

Law, Religion and Reconciliation in Africa



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17 DEPOLITICIZING NJURI NCHEKE AS A MODEL FOR CONTINUED INFLUENCE IN PEACEBUILDING AMONG THE AMERU PEOPLE OF KENYA

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INTRODUCTION

A case is given of two neighbours who had several disputes that had entrenched deep-seated hatred among the two families in one of the remote villages of Meru.² One day a hen from one of the neighbour's homes crossed fences and started destroying the other neighbour's *sukumawiki* (kales). The affected neighbour started hurling insults and threats at the chicken in full hearing of the other neighbour while the hen was clucking. The curses and threats included a threat to death of the chicken. The neighbour then took a blunt wooden object known as *ngucugucu* and threw it at the chicken, hitting it and instantly killing it. As is the custom, the case was brought before the Njuri Ncheke council of elders for arbitration.

The hearing of the Njuri Ncheke concluded that the chicken was not the subject of the altercation but the other neighbour. The insults and curses hurled at the chicken were meant not for the chicken but for the neighbour. In other words, it was not the chicken being insulted and cursed but the neighbour. The death of the chicken was symbolically interpreted as representing what was about to happen to the neighbour on account of escalated hatred between the two families. Therefore, the council of elders arbitrated on this matter not just by legislative wisdom or recourse to a written legal code, but also by appealing to their religious authority through rituals. The elders took the dead chicken, performed rituals on the two families using its parts and imposed fines on the two families. The families were made to eat parts of the "dead" and ritualised chicken and made to chant promises of what they were going to do and not to do in order to maintain peace, with severe warning of consequences of what would happen if the families reneged on their promise of peace and unity. The case reveals that this not only worked for these two families but also for the entire village and beyond.

The case recounted above sets out the task of this chapter, which is to illustrate the efficacy of councils of elders as religious bodies that influence peaceful coexistence among African societies. The wisdom of the elders lies in the ability to interpolate beyond symbolism to decipher a potentially life-threatening situation and to heal it. Part of the legacy of colonialism in Africa was the conclusion that traditional

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2 This illustrative case was narrated to me by a member of the Njuri who was among the arbitrators.

mechanisms of legislation were inadequate for sustaining a just society. However, what baffled colonialists was the inescapable reality of adequacy of litigation in Africa. In assessing this situation, Bolaji Idowu, a former leader of Methodist Church Nigeria,³ reveals that the sceptical argument and trivializing of the African judicial system was a tactic used by the colonialists, to justify imposition of legal positivism in Africa. Idowu demonstrates this standpoint in his assertion that “the sceptical frame in the views of the authors consists in the fact that Africans lack a conceptual and vividly correct analysis of the concepts of law”.⁴

The renaissance of many African councils of elders in the contemporary context is a direct affront to the abovementioned claims. These councils have proved the paradox of the application of legal positivism in African contexts and the gaps such an application creates. For this reason, the Njuri Ncheke and many other African councils of elders hold the promise of bridging the gaps created in the blanket application of western imperialist laws to African societies. These gaps, which Western and contemporary law cannot completely comprehend in African societies, are purely contextual and require both judicial and religious approaches in order to arbitrate. However, in the same breadth, this renaissance, as shall be demonstrated using the case of the Njuri Ncheke, as both a council of elders and a religion, needs to be checked and streamlined so that it is not corrupted. In the case cited above, it can be observed that both religious and judicial means were employed in order to offer not only a lasting solution to peaceful coexistence, but also to set a jurisprudence for referral in the face of other similar occurrences.

Unfortunately, the contemporary renaissance of the Njuri Ncheke has not been a smooth ride. There have been political infiltrations that threaten the very “natural” make up of councils of elders, which are both legal and religious councils – and, in fact, a religion unto themselves. Such infiltrations also hold the potentialities of side tracking the original aims of the Njuri Ncheke. Recent occurrences in Kenya, especially in the face of the general elections that were conducted in August 2022, reveal that the role played by the Njuri Ncheke was blurred. It was either partisan or tilted to suit the interests of hegemonic political and religious practitioners in ways that threatened its role in a pure Ameru society. In what follows, the trajectories of the Njuri Ncheke that have played to the piper of politicians will be exposed and critiqued through a postcolonial content analysis. In addition, suggestions for de-politicising and de-patriarchalising the Njuri Ncheke will be made. This endeavour is proposed as a means of facilitating the Njuri Ncheke to achieve its functions both as a judicial and religious organ for maintaining peaceful coexistence in the Ameru community.

3 For a fuller account of the works of Idowu, see also Galadima B. 2001. “Evaluation of the Theology of the Bolaji Idowu”, *African Journal of Evangelical Theology* 20(2):105-131.

