizens become involved with state judicial institutions). These new institutions are being compared with the formal state courts of first instance, the Magistrate's or District Courts. It is important to note that in both of these countries there is a situation of 'legal pluralism' in which state law operates side by side with customary law, local traditions and religious codes. In Ghana, however, customary law particularly land law has been judicially recognised by the state courts for over 100 years and so forms part of an 'Anglo-Ghanaian' common law. These doctrines are sometimes referred to as 'lawyers' customary law', to distinguish them from contemporary emerging local practices ('sociologists' customary law') which often reflect the interests of those who control customary land (the chiefs and family heads) and are increasingly diverging from the established doctrines.

Work began in Ghana in April 2009; the Ugandan study is unlikely to start before April 2010.

In Ghana, the institutions being studied are:

- The free mediation or Alternative Dispute Resolution (ADR) service offered to complainants by the District Offices of the Commission on Human Rights and Administrative Justice (CHRAJ). The CHRAJ is a constitutional body under the 1992 Constitution and its autonomy and independence are constitutionally guaranteed. Its principal mandate is to investigate abuses of power and maladministration, whether by government or other agencies, which infringe citizens' human rights as guaranteed by the Constitution. This includes unfair treatment of citizens by public agencies, corruption of public officials, and unequal recruitment practices. It is, however, unusual compared to other national human rights commissions in that it has a network of District Offices in Ghana's 110 Districts. These offices have attracted increasing numbers of individual citizens seeking resolution of disputes, ranging from family disputes (custody of children, maintenance of spouses and divorcees) to inheritance, land and property cases, landlord-tenant relations and employer-employee cases.
- The Customary Land Secretariats (CLSs) which are new 'hybrid' institutions set up by the Ministry of Lands over the past 5 years. They are still at a pilot stage—only 39 have been established, of which only 10 have existed since 2005. They are administered by chiefs and staff employed by the Traditional Councils, but their function is a modern one: to record and demarcate the full range of local lands held under customary tenures and to record and formalise the allocation procedures (sale, leasing and other tenures) which are under the control and 'allodial ownership' of customary authorities—chiefs, family heads or 'land priests'. (Over 70% of all land in Ghana is held under customary tenures). The intention is to improve the transparency and accountability of customary land administration with respect to security of tenure and the benefits which local communities should derive from land values, and to develop land use planning and new revenue sources. The CLS are mandated to deal with disputes which arise over their land administration—particularly demarcation and definition of rights—by setting up 'land dispute resolution committees' which bring together representatives of the customary authority with local government and community interests.
- The District or 'Magistrates' Courts, which are the lowest level of the formal state court system, applying formal state law. Until 2002 they were called Community Tribunals and incorporated a lay panel of community assessors sitting with a legally qualified magistrate.

They have now reverted to operating with a single, legally qualified or trained judge. Since 2007 these Courts have also become venues for the Judicial Service's national 'Court-connected ADR' programme, using paid para-legal mediators. To date, this service has been established only in the Greater Accra Region, although Magistrates are encouraged to experiment with it where they can. Its official purpose is to tackle the enormous backlog of pending cases in the state system and improve accessibility for the 'poor and vulnerable'.

In each DSI, the substantive focus was planned to be land, inheritance and property cases. But this has been modified since the fieldwork began as the CHRAJ District Offices have dealt with very few land cases and the CLSs have been much less active than expected (see below).

The selection of Districts in Ghana for intensive study was in the first place restricted by the need to find Districts where there were functioning CLSs, in order to be able to directly compare all three types of DSI. This limited the choice considerably. Funding constraints also limited the number of Districts to two. After scoping eight Districts, two were chosen according to the need to create some variation in the main independent variable, which is degrees of informality. The concept of informality was broken down into two dimensions: extent of 'de-legalisation' in relation to formal state law (statute and precedent based common law); and informality as the extent to which dispute resolution adopts local popular norms and values, which or may not include what are called 'customary' or traditional beliefs. These variables underpinned the choice of one peri-urban area – the Ga West District of Greater Accra Region (also known as Amasaman)- and the rural District of Dormaa-Ahenkro, which is a cocoa-growing area with a strong Akan chieftaincy system in Brong-Ahafo Region. It was expected that the Accra District would exhibit more syncretic, varied and emergent urban forms of informal codes and behaviours, whilst the Dormaa District DSIs would show a much greater influence from Akan culture and institutions and the values of cash crop farming communities.

In order to assess the extent to which these local DSIs are providing 'effective, accessible, trusted and legitimate' justice two groups of empirical data are being collected: first, data on their day- to- day operations which can reveal the norms, values and principles which are being used in dispute settlement procedures. What principles of 'fairness' or justice underlie their judgements or settlements? What procedures do they use and are they an integral part of the outcomes and remedies which they produce? What codes of law or morality are being applied and in what kind of mix ? How are the DSIs administered, and what is their effectiveness in terms of speed, affordability, enforcement and resolution of conflict?

The second set of data is concerned with judging performance (the 'dependent variable') and focuses primarily on discovering local or popular understandings of what 'fairness' or 'due process' mean, together with objective output information. What do users of the DSIs (parties to disputes) and local communities actually seek from the state and its judicial institutions? What do they value? Do these local understandings correspond to the way in which the various DSIs are working, and the outputs they are producing? And whose interests within local communities are being supported or favoured by those outputs? A clear congruence between popular or user values and the outputs of the DSIs is one of our main indicators of good performance.

Collecting these sets of data has required a triangulation of methods.

