



TRADITIONAL SYSTEMS AND PRACTICES OF CONFLICT RESOLUTION



Edited by
Basil Ugorji

Traditional Systems and Practices of Conflict Resolution

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Published by the International Center for Ethno-Religious Mediation (ICERM), New York, the Journal of Living Together is a peer-reviewed academic journal that publishes a collection of articles that reflect various aspects of peace and conflict studies. The contributions from across the disciplines and grounded by relevant philosophical traditions and theoretical and methodological approaches systematically broach topics dealing with tribal, ethnic, racial, cultural, religious and sectarian conflicts, as well as alternative dispute resolution and peacebuilding processes. Through this journal it is our intention to inform, inspire, reveal and explore the intricate and complex nature of human interaction in the context of ethno-religious identity and the roles it plays in war and peace. By sharing theories, methods, practices, observations and valuable experiences we mean to open a broader, more inclusive dialogue between policymakers, academics, researchers, religious leaders, representatives of ethnic groups and indigenous peoples, as well as field practitioners around the world.

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Editor's Note

The *International Center for Ethno-Religious Mediation's Journal of Living Together* is pleased to publish this collection of peer-reviewed articles on *Traditional Systems and Practices of Conflict Resolution*. Our hope is that these articles written by scholars from multidisciplinary fields of study will help to advance our understanding of major issues, theories, methods, and practices of conflict resolution.

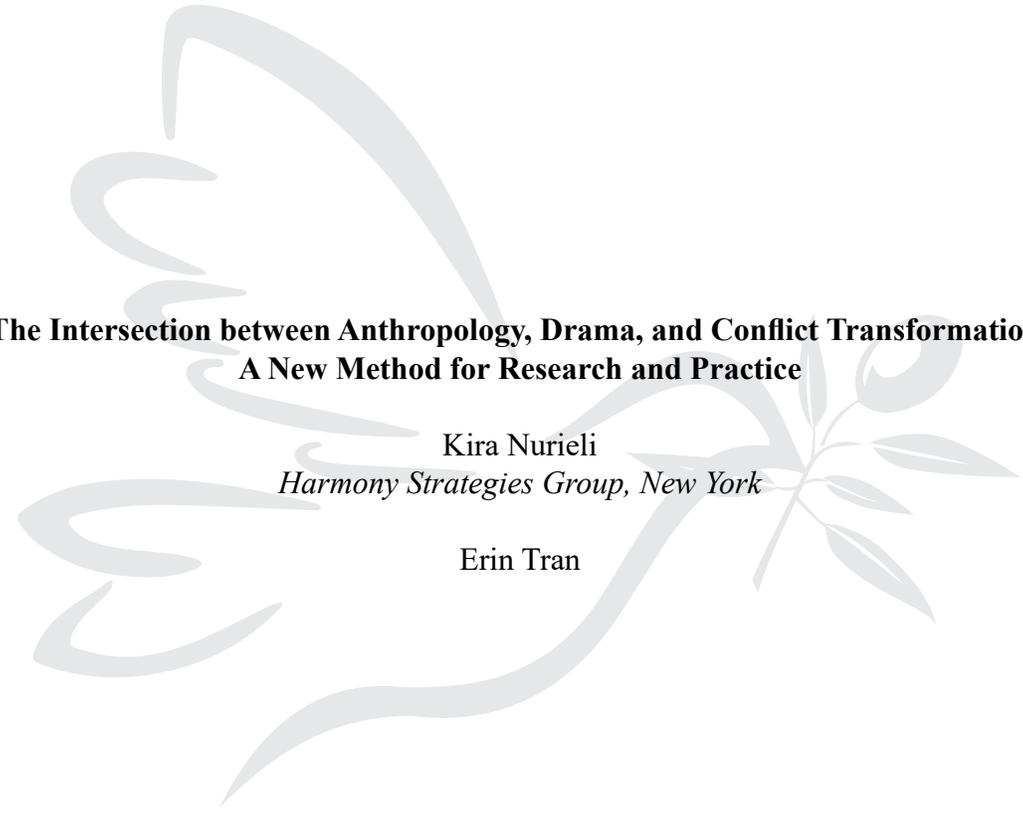
Mainstream research and studies on conflict resolution have until now relied in large measure on theories, principles, models, methods, processes, cases, practices and body of literature developed in western cultures and institutions. Little or no attention has been given to the systems and processes of conflict resolution that were historically utilized in ancient societies or are currently being practiced by traditional rulers and other indigenous leaders (i.e., kings, queens, chiefs, village heads, priests) in different parts of the world and at the grassroots level. These indigenous leaders work to mediate and resolve disputes, restore justice and harmony, and foster peaceful coexistence in their various constituencies, communities, regions and countries. Also, a thorough investigation of the syllabi and portfolios of courses in the field of conflict analysis and resolution, peace and conflict studies, alternative dispute resolution, conflict management studies, and related fields of study confirms widespread, but *false*, assumption that conflict resolution is a western creation.

Although traditional systems and processes of conflict resolution predate modern theories and practices of conflict resolution, they are almost, if not completely, unavailable in our conflict resolution text books, course syllabi, and public policy discourse. Even with the establishment of the United Nations Permanent Forum on Indigenous Issues in 2000 - an international body mandated by the United Nations to raise awareness about and discuss indigenous issues - and the United Nations Declaration on the Rights of Indigenous Peoples which was adopted by the United Nations General Assembly in 2007 and ratified by member states, no significant discussion has been held at the international level on the traditional systems and processes of conflict resolution, and the various roles traditional rulers and indigenous leaders play in preventing, managing, mitigating, mediating or resolving conflicts and promoting a culture of peace both at the grassroots and national levels.

The *International Center for Ethno-Religious Mediation* believes that a research and international discussion on traditional systems and processes of conflict resolution are highly needed at this crucial time in world history. Traditional rulers and indigenous leaders are the custodians of peace at the grassroots level, and for a long time, the international community has ignored them and their wealth

of knowledge and wisdom in the areas of conflict resolution and peacebuilding. It is high time we included traditional rulers and indigenous leaders in the discussion on international peace and security. Together, we are working to add to our societies' overall knowledge of conflict resolution, peacemaking and peacebuilding. By publishing this collection of articles on *Traditional Systems and Practices of Conflict Resolution*, we hope to initiate a pluri-disciplinary, scholarly, policy, legal and civic discussion on traditional systems and processes of conflict resolution.

With peace and blessings,
Basil Ugorji
President and CEO, International Center for Ethno-Religious Mediation
Mount Vernon, New York, December 18, 2019



**The Intersection between Anthropology, Drama, and Conflict Transformation:
A New Method for Research and Practice**

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Erin Tran

Abstract

Conflict transformation practitioners working cross-culturally must acquaint themselves with new socio-cultural norms, languages, behaviors, and roles conveying information on approaches to and processes for dispute resolution and conflict transformation, in order to effectively manage or transform local conflicts. However, many socio-cultural groups embrace strict taboos involving the sharing of intimate information with outsiders, particularly with regard to heated conflict scenarios. These taboos leave conflict transformation researchers and practitioners at a loss for key information on local conflict and mechanisms for its transformation or management. This paper introduces a methodology for research and practice that offers a new understanding of and provides new opportunities for conflict transformation by exploring the intersection between anthropology and dramatic arts. Specifically, studying local dramatic arts provides new information about cultural resources for conflict transformation and contributes to the development of more effective and socio-culturally appropriate conflict transformation methodologies. Inspired by the elicitive approach to conflict transformation, this essay offers a practical model for generating data about conflict transformation practices, including socio-cultural processes for trust-building, dialogue, dispute resolution, forgiveness, and reconciliation, and for developing or enhancing mechanisms for conflict transformation and dispute resolution.

Keywords: anthropology, culture, dramatic performance, conflict transformation, research, practice

Introduction

Conflict transformation practitioners working cross-culturally must acquaint themselves with new socio-cultural norms, languages, behaviors, and roles conveying information on approaches to and processes for dispute resolution and conflict transformation, in order to effectively manage or transform local conflicts. However, many socio-cultural groups embrace strict taboos involving the sharing of intimate information with outsiders, particularly with regard to heated conflict scenarios. These taboos leave conflict transformation researchers and practitioners at a loss for key information on local conflict and mechanisms for its transformation or management.

This paper introduces a methodology for research and practice that offers a new understanding of and provides new opportunities for conflict transformation by exploring the intersection between anthropology and dramatic arts. Specifically, studying local dramatic arts provides new information about cultural resources for conflict transformation and contributes to the development of more effective and socio-culturally appropriate conflict transformation methodologies. Inspired by the elicitive approach to conflict transformation, this essay offers a practical model for generating data about conflict transformation practices, including socio-cultural processes for trust-building, dialogue, dispute resolution, forgiveness, and reconciliation, and for developing or enhancing mechanisms for conflict transformation and dispute resolution.

This essay briefly introduces the different contributing fields of study, including dramatic performance, anthropology, and conflict transformation. First, the essay introduces the two key approaches to cross-cultural conflict transformation practice: the prescriptive and elicitive methods. Next, the paper highlights common elements between the elicitive method and the field of cultural anthropology. The paper then explores the presentation of conflict in dramatic performance, rendering conflict data more easily accessible for research. Finally, the paper offers a synthesis of key themes from each discipline and proposes a multidisciplinary methodology for research and practice. The paper concludes with suggested areas for application.

Conflict Transformation Theory – An Anthropological Perspective

The field of conflict transformation has experienced a renaissance in the past few decades. Conflict management, dispute resolution, human rights, and international justice have become popular fields for academic study. As these fields grow and gain increasing attention, academics and practitioners question and test older methods and modify them to accommodate more recent findings. Two main perspectives, the prescriptive and elicitive, dominate the field of conflict transformation. While these two approaches are theoretically distinct, most conflict transformation interventions integrate both to varying extents. Conflict transformation approaches can be said, therefore, to lie along a spectrum from the purely prescriptive to the purely elicitive.

Prescriptive approaches to conflict transformation and dispute resolution impose processes and outcomes developed primarily within western academic settings. Rather than consider disputes as unique within each cultural context, prescriptive approaches assume that western conflict values, such as face-to-face negotiations, rationality, direct articulation of concerns, suppression of hostile emotions, and notions of fairness, are universal. Within the prescriptive paradigm, practitioners are charged with

resolving disputes, relying on knowledge acquired through their education, training, or professional experience. Increasingly, conflict transformation researchers and practitioners are questioning the validity and appropriateness of the prescriptive paradigm. By assuming the universality of conflict behaviors, the prescriptive model and its underlying methods can, in practice, replicate the colonial experience, particularly in developing countries (Turner & Cheboud, 2000). These conflict transformation and dispute resolution practices and practitioners have been exported internationally to contend with a wide range of conflicts for which they are not well suited.

