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Safeguarding Without Supremacy: A CLP Framework for Managing Tensions Between Customary Law and Human Rights

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ABSTRACT

The enduring tension between customary law and human rights remains one of the most significant challenges to strong legal pluralism. Critics argue that pluralist recognition of communal traditions risks entrenching practices that violate individual or minority rights, particularly in areas such as gender equality and children's rights. This paper responds to that critique by advancing a Communal Legal Pluralism (CLP) framework that emphasizes internal dialogue and reform rather than external imposition. Drawing on ethnographic insights from legal anthropology and comparative constitutional analysis, the study explores how communities can navigate evolving human rights norms from within. Case studies such as the reform of palava hut ceremonies in Liberia illustrate the capacity of customary institutions to address gender-based violence when supported by insider reformers and intercultural interpreters, including NGOs, hybrid courts, and local leaders. The paper further examines how constitutional models in South Africa and Ecuador balance legal pluralism with rights guarantees, highlighting the role of "safety nets" provided by state and international bodies. These external actors are reconceptualized not as supreme arbiters but as subsidiarity-based safeguards that intervene only when community processes fail to meet minimum standards. The theoretical contribution lies in offering a process-oriented model that preserves the moral embeddedness of customary systems while ensuring the protection of fundamental rights. In doing so, the paper moves beyond the entrenched universalism–relativism divide to propose an ethically grounded, pluralist approach to harmful traditional practices. This framework strengthens the normative and practical foundations of CLP, demonstrating its potential to reconcile communal autonomy with universal rights in a dynamic and context-sensitive manner.

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Keywords: Communal Legal Pluralism; Human Rights and Customary Law; Subsidiarity and Intercultural Dialogue; Legal Anthropology.

INTRODUCTION

The relationship between customary law and human rights has been one of the most contentious questions in modern legal and political thought (Ayibam, 2022). At its heart lies a fundamental tension: how can societies respect the integrity of local traditions, practices, and legal orders, while simultaneously ensuring that these systems do not perpetuate injustice or infringe upon the rights of vulnerable individuals and groups? This question is particularly acute in contexts where customary law maintains deep legitimacy as a moral and social order, even while coming under scrutiny for practices that appear to contradict international human rights norms, such as discriminatory inheritance rules, gender-based violence, or restrictions on children's rights (Bennett, 2011; Merry, 2006; Anwana & Equere, 2022; Anwana & Equere, 2023).

The dominant paradigms used to address these tensions have often been framed through the binary of universalism versus relativism. Universalists argue that international human rights norms must apply uniformly, regardless of cultural particularities, to safeguard the rights of individuals everywhere. Relativists, on the other hand, argue that such uniform application risks cultural imperialism and fails to respect the moral embeddedness of communities' practices. Yet this dichotomy often proves too rigid for the complexities of real-world situations, where communities themselves are neither static nor closed to change but instead engage in ongoing processes of negotiation, adaptation, and reform (Mamdani, 1996; An-Na'im, 1992; Equere, 2020).

This paper introduces the idea of **Communal Legal Pluralism (CLP)** as a framework for addressing these tensions without falling into the pitfalls of supremacy or isolation. CLP emphasizes the internal dynamism of communities and prioritizes processes of dialogue and reform that emerge from within, supported but not dominated by external actors. In doing so, it responds to one of the most significant criticisms of strong legal pluralism: that it risks entrenching harmful practices by shielding them from scrutiny. Instead, CLP proposes that the safeguarding of rights is possible without resorting to supremacy if mechanisms of subsidiarity and intercultural dialogue are properly cultivated.

The paper's central research questions are threefold. First, how do successful community-based legal systems internally navigate and adapt to evolving human rights norms without external imposition? Second, what role can "intercultural interpreters" such as NGOs, insider reformers, and hybrid courts play in facilitating these processes of reform? Third, how can external entities such as state courts and international human rights bodies act as safety nets without defaulting to supremacy, thus balancing respect for local autonomy with the protection of fundamental rights?