4 Idowu B. 1973. *African Traditional Religion: A Definition*. London: SCM Press Limited, 109.

STUDIES ON THE NJURI NCHEKE

Several studies on the institution of the Njuri Ncheke have been done and from varied approaches. These studies have explained the Njuri Ncheke's historicity and origin, as well as its functions and position among the Ameru people of Kenya. The extent to which the Njuri Ncheke is "traditional" and long-standing is questionable.⁵ Father Bernardi, a Catholic priest, relates that there is evidence showing that the Njuri Ncheke always existed among the Ameru, but it seems to have risen in power and influence during the days of Harold Ernest Lambert, District Commissioner of Meru in 1934, and particularly from 1939 to 1942.⁶ Lambert's contribution is significant, since he gave this secretive and exclusive association more prominence than it perhaps originally had by regarding it as the council of elders. For this reason, the Njuri Ncheke appears to have filled a void left by the earlier *kiama* elders, whose authority was disrupted by the imposition.⁷ Studies on the Njuri Ncheke also reveal colonial ambivalence in its reception – an attraction and repulsion at the same time. Sometimes the colonialists and institutions related to them resisted the Njuri Ncheke and sought its abolition, while at other times they were attracted to its operations and ability to maintain a peaceful society. Bernardi has also pointed out that although the Njuri Ncheke nowadays is stronger amongst Tigania and Igembe than other Ameru subgroups, with contemporary renaissances, the Njuri Ncheke has entrenched its voice among the wider Ameru people using many avenues.⁸ It is now felt from Igembe to Thuci areas of the former larger Meru district. Throughout the wider Meru region, the Njuri Ncheke elders hold sessions in local councils, aimed at resolving various disputes of varied situations and offering judicial and religious wisdom. The Njuri Ncheke is thus entrenched as a promising institution for the future cohesion of the Ameru.

In terms of institutional suitability, identity and functions, Nigerian political scientists Ronald Badru and Tayo Eegunlusi,⁹ in their studies on African leadership, recognise the Njuri Ncheke as a religious and judicial council among the Ameru community. They explain that the council initially operated as the traditional judicial system on the basis of wisdom, discipline, knowledge and experience of the Ameru history and culture. Their conclusion is that the Njuri Ncheke still occupies a crucial niche among the community, especially with regard to peacebuilding through conflict resolution and reconciliation. Along this line, contemporary

5 Rimita DM. 1988. *The Njuri-Ncheke of Meru*. Meru: DM. Rimita, 45.

6 Bernardi B. 1959. *The Mugwe: A Failing Prophet*. London: Oxford Press.

7 See also Njogu K. 2008. *Good Governance and Development. Toward Quality Leadership in Kenya: Toward Quality Leadership in Kenya*. Oxford, Kenya: Twaweza Communications, Limited, 132.

8 Carrier N. 2005. "'Miraa Is Cool'. The Cultural Importance of Miraa (Khat) for Tigania and Igembe Youth in Kenya", *Journal of African Cultural Studies* 17(2):201-218, 5.

9 Olufemi BR and Eegunlusi TR. 2015. "Colonial Legal Reasoning in the Post-Colonial African State: A Critique and a Defense of the Argument from African Metaphysical Epistemology." *Thought and Practice: A Journal of the Philosophical Association of Kenya (PAK)* 7(2):36.

studies have revealed that the Njuri Ncheke was not only a traditional religious and legislative council, but also an institution with formidable influence on politics and legislation. Other scholars have similarly acknowledged that one institution important among the Ameru is the Njuri Ncheke, a council of elders with the power to sit in judgement of many disputes.¹⁰

Historically, the Njuri Ncheke has been studied alongside other influences. For example, studies on *miraa* (khat) in Meru, reveal the role of the Njuri Ncheke in regulating the drug and by extension other intoxicants like *nchobi* (local beer). Although *miraa* and *nchobi* are not criminalised by the Njuri Ncheke, however, their consumption is regulated across generations. The Njuri Ncheke has been studied as an institution of values and how its mandate to maintain a homogenous society was entrenched in it right from the early stages of human life. These studies have revealed an intergenerational strategy in the operations of the Njuri Ncheke.¹¹

