



THE ROLE OF PROVERBS IN THE SHONA JUDICIAL SYSTEM WITH SPECIAL REFERENCE TO NHANGO DZOKUSUMA NYAYA PADARE

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ABSTRACT

This paper contends that proverbs have a number of functions at the court system among the Shona people. Some of the functions include to prosecute, adjudicate, summarise the proceedings and condemn the offenders and teach societal ethos. This can be observed from Nhangó Dzokusuma Nyaya Padare which show the Shona court in session. The use of language at the court is shown to be marked by the predominant use of proverbs which implies that they have several roles. It is also noted that proverbs are part and parcel of the shona people's cultural system which makes them important in guiding their people in the manner they conduct themselves and this includes within their judicial system.

Keywords: Judicial system, Existential philosophy, Proverbs

INTRODUCTION

This research attempts to analyse the significance of proverbs in resolving disputes among the Shona people at the *dare* court. The analysis is premised on the view that proverbs, as in many African societies, are an integral part of the shona people's existential philosophy. Put differently, proverbs are vehicles of the people's cultural aesthetics. They are part of the people's dialogue about their life and therefore the assumption that they play a crucial role in conflict resolution among the Shona. Most of the illustrations will be drawn from *Nhangó Dzokusuma Nyaya Padare* in the anthology *Nduri Dzenhango Dzomuzimbabwe* as this will see the use of proverbs in context since the poems show how the Shona conduct their court sessions. The prevalent use of proverbs show the society's concept of justice being transmitted through the spoken word. Proverbs by their nature tend to summarise the issues under discussion. As noted by [Nandwa and Bukenya \(1985\)](#)

one of the chief characteristics of proverbs is their terseness. This is because of the ability of proverbs to make use of as few words as possible to describe a situation in a particular context.

THE SHONA COURT SESSION

During court sessions, the use of proverbs enables the avoidance of lengthy accounts which helps both to save time and to give an apt account of events. The Shona are aware of the significance of the chief's court and the need to stick to serious business only. This can be observed in the proverb *dzimbahwe harina dandaro* (a chief's court is not for entertainment). In the poem *Musikana Ndiye Ngaaripe*, which focuses on the case of a girl who is alleging to have been impregnated by a certain boy, the proverb *hove inobatwa ndeinodyira*(61) (A fish that is caught is the one attracted to the bait) summarises the behaviour of the girl in question. It suggests that the girl had become pregnant as a result of immorality and therefore has become her own victim as she cannot tell who is responsible for the pregnancy. The same can be observed in the poem *yatsika dope yanwa* in which a boy is trying to run away from the responsibility of having impregnated a girl. The proverb *nyoka kurova mushana huona mwena*(62) (a snake basks in the sun knowing that there is a hole nearby) summarises the matter under discussion. It alludes to the fact that the girl agreed to have sex with the boy knowing that if she becomes pregnant she will know where to go. Therefore as a result of the proverb's compactness, it allows the speaker to stick to crucial points and this in turn allows other participants to easily follow the deliberations and in the process grasp fundamental issues being raised which ultimately allows them to make an informed decision.

Another function of the proverb during the court session is that they are used to prosecute the alleged offender. They question the logic of one's engagement in certain acts. This is because proverbs have the power to invoke one's imagination by clarifying the situation under discussion. Nandwa and Bukenya *ibid* (22) note:

A proverb therefore fascinates us by calling our attention simultaneously to the general reality around us to the particular reality of the situation in which the proverb is used.

In the poem *upombwe*, Chimedza is alleged to have committed adultery with Mugoni's wife and a proverb is used to question his relationship with the wife:

Waive mutsai wetsvimborume

Kubvisa mwana wemvana madzihwa?

(what was behind the kindheartedness of a bachelor
to remove mucus on the child of a single-mother?)

The same can be said about the proverbs in the poem *musikana ndiye ngaaripe* cited above. The girl in question had multiple sexual relationships and she is being interrogated as to why she has been so generous with her body to the man she is alleging to have impregnated her:

wake mutsai unenge webere

kuti ndosara ndakarinda chitunha?(61)

(what is behind her kind-heartedness which is like a hyena that volunteers to look after a corpse?)

The two proverbs used in the two poems above are equivalents and have demonstrated that they are useful in the prosecution of alleged offenders.