Kevin Avruch notes that these accepted practices for conflict management are based in the West, “in industrial or postindustrial societies, in bureaucratically organized states with formal judiciaries backed by coercive structures, in relations between organized labor and management, between corporations, between diplomats, among elites, among the middle classes, among the essentially empowered” (Avruch, 1991, p. 4). The politics of dominance and power have elevated a white, middle-class, academic theory of dispute resolution such that it is no longer considered a theory, but the theory. “The discourse of such a theory, which, conceptually speaking, is but one folk model among many, gets reified and elevated to the status of—if not a science then—an expert system” (Avruch, 1991, p. 5).

Recently, conflict transformation scholars and practitioners have proposed new, more inclusive and participatory methods, known as elicitive approaches to conflict transformation. Elicitive approaches rely on the experiences, wisdom, and knowledge of the disputants to create culturally relative, and therefore more locally appropriate, resolutions. The conflict transformation practitioner partners with the disputants and other stakeholders in the process of exploring mechanisms for conflict transformation and dispute resolution, fostering creativity and new discoveries. Ultimately, elicitive approaches may be more sustainable than their prescriptive counterparts because of the disputants’ participation in the design process, which increases their sense of ownership over outcomes. Furthermore, the stakeholders’ participation in elicitive approaches results in processes and outcomes that comply with the disputants’ shared socio-cultural norms, increasing the likelihood that resolutions and transformation mechanisms will be accepted and embraced by the community.

Elicitive approaches to conflict transformation are greatly aided by ethnographic data on indigenous approaches to conflict and processes for conflict transformation (Lederach, 1991). The discourse on dispute resolution and conflict transformation may be enhanced through qualitative research and analysis into the practices and methods used by cultural groups to transform interpersonal and intergroup conflicts. The study of cultural methods for conflict transformation supports international dispute resolution efforts by providing fresh insight into the range of cultural responses to conflict and contributing to the development of new culturally appropriate conflict transformation methodologies.

Anthropology of Conflict – Research Methods Design

Current anthropological research exploring cultural processes for conflict transformation is based on qualitative ethnography. A key premise for this research is the necessity of triangulating data - deriving information from three (or more) sources. Triangulation requires three sources of information about cultural values, perceptions, and behavior. One source of information is the ethnographer’s observations of behavior (i.e. what the informants *do*). The second source is comprised of informants’ testimonies of their own behaviors (i.e. what the informants *say they do*). The third source of information consists of

the informants' testimonies of culturally expected and/or accepted practices (i.e. what the informants *say they should do*).

One potential barrier to a qualitative study of the anthropology of conflict transformation is the presence of societal taboos, present to varying degrees in all societies, regarding conflicts and disputes. Many cultural groups prohibit or discourage open confrontation or public discussion of conflicts and disputes. For the purposes of this study, those groups with more extreme taboos will be referred to as "closed conflict" societies. In these closed conflict societies, ethnographers will experience difficulties as they endeavor to gather information about the nature of that group's disputes and processes for resolving them. The societal taboos are particularly detrimental to the triangulation of data for ethnographic research on conflict or conflict transformation. Societal taboos about conflict hinder ethnographers' abilities to triangulate data, as they are unlikely to observe disputes, elicit information from informants about disputes, or accurately interpret data regarding disputes outside the researcher's personal framework and schemas for conflict transformation.

In Erin Tran's early research into the dispute resolution mechanisms of minority ethnic peoples from Burma (Myanmar), informants typically reported in semi-structured interviews that they did not experience conflict or disputes. A naïve interpretation of this data is that the minority ethnic groups of Burma are peaceful cultures that have learned to coexist without conflict, a finding at odds with Burma's history of more than fifty years of interethnic warfare. Rather, as confirmed by further research, the data demonstrate the informants' feelings of shame associated with experiences of conflict, discomfort in discussing these experiences with others, and their tendency to avoid situations of conflict whenever possible. For example, members of the Karen cultural group are conditioned to practice "ah-nar-deh," or the use of indirect language, to avoid offending others and allow others to save face. Karens will assume great personal responsibility, including emotional and even physical pain, to prevent the discomfort of others. An interview with Naw Lu Baw, a Karen woman, revealed that, "children are taught not to fight, even if someone hurts you.... [They are] taught to deal with that pain. If someone hits you, don't hit back. Then you will only hurt once. If you hit back, then they will hit back, and you will hurt twice or more than that" (Baw, 2000).

F. K. Lehman describes this tendency as a paradox in neighboring Karenni culture, noting that the Karenni (Kayah) demonstrate a "preference in both theory and practice for compounding disputes and eschewing violence... In short, the general picture of peacefulness and communality is functionally complemented by a marked tendency for violence and lawlessness to ensue when control machinery breaks down" (Lehman, 1967, pp. 32-33). Lehman (1967) attributes this tendency to the Karenni necessity of appearing to be in agreement on all issues. "These pressures tend to bottle up violent emotions that may eventually erupt with all the more force. The very circumstance that ideology allows little place for personal aggression ensures that when it does occur it is likely to be almost uncontrollable" (p. 33). The lack of socially acceptable means of addressing community conflict can cause emotional pressures to build until violence results. Erin Tran noted this tendency among the Karen, as well. In an interview with Tran, a Karen woman noted, "...It's so difficult to argue. If you get mad enough, it's easier to pick up a gun and shoot someone than to argue with them" (Craig, 2000).

As demonstrated by these examples from Burma, an ethnographic study of approaches to conflict and mechanisms for conflict transformation can be hindered in communities that discourage open communication about sources and incidents of community tension and conflict. Informants may

deny that conflict exists, and it may be difficult for an outsider to interpret indirect speech, such as *ah-nar-deh*, used to disguise issues of disagreement. Violence, when it does erupt, may be far removed from its source, and the disputants themselves may find it difficult to reconstruct the chain of events. How can researchers overcome these barriers to explore dispute resolution processes in these closed conflict societies? When information about conflicts is divulged, how can a fieldworker appropriately guide the disputants to explore new opportunities for conflict transformation? If cultural norms for face-saving prevent individuals from openly discussing conflict, how can a conflict resolution practitioner elicit approaches to and opportunities for conflict transformation? To effectively address the obstacles posed by societal taboos related to conflict, the authors propose a new methodology based on drama theory.

Dramatic Performance

According to performance theorists and anthropologists, a society's public performances are mirror images of that society's values and ideologies. Performances, in all cultures, are stylized re-enactments of the social reality of the culture or group of individuals that they represent. By viewing a performance, an observer can successfully discern many underlying assumptions, manners, and behavioral norms. According to Victor Turner (1982), a leading theater anthropologist, the function of these rituals is to promote and preserve group solidarity. Ritual bonds all members of society together, through common recognition of re-enacted behavior. Indeed, public performances and rituals are filled with symbols and signs that all members of the community understand.

With theater serving as a mirror image, we may scrutinize our own cultural behaviors by watching them in performances. Barbara Myerhoff thus explains that cultural performances are "reflective in the sense of showing ourselves to ourselves. They are also capable of being reflexive, arousing consciousness of ourselves as we see ourselves. As heroes in our own dramas, we are made self-aware, conscious of our consciousness" (Myerhoff, 1992, p. 234). Through performance imitation, we can see ourselves from afar, in the third person, allowing us to evaluate ourselves.

Victor Turner develops the parallels between social dramas and theatrical performances or rituals in terms of the dramatic element in both. The drama in both fictive stories and social dramas is the performance of that which is intriguing, intensely emotional, and/or physically demanding. Indeed, both fictive and actual dramatic presentations, as seen in all cultures throughout the world, are based on intrigue -- conflict is what makes performance dramatic. Whether in public performance or as a real-life event or situation, drama is defined by intense and gripping excitement based on startling or impressive events. The conflict is what makes these situations riveting and compelling. It is only those activities, situations, and interactions that are intriguing that may be described as dramatic. Thus, in order to be considered a "dramatic performance," the audience and performers alike must focus on scenarios of conflict.

Based on this concept, Victor Turner (1982) focuses his anthropological study of performance on common, everyday dramatic events or "social dramas." Turner explains that observing these dramatic social situations provides information about cultural approaches to conflict management and social change. He defines social drama as, "an objectively isolable sequence of social interactions of a conflictive, competitive, or agonistic type" (Turner, 1982, p. 33). These social dramas belie the "social-structural, political, psychological, philosophical, and, sometimes, theological perspectives of

the narrators” (Turner, 1982, p. 33). In short, Turner focuses on dramatic social situations as sources of information on local conflicts and perspectives in dealing with them.

By viewing a social drama, one witnesses that group’s approaches to conflicts and breaches in accordance with accepted social norms. Turner (1982) notes that performances, as mirror images of society, enable the observers to see their own dramatic conflicts from this new perspective. He further states that “this proximity of theater to life, while remaining a mirror distance from it, makes of it the form best fitted to comment or ‘meta-comment’ on conflict, for life is conflict, of which contest is only a species” (Turner, 1982, p. 105). Based on this theory, Turner (1982) develops his idea of the social drama as comprised of four stages: the initial social breach, a subsequent crisis, application of redressive or remedial procedures, and finally a reintegration or recognition and legitimating of an irreparable schism.

These four stages are based on someone or something breaking from the norm, being transformed through stages of change, and finally being reintegrated or recognized. The initial breach is essentially the source conflict, and the redressive actions and ultimate decision of whether or not to reintegrate reflect the established conflict management mechanisms. But what is particularly interesting about crises and conflicts, and why are these the sources of intrigue and dramatic performance?

Turner (1982) defines the root of social performances and their theatrical counterparts as “liminality.” This term involves a “betwixt and between” state: being neither in nor out of social spheres. In public performances and dramatic stories, the liminality is the key to the tension in the performance. For example, in the popular story of Cinderella, the intrigue is based on Cinderella’s role-change and transformation from slave to princess. In social interactions, the tensions in rites of passage are equally intriguing. A girl who becomes engaged goes through a liminal stage, where she is not yet a wife, yet she is no longer single. The excitement in the culminating wedding celebration comes from the tensions of the liminal period: the wonder and new expectations involved in changing roles. These emotions and tensions are interesting both to experience as a participant and to watch as an observer. A wedding is exciting not only for the “actors” (the bride, groom, etc.), but also for those invited (the friends and relatives who come to watch and enjoy the festivities).

Richard Schechner (1977), in his *Essays on Performance Theory*, defines theater in terms of “transformation,” rather than liminality. Although these terms are in many ways synonymous, Schechner’s word choice involves a general change not only of the parties directly involved in the role-change, but of the society as a whole. Certainly, when an individual who has been in a liminal stage is reintegrated into the community, all of the role-interactions involved are transformed. Schechner (1977) points out that everyone, not just those directly changing roles, is affected by social dramas and liminal states. He notes that “Turner locates the essential drama in conflict and conflict resolution. I locate it in transformation—in using theater as a way to experiment with, act out, and ratify change” (Schechner, 1977, p. 123). While Turner focuses on the conflict between parties, Schechner takes a step back to look at social change on the larger scale.

The basic foundation for theater anthropology is the focus on drama and conflict, essentially synonymous terms. That which is dramatic inherently involves conflict and vice versa. Thus, if one observes the fictive dramatic performances of a culture or group, one essentially observes conflicts relevant to that socio-cultural context. The way in which the performers treat the conflict/drama is the culturally prescribed and appropriate manner for addressing non-fictive conflicts as well. As such, careful observation and use of performance material may provide information about conflict and transformation opportunities.