The Njuri Ncheke has also been studied from a gender perspective, revealing the undercurrents of patriarchy that propel the influence of this institution. Scholars such as Chantal Zabus, a scholar of postcolonial literature and gender studies, recognise “Njuri Ncheke as an officially sanctioned council of male leaders”.¹² Kenyan researcher Hellen Kagwiria Orina has argued that the Njuri Ncheke was predominantly a male institution and that women were not allowed to join.¹³ In Orina’s studies, it is revealed that although the women she interviewed expressed interest in joining the Njuri Ncheke, they were not considered for membership, because it was purely a male affair. Perhaps the single greatest critique of the Njuri Ncheke is the exclusion and lack of recognition of women’s legislative abilities – even for cases in which all parties involved were women. The Njuri Ncheke’s exclusion of women has also been acknowledged by political scientist Stephen Orvis,¹⁴ among others. Besides its composition, the Njuri Ncheke has also been critiqued for its advocacy of female excision or circumcision and other practices that demean the humanity and wellbeing of women and girls in a patriarchal society. In fact, no member of the Njuri Ncheke is supposed to marry a woman who is not circumcised.¹⁵

10 Meinhard HC. 1948. “The Use of Indigenous Authorities in Tribal Administration,” *Africa: Journal of International African Institute* 18(3):229.

11 Orina HK. 2018. “The Contributions of Councils of Elders to the Resilience of African Traditional Religion: A Case of Njuri Ncheke in Meru County”. Unpublished Thesis: Egerton University, 65.

12 Zabus C. 2008. *Bodies and Voices: The Force-Field of Representation and Discourse in Colonial and Postcolonial Studies*. Boston: Brill, 53.

13 Orina HK. 2018. “The Contributions of Councils of Elders to the Resilience of African Traditional Religion: A Case of Njuri Ncheke in Meru County”. Unpublished Thesis: Egerton University, 65.

14 Orvis SC. 2001. “Moral Ethnicity and Political Tribalism in Kenya’s “Virtual Democracy”. *African Issues* 29(1-2):13.

15 Because of legal requirements criminalising Female Gender Mutilation (FGM) in Kenya, this practice has greatly reduced in contemporary Meru even among staunch adherents

What these studies have revealed is that even though the Njuri Ncheke is considered a legal entity among the Ameru, this conception assumes a secular understanding of legality. These studies have foregrounded the Njuri Ncheke as an institutional exemplar among councils of elders that fuse quasi-legal and religious dimensions to influence peace in society. In the contemporary scene, it seems no serious study has explored the aptness of the Njuri Ncheke as a world religion. Postcolonial perspectives have sensitised readers and actors to the politics of social location and who should define one's world.¹⁶ In fact, if the Njuri Ncheke is studied from a postcolonial perspective, it would reveal that the Njuri Ncheke, as the religion of the Ameru, should be studied as a world religion on its own merit and not coalesced with other African religions. It is a religion with its own belief system, leadership structures, scriptures, unique rituals, sacred places and customs.

Although the paragraphs that follow expound on the Njuri Ncheke as a religion, it should be noted, right from the beginning, that the religion of the Ameru is oral and not written. To be a Mumeru is to be socialised in such a way that one becomes a text of the Meru religion. This means that one's way of life, utterances, thought pattern et cetera are alphabets of the Njuri Ncheke religion. The expression of this religion is heightened as one transits through the social spaces of the Meru society and especially when one joins the Njuri Ncheke. This perspective of seeing the Ameru goes beyond Mbiti's African creed of "I am because you are and because you are I am" and the *Ubuntu* conceptions that are merely humanistic.¹⁷ The Ameru religion goes beyond humanity to include all of creation – the trees, the animals, the landscape, the sky and night and day are regarded as full aspects of the totality of the Njuri Ncheke religion.

Time has come for African traditional religions to be studied in view of their individual distinctness as is done for other world religions. In the colonial epistemological persuasions, it was easy to combine all African religions into one category. It is for this reason that current African voices and scholarship should delineate the distinctiveness of African Traditional Religions (ATR) and retrieve their valid positions as unique world religions. Such a posture will equally preserve the potency of each of the religions to uniquely contribute to fostering peace and reconciliation. A case in point is the way in which a lack of recognition of Njuri Ncheke as a world religion has resulted in exclusion of its legal and religious framework within peace studies. This means that studies have not explored the intersection and influence of the legal and religious dimensions of the Njuri. Within peace studies, studies on Njuri need to develop theories and strategies that can be exploited for peaceful co-existence.

and fundamentalists of the Njuri Ncheke.

16 Ashcroft B, Griffiths G and Tiffin H (eds). 1995. *The Post-colonial Studies Reader*. London, New York: Routledge, 119.

17 See Mbiti JS. 1989. *African Religions and Philosophy*, Second Edition. London, Nairobi: Heinemann Educational Books, 1; Mojola AO. 2022. *Utu/Ubuntu & Community: Reimagining & Celebrating the Web of Life and the Dignity and Worth of all Humans*. Nairobi: Tafsiri Printing Press, 9-10.