Methodologically, the paper draws on legal anthropology to examine how communities reform contested practices from within, with a focus on Liberia's palava hut ceremonies as an illustrative case. It also employs comparative law to analyze constitutional models that attempt to reconcile customary law with constitutional or international rights standards, particularly in South Africa and Ecuador. By integrating these empirical and comparative insights, the paper advances a theoretical model that aims to make CLP both normatively robust and practically viable.

The stakes of this inquiry are significant. Customary law continues to govern the lives of millions across Africa, Asia, and Latin America, and its role is expanding in contexts of weak state capacity, post-conflict reconstruction, and demands for indigenous autonomy (von Benda-Beckmann, 2002; Ubink, 2011). At the same time, international human rights

law remains a powerful framework for articulating and protecting the dignity of individuals, particularly women, children, and minority groups who are sometimes marginalized within customary orders. The challenge, then, is to find a model that does justice to both.

This paper contributes to that search by proposing CLP as a framework that avoids the binary trap of universalism versus relativism. Rather than viewing customary law as either a threat to human rights or a sacred tradition immune to critique, CLP treats it as a living system capable of reform when engaged in genuine dialogue with human rights norms. This approach strengthens the theoretical foundations of legal pluralism while offering practical insights for policymakers, activists, and community leaders working to reconcile tradition with rights.

THEORETICAL FOUNDATIONS: CUSTOMARY LAW, HUMAN RIGHTS, AND LEGAL PLURALISM

Legal pluralism refers to the coexistence of multiple legal systems within a single political space. This may include the formal law of the state, religious laws, and customary or traditional legal systems. John Griffiths (1986) famously distinguished between “weak” and “strong” legal pluralism: weak pluralism exists where the state recognizes or incorporates other forms of law, while strong pluralism acknowledges the autonomous existence of legal orders that operate independently of the state (Udo & Uko, 2014). The idea of strong pluralism has been especially controversial, as it raises questions about the universality of rights and the coherence of legal systems.

Customary law, in this context, is understood not merely as a body of static rules inherited from the past but as a dynamic system of norms and practices that communities continuously interpret and adapt. Scholars such as Franz von Benda-Beckmann (2002) and Sally Engle Merry (1988, 2006) have emphasized that customary law is socially embedded and often flexible, enabling it to respond to changing social realities. However, this dynamism is frequently overlooked in critiques that portray customary law as inherently backward or oppressive. The universalism-relativism debate has long dominated discussions about the intersection of customary law and human rights. Universalists argue that certain rights—such as equality, freedom from violence, and protection of children—are non-negotiable and must override local traditions when conflicts arise (Donnelly, 2003; Inyang, 2023). Relativists counter that universalism risks imposing Western norms under the guise of human rights, undermining cultural autonomy and silencing the voices of those whose lives are governed by customary law (Renteln, 1990). This binary framing often produces deadlock rather than constructive engagement.

The concept of Communal Legal Pluralism (CLP) aims to move beyond this impasse. CLP begins with the recognition that communities themselves are capable of engaging with and reforming their own practices in light of evolving human rights norms. Instead of assuming that external intervention is always necessary or legitimate, CLP foregrounds internal dialogue as the primary site of reform. However, CLP also acknowledges the importance of external safeguards, particularly when internal processes fail or are captured by elites resistant to change. In this way, CLP seeks to balance respect for community autonomy with the imperative of protecting rights.

This approach resonates with Abdullahi An-Na'im's (1992) concept of “internal cultural transformation,” which argues that sustainable reform must emerge from within cultural

traditions rather than being imposed from outside. Similarly, Boaventura de Sousa Santos (2002) has emphasized the importance of “intercultural translation” in fostering dialogue across legal and cultural systems. CLP incorporates these insights while adding the principle of subsidiarity as a mechanism to structure the relationship between internal processes and external interventions. The emphasis on process rather than substance is also crucial. Critics of legal pluralism often focus on specific practices—such as bride price, female genital cutting, or discriminatory inheritance laws—that violate human rights norms. CLP does not deny the harm of such practices but argues that their reform is most effective and legitimate when it emerges from within the community. Thus, the focus shifts from whether customary law is inherently compatible with human rights to how communities negotiate and adapt their practices over time.