Dramatic Performance and the Anthropology of Conflict Transformation

Dramatic performance may provide opportunities to explore approaches to conflict and mechanisms for conflict transformation in closed conflict cultural groups. As noted by Turner and Schechner, fictive dramatic presentations mirror real life situations, and may be used to display publicly what otherwise would be concealed. Dramatic performance depersonalizes conflict, enabling individuals who would be uncomfortable discussing conflict to explain an observed dispute and its potential or actual resolution(s) more securely from a third-person perspective. Additionally, as noted previously, dramatic rituals preserve group solidarity, counteracting divisive elements of the conflict.

Though dramatic performance provides informants with sufficient emotional distance that taboo topics may be discussed openly, the data generated remains grounded in the reality of the cultural group. Central to Turner's (1988) social dramas is the theory that the drama is "rooted in social reality, not imposed upon it" (p. 37). The conflict and its transformation specifically reflect the social norms of that particular society. Myerhoff (1992) supports this theory and notes that public performances can also serve to bring the secretive into public view. She notes that "when such performances are successful... the invisible world is made manifest, whether this is a prosaic affair such as demonstrating the fact of a rearranged social relationship, or a grander more mysterious presentation involving supernatural beings or principles" (Myerhoff, 1992, p. 234). Indeed, viewing a specific group's dramatic presentation of itself will give the researcher a magnified view of the group's disputes and mechanisms for conflict transformation.

Meyerhoff (1992) further contends that since dramatic performances "are intentionally designed, they are not only reflections of 'what is'; they are also opportunities to write history as it should be or should have been, demonstrating a culture's notion of propriety and sense" (pp. 233-234). When supplemented with interview data, dramatic performance, then, will provide researchers with insight not only into what informants say they do, but also with a close approximation of what they actually do and what they believe they should do (or should have done), thereby aiding with data triangulation.

Dramatic performance, therefore, is a key ingredient in the new merger of anthropology and conflict transformation. Serving as a useful resource for studying cultural approaches to conflict and processes for conflict transformation, dramatic performance provides researchers with the information necessary for triangulating data even in closed conflict societies. Disputants in closed-conflict societies need not openly share their opinions, concerns, or reflections on actual events and may instead provide data through fictive dramatic scenarios. Furthermore, the cultural data obtained from dramatic performance can contribute to the design of elicitive conflict transformation interventions. For example, by understanding the practice of *ah-nar-deh*, which serves as a mechanism for the prevention of disputes in Karen culture, conflict transformation practitioners can collaborate with Karens to design resolutions or transformation mechanisms that appreciate and are appropriate for Karen culture. Disputants can also work through the processes of agreement building or reconciliation using informal, improvisational dramatic performance, thus preserving social taboos and face-saving mechanisms. Ultimately, dramatic performance can be used more formally to alter perspectives of conflict within a culture, as a prescriptive application of this theoretical development.

Applications for Ethnographic Research

While multidisciplinary collaboration among the fields of anthropology, conflict transformation, and dramatic performance is theoretically interesting, the real significance of this approach lies in its potential contribution to conflict transformation research and practice. This model therefore applies principles of dramatic performance to ethnographic research of approaches to and mechanisms for conflict transformation. The model also provides tools that use dramatic performance for elicitive conflict transformation practice.

Chart 1 illustrates the range of applications for conflict transformation research (section I) and practice (section II). As the theory is intended to aid in information generation and the creation or enhancement of conflict transformation mechanisms, researchers and practitioners may choose to move backwards, forwards, or circularly within the model. Indeed, each application may serve different socio-cultural climates to varying degrees and in different orders. This flow chart is presented as such for purposes of logical organization, rather than prescribed chronology. Moreover, the authors encourage each individual researcher/practitioner to consider which applications are appropriate and when they should be applied. In the following sections, each application is explained in terms of its use and value for conflict transformation research and practice.

Ethnographic research using formal or public performances

Ethnographers can draw new information about cultural approaches to conflict and mechanisms for conflict transformation from formal or public dramatic presentations (see chart, part A). The plots reflect socio-cultural attitudes and behaviors involving conflict and its management. Some potential applications include:

- *Researching existing myths, fairy tales, folk tales, and popular stories (see chart, part C)*

A society's myths and stories convey social messages and are based on at least one dramatic conflict. The underlying socio-cultural attitudes about conflict thus will be apparent in these stories. Moreover, the ultimate resolution of a story will inform ethnographers and practitioners, helping them understand that particular society's perceptions of conflict transformation.

Example: The story of Jack and the Beanstalk conveys to outsiders conflicts involving: parent/child relations, fair trade and market practices, social mobility, and economic depression. Resolution within the story includes: adopting new social roles, growth and change in family structure, alternative paths to economic success, and attitude transformation about social roles and norms.

- *Observing public performances and dramatic rituals (see chart, parts D & E)*

Since public performances act as a cultural mirror, observing these performances and rituals offers researchers and practitioners the opportunity to observe social workings and norms indirectly. More important, that which people would not disclose in the first person (i.e. through personal, actual stories) may be disclosed in these impersonal, third-person, fictive public performances.

Example: The play, *Taming of the Shrew*, reflects cultural attitudes toward courting practices and marriage, male/female behavior and duties, father/daughter relationships, and romantic relationships and roles. If one were to inquire about actual, non-fictive breaches involving these issues, informants

may be uncomfortable or reluctant to engage in open discussion. These issues, however, can be observed clearly in an impersonal public performance.

Ethnographic research using informal or private performances

In addition to gleaning data from formal and public performances, researchers can extract information from informal or privately elicited dramatic presentations (see chart, part B). Researchers can use these informal, often impromptu performances to:

- *Elicit information about conflict transformation processes*

Pairs or small groups of informants may enact a fictive scenario of a potential conflict suggested by the researchers, assuming roles within that scenario and acting out the situation from the breach through the transformation process to the disputants' reintegration or reconciliation (see chart, part F). For example, a researcher may ask two adults to enact a scenario in which both claim ownership of a particular farm animal. By observing the performers' response to the fictive dispute, the researcher can formulate hypotheses of appropriate local mechanisms for addressing possession disputes.

Informants may be uncomfortable engaging in a performance of even a fictive scenario if they believe they may be subject to criticism resulting from their enacted response to the dispute. They may also resist performing particularly controversial roles, even in fictive performances. In these cases, it may be beneficial for the researcher to ask the performers to assume different roles, therefore enacting another person's response to the fictive scenario (see chart, part G). For instance, in the example above, the adults could instead be asked to enact a scenario in which two children are fighting over a particular toy. This new scenario still would provide information about communal responses to property disputes, but the roles now would be sufficiently removed from the actual roles of the performers so as to prevent discomfort and anxiety in a closed conflict culture.

- *Probe for informants' evaluation of conflict transformation processes (see chart, part H)*

Researchers can use dramatic performance as a tool for eliciting informants' judgments about mechanisms for dispute resolution with which they are familiar. For example, researchers could ask the informants to identify and re-enact either a real or fictive dispute that they believe was resolved poorly or particularly well. The performers can use their dramatic presentation to demonstrate their attitudes and concerns about the dispute resolution process or outcome and brainstorm alternative, perhaps more satisfactory mechanisms for addressing the dispute.

The researcher also can suggest intervention strategies (for example, "show me what would happen if the village elders tried to resolve this conflict"), in order to elicit the informants' perceptions about the likelihood of appropriate, sustainable resolution with each possible strategy.

Supplementing performance data with interviews

Ethnographers may wish to enhance the research applications of this theory with interviews to elicit additional information and interpretations from the informants (see chart, part I). The informants may be interviewed following a formal dramatic performance or in response to an informal, private dramatic presentation by the informants or their peers. In particular, interviewers may inquire:

- What is/are the conflict(s) observed? Informants identify and evaluate the "breach" and situations of

liminality in the context of the community.

- Has the informant or someone s/he knows experienced this type of conflict? Researchers identify how realistic this conflict is, i.e. in what ways and how often it is experienced in the community.
- How is this type of conflict typically managed? Informant relates the management process and probable outcomes from his or her cultural context.
- Is the informant satisfied with this process for resolving disputes of this type? Why or why not? Informant evaluates the dispute resolution process.
- Is the informant satisfied with the outcomes that result when disputes are resolved in this manner? Why or why not? Informant evaluates the likely outcomes that result from the dispute resolution strategy.
- How does the informant think this type of dispute should be resolved, when it occurs within his or her community? Informant suggests preferred processes and outcomes for resolving such disputes within his/her community.
- Of what other examples of conflict is the informant aware? Interviewer probes for other examples of breaches.

In addition to standard semi-structured interviews, using questions such as those presented above, researchers can use dramatic performance to elicit additional information from the informants. By way of illustration, researchers can alter the story line of an observed performance and ask the informants to enact it. After a performance of Cinderella, for example, researchers could ask informants to re-enact the story such that Cinderella has male, rather than female, stepsiblings. Exercises such as this one will enable the ethnographer to explore the ways in which changing the disputants' ages, genders, or social positions affects the range of possible outcomes. Moreover, the ethnographer can interpret from these creative exercises many elements of role-dynamics and learn how changing roles alters the relationship between actors.

Applications for Conflict Transformation Practice

Dramatic performance also can be used to improve the design and delivery of mechanisms for conflict transformation and dispute resolution. In particular, conflict transformation practitioners can use dramatic presentations to:

Help disputants and other stakeholders see other perspectives (see chart, part W)

Dramatic performance provides a useful tool for helping communities gain perspective. For example, role reversal performances can be used to help disputants see each other's perspective. Husband and wife could, for instance, be asked to re-enact a dispute with the husband playing the wife and vice versa. Similarly, villagers could be asked to play the role of militia members, returning to villages where they have committed violent acts of war, as part of a post-war reconciliation program.

The examples provided above illustrate informal, private applications of dramatic performance designed to increase awareness of alternative perspectives. However, dramatic performance also can be applied formally and publicly to achieve these ends. There is a long tradition of theatrical performances used to alter the public's perceptions about a conflict or dispute. For example, *The Laramie Project* (Kaufman & Tectonic Theater Project, 2001) was written and produced in order to foster understanding

of the murder of a homosexual man in Laramie, Wyoming, including the acts that led to the murder and reactions to the incident. In performing their roles, the actors present to the audience a variety of differing perceptions, values, and beliefs held by members of the community in Laramie.

Probe disputants and community members for possible solutions or opportunities for transformation (see chart, part X)

Rather than prescribing solutions based on their personal experiences and training, conflict transformation practitioners can use information obtained from dramatic performances to design resolutions that will maintain the existing socio-cultural norms for conflict transformation. By maintaining rather than challenging these norms, the resolution will be more readily accepted and integrated into the community's social framework. Externally imposed "resolutions" that ignore traditional and local social processes are less likely to have a lasting impact on the disputants.

