

# Inter-generational Forum on Endogenous Governance in West Africa

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## Workshop 2 :

### **The KURUKAN FUGA Charter: An example of an Endogenous Governance Mechanism for Conflict Prevention**

Working Document prepared by

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*The views expressed in this document are those solely of the author and do not necessarily reflect those of the Sahel and West Africa Club/OECD.*

*Or. fr.*

One of the first known texts on municipal organization in our sub-region, the Kurukan Fuga Charter<sup>1</sup>, is being rediscovered today not only by those who work in the field of oral tradition, but also by those who want to go back to the origins of political thought in Africa. The researchers interested in this text included, first of all, historians (and also the Jelis, or scholars of tradition, who are experts trained in western history of traditional); followed by text theorists, jurists, environmentalists, and even philosophers<sup>2</sup>, although as an art of thinking inherited from Greek culture. Our special interest in this document is not based on the fact that it has drawn the attention of many experts: we all know that an oral text is a complete text or, as those who are responsible for conceptualizing it say, a holistic text. We generally find in it not only a global vision and an esthetic quality, but also methods of managing nature as well as a legal code to guide relations between communities and their members. Oral tradition also has many texts that convey medical procedures for relieving human physical suffering. The exception is in the fact that the Charter is a major document for traditional mediation, thereby underscoring, and perhaps that is what makes it contemporary for us, a legislating spirit in African societies of the 13<sup>th</sup> century. Consequently, one could ask an ethical and practical question: If Africans of that period sought to settle disputes through negotiation, why not us?

This question also tends to dismiss some objections rising here and there to the validity (breaking down myth and reality) of the Charter today. If indeed the Charter can have serve some purpose in our lives today, then it would be absurd not to draw from the document. Africa is frantically looking for solutions that can best resolve its crises. This is a practical argument that should convince all schools of thought. As for the other aspects, which are certainly more profound, they concern our desire to develop our own historical awareness, as well as the destiny we want to choose for ourselves. Preserving our historical memory helps restore meaning; this is what people all over the world are asking today. Epistemological works have finally shown that the caesura between tradition and modernity is difficult to establish (and this is based on the simple fact that one exists in the other) and that we are free not to accept, in Nietzsche's demystifying word, illusions intended to fool our lucidity.

Another of the Charter's values is that it has been able to be interpreted by all ages, through memories, despite the instability of an oral text (although if presented and repeated, some oral texts eventually take on stable forms, and the only aspects that change are those which depend on the Jeli's performance). This means that the Charter exists:

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<sup>1</sup> See Annexes 1 and 2

<sup>2</sup> A Professor of Cheikh Anta Diop University in Dakar has included the *Charter* in his Political Philosophy course.

- within the enormous Manding corpus: there are as many versions as presented by Jelis throughout the centuries; it is a text among others, which all represent what could be preserved, within this pluralist space, as memory, stories or ways of life;
- in Prof. D. T. Niane's work, which has today become a classic, "Soundiata ou l'épopée manding"<sup>3</sup>. One of the last chapters is entitled "Kurukan Fuga or sharing the world". We know that the work is a written version of the narrative provided by a Jeli to the eminent Guinean historian. (It is not by accident that this book, commended by all and translated into several languages, is a major work. As it supports the saying that one can sing well only on the branches of his own genealogy, it launches the break of post-independence African historians by introducing other types of testimony, shows what the Jelis think of their own stories, and brings the text as close as possible to reality, a problem that would resurface in debate, initiated by African philosophers, on "ethno-philosophy") ; and
- in various surveys conducted by researchers of all generations (in particular Youssouf T. Cissé, A. O. Konaré, S. Kouyaté, Fodé M. Sidibé, etc<sup>4</sup> .

This is all that some of us knew about the Kurukan Fuga Charter before the meeting between the Kankan's traditional and modern communicators. During this meeting, Jelis from several African countries each presented the provisions of the Charter and subsequently agreed on a final version. This is the version that was collected and recorded in the digital data bank of the Niamey Centre<sup>5</sup>.