NJURI NCHEKE'S COMPETENCE, INFLUENCE AND WISDOM

According to Kenyan researcher Stephen Mbae Muthamia, the Ameru have been governed by elected and hierarchical councils of elders from the clan level to the supreme Njuri Ncheke council.¹⁸ This has been the case since the seventeenth century. Every Meru man's aspiration is to become a member of the Njuri Ncheke, for with it comes several invaluable social benefits. Muthamia observes that

elders who form Njuri Ncheke are carefully selected and comprise mature, composed, respected and incorruptible members of the community. This is necessary as their work requires great wisdom, personal discipline, and knowledge of the traditions. The Njuri Ncheke is also the apex of the Meru traditional judicial system and their edicts apply across the entire community. The functions of the Njuri Ncheke are to make and execute community laws, to listen to and settle disputes, and to pass on community knowledge and norms across the generations in their role as the custodians of traditional culture. Local disputes will invariably first be dealt with by lower ranks of the elders (Kiama), then the middle rank (Njuri) and finally the Njuri Ncheke. However, Njuri Ncheke does not handle matters involving non-Meru people, or those that are expressly under the Kenya's common law. Interestingly, the determination of cases by the Njuri Ncheke, just like is for common law, relies a lot on case law and precedence.¹⁹

Among the Ameru, litigation is highly valued. Concluded cases are considered influential, and they remain valuable for reference for continued tranquillity. Reaching a sound and acceptable judgment is, however, an intense process that requires the application of wisdom that mirrors the aspirations of litigants. As I grew up in Meru, I once heard of a case that Njuri Ncheke had wisely arbitrated. In that case, Muroria and his wife Kathure were brought before Njuri Ncheke because of their marital conflict.²⁰ Here, Njuri Ncheke elders had to exercise ultimate wisdom. Kathure had accused Muroria, her husband, of neglecting her. Muroria in turn wanted to divorce her, yet divorce is rare to almost nonexistent among the Ameru. In his oral submissions, Muroria, symbolizing Kathure as a stumbling block to his life, told the elders that right at the centre of the entrance to his home was a dead stump of a tree, known as *kathiki* in Kimeru, the language spoken by the Ameru. Besides the stump, a beautiful *rungu* had grown, and the *rungu* was of much concern to him.²¹ Muroria said that whenever he entered his home, the *kathiki*

18 Muthamia SM. 2021. "The Influence of Njuri Ncheke Indigenous Traditional System in Social Cultural Economic and Political Leadership of Meru Community" *Journal of Sociology, Psychology & Religious Studies* 3(1):73.

19 Muthamia SM. 2021. "The Influence of Njuri Ncheke Indigenous Traditional System in Social Cultural Economic and Political Leadership of Meru Community", *Journal of Sociology, Psychology & Religious Studies* 3(1):74.

20 Their names have been changed to protect anonymity.

21 *Rungu* is a creeping plant in Meru, and it produces beautiful gourds. In the matter, the *rungu* was used to denote that this woman has produced some very beautiful children though she was the source of great pain.

hit his feet, daily injuring him. Whenever he went out, the same happened. If he thought of cutting the stump, there was the risk of cutting the *rungu*. If he thought of uprooting it, there was the risk of uprooting the *rungu*. His question to the elders was, what was he to do?

In the case cited above, the elders, in their wisdom, advocated for Muroria to build Kathure another house where the *rungu* (his children) would be free to visit their mother. This was meant to bring the *kathiki* from the entrance to the centre of the homestead. Ultimately, the movement from the peripheral to the central spaces of the homestead brought about much peace, such that the *kathiki* was no longer a source of pain and agony to Muriora. In this and many other instances, the court of the Njuri Ncheke has been recognised for its lore in arbitrating cases with ultimate wisdom and intelligence. The elders can equally impose sentences and punishments in their arbitration. It is noteworthy that in all these cases, Njuri Ncheke's influence and power is not derivative from Kenya's law, common law or from the court or the judge. The power is rather derived from the Ameru people, who recognise that whoever disobeys the directives of the Njuri Ncheke is subject to a curse. It is believed that an imposed curse affects the wrongdoer's family, both in their generation and in subsequent ones.

An investigation by bioecology researchers James Krueger and Daniel Mutyambai on the effectiveness of traditional accountability mechanisms suffices as another example.²² They studied the influence of the Njuri Ncheke in determining the guidelines for pesticide control in growing *miraa* (khat).²³ *Miraa*²⁴ samples were taken from traditional production systems in which the Njuri Ncheke had influence. These samples were analysed for pesticide residues alongside samples from commercial production systems lacking the councils' influence. The findings revealed the influence of the local the Njuri Ncheke councils in limiting pesticide use. According to Krueger and Matyambai, there was success in pesticide management overseen by the Njuri Ncheke, as opposed to that overseen by government agencies.²⁵ These, among other examples, show Njuri Ncheke's commanding influence in containing factors that may contribute to community conflict. The examples further represent Njuri Ncheke's potential of public accountability and its role in complimenting legal regulation mechanisms. Njuri Ncheke's absence in such pertinent issues could exacerbate conflicts between various community stakeholders.