- In depth, semi-structured interviews with key participants in the institutions themselves - judges, lawyers, mediators, community leaders and litigants – are producing information on the first set of data: the DSI's operating principles and procedures, codes of law and the mix of formality and informality.
- Anthropological observation of court proceedings by trained research assistants over a period of 5 months is producing data on how legal and informal codes are put into practice, relationships among parties, litigants, judges and the public, formality and informality. This method is also providing some limited data on the reactions of litigants and members of the public to the work of the DSIs, which are important for performance assessment (dependent variables such as accessibility, trust etc).
- Documentary sources are providing data on performance variables such as effectiveness and accessibility (case loads, speed of settlement, cost, ease and convenience of dispute resolution meeting, enforcement problems). A review of recent land and inheritance cases in the state courts, both published and unpublished, should identify trends in the kinds of social interests which are being supported or denied by formal state law.
- Questionnaire- based surveys of actual litigants and representative sample surveys of popular opinion in the two Districts are the main tools for generating data on the predominantly subjective performance indicators of trust and legitimacy. Respondents are being asked about their attitudes to dispute settlement, which DSIs are trusted and why, values concerning justice, 'fairness' and due process. The surveys will also provide information on accessibility by asking about people's experiences of dispute settlement – how well did they understand the process? How were they treated by judges? Were they intimidated by panels or the presence of powerful rivals? Objective data on the social characteristics of litigants will be provided by the litigants' surveys.

### **3 Progress of the fieldwork**

Elite interviews have nearly finished, and the anthropological observation, which is due to terminate at the end of October, has already produced some very rich field notes on cases.

The mass surveys of 800 respondents in the two Districts were completed on 21<sup>st</sup> September and data entry and analysis will now begin. But the litigants' surveys being carried out by the anthropological observer RAs (with a target of 240 respondents) have experienced some delays, primarily because of unexpected circumstances. The Magistrate of the Amasaman District Court has been off sick for long periods since June 2009 and no temporary replacement was provided. This has meant that opportunities for observing cases and for identifying litigants have been much reduced until last month. In addition, the number of land cases in all three DSIs in both Dormaa and Amasaman has been much less than anticipated and a decision to expand the survey to include other types of cases such as family and debt had to be taken half way through the period of fieldwork. The CLSs in particular have dealt with very few cases—in Amasaman, in fact there have been none to date although a few have come up in a linked District Assembly-sponsored 'Land and Chieftaincy Disputes Resolution Committee' (see below).

These delays and changes mean that the data required to assess the performance of the DSIs is so far very limited and awaits the completion of litigants' surveys and the analysis of the mass surveys. The case law review is not expected to be completed until mid November 2009.

## 4 Highlights of findings to date.

### 4.1 *Informalities and the emergence of 'hybrid' institutions*

One of our most interesting and unexpected institutional discoveries concerns the role of traditional authorities –chiefs—in the resolution of land disputes. The CLS were set up as formal bodies incorporating the *de facto* administrators of customary land in Ghana, the chiefs, and (in areas such as Accra and parts of the Volta Region), family heads. It was assumed by advocates of this reform that the dispute resolution they would provide would be informal and accessible because it was based on 'customary' principles.

In Dormaa, however, the CLS land case hearings mix formality and informality in the opposite way to what might be expected. The Chair of the Land Disputes Committee is an important chief—the Krontihene of Dormaa-Ahenkro (roughly equivalent to the second- in- command to the paramount chief, the Dormaahene). Both interviews and observation suggest that the informality in the proceedings comes from the 'modern' elements associated with their guidance from the Ministry to use 'ADR'; the chiefs claim to be pursuing 'win-win' principles and the application of 'common-sense' and local understandings of custom to the facts of the case rather than what they call 'formal (i.e. judicial) customary law.' The parties and the panellists sit at the same level, in the courtyard of the Dormaahene's palace; and parties are allowed (it is claimed) to object to the panel membership of particular chiefs if they feel they are 'inappropriate'. But the most formal and potentially intimidating aspects of the procedure come from the chiefs' continuing commitment to customary protocol. Parties are ticked off if they approach with their shoes on, and they are supposed to stand when speaking as if in a state court. The chiefs will use their local knowledge of communities and individuals to bring in communal or contextual considerations to the decision, and do not hesitate to assert the rights of the Dormaa Stool.

In Amasaman the same 'reverse hybridism' is even more striking. Because it is a Ga area, the CLS and the Chief of the Amamole Traditional Council administer the lands of the Nii Tetteh Okpe Family. Its membership is purely customary officials; but its formal traditional dispute settlement committee rarely meets; the chief prefers to use informal, personal interventions, in order to avoid the trouble and expense of setting up a formal traditional dispute settlement committee. It is run almost as a private enterprise

But the Chief is also the Chair of a far more powerful and significant body, the Amasaman Land and Chieftaincy Disputes Resolution Committee. This Committee was set up by the District Assembly, with help and training support from the Peace Building and Conflict Resolution programme of the German Development Service. This was in recognition of the severity and number of land disputes which are plaguing a district which is in the front line of Accra's relentless urban expansion. It is funded and supported administratively by the District Assembly (local government authority). But it displays a fascinating array of hybrid features.

In the first place, it has aspirations to be a modern, ADR-type mediation service but combines this with customary elements and references to formal law, and can exert coercive powers. Its membership gives some clue as to how it includes a multiplicity of approaches. Not only is the chief of Amamole the Chair; it includes three representatives of the traditional authority as well as two other chiefs including the Queen Mother. At first sight it may appear, therefore, to be a body dominated by

customary or traditional authority. But the chief himself straddles both traditional and modern roles: he is an appointed member of the DA, Chair of the DA Works Sub-Committee, Director of the District National Council for Civic Education, (NCCE) and Chair of the 'Ga West Association of Chiefs and Queen Mothers'. And the Committee also includes the District Police Superintendent and the Director of the CHRAJ, the Presiding Member of the DA, the Chair of the DA Development Committee and 2 other DA members. The presence of the police is justified on the grounds that occasionally land or chieftaincy disputes present security issues and a danger to peace and order which may require police involvement. In fact, the Committee is in many respects an aspect of the District security apparatus; cases are referred to it by the District Security Committee if it is feared that a land dispute is in danger of provoking public disorder – e.g through the mobilisation of 'Land Guards' or conflict between rival communities.