In this way, CLP also addresses one of the main vulnerabilities of strong legal pluralism: the charge that it provides cover for oppressive practices. By articulating a framework in which customary law is subject to ongoing internal debate and reform, with external safeguards as a last resort, CLP demonstrates that pluralism can be both respectful of cultural traditions and committed to rights protection. Thus, the theoretical foundations of this paper rest on three pillars: (1) the recognition of legal pluralism as a reality in many societies; (2) the understanding of customary law as dynamic and adaptable; and (3) the development of a process-oriented model—CLP—that emphasizes internal reform, intercultural dialogue, and subsidiarity. With this foundation, the paper turns to examine how communities actually engage in internal reforms in practice.

INTERNAL COMMUNITY REFORM AND HUMAN RIGHTS NORMS

A central claim of CLP is that communities are not passive recipients of either tradition or external human rights norms but active participants in ongoing processes of legal and moral reform (Ayibam, 2025a; Ayibam, 2025b). Evidence from legal anthropology and transitional justice studies demonstrates that communities often adapt their customary practices to align with new values, including those associated with human rights. These adaptations are not uniform, nor are they always complete, but they illustrate the capacity of customary systems to evolve. One illustrative case is Liberia’s palava hut ceremonies, a customary dispute resolution mechanism traditionally used to resolve conflicts through community dialogue and consensus. Historically, these ceremonies often marginalized women and sometimes reinforced patriarchal norms. However, in the aftermath of Liberia’s civil war, the palava hut system was adapted to address gender-based violence and reintegrate ex-combatants into their communities. With support from local leaders, NGOs, and the Truth and Reconciliation Commission, the ceremonies were reformed to include women’s voices and to treat gender-based violence as a serious offense rather than a private matter (Isser, 2009; Uko & Uko, 2019). This example illustrates how customary institutions can incorporate human rights concerns when engaged in reflective internal dialogue.

Similar processes of reform have been observed elsewhere. In Ghana, chiefs and traditional authorities have modified inheritance and land tenure rules to address the marginalization of women, particularly in the wake of constitutional reforms that enshrine gender equality (Ubink, 2011). In Kenya, community elders have worked with local NGOs to adapt customary dispute resolution practices in ways that prioritize children’s rights, particularly in cases of child custody and child marriage (Chopra & Isser, 2012). In Nigeria, debates around the practice of female inheritance within Igbo

customary law have generated both internal reform efforts and constitutional litigation, demonstrating the interplay between community adaptation and external pressure (Nwauche, 2010). These examples underscore a key insight: internal reform is often spurred by dialogue with broader social forces, including human rights discourses, but it is mediated and legitimated through local institutions and actors. Communities reform not simply because they are compelled to do so but because they find ways to reinterpret their traditions in light of new challenges. This process preserves the moral authority of customary institutions while aligning them more closely with rights standards.

However, internal reform is not automatic or guaranteed. Power dynamics within communities can impede change, as elites may resist reforms that threaten their authority. Women, children, and minority groups often face structural barriers to voicing their concerns within customary fora. Yet even in these contexts, incremental reforms can emerge when insider reformers—such as women elders, progressive chiefs, or respected community figures—champion change from within (Merry, 2006). Moreover, internal reform often proceeds through reinterpretation rather than outright rejection of tradition. For instance, in some communities practicing female genital cutting (FGC), activists have successfully reframed alternative rites of passage as culturally legitimate substitutes, thereby preserving the social meaning of initiation without the harmful physical practice (Shell-Duncan et al., 2013). This illustrates the importance of cultural embeddedness: reforms gain traction when they resonate with community values rather than appearing as foreign impositions.

