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# Changing community obligations to the elderly in contemporary Africa\*

B A RWEZAURA<sup>+</sup>

## ABSTRACT

This paper is divided into four sections; the first examines briefly and generally the position of the elderly in traditional Africa and stresses especially their political and economic roles.<sup>1</sup> Next it looks at the social and economic transformation which followed the colonisation of Africa and its effect on the position of elders. In the third section are discussed the responses of the elders to these changes and the extent to which they have tried to retain their positions against opposing forces of change. In the concluding section the paper argues that African states need to provide an alternative form of social security in the light of the diminishing economic security of the elderly in present day Africa.

## Introduction

Many writers on traditional African social systems have stressed the importance of age as a significant criterion for the attainment of authority, power, privilege, prestige and leadership position in the community. In traditional Africa, the older the individual became the higher were his chances for gaining upward mobility in the social hierarchy. Through a system of economic reciprocity, a person was able to use his wealth to attract additional dependants and thus to secure a greater degree of social security during old age.

The control maintained by elders over strategic resources, such as land, livestock, women and children, enabled them to ensure relative stability in junior/senior relations. Such stability was essential for the functioning of the traditional social order. Indigenous law and religion also played a supportive role.

Until the intervention of colonial rule in Africa, elders were relatively secure in their positions. However, changes associated with colonial occupation had far-reaching effects on junior/senior relations. Economic

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<sup>+</sup>Professor, Faculty of Law, University of Dar es Salaam, P O Box 35098, Dar es Salaam, Tanzania.

change, new forms of social and political control and new religions, all threatened the dominant position of the elders in many parts of Africa. Old age became a disability as well as an economic risk. As the household became increasingly dependent on the market for its basic needs, there was a corresponding decline in the system of economic reciprocity and a loosening of social cohesion.

These changes, whose broad effects were felt beyond the junior/senior relations, challenged as well as undermined the entire traditional socio-economic system and demanded new solutions to problems of old-age security.

In their bid to retain their positions, elders sought the assistance of the state to enforce traditional obligations. They made inflationary demands on their juniors in the form of high marriage payments and extortionate claims for seduction of unmarried daughters and adultery of wives. A study of some of the resultant conflicts, which were mediated through state courts, gives some idea of the degree to which socio-economic changes threatened the position of elders and also how the latter tried to minimise these adverse effects.

These economic hardships of the elderly are, unfortunately, not fully appreciated by the new states of Africa. It is often supposed, for example, that the local community in Africa still provides old-age security when, in reality, its economic role has become attenuated. This paper stresses that a timely recognition of these hardships is essential in order for African states to begin a process of creating an institutional framework for confronting this problem, whose magnitude will certainly increase as we move into the 21st century.

### The elderly in traditional Africa

Although the terms 'elderly' and 'traditional' can be contentious, especially among specialists, the use of these terms in this paper is very general and approximate. It is recognised, for example, that a person's status as an elder in many African societies was dependent on certain social and political factors besides the mere accumulation of lived years. Even then old-age and social status appear to be associated in defining the status of an elder in many traditional societies. For example, from the time of birth to maturity, to old-age and timely demise, an individual went through a series of recognised stages, each being higher than the previous one, until such a person reached formal retirement. Whether we wish to define the 'elderly' as a non-active person who has attained retirement age will depend upon the economic and social organisation of that society. What is important in our understanding of the term 'elderly' is to stress the essential characteristics of old-age, such as physical frailty and mental dullness which accompany senility. These make the elderly wholly or partially dependent upon others to provide them with care and support for the remaining period of their life.

The term 'traditional Africa' should also be specifically defined and so must be its use in this paper. By 'traditional Africa' I refer to the approximate period before the integration of many African economic systems into the world economy. This integration occurred roughly at the end of the 19th century and was facilitated by the colonial occupation of most of Black Africa. The significance of this period lies in the massive transformation which followed the colonisation of Africa (Fitzpatrick, 1979; Snyder, 1981; Rwezaura, 1985). Even then, where the term 'traditional' refers to the above-mentioned period, it is not intended to draw a sharp divide between Africa's pre-colonial past and the colonial period. This paper assumes a degree of continuity between, as well as the co-existence of, the past and present. Hence what in this paper is described as the emerging economic and social relations during the post-colonial period are not unrelated to the pre-existing forms of economic and social organisation. In other words, change in many cultures has sometimes tended to strengthen certain existing relations while at the same time undermining others (Rwezaura, 1985).

There have also been innovative accommodations and adaptations. All these matters are significant in understanding the complexity of the process of change and the extant relations among people in modern Africa.