In terms of procedures, the Committee is also hybrid; when the case involves only a small number of parties and witnesses, it meets in a DA Committee room. The Chief chairs it in a way indistinguishable from that of a modern bureaucrat, with professional gravitas, and without throwing around his status within the chiefly hierarchy. Yet the language used in one session observed was 'high Ga', idiomatic language comprehensible only to pure Ga indigenous citizens steeped in local ways of doing things. But the Committee can also call a large public meeting in the Assembly Hall when it decides that lots of different members of the community need to be involved, in which case the procedure comes to resemble more of a customary event or chiefs' court.

Although the Magistrates Courts retain the formal atmosphere of a state court in which strict order is kept, witnesses swear an oath, and the judge is an authoritative figure sitting on a raised platform, hybridity is clearly emerging in the use of various kinds of informal, non-legal procedures and codes. For instance, although evidence and statements in local languages are normally translated into English by an interpreter for the judge to record in handwritten notes, the Magistrate, particularly in Dormaa, frequently intervenes directly to speak to parties or witnesses in the local language, cutting across both interpreter and lawyers either to clarify statements or engage in direct cross-examination or even just to give advice or make jokes. This can lead to something like a conversation with parties, with the judge even suggesting ways in which they should settle, which is a substantial modification of the 'umpire' role of a judge in the adversarial system inherited from the British.

In Dormaa, although there is no Court-connected ADR, the Magistrate has set up his own informal panel of volunteer mediators, who include an elected Assembly member and a sub-chief, to whom he refers cases for out-of-court settlement. Paradoxically, however, this is not because the judge is more influenced by the values or culture of the area, since he is punctilious about keeping his distance from local society and has not even greeted the paramount chief since his posting to the court. It is also interesting that it is in the Magistrates Courts that we observed cases being decided by reference to customary laws of inheritance or even to cultural values such as respect for elders (see below on codes of law). This can be attributed perhaps to the greater knowledge of trained judges and even to their inherent predilection for referring to formal codes!

When sitting as a Family Tribunal, however, the Magistrates Courts become almost indistinguishable from an ADR session, with social workers present. As expected, the Amasaman Court, which is much larger and busier than the Dormaa Court, deviates less from the routine procedure, with the judge always speaking English and maintaining a detached stance at all times. But in this Court there is an official ADR facility which the judge is using as much as possible.

Of the three DSIs, the CHRAJ mediations offered by their District level officials correspond most closely to the ideal model of ADR, dealing primarily with disputes between private individuals, settled in private in a completely relaxed and informal atmosphere by an impartial mediator who is a 'stranger' in local society. What is of the greatest interest is that the CHRAJ mediators rarely make use of either customary or legal principles, particularly in relation to marriage or sexual relations, but focus intensively on reaching agreed compromises often based on monetary compensation. Yet they are extremely popular, with local officials finding that they spend virtually all of their time for four out of five days a week, hearing cases. Once again, this shows that it is a mistake to assume that what is termed 'customary' is necessarily closest to what ordinary people value or understand.

#### 4.2 *Concepts of justice and codes of law*

The judges and mediators of the different DSIs all claim to have certain principles of justice or 'fairness' in mind when they settle cases, and interesting differences have emerged, again not in the expected ways.

The CHRAJ officers offered the most consistent picture of the values they work by, reflecting perhaps their training and their professional commitment to 'human rights'. The principles of CHRAJ mediation put a heavy emphasis on the impartiality of the mediator and the search for compromise and agreement between the parties. They argue that this is best obtained through private hearings with only a small number (2 or 3) of relevant witnesses or family members, in order to avoid undue community or family pressure or interference. All use the phrase 'win-win' to describe what is being sought in a 'fair' settlement. The emphasis on compromise is so strong that this can override (as they admit) the strict legal or customary rights of one of the parties, although they claim to observe the principles of customary family ownership of land or property. The priority accorded to mutual agreement justifies a practice which is well accepted in Ghanaian culture, that of 'begging for a reduction' where there is a debt, or disagreement over appropriate compensation—a practice which from a legal point of view could lead to one party receiving less than they are really entitled to.

Others involved in ADR-type mediation such as the Court-connected mediators also cited the 'win-win' principle, but there was more variation amongst this group. One officer (an active evangelical Christian) claimed he was searching not just for agreement but for reconciliation between parties. For him, justice meant 'transparency of process', so that both parties could really understand how the settlement had been reached and on what basis. Another (a chief, one of the unofficial mediators in Dormaa) was less committed to compromise at any cost, although he said he saw his job as to bring 'peace and happiness' to the parties. But where there were serious issues at stake he argued: *'Its true that our main mission is to look for compromise; but that doesn't mean we always just split the difference, not at all. Sometimes we find that one party really is the 'guilty one' and if we establish this as the truth, that party must apologise and pay compensation. Our main concern is to bring out the truth'*.

The chiefs involved in dispute resolution through the CLSs or the DA Land and Chieftaincy Dispute Resolution Committee also spoke the language of ADR and the need to find an agreed compromise. But this approach was clearly overlaid with other, less consistent positions which emphasize the importance of 'peace in the community'—even if unfair to one of the parties-- the rights of Stools, local customs and history. For instance, panel members in the Dormaa CLS are encouraged to consult with opinion leaders and local chiefs as a case proceeds so that factors extraneous to the parties in

dispute are inevitably brought into the settlement. And in Dormaa the formalities of customary procedures were observed. Yet the paramount chief also claimed that justice involved ‘finding out the real truth about a case’.