It should be noted, however, that the Kurukan Fuga Charter was not created, ready for use, by those who in 1236 participated in the meeting in Kangaba (current Mali). It was created after a bloody war between populations, who finally became very close. It is also the result of a process, begun with "Mandé Kalikan" (The Mande Oath) that governed hunters' way of life at that time. The Kurukan Fuga Act, which came at the height of Sundiata's power, was the celebration of a legal code, broadened and more detailed, which from that moment had the

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<sup>3</sup> Djibril Tamsir Niane : *Soundiata ou l'épopée manding*, Editions Présence Africaine, Paris 1960 (English translation: D. T. Niane, *Sundiata : An Epic of Old Mali*, translated by G. D. Pickett, Longmans, London, 1965).

<sup>4</sup> Most of the works of Y. T. Cissé have been published in Editions Karthala, in Paris; A. O. Konaré, « *La notion de pouvoir dans l'Afrique traditionnelle et l'aire culturelle manden en particulier* », *Le concept de pouvoir en Afrique*, col. « Introduction à la culture africaine », n° 4, Editions UNESCO, Paris 1981; S. Kouyaté, *Le cousinage à plaisanterie, notre héritage commun*, Editions Ganndal, Conakry 2003. The works of F. M. Sidibé will be published soon.

<sup>5</sup> Internet site CELHTO/AU in Niamey : [www.africa-orale.org](http://www.africa-orale.org)

force of law for all the community groups of Mandé. The provisions of the Act concern the municipal organization, as well as property management and nature. While some of them are in contradiction with our current principles (for example, provision 15 : “Never beat a married woman unless you have tried unsuccessfully to get her husband to intervene”, or provision 17 : “Lies that have been told for 40 years should be considered as truths” or again provision 41 : “Kill your enemy, do not humiliate him”); there are others (for example, provision 5 : “Every person has the right to life and to preserve his physical integrity...”) that are consistent with current concerns. Once again, the text should be understood within the context that it was conceived: wars of all types, lack of human dignity and values, slavery, etc. And, in this fragmented world, there was a strong desire for law and order, with long and tremendous effort to create a new conciliatory and legislative spirit – the same effort then and today – that would strike a balance between differences through social negotiation. Provision 7 introduced the sanankuya (known today as “kinship of pleasantry”, “joking cousinship” or “congenial relationship”) among the members that formed the Mandé communities. Very early on, various works identified the “sanankuya” in most African societies. As a mechanism for dispelling disputes by miming or dramatizing them, the sanankuya is still very much alive in many of our countries today. An African writer recently gave it a literary dimension: story of the Peulhs narrated by Sérères<sup>6</sup>. It exists among surnames, ethnic groups, age groups, families, villages and, through correspondence of surnames, between countries. Although we know little about it, the sanankuya played a key role, through the mediation by Sorry Kandia Kouyaté (commissioned by the Guinean Head of State at that time), in resolving the conflict between Mali and Upper Volta (now Burkina Faso) in 1975.

“What built up Mandé? War! What broke down Mandé? War!” - this is what Jelis of Mandingue tradition continue to proclaim today. It is with this idea that societies have said, and said again, and repeated once more, we need to seek the origins of this founding document, the Kurukan Fuga Charter, or to echo Mr. Foucault’s idea of the document as a monument.

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<sup>6</sup> T. Monénembo, *Peuls*, Editions du Seuil, Paris 2004.

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## ANNEX 1 : THE CHARTER OF KURUKAN FUGA

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The *Charter of Kurukan Fuga*, re-published here, is a version collected in Guinea at the end of a concerting regional workshop between traditional and modern communicators (Kankan: 3-12 March 1998). The traditionists are those who declined the text; then it has been transcribed and translated, with the help of Guinea linguists and under the supervision of Mr. Siriman Kouyaté – Magistrate and traditionist (his family is guardian of the Sosobala, in Niagasole, Guinea). Afterwards S. Kouyaté structured The Charter, without falsifying the essential point, talking here about the modern juridical texts with a view to make it readable for contemporaries (*the original text in Malinke is available on the digital data bank ARTO*).

The text of the *Charter* is followed by explanatory notes (Annex 2) prepared by Mr. Siriman Kouyaté.