During the proceedings at the *dare*, proverbs are also used to give weight to one's standpoint. As [Chiwome \(1996\)](#) asserts, proverbs have authority of tradition as at times they start with the formulaic phrase *vakuru vakati.....*(the elders said)..... this is done to quote a precedent. Among the Shona, age is related with wisdom and request. This is because the elders would have been exposed to the realities in life and it is this experience that is valued by the people. [Menkiti \(2006\)](#) notes that among the African people there is the thinking that in the process of growth and maturation, the heart grows increasingly wiser. He refers to an Igbo proverb, "what an old man sees sitting down, a young man cannot see standing up". In the poem *mombe dzamusharukwa dzakadya*, the complainant raises concern over his neighbour's cattle which had destroyed his crop and when he tried to resolve the matter amicably with him, he became violent and he ends up seeking audiences at the court. He justifies his actions with the following proverb:

Sezvo vakuru vakati: mhosva haitongwi nekurwa

padare pashe padurunhuru

miromo mizhinji inoswatudza nyaya

(As the elders said: a conflict cannot be resolved through fighting

a chief's court is a softening place

different viewpoints help to resolve conflict)

One can therefore conclude that proverbs are useful in authenticating one's viewpoint as they have a base in tradition.

At the *dare*, proverbs are also used to adjudicate. [Hamutyineyi \(1987\)](#) note that proverbs are skillfully introduced into speeches at a crucial moment and may well influence the actual decisions reached. In other words, they can function as judgemental statements. The court's position over a dispute can be contained in a single statement. In the poem *yatsika dope yanwa* in which a boy is trying to deny the responsibility of impregnating a girl with whom he had a sexual relationship, the court's position is found in the proverb:

*Mukomana ihanga yakandira muuswa,
patsvira sango nayo yatsvawo*

(The boy is a guinea fowl which has lay its eggs in the grass
When the bush burns it also gets burnt).

Through the proverb, the judgement is that by virtue of having sexual relationship with the girl, the boy is deemed responsible for the pregnancy. Nandwa and Bukenya op.cit, state that:

The value of the proverb lies in its applicability to a concrete situation, how it assesses, and possibly suggest a solution to it(102)

One strength of the proverb is that it makes use of imagery that is found in the people's environment and therefore the people who use it can easily deduce its meaning. In this case, the judgement of the court is contained in a single statement which the people can easily find justification through the imagery.

By virtue of being vehicles of the people's cultural and philosophy, proverbs have a role to teach people moral values they deem necessary. Vices like adultery, theft, witchcraft, laziness, jealous and engaging in pre-marital sex are condemned through proverbs. Furusa (1996) observes that , Shona proverbs, like those from other African societies, focus on issues of ethical and moral significance which are related to the problems of the individual and society and thus affirm definite viewpoints in life, regulating and standardizing the organization of the activities of individuals. Therefore, the social renegades are chastised through proverbs and potential offenders are warned against indulging in such activities as they would face the wrath of the law. In the poem *chimutsa ndiye ane mhosva*, men are warned against proposing love to married women through the proverb *mukadzi wemumwe ndimbuya* (59) (Another man's wife is a mother-in-law). Among the Shona, one is expected to keep a distant relationship with his mother-in-law and this involves even physical contact so as to avoid the risk of the relationship degenerating into a sexual one. Mbiti (1969) elaborates on this existential necessity when he reminds us that:

In African societies the kinship system involves among other things relationships in which Physical avoidance between given individuals is carefully observed. For example, this is the case between a man and his mother-in-law. Physical avoidance protects the individuals concerned from sexual contact.

It is for this reason that Hamutyineyi (1987) note that a number of considerable proverbs must be termed judicial axioms or maxims as they reflect customary law.

This is the analogy contained in the proverb above which calls for men to respect married women. Marriage is a sacred and highly esteemed institution as it links the ancestors, the living and those to be born. Therefore committing adultery is a grave offence that it warrants divorce and/or heavy penalty. Whenever one violets the society's rules, he /she is assured of facing retribution. In another poem that focuses on adultery, *upombwe*, both Chimedza and Mugoni's wife(the adulterers) are told in unequivocal terms, *mago anoruma mutokonyi*(56) (wasps sting the provoker). In the same poem, men are also warned of potential vengeance from husbands of wives whom they propose love to:

Itsimba-kaviri kunyenga mukadzi weasipo (56)
(It is double-effort to propose love to another's wife)

The proverb implies that the husband will demand compensation or even seek physical retribution. Proverbs therefore help to guide people. This is because they are a culmination of people's observation of events in their lives and how they perceive those events for the good of their lives. [Mkanganwi \(1998\)](#) argues that proverbs mainly relate to experience and wisdom which determine people's values. It is for this reason that they are perceived as truths.