#### *Elderhood as a status position*

In many traditional African societies an individual's social status rose in relation to his age. At the level of the family, a person's status was enhanced when he/she ceased to be a child and became initiated into adulthood. The new status gave an individual limited access to certain privileges originally not available to him or her. On marriage a young man's status rose once again and he became a man and this new status carried with it certain rights as well as obligations (Fortes and Evans Pritchard, 1941).

For most women procreation was considered important not only for the stability it brought to the marriage but also for the honour it bestowed upon them in the eyes of their husband's lineage. From the position of mother, a married woman moved to that of mother-in-law when her own children got married and thereafter she became grandmother to several grandchildren (Brown, 1963: 58-60).

Among the Haya people of Tanzania a son had a hut built for him by his father just before marriage, and was allocated a banana garden with sufficient land for cultivation. All the marriage expenses were met by the father with the assistance of his kinsmen. For the Kuria of north-east Tanzania, a man must leave his father's homestead to establish his own place not later than the period when his first born son is circumcised. Malcolm Ruel (1958) has observed that when a Kuria initiate returns home from the bush, he must re-enter the homestead through the corral gateway of his own father and not that of his grandfather. This rule, no doubt, was intended to assist the

initiate's father to establish his own homestead which enabled him to attain relative autonomy and thus to begin preparing for his own elderhood.

Although many African societies had different ways of marking an individual's ascent to a higher social status, the ultimate consequence of these procedures was to enhance the individual's chances, as well as ability, to gain power and authority over other people. Therefore at the level of the family and neighbourhood, the head of the family was a highly respected individual whose accumulated wisdom, experience, control over family property, as well as ritual power, made him an undisputed leader of his extended family. His authority over his family was legitimated by custom, religion and different forms of social control, including public opinion.

Within the wider community of the lineage and sub-clan, relations between elders and juniors were marked by similar respect for the elderly and a recognition of their authority over the juniors. It is in the acceptance of the status position of elders by the juniors that one must look for the basis of the elders' economic and social security in traditional Africa. Some examples of the elders' source of security are given below.

#### *The basis of old-age security*

It has been argued that, whereas all animals including man possess an instinctive drive to care for their dependent off-spring, they do not possess, unfortunately, a similar instinct when it comes to the care of the elderly. Hence, Simonds (1970) has noted that respect for old age has resulted from imposed social discipline and not nature. In most cultures children were trained from an early age to obey and respect their parents and other elderly members of the community. There is a wealth of ethnographic data showing different ways in which the young were taught to submit to the authority of the elders. Rattray (1956: 18), for example, noted in respect of the Ashanti of Ghana that children were taught to honour and respect their elders and "to keep silent in their presence". Swazi children were trained "to regard the father as the legal and economic authority in the home. They were taught from infancy to obey the father's word and even married sons were never regarded as free from his control" (Kuper 1962: 96). Referring to Swazi traditions, Kuper noted that it was hard to convey the extent of the subservience of a Swazi son to his father:

"He works for him, consults him in all his negotiations, refers to him as 'his head', takes legal oaths 'by father' . . . [Even married sons] as long as they live in his homestead they are expected to hand over to him whatever they may earn, and he may, if he wishes, give them back a portion."

In societies where the age-grade system or generation classes were used to rank individuals and where initiation ceremonies were conducted to admit the youth into the lowest age-grade, respect for the elderly began hierarchically with members of the preceding circumcision set right up to the retiring

age-grade (Spencer, 1976; Ruel, 1958; Baker, 1935; Brantley, 1978; Turnbull, 1976; Gulliver, 1956). Through this hierarchical system an individual grew up knowing the importance of submitting to the authority of seniors and simultaneously learning to expect similar obedience from others below him.

Yet this education of the young generation ought to be seen mainly as a preparation for them to fit into an existing social and economic system which placed the elderly at the top, and thus enabled the elders to build up their old-age security. Perhaps the most significant source of security, which kept the juniors loyal to this system, was their control over strategic as well as scarce resources, such as land, livestock, essential skills and ritual powers. The elders often used these resources in a manner which ensured that the economically active members of the community remained bound to them.

Within the order of things, kinship ties provided an institutional framework through which the elderly made legitimate claims upon the labour power, property and the services of junior relatives, and also through which the latter made reciprocal demands on the elders. In other words, kinship ties in traditional Africa constituted an important criterion for the assignment of rights and obligations over property and other resources (Gluckman, 1956; Goody, 1962; Gray and Gulliver, 1964). As noted by Moore (1980: 30), rights to land among the Chagga of Kilimanjaro are handed from generation to generation in the patriline and important ceremonies, beer parties and slaughtering feasts are organised on lineage basis. Thus not only is an individual's life derived from his kin but "one's livelihood comes from patrilineal kin".

