

Metaphoric conceptualization of International Criminal Court justice and peace building in Kenya

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Abstract: In this paper, the metaphoric conceptualization of the International Criminal Court (ICC) indictment discourse in Kenya is examined through a data-driven analysis. Much scholarly writing on the ICC intervention in Kenya has concentrated on the functionality of the Court as a transitional justice mechanism. Little has been said though about the role of language in the advancement of the ICC objectives in the transitional justice debates in Kenya. This article adopts an approach that integrates linguistic analysis and social theory in understanding how the ICC is conceptualized metaphorically in the discourses of justice and reconciliation. The main aim is to provide a comprehensive analysis of how Kiswahili metaphors have been used in the general debates about the ICC in Kenya, and how issues of reconciliation and transitional justice have been addressed in such debates. Focus is put on the representation of the ICC indictment discourse in three genres of use: prayer meetings, victim narrations and campaign rallies sourced from media libraries in Kenya. Guided by the Conceptual Metaphor Theory and Critical Metaphor Theory, the major metaphoric themes discerned include the depiction of the ICC as RELIGIOUS WAR, as POLITICAL WAR, as JUSTICE, as A DEMON and as AN ANIMATE BEING. By ascribing these conceptualisations to the ICC, such representations reinforce the dualism in the discourses towards justice and reconciliation. The article then examines implications of those metaphors inspired by Habermas' Communicative Action Theory and, finally, considers the role of metaphor and language in the conception and construction of peace and reconciliation in Kenya. The salient social and cultural contexts of the discourse point to a need for exploring other forms of transitional justice in ensuring sustainable peace and stability in Kenya as inspired by the Habermasian approach to rationality.

Keywords: Metaphor, communication, International Criminal Court, justice, reconciliation.

1. Introduction

Despite the general peace prevailing in Kenya, the country continues to exhibit increasing signs of state fragility on account of the 2007 post-election violence. The effects of the violence were estimated to have caused 1133 deaths, widespread destruction of property and rendered 300,000-600,000 as internally displaced persons-IDPs (Kanyinga 2011). Failure of the Kenyan government to establish a special tribunal to prosecute persons who were responsible for the crimes culminated in the intervention of the International Criminal Court (ICC). The metaphor 'don't be vague, let's go to The Hague' captured the mistrust Kenyans had for the local justice system. The entry of ICC sparked off debate on the suitability of international justice in resolving the post-election violence conflict. Much scholarly writing on the ICC intervention in Kenya has concentrated on the functionality of the Court as a transitional justice mechanism (Mamdani 2008; Sagan 2010; Jenkins 2012; Mackie 2012; Okafor & Ngwaba 2014; Mueller 2014; Gissel 2014). Little has been said though about the role of language, specifically metaphor use in the advancement of the ICC objectives in the transitional justice debates in Kenya. This article takes a radical shift and integrates linguistic analysis and social theory in understanding how ICC is conceptualized metaphorically in the discourses of justice and reconciliation. It focuses on the Kiswahili metaphors and how they shape the thoughts and reasoning towards ICC.

The research examines utterances by various players in Kenya, including politicians, victims of the 2007 post-election violence and other commentators following the indictment of Uhuru Kenyatta, William Ruto, Francis Muthaura, Joshua Sang, Henry Kosgey and Mohammed Hussein

Ali, at the ICC to face criminal charges. The suspects who were colloquially referred to as Ocampo 6 were considered to be the ones most responsible for the post-election violence.

One reason for the interest in metaphor research in ICC discourse is that metaphor originates in human creativity and reflects the ability of the human mind to perceive similarity relations and finding the similar within the dissimilar in a creative way. In other words, metaphors expand understanding by relating the unknown to the familiar. Metaphor is therefore very close to the nature of language itself both as a socially accepted system for representing the world around us and as a personal code (Charteris-Black 2004). Lakoff and Johnson's (1980) initial focus was on how talking about abstract domains is based strongly on more concrete domains of experience (e.g., MIND IS A CONTAINER). Nevertheless, the theory quickly developed into a more general approach to meaning and cognition. By learning to interact with the environment and control one's body, each human infant directly acquires meaningful experiential structures including *kinesthetic image schemas* (Fusaroli & Morgagni 2004: 2). Kinesthetic image schemas are specific, recurring action paths formed through time in people's everyday interaction with the world around them (Evans & Green 2006: 176). Charteris-Black (2004: 28) acknowledges this role by emphasizing that metaphors have the potential to construct representations of the world that impinge on human understanding of various aspects of social and political life and for their vital role in forming and influencing human beliefs, attitudes and action.

In this paper, major metaphor themes used in the ICC indictment discourse in Kenya are identified within the larger field of conflict and language. The main aim is to provide a comprehensive analysis of how Kiswahili metaphors have been used in the general debates about ICC in Kenya, and how issues of reconciliation and transitional justice have been addressed in such debates. The specific objectives are, first, to identify and analyze the conceptual metaphors that shape the thoughts and reasoning towards ICC discourse and, second, to examine how usage of Kiswahili metaphor in ICC discourse has been harnessed for either conflict escalation or conflict resolution, justice and reconciliation.

It is hoped that a study of metaphors in ICC discourse may help to reveal how social reality and knowledge is constructed by the language users. Particular metaphor usages may therefore reflect and reinforce particular ideologies and perceptions about the ICC. Metaphors provide us with a deeper understanding of the message's intent and, therefore, the speaker's intent. Metaphors used in communication provide insight into the intentions that underlie them. These creative and often poetic forms of speech have the potential to assist the listener in understanding beyond the initial words (Kaminsky 2000).

Structurally, after the brief background to the emergence and centrality of the ICC debate in Kenya in section 1, section 2 articulates the methodological and theoretical underpinnings within the general literature on metaphors. The discussion in section 3 provides an analysis of Kiswahili metaphors in order to give a concrete idea of the methodological approach adopted. The concluding remarks provide highlights on the metaphoric perceptions of ICC and a reflection on how these perceptions interact with the general discourse of justice and reconciliation in constructing a social world.