Propose solutions based on redressive actions observed in the group's social dramas and performances (see chart, part Y)

Should probing prove inefficient or ineffective, the practitioner may propose solutions based on his/her perceptions of acceptable measures, according to the social norms and practices observed in formal or informal dramatic presentations. While the authors encourage probing rather than informed-proposition, this may prove difficult or impossible in more rigidly closed societies.

For example, a conflict transformation practitioner may observe a dispute prevention mechanism, such as *ah-nar-deh*, utilized in Burmese Pyu operas. If the community resists involvement in the design of culturally appropriate conflict transformation mechanisms and requests external intervention, the practitioner could design a conflict transformation mechanism that utilizes *ah-nar-deh* to reduce community tensions and promote reconciliation. In this case, the practitioner extends a cultural practice beyond its normal application (dispute prevention), in order to serve other aspects of conflict transformation (reconciliation and the reduction of hostilities). Though the conflict transformation methodology is technically prescriptive, it does take advantage of cultural capacities for conflict transformation and is, therefore, more likely to be sustained by the community.

Evaluate the desirability and sustainability of proposed resolutions or mechanisms for conflict transformation (see chart, part Z)

Role-plays or other informal dramatic performances can help evaluate proposed resolutions or conflict transformation mechanisms. When disputants believe they have achieved a sustainable resolution, practitioners can enact various scenarios designed to test the agreement's durability and comprehensiveness. For example, if two neighbors agree to resolve a boundary dispute by sharing the property claimed by both, the conflict transformation practitioner can test the durability of the agreement by asking the disputant to enact scenarios involving potential weaknesses in the agreement.

Practitioners alternatively can assess a new dispute resolution mechanism by acting out a variety of disputes and evaluating the mechanism's ability to address them satisfactorily. For example, a village may decide to elect an ombudsperson to resolve disputes within the community. In this instance, the conflict resolution practitioner could ask a member of the community to play the role of ombudsperson, and other informants could act out potential disputes the ombudsperson may be expected to address.

The community then could use data generated during the role-plays to evaluate and refine the conflict transformation mechanism.

In these instances, dramatic performance would provide a safe space for evaluating proposed resolutions and conflict transformation mechanisms before they actually are implemented.

Conclusion

This article has introduced and illustrated opportunities for research and practice in conflict transformation, based on the combination of cultural anthropological research methods and principles of drama theory. By using the theory that drama is synonymous with conflict, one may use fictive and non-fictive dramatic performance as a means to both probe for underlying conflicts in a closed society, as well as to creatively explore opportunities for dispute resolution. The application of this theory leads to more elicitive approaches for transforming cross-cultural conflict, creating more sustainable, culturally contextualized outcomes in conflict transformation and dispute resolution.

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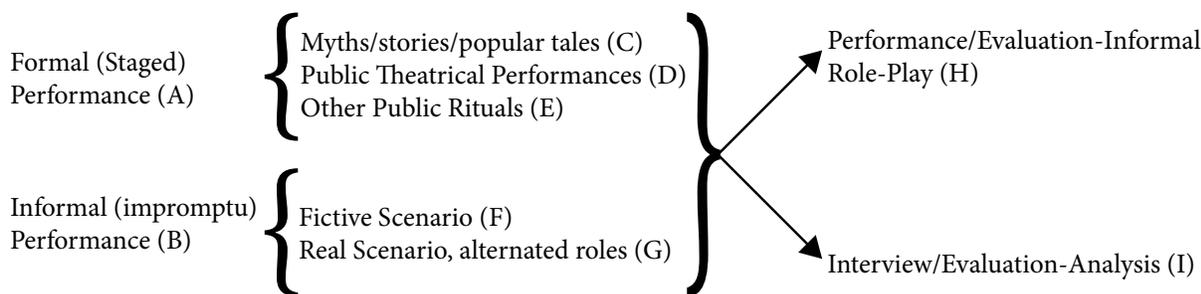
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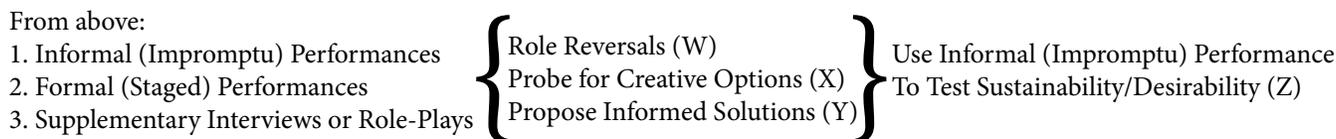
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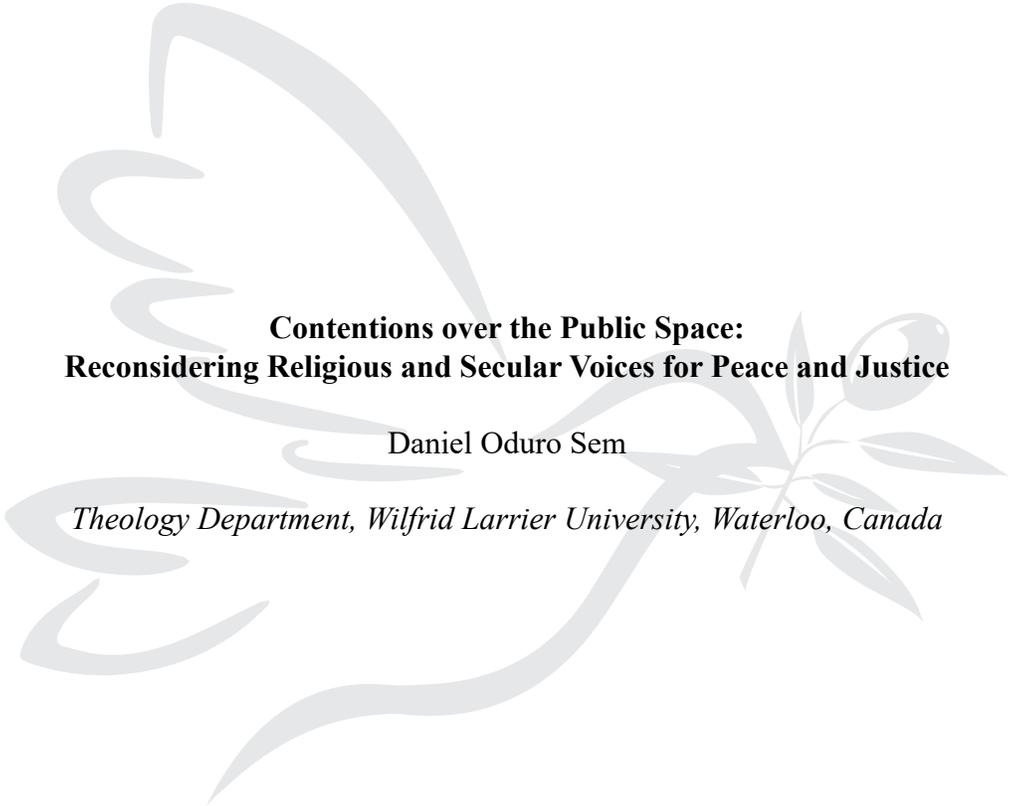
CHART I

I. Information-Gathering



II. Transformation Practice





**Contentions over the Public Space:
Reconsidering Religious and Secular Voices for Peace and Justice**

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Abstract

While religious and ethnic conflicts usually occur over issues such as subjugation, power imbalance, land litigation, etc., modern conflicts - be it political or social - tend to be struggles over recognition, accessibility to the common good, and human rights issues. Against this background, conflict resolution and peacebuilding efforts in traditional societies with people of common religious, cultural, ethnic and linguistic interests can be suppressed more than in a state where there is a lack of religious and ethnic homogeneity. The governments of pluralist states play a key role in addressing economic, political and social inequalities. Modern states, therefore, need to conceptualize a public space that is able to confront the challenges of pluralism and diversity in their conflict resolution and peacebuilding efforts. The pertinent question is: in an advanced postmodern world, what should influence political leaders' decision-making on public issues that affect pluralist cultures? In responding to this question, this paper critically examines the contributions of Judeo-Christian philosophers and secular political liberals to the debate on the separation between church and state, and highlights the important aspects of their arguments that can help create a public space needed to foster peace and justice in contemporary pluralist states. I argue that even though contemporary societies are characterized by pluralism, differing ideologies, diverse beliefs, values, and different religious convictions, citizens and political leaders may draw lessons from the skill set and intervention strategies rooted in both secular and Judeo-Christian religious thought, which include negotiation, empathy, recognition, acceptance and respect for the *other*.

Keywords: church, state, pluralism, public space, liberalism, peace, justice

Introduction

An attempt to set limits on religion and politics in pluralist states is an old time contested debate. Two main renowned contributors to the debate are Judeo-Christian thinkers on the one hand, and secularist political theorists on the other. Since they both raise some important issues that can help reconstruct the public space in a pluralist society, we cannot overlook the two voices in our efforts toward peacebuilding. As an ally to the liberal paradigm and as an insider of religious faith, my aim is not to attack any individuals/groups, but to do introspection and reflect on my own faith as well as my political ideology.

I thought that liberalism is supposed to tolerate minority groups in a democratic state, and religious people are also called to love, care and empathize with others. Ironically, neither political liberals nor scholars within the religious tradition have embraced the *other* wholeheartedly. Neither of the two schools of thought has actively included the voices of traditional rulers and indigenous leaders in the public space debate. By this oversight, both two sides of the debate seem to ignore the potential role of traditional rulers in conflict resolution and peacebuilding. This oversight is perhaps due to the fact that the discussion on the contention over the public square takes place through vigorous academic research, and it appears that only those who get heard are the scholars whose academic training and credentials enable them to articulate their ideas convincingly.

For decades now, both Judeo-Christian religious thought and liberal paradigms have persisted side by side to influence each other on public policies in the West. Some political liberals maintain that religious justification for public policy is unfair to nonbelievers (Dworkin, 1995; Rorty, 2003). This seems to suggest that not all religious views can respond adequately to the needs of pluralist societies. Some religious scholars also think that secularist political ideologies are not helpful because of their overemphasis on neutrality and centrality on individualism (Chaplin, 2006; Goudzwaard, 1979). Despite these contested views, principles of social justice and fairness seem to be the major concern of both traditions. Hence, a consideration to these two schools of thought can foster the formulation of some humanitarian and egalitarian ideals needed to promote peace and justice. It is therefore important to reconsider the two views for the protection and preservation of public space needed to prevent the marginalization of minorities and the insensitivity of dominant groups to the needs of the *other*.

Minority groups in this study refers to marginalized, powerless and voiceless groups in modern states who are disadvantaged because of their social or political location. They are in the blind spot of the powerful and influential leaders as they suffer systemic racism, discrimination and/or oppression at different levels. They include people of color, women, people with disability, LGBTQ2S population, religious minorities, etc. Since traditional rulers and indigenous leaders are excluded from the public space in spite of their wisdom in dispute mediation and prevention; they too may fit in the category of minority groups in the political arena. Justice is thought of as fairness that needs to occur in the process of distributive, procedural and corrective measures. There is no better way to understand peace than what Albert Einstein wrote centuries ago - *Peace is not just the absence of war but the presence of justice, of law, of order by the government*. Peace and justice are thus inseparable concepts for social, political and economic prosperity for every nation. Peace is not an economic product but it can be very scarce (Sem, 2006). Thus, to achieve and maintain peace and justice, modern states need to theorize a framework with principles emerging from the public space debate as discussed by both religious and liberal scholars.