People who took part in the meeting in Kankan:

### 1. Traditional communicators :

- Siaka Kouyaté, Niagassola, Siguiri (Guinea)
- Lamine Kouyaté, Loïla, Mandiana (Guinea)
- Damissa Sékou Diabaté, Siguiri (Guinea)
- Koulako Touré, Faranah (Guinea)
- Mamady Kante dit Konkoba, Dinguiraye (Guinea)
- Old Koita, Kérouané (Guinea)
- Sekouba Condé, Dabola (Guinea)
- E. Oumar Camara, Kankan (Guinea)
- Abdoulaye Kanouté, Tambakounda (Senegal)
- Siriman Kouyaté, Niagassola, Siguiri (Guinea)

### 2. Other communicators and participants:

- Alpha Kabiné Keïta, General Director of Rural Radio (Guinea)
- Mamady Kanté, Journalist, Rural Radio of Kankan (Guinea)
- Mamadou Lamine Doumbia, Journalist, Radio of Tambacounda (Senegal)
- Saa Bédou Touré, Journalist, Rural Radio of Kankan (Guinea)
- Louis Millogo, Professor, Université de Ouagadougou (Burkina Faso)
- Fatoumata Bamba, Journalist, Rural Radio of Kankan (Guinea)
- Bernard Feller, Director, Intermédia Consultants, S.A. Berne (Switzerland)
- Lansana Condé, Professor, Université J. Nyerere, Kankan (Guinea)
- Souleyman Condé, Journalist, Rural Radio of Kankan (Guinea)
- Amadou Baba Karambiri, Journalist, Rural Radio of Bobo-Dioulasso (Burkina Faso)
- Mangoné Niang, Director, UA-CELHTO, Niamey (Niger)
- Cheikh Oumar Camara, Journalist, ORTG, Conakry (Guinea)
- Neguedougou Sanogo, Educationist, School Radio, Bamako (Mali)

## THE CHARTER OF KURUKAN FUGA

1. *The Great Mande Society is divided into sixteen clans of quiver carriers, five clans of marabouts, four groups of “nyamakalas” and one group of slaves. Each one has a specific activity and role.*
2. *The “nyamakalas” have to devote themselves to tell the truth to the chiefs, to be their counsellors and to defend by the speech the established rulers and the order upon the whole territory.*
3. *The Morinkanda Lolu (the five clans of marabouts) are our masters and our educators in Islam. Everyone has to hold them in respect and consideration.*
4. *The society is divided into age groups. At the head of each a chief is elected. Belong to the some age-group the people (men or women) who are born during a period of three years in succession.  
The Kangbès (members of the intermediary class between young and old people) should be invited to take part in taking important decisions concerning the society.*
5. *Everybody has a right to life and to the preservation of its physical integrity. Accordingly, any attempt to deprive one’s fellow being of life is punished with death.*
6. *To win the battle of prosperity, the Kön’gbèn Wölo (the general system of supervision) has been established in order to fight against laziness and idleness.*
7. *It has been established among the Mandenkas, the sanankunya (joking relationship) and the tanamanyöya (blood pact). Consequently any contention that occurs among these groups should not degenerate, the respect for one another being the rule. Between brothers-in-law and sisters-in-law, between grandparents and grandchildren, tolerance and rag should be the principle.*
8. *The Keïta’s family is nominated reigning family upon the empire.*
9. *The children’s education behoves the entire society. The paternal authority in consequence falls to everyone.*
10. *We should offer condolences mutually.*
11. *When your wife or your child runs away stop running after her/him in the neighbour’s house.*
12. *The succession being patrilineary, do never give up the power to a son when one of his fathers is still alive. Do never give up the power to a minor just because he has goods.*
13. *Do never offend the Nyaras.*
14. *Do never offend women, our mothers.*
15. *Do never beat a married woman before having her husband interfere unsuccessfully.*