2. Data and methodology

The motivation for this study lies in the dualist perception of ICC in Kenya where some voices see it as a form of justice, while other voices view it as a victimization of specific individuals and/or communities. Grounded in the assumption that our access to reality is through language (Whorf 1956; Lipka 1990) and that metaphors are pervasive in life (Lakoff & Johnson 1980, 2003), the paper argues that we can make distinctions about certain issues through a study of how language is used in society. Languages capture reality in different ways (Lipka 1990), that is to say, even

though reality is ‘out there’, languages categorize it in different ways. This claim is traced back to Edward Sapir, a renowned anthropologist who posited that:

Human beings do not live in the objective world alone, nor alone in the world of social activity as ordinarily understood, but are very much at the mercy of a particular language which has become the medium of expression for their society. The fact of the matter is that their ‘real world’ is to a large extent unconsciously built up in the language habits of the group. . . . We see and hear and otherwise experience very largely as we do because the language habits of our community predispose certain choices of interpretation (1929: 69).

Guided by some life patterns of the Kenyan community, three genres of language use categorized under prayer meetings, campaign rallies and post-election victim (PEV) testimonies were identified as mobility routes and congregating centers through which the ICC related information was disseminated. The study hence purposively and theoretically relied on the three genres of language use to represent rich instances of ICC debates as informed by the actors involved and contexts of use. The period of study fell between January 23, 2012 (the date charges against the six indictees were confirmed at the ICC) and March 3, 2013 (date of general elections in Kenya). The corpus was built from recorded and transcribed proceedings of the three genres and included 6 prayer meetings, 4 victim testimonies and 4 campaign rallies, making a total of 14 data sets. The recordings were sourced from the two main media houses in Kenya: Royal Media Services and Nation Media Group. This time-based approach of analyzing metaphor use opened the door to new theoretical and empirical advances in metaphor research.

The study integrated cognitive metaphor theory (CMT), critical metaphor analysis (CMA) and communicative action theory (CAT) in the analysis. Cognitive metaphor theory (Lakoff & Johnson 1980; Dobrovolskij & Piirainen 2005) views metaphor not just as a matter of language, but a matter of thought as well. The theory conceives metaphor as an important tool by means of which we conceptualize reality, which ultimately has an impact on the way we act or behave. Lakoff & Johnson (1980) define metaphor as a mapping of structure from one conceptual domain, the source domain to another conceptual domain, the target domain. It should be noted that this mapping is not at all based on the similarity between the two concepts, but rather on the correlation of our experience in the two domains and our ability to structure one concept in terms of the other. CMT is not simply the study of linguistic metaphors; it aims at tackling crucial cognitive problems: for instance, how do people understand abstract domains such as morality, or politics? How are they able to understand language and each other? CMT offers a deceptively simple answer: it is thanks to bodily experience, approximately shared across humans and metaphorically projected onto abstract domains, making them understandable (Fusaroli & Morgagni 2004: 2). Consequently, by highlighting how a large part of one’s linguistic expressions and abstract conceptual domains are structured by bodily experience, CMT has strongly pushed an embodied perspective on cognition (Gibbs 2006).

However, conceptual metaphor theory has been criticized as over-emphasizing the unconscious use of metaphors and lacking empirical discourse evidence (Deignan 2010). This limitation of self-elicited data is addressed through critical metaphor analysis (Charteris-Black, 2004) which aims to identify the covert intentions (possibly unconscious) and ideologies underlying language use. The theory explains how the metaphors are identified empirically, the type of social relations that are constructed through the identified metaphors, and how the metaphors interact within the context in which they occur. Such an approach to metaphor studies leads to conclusions that take discursive factors into account and does not rely on constructed and

decontextualized examples (Gibbs 2010: 3). These two theories draw upon critical discourse analysis (van Dijk 1997; Fairclough 1995; Wodak 2005) and examine the link between metaphor, ideology and power. Their application explores what ideology lies behind the metaphoric representations employed in the discourses about the ICC, mainly focusing on whether the metaphors serve to foster or undermine peace and reconciliation among Kenyans. To define the social aspects of the study, Habermas' views on rationality are considered. The application of language in a social context is the essence of Habermas' theory of communicative action (1984). When language is analyzed and interpreted in terms of the speaker and the hearer's social environment, it is viewed as an instrument for effecting change and not just a vehicle for disclosing thought. This paper argues that through the use of language, mutual understanding about the world can be achieved. This, of course, presupposes the existence of a shared pool of background assumptions and beliefs among the participants in a discursive event. It also hinges on the claim that our access to reality is through language. Jorgensen & Phillips substantiate that,

...with language, we create representations that are never mere reflections of a pre-existing reality but contribute to constructing reality. This though does not mean that reality itself does not exist, in fact meanings and representations are real and that physical objects also exist only that they gain meaning through discourse (Jorgensen & Phillips 2012: 9).

Our focus is on the ICC process as a narrative of unfolding events that have both social and historical norms that link with the immediate empirical reality familiar to Kenyans. To borrow Iser's argument in *The Implied Reader*, the ICC debate,

...is looked at not only as telling a story or establishing its own pattern but also deliberately revealing the component parts of its own narrative techniques, separating the material to be presented from the forms that serve its presentation in order to provoke the reader into establishing for himself the connections between perception and thought (Iser 1974: xiv).

Social psychologists, cross-cultural researchers and specialists in organizational behavior now study how metaphor constructs social reality and determines how people orient themselves to changing situations. By documenting the metaphors people actually use, this research has shifted from a focus on static traits in average situations to dynamic orientations in a fluid and ever evolving ICC process in Kenya. We shall conclude by showing how the current debate of peace and justice is influenced by metaphors, revealing the role metaphors in language play on the particular worldview and how particular discursive events are framed. The integration of both linguistic and social theories in understanding reality could be a step in seeking alternative forms of building peace through language and generally inform on the theories of conflict.