The formulation of such theoretical framework could help one analyze the factors that underpin political leaders' decision on public issues in pluralist cultures.

The Public Space

The public space/square in a democratic state is the common space where fundamental matters of public interest are deliberated upon. However, if the public space in a pluralist society can be viewed as the arena where citizens (regardless of their sex, gender, language, religion, race, and cultural orientation) endlessly contend for power and recognition, then it can also be likened to the "social arena" defined by Nancy Fraser (1987) as the arena in which diverse groups, movements, and experts negotiate their rights and needs with policy makers. From Fraser's (1987) framework, the public space may be described as "a new terrain of wider political contestation" (p. 157).

In this context, when political theorists and philosophers contemplate what should characterize the public space in a pluralist democratic state, it may be understood as another way of raising concerns about justice and fairness in such a pluralist community. Thus, questions about the legitimacy of acting or speaking in a particular manner, as politicians or public servants, are other ways of probing the relationship between a person's deep convictions and the policies s/he favors in decision making process, and how that decision affects those who do not share a similar conviction. These convictions of leaders and politicians may either be influenced by religious beliefs or a particular form of philosophical doctrine. And there are different kinds of such doctrines, especially in a pluralistic community - doctrines which John Rawls (1996) refers to as "comprehensive doctrines." Policies on abortion, war, taxes, weapons, death penalty, marriage, divorce, substance use, sexuality, and many others, are contested over in the public space. And what the law says about these issues are also shaped by politicians' idiosyncrasies and their cherished values.

The Endless Church/State Contention over the Public Space

Policies and laws passed by the legislature are sometimes (if not always) influenced by one belief or another. So the key question surrounding the contention over the public space in a pluralistic society is whether or not diversity and pluralism count when it comes to issues about the public square. In order to promote peace, justice and fairness, what criteria do we need when making decision on public policies as citizens in pluralist cultures? It will be gross underestimation to suppose that pluralist states will be void of contention over comprehensive doctrines just because of the existence of constitutional arrangements clearly delineating the limits of the church and the state. What we read in the history of political theory actually presents the opposite.

Historically, the development process of the conflict between church and state in North America and Europe has been cyclical. As Milton Konvitz (1968) observed about the United States, one reason that accounts for such an endless debate about the church and state is because "Americans are constantly changing their views about the proper province of the state" (p. vii). Konvitz (1968) further points out that the clash between church and state is attributable to the people's radical change of interest in, and actions, toward religion. Because Americans are always changing their views about religion, Konvitz (1968) concludes: "churches [including] organized religions of all denominations and sects—today do

things that were unthinkable a very short time ago” (p. viii). In a recent political debate in Canada, Toronto’s City Counselor, Giorgio Mammolity, perceived a close connection between religion and politics and tweeted: the “lack of religious values in politics is why our children are killing each other” (Breen, 2018).

The cause of the changes in opinions about the realm of religion and politics is not a primary concern here, but it can be surmised that the challenges resulting from the diversity of cultures and emergence of different philosophical doctrines do account for people’s constant change of mind about the church-state debate. Pluralism and diversity are part of nature, yet it can disturb the peace process in democratic cultures if not handled with care. The swift change of views about the province of church and state is gradually diminishing respect for human life. We have replaced our communitarian virtues with capitalism. Capitalism has its own benefits, but it has also made us more individualistic, and we are prone to pursue our self-interests while failing to consider the suffering of others. Proliferation of arms across the globe has increased wealth among some nations, but it has also fueled explosion of violent conflicts among other nations and ethnic groups in our world. Serious war crimes are also committed in the name of the so-called *just war*.

Konvitz’s (1968) observation of the church-state contention sheds some light on the work of Monsma and Soper (1998), which evaluates the interpretation of the establishment-clause in America. Among other factors, Monsma and Soper published their book, *Equal Treatment* (1998), in response to the “increasing religious pluralism of the United States [and] the rise of the comprehensive administrative state” (p. 3). Monsma and Soper (1998) note that the state now provides some social services and enforces policies, which were previously taken care of by the church and other social organizations. This includes welfare services such as counseling, treatment for drug dependency, spousal-abuse programs, etc. Given that the state is also involved in delivering services similar to that of the church, it will be unfair for the state to sponsor secular organizations delivering those services and ignore financial support for religious social service organizations which play similar roles. The dilemma here is that since secular institutions adhere to the separation between church and state, it is hard to determine whether religious social service providers will also be required to apply the “strict separationist” principles complied by the non-religious and secular social agencies. According to Monsma and Soper (1998), *strict separationism* may be explained as a strong rejection of any close relationship between the church and state. Strict separationists see the two institutions as diametrically opposed to each other. Should religious organizations solicit state funds and agree to the liberal state’s neutral principle or not? Religious institutions are mandated to promote peace and justice and to show love and compassion to all humanity. But responding to the needs of diversity and pluralist cultures in multicultural environment is not easy either, for this may have severe consequences on the shared identity of religious people amidst the rising process of secularization. Thus, the shifting boundaries of the church and state and the people’s constant change of mind about the two institutions seem to have several implications including the identity of traditional communities for future generations.

Traditional communities and cultural groups may face serious threat under conditions where their roles overlap with the state in the distribution of the public good in a pluralist society. This should explain one of the main reasons why both Christian political theorists and secularist liberals attempt to define the criteria for public policy in pluralist cultures. Therefore, a systematic overview of Christians’ and secular liberals’ favored policies need to be examined as well as the principles upon which such justifications are grounded.

Religion, the Conversation Starter among Deferring Groups

Although Rorty (1994) perceives religion as a *conversation stopper*, one may designate religion as a conversation starter to account for the beginning of the contention over the public space. History of politics begins with *Theocracy*. Even during the monarchical era in Judeo-Christian literature, God was still active in the election of kings. The 17th and 18th century European Enlightenment brought a change. The Enlightenment did not only revolutionized the world through scientific method of inquiry and logical reasoning, it also empowered humans to investigate nature and question religious dogma. Sacred writings published in modern languages increased accessibility to Holy Books in public libraries. Nature was no more unknowable or unquestionable. This accelerated the process of secularization in both private and public lives. The separation between church and state affected people with deep religious conviction. Consequently, some religious believers reacted by favoring public policies as informed by their sacred writings. While officials might not be able to hide their deep religious conviction on public matters, it is equally important to reflect on how their decision on public issues affect pluralist cultures in a state where priority is placed on the promotion of peace and justice.

Machen's (1978) discussion of Christian decisions on public policy, dubbed *Christian establishment*, is a thought provoking one. It is a direct response to America's diverse kinds of plurality which emerged in the 1960s – including ethical and philosophical doctrines, which did not always recognize tradition and scripture as the final authority regarding issues of public concern. Examples of these doctrines are normative ethical theories such as utilitarianism, egoism, deontology, etc. Secularist liberals seriously take into account the importance of such ethical theories whenever they engage in conversation with religious people on matters about public policy. However, because secularist liberals sometimes overstate their claims, and because decision on public policy without specific reference to one's deep conviction appears unfair to religious people, religious believers such as Machen rejects any source of morality outside religion. Among fundamentals and some evangelicals, it appears that religion is not ready yet to negotiate its boundaries. For instance, in decision-making process - whether a policy concerns an individual, the church or the community, Machen (1978) reminds Christians:

I have already said what our standard is. It is the Bible. When we are deciding whether we can support any propaganda or engage in any course of conduct, we simply ask whether that propaganda or that course of conduct agrees with the Bible. (p.76)

Though Machen (1978) is not specifically addressing the public space, it can be surmised that his emphasis is placed on the authority of the Bible. Freedom of religion allows religious devotees to express their religious faith without threat or any form of coercion. However, given the contemporary debate on the relationship between one's religious faith and their favored law or public policy (Eberle, 2002; Stout, 2004), it is not an overestimation to contend that Machen (1978) would also reject any public policy that is not consistent with the Christian Bible. Both Stout (2004) and Eberle (2002) concede that religious people could and should support public policies based on their religion, but none of them endorses the radical position of Machen (1978), which centers solely on the Bible. Machen (1978) is even unwilling to accommodate other Christians who might attempt different interpretation of the Bible other than his. Thus he goes on to argue:

[W]e refuse to make mere rapidity of growth or enthusiasm of adherents

the criterion by which any religious movement shall be judged. Instead, we test every movement by the Bible. If it agrees with the Bible, we approve it; if it disagrees with the Bible, we oppose it, no matter what external successes it may attain and no matter even what apparent graces it may seem to our superficial human judgment to induce here and there in its adherents. (p.76)

The belief that Christians could shape public policy (and for that matter the public space) according to the Bible alone, is contested. Machen's (1978) position is thus very crucial to our discussion because first, it may pose a serious political problem in contemporary pluralist society; and second, it seems to problematize religious pluralism as well. In the first instance, Machen (1978) seems to fail to recognize the need to consider other cultures in a pluralist community on public issues. The idea also seems to disregard the presence of other religious groups such as Hinduism, Buddhism, Islam, and many others. More specifically, one may infer from this assertion that Machen (1978) grossly denies the importance of other Christian groups whose religious conviction (as a result of their commitment to public justice) is different from his. There are Christians whose passion and commitment to public justice seem to motivate them to accept certain degree of diversity and difference. For this reason, even secularist philosophers such as Rorty (2003) "see liberal Protestantism as the form of Christian religious life most congenial to a liberal democracy" (p. 148).

The belief that the Bible must serve a reference point in all matters including politics rhymes with the *National Confessional* position strongly held by Edgar (1989). Like Machen (1978), Edgar (1989) argues that because western culture throughout history has acknowledged the power and authority of Jesus over and above kings, nations, and churches; and because the West had "owed a great deal to the Bible, both in its conception of law and in particular instances of law" (p. 180), America must now turn the nation back to its roots to allow God's rule, for historically, governments did not make laws, they only applied the laws given by God (p. 180).

Indeed, there are potential ideals and moral prospects that societies may enjoy by surrendering their nations under the rule of God. But as Smith (1989) points out, "scriptural, historical, and practical arguments indicate that [such a proposal] is undesirable [because it] causes division among theists and diverts attention from other more important tasks" (p. 213). Besides Smith's (1989) significant comment, it is also clear that Machen's (1978) and Edgar's (1989) position seems to reflect (un)conscious misrecognition of cultural diversity in a pluralist society - an important component of pluralist politics, which Mouw and Griffioen (1994) have carefully expounded in Christian public philosophy and which remains significant for both political theorists and peace and justice advocates.