The CLP framework thus places great emphasis on these processes of reinterpretation and dialogue. It suggests that the question is not whether customary law can adapt to human rights norms, but how and under what conditions such adaptation occurs. By studying successful cases of internal reform, scholars and policymakers can identify the mechanisms that facilitate constructive change, such as inclusive dialogue, engagement of insider reformers, and integration of human rights concerns into existing cultural narratives. Thus, internal community reform demonstrates the potential of CLP to safeguard rights without supremacy. Communities are not frozen in time but are capable of evolving, particularly when reforms are rooted in their own institutions and values. The next section examines the role of actors who facilitate this process of reform—what we call intercultural interpreters.

THE ROLE OF INTERCULTURAL INTERPRETERS

While internal community reform is central to the CLP framework, it is often facilitated by actors who serve as bridges between local traditions and broader human rights discourses. These actors—whom we call **intercultural interpreters**—include NGOs, insider reformers, hybrid courts, religious leaders, and other figures who are able to translate between different normative systems. Their role is not to impose change but to facilitate dialogue, mediate disputes, and ensure that reforms remain both culturally embedded and rights-oriented. One of the most prominent categories of intercultural interpreters is non-governmental organizations (NGOs). NGOs often provide resources, training, and advocacy that support local reform efforts, while also respecting the authority of customary institutions. For example, in Sierra Leone, NGOs played a significant role in integrating women's rights into customary dispute resolution processes by training chiefs and elders on gender-sensitive approaches and by supporting women's participation in local justice forums (Isser et al., 2009). The effectiveness of these

interventions stemmed from their partnership model, which emphasized collaboration rather than confrontation.

Insider reformers are equally crucial. These are community members who possess cultural legitimacy and can articulate human rights concerns in ways that resonate with local values. Women elders, progressive chiefs, or respected religious leaders often serve this role. In Kenya, for instance, some elders have reframed child marriage not as a traditional obligation but as a harmful practice inconsistent with the community's responsibility to protect children (Chopra & Isser, 2012). Because these arguments come from within the cultural framework, they carry greater persuasive power than external condemnations. Hybrid courts represent another form of intercultural interpretation. These institutions combine customary and formal legal elements, creating spaces where community norms and human rights standards can be negotiated. In Botswana, customary courts adjudicate a large proportion of cases, but their decisions are subject to appeal in formal courts, creating an avenue for rights-based review (Fenrich, Galizzi, & Higgins, 2011). While not without challenges, hybrid systems can institutionalize the principle of subsidiarity by deferring to customary processes while ensuring external safeguards.

The concept of **moral embeddedness** is key to understanding why intercultural interpreters are effective. For reforms to take hold, they must be embedded in the moral universe of the community. Intercultural interpreters facilitate this embedding by framing rights in ways that align with local values. For example, framing women's rights as part of the community's responsibility to protect harmony and dignity often resonates more deeply than abstract references to international conventions.

At the same time, intercultural interpreters face significant challenges. NGOs may be accused of advancing foreign agendas, insider reformers may face backlash from conservative elites, and hybrid courts may struggle with legitimacy if seen as undermining either tradition or state law. These challenges highlight the delicate balance required to facilitate reform without imposing supremacy. Despite these challenges, intercultural interpreters remain essential to the CLP framework. They provide the connective tissue between local traditions and global human rights norms, enabling communities to engage in reflective reform without losing their cultural integrity. They embody the principle that safeguarding rights does not require supremacy but can be achieved through dialogue, translation, and partnership.

Having examined the role of internal reform and intercultural interpreters, the paper now turns to comparative constitutional approaches to legal pluralism. These examples demonstrate how states have attempted—sometimes successfully, sometimes not—to institutionalize the balance between customary law and rights protections.