It is hoped that a better understanding of what metaphor is and what it does in language can be achieved by analysing its role in specific corpora selected from the discourses of the ICC indictment in Kenya from a political perspective. It is argued that metaphor is a prime example of how pragmatics – context-specific linguistic choices by speakers – impinges on semantics – the linguistic system for the realization of meaning.

3. Literature review

Not much research has been done on Kiswahili metaphors in the ICC or in political speeches. Kiswahili scholars have however demonstrated that besides Kiswahili being the National

Language, it is the most preferred and influential trans-ethnic language in public discourse (Habwe 1999, 2010). The available research deals with the literary attributes of the Kiswahili metaphor (Shariff 1983; Chacha 1987; Habwe 2010; Vierke 2012; Simala 2012). Their findings elucidate on the nature, role and interpretation of Kiswahili metaphors. Vierke (2012) broadly identifies three common approaches to Swahili metaphoric discourse; politeness approach, the stylistic approach and the cognitive approach. She argues that the Swahili metaphors far from being purely ornamental, are powerful figures of thought and imagination whose usage is linked to veiled speech - a politeness and face saving strategy: a strategy in managing sensitive topics, what Vierke (2012: 279) refers to as “not speaking while speaking” in which a message develops a particular force precisely because it is veiled. From the interactive point of view, metaphors are used in face-to-face interaction to lubricate the friction of contact between individuals. In the Brown-Levinson politeness model (1987), metaphor is an off-record strategy, the goal of which is to manage the most threatening speech acts and to minimize accountability of the speaker. This is consistent with Taran’s (2000) claim that metaphor is a key feature of political language used to obscure and clarify meaning, to personify political forces and to convey double meanings.

Simala (2012), Shariff (1983), and Chacha (1987) all recognize the significance of culture in describing metaphors in Kiswahili language. They emphasize the fact that as a result of socialization, metaphor usage is an aspect that requires a cultural contextualization in its interpretation. Besides, they recognize the significance of Kiswahili environmental realities in interpreting metaphor and the close relationship between metaphor usage and the cultural norms that have moulded and equipped the language with rich ways of expressing thoughts and feelings on sensitive issues and subjects. In fact, culturally, metaphors are intended to conceal meaning in a sense and absolve the speaker from liability in the event of double interpretation even though contextual reference is necessary.

Orwenjo (2009) suggests that in Africa, the transmission of the overwhelming complexity of the people’s day-to-day experiences is deeply rooted in the continent’s rich cultural artistry. He isolates proverbs as the most widely and commonly used sayings in the continent’s long standing history of oral arts. Proverbs, just like metaphors, are regarded as repositories of the people’s collective social, political and cultural wisdom and as analytic tools of thought. Metaphors can be used by different people to strengthen and further their respective positions and ideologies with regard to the ICC. As observed from the cognitive point of view, meaning is identified within the mind and partially shaped by culture. This observation is a nuanced view of CMT in three different ways. First, experiential structures depend on culturally and socially embodied processes. Second, experiential structures are resources for conceptualization, locally deployed in flexible ways, with the potential of evolving over time; and last, rigorous philosophical, empirical, and experimental research are all essential in developing CMT, while more theory-driven hypothesis testing, relying on corpora and experimental settings, is strongly needed.

Closely related to this line of thought is Habwe (2010) who views metaphors through honorifics that help to define, redefine and sustain social strata that are used as a basis of expressing face-saving ideals and politeness in Kiswahili, and hence contributing to less conflict in interaction and strengthening cohesion in the society in question. He also reveals that Kiswahili honorifics often complement other politeness strategies in order to reinforce politeness values which are a major individual and social concern. Based on these properties, this paper attempts to uncover how the Kiswahili metaphors, within the ICC indictment discourse, informs the dynamics of conflict escalation and or resolution.

Research, since the 1980s, shows that the use of metaphor in framing political discussion has become a major linguistic tool for politicians (Paine 1981; Lakoff 2003; Charteris-Black 2004). Lakoff (2004: xv) emphasizes this by stating that frames are mental structures that shape

the way we see the world. Metaphors are capable of restructuring concepts and opinion (Kyratzis, 2001: 64) and hence they are used for transmitting ideology and transferring useful information about life in society. Metaphors also offer a convenient and natural way through which people communicate their beliefs, identity and ideology (Charteris-Black 2004). On the political front, the choice of metaphors used in the ICC discourse is assumed to be an indirect strategy that allowed the participants to talk about a judicial issue at the time that offered them communicative immunity. Lakoff (1987, 2003, 2005) has demonstrated the importance of metaphorical reasoning in framing political events. In his analysis of the speech by the US President George Bush in justifying the Gulf War, Lakoff (2003) outlines what he refers to as the fairy tale structure frame as the underlying conceptual system. The fairy tale structure metaphorically portrays Kuwait as a helpless victim under attack from the aggressive Iraq (Sadaam Hussein) and the US the hero who comes in to rescue. By metaphorically painting a victim, aggressor and hero rescue scenario, Bush offered a moral justification for attacking Iraq and hence seek acceptance from the American people (Lakoff 2003). It is on this basis that this article explores how such information can benefit our understanding of the ICC's intervention in Kenya after the post-election violence to offer justice to the victims. It explores the metaphoric perceptions that several voices attach to this intervention; to understand how the ICC steps in to offer judicial justice to post-election violence victims against the powerful political players who instigated the violence. The gap that the paper seeks to explore is the notion of how the failure of local (Kenyan) judicial mechanisms plays out in the ICC fairy tale structure.