The Concept and Types of Plurality

Mouw and Griffioen (1994) identify three types of pluralities in societies - directional, associational, and contextual pluralities. Directional plurality refers to a plurality of belief systems or worldviews that shape the direction and lifestyle of a people. Associational plurality refers to groups and basic social units such as the family, occupational and educational institutions that constitute a given community. Though the family is one of such associations, the authors distinguish it from mere social club and other corporations. Chaplin (2006) also makes an important observation that since the

term “association” covers involuntary institutions such as kinship and political structures, it is more appropriate to use the term “structural” for associational plurality (p. 146). The third group of plurality is a kind, which Machen (1978) and Edgar (1989) would probably not recognize at all - i.e., contextual pluralism. This is a pluralism explained by the visible presence of other different religious, ethnic, class, gender, and racial groups.

In addition to the typology of pluralities, Mouw and Griffioen (1994) also draw a distinction between *descriptive* and *normative* senses of plurality, for they believe that it is one thing to acknowledge the existence of pluralities and it is another thing to accept it as the way things ought to be. Thus, because Mouw and Griffioen (1994) are particularly concerned with public pluralism that can foster the ordering of public life, they recognize and acknowledge pluralism in a descriptive sense while rejecting normative sense of pluralism. This is because according to their belief, normative directional pluralism leads to ultimate relativism. Nonetheless, although Mouw and Griffioen (1994) reject normative directional pluralism, the significant point is that they “set forth some Christian reasons for treating associational and cultural diversity as good states of affairs” (p. 18). This recognition is what seems to be in direct conflict with the view held by Machen (1978) and his allies.

Now assuming the Christian religious tradition is the only religious group in a given political community, Machen’s (1978) remark will still appear contentious since Christian religious groups do not necessarily share similar interpretations, though they seem to uphold common sacred writings. The validity of the Bible as the sole criterion for public policy in a multicultural and pluralistic state has, thus, been reconsidered both by secularist liberals as well as other Christian political theorists. In what follows, let’s examine the response by secularist liberals.

Secularist Liberals on Religion in the Public Space

Rorty (2003), who questions religious reasons in public life, initially urged that religious people should bracket out their beliefs when engaging in political issues or public discussion. However, due to his critics’ remarks, Rorty came to admit the weaknesses of his assumption on the topic. Hence he later reviewed his position on the issue of religion and politics. But to what extent does the revision reflect a change in Rorty’s (2003) views about the topic? In content, Rorty does not seem to be saying anything different compared to his original position. Even though he tries to isolate pastors who minister to members of the church from ecclesiastical organizations in order to clarify his anti-clerical views, yet in his so-called *Reconsideration of Religion in the Public Square*, Rorty (2003) still declares:

We secularists have come to think that the best society would be one in which political action conducted in the name of religious belief is treated as a ladder up which our ancestors climbed, but one that now should be thrown away. (p. 142)

This perspective does not seem to permit religious reasons in political debate, for according to the above it is a thing of the past. While one may disagree with Rorty (2003) on this point, his notion of the Bible and public debate in a pluralist state is very compelling. For instance, he argues that one might not be legally prohibited from citing a Bible passage such as Psalm 72 to endorse redistributionist social legislation for the sake of the poor or Leviticus 18:22 to delegitimize same-sex marriage in public discussion. For Rorty (2003), doing that is “not just in bad taste, but as heartlessly cruel, as reckless persecution, as incitement to violence” (p. 143).

Dworkin (1985) and Rawls (1997) shared a similar belief of Rorty (2003) in their view of a pluralist liberal democratic state. Rawls (1997) taught that the essential feature of democracy is *reasonable pluralism*, hence any concept of justice in such a pluralist community must be tied with the principle of equality and fairness. His particular concern is that because political decisions enacted in law requires adherence, free citizens with equal dignity must be offered reasons why they must accept a given policy as legitimate. Under conditions of ‘reasonable pluralism’, public officials cannot be committed to a particular conception of the good - they must be neutral because of their position. Among other grounds, Rawls (1997) has been criticized for defending equality, an abstract and unrealistic concept of justice. But his theory is not inconsistent with the assumptions underlying Dworkin’s (1985) idea of the good and the role of government. For Dworkin (1985), the reason an official should not hold fast to a particular conception of the good life in the public square is this:

since the citizens of a society differ in their conceptions, the government does not treat them [as] equals if it prefers one conception to another either because the officials believe that one is intrinsically superior, or because one is held by the more numerous or more powerful group. (p. 191)

As far as equality, justice and fairness are concerned, Rawlsian political liberalism seems to differ slightly from Dworkin partly due to the exceptions the former makes when he critiques the threats of religion to liberal democracy. For Rawls (1997), politically unreasonable doctrines which repudiate the idea of public reason and challenge democratic institutions are only the “fundamentalist religious doctrines and autocratic and dictatorial [regimes]” (p. 613).

While ‘fundamentalist doctrines’ and ‘autocratic regimes’ may threaten our effort toward peacebuilding in pluralist societies, they are not prevalent among only religious groups. Some versions of secularist liberalism - the kind that have always sought for the complete overthrow of traditional communities may also appear radical and sometimes illiberal to believers whose religious convictions are mostly totally at odds with that of the secularist liberals.

Stephen Macedo (1998) represents the secularist liberal ideology that poses a threat to the creation of a public space needed to promote peace and justice in pluralist cultures. In his *Transformative Constitutionalism*, Macedo (1998) echoes John Locke and emphasizes a clear-cut “segmentation” or “compartmentalization” between religion and political life. Macedo (1998) critiques the traditional school system because he argues it pays too much attention to religion.

Religion and politics are not bedfellows for most secularist liberals. In this light, Macedo’s (1998) theory of diversity gives room for religion in private matters, but not in politics. For instance, he celebrates the American public rituals undertaken by judges and presidential candidates during which they are compelled to make public confessions that are not usually consistent with their faith. And Macedo (1998) sees these confessions as an expression of Americans’ “commitment to ensuring that political power will be exercised on grounds of reasons that [Americans] share, and for purposes [Americans] can hold and justify in common” (p. 69). Macedo’s (1998) hope is that these public rituals will “diminish the importance of some religious convictions in people’s lives” (p. 69). Moreover, in an effort to strengthen liberal institutions and build roadblocks against religion, the goal of radical secularists’ agenda toward religious voices in the public realm is thus clearly outlined by Macedo (1998):

We should, therefore, preserve liberal institutions, practices, rituals, and norms that psychologically tax people unequally, for if that has the

effect of turning people's lives - including their most "private" beliefs - in directions that are congruent with and supportive of liberalism, thank goodness it does. This is what "Transformative Constitutionalism" is all about. (p. 72)

Of course, religious people cannot coerce a person to accept certain principles on the grounds that one does not share in the absence of faith. But to pursue a project that seeks to diminish religious conviction among believers is equally unwarranted, especially if such religious convictions are the kind that can promote peace and justice.

The advocates of religious establishment create problem for authentic pluralist theory. But some liberals' sharp dichotomy between religion and politics also needs to be reconsidered to address the illiberality of some secularist liberals. In a pluralist state, the acts of coercion and disrespect of other groups can best be described as the enemies of peace and justice, which political theorists should try to avoid in the pursuit of peacebuilding. Robust liberalism emphasizes public issues such as equal treatment, fairness, public democratic virtues and respect for all citizens (regardless of one's belief, gender, sexual orientation, color, or race). At a time when directional, associational, and contextual pluralities overwhelmingly characterize the polity, liberalism is not a panacea for the political and social malaise of great nations, but it needs to be acknowledged for its spirit of accommodation, which other directional or religious groups shaped by intolerant ideologies, are hesitant to embrace.

Some liberal democratic concepts, principles and values are attractive to minorities and marginalized groups. Indeed, because liberal democratic ethos seem to empower individual rights and foster group identities in multicultural polity, minority groups are likely to accept liberalism more than other ideologies. As David Novak (2004) rightly observes, "multiculturalism is for the sake of minority groups" (p. 57). Novak (2004), however, adds that it is rather unfortunate that modern arguments for social contract theory have been based not on Christian democratic tradition, but rather on secular foundations. In spite of its visible threats to traditional communities, some liberal ideals still remain attractive to marginalized groups. Thus if an objection is raised against Macedo (1998) and his defenders, it is not primarily because of liberalism's effort to diminish religious excesses in politics, rather, its secrete project aiming at the disappearance of religious and traditional communities in liberal democracy.

I am in search of principles and ideals that can promote peace and justice. Liberalism seems to provide some of these ideals. However, if Macedo's (1998) aim is what is described in his "Transformative Constitutionalism," then it is not an ideal type of vibrant liberalism required to harmonize multicultural groups for peace and justice, for it appears a deliberate project to subvert the presence of religious groups in liberal politics. Therefore, we need a perspective that resonates with the role of a pluralist state.

Judeo-Christian Response to Secularist Liberals on the Church-State Debate

One of the objections raised against the liberal concept of equality and neutrality in a pluralist state is that of the threat of disappearance of traditional communities. In his response to this supposition, Novak (2004) argues that it is detrimental for traditional cultures to live in societies where their identity is at risk, so it is time for one to look for a traditional justification that will ensure "a secular democratic order" (p. 54). The traditional justification according to Novak (2004) is the social contract theory, which serves as the main theoretical framework of his project. Social contract theory will help preserve

religious people because Novak maintains that entering into a social contract does not entail assimilation of an individual or their community. Chaplin (2006) also debunks liberal pluralism in favor of Christian pluralism because of the supposed abstraction nature of liberal equality. Walker (2000) also detests secular liberalism and maintains that because liberalism functions invisibly thereby making it difficult for cultural groups to resist, “secularist establishments are worse than overt religious establishment” (p. 113).

For the advocates of peace and justice, the crucial point is not which establishment is better and which one is worse. It is what set of principles may resonate with peace and justice; what role could an ideal state legitimately play in pluralist cultures; and how much respect do public officials owe to the diverse communities under their jurisdiction. An attempt to improve upon liberal neutrality and liberal equal opportunities for everyone is laudable, but to try to re-introduce Christian establishment or any ideology tantamount to liberal monism is equally dangerous, first, for non-Christian but religious communities, and second, for other secular directional groups.

On the Role of the State

A critical analysis of the contents of most of the Christian theories proposed in the religion and politics debate seem to shift too much responsibility to the state regarding how traditional cultural values can be preserved. However, a Christian theory of the state that can function to build a public space needed to promote peace and justice is far from the Christian establishment thesis. According to a Christian political thinker, Herman Dooyeweerd (1969), the state’s primary role is to promote justice. The state, thus, plays a very significant role in every society. This main function of the state in a pluralist society cannot be traded in for something else. Politicians may have their own beliefs and aspirations but their role in public justice may not be achieved if they primarily concern themselves with the preaching of doctrines at congress or if they focus on supporting policies that favor only Christians. As Dooyeweerd (1969) argues, “Neither internal ecclesiastical law, nor internal industrial law can have [the state’s] typical public juridical integrating function, however large the number of the members of a church or an industrial community may be” (p. 438). The state will cause more harm than good if it attempts to support and/or promote any given particular interest group at the expense of others whether directly or indirectly. A public space which enhances peace, justice and prosperity in pluralist cultures has a unique relationship with all other competing groups in that society. In their concept of pluralism, McCarthy, Oppewal, Peterson, and Spykman (1981) note that when competing social groups lobby and exert pressure on the government for their cause, the state acts “as an amoral power broker to maintain equilibrium among these many causes” (p. 31).