COMPARATIVE CONSTITUTIONAL APPROACHES TO LEGAL PLURALISM

Constitutions in plural societies have long wrestled with the question of how to reconcile customary law with universal human rights. This tension is not merely theoretical but manifests in concrete legal disputes over inheritance, marriage, land rights, and criminal justice. By analyzing different constitutional models, one can better understand the range of strategies that states employ to balance pluralism with rights, and how these strategies align with the principles of Communal Legal Pluralism (CLP). South Africa provides perhaps the most widely cited example of constitutional engagement with customary law. The 1996 Constitution recognizes customary law as a

legitimate source of law, provided that it is not inconsistent with the Constitution or legislation (Republic of South Africa, 1996, sec. 211). This framework affirms the autonomy of customary systems while subjecting them to constitutional rights standards. The Constitutional Court has played a pivotal role in interpreting this balance. In *Bhe v. Magistrate, Khayelitsha* (2004), the Court struck down the customary rule of male primogeniture in inheritance, ruling that it violated gender equality provisions. While some critics saw this as judicial supremacy over tradition, others argued it catalyzed broader debates within communities about gender justice (Himonga & Bosch, 2000). South Africa's approach illustrates how constitutional recognition and rights review can function as an external safety net without negating the possibility of internal reform.

Ecuador offers a contrasting model through its recognition of the country as a plurinational state in the 2008 Constitution. This framework grants indigenous communities autonomy to administer justice in accordance with their traditions, as long as they respect the Constitution and human rights instruments (Constitución de la República del Ecuador, 2008, art. 171). Unlike South Africa's case-by-case review, Ecuador institutionalizes intercultural dialogue through formal mechanisms that bring indigenous authorities and state institutions into conversation. While implementation has been uneven, this model demonstrates a constitutional attempt to formalize subsidiarity and intercultural translation (Wolff, 2016).

Nigeria provides yet another instructive example. The Nigerian Constitution recognizes customary law but subjects it to a "repugnancy clause," which invalidates customs that are "repugnant to natural justice, equity, and good conscience" (Nigerian Constitution, 1999, sec. 315). This formulation reflects colonial legacies, where British courts used similar language to restrict customary practices. Critics argue that the repugnancy clause reinforces judicial supremacy and fails to promote genuine dialogue with customary systems (Oba, 2008). Nevertheless, Nigerian courts have occasionally used the clause to protect vulnerable groups, such as in cases involving women's inheritance rights. Nigeria's model underscores the tension between protective oversight and paternalistic supremacy.

Botswana illustrates a hybrid approach, where customary courts handle the vast majority of disputes, particularly in rural areas, but their decisions are subject to review by state courts. This system has preserved the legitimacy and accessibility of customary courts while providing avenues for rights-based review. However, critics note that appeals are rare due to resource constraints and social pressure, raising questions about the effectiveness of external safeguards (Fenrich et al., 2011). India also provides a comparative lens through its recognition of personal laws based on religious communities. While these laws reflect a form of pluralism, they have been challenged for perpetuating gender inequality, particularly in Muslim personal law regarding divorce and inheritance. The Supreme Court's decision in *Shayara Bano v. Union of India* (2017), which invalidated the practice of instant triple talaq, illustrates the judiciary's willingness to intervene in the name of rights protection. Yet such interventions often provoke resistance and can undermine the legitimacy of reforms if perceived as state imposition (Mahmood, 2019).

Taken together, these constitutional models demonstrate a spectrum of strategies: South Africa's conditional recognition, Ecuador's plurinational autonomy, Nigeria's repugnancy clause, Botswana's hybrid review, and India's religious pluralism. Each model has strengths and weaknesses, but none fully resolves the tension between pluralism and

rights. From a CLP perspective, the most promising models are those that institutionalize subsidiarity and intercultural dialogue rather than relying solely on supremacy. South Africa's judicial interventions, while sometimes heavy-handed, have sparked community debates that illustrate the potential for external safety nets to stimulate internal reform. Ecuador's plurinational model, though imperfect, formalizes the principle of intercultural translation. These examples suggest that constitutional design can play an important role in structuring the conditions under which CLP can flourish.

SUBSIDIARITY AND THE ROLE OF EXTERNAL ACTORS

One of the central contributions of CLP is its reconceptualization of the role of external actors—such as state courts, legislatures, and international bodies—in managing tensions between customary law and human rights. Instead of defaulting to supremacy, CLP advocates for a principle of **subsidiarity**, which holds that decisions should be made at the most local level possible, with higher levels intervening only when necessary to safeguard fundamental rights. The principle of subsidiarity has deep roots in political and legal theory, particularly in Catholic social thought and European Union law, where it is used to balance authority between different levels of governance (Follesdal, 1998). In the context of legal pluralism, subsidiarity provides a normative framework for structuring the relationship between customary systems and external oversight. Under this model, customary institutions are the primary sites for resolving disputes and reforming practices, while state and international actors serve as safety nets that intervene only when local processes definitively fail.