Studies that have adopted a similar approach include Garcia (2009) who examined how President Jose Rodriguez Zapatero conceptualized terrorism via metaphors through the notion of fight and their conceptual implications in discourse. She revealed that fight metaphors constituted the pivotal node that functioned to promote the president's anti-terrorism political ideology. On the same principle, Moreno (2008) analyzed Hugo Chávez's choice of metaphors in his efforts to construct and legitimize his Bolivarian Revolution and reported that behind an official discourse of inclusion, Chávez's choice of metaphors contributed to the construction of a polarizing discourse of exclusion in which his political opponents were represented as enemies of the nation. This perception is characteristic of ICC justice with claims of neo-colonialism and lack of patriotism in its applicability in Kenya. Voices that support the ICC process are considered as enemies to the people of Kenya. This study therefore draws heavily on Moreno's findings in the construction of a 'them' verses 'us' narrative in the ICC discourse, exemplified in the contrasting viewpoints of the ICC's involvement in Kenya.

Scholars have generally differed in opinion regarding the performance of ICC in Kenya and the actual rationale of its involvement (Moss & O'Hare 2014; Jagero 2012; Mueller 2014; Jenkins 2012; Mackie 2012). Critical to this research is Mueller (2014), who speculates that the key strategy for the two indictees – Uhuru and Ruto to run for presidency and deputy presidency – in a way deflected the court and insulated themselves from its power once they won the elections. Unveiling their language may help to understand how the metaphors they use allow them to express their rich and more dynamic subjective experiences. This view is buttressed by Jenkins (2012) who attributes the 2007 post-election violence to bottom-up processes of identification and violence interacting with incitement from above. He argues that the discourses of belonging and exclusion engendered an understanding of ethnic others as 'immigrants' and 'guests', and these narratives of territorialized identity both reinforced elite manipulation and operated independently of it. In this context, Kenya's post-election violence can thus be understood as a bottom-up performance of narratives of ethnic territorial exclusion operating alongside more direct elite involvement, organization, and incitement. The durability of these narratives, as well as their inherent plasticity, has significant implications for the potential for further violence and the

prospects for reconciliation.

4. Conceptualization of the ICC

The analysis of utterances collected from the corpus reveals that most speakers heavily employ metaphoric expressions with reference to the ICC judicial process. The significance of this analysis is the understanding that conceptual metaphor themes identified in the discussion form the basis of a framework through which listeners are made to comprehend the ICC as a form of justice system. The metaphorical themes help to construct the listener's mental representations of the ICC and thus influence the way they think and feel about the victims of violence, the accused persons and the pro ICC crusaders.

Five basic metaphor themes realized in the ICC discourses include the conceptualization of the ICC as RELIGIOUS WAR, the ICC as POLITICAL WAR, the ICC as JUSTICE, the ICC as A DEMON and the ICC as an ANIMATE BEING. These themes are linguistically realized through both lexical and syntactic devices (Charteris-Black 2004: 21).

4.1 The ICC as RELIGIOUS WAR

The depiction of the ICC as RELIGIOUS WAR is realized by a number of lexical and syntactic means. The ICC has been ascribed a life of its own as exemplified in the prayer rallies. The emergence of the ICC is described in analogy with religious characteristics. The four suspects indicted at the ICC sought support through political rallies that came to be known as prayer meetings in various parts of the country. The rallies would ordinarily start off as prayer meetings in which the clergy would conduct intercession prayers on behalf of the suspects. After the prayers, the suspects and other politicians would then address the people attending. Uhuru is quoted in a prayer meeting at Nakuru, saying:

1) Sisi hayo yote tumemwachia mungu baba wetu.

'We have left all in God's - our father's - hands'¹

The metaphor in example 1 above, *Mungu baba* 'God the Father' conceptualizes God as the ultimate judge. The context in which Uhuru utters the above is to confess his innocence and acknowledge that he has been indicted at The Hague through false testimony and witness fixing, and hence he had surrendered his fate to God. From the example, we derive in Christianity a fundamental metaphor 'God is the Father': this though could mean that human beings are literally 'the children of God', or it could also imply that the relationship between God and mankind is like that of a father to a child. The son-father relationship raises the same issue: did Jesus' claim to be the 'Son of God' imply a biological fact or did it imply that he was as a son of a father? (Charteris-Black 2004). Interpretation requires that God will take on the prototypical attributes of a father – protection from danger, provision of material needs and moral guidance. Similarly, the son takes on the prototypical attributes of dependency, seeking protection, needing material and spiritual guidance. The underlying communicative thought is that God is the ultimate judge. The metaphor constitutes the beliefs among Christians and could also be taken as simply comparative. This interpretation closely derives from Lakoff (1996) who discusses the metaphoric understanding of NATION as FAMILY and how it directly informs our political worldview. The NATION as FAMILY metaphor structures entire worldviews precisely mapping between the nation and the

¹ Our own free translation of the Kiswahili metaphor. The example and subsequent translations rendered the meaning in English though lost in the structure and original metaphoricity hence most of the translated metaphors may sound as ordinary expressions.

family.

Metaphor is very well suited to religious contexts because it is a primary means by which the unknown can be conceptualized in terms of what is already known. Since very few people would claim to have direct personal knowledge of a divine being, metaphors are a natural means for exploring the possible forms that such a divinity might take and for expressing religious experiences (Charteris-Black 2004: 174). Metaphor is, therefore, the prime means of providing spiritual explanations since they can only be expressed by referring to what is experienced in the physical world. The topics that are dealt with by religion – the origins of life, suffering, the struggle between good and evil, life and death – are also topics for which judgement and evaluation are often necessary. Metaphor creates meaning by accessing subliminal experience; in religion it has a similar role because religion considers the possibilities of a sublime world beyond this world. Table 1 below provides some examples of lexical items extracted from ICC discourses in the semantic field of religion.