With such a vital role vested in the state, its officials should include leaders who have the skills and knowledge to mediate between conflicting groups and parties. We can’t turn our backs to the wisdom of traditional rulers and indigenous leaders at the time when officials of the state are confronted with disputes here and there. Peacebuilding efforts in contemporary pluralist cultures will be a mirage if we fail to integrate the wisdom of traditional rulers and indigenous leaders in mediation and conflict resolution. In the past, traditional leaders sustained peace, so they can be invited today to make contribution if we give them the opportunity and the necessary training required of our day.

The Importance of Traditional Rulers in Conflict Resolution

Growing up, I witnessed the socio-political influence of my grandmother, who was a Queen Mother in one of the villages in the Ashanti Region of Ghana. Being a traditional ruler in a small community, the Queen acted as a link between the ancestors of the land and the living and she was seen as an icon of peace. As a traditional Queen Mother, she wielded socio-political power and her role distinguished her as a “queen in her own right” (Ephirim-Donkor, 2015, p. 237). Although she lived in a male dominating society, the strong matrilineal social structure of the Akan system of inheritance allowed the Queen to exercise reasonable amount of power and authority. This unique social influence enhanced the maintenance, management and promotion of peace in the community. Her power and influence made her successful in dispute resolution among individuals and groups under her jurisdiction. The conflicts she usually dealt with centered on social issues, including minor disagreements and misunderstanding among individuals and groups, marital issues, water access, right to land, etc. Like most African traditional rulers, the Queen made use of African norms, proverbs, values, songs and certain witty phrases common to the people in the community. She oftentimes made allusions to symbols in order to emphasize the importance of love, forgiveness and unity in the community. On several occasions, the Queen succeeded in bringing peace among opposing parties in the rural setting mainly because the people she ruled had shared values, similar religious and cultural worldview, common language and belief system.

But where is the power, influence, and the wisdom of traditional rulers today in the world poised with violent conflicts and the contentions over the public space? Several factors account for the diminished role of traditional rulers and the effectiveness of their approach to conflict management, resolution and prevention. *Indirect Rule* system introduced by the colonial masters usurped and/or redefined the powers of traditional rulers in Africa (Amoatia Ofori Panyin, 2010; Olusola & Aisha, 2013). *Westernism*, education and rural-urban migration also caused a rapid change in the people’s identity, culture and perception about life. Urban life gradually changed the people’s loyalty and allegiance to the traditional rulers. Western democracy, which was different from the traditional democratic system also contributed to the decline of the influence and power of traditional rulers. Though all these factors may account for the decline of the effectiveness of traditional rulers in conflict resolution, this paper emphasizes traditional rulers’ limited insight into the contemporary contested human rights issues and their incapacity to assume the main role of the state, as the main contributory factor for the decline.

Equipping Leaders for the Promotion of Peace and Justice

In spite of their success in community dispute resolution, traditional rulers may initially face a challenge in dealing with some of the human rights issues that characterize modern day conflicts if they are not trained and familiarized with the issues about the contentions over the public space. Conflict resolution and peacebuilding efforts in advanced pluralist democratic states are quite complex and differ in many significant ways from social and ethnic conflicts whose warlords usually had shared religious, cultural, ethnic and linguistic homogeneity. The nature of contemporary conflicts calls for specialized skills and virtues not only for traditional rulers but for all state officials including Judeo-Christian and secularist political thinkers. Some of these virtues are already embedded in the arguments presented in the foregoing discussion. In entering a contested public arena, leaders’ primary concern should be on the

promotion of peace and justice rather than the preservation of their own cherished values though their deep convictions might influence their policies to some extent.

When the voiceless get heard and the destitute is fed; when the existence of minority groups and individuals are recognized and accepted as part of divine creation; when the wisdom of traditional rulers are acknowledged for peacebuilding process; when secularist liberals and Judeo-Christian thinkers come to agree that neither of them has all the answers to the needs of our contemporary pluralist democracy, it is an indication that our leaders are getting close to the call of justice in an unjust world. An election to political office comes with the responsibility of care, protection and security of a nation as well as of the vulnerable individuals and the manifold differing interest groups. Such a role cannot be accomplished by our traditional rulers and public officials if they lack enduring virtues such as love, empathy, acceptance, recognition and negotiation. These virtues are already rooted in Judeo-Christian thought and they do emerge when we deeply consider and respond to some of the tony questions raised by philosophers and liberal political thinkers about the contentions over the public space.

As conceptualized by Mouw and Griffioen (1994), descriptive sense of plurality allows leaders to acknowledge the presence of diverse cultures in a multicultural state. Though Mouw and Griffioen (1994) reject normative sense of diversity, it is time for religious devotees to reflect on the origin of diversity itself and to inquire about the expectations of their object of worship for the promotion of peace and justice. When religious people persistently labor for peacebuilding, justice and conflict resolution their commitment will shape and positively influence others including the secularist liberals. One is not oblivious of the fact that political ideology aimed at attacking major religious groups will have no room for traditionalists with native religious beliefs and practices no matter how useful their experience could make toward peace process. But there is no cause for alarm to involve traditional rulers in our commitment to peacebuilding as long as they are capable and comfortable to handle the challenges confronting modern states.

A new turn is taking place in some developing countries as traditional rulers attempt to prove their importance in state governance and peacebuilding. In entering the public space for equal recognition in Ghana, Amoatia Ofori Panyin (2010) is strongly convinced that “without the deep-rooted traditional values and norms of the collective nationalities, the Constitution alone would be unable to sustain the state” (p. 1). This can happen when state officials begin to acknowledge, respect and accept the worth of silent voices in the public realm.

Recognition may lead one to accept an individual or groups for their position if they prove themselves worthy of their demands. In this light, traditional rulers may be accepted into the public space as long as their wisdom and skills meet the demands of principles of peace and justice in pluralist cultures. Leaders or traditional rulers’ voices can get heard as they continuously update themselves to become more tolerant toward diversity and develop the skills of embracing cultural practices that are alien to their core values. Their active participation in governance at the local, municipal, and national levels cannot be attained if they are not recognized by state officials. Recognition complements acceptance, which begins by acknowledging the worth of an individual/group. This naturally evolve through the affection of love, care and empathy for the *other*. Genuine affection is a virtue given to human beings by the creator. Because the creator is love, empathetic and a great provider, the creator wants to see that in humanity as well. For instance, in teaching the Israelites how to empathize, God told the Israelites to be charitable to their neighbors because they were also strangers in a foreign land (Leviticus 19:34-35).

Empathy is one of the important tools we need in order to be able to demonstrate transparent love toward the less fortunate in our nations. It takes empathy for one to understand and feel for the difficult experiences which minority groups go through on a daily basis in our society - rejection, unemployment, oppression, widespread discrimination, poverty, institutionalization and prolonged incarceration by the criminal justice system. Love and empathy are bedfellows and one cannot express genuine love if they don't have empathetic skills. In her work, Karla McLaren (2013) defines empathy as "a social and emotional skill that helps us feel and understand the emotions, circumstances, intentions, thoughts, and needs of others, such that we can offer sensitive perceptive, and appropriate communication and support" (p. 4). With their experience of deprivation, sufferings and isolation from the mainstream society in areas such as health, employment opportunities, education, etc., marginalized immigrants and minority groups also fit the designation of the *other*. Awareness of the visible presence of these minority groups in pluralist states and the offer of support to respond to their predicament is thus crucial in our peacebuilding efforts.

One also has to be conscious of the fact that the state cannot promote peace and justice effectively unless our chiefs and public officials who represent various cultural groups are prepared to negotiate some aspects of their cherished values and comprehensive doctrines when entering the public space, for the public space is a legal contested realm for all groups and individuals. By implication, a public official is to be committed to serving all citizens including their party opposition members; and traditional rulers, religious devotees as well as community leaders are also expected to serve everyone without discrimination. This is what liberalism connotes in pluralist democratic cultures and it is not inconsistent with what the Supreme Being also expects from religious believers.

What are the possible consequences when people with religious faith are asked to serve unbelievers indiscriminately when engaging with those who don't share their beliefs? Without doubt, this poses a threat to the unique identity of some key non-state institutions which have existed throughout ages. To preserve traditional community interest and values, public officials and traditional community leaders who are threatened by multiculturalism and diversity may have to use the technique of negotiation and active communication with their fellow citizens without manipulating state policies. Leaders who are committed to peaceful conflict resolution meticulously avoid coercion but would rather resort to dialogue/negotiation for their security, protection and continued survival. The survival of traditional communities largely depends on other factors including but not limited to 1) how a given traditional community members are able to engage in active communication with their interlocutors or the degree of tolerance and recognition of non-members of their valued tradition; 2) the willingness and the ability to re/structure the traditions within the framework of peace and justice; and 3) a critical appraisal of their past; and their passion to build structures that can foster social cohesion while maintaining an authentic cultural tradition for now and the future.

Conclusion

The contested human right issues that confront pluralist states nowadays make conflict resolution and peacebuilding efforts more complex than the time when traditional rulers were effective in dispute resolution under their jurisdictions. The intersection between church and state and the boundaries of faith, religion and politics are at the core of liberal principles which have been responded to by both Judeo-Christian thinkers and religious fundamental traditionalists. If one rejects secular liberalism for its

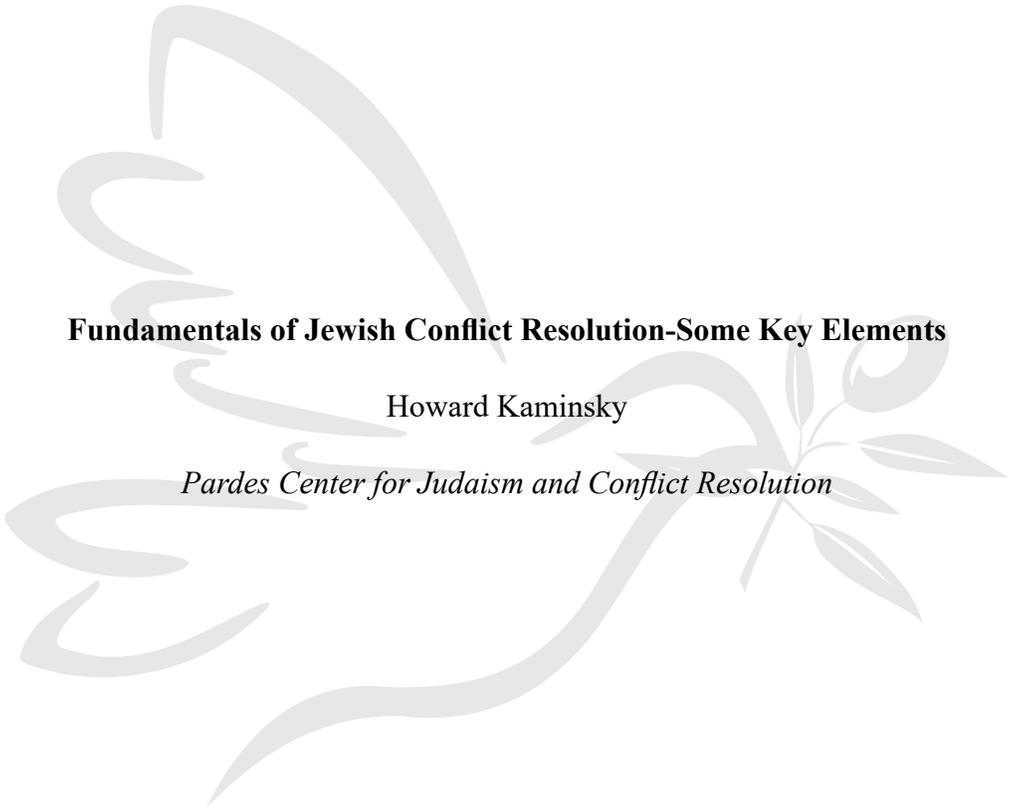
secret plot aimed at rooting out the existence of religious devotees, then in the same token, one cannot tolerate public officials' effort to use political platform for the promotion of religious dogma. This is because the state's main function in pluralist democratic culture is to promote peace and justice for its citizens.