16. *Women, apart from their everyday occupations, should be associated with all our managements.*
17. *Lies that have lived for 40 years should be considered like truths.*
18. *We should respect the law of primogeniture.*
19. *Any man has two parents-in-law: the parents of the girl we failed to have and the speech we deliver without any constraint. We have to hold them in respect and consideration.*
20. *Do not ill treat the slaves. You should allow them to rest one day per week and to end their working day at a reasonable time. You are the master of the slaves but not of the bag they carry.*
21. *Do not follow up with your constant attentions the wives of the chief, of the neighbour, of the marabout, of the priest, of the friend and of the partner.*
22. *Vanity if the token of weakness and humility is the one of nobility.*
23. *Do never betray one another. Respect your word of honour.*
24. *Never do wrong to foreigners.*
25. *The ambassador does not risk anything in Mande.*
26. *The bull confided to your care should not lead the cattle-pen.*
27. *The young woman may be eligible to marry as soon as she reaches puberty no matter her age. Her parents' choice must be respected no matter the number of candidates.*
28. *The young man can get married from 20 years old.*
29. *The amount of the dowry is 3 bovines: one for the girl, two for her father and mother.*
30. *In Mande, the divorce is tolerated for one of the following reasons: the impotence of the husband, the madness of one of the spouses, the husband's incapability of assuming the obligations due to the marriage. The divorce should occur out of the village.*
31. *We should help those who are in need.*
32. *There are five ways to acquire the property: the buying, the donation, the exchange, the work and the inheriting. Any other form without convincing testimony is doubtful.*
33. *Any object found without known owner becomes common property only after four years.*
34. *The fourth bringing forth of a heifer confided is the property of the guardian. One egg out of four is the property of the guardian of the laying hen.*
35. *One bovine should be exchanged for four sheep or four goats.*

36. *To satisfy one's hunger is not a robbery if you don't take away anything in your bag or your pocket.*
37. *Fakombè is nominated chief of hunters. He is responsible for conserving the bush and its inhabitants for everyone's well-being.*
38. *Before setting fire to the bush, don't look at the ground, rise your head in the direction of the top of the trees to see if they don't bear fruits or flowers.*
39. *Domestic animals should be tied up during cultivation and can be let loose after the harvest. The dog, the cat, the duck and the poultry are not bound by the measure.*
40. *Respect the kinship, the marriage and the neighbourhood.*
41. *You can kill the enemy, but not humiliate him.*
42. *In big assemblies, be satisfied with your lawful representatives and respect one another.*
43. *Balla Fassèkè Kouyaté is nominated big chief of ceremonies and main mediator in Mande. He is allowed to joke with all groups, in priority with the royal family.*
44. *All those who will transgress these rules will be punished. Everyone is bound to make effective their implementation.*

### I - About the social organization:

The classification of the Mandingue society is worth some explanation. The stratification established by the *Charter* is nothing more or less than the work division among the different components of the society. This division far from being arbitrary has rather institutionalized a State as a matter of fact in precisising may be a bit more the roles and attributes.

The Charter has divided Mandingue society into two big categories: the free men and the slaves.

#### A - The free men “horon”

They are subdivided into:

1 - Sixteen (16) clans of quiver carriers or “*ton ta jon*”: they are those who carry bows and arrows. The warriors who should defend the territorial integrity of the Empire were recruited in this group which is composed of the following clans: Traoré, Condé, Camara, Kourouma, Kamissoko, Magassouba, Diawara, Sako, Fofana, Koïta, Dansouba, Diaby, Diallo, Diakité, Sidibé and Sangaré.

2 - Four (4) princely clans which are: Koulibaly, Douno or Soumano or Danhou or Somono, Konaté and Keïta. Even if the Keïta were entrusted with the destiny the Empire, the other clans which have with them blood ties, are considered as princely.

3 - Five (5) clans of marabouts, in charge of being the educators and the teachers in the teaching of the new religion. They are the Cissé, Béréte, Diané and Sylla, or Koma.

4 - Four (4) groups of “*nyamakala*” : literally, *nyamakala* means “who challenges all the interdicts” ; “*nyama*” means maleficent occult power in Mandingue language and “*kala*” means in the present context wariness, limit, immunity, antidote.

The *nyamakala* those who can challenge all the interdicts, are divided like this:

a) The *Jeli* : they are depositaries of the traditions – archives, the master of the word, the counsellors of the kings, the artists and the musicians. They have at their head the Kouyaté and the Diabaté.

In the course of time, the *jeli* became a kind of congregation which can be joined by everyone who holds the rules in respect.