Table 1:

Lexical item	Source domain
<i>Mungu</i> ‘God’	Religion
<i>Msalaba</i> ‘cross’	Crucifix
<i>Mzigo</i> ‘burden’	Crucifixion
<i>Omba</i> ‘pray’	Prayer
<i>Mwenye uwezo</i> ‘creator’	Creation
<i>Mkombozi</i> ‘saviour’	Salvation
<i>Shetani</i> ‘Satan’	Sin

(Source: adopted from own research data)

The lexical items in Table 1 belong to the semantic domain of religion and they represent different attributes or concepts including prayer, persecution, creation and salvation. These lexical terms were used severally by the indictees in their utterances during prayer meetings in reference to the ICC. For instance, *Shetani* was used by Uhuru to refer to people with evil intentions who engineered their indictment at the ICC. Understanding the metaphor entails mapping terms of one conceptual domain onto the other unrelated conceptual domain. The mappings are a result of two kinds of generalizations, namely, sense relation generalization and inferential generalization. The terms *Mungu* ‘God’, *msalaba* ‘crucifix’, *mzigo* ‘burden’, *omba* ‘pray’ *mwenye uwezo* ‘creator’, *mkombozi* ‘salvation’, and *shetani* ‘Satan’ are words that originate from the semantic field of religion, but are understood as referring to aspects of the ICC. The relationship between the two domains is mediated by inferential generalization, inferring the meanings of the target domain from source domain and generalization across conceptual domains. In addition, metaphors have an evangelical role in religion because they are easier to accept than literal truths and they are open to individual interpretation. The reader or hearer finds the meaning in the metaphor. Prayer rallies therefore play quite an important role in creating meaning of the ICC and providing frameworks of evaluation.

This explains the cognitive contribution of metaphor which enables the users to conceive the worldview of the ICC as sacrifice and persecution and hence the conceptual key; the ICC IS RELIGIOUS PERSECUTION. This more or less explains why Uhuru and Ruto opted for prayer meetings to mobilize support from the general public against the ICC. The prayer meetings present a powerful tool for mobilizing spiritual and religious support. They invoke divine intervention in the conflict and thus the conceptual metaphor the ICC IS RELIGIOUS WAR, which will be won or lost on faith grounds. Lakoff contends that the metaphorical mappings preserve the cognitive

typology (that is, the image-schema structure) of the source domain in a way consistent with the inherent structure of the target domain (Lakoff 1993: 215). The indictees' voice represent 'innocent victims' suffering at the expense of other people who directly participated in the PEV or benefitted from it. The prayer discourse of the ICC achieves just that and hence considers prayer meetings as discourses of mobilization; bringing together two communities (Kikuyu and Kalenjin) through the narrative that the ICC is targeting their community (Uhuru and Ruto) unfairly. Studies on metaphors have provided insights on how metaphor in discourse arouses powerful images that shape perception, public opinion, and ultimately influence comprehension and interpretation of issues in society. The message in a metaphor has the potential to reach the audience in a more powerful and captivating manner. As Ngonyani (2006: 15) elaborately notes, "metaphors provide a conceptual framework, or prism through which information and events are viewed". By conceptualizing the ICC as RELIGIOUS WAR, God's intervention is sought through prayer. Metaphors thus help to make complex and controversial issues understandable to the public and help promote and legitimize the ideological viewpoints of particular groups (Todoli 2007: 51).

4.2 The ICC as an ANIMATE CREATURE

The ICC is portrayed as an animate creature through explicit linguistic choices. This is achieved through the use of lexical items and syntactic structures that ascribe the ICC a life of its own. This is demonstrated through personification in example 2 extracted from an anti-ICC campaign rally at Ihura Stadium in Muranga, and extract 3 from a campaign rally targeted at the ICC prosecutor Ocampo:

- 2) ICC haiwezi kutuamulia mambo yetu hapa. Tuko na uhuru wa kujichagulia hatima yetu

'The ICC cannot decide on our affairs here. We are independent and can determine our own fate'

- 3) Hiyo ni korti ya wakora.

'It is a court for thugs'.

In the above instances, the ICC is perceived as having its own internal capabilities of action: *kutuamulia* 'ability to decide', and as an entity comprising *wakora* 'thugs'. The syntactic structures used to express the animate nature of the ICC are realizable in the process that is perceived to be generated from within. Halliday (1985: 145) uses the term middle ergativity to demonstrate a sentence structure that represents a process that is brought about from inside. Ergativity therefore explains the source of the process under study. The ICC can be deduced from the examples provided within the discourse as having its own force or energy and ability to act independently towards bringing change. The key to this Habermasian notion of reaching *Verstiindigung* 'understanding' is the possibility of using reasons or grounds to gain intersubjective recognition for criticizable validity claims. This is further illustrated in extract 4, uttered by Uhuru in a prayer rally at Bomet:

- 4) Korti itatupilia mbali kesi inayotukabili na tutarudi nyumbani huru

'The court will dismiss the case'.

The ICC is also ascribed animate characteristics, having life-like abilities: implying that it has the ability to perform. In describing the ICC process, some speakers use words whose meaning suggest that they are performed by a living creature, for instance *kutuamulia* ‘to decide’ and *itatupilia* ‘to dismiss’ as shown in examples 2 and 4 above. These descriptions portray the ICC in a negative sense, and hence it is personalized as an object of hate. This argument is supported by Trickova (2012: 143), who explained the personalization of natural phenomenon (disasters) as ‘our mother’ and therefore a view that nature as our mother is capable of inflicting punishment on the people.

Further personification of the ICC is achieved through reference of proper nouns such as The Hague and Ocampo; providing it with a unique identity. The Hague denotes the physical location of the court in the Netherlands, while Ocampo refers to the then ICC chief prosecutor. Pictures of the indictees with their supporters at The Hague reveal the reality of the ICC to Kenyans. The combative and abrasive Prosecutor pursued the indictees and even warned that he would use the Kenyan case to serve as an example to the rest of the world. Consequently, the ICC indictment discourse revealed personification examples through the depiction of nonhuman entities in terms of human goals, actions and characteristics (Lakoff & Johnson 1980). What is significant is whether the human features associated with the ICC discourse are positive or negative. When the ICC is portrayed in a negative way it creates negative feelings and therefore builds resentment and resistance towards it. Negative portrayal demonizes it and, consequently, impacts on people’s attitude towards the kind of justice that can be achieved in the court. This ultimately focuses our understanding of a complex and unfamiliar aspect of reality in terms of a more concrete, clear and familiar phenomenon (Lakoff & Johnson 2003).