22 Krueger JS and Mutyambai DM. 2021. "Restricting pesticides on a traditional crop: the example of khat (*Catha edulis*) and the Njuri Ncheke of Meru, Kenya", *Ecology and Society* 25(4):10.

23 *Miraa* is a controversial substance banned in many countries as a drug but legalised in Kenya and several other countries as a necessary stimulant.

24 See also Anderson D et al (eds). 2007. *The Khat Controversy: Stimulating the Debate on Drugs*. London: Taylor & Francis, 12.

25 Krueger and Mutyambai, "Restricting pesticides on a traditional crop", 7.

Joining the Njuri Ncheke

Once married, the next step for a man hoping to lead the Ameru is to join the Njuri Ncheke. Being married is part of the qualifications, which means that not all married men can be admitted to the Njuri Ncheke. Only few married men are eligible for each successive stage. Progression through each stage, requires a man to pay a fee and undergo initiation. Joining the Njuri Ncheke is thus a rigorous and radical process involving not only several stages and various fees, but also several rituals. Initiation processes which are shrouded in secrecy are conducted at the Nchiru shrine headquarters, where only men of the Njuri Ncheke are allowed. Initiates are graduated in a mass ceremony and given walking sticks called *mukwanjo* that mark them off as men of the Njuri Ncheke. Members of the Njuri Ncheke's supreme council of elders are elected in a careful and thorough process. They have to be individuals of unquestionable integrity and in good standing with the society. Kobia's description of the political organisation among the Meru of Kenya further attests to the democratic governance in traditional African society.²⁶ The chair of the Njuri Ncheke, a position that ascribes to one legislative and judicial powers, rotated among the *agwe* leaders of the six subgroups of the Meru people.²⁷

Religion of the Njuri Ncheke

Many have wondered why Christianity in Africa is ocean wide but only an inch deep. Based on the hegemonic standpoint of that question, few have answered on where the depth of African religion lies. The answer to this question is that Africa is the religion of Africa. The religion is thus Africa-wide and Africa-deep. But, in reality, Africa's religions cannot be measured with dimensions of width and depth – they can only be measured by who Africans are. Therefore, as has been postulated, the Njuri Ncheke is a world-class religious entity. To view the Njuri Ncheke only as a council of elders is limiting and needs to be decolonised and depatriarchalised. It is a meeting of the Ameru mediated by elders who are merely representatives. It is through them but also with them that the voice of the Njuri Ncheke speaks to every Ameru person. The Njuri Ncheke therefore is a system. It is a belief system. It is a spiritual and a sacred space. It is almost impossible to draw a secular/sacred binary on its operations. There is no religion in Meru other than that which is Njuri Ncheke and has been sanctioned by the Njuri Ncheke. The headquarters of the Njuri Ncheke are indeed a sacred space or shrine. Shrineology, or shrine studies, reveals that the Njuri Ncheke headquarters contain all the aspects of religion, including paraphernalia, liturgy, as well as a resident priest (*mugwe*) and assistants. The Ameru concept of God connects various elements together. These include politics, kinship, religion, aesthetics, economics and social life. The

26 Kobia S. 1993. *The Quest for Democracy in Africa*. Nairobi: National Council of Churches in Kenya, 12.

27 See also Mutua M. 2008. *Human Rights: A Political and Cultural Critique*. Philadelphia: University of Pennsylvania Press.

Ameru are inseparably religious – indeed, notoriously religious.²⁸ God, whom they call Murungu, is entrenched in all their cultural and traditional practices. The Njuri Ncheke elders were unanimously categorical that the Ameru knowledge of God is not through Christianity or any other foreign religion, but it is socially mediated, learned and culturally inculcated.

In the contemporary Meru scene, there has been a resurgence of the Ameru religious beliefs and practices evident in current roles and activities of the elders. One of them is the common form of justice by the Njuri Ncheke elders, which is administered through the use of curses and the subsequent blessings that follow after the offender has remorsefully reconciled. Oaths (Muuma), taken under established religious circumstances are also believed to be binding and their invocation is on the rise. The operative principle in the use of curses and blessings is that only a person of a higher status can effectively curse or bless one of a lower status but not vice versa.²⁹ Following the resurgence of Njuri Ncheke in the Meru County, it can be observed that worship activities have been reviving progressively at the shrine and in regional spaces. It is open knowledge that the Njuri Ncheke elders meet frequently at the shrine either to offer prayers, to sacrifice, to curse a stubborn offender or to perform cleansing rituals either for individuals or families.