The Magistrates of the District Courts differed most clearly from the other DSIs in their understandings of justice. They proclaim the values of ‘establishing the truth’ in relation to the facts of a case, and the application of principles of law including customary law where appropriate. This reflects the powerful influence of Anglo-Ghanaian common law traditions in their training and socialisation; common law as embodied in the adversarial court system sees justice primarily in terms of ‘due process’. Hence one Magistrate felt fairness derived from an assessment of the arguments put forward by the parties in court; the truth emerges from letting the parties make their cases.<sup>1</sup> But they also talk the language of rights –ironically, more so than the CHRAJ officials—saying that compromise cannot be allowed to prevent people getting their legal rights.

To what extent are these varying conceptions of justice and fairness played out in the decisions reached by the different DSIs? Here one has to analyse the actual codes of law or morality which seem to be applied in particular cases. Observation of cases has enabled us to identify many different and often contradictory codes in action, as might be expected in a society characterised by legal pluralism. These include not just ‘customary’ principles of land and inheritance but also Ghanaian cultural beliefs about respect for the elderly and the new evangelical Christian beliefs which are now such a major part of Ghanaian life.

In a number of cases in the Magistrate’s Courts, for instance, the principles of Akan matrilineal inheritance were enforced or upheld by the judge, using loopholes in recent statute law which attempts to protect the position of widows and a father’s children in cases of intestacy. As customary law is constitutionally part of the law of Ghana to be applied by the courts, the judges are perfectly correct to do this. But it was evident that another, less ‘legal’ principle was coming into play which featured in many other cases, not just inheritance, namely: the idea of respect for older persons.

The Magistrates, the Court-connected mediators, and the CHRAJ have all dealt with cases using the idea that respect must be shown to older people by younger ones. One land and inheritance case in the Magistrate’s Court involved a young man whose father had died 30 years previously. His father’s land had been inherited by the father’s matrilineal nephew now in his 60s. The young man, feeling that he was ‘owed’ something from his father’s estate, decided to start cultivating a piece of the farm saying he needed the money to pay for his training as a mason. But he did it without asking the permission of his father’s successor. In the judge’s view, the young man was in the wrong because he should have treated his father’s successor as his new father, even though it would have been right to expect some provision to have been made for him. But he showed disrespect by not going and asking for permission to cultivate the land.

A more bizarre case (still pending) involves an accusation of witchcraft made by an older woman of around 27 years old against a younger one, aged 19. The young woman had answered the accusation by quipping: ‘it takes one to know one’. The older woman then took the younger one to the local

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<sup>1</sup> Limited evidence from the behaviour of members of the public in court suggests that the role of lawyers in fighting for their clients is not well understood or appreciated; most people blame lawyers for what they see as prolonging cases and making life difficult. The judges themselves blame lawyers for many of the difficulties experienced by the state courts, although for more cogent reasons, predominantly their incompetence and disorganisation.

chief's court, and the chief ordered the younger woman to be punished for daring to insult the older one, even though she had not started the quarrel. The younger woman and her family were ordered to apologise and pay a fine, upholding the principle of 'respect for elders' although the technical nature of the age difference suggests that the plaintiff had other kinds of support in the community. But this was not enough for the older woman, who in a spirit of vindictiveness then sued in Court for 'defamation'. The verdict of the Magistrate will be a highly significant indicator of the extent to which a state court is prepared to uphold these kinds of cultural beliefs.

In a case dealt with by CHRAJ, a tenant who was furious that his landlord (an old lady) had doubled the rent even after he had carried out agreed renovations, insulted her in public, calling her 'dirty' and the mother of bad children. The mediator found in favour of the landlord and told the tenant to move out, although a legal examination of the tenancy agreements might have supported the tenant's position. The code being applied was that it was wrong to insult the elderly lady, so in practice an 'agreed' settlement meant that the tenant had to 'agree' with this moral stance.

An even more serious affair involved the Court- connected ADR mediator trying to mediate in what was essentially a minor criminal case. A son had been accused by his mother of assault with a machete and violent conduct (the son lived in the mother's household and ran his clothing design business in a shop in front of his mother's premises). Essentially the quarrel was about the son's lifestyle (too much drinking and partying and not paying his electricity bills, according to the mother); but the incident had led to the police being called and the son spending a week in police cells. The mediator did not really attempt to ascertain the truth or otherwise of the accusations and counter- accusations flying between the mother and son; instead he sought an agreement that involved the son moving out. The mediator told the son ( a man in his mid-30s) that 'his mother could do no wrong' and that he should apologise and show her respect. The son agreed to the terms of the settlement (which basically took the mother's side) because he just wanted to get out of the situation and not face police charges. But he did not necessarily share the sentiments of the mediator, even though he made a formal apology in front of the ADR mediator.

In this latter case, it was clear that another moral code was also being invoked by the mediator: that of evangelical Christianity. As the agreement was being worked out, the mediator argued that the son's behaviour was due to his possession by the Devil. The son thereupon brought in as his witness and supporter his Pastor, who confirmed that he had now accepted Jesus Christ. The mediator was very pleased by this and argued that his agreement to the 'terms suggested' would be a living proof that he had changed his wicked ways and escaped the Devil's influence.

One of the CHRAJ mediators was also applying Christian principles to the many 'matrimonial' and child custody cases coming before him. He made it clear that his approach was always to try to save marriages and encourage reconciliation, even stating that it was the policy of CHRAJ to encourage couples to 'stay together for the sake of the children'. In many ways he tried to assume the role of marriage guidance counsellor rather than dispute mediator. In another case where a woman wanted only for her estranged husband to agree to carry through a customary procedure for divorce ('sending her back to her parents house') the mediator refused on the grounds that 'CHRAJ does not do divorce'.