That is how nowadays; belong to this class Keïta, Condé, Kanté, Kourouma, Koïta, Touré, Diawara, etc.

b) - The *Fina* and *Finè*, other non musician librettists specialized in the mediation. They are especially the Camara.

- The *Numun fin*, working the iron and its derivatives to make tools of any sorts. Their wives make pottery.

- The *Siaki*, working precious metals, gold and silver to make jewels.

- The *Kule*, working the wood to make art articles: for example the sculptors.

c) The *Numun* or blacksmiths are essentially composed of the clan of the Kanté, Camara, Kourouma.

d) The *Garanke* are the masters of the leather and of the weaving. The shoemakers and the weavers are within this group. Some of them are specialized in the making of the harness for horses and of the cushions, they are "sake".

The *Garanke* are essentially the Sylla. But other clans have joined them.

As you can notice it, several clans find themselves in more than one class. That is not surprising when we know that as the ages go by particular events can overturn so many structures.

These four groups of nyamakala were much feared. They cannot be reduced to captivity; the other classes owed them circumspection, gifts and subsistence.

As Amadou Hampaté BA said it in his book "Amkoullel, the Fulani Child" (1992 : 522): "*Each function corresponded to a specific initiatory way. To keep their pureness, these groups formed through the endogamy and certain sexual interdicts closed hereditary groups. Here, there is not this notion of untouchability or of inferiority that certain people now show towards them*".

The twenty-nine classes, of which I have just made a succinct description of the activities, are the free men or "*horon*".

### **B - The slaves:**

Before the advent of the Empire, the slavery as a trade has drained an important part of the kinetic energies from the Mande. This practice is forbidden by Soundiata, as well as the conditions of the domestic slavery have been softened. There were two categories of slaves:

1 - Free men and women captured during wars and reduced in slavery, those who were bought and who, because of that moved from one master to another : *mina jon* (caught slaves) and *san jon* (bought slaves).

2 - The offspring of the first ones, born in the master's house: they are the *wosso* what literally means : "of the house".

The *wosso* could only be employed or freed; the master could not sell them. Most of them assimilated themselves in the end and took the patronymic of their masters.

**The statement 20** of the Charter pointed out the condition of the slaves by humanizing it.

**The statement 4**, in dividing the society into age-groups, has brushed aside all the prejudices associated to the conditions of the ones and the others. Actually, are they quiver carriers, princes, *nyamakala*, marabouts or slaves, all those who belong to the same age-group should observe the same rules without sex distinction.

Together they discussed their problems, each one playing the role the society entrusted him/her.

The *Kangbès* were the link class between the ancients who managed the city and the teenagers who were the secular arms of it. They took part in the taking of big decisions and then informed younger people.

**The statement 6** has established a sort of general supervisors who, at a certain time of the day, checked in all the families in order to catch the idle and lazy people and make them take the way to the fields and the workshops. The contraveners were denounced before the ancients' council. This practice has contributed effectively to the prosperity of the Empire.

The “*sanankunya*” and the “*tanamanyöya* “ or joking relationship which is the object in the **statement 7** of the Charter has been established among the Mandenkas user friendly relationships more or less strong according to the case, but which all contribute to the culture of tolerance and peaceful coexistence. The joking relationship, as Mr. Raphaël N'Diaye names it so eloquently, was not an invention of the *Kurukan Fuga*, but the Charter has institutionalized it.

## II. - Rights and Duties:

At **the statement 11**, the respect neighbours owe to one another has been almost considered sacred. Whatever can be the mistake made by one of the members of your family, since the latter goes to find shelter in your neighbour's house, you don't have any more the right to punish him/her for this mistake. You should abandon and erase from your memory the offence made to you.

At **the statement 13**, we can read “Do never offend talented men”. They belong to the nyamakala, the jeli and the fina.

These masters of the word are the appointed mediators; any offence should not be made towards them in the accomplishment of their activities which aim is nothing but the extinguishing of conflicts and wars.

At **the statement 17**, it is a kind of prescription the society puts to statements everybody considers as true during a certain time and which cannot be denounced any more after that period fixed as at 40 years.