4.3 The ICC as a DEMON (EVIL FORCES)

A demon is perceived to be a large, frightening and cruel creature usually of abnormal form or structure. It is equated to Satan capable of instilling fear and anxiety. The ICC indictment discourse also employs a conceptual metaphor theme of a demon *shetani* ‘evil force’. This theme is evident in the use of explicit expressions or emotional lexis and hyperbole. The persistent calls from Kenyans for indictees at the ICC to step aside from presidential campaigns drew the following response from Uhuru Kenyatta,

- 5) Na ndio vizuri tuambiane ukweli, Shetani ambaye hata hajui kazi hiyo tulianzisha namna gani, wanakuja wanasema sasa, sasa unajua sasa nyinyi mkienda hivyo mumejitangaza, unajua sasa wazungu hawatatupatia pesa. Sasa moto wakati uliwaka namna hiyo, na ikasemekana sasa hapana wewe unajua oh unajua sasa wewe ambia ndugu yako aondoke ka hiyo kiti wewe uchukue hiyo upatie mwingine ndio Kenya iendelee mbele...(December 18, 2012 Uhuru Kenyatta at Multi Media University)

‘Let’s talk the truth. The devil who does not understand the genesis of our work now alleges that we shall not get donor aid if we contest. In the heat of things, they tried to convince me to abandon my quest so that Kenya can progress’.

The evil force ‘*shetani*’ in 5 being alluded to in this instance is the ICC and the pressure from Western nations on the consequences Kenya stood to face if an indictee at the ICC was elected president. Furthermore, the heat generated by the ICC is discernible in the metaphor of fire. These were the forces that were to determine the political destiny of Kenya. The ICC is seen as a cruel obstacle or hindrance to political leadership and not a form of justice to the perpetrators of the 2007/2008 post-election violence. The demon or evil forces metaphor draws upon themes from mythology and has the main effect of demonising the ICC. The significance of this metaphor is to

paint the ICC negatively. The following extract 6 from a campaign rally similarly portrays the ICC as a court not capable of dispensing credible justice to the victims.

6) Hii ni mahakama bandia

‘The ICC is a pedestrian court-unauthentic’

‘Bandia’ is a derogatory term used to refer to an imitation or sham. Such images evoke fear and generate a negative attitude and even hostility toward the ICC. Such attitudes do not allow people to cope with the ICC in a rational way and hinder communicative action. This finding is strongly articulated by Ho (2016: 295) who examined metaphors used in the news reports on the global financial crisis of 2008, with a particular focus on the two negative emotions of fear and anxiety. She discusses how these metaphors described the various stages and intensities of negative emotions, and noted that they were tailored to increase negative feelings in the readers, which in turn increased the news value of the articles in the newspapers.

4.4 The ICC as JUSTICE

An opinion poll conducted by Ipsos Synovate in 2013 showed that support for the ICC cases had gone up to 51 percent. Of those who supported the ICC process, 40 percent said they did so because it was the best way for the victims of the post-election violence to achieve justice. Another 24 percent said they did not trust Kenyan courts, and another 23 percent said the ICC process would most likely end the culture of impunity in Kenya. The remainder supported the ICC process because they believed it would prevent future violence, among other reasons. This support was evident among the internally displaced persons’ (IDPs) testimonies during their meetings with Fatou Bensouda, the ICC Prosecutor in Kenya. The IDPs expressed confidence in the ICC and saw it as the only trusted form of justice. The following excerpt was from an IDP in Eldoret,

7) Kwa vile umetoka katika mahakama ya kitaifa, na sisi kama waathiriwa wa mahali hapa, tuna imani sana na wewe. Ni kwa sababu tunajua kwamba wewe tayari umeona na utaweza kutusikiliza kama waathiriwa...

‘Coming from the International Court, we as victims from this area have confidence in you. You have seen and listened to us victims...’

In the extract, the victim through reification (Charteris-Black 2004: 21) – referring to something that is abstract, using a word or phrase that, in other contexts, refers to something that is concrete, is able to articulate the aspirations of the victims. The ICC which is abstract is concretized through the physical presence of the court prosecutor.

Another victim at Naivasha narrated the following:

8) ...tutamwambia tanataka tutimiziwe haki yetu, tulipwe ridhaa na tupewe makao. Hiyo kesi ikiwa mahakamani, tunaona haki ikitendeka

‘...we are seeking justice. We want reparation. With the case in court (ICC) we are assured of justice’.

The key word ‘haki’ (justice) is a metaphor which stands for the confidence victims of the post-election violence had in the court. This interpretation is grounded in the earlier call by politicians: “don’t be vague, let’s go to The Hague”. This call had demonstrated the mistrust and lack of

confidence Kenyans had for the local judicial system. Most of the victims in the IDP camps therefore expressed confidence in the court and anticipated justice. The ICC represents justice that cannot be dispensed in the local courts.