Proverbs are also used to remind the adjudicators for the need of leniency when passing judgment since committing crime is part of human existence. The objective of the law is therefore not to punish people in their individuality but to ensure societal relationships remain stable. [Hamutyineyi \(1987\)](#) contend that proverbs are important to solve a dispute with as little animosity as possible and without becoming too personal. In *Upombwe*, there is the proverb *Mhosva haiwiri pamuti asi pamunhu*(57) (Committing a crime is not associated with a tree but with human beings). As [Ramose \(1999\)](#) notes, the whole objective of African law is to maintain an equilibrium and its penalties are not directed against particular infractions but on the restoration of the equilibrium. That is why the people at the court *vadare* are urged to urgently resolve conflicts before they transform into tragedy:

Chinono chikave chengwe
Bere rakadya richifamba(59)
(slowness is of the leopard,
The hyena ate in transit)

However, the need to maintain an equilibrium does not necessarily entail that the judgement will not be such firm that it will not punish offenders and also detour/deter potential ones. In *Chimutsa ndiye ane mhosva*, *vadare* are warned to be tough:

N'anga nyoro inoodza maronda(60)

(A soft diviner will not cure wounds)

Therefore, whilst committing an offence is viewed as part of human existence, each case is treated accordingly and the punishment instituted matches the gravity of the case although the objective is to maintain a stable society. Even the chief or the leader of the court has to respect the views of the advisors. This is enshrined in the proverb *Ushé Makota*. Some proverbs used in the Shona judicial proceedings are helpful in democratising the environment. They emphasise the need to give each participant a chance to say out his or her viewpoint regardless of status they occupy in society. The view should be considered worthwhile. This is seen in the proverb *Dare harina benzi* (a court knows no fool) which reminds *vadare* to consider even the views of those despised in society. The integrity of the judicial system lies in its ability to tolerate the divergent views even of those *vanorotomoka* (those who are not afraid to say sensitive issues). This is captured in the proverb *kubvongodza mvura kuti iyerere* (to disturb stagnant water to make it flow). Therefore every individual's opinion is influential in deciding the ultimate judgement.

Another role of proverbs is giving people confidence in the usefulness of the *dare* and its impartiality on the resolutions. In *Upombwe*, this is observed in the proverbs:

Dare harizonde munhu, varume
dare rinozonda mhosva(57)
(a court does not condemn an individual
but it condemns the crime)

The goal of bringing a matter before the court is that it should be effectively dealt with such that peace and tranquility is maintained in society. The judgement will not be solo effort but a communal one as the Shona, just like other Africans, have a sociocentric perception of human existence. [Kaphagawani \(2006\)](#) observes the corporate nature of African life as he writes:

...Whatever happens to the individual happens to the whole group, and whatever happens to the whole group happens to the individual. The individual can only say:
"I am because we are, and since we are therefore I am"

It is therefore, the responsibility of *vadare* to treat each case to its logical conclusion. The need for a communal approach can be observed in *kutyora musana* where the complainant seeks the court's help after his nephew had been impregnated using the proverb:

.....*Ariga muti pajakwara ati abatsirwe kutsanza*(54)
(One who falls a tree at a communal work party does so to get help in cutting it)

It is this communal approach that gives people confidence in the judiciary. Fragmentation of society is detrimental to the realisation of societal goals. It produces individuals who act in ways that are not commensurate with the celebrated values of the society. Connectedness and cohesion at the dare are therefore, celebrated ethos.

CONCLUSION

This discussion has shown that, to use Chinua Achebe's words, proverbs are the palm wine with which words (at the Shona court) are eaten. The poems cited have revealed that proverbs are the dominant language used at the *dare* and therefore play a crucial role in the society's execution of justice. They have diverse functions and this is so mainly because they are an integral part of this Shona cultural system as they record and transmit the expected values which help to guide the people in the manner they relate to each other.

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