

Research Approach

Local justice as a public good

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. 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.

Aim of the research

The ultimate aim of the research is to identify institutions which work 'with the grain' of African societies and are effective because they are trusted and rooted in local cultures and values. Rooted practices will tend to be informal but may not be 'traditional': these are matters for empirical investigation.

The countries

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.

Local justice provision

Comparing state-sponsored dispute settlement institutions

In many African countries, the legal system and the courts have been condemned as inaccessible to ordinary citizens because of their formality, cost and sometimes 'alien' procedures and rules. The search for more effective, legitimate and accessible justice in many African countries has led to the introduction of new kinds of dispute settlement institutions (DSIs) based on the use of more locally rooted, informal codes or procedures, including popular justice, customary law and modern Alternative Dispute Resolution (ADR). But to what extent are these new approaches to judicial practice, including alternatives to formal state law, improving the provision of effective justice?

To shed light on this question, the Local Justice Research stream is carrying out studies of state-supported local DSIs in Ghana and Uganda. Focussing on land, inheritance, property and family disputes, the local justice research is examining the degree to which differences in the effectiveness and legitimacy of local justice provision can be explained by the mix of non-legal values and norms with formal state law which characterises these DSIs.

The study is focussing on 1) the Magistrate Courts in both Ghana and Uganda; 2) the District ADR mediation services provided by the Commission on Human Rights and Administrative Justice, and the land disputes resolution service offered by the Customary Land Secretariats, in Ghana; and 3) the Local Council Courts and Land Tribunals in Uganda. The methodology combines anthropological observation of judicial processes with interviews and surveys aimed at discovering ordinary people's understandings of due process and what people actually want from justice institutions.

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For further information, visit www.institutions-africa.org or contact the Local justice stream leader: **Prof Richard Crook** (r.crook@ids.ac.uk)