In West Africa, Bledsoe (1980) found that because access to valued resources, such as land, livestock and labour, was traditionally gained through lineage affiliation, there were always many people who were eager to establish real or fictive kinship ties to gain these resources. But given the low technological level of development in these societies, the acquisition of land without having rights in people was not in itself socially advantageous. Emphasis was, therefore, placed on the expansion of one's lineage through marriage, procreation and the attraction of many dependents into ties of obligation.

Hence many ethnological studies on traditional Africa stress that the desire of most men was to establish beneficial kinship ties with a large number of people in order to attain political and economic power and to secure oneself during old-age (Mair, 1971). Writing in 1935 about the Kuria people of Tanzania, Baker (1935: 62) notes that "it is the aim of every Mkuria to have as many wives as possible in order that he may beget a large number of sons who will increase his herd of cattle".

For the Kpelle of Liberia, Bledsoe (1980: 55) argues that "political success rests not only on a person's ascribed position but also on his ability to create relationships of obligation and dependency with subordinates". However,

Bledsoe cautions that, since such relationships take time to create and additional time to make use of, "political success is usually the reward of old age".

One of the most widely known methods by which the elderly sought to achieve the foregoing objective was through marriage to younger mates. This practice is common among men in Africa and has been well documented (Simonds, 1971). Of the Lango people of Uganda, Driberg (1928: 155) notes that "instances are not wanting in which a woman, on growing old, of her own instance presses her husband to marry a younger and more attractive wife . . ." The latter is expected to provide care and economic support to the elderly couple. According to Dundas (in Simmonds, 1970), the aged Akamba of Kenya often married young women, and Xhosa girls were said to be 'literally dragged off' to be married to elderly men and households were listed in which the oldest wife was seventy and the youngest seventeen.

Perhaps the best illustration of security in old-age through marriage is given by Holden (1963: 203-204) who described the happy position of the Xhosa in a rather romantic way as follows:

"The man is then supported in Kaffir pomp and plenty; 'he can eat, drink, and be merry', bask in the sun, sing and dance at pleasure, spear bucks, plot mischief, or make bargains for his daughters; to care and toil he can say farewell, and so go on to the end of life. As age advances he takes another 'young wife' or concubine; and then another, to keep up 'eternal youth'; for he is never supposed to grow old, so long as he can obtain a 'youthful bride', she, by proxy, imparts her freshness to his withered frame and throws her bloom over his withered brow."

Though life may not have been as rosy for all the elderly Xhosa and less still for most elders in other cultures, it cannot be denied nonetheless that even today such forms of marriage continue to be looked upon as an investment for old-age.<sup>2</sup>

In sum, what requires emphasis here is that old-age security in most pre-colonial African societies was embedded in their socio-economic system and as we shall see in the next section, the economic and social transformation of these cultures affected, *inter alia*, the foundation of old-age security.

### **The effects of change on the elderly**

It has been argued by some writers that changes associated with the colonial occupation of Africa greatly weakened the social and economic arrangements which formerly had guaranteed social security not only for the elderly but also for the entire community (Yeld, 1966; Moore, 1978; Snyder, 1981, Saul and Woods, 1971). The introduction of the monetary economy, new religions, new forms of social and political control, etc weakened the dominant position of the elderly in many parts of Africa, leading to their loss of authority, political power and economic security (Moore, 1973; Snyder, 1981).

Yet although this general assertion is in many respects supported by empirical evidence, there is also evidence suggesting the opposite tendency. Research has shown, for example, that in certain cases some elders have successfully used their traditional position effectively in order to accumulate more wealth than would have been possible in traditional times (Murray, 1976; Yeld, 1966; Rwezaura, 1983, 1985). This amount of wealth has been acquired mainly by exploiting the new opportunities which the changing social and economic conditions create for the elderly. Therefore, there are elders in contemporary Africa whose social security has been enhanced by change and others who have been marginalised by the same process. It is still true, nonetheless, that those who have lost their economic power constitute the majority of the elderly and hence their condition calls for deeper consideration.

Writing about the elderly among the Chagga people of Tanzania Moore (1978: 23) notes that:

"Persons living in a swiftly altering world find that their social roles change as they perform them and each stage of growing older is a matter of arriving at something quite different from what it was for the age group just before."

But Moore adds that "some of that change is to advantage yet some has come to seem a total cheat".

These wide-ranging consequences of change on the economic position of elders provide a useful clue to the central question of the dynamic relation between traditional forms of social security and the contemporary processes of economic and social change. It is the argument of this paper that change has created opportunities as well as constraints for elders. Change has also taken away the relative predictability of old-age security by altering the social and economic roles of the elderly. The consequences of this is that elders who consider that they are no longer assured of economic support from the wider family have adopted a defensive attitude designed mainly to hedge themselves against the threat of destitution during old age.