4.5 *The ICC as POLITICAL WAR*

The other metaphoric theme that is used in the conceptualization of the ICC is its representation as a political war or contest between competing political interests in Kenya. The discourses are characterised by comparisons to war, like situations where combatants are fighting to defeat their opponents. The major function of such representations is to compare the ICC to war or a battlefield that people are more familiar with. Other than considering the ICC as the application of international law aimed at justice, ending impunity and holding top leaders to accountability, the discourses portray the ICC as having a desired goal to hurt the suspects. It is represented as a hostile enemy to be fought at all costs. This could have informed the formation of the Jubilee Alliance between Uhuru and Ruto; previously in opposing political camps. The ICC as POLITICS creates animosity against the ICC and draws a sharp division among people supporting the ICC and those against it. Voices against the ICC were mobilized under the metaphoric expression *tuko pamoja* ‘we are together’ while voices in support of the ICC were branded *wale wengine* ‘others’. Such situations prevent people from establishing a harmonic approach to resolving a conflict. It widens the differences and creates a THEM versus US scenario that prevents a rational approach to bring about understanding.

9) *Hiyo ilikuwa ni miereka ya kisiasa* (Extract from a political campaign rally)

‘It was a political wrestling match’.

Extract 9 reveals that the focus in campaign rallies was more on the competitive aspects of an election rather than on political content. Politics is expressed in terms of a game; who is winning and who is losing. A wrestling match is a display of strength or might. The ICC presented a critical moment in the suspects’ social and political life. Pressure had been piled on the indictees not to contest the 2007 presidential elections. The ICC became the political tool to stop the indictees from contesting an election. In the presidential debate, Uhuru Kenyatta in answer to a question of how he would govern the country and, at the same time, attend to the ICC referred to it as a personal challenge. He was setting ground for a political battle. Portrayal of the ICC as a CONTEST makes it more comprehensible, since fighting is found everywhere in the animal kingdom particularly among human animals (Lakoff and Johnson 1980: 61). Metaphors are no longer just tools for rhetoric appeal and ornamentation in speech or text. The significance of metaphors in discourse is that they arouse powerful images that shape perception, public opinion and ultimately influence comprehension of things in society (Lakoff 1993; Gibbs 1994; Kövecses 2002, 2005; Gill & Whedbee 1997).

5. Conceptual themes in conflict

From the foregoing discussion, it is clear that the five major metaphoric themes associated with the ICC - as RELIGIOUS WAR, as POLITICAL WAR, as JUSTICE, as a DEMON and as an ANIMATE BEING - offer conflicting conceptualizations of the ICC in providing a coherent world view or framework for understanding language and its impact on conflict situations. These themes demonstrate bipolarizing tendencies in ICC discourse. Bipolarizing is a term that is used to portray two extreme positions or standpoints which are completely different from each other. It is realized in the encoded concepts of *wale wengine* ‘others’ and *tuko pamoja* ‘in solidarity/we are together’.

The discourses of belonging and exclusion typified in *wale wengine* 'others' engender an understanding of ethnic identity. The metaphoric expression *tuko pamoja* 'in solidarity' is understood in the source domain as Balkanizing or mobilizing ethnic UNITY against the ICC in support of Uhuru and Ruto. Habermas (1984) argues that language both as an instrument for effecting change and a vehicle for disclosing thought must be analysed and interpreted in terms of the speaker and the hearer's social environment. A common assumption is that: to communicate is to perform an act, such as stating facts, making requests, making promises, or issuing orders (Janson, Woo & Smith 1993). The statement, *tuko pamoja*, 'in solidarity' commits the speaker to a future course of action, which in turn affects the hearer. Therefore such an utterance communicates a message, possesses a performative function and hence affects the hearer in a particular way. Speech acts are performed to make factual statements, to request someone to do something, to make promises and commitments, to effect change, and to express a personal feeling. The metaphors *tuko pamoja* 'in solidarity' and *wale wengine* 'others' were a commitment against the ICC.

In order to understand an utterance in the paradigm case of a speech act oriented towards reaching understanding, the interpreter has to be familiar with the conditions of its validity; he has to know under which conditions the validity claim linked with it is acceptable or would have to be acknowledged by a hearer (McCarthy 1978: xiv-xv). The interpreter obtains this knowledge from the context of the observed communication or from comparable contexts. Thus, the interpreter cannot become clear about the semantic content of the expression *tuko pamoja* 'in solidarity' independently of the action contexts in which participants react to the expression with a yes or no or an abstention. Communicative action requires an interpretation that is rational in approach, which expands the truth-conditional approach to semantics into a general theory of the internal relationships between meaning and validity. This involves shifting the level of analysis from semantics to pragmatics, extending the concept of validity to include types of claims other than truth, identifying the validity conditions for the different types of claims, and establishing that, in these other cases as well, the meaning of an utterance is inherently connected with the conditions for redeeming the validity claims raised by it. An interrogation of the validity claims in the conceptualizing of the ICC in terms of RELIGION, POLITICS or DEMON within the Kenyan environment could also offer conflict resolution alternatives.

The negative attributes ascribed to the ICC – the ICC as A DEMON and the ICC as AN ANIMATE BEING rouses fearful emotions rather than reason. The ICC is constructed as punitive and cruel, building fear into people. This argument supports the view of Oster (2010: 752) that fear is the most frequently found metaphor among other negative emotions. Scherer (1997) further observes that fear is an emotion that is unexpected, unpleasant, externally caused and uncontrollable which instead controls a person. A sharp boundary is drawn between voices that support the ICC and those against it in the context of victimhood. Who are the real victims of the ICC process? Are they the post-election violence victims or the indictees at the ICC? The ICC conceived in terms of RELIGION *msalaba* 'cross' and *mzigo* 'burden' does neither envisage true justice nor reconciliation. Alternatively, the ICC is seen as more dividing, exclusive and alienating. This view of metaphor is said to shape human experience and when particular metaphors become the dominant way of talking about a particular aspect of reality within a particular discourse, they may be extremely difficult to perceive and challenge, since they come to represent the common sense or natural view of things (Semino 2008: 33).