### *4.3 Performance of the DSIs: accessibility, gender issues and the CHRAJ*

Although we are awaiting the survey data for a full judgement on the performance of the three DSIs, some very interesting findings in relation to accessibility and gender have already emerged in relation to the work of the CHRAJ.

The vast majority –around 80%-- of the cases being dealt with in the CHRAJ District Offices are complaints brought by women against men for maintenance of children, disagreement over custody of children (in some cases accusations of kidnapping), breaches of promise to marry, and maintenance after separation or divorce, often mixed with accusations of domestic violence and abuse. Many of the child maintenance cases involve very young women—schoolgirls and students-- who have been abandoned immediately after getting pregnant, and are seeking support for their education as well as child maintenance. Others involve failed relationships after some years of cohabitation, usually because the man has taken up with a new woman. The flood of cases reveals a society in which sexual relations seem to be changing rapidly; very few of the couples in the cases observed had gone through any kind of marriage rites, either customary or civil; most had been, at best, co-habiting. Yet the parties and the CHRAJ mediators talked about ‘divorce’, ‘responsibility for children’, and the need to respect ‘wives’.

On the one hand, the fact that so many women are bringing cases to CHRAJ shows that the CHRAJ is performing well in offering accessible dispute mediation to vulnerable women who would probably not have gone to Court. For these women, going to Court would be too expensive, too shameful and they would probably not have the courage anyway to make the complaint. They are also reluctant to get involved with the Ghana Police, even though there is now a new a Domestic Violence and Victim Support Unit which is supposed to handle complaints of assault. According to the CHRAJ Director at Amasaman, they are supposed to refer assaults to the DOVVSU but it seems that that agency itself then resorts to ‘mediation’ rather than taking the case to Court. (We have no information on what kind of mediation the DOVVSU offers or what their competence is in this area).

For those with no formal marriage, rights are limited. The women seem to trust the CHRAJ and are comfortable with the way the process is handled (not least because the CHRAJ, unlike the Courts, normally manages to get both parties to turn up together on an agreed date!). They can also bring a family member – their father, a brother—to support them during the hearing rather than just to be called as a formal witness. And one effective service which CHRAJ offers is that, when a compensation has been agreed, or a regular maintenance payment, the payments are made through the CHRAJ office and then passed on to the woman if she is the agreed recipient. In this way, agreements are very clearly monitored and any failure on the part of respondents is picked up immediately and can be chased up.

On the other hand, the quality of justice they are getting is often less effective than it should be, and the codes being applied are not necessarily securing for them what they are entitled to under the law. In one case of domestic violence, for instance, the assault was a serious one which had caused the young woman to miscarry her second child (fathered by the now ‘ex-husband’) and resulted in serious medical complications (prolapsed womb). The hearing at CHRAJ dealt only with her request for help with medical expenses, in the form of drugs, not a gynaecological operation. CHRAJ persuaded the ‘husband’ to accept responsibility for a bill which the woman would have to get by going back to the hospital. There was no reference to the Police or the DOVVSU, and no suggestion that a civil action

for damages in Court would have produced a much larger compensation. It was apparent that the woman had not reported the true circumstances when she had first gone to hospital with the miscarriage, which may have seemed an impediment, but not an insuperable one.

In other cases where the man had basically abandoned the woman and his one or two children, one of the CHRAJ mediators was trying to advise marriage where the woman was an 18 year old and the family wanted this to be pursued, or advising reconciliation when it was clear that the woman simply wanted a formal action for customary divorce. (The customary divorce action would have triggered compensation payments). In another case of teenage pregnancy (the girl was 15 at the time and the legal age for marriage in Ghana is 18) the defendant had agreed to marry her when she turned 18 or pay GC 2000. But the baby had died and the defendant was now trying to back out. The mediation obtained agreement by persuading the complainant and her father to accept a much reduced compensation of only GC 50, even though the defendant had escaped prosecution by the girl's father in the original crisis after persuasion by the elders!

A custody case in which an ex-husband was trying to take back custody of a 9year old boy who had lived with his mother since he was born, and for whom he had not paid the maintenance agreed in 2003, was handled as a matter of securing the education of the child. As the unfortunate mother lived a poor life in a shop kiosk, the mediation revolved around the argument that the father would assure the child's education better. On these grounds, there was an attempt to persuade the mother to allow the child to go the father.

Of course, all of these cases illustrate a point not just about CHRAJ but about informal ADR generally; the search for compromise can often put pressure on a weaker party to agree to something which is not really in their best interests, just for the sake of getting an agreement. The CHRAJ would argue that in these family cases, they are at least obtaining some monetary compensation where perhaps nothing might have happened previously. There is undoubtedly merit in this argument. But the fact that most of their District mediations so clearly involve mainly women seeking redress in situations where men have run away from their responsibilities gives a very strong gender dimension to the issue of what kind of justice is being offered. Can adjudication based purely on a search for mutual agreement, ignoring the power dimensions and locally dominant ideas about the place of women, really produce an effective and legitimate justice for those women?

## **5 Plans for 2010-11**

1. Final reports are due on the Ghana work by the end of March 2010. Following a small preliminary results workshop with selected subjects of the research and immediate stakeholders in November 2009, a national and international stakeholders' and policy makers' workshop is planned for April 2010 in Ghana, at which the full results of the research will be discussed and disseminated. This should include invitees from the relevant Ministries (Lands, Judicial Service, Legal Aid Board, Attorney General, Ministry of Local Government) Parliament (Parliamentary Committees on the Judiciary, and Legal and Constitutional Affairs), the Bar Association, the House of Chiefs, donors and NGOs both local and international. It is also hoped that colleagues from DRT Uganda will be able to attend, as a way of smoothing the transition from the Ghana research to the next phase in Uganda.