In this sense change has increased the elders' awareness of their relative positions in the community while at the same time sharpening their sense of competition for the accumulation and retention of strategic resources. On the other hand, the younger who, as already noted, constitute the foundation of the elders' welfare have utilised change to secure relative autonomy from ties of obligation to their elders.

In this part of the paper I discuss two sources from which elders have traditionally obtained their old-age security. They include, first, the elders' control of nubile women and, secondly, their easy access to younger mates. This paper shows that the control by elders and their access to this group of women has declined and this has greatly undermined their essential sources of social security. Using statutory sources and court decisions, this paper



shows how the elders' control over their juniors has also been undermined by the state as an agent of change and shows also how elders have fought back in an effort to retain their former position.

In this discussion the concept of 'wealth in people' (Bledsoe, 1980; Schneider, 1968; Mair, 1958; Fallers, 1964; Little, 1951; Gluckman, 1941) has been used to illustrate the point that loss of rights in certain people leads to loss of wealth, prestige and authority. Bledsoe has argued, following previous writers on Africa (Goody, 1971; Terry 1972) that "in any society the rights that people have in the services and persons of others are tremendously important". Referring to the Kpelle people of Liberia, Bledsoe (1980: 49) notes that "men and the old have legal rights in women not only to reproduce and gain labour for supporting their immediate families but also to lure young men into ties of debt and obligation".

Looking at marital strategy in Lesotho, Colin Murray (1977) has clearly demonstrated that the function of bridewealth in a contemporary Basuto community is to redistribute upwards, from the junior (active migrant) generation to the senior (retired) generation, a proportion of the means of subsistence derived from earnings in South Africa. Thus, by holding on to their nubile daughters, Basuto elders are able to secure from their juniors substantial maintenance instead of relying merely on kinship morality.

But whereas most Basuto fathers can feel relieved that their control on marriageable women will assure them of security in old age, research in other parts of Africa shows a general loosening of parental control over their children. It is argued below that the alteration in the pre-capitalist system of wealth in people has adversely affected the economic security of the elderly.

#### *The concept of 'Wealth in People' and its modern constraints*

As noted already, the economic subordination of women and young men in traditional Africa greatly assured their dependence on male elders. This arrangement kept in check the strivings of these juniors to extricate themselves from relations of dependence until the moment arrived when they would gain relative autonomy while simultaneously increasing their rights in other people. But forces of change, generated by colonial capitalism — as noted above — and ecological factors, disrupted the scheme by enabling the junior to secure wealth and social status outside the traditional sphere and this provided a chance for the juniors to disregard the authority of their seniors. Change also provided new opportunities for women and children to free themselves from the control of the elders by moving into urban centres or by selecting their own spouses without too much interference from their parents. The colonial state and Christian missions also created their own economic and cultural opportunities for the juniors to free themselves from ties of obligation. This development created tensions in the relations between juniors and seniors. Thus the system of rights in people on

which seniors traditionally relied to gain their old-age security came under heavy strain.

Writing about the increasing equality between men and women among the Toro people of Uganda, Melvin Perlman (1985) notes that, although traditionally payment of bridewealth was a necessary condition to the legality of marriage, by the 1950s bridewealth in Toro society had radically declined as a pre-condition for marriage, and many marriages had been contracted without transfer of bridewealth. In a sample of 147 marriages contracted between 1950-1960, Perlman found that over 82% involved no payment of bridewealth.

The rapid fall of bridewealth transfers among the Toro has been linked by Perlman to the decimation of their livestock by the rinderpest epidemics which broke out at the turn of this century. The depletion of their livestock initially made it difficult for men to meet the costs of marriage. They offered to pay later though many did not. Such defaults became gradually tolerated and, as noted by Perlman, this made it easier for other men to follow suit and the non-payment of bridewealth gradually became the custom among the lower classes, constituting the majority.

The decline in the institution of bridewealth among the Toro paved the way for relative acceptability, in later years, of a rule that fathers no longer had legal custody over their daughters after the age of 16 years. The effect of this rule, which was imposed by local administration courts, was to give greater freedom to daughters over 16 years to select their own husbands without too much resistance from their fathers. As noted above, colonial courts were supportive of this law by refusing to apprehend eloping women, to award any damages or impose any fines against young men in cases of seduction or enticement of women aged 16 years and above. Thus, of 1 228 family cases heard by the Toro native courts between 1900 and 1960, only 3% were bridewealth cases and even the majority of these were for refund of bridewealth at the time of divorce rather than claims for the initial payment of bridewealth (Perlman, 1985). Although colonial courts were not the only fora for the settlement of family disputes, yet this small percentage of bridewealth cases shows that non-payment of bridewealth was becoming accepted by many people.