This approach has several advantages. First, it preserves the legitimacy and cultural embeddedness of customary systems, which are often more accessible and trusted than state institutions (Isser, 2011). Second, it avoids the dangers of external imposition, which can provoke resistance and undermine the sustainability of reforms. Third, it ensures that rights are not abandoned to relativism, since external actors remain responsible for protecting minimum standards when internal mechanisms fail. Examples of subsidiarity in practice can be found in hybrid justice mechanisms. In Rwanda's *gacaca* courts, for instance, communities took the lead in adjudicating crimes related to the genocide, while international and state institutions provided oversight and appeals mechanisms (Clark, 2010). Although not without flaws, this model demonstrated how local and external actors can share responsibility in a complementary manner. Similarly, in Sierra Leone, local customary courts have been supported by NGOs and state agencies to integrate human rights considerations into their proceedings, while maintaining community ownership of the process (Isser et al., 2009).

However, subsidiarity also faces challenges. Determining when local processes have "failed" is not always straightforward. External actors may intervene too quickly, undermining local autonomy, or too slowly, allowing rights violations to persist. There is also the risk that local elites will capture customary institutions, blocking reforms and silencing vulnerable voices. These risks underscore the importance of designing clear criteria and procedures for subsidiarity-based interventions.

From a CLP perspective, subsidiarity is not merely a procedural principle but a normative commitment to dialogue and partnership. External actors must approach interventions with humility, recognizing the moral authority of local traditions while insisting on the protection of fundamental rights. This requires not only legal mechanisms but also intercultural competencies—what Santos (2002) calls "intercultural translation." By

engaging in genuine dialogue with communities, external actors can act as allies rather than adversaries in the pursuit of rights.

Thus, the principle of subsidiarity provides a way to reconcile the twin imperatives of respecting cultural autonomy and safeguarding human rights. It situates external actors as guardians rather than rulers, safety nets rather than supreme authorities. In this way, it operationalizes the core insight of CLP: that safeguarding does not require supremacy.

TOWARDS A PROCESS-ORIENTED CLP FRAMEWORK

Drawing on the theoretical foundations, case studies, and comparative constitutional analysis, this paper now synthesizes its findings into a process-oriented framework for Communal Legal Pluralism (CLP). The aim is to articulate a model that is both normatively defensible and practically applicable in contexts where customary law and human rights intersect. The first component of the CLP framework is **internal reform through dialogue and reinterpretation**. As demonstrated in Liberia's palava hut ceremonies and Ghana's inheritance reforms, communities are capable of reinterpreting their traditions in ways that align with evolving human rights norms. These reforms are most effective when they emerge organically, through processes that resonate with the community's moral values. The role of scholars and policymakers is to identify and support these processes rather than dismissing customary law as inherently oppressive. The second component is the role of **intercultural interpreters**. NGOs, insider reformers, and hybrid institutions act as bridges between local traditions and external human rights discourses. Their effectiveness depends on their ability to embed reforms within the community's moral framework. CLP therefore emphasizes capacity-building, dialogue, and translation rather than confrontation or imposition.

The third component is the principle of **subsidiarity**. State and international actors retain a role as safety nets, but their interventions must be carefully calibrated. They should defer to local processes whenever possible, stepping in only when those processes fail to protect fundamental rights. Subsidiarity thus provides a structured way to balance respect for community autonomy with the imperative of rights protection. The fourth component is a commitment to **process over substance**. Instead of asking whether customary law is compatible with human rights in the abstract, CLP focuses on the processes through which communities negotiate and adapt their practices. This process-oriented approach avoids static judgments and acknowledges the dynamism of both customary law and human rights discourses.