It is however important to note that the religion of the Njuri Ncheke has been challenged on several occasions by the Christian churches. Even though neither the Njuri Ncheke nor the churches have been spared politicisation and political infiltration, the Christian churches have regarded themselves as superior because of their imperial hegemonic origins and outlook. Occasionally, there have been conflicts over supremacy between the Christian Church in Meru and the Njuri Ncheke adherents. For example, in April 2022, there were conflicts between the Njuri Ncheke and a local Full-Gospel Church over the burning of a shrine after a pastor was forced to take an oath.³⁰ The Church and the Njuri Ncheke both desire to control the Ameru people. Amidst this rivalry, the Njuri Ncheke has been able to penetrate the Christian quarters and win a few “big fish”, especially clergy, as its adherents. On 26 July 2019, *The Star* newspaper reported an incident in which a Catholic priest invited the supreme council of the Njuri Ncheke to curse thieves who invaded his maize farm.³¹ This is not an isolated case, since several clergy have joined the Njuri Ncheke “movement” or turned to its precedents when faced with matters that Christianity has not been able to directly address. The trend has subsequently made the Njuri Ncheke a direct and last stop for lasting peace solutions among the Ameru.

28 Mbiti, *African Religions and Philosophy*, 1.

29 Orina HK. 2018. “The Contributions of Councils of Elders to the Resilience of African Traditional Religion: A Case of Njuri Ncheke in Meru County”. Unpublished Thesis: Egerton University, 85.

30 Muchui D. 2022. “Clerics take on Njuri Ncheke after pastor is forced to take oath”, *The Nation*, 14 April.

31 Mutethia G. 2019. “Priest invites Njuri Ncheke elders to curse maize thieves”, *The Star*, 26 July.

Politicisation of Njuri Ncheke

Due to its undisputed and rooted influence, the Njuri Ncheke has become a contested space not only for politicians but also for anyone one wishing to influence the Ameru people for any course. In the contemporary political Kenya, several councils of elders, and the Njuri Ncheke in particular, have become contested spaces and outfits for politicians as they seek to benefit from the council's influence. One is almost guaranteed huge political mileage once endorsed by the Njuri Ncheke council of elders for political leadership in Meru. This reality has prompted those with political aspirations to join the council of elders with a mission. They have spread their tentacles convincing successive governments that the Njuri Ncheke is the password for accessing and engaging the Ameru community for political gain. On account of this political one-sided infiltration, writer and political analyst Nanjala Nyabola reports that in July 2016, the Njuri Ncheke council of elders from the Ameru communities of central Kenya threatened to disown and put a curse on politicians who excluded them from decision-making mechanisms.³² This pronouncement, which was riddled with political undertones, was meant to cement the Njuri Ncheke's hegemony. It was further intended to exclude large sections of the Ameru community that do not believe in the Njuri Ncheke's religious tenets, especially staunch Christians. Apart from this basic pronouncement, there are several other ways in which the Njuri Ncheke has been infiltrated by political motifs. In the days leading up to the second term of the former president of Kenya, *The Standard* newspaper reported that the Njuri Ncheke had developed factions along political lines.³³ For example, the Njuri Ncheke was at the centre of Kenya's International Criminal Court (ICC) case that involved one of its members. Although the case which was largely termed as political was thrown out, the Njuri Ncheke was involved because it directly touched on the moral character of one of its members. For this and several other cases, Njuri Ncheke's involvement was largely political and to a great extent inclined toward divisive politics.

GOVERNOR KAWIRA MWANGAZA AND NJURI NCHEKE

The case of Kawira Mwangaza is reminiscent of the postcolonial subaltern speaking back to the empire. Mwangaza is the current governor of Meru County in Kenya, elected to serve from August 2022 to 2027. Mwangaza as a governor of Meru is a woman. The Kimeru word for woman is *Muka* and carries all the belittling connotations of a woman as a lesser being to the male counterparts. Governor Mwangaza is also largely perceived as a self-proclaimed bishop of Baite Family Fellowship Church, a church in the Pentecostal tradition. Mwangaza's Pentecostal beliefs would thus naturally not agree with well with the tenets of the Njuri Ncheke. Without endorsement of the Njuri Ncheke local or supreme council, it was unthinkable that a Pentecostal Christian woman would lead Meru

32 Nyabora N. 2017. "A Seat at the Table: The Fight for Gender Parity in Kenya and Somalia." *World Policy Journal* 33(4):14.