Even though the decline of bridewealth as a condition for marriage in Toro society was sparked off initially by natural causes, ie the rinderpest epidemic, other factors of change assisted its downfall and its importance was not revived even when the adverse effects of the rinderpest had long disappeared. The consequences of this development was that not only did fathers lose an important source of income, but they also lost control over their daughters. Young men who were expected to remain loyal to and supportive of their elders in anticipation of assistance at the time of marriage could now marry without parental help. Indeed, even in cases where bride-

wealth was transferred, a number of sons personally paid for their own marriages without their fathers' assistance. To this extent, fathers became dispensable as sources of wives and this further undermined their power and authority over the young generation.

Reports of parents losing control over their daughters have been made by other researchers on Africa. Yeld's study (1966) among the Kiga of South-Western Uganda, in 1965, revealed similar trends. Yeld found that although in traditional Kiga society the head of the household usually arranged and paid for his son's marriage, by the 1960s it was generally accepted by Kiga of all age groups that young persons of both sexes should be allowed free choice of a marriage partner. In a survey of 150 marriages, Yeld noted that 41 out of 50 marriages contracted by Kiga couples aged 50 years and above had been contracted without the brides ever selecting their husbands. The majority had not met their husbands before the wedding day. In the case of married women within the age group of 50 years and under, 68 out of 96 respondents stated that they had freely accepted marriage proposals without parental pressure. And in the case of spouses in the age group of 40 and under, their marriages followed meetings between youngsters independent of any previous ties of relationship or friendship between their respective parents. Usually the young men and women who met at the local market, at Church services or Sunday school fell in love and agreed to marry.

This freedom to select spouses among the younger Kiga must be related to the high number of elopements recorded by Yeld, as well as the extent to which the tradition of bridewealth payment was adhered to in these marriages. According to the Kiga data, Yeld found that among the reasons given for elopement by Kiga men were economic ones, ie their inability to secure the necessary bridewealth. In such cases elopements provided an avenue to marry without paying for the wife. Hence the freedom to select a spouse, the high rate of elopements and the failure of the husband and his agnatic family to meet his bridewealth obligation to the father-in-law, all combined to undermine the economic position of the elders in Kiga society.

Similar trends have been reported in other parts of Africa. For example, Christian Missionaries interviewed in Mozambique by Welch *et al.*, said that there was a decline in the number of church marriages and that people were "turning more to traditional ceremonies or merely setting up joint homes without any formalities, and doing so not only in Mozambique but in all of Africa" (1985: 65). Snyder's research among the Banjal of Senegal also showed that many youths had contracted marriages with non-Banjal men and women in disregard of the system of endogamy practised since pre-colonial times. He concluded that "these matrimonial changes reflect and contribute to a decline in the control of elders over youths [thus] undercutting the bases of gerentocratic authority within patrilineage and household" (1978: 248).

Hence, although freedom to marry without paying bridewealth is cited here as a specific instance of the reduction in the elders' source of power and economic support, it must be viewed in the broader context of social and economic change in which it occurred. For example, Yeld writes on how the 'pacification' of the Kiga facilitated freer mobility of people and goods leading to trade, wage employment and the inevitable dispersal of the extended family members to other parts of Uganda. On the other hand, the appointment of local chiefs as administrators and magistrates had the effect of undermining the authority of family heads. Such chiefs being the appointees of the colonial government were comparatively young, many were Christians and had some formal education. Change thus introduced a new group of 'elders' who competed with the traditional elites for power and prestige and set the pace for other juniors to challenge the authority of their seniors. As pointed out by Yeld (1966:6):

"the achievement of independence by the younger generation . . . is frequently referred to in common conversation . . . with the use of the verb 'okwetegyeka' ie to become free. Fathers bemoan such freedom and the indiscipline of sons and their refusal to help their fathers in old age."

Francis Snyder makes a similar observation about new means of power and wealth among the Banjal people of Senegal. He notes that (1978:241-42):

"formerly the accumulation and re-distribution of wealth and authority were reserved to elders, who controlled the access of their juniors to land and ritual office. Today adults are relatively poorer while new sources of wealth are open to youths outside the village. . . . By partially freeing youth from their dependence on elders and adults, migration has tended to legitimate new sources of power and authority."

In 1974 two elderly Chagga told Moore (1974:23) how they remembered being "slavishly obedient and deferential to their leaders in youth, ever comforted by the thought that their turn to dominate could arrive with age" But they felt keenly disappointed that modernisation had now deprived them of the privileges and regard they expected.