2. In the next phase of the research it is planned to replicate the study in Uganda. It is intended to compare the Ugandan Magistrate's Courts Grades 1-II, which are located at Sub-County and District

levels, with the Local Council Courts and Land Tribunals (Sub-County level). The Local Council Courts were originally created as organs of 'popular justice' by the National Resistance Movement after the NRM's capture of power in 1986. The judges were NRM militants, but since the 1997 Local Government Act and the 2006 Local Council Courts Act, the panel members have been elected local councillors and other co-opted 'community' and traditional representatives. It is also hoped to identify an ADR institution comparable to the Ghanaian experiments in this field. This remains to be discussed with Ugandan researchers at DRT.

3. To facilitate a rapid inception of the Ugandan research, it is planned to send CDD research staff to Uganda to assist with training of field Research Assistants both anthropological and mass survey, and replication of the research instruments. It is also anticipated that mutual exchanges between CDD and IRD staff will facilitate comparative insights.

4. Results from the full reports will be used to write articles for refereed journals, papers for relevant international conferences and workshops, and to feed into short policy briefs and other dissemination materials being produced by Communications Officers.

## 8 Formalising schooling: religion and education

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### 1 Summary of the research stream

Education is a major public good which states are expected to provide. It is also a crucial intermediate outcome, contributing importantly to both economic and political development. In much of Africa, however, education as a public good has been poorly delivered, with strikingly declining quality in recent decades. One response to this decline has been a proliferation of various informal, society-based, alternatives. This research stream focuses on a set of recent reform initiatives that are attempting to capture these social responses by integrating informal (society-based) educational institutions into formal (state-sponsored) ones, in three Francophone West African countries: Niger, Mali and Senegal.

Across the Muslim majority countries of the Sahel, one response in the post-colonial period to the reality of the bad ‘fit’ between the provision of public education and social expectations has been the development of a vast parallel system of informal religiously-based education, outside the official state system, and created largely in explicit response to the limitations of the state educational system. These unofficial, ‘informal’, or ‘parallel schools are of widely varied form and levels, ranging from very basic Qur’anic schools to quite sophisticated ‘Franco-Arabic schools’.

A number of factors in recent years have prompted several of countries in the region—including Mauritania, Senegal, Mali, Niger, and Chad—to embark on significant experiments in reforming education, both by attempting to bring the informal and semi-formal systems more squarely into the formal state system and at times by reforming the formal system to borrow characteristics from the informal, such as the introduction of religious education in state schools. The research stream is examining these processes in three of these countries—Niger, Mali and Senegal. These countries are fairly well advanced in the implementation of their reforms. Practical considerations also militate in favor of the selection of these three as case studies.

The reform processes in all three of these countries are largely driven by the argument that bringing educational institutions more into line with local social realities and expectations will help to make things work better by creating systems that (in APPP terms) will work ‘with the grain’ of social and cultural realities rather than against them. In these countries, then, states have embarked on projects to recognize the parallel educational systems, while also trying to impose some degree of formalization, resulting in the creation of what are in effect new, hybrid systems. *These processes thus represent in some important ways crucial ‘experiments’, addressing very directly the kinds of issues about the fit between state institutions and African social and cultural realities with which the APPP program is concerned.* We believe, moreover, that empirical study of these specific cases in this initial stage of the APPP theory-building project has the potential to raise issues of broader concern which could fruitfully be examined in further work.

The research stream aims to: 1) carry out empirical case studies of reforms in Senegal, Mali, Niger; 2) comparatively examine the politics and outcomes of these three efforts; and 3) Analyze the cases

for broader lessons to be drawn concerning the developmental impact of institutional reforms explicitly presented as being intended to work *with* rather than *against* prevailing moral orders and value systems (i.e. the social ‘grain’)

***The research questions thus being addressed are:***

*1. Why have these reform processes been undertaken at this moment?*

- What are the politics that have inspired these efforts to create ‘hybrid’ institutions?
- What is role of external actors and of social movements?

*2. How are these reforms being implemented?*

- What are the politics shaping the actual processes of reforms?
- Who are the key actors for and against?
- What have been the key points of contention?

*3. What are the emerging or likely outcomes of these reforms?*

- What are the consequences for educational outcomes: e.g. literacy rates?
- What impact are these reforms having on state legitimacy and capacity?
- What incentives are being introduced for behavioral change (e.g. increased school enrollment)

Given that the anticipated developmental outcomes of educational reform—increased workforce capacity and quality of life, etc.—are obviously long-term, there are limits to what we actually expect to see comparatively within the timeframe of the research project. Nevertheless, we expect to be able to comparatively examine two types of outcomes: (1) The extent to which the reforms are actually carried out and implemented in each case. That is, under what conditions and with what coalitions of actors it becomes possible to break established institutional configurations and carry out reforms portrayed as responding to societal demands. And (2), we will be able to measure at least some intermediate outcomes that might be reasonably expected to influence long-term development. These would include school enrolment rates (by gender and other social groups) and the relative success rate of schools in state examinations.

The research is co-directed by Leonardo A. Villalón of the University of Florida and Mahaman Tidjani Alou of LASDEL The Fieldwork Coordinator is Abdourahmane Idrissa of UF, LASDEL and Oxford. We have four Fieldwork Assistants: Ibrahim Yahya Ibrahim and Ali Bako (Niger); Mamadou Bodian (Senegal); and Issa Fofana (Mali).

## **2 Work to date**

Given the scheduled commitments of the co-directors, this research stream was initiated a bit later than the others within the APPP, beginning in the current FY (2009-2010). It built, however, on Villalón’s initial ‘scoping’ in all three countries, as part of an individual research project in 2007-08.