33 Mutembei P. 2016. "Njuri Ncheke summon Muthaura in elders row", *The Standard*, n.d.

politics, especially in the position of a county governor.³⁴ Governor Mwangaza had been a leader before election to the gubernatorial seat. She was an elected woman representative – a position which Njuri Ncheke politics would consider of low influence.

Mwangaza has not had it easy in top county leadership, since hardly two months after she was elected, a political move was hatched to impeach her. After procedures for her impeachment were initiated and followed through, a final decision was to be made by the country's senate. After considering the accusations levelled against her, the country's senate determined them to be legally unsustainable and so the case was dismissed. The motion to remove Mwangaza from office had several undercurrents and was rumoured to have been sponsored by hardliners in the Njuri Ncheke factions. The Kenyan senate dismissed Kawira's impeachment on grounds of several legal technicalities. It is noteworthy that even after the motion was defeated legally, there was need for political leadership to "arbitrate" Mwangaza's smooth stay in top leadership of the Ameru as a woman.

The immediate interpretation of the attempted impeachment of Mwangaza is that the senate ruling alone, was not sufficient for granting lasting peace for the Ameru people. If the top political leadership had not intervened, the Njuri Ncheke, a patriarchal empire, would have continued to destabilise Mwangaza's leadership. In their analysis of this case, several radio and television commentators opined that in a corrupt society, money may have washed her womanhood and given her a male face and acceptability. But contrary to this proposition, it can be noted that a multi-sectoral alliance of stakeholders committed to peace helped maintain a woman in leadership in a totally patriarchal society. The very voice of the Njuri Ncheke in her support is quite paradoxical. It exemplifies political twists that can characterise the Njuri Ncheke, and it also exposes the politicisation of the Njuri Ncheke. This move should not be misconstrued as an ability of the Njuri Ncheke to contribute to women leadership. It should rather be seen a Njuri Ncheke's ambivalent positioning and concession in the face of political power.

In Meru County, the Njuri Ncheke, a council of elders that was nearly eliminated in the colonial era, has gained significant strength because of its involvement in various important rulings. The local administration has used the council to help resolve several major land disputes within the Ameru community and among the Ameru and neighbouring communities. According to Peter Burdon, an environmental theorist,³⁵ the Njuri Ncheke has been used by successive governments to conserve forests and natural resources. The council performs rituals that protects forests

34 This was the first time the elders met the governor after they issued an apology for not backing her in the last elections. "Njuri Ncheke does not take sides for any incentive. Njuri Ncheke is incorruptible. We will support Ms Mwangaza to deliver on her mandate. This is why we have called for an urgent resolution of the conflict," Mr Murangiri said. See Muchui D. 2022. "Njuri Ncheke elders vow to stand by embattled Meru Governor Mwangaza", *The Nation*, 28 October.

35 Burdon P (ed). 2011. *Exploring Wild Law: The Philosophy of Earth Jurisprudence*. Adelaide: Wakefield Press, 178.

and imposes religious curses on violators. Violations include arbitrary grazing and farming in forests, logging, burning of charcoal and forest fires, among others. Even though Njuri Ncheke's laws are not written anywhere, they are orally transmitted and well mastered. It is thus common knowledge for anyone born in Meru not to develop values that exhibit progressive behaviour that mirrors principles of Earth Jurisprudence in valuable coexistence with the environment.³⁶

The Njuri Ncheke's claim to community normativity and hegemony has however continued to fade over the years. Its local critics claim that it started being a council for a few and was politicised when it began to act as a strong political force for Kenya African National Union (KANU) and subsequent political movements.³⁷ The vulnerability of the Njuri Ncheke is in the susceptibility of its operations being used to serve the political interests of a few.³⁸ Unless some serious protection is done, then the cycle of the Njuri Ncheke being misused for political expediency and purely governments motifs will remain a great threat to its existence. Failure to curb this vulnerability may also result in the Njuri Ncheke inevitably metamorphosing into something else, hence losing its distinct identity as the Njuri Ncheke.

CLEANSING NJURI NCHEKE FOR FUTURE MERU LEADERSHIP

There is an urgent need to shield the Njuri Ncheke from various competing ideologies that have threatened to turn it into a biased vehicle that protects the interests of a few people. One of the ways to implement this preservation is by bridging its oral culture. Much of what is known about the Njuri Ncheke in terms of leadership and organisation is predominantly oral information which has been passed on from one generation to another. This has resulted in a lack of uniformity in its operations and the emergence of variants of the Njuri Ncheke.³⁹ The Njuri Ncheke currently risks being reduplicated in diluted and sectionalist forms. Besides,

³⁶ Peter Burdon presents Earth Jurisprudence as an emerging theory representing an ecological theory of law. Central to Earth Jurisprudence is the principle of Earth community whereby it seeks to shift our focus away from hierarchies and asserts that all components of the environment have value. This is done without diminishing human moral obligation over creation.