In Zimbabwe, loss of elders' power over juniors appears also to have been at the root of the hot debate which followed the passing, in 1982, of the Legal Age of Majority Act (No 15). The Act fixed the age of majority at 18 years and expressly provided that it was to apply for the purposes of any law including customary law. The consequence of this legislation, as later confirmed by the Supreme Court of Zimbabwe, was to free African women in Zimbabwe from the legal disadvantages of perpetual minority which they had experienced under customary law. The ultimate effect of this legislation was that, after the passing of the Act, a father or guardian lost the right to recover any seduction damages in respect of his daughter if at the time of the seduction she was eighteen years old or above. Similarly, the father lost a legal right to recover bridewealth if, after her 18th birthday, his daughter

chose to be married without his consent. As the Supreme Court justices put it in *Katekwe v Muchabaiwa* (Supreme Court Civil Appeal No 99/84, Judgement No SC 87/84):

"an African woman with majority status can if she so desires, allow her father to ask for roora/lobola (ie bridewealth) from the man who wants to marry her. She and she alone can make that choice."

Hence, whether she selects to marry under the African Marriages Act (Cap 238) or the Marriages Act (Cap 37), she can still marry without the consent of her guardian (p 16).

From the foregoing illustrations, it becomes apparent that economic and social change had the effect of reducing, if not in some cases completely taking away, the elders' control of the juniors, especially marriageable women. By giving juniors the freedom to travel, to belong to new religions, to gain European education, to work for wages outside the home, etc, the freedom to break loose from relations of dependence was assured in advance (see also Chanock, 1985). Elders could no longer count on their juniors to provide for them during old age.

But the loss of control produced a counter reaction. In an effort to protect themselves from the adverse effects of change, elders turned to customary law for support and adamantly held on to whatever resources they had. They also tried to enlist the support of the state in disputes with juniors and in other legal contexts. In the next section, this paper considers some of the ways in which the elders tried to hedge themselves against the adverse effects of change.

### The elders' response to change

It has been argued in this paper that change altered relations between seniors and juniors and further that for most seniors the consequence of change was to diminish their rights in their juniors. It has also been pointed out that, in certain specific fields, change created new opportunities for elders to gain economic advantage. In this context, therefore, an understanding of the elders' response to change must take into account the opportunities as well as constraints which resulted from this change. This way of viewing the situation also accommodates the idea that people's response to change is not simply a matter of reacting defensively to its adverse effects but rather, and in a more positive light, this form of response is powered by a creativity directed at minimising the adverse effects, while simultaneously exploiting any new opportunities which change creates. Under these conditions, although the system of rights in people is portrayed as having undergone massive alteration, it nonetheless still retains a subjective relevance and people's strategies for economic success continue to be mediated through the same system as if no change had taken place.

*Some specific responses*

No attempt is made to present an exhaustive picture of the possible responses of elders to change. What is discussed is an illustrative range of actions which support the argument of this paper and which are, hopefully, commonly observable in many parts of contemporary Africa. They include the appearance during the colonial period of a defensive and rigid form of traditionalism which certain elders strived to use in order to retain their juniors' loyalty. Along with these neo-traditionalist claims on the juniors was the deliberate increase in inflationary levels of certain traditional payments such as bridewealth and compensation for wrongs. There was also, in some cases, a creation of new compensatable wrongs or the expansion of old ones. Most of these conflicts and claims were mediated through the agency of the state which sometimes supported and other times rejected such claims.

Martin Chanock's research in Malawi and Zambia shows the extent to which the loss of political and economic power by male elders during the colonial period gave rise to a strong neo-traditionalism that strived to reassert control over women and children. As Chanock put it (1978:90):

"the colonial system gave very few opportunities for Africans to make effective political demands but through customary law, some were able to press for and to establish state recognition of certain vital social and economic aims. Hence the establishment of 'Local Courts' and, indeed, the operation of the entire system of Indirect Rule enabled the elders to create a defensive customary law whose major objective was to deal with what was seen as the disintegrative impact and structural change brought about by colonialism" (see also Hobsbawn and Ranger, 1988).

Similar reactions occurred in other parts of Africa. Among the Kuria of Tanzania, if a wife was guilty of adultery she was either chastised or sent home to her father "to get back one of the beasts paid as bride price" (Baker, 1935:111). According to Baker, the animal was taken by the husband as compensation, whilst the woman's lover "bragged of his success in his circle of friends". Yet in the 1930s and 1940s with the help of the local administration courts, husbands began to claim adultery compensation directly from their wives paramours. At first the amount was small, ie one head of cattle, but by the end of the colonial period the amount had trebled. In more recent years this new customary law is asserted with much enthusiasm and rigidity while the claimable number of cattle has continued to rise reaching beyond the figure of five head.

In post-independence Zimbabwe, the passing of the Legal Age of Majority Act 1982, as noted already, set in motion a series of neo-traditionalist efforts aimed at achieving a repeal of the Act. In an editorial comment, the Zimbabwe Sunday Mail (9/9/84) attacked the Act for having destroyed the people's culture and social norms (Ncube 1988-4:217). Even some

Zimbabwean MPs who had passed the relevant Act retreated in the face of mounting neo-traditionalist pressure.

