

will always remain one step behind. One cannot help but wonder whether Ed Balleisen himself has been duped by his own optimism, whether he has been the unsuspecting mark of his own unintended, intellectual swindle.

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Access to Justice and Human Security: Cultural Contradictions in Rural South Africa. By Sindiso Mnisi Weeks. New York: Routledge, 2017.

Reviewed by Heinz Klug, University of Wisconsin

This book is a wonderful study of what Sindiso Mnisi Weeks calls the “vernacular management system” as well as an extraordinary exploration of the idea and practice of “access to justice” at both an empirical and philosophical level. The book is rooted in a rich description of the nature of rural South Africa and its historical location with respect to colonialism and apartheid with important implications for the role of what South Africa’s constitution terms traditional leadership and authority. The site of this study, Msinga district in South Africa’s KwaZulu-Natal province, has a particular place in the country’s history of dispossession and impoverishment, in which violence has never been very far from the surface—and Mnisi Weeks does not shy away from discussing the history of “interdistrict fighting [ungamela]” (163) and “assassination squads” (169) that have long been part of the history of this area. In this regard, the author gives little hint of the dangers inherent in conducting an ethnographic study on conflict management in this context.

While Mnisi Weeks seems to have begun her project with the goal of undertaking a rich empirical study of what official South African government language now calls “traditional courts,” the book produces an understanding of the role and range of different fora that make up the “vernacular management system” and leads Mnisi Weeks to question the very meaning of justice (30). Instead of adopting the long established notion of dispute resolution—which remains the official approach to “traditional courts”—Mnisi Weeks challenges us to think of justice in this context (and maybe more broadly) as being at its root a question of “access to human security.” In this regard, the book emphasises the centrality of a human needs approach to address the “existing long term conflicts that are undeniably embedded in the very

human needs of people in Msinga” (254). While challenging the traditional academic and policy approaches to “dispute resolution,” the book produces extraordinary insights into the nature of disputes—and makes a strong case for understanding the process as one of “dispute management” rather than “resolution.” Key features of this process include:

- Disputes are almost always between people who know one another—what Mnisi Weeks describes as relational conflict;
- the role of the spoken word (rumors, drunken talk, etc.) in conflict exacerbation;
- the ways in which disputes are “transformed” as they progress or even within single hearings; and
- the role disputes play in community inclusion and exclusion and the publicity of bringing a dispute forward in order to avoid or reduce the chances of marginalization.

This study’s rich description and analysis of conflict management in Msinga provides important recognition of the depth of indigenous conflict resolution institutions. While the constitution and proposed legislation talk of traditional authorities/leadership and traditional courts, the book is a testament to the range of fora that make up the “vernacular management system.” Furthermore, instead of seeing these institutions as engaged in adjudication or even arbitration, which is often how these institutions are described, the book suggests that the “key element within these fora is a process of mediation” and that arbitration and adjudication functions are counterproductive in the management of conflict in this cultural and sociopolitical context.

The study also emphasizes the role of violence—epistemic, political, and socioeconomic violence with major consequences for social decay and a “severe decline in physical health” in the community—particularly in the context of South Africa’s HIV/AIDS and TB pandemics. Furthermore, Mnisi Weeks notes the very heavy presence of guns (mostly illegal) in Msinga district. The book contextualizes the history of guns as a product of both the migrant labor system and the history of interdistrict conflict. I would have liked to hear a little more about how this historic legacy is linked to the area’s long history of marijuana production and distribution networks. While the apartheid regime claimed that the prevalence of violent conflict in the area was a product of “tribal faction fighting,” the state also regularly engaged in violent sweeps of the area framed as antidrug raids in which fields would be burned and conflict among producers and distributors of the area’s only viable cash crop exacerbated.

Another important dimension brought out by the book is the colonial government’s explicit legislation of patriarchy. Whatever

traditional or historic gender relations may have been, it is clear from this study that colonialism, apartheid, and the transformation of “traditional authority” have produced a “hyper-patriarchy” built on the emasculation and infantilization of black men and the relegation of women to the legal status of perpetual minors. Despite the constitutional declarations of gender equality post-1994, what is particularly poignant is the relationship between continuing economic deprivation and cultural imperatives of Zulu nationalist discourse (which in the context of the Zuma presidency seemed to only become more robust). The book notes that gender relations in Msinga have become further complicated by the democratic government’s social grants program that provides a cash stipend to the elderly, mothers, and children and is now the main source of “legal” income in Msinga.

At the end of this extraordinary book, Mnisi Weeks Sindiso turns to the question of what is to be done and engages in a fascinating mind experiment in which she imagines a system of collaborative governance (distinct from what the South African Constitution describes as cooperative government) as a means of principled action to address the conditions of conflict and deprivation that characterize Msinga district and large areas of rural South Africa. In this imaginary experiment, the book proposes the creation of a Multisector Conflict Management Collaborative—made up of representatives of local police service, magistracy, social services, vernacular institutions, and residents of Msinga. The key to this approach is that it takes seriously the particular socioeconomic and relational context in which the vernacular fora operate and the key ability of these fora to build on and enhance relationships.

While rooted in a deep ethnographical study, this book makes a major contribution to the sociolegal literature on dispute resolution in both its methodological richness as well as Mnisi Weeks’ insights into the cultural dimensions of legal disputes. The book is a must read for students of postcolonial Africa, and its contribution will be valued by law and society scholars across multiple disciplines from anthropology, sociology, and political science to lawyers grappling with questions of legal pluralism, cultural diversity, and the constitutional recognition of indigenous law.

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