After the post-elections violence of 2007 in Kenya, the debate that emerged regarded the implications of transitional justice for Kenya's liberalizing prospects. The Kenya National Dialogue and Reconciliation report (2011) documents, among other things, efforts undertaken by the government towards justice to include the Report of the Commission of Inquiry into Post-

Election Violence, popularly known as the Waki commission (2008) and The Truth Justice and Reconciliation Commission (TJRC). The question of punishment or impunity or whether there is an obligation to punish in a democratic transition is debatable. Teitel (2000) suggests that, despite the moral argument for punishment in the abstract, various alternatives to punishment could express the normative message of political transformation and the rule of law with the aim of furthering democracy. On the one hand, the ICC as an international justice option faces several challenges that may hinder its efficacy as options for bringing justice to PEV survivors (Sagan, 2010). Among them are low levels of state cooperation and questions of ICC Statute threshold requirements. On the other hand, local justice options like the Special Tribunal and private prosecutions could be burdened by a restrictive legal framework as well as the risk of political interference. Okafor & Ngwaba (2014) rightly observe that in many parts of Africa, domestic institutions are unable to function in a way that could justly prevent or resolve many of the conflicts that give rise to transitional justice challenges. They argue that impunity runs deep in many places and judiciaries are often corrupt and beholden to the executive branch of government. They suggest that the ICC should allow much more conceptual space for negotiated peace deals, such as the Nigeria-brokered agreement for Liberia or the UN-brokered agreement that ended violence through the formation of the coalition government in Kenya (Okafor & Ngwaba 2014: 107). Such an arrangement could be far much more responsive to the more pressing needs of ordinary people than is the prosecution of a few people that may prolong conflict and even lead to greater loss of life.

Teitel (2000: 7) advocates for transitions that involve a paradigm shift in the conception of justice by exploring the ways in which society should respond to evil rule through an understanding of what is fair and just. She proposes that the rule of law in periods of political change should be looked at in its various forms: punishment, historical inquiry, reparations, purges and constitutional making. Among these alternatives to punishment is Habermas' approach of Communicative action, which implies that individuals focus primarily on reaching understanding or consensus. Communicative action differs from instrumental and strategic action because objectives are not imposed but, rather, they are based on mutual acceptance. Reaching understanding takes priority over rational efficiency and efficacy. Successful communicative action implies veracity as the primary validity claim. Because the goal is reaching understanding, communicative action calls for candor, truthfulness, and sincerity.

The ICC has arguably played quite a significant role in transition justice in Africa with some positive consequences, such as putting to trial very powerful persons who might have otherwise enjoyed impunity, serving as an alternative to domestic legal systems and serving as a possible deterrent. However, the negative effects, like its inability to bring to justice international crimes outside of Africa, choking out other alternative forms of justice, reduced confidence levels and entrenching domestic repression or conflict all suggest a re-evaluation and reconceptualization of the ICC in relation to transition justice processes. The collapse of the Kenyan cases at the ICC suggests that reliance on ICC justice is unpredictable. Maybe a refocused approach that includes understanding the conceptual underpinnings to conflicts and talking with an aim of reaching consensus could be the way to permanent peace in Kenya.

6. Conclusion

It has been demonstrated that the major metaphoric themes associated with the ICC offer conflicting conceptualizations of the ICC in providing a coherent world view or framework for understanding language and its impact on conflict situations - specifically in offering justice and genuine reconciliation. Though the ICC is an international judicial system of justice, the above mentioned themes suggest a conflicting view in which the ICC is portrayed both as an enemy to

the people of Kenya and as a saviour to the real violence victims in providing justice and retribution.

Metaphors can therefore be explained by considering the interdependency of their semantic, pragmatic and cognitive dimensions. The integrated theoretical approach has offered an opportunity to explore metaphor in these three dimensions. The cognitive approach guides in the understanding and interpretation of the metaphor as part of human thought, while the critical metaphor theory employs pragmatic analysis to interpret the context in which the metaphor occurs. Insights from Habermas' theoretical system reveal the possibility of reason, emancipation, and rational-critical communication latent in modern institutions and in the human capacity to deliberate and pursue rational interests. An understanding of the rationalities in the Kiswahili metaphors employed in the ICC discourse from the three perspectives could be a starting point for seeking peace and reconciliation.

Such an analysis has revealed the gateway through which persuasive and emotive ways of thinking about the world are moulded by language use. Metaphor is therefore active in both the development of a conceptual framework for representing new ideas and in providing new words to fill lexical gaps. It fulfils the basic need of people to make sense of events in the world. It has been demonstrated that the ICC is readily understood when it is related to familiar aspects within the Kenyan environment. When the ICC is viewed within the prism of the political landscape of Kenya, it becomes easy to interpret the various meanings attached to it.

The metaphoric themes do provide alternative viewpoints of the constructed picture of the ICC unfolding events, which become natural or ideological to the people of Kenya. These themes have been shown to generate emotional responses which become hard-line stances or ideologies. As these ideologies develop, then communication strains further and common understanding becomes difficult. In pursuing communicative action, the success orientation is replaced by a desire to understand a communicating partner. The meanings and realities in the metaphors in the prism of communicative action imply that individuals focus primarily on reaching understanding or consensus, which defines mutual expectations about how the actors in a given situation should behave in terms of communication. Accordingly, the experiential bases of Kiswahili conceptual metaphors as they are deployed and stabilized in language in the ICC discourse can be said to be deeply shaped by interpersonal social and cultural dynamics within the Kenyan society.

It has emerged that metaphor is at the root of essential concepts such as that of emotion, human relations and wants and needs. Resolving disputes may sometimes best be done by identifying the kinds of metaphors around which a dispute revolves and simply helping disputants understand the differences. Because metaphor is so influential in creating subjective realities and what they mean to us, considered use of metaphor can take dispute resolution beyond the question of who is going to get what. It offers particular help when we are hoping not just to encourage compromise or impose settlement, but to remedy underlying issues and resolve matters at a depth that brings more real satisfaction and everlasting peace. In the Habermian discursive action, by engaging in discourse, organizations can ultimately be impelled towards greater democracy and emancipation.

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