After the decision of the Court of Appeal in *Katekwe v Muchabaiwa*, it became clear to most Zimbabweans that the effect of the Legal Age of Majority Act was to free women to marry or have liaisons with men without their parents' consent. In a public debate which followed the decision, the government was called upon to amend the Act in order to make bridewealth a legal condition to a valid marriage throughout Zimbabwe.

Some evidence of the impact of such pressure appeared in a speech of the Minister of Community Development and Women's Affairs who declared that the Act would be amended to give back to parents control over their children, adding that "we want to retain our cultural values and we shall invite parents, elders, and traditional leaders to advise us on the necessary amendments needed to retain those social values we cherish" (Ncube 1983:217). The said Act has neither been repealed nor amended. In fact, more recently the Zimbabwe Supreme Court has decided that according to the provisions of the Legal Age of Majority Act, women are equal to men in the application of customary law and therefore an adult daughter has a right to inherit her father's estate as "the nearest relative" in cases of intestate succession. In this case the dispute over the deceased's property was between a daughter and the deceased's brother, her uncle (IWRW, 1987).

From Kenya we have the recent case of *S M Otieno* which captured a lot of local and international publicity. The case brings out yet another instance of the forces of traditionalism. Although, on the face of it, the case concerned the determination of a conflict of burial rights between a widow and her children on the one hand and the deceased husband's clan on the other, at the root of the dispute lay the fundamental questions of the control of resources between the male elders of the Luo clan and the widow and her children. As correctly put by Salim (1987:18), the context in which the case was argued reflected "a struggle over inheritance rights" between the parties. Judging from the public interest generated by the case and the manner in which interest groups used it to articulate their political demands, it is clear that the case was seized on by traditionalists and used as a platform for making a stand against women and junior men who challenged their authority.

Commenting on the *S M Otieno* case, a prominent Kenyan journalist, Philip Ochieng, noted that the case brought out clearly the conflict between those who argue for the return to the traditional code of conduct and those who see tradition as a mirror of an economic and social system which is not only obsolete but has sometimes been misused by men and elders to oppress and exploit women and junior men. Ochieng (1987:187) noted that elders daily pray for the return to the good old days "when young people had . . . respect for age, seniority, and authority . . . [and] when women

knew their place and did not indulge in such a new fangled 'nuisance' as women's liberation".

But for some elders, the yearning for the return to the former times has gone beyond the mere wish, and, as noted above, it has assumed many different forms, including opposition to progressive law reform. At the other level, it has assumed the form of a hike in marriage payments. Studies dealing with the transformation of bridewealth have associated the big rise in bridewealth throughout Africa with the loss of economic security of the elders. For example, in areas where marriage payments were made in a series of instalments going beyond the date of marriage, social change provoked the insistence by prospective fathers-in-law of a lump-sum payment. One of the reasons for this insistence was the elders' fear that their sons-in-law could not be relied upon to make voluntary contributions whenever occasion demanded this. Yet the consequence of lumping together the payable bridewealth increased the economic burden on prospective suitors and made bridewealth appear to have gone up. This, in turn, provoked a juniors' reaction in the form of elopements, pre-marital pregnancy or simple cohabitation without marriage.

But in other parts of Africa bridewealth went up in real terms and many poor households came to depend on it as a means of economic survival while other families which were economically better off used it as a source of capital for their economic undertakings.<sup>5</sup> Its change from perishable subsistence consumer items to hard cash made it possible for bridewealth to be used to acquire desired goods and services. On the whole, the procedure for payment, the manner of distribution and the consequences of failing to pay up assumed an individualistic character.

Some evidence of the deep conflict over bridewealth between elders and juniors is found in the large number of court cases which were brought by fathers to recover unpaid bridewealth. There were also corresponding cases dealing with claims for refunds in cases of divorce. This is particularly so in areas of high bridewealth and certainly my own research in Tanzania confirms this position (Rwezaura, 1985). As Baker noted concerning the Kuria of Tanzania (1935:113) "It is rare to find a man who will return his daughters' bride-price except on the order of a Court".

A similar trend reflecting the idea of elders trying to re-coup their lost economic security appears in claims based on the seduction of a daughter or on a wife's adultery. The high claims for a daughter's seduction which were brought in colonial courts and which continue to find their way into contemporary state courts are at one level an attempt by elders to control the daughters' strivings for autonomy and at another level an effort to recover compensation for the loss or diminution of expected bridewealth. It should not be surprising, therefore, that a law which seeks to free daughters from the control of their parents will be resisted strongly.