Public officials and leaders in great nations characterized by diversity of cultures, differing ideologies, beliefs and values, should continue to acquire and improve their conflict resolution skills to help them handle the contentions of our days by critically analyzing the arguments presented by both secular liberals and Judeo-Christian philosophers. Analysis of these two schools of thought raises the awareness that one of the ways by which we could promote peace, security and justice in an unjust world is by being mindful of the well-being, security and survival of the divine creatures, including the *other*.

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Fundamentals of Jewish Conflict Resolution-Some Key Elements

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Abstract

The author spent over eight years researching traditional Jewish approaches to conflict resolution and comparing and contrasting them with contemporary approaches. His research is presented in a six-hundred page book (published by Academic Studies Press) entitled *Fundamentals of Jewish Conflict Resolution: Traditional Jewish Perspectives on Resolving Interpersonal Conflicts*. *Fundamentals of Jewish Conflict Resolution* presents an in-depth analysis of underlying principles and guidelines that are found in the Jewish tradition for the prevention, amelioration, and resolution of interpersonal conflicts without having to resort to any type of third-party intermediary. This paper will highlight a number of significant elements that emerge from this work:

- An analytic-comparative framework for comparing and contrasting the approaches of contemporary conflict resolution with traditional religious approaches.
- Foundational values and concepts of Jewish conflict resolution.
- Behavioral guidelines and rules of conduct for resolving interpersonal conflicts. These include *mitsvot* (commandments) and *halakhot* (laws) that deal with love, hatred, physical and verbal abuse, not taking revenge, and the asking and granting of forgiveness. The primary focus will be on elements of constructive interpersonal dialogue.
- Cognitive elements of conflict resolution (i.e., what the parties to a conflict are supposed to think about and contemplate). The primary focus will be on elements that address negative judgmental biases (e.g., how to deal with prejudices, distorted perceptions, misattributions, etc.)
- The affective component of Jewish conflict resolution (i.e., according to traditional Jewish sources, how the parties should deal with anger).
- Some significant similarities and differences between Jewish approaches and those of contemporary conflict resolution.
- Some possible suggestions for what contemporary approaches to conflict resolution can learn from Judaism.

Keywords: Judaism, conflict resolution, behavioral, cognitive, affective elements

Introduction

In 2017, Academic Studies Press published my book, which is entitled *Fundamentals of Jewish Conflict Resolution: Traditional Jewish Perspectives on Resolving Interpersonal Conflicts*. The publisher of the book, Academic Studies Press, uses the following description in their promotional material:

Fundamentals of Jewish Conflict Resolution offers an in-depth presentation of traditional Jewish approaches to interpersonal conflict resolution. It examines the underlying principles, prescriptive rules, and guidelines that are found in the Jewish tradition for the prevention, amelioration, and resolution of interpersonal conflicts, without the assistance of any type of third-party intermediary. This work also includes detailed summaries of contemporary approaches to interpersonal conflict resolution, theories and research on apologies and forgiveness, and methods of anger management.

The way that I like to describe it, in simple English, the book answers the question of how are you supposed to handle conflict in your life, based upon traditional Jewish sources, without the involvement of any type of third party. That means to say that the focus of my book is not on Jewish mediation or arbitration, nor does it focus on intergroup conflict resolution. The focus, as the title indicates, is on the basic concepts for resolving interpersonal conflicts that are found in the Jewish tradition, *many* of which are certainly also applicable to intergroup conflicts and third party interventions, such as counseling, mediation, and arbitration. However, the focus is clearly on how two people may possibly resolve their interpersonal issues on their own.

I worked over eight years on this book. It's a relatively lengthy work. Excluding the table of contents, bibliography, and index, the actual text encompasses 509 pages, and it's not exactly a light read. To be totally honest and upfront, even though I did my best to try to make the book as accessible as possible even to laypeople who may not have a background in Jewish studies, for someone who has no such background there are some sections that they may find somewhat challenging. What I would like to do now is to first present the methodology and approach that I employed in doing my research, and then I would like to share with you just a few of, what I personally consider to be, some of the key elements that I discuss in my book.

An Analytic-Comparative Framework for Comparing and Contrasting the Approaches of Contemporary Conflict Resolution with Traditional Religious Approaches

Throughout graduate school and while working on my doctoral dissertation, I spent an enormous amount of time researching contemporary and traditional models of conflict resolution. As I was studying these models, I began to identify certain common denominators that they all seemed to share. I found five very broad and basic components that were present in veritably all models of interpersonal conflict resolution:

- (1) They all had certain *fundamental, underlying values* on which they were based (e.g., cooperation or the promotion of peaceful coexistence);
- (2) They were all based on certain *fundamental, underlying theoretical concepts about conflict* (e.g., the concept that there are both negative and positive aspects to conflict or that, as a general rule, it's important not to simply ignore conflict);
- (3) They all included certain practical *behavioral guidelines and rules of*

conduct that the disputing parties should follow in the process of resolving their differences (e.g., the many guidelines and rules that are part and parcel of the process of collaborative negotiation);

(4) They all asked the parties to engage in certain internal *cognitive processes* (e.g., that they engage in perspective taking or “problem solving” following certain prescribed heuristic steps); and

(5) They all had an *affective component*, that is, they all at some point dealt with the constructive expression of emotions (e.g., they addressed the issue of how to deal with anger). (Kaminsky, 2017, Preface)

The first two components, the fundamental underlying values and fundamental underlying concepts about conflict, together serve as the foundation of any given model of conflict resolution. Components three through five constitute a model’s applied behavioral, cognitive, and affective components. After identifying these five essential components, I proceeded with my research into the traditional Jewish perspective on these elements of conflict resolution. When it came time to actually sit down and write my book, I employed this analytic-comparative framework, which I will also employ for the remainder of this paper.

I believe that this approach, of analyzing and categorizing models of conflict resolution based on fundamental values and concepts, and behavioral, cognitive, and affective components, may be equally valuable and applicable to other religious traditions as well. The following sections and material that I will present can serve as examples of how this approach may practically be applied in researching, organizing, and presenting any given model, religious or otherwise, of conflict resolution.

Foundational Values and Concepts of Jewish Conflict Resolution

Foundational Values

The first category of elements I examine in my book are the foundational values of traditional Jewish conflict resolution. When I discuss “values” of a model of conflict resolution, I just want it to be clear that am referring to the underlying *core goals* and *ultimate concerns* of an approach in resolving conflict. Also, in discussing values, I am differentiating between subvalues and core values. That means to say, I am focusing on, what I consider to be, the most basic, fundamental, foundational values, which may encompass numerous secondary or implicit subvalues. (For example, in contemporary conflict resolution, constructive communication and the proper expression of emotions may be viewed as subvalues of cooperation.)

In my book, I touch on a number of fundamental values of Jewish conflict resolution, such as love for one’s neighbor and one’s fellow human being, character development, and *kevod ha-beriyot* (“respect for people,” or “human dignity”). However, unquestionably, my primary focus is on the basic, fundamental, foundational value of pursuing peaceful, or harmonious, coexistence, what is known in Hebrew as *redifat shalom* (or *ha-shalom*), “pursuing peace.”

Based upon numerous biblical, talmudic, and midrashic teachings, the teachings of classic medieval and later rabbinic scholars, and building upon R. Joseph D. Epstein’s (1969) seminal analysis of the Jewish perspective on peace, which is found in his work *Mitsvot ha-Shalom (The Commandments on Peace)*, I explored the traditional Jewish perspective on peace.

In my research I found, among the many novel concepts regarding peace and conflict that Judaism

has promulgated, that there exists a fundamental and sacred obligation to not only do one's utmost to resolve conflicts using peaceful means and avoid all types of destructive conflict, but to also cultivate *positive* human relationships, or harmonious coexistence. This latter obligation, which Rabbi Epstein described as the Jewish principle of "positive peace" requires that one not only try to attain a level of "negative peace," namely, the prevention of hatred, strife, aggression, and the like, but also requires that one strive to achieve, if at all possible (with the understanding that often it is not possible), some type of "positive peace," such as a sense of interconnectedness between people, feelings of friendship, fraternity, and, when possible, even love (Epstein, 1969; Kaminsky, 2017).

One of the fundamental differences between contemporary conflict resolution and traditional Jewish approaches that I posit in my book is that Judaism (and, as has been pointed out by Daniel Roth (2018), other religious traditions as well) seems to repeatedly focus on and emphasize that people should attempt to strive for significantly higher levels of positive peace and harmonious coexistence than those that are typically the focus and emphasis of contemporary conflict resolution. This is one of the things that I suggest that contemporary approaches could possibly learn from and adapt from traditional Jewish approaches (Kaminsky, 2017).

Foundational Concepts

There exists a multitude of traditional Jewish sources that deal with what may be categorized as foundational concepts of Jewish conflict resolution. One of these is clearly the early rabbinic text that is found in *Pirkei Avot* (the *Chapters of the Fathers*) that discusses the concept of "a dispute for the sake of Heaven," which is one of the most well-known rabbinic sources that relates to conflict. The Mishnah in *Avot* states: "Any dispute that is for the sake of Heaven will in its end endure, but one that is not for the sake of Heaven will in its end not endure. What is a dispute that is for the sake of Heaven? This is a dispute of Hillel and Shammai. And one that is not for the sake of Heaven? This is the dispute of Korah and his group" (*Pirkei Avot*, 5:17). In this mishnah, the Jewish sages established a basic typology of conflicts that sets forth standards by which one may identify and classify a conflict as being either constructive or destructive. The concepts set forth in this mishnah were subsequently expounded on by countless