The law of primogeniture is in the African societies an indefeasible right. We should owe respect and obligations to someone older than we, whatever his/her social status or his/her wealth can be.

Within the family, this right is so strongly rooted that a common saying states the following: “*we can be older than our father or our mother but never be older than our elder brother*”. Understand by father and mother the uncles and the aunts (**statement 18**).

**The statement 21** reveals the adultery in general because in moving aside the wives of the six groups mentioned in the text, there are no more wives to pay court to.

**The statement 23** symbolizes the sense of honour and of the dignity, values dear to the Mandenka. Stabbing an enemy, using shilly-shallying instead of taking a courageous decision, not facing an occurrence, are considered as cowardice. It is better to refuse, even if I should stand the consequences, than accepting and betraying after. From which the main motto of the Almamy Samory Touré: “*When the man refuses, he says no*”.

**The statement 24** makes it an obligation for everyone not to do wrong to foreigners. This Article is included in the *Charter* in gratitude for the hospitality Soundiata Keïta himself has been offered during his exile for seventeen years.

So, the foreigner is like a king in Mande, he is tolerated, protected and defended. Besides, it is said that the foreigner has big eyes but he can't see. That's the reason why certain mistakes he makes are not attributable to him. He is supposed to ignore.

**The statement 25** attaches immunity to the ambassador, who only passes on a message of which he is not the author. He should not be punished. This notion is found in the Article 29 of the *Vienna Convention dated 8 April 1961* which protects the diplomats against penal actions in the States they are accredited. By extension, the diplomatic premises profit by the notion of extraterritoriality therefore inviolable.

**The statement 26** is a picture, a metaphor that protects the foreigner. The entrusted bull is unfamiliar to the cattle pen. In entrusting him to lead the cattle pen, he can lead the herd to the wrong place. In the same way, the foreigner should not be appointed at the functions of management of a locality but if so only after a long training time.

**The statement 30** deals with divorce. So, three peremptory reasons are considered as being able to motivate the divorce by the request of one of the spouses:

- The impotence of the husband ;
- The madness of one of the spouses ;
- The incapacity of the husband to assume the obligations due to the marriage.

These obligations are: food, dressing, care taking, the conjugal duties and consideration due to parents-in-law.

The Mandenka considered that the divorce is a situation so serious so that it should be pronounced far away from the city.

**The statement 41** is not a formula inciting to the murder. It only means that if you should kill your enemy, kill him but it is absolutely forbidden to you to humiliate him.

#### **About goods:**

**The statement 36** deals with the fact of being in need as it is stated on the penal right. In the context of the Charter, are only concerned fruits pendent or picked up, crops in the fields which can be eaten. We can eat as much as we can but we should not put some in our bag or in our pocket, otherwise it would be a robbery.

#### **About the preservation of the nature:**

**The statement 38** draws the attention on the flowers and the fruits we can find on the top of the trees. They should not be burnt.

Besides we should mention that bush fires were one of the infringements still punished with the sentence of death being anxious to preserve the nature the way it is.

#### **Final provisions:**

The preponderant place acknowledged to Balla Fassèkè Kouyaté and through him to all talented men in **the statement 43**, is not fortuitous. It is understandable fundamentally through the role he played in the big events the Mande went through. Balla Fassèkè Kouyaté is the one who, with courage and determination, told Magan Soundiata quite plainly what other people thought deeply.

He was the one who, with the right words and tune, succeeded to calm down the Emperor in the difficult contexts, since life is not only made of lucky days.

The secret of the greatness of the Mande has been their cohesion. This cohesion has been kept in a large measure by men and women who, most of the time in the anonymity, recalling the Mandenka the principles that funded the Mandingue nation.

The immunity of speech given to Balla Fassèkè Kouyaté and to his descendants enabled the successive generations of tradition guardians to play their role of conciliators and of mediators in the society. Even now, if the data have changed the substrate still remains, deeply rooted in the values of Mandingue civilization.

**Conclusion:**

For all the statements of the Charter, the expressions: “*do, do not*”, are style clauses which restore as faithfully as possible the mind of the authors of the text. But what is expressed in the forty four statements is for and is imposed on all the inhabitants of the Mande who are responsible for their implementation.

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