## Conclusion

In many industrialised countries of Europe and North America the provision of care for the elderly is now accepted as the responsibility of the state. This is also the case in socialist countries where their social security systems consist of a comprehensive package. In the industrialised countries this care is provided in different forms, such as retirement benefits, insurance schemes, subsidised housing, medical care, tax-exemptions, etc. Although the function of the family in caring for the elderly has not been completely replaced in most of these countries, it has nonetheless been overshadowed by that of the state.

In the third-world countries, including those in Africa, whatever state arrangements exist for the economic support of the elderly, they are viewed as merely supplementary to the basic care provided by the family and community. Hence an examination of economic programmes and development plans of most African states does not show special concern for the aged members of the community. In some African countries where labour laws, derived mostly from the former colonial power, make such provisions, pension schemes have been retained for the benefit of the retired work force. Unfortunately, even in countries where such pensions exist, these are often heavily taxed and are thus inadequate to meet the recipient's basic needs. They are even more inadequate when one considers the ever rising inflation rate as well as the diminished ability of the pensioner to engage in other economic activities in order to supplement his/her pension benefits. It is no wonder that most public and private employees are afraid of retirement and many, if given a chance, would be glad to stay on the job for as long as possible.

Whatever small benefits the state can offer to its retired work-force, the number of recipients is usually very small. It includes only a small percentage of the population while the majority is left without any form of state support. In their old age, when elders have become physically frail and intellectually dull, the burden of their up-keep seems to remain hanging in the balance.

The question, therefore, is upon whom should this responsibility fall? As argued above, the state in the third-world does not consider this to be its obligation. Indeed its ability to offer such support is usually highly circumscribed by a weak resource base. There is a general belief that the extended family in Africa is intact and continues to provide for the elderly.<sup>5</sup> Yet, as this paper has tried to show, whatever role the extended family still plays in providing for the aged, this role has undergone radical transformation.

This paper has not dwelt upon a detailed prescription of how certain communities in contemporary Africa care for the elderly. My concern has been to discuss the transformation of the material basis on which most elders depend for their essential needs. It is possible that case studies of

specific African communities would show greater concern for the welfare of the elderly in those societies than this paper has portrayed. Nonetheless, it is still largely accurate that economic transformation in Africa has adversely affected traditional arrangements for the care of the elderly. Hence, whatever will happen in the next century, outside state intervention, it is unlikely to strengthen the elders' economic security to the extent of that which they enjoyed in pre-colonial times. What may happen is that certain states will directly or otherwise underwrite some of the burden for the care of the elderly. And perhaps more predictably, many elders who are today's youths will grow up to expect reduced support from the extended family and where possible, will try to make their own arrangements for old age. But as is well recognised, the ability of most poor peasants in Africa to prepare for their old age security is largely constrained by wider economic forces which this paper has only touched upon.

#### FOOTNOTES:

1. In this paper emphasis is placed on male elders who form the most dominant group in traditional Africa. Besides the position of elderly women has been considered elsewhere (see Rwezaura 1985; 1986).
2. Referring to the differential sources of old-age security between Kiga men and women, Yeld argues that "since an ageing family head will have married younger wives who will be cultivating for him and who are likely to be favoured by him, a first or second wife cannot expect support from her husband in her old age but will turn to her adult sons" (1966:4).
3. In Kuria society where the effects of the rinderpest were comparable and where the payment of bridewealth was adversely affected, the end of the epidemic and subsequent rebuilding of herds led to the restoration of bridewealth to the pre-rinderpest levels and in some areas to even higher levels (Rwezaura, 1985:71-73).
4. Perlman's archival research in Toro Uganda, uncovered a range of sexual offences which were created by the King of Toro. From the draconian punishments prescribed for offenders one gets the impression that not only were these offences likely to be common at the time but also opportunity was availed by elders to gain compensation from the misdeeds of their wives. For example, Law No 2, March 26th, 1907 stipulated that  
 "if any man commits adultery with another man's wife and there are witnesses, he will be fined Shs 600/= or imprisonment for one year."  
 The fine of Shs 600/= was taken by the government and "the wife's husband [was] given another fine, being an addition" (No 4 of 1907).
5. For example, it is reported in the case of Hamisi Gorogoro v Asha Meragane 1977 LRT n 4 that after having received 32 head of cattle as bridewealth for his daughter's marriage, the father sold all the cattle and the cash realised was used to open a shop.
6. See for example the provisions of Disabled Persons (Care and Maintenance) Act, 1982 which stipulates that relatives are obliged to contribute to the maintenance of disabled relatives by giving up to 33% of their incomes. If such relatives exist and are unwilling to provide such assistance, they may be compelled by the court to provide such assistance. In the absence of relatives, the Act requires local municipalities to provide support for disabled persons by establishing rehabilitation centres (ss 14-19).

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