³⁷ Orvis SC. 2001. "Moral Ethnicity and Political Tribalism in Kenya's 'Virtual Democracy'", *African Issues* 29(1/2):12.

³⁸ See the account of Karuti Kanyinga, who points out that from early 2003, political leaders established a relationship with the Njuri Ncheke council of elders. In this relationship, the Njuri Ncheke plays the role of providing ethnic defence to the elites during elections or even when the tenure security of the elites at the national level is under threat. Because of this relationship, political elites have been influencing the elders to make decisions and political pronouncements that favour them. Elders support the political factions of those who pay them the most. See Kanyinga K. 2014. *Kenya: Democracy and Political Participation*. Review by AfriMAP, Open Society Initiative for Eastern Africa and the Institute for Development Studies (IDS), University of Nairobi. Nairobi: Open Society Foundations, 231.

³⁹ See Kanyinga, "Democracy and Political Participation", 231.

if the Njuri Ncheke is not protected as an institution, it will remain at the mercies of hegemony and the most popular and powerful people in society, a posture that will drown its value as a source of peaceful coexistence among the Ameru people. For this reason, I propose an institutionalisation of the tenets, the understanding, operations and all that is the Njuri Ncheke. In a modern society, this will call for structural organisation that will grant the council legality. Constitutionalisation is also an ideal strategy so that the Njuri Ncheke can cater not only for the Ameru people (whether resident in Meru or the diaspora), but everybody who lives in the land called Meru. Constitutionalizing and institutionalisation will further buttress the Njuri Ncheke in terms of protecting it from politicisation, male capture and imperialistic hegemonic capture. This would make Njuri Ncheke be written into the constitution equally making it acquire provisions for greater gender equality. Although the recommendations here are for the Njuri Ncheke, they are equally applicable to other African councils of elders.

To depoliticise the Njuri Ncheke, there is also need for a form of paralegal training for the elders who arbitrate over cases. As has been mentioned, the ability of the Njuri Ncheke to arbitrate over matters that threaten peaceful coexistence cannot be underestimated. The first president of the Supreme Court of Kenya is on record as having pleaded with councils of elders to arbitrate over local and simple cases without necessarily turning to the imperial laws to which the country mainly subscribes.⁴⁰ He made these remarks during his tenure in recognition that councils of elders could facilitate easy access to justice without recourse to imperial, normative and hegemonic law. For this reason, incorporation of a training on basic skills in arbitration and decision making would certainly strengthen a depoliticisation of the Njuri Ncheke. This proposal will equally make the Njuri Ncheke accessible as an alternative justice system, thus aiding its potential to contribute to fostering peaceful and harmonious societies.

The Njuri Ncheke will also need to be “cleansed” of the Church. There are many clergy in Meru County who are members of the Njuri Ncheke and support its operations. This should be taken as a credit to the Njuri Ncheke, because Christianity, as practised in Meru, has not yet tolerated the Njuri Ncheke and its operations. In fact, there have been many instances in which the church has contributed to conflict between it and the Njuri Ncheke. The root of the conflicts was largely because Christianity assumed a privileged position on account of the Njuri Ncheke’s secrecy and esoteric sacredness. The celebration of Njuri Ncheke’s ability to influence church bishops and members to join it must be held suspiciously, however. The current status where the Njuri Ncheke and the church are sharing the same bed is not innocent. It has potentialities for fuelling conflict because of the hegemonic, supreme and privileged position claims of Christianity. The cleansing should thus see that both the Njuri Ncheke and Christianity remain in their respective purity.

⁴⁰ Liffey K and Macharia J. 2014. “Before You Go to Court, Ask the Witchdoctor, Says Kenya’s Top Judge”, *Reuters*, 25 March. Imperial law here refers to the colonial rules that Kenya inherited from British colonisers and mimicked to form what is now referred to as Kenyan law.

Respect between the two religions should be encouraged for the sake of the greater unity of the Meru people.

CONCLUSION

This paper has argued that the supreme council of the Ameru people, the Njuri Ncheke, with its constituent regional and local councils, is a useful religious and paralegal body that can be used to foster peaceful co-existence. However, infiltration of the Njuri Ncheke by the political and religious class has threatened to break down the structure and practices of an institution that has a legacy of fostering peace. The paper proposes ways in which the Njuri Ncheke can be depoliticised and decolonised from ideological capture and cleansed to be what it ought to be – a vehicle of religious and legal arbitration that is peaceful and just. The example of the Njuri Ncheke stands for other African councils of elders and their potent to foster peace.