The fifth and final component is **ethical pluralism**. CLP does not deny the existence of universal human rights but insists that their realization must be pursued through plural pathways that respect cultural diversity. This requires humility on the part of external actors and creativity on the part of communities. It also requires ongoing monitoring and adaptation, since both human rights norms and customary practices continue to evolve. Taken together, these components constitute a framework that is capable of managing the tensions between customary law and human rights without resorting to supremacy. CLP offers a middle path between the extremes of imperialistic universalism and isolationist relativism. It demonstrates that safeguarding rights is possible through processes of dialogue, reinterpretation, and subsidiarity, anchored in the moral embeddedness of communities.

CONCLUSION

The challenge of reconciling customary law and human rights is one of the most pressing issues in contemporary legal theory and practice. Too often, debates have been framed in terms of universalism versus relativism, producing deadlock rather than solutions. This paper has argued for a different approach: **Communal Legal Pluralism (CLP)**, a framework that emphasizes internal dialogue, intercultural interpretation, and subsidiarity. By examining cases such as Liberia's palava hut reforms, Ghana's inheritance practices, and Kenya's adaptations of child custody norms, the paper has shown that communities are capable of reforming their traditions from within. These processes are facilitated by intercultural interpreters, who bridge local values and global rights discourses, and safeguarded by external actors operating under the principle of subsidiarity. Comparative constitutional analysis further demonstrates how different states have attempted to institutionalize these balances, with varying degrees of success. The theoretical contribution of CLP lies in its process-oriented model. Instead of treating customary law as either a threat to or a victim of human rights, CLP treats it as a dynamic system capable of dialogue and reform. This approach strengthens the normative foundations of legal pluralism by directly addressing its key vulnerability—the risk of entrenching harmful practices. It also provides practical guidance for policymakers, activists, and community leaders seeking to reconcile tradition with rights.

In conclusion, safeguarding rights does not require supremacy. It requires humility, dialogue, and a commitment to plural pathways. CLP offers a vision of legal pluralism that respects the moral embeddedness of communities while ensuring that no individual is left unprotected. In doing so, it points the way toward a more nuanced and ethically grounded approach to the relationship between customary law and human rights.

REFERENCES

- An-Na'im, A. A. (1992). *Toward an Islamic reformation: Civil liberties, human rights, and international law*. Syracuse University Press.
- Bennett, T. W. (2011). *Customary law in South Africa*. Juta Law.
- Chopra, T., & Isser, D. (2012). *Access to justice and legal pluralism in fragile states: The case of women's rights*. United States Institute of Peace.
- Clark, P. (2010). *The Gacaca courts, post-genocide justice and reconciliation in Rwanda: Justice without lawyers*. Cambridge University Press.
- Constitución de la República del Ecuador. (2008). República del Ecuador.
- Donnelly, J. (2003). *Universal human rights in theory and practice* (2nd ed.). Cornell University Press.
- Fenrich, J., Galizzi, P., & Higgins, T. E. (2011). *The future of African customary law*. Cambridge University Press.
- Follesdal, A. (1998). Survey article: Subsidiarity. *Journal of Political Philosophy*, 6(2), 190–218.
- Griffiths, J. (1986). What is legal pluralism? *Journal of Legal Pluralism and Unofficial Law*, 24(1), 1–55.
- Himonga, C., & Bosch, C. (2000). The application of African customary law under the Constitution of South Africa: Problems solved or just beginning? *South African Law Journal*, 117(2), 306–341.
- Isser, D. (2009). *Customary justice and the rule of law in war-torn societies*. United States Institute of Peace.