To further elaborate the scope of the proposed work, and to plan the specifics of the fieldwork methods, Villalón, Tijani Alou, and Idrissa held an initial workshop/meeting at LASDEL in Niamey

in June 2009, with the two Nigerien assistants (Bako and Ibrahim) also participating in that effort. In those meetings, we worked from general questions about the project's empirical goals to the specific content of the fieldwork itself, particularly in Niger. To that end, we developed a general working outline about 'What we want to know' in each case, moving from there to the specifics of whom that would entail interviewing, what institutions to consider, and what type of documentation to gather. (Some working documents produced in the workshop/meeting are appended here.) Building on these, and beginning during our meeting and immediately following, a series of specific protocols for the different types of interviews (e.g. with government actors, school officials, parents, etc) were also developed.

The fieldwork in Niger was initiated in part during our June meeting, with several interviews carried out collectively, and the bulk of it was then carried out from July to September, with Idrissa leading, and with the assistance of Ibrahim. In addition to the interviews and work in Niamey, field research in selected schools was carried out in the town of Maradi, Niger's second largest city, some 600 kilometers east of Niamey.

In late July/early August, Villalón met with Mamadou Bodian in Dakar, to discuss the Senegalese fieldwork and to recruit him for the project. Bodian is enrolled in a doctoral program in sociology at the Université Cheikh Anta Diop in Dakar and has excellent relevant experience in research projects, including serving as an assistant to Villalón for an earlier project.

From 17-19 October 2009, Villalón, Idrissa and Bodian met in Dakar, to discuss the fieldwork as it had been carried out in Niger, and to plan accordingly to carry out comparable fieldwork in Senegal and Mali. This meeting allowed us to review the materials gathered in Niger, discuss emerging issues of interest, and begin to consider the comparative dimension. Based on the experience of the Niger work, we were also able to plan out the specific content of the fieldwork in the other two countries. Following this meeting in Dakar, Idrissa went directly to Mali to carry out three weeks of intensive fieldwork there, while Villalón and Bodian initiated the work in Senegal with a series of interviews over the following week.

In Senegal, this included interviews with a number of the central actors in the reform process in Dakar, as well as an extensive interview with the official in the Islamic Development Bank (BID) who is in charge of the various BID projects that have helped to support the educational reform processes across West Africa (e.g. the commissions to write the *manuels*—schoolbooks—for religious education and Arabic studies). It also included two trips out of Dakar: to the town of Mbour to interview a leader of one of the main Senegalese Islamic reformist associations, the *Jamma'at Ibadou Rahmane*, which has invested heavily in the education sector; and to Touba, the 'holy city' of the Mouride Sufi order, to interview the director and key actors in the major educational initiative of that order: the 'Al Azhar' schools now present across the country. Based on those visits and interviews, we also identified two field sites for the research on specific schools which Bodian will carry out: a primary Franco-arabic school at Keur Madiabel in the Kaolack region, and a secondary Franco-arabic school in Mbacké in the Diourbel region.

In Mali, Idrissa worked with the field assistant recruited there, Issa Fofana, to carry out the key interviews in Bamako as well as to begin to gather the necessary documentary data. In addition, Idrissa was able to travel to Timbuktu, to interview key actors including the director of a major *madrassa* (Islamic school) in that historic site. Given the central role of Timbuktu in Islamic

education in Mali (and indeed across the region), the relationship of schools there to the modern reform processes is of highly significant interest.

In Senegal, Bodian is currently continuing to carry out the core fieldwork as planned out during the October meeting. In Mali, Fofana will follow up as necessary with data gathering and with the interviewing of parents at selected reformed *madrassas*.

For other reasons (a conference in each case), Villalón is scheduled to be in Dakar in mid-December 2009 and in Bamako in mid-January 2009. During those visits, he will meet with Bodian and Fofana, respectively, to go over the completed fieldwork and to discuss any remaining issues in need of addressing. For each case (as for Niger) a complete *dossier* of the empirical data gathered will be prepared; these will include notes/transcriptions of all interviews, documentary data of various sorts, and the ethnographic observations of the reformed schools themselves. A copy of these materials will be kept locally by the research assistants, a copy provided to Tijani Alou at LASDEL, and a copy for Villalón at Florida.

Based on the primary fieldwork, we plan for the initial output of the research to be individual 'country reports' of the educational reform process and emerging outcomes. We developed a tentative outline of what these 'country reports' should cover at our Dakar October meeting. (It is appended here). The idea of individual country reports is to systematically organize the empirical results of fieldwork in each case, so as to then provide a basis for the analytical and comparative work of this research stream, from which we hope to address the central theoretical questions of the APP programme (see below). These country reports are to be drafted in early 2010, with all three completed by the end of the current APP FY: 31 March 2010. The Niger report will be drafted by Idrissa with input from Tijani Alou and Ibrahim. The Mali report will be drafted by Idrissa with input from Fofana, and the Senegal report will be drafted by Bodian with input from Villalón.

### **3 Some very tentative emerging conclusions:**

Given that we are at this writing still directly involved in the primary fieldwork, we do not yet have any significant analysis or firm conclusions. Based on the Niger work, we might however point to a few initial observations that give an indication of the type of findings we might expect in each case:

#### ***Niger fieldwork observations:***

- The reform process in Niger was driven by the state effort to capture the proliferation of informal sector '*écoles pirates*' in the 1980s.
- External actors and a 'policy transfer' dynamic was also significant in the adoption of reform processes.
- There has indeed been a *very* rapid expansion of the Franco-Arabic school system since the initiation of reforms (From 210 primary Franco-Arabic schools in 2000, to 882 in 2008)
- Reform actors tend to report that the increased demand is credited to the appeal of the religious dimensions: Islamic education and the Arabic language/script.
- School officials and parents nevertheless also present the attraction of Franco-Arabic schools as an option that balances career options with social/religious training.
- The reform projects are formulated with the logic of 'repairing and expanding' the existing system, rather than replacing it (this may be a significant difference from Senegal).

- Observable trend 1: Parents and others emphasize Arabic language instruction at the primary school level, and French at the secondary school level.
- Observable trend 2: Expensive private Franco-Arabic schools are emerging, for higher-income families.
- Observable trend 3: The gender gap is closing or even closed with the reform schools: Girls' enrollment in Franco-Arabic schools is expanding very rapidly.
- At the same time, the obvious religious image of Franco-Arabic schools is leading to increased critiques from secularists about the consequences of reforms.
- Even more significant emerging critiques from school officials and parents may be an emerging perception of problems due to overloaded curricula and the lack of a clear 'identity' of the schools.

Beyond such specific observations, a few points more general comparative points may merit pointing out at this stage:

Fieldwork in all three countries immediately confirms that the reform processes are indeed going forward with significant (indeed striking) momentum. In each case the enthusiasm of the reform proponents in the relevant official agencies has been met with significant popular demand for the new schools. In each case, officials in fact claim that local level demand even outstrips their capacity to supply new schools and reform materials. The rationale for the reforms put forward by the promoters and, it seems, by parents, in fact points to the notion of making schools more attractive because they are more closely rooted in prevailing cultural norms and religious values: that is, that they 'go with the grain.' This argument is also regularly invoked in each case as the explanation for the booming demand.

Despite this demand and enthusiasm, it is still not fully clear whether these schools will have the desired impact on the pragmatic educational issues: Will they in fact succeed in improving skills necessary for entering the workforce? In each case, there are emerging questions about the sustainability of curricula, the appropriate balance of different subjects, and such.

At the national level, we have also noted that despite the apparent similarities of the processes and the goals enunciated, there are some significant differences among the three cases, namely in terms of the institutional configurations at the point of departure of the reforms: What is the mix of public vs private schooling in the 'Franco-Arabic' sector, and what other actors have become involved in the provision of education? Very tentatively, it seems at this stage that these varying institutional configurations may produce different coalitions with interests in the reform processes, and hence affect the reception of reform efforts and the pace and substance of what is implemented. Should this indeed prove to be the case, we may be able in this research stream to reach some conclusions about what kinds of factors are most likely to succeed in efforts to reform institutions along the lines of African social preferences, even in contexts of similar cultural and political rationale.

#### **4 Proposed activities for 2010/11**

We have two main goals for this research stream in FY 4 of the APP programme:

1. Finish, write up and disseminate the results of current research in Senegal, Mali, Niger
2. Plan for the next phase of the project: expansion of the research to different contexts:

***For the first goal: completing and communicating current project outcomes, we propose:***

- A. To hold a meeting/workshop at LASDEL, Niamey in June 2010 (as noted above) to bring the research team together to comparatively examine all collected data, review and finalize the individual country reports, and work on the comparative analytical outputs. We anticipate:
- One week for Villalón, Tijani Alou and Idrissa to discuss and work collaboratively with the assistants from Niger, Mali and Senegal. Output = finalized versions of detailed country reports for each case study
  - A second week at LASDEL for Villalón, Tijani Alou and Idrissa to work on comparative and thematic/theoretical synthesis. Output = analytical comparative article(s) on religion and educational reform, for publication. Potentially: plan and organize book manuscript. Drafting to be completed following this meeting.
- B. Communications strategy for disseminating results: It would be highly desirable (budget and time permitting) to organize reporting workshops (*'seminaires de restitution'*) in Niamey, Bamako and Dakar. These could be organized (using the LASDEL model) as one day or half day events to which stakeholders in the research (in this case most notably our interviewees and others in the educational reform processes as well as academics, government officials, representatives of Islamic associations, and interested civil society activists) would be invited. The findings of the research project would be presented by Villalón and Tijani Alou, along with the local assistants in each case, and the program structured so as to allow reactions and responses by key stakeholders and discussion by the audience.
- These workshops would be held at LASDEL in Niamey, Point Sud in Bamako, and the West African Research Center (WARC) in Dakar. The timing of these workshops in the year would depend on the availability of Villalón and Tijani Alou; perhaps October 2010.

***For goal two: planning a follow-up stage of research on religion, the state and education:***

Again, budget and time permitting, we would propose to extend the focus of this research stream. In FY 4, this would entail undertaking scoping trips to examine the feasibility and theoretical interest of expanding the research on the state and educational institutions to new countries with *different* religious and state institutional contexts. We would also use these trips to seek out possible local collaborators/research assistants in each case

As opposed to the Muslim-majority contexts of Sahel, we would propose to look at some Muslim-minority or religiously-divided countries. This would allow us to comparatively examine the expansion and institutional configurations of Islamic educational systems in places where we can compare Islamic schools with Christian-based educational systems, with a special interest for educational alternatives being proposed by new religious movements such as the Pentecostal and charismatic churches. We would also like to expand the project to bring in a consideration of Anglophone cases.

Based on these considerations, we would propose initial research visits/scoping trips to Ghana and Uganda. Both countries have reportedly experienced a boom in new religiously-based educational initiatives, both Muslim and Christian. Uganda, in addition, hosts one of two African Islamic

universities created by the Organization of the Islamic Conference. (The other is in Niger). In addition to the interests noted above (Muslim minority; Anglophone), an additional benefit of and support for working in these countries would clearly be the presence of APPP partner institutions in each.

Pending the results of these scoping trips, which could be carried out in early 2011, we would anticipate possibly proposing further fieldwork in those countries in FY5, 2011-2012. We would also propose planning a major conference/workshop and an edited book on the broad theme of 'The State, Religious Institutions, and Education in Africa.'