- Isser, D. (2011). *Customary justice and the rule of law in war-torn societies: Assessment and programmatic approaches*. United States Institute of Peace.
- Isser, D., Lubkemann, S., & N'Tow, S. (2009). Looking for justice: Liberian experiences with and perceptions of local justice options. *United States Institute of Peace*.
- Mahmood, T. (2019). Triple talaq and the Indian Supreme Court. *Islam and Christian-Muslim Relations*, 30(3), 311–327.
- Mamdani, M. (1996). *Citizen and subject: Contemporary Africa and the legacy of late colonialism*. Princeton University Press.
- Merry, S. E. (1988). Legal pluralism. *Law & Society Review*, 22(5), 869–896.
- Merry, S. E. (2006). *Human rights and gender violence: Translating international law into local justice*. University of Chicago Press.
- Nigerian Constitution. (1999). Federal Republic of Nigeria.
- Nwauche, E. S. (2010). The constitutional challenge of the integration and interaction of customary and the received English law in Nigeria. *African Journal of Legal Studies*, 4(3), 245–267.
- Oba, A. A. (2008). Islamic law as customary law: The changing perspective in Nigeria. *International and Comparative Law Quarterly*, 57(4), 817–828.
- Republic of South Africa. (1996). *Constitution of the Republic of South Africa*.
- Renteln, A. D. (1990). *International human rights: Universalism versus relativism*. Sage.
- Santos, B. de S. (2002). *Toward a new legal common sense: Law, globalization, and emancipation* (2nd ed.). Butterworths.
- Shell-Duncan, B., Hernlund, Y., Wander, K., & Moreau, A. (2013). Legislating change? Responses to criminalizing female genital cutting in Senegal. *Law & Society Review*, 47(4), 803–835.
- Ubink, J. (2011). In the land of the chiefs: Customary law, land conflicts, and the role of the state in peri-urban Ghana. *Law & Society Review*, 45(2), 219–246.
- von Benda-Beckmann, F. (2002). Who's afraid of legal pluralism? *Journal of Legal Pluralism and Unofficial Law*, 47(1), 37–82.
- Wolff, J. (2016). *Multiculturalism and political theory: The Ecuadorian experiment*. Routledge.
- Ayibam, J. N. (2022). Adaptive Corporate Governance Theory: A Dynamic Framework for the 21st Century. *GNOSI: An Interdisciplinary Journal of Human Theory and Praxis*, 5(1), 198-210.
- Ayibam, J. N. (2025a). Key Legal and Policy Initiatives to Strengthen US Public Infrastructure and Economic Stability. *Pinisi Journal of Art, Humanities, and Social Studies*, 3(6).
- Ayibam, J. N. (2025b). Artificial Intelligence in Public Procurement: Legal Frameworks, Ethical Challenges, and Policy Solutions for Transparent and Efficient Governance. *Alkebulan: A Journal of West and East African Studies*, 5(2), 54-69.
- Anwana, A., & Equere, P. (2022). Human Rights on Global Agenda: An Interrogation of the Role of the United Nations, 1945–1995. *Ifiok: Journal of Interdisciplinary Studies*, 7(1).
- Anwana, A. O., & Equere, P. S. (2023). Issues of the International Debt Crisis: A Study in Debt Diplomacy, 1980–1990. *Akwa Ibom State University Journal of Arts*, 4(1).
- Equere, P. S. (2020). Diplomatic Ceremonial and Display of Military Force as a Demonstration of Policy of Prestige and Struggle for Power in International Relations. *Ifiok: Journal of Interdisciplinary Studies*, 5(1), 83-99.

Udo, A. L., & Uko, P. J. (2014). System Approach in Science Lesson Delivery: An Assessment of State Colleges of Education Science Lecturers in Akwa Ibom and Cross River. *Journal of Educational Media and Technology, 18* (1), 107, 108.

Inyang, F. N. U., Uduak, J. U., Patrick, J. U., & Daniel, E. (2023). Effect of Guided-Discovery and Expository Instructional Methods on Secondary Schools Students Academic Achievement in Physics in Ikot Abasi Local Government Area, Akwa Ibom State, Nigeria. *Journal of Research in Education and Society, 14*(2), 80-90.

Uko, M. P., & Uko, P. J. (2019). Effects of structured instructional assessment activities on secondary school students academic achievement in STEM (Mathematics and Agricultural Science). *African Journal of Theory and Practice of Educational Assessment (AJTPEA)*. ISSN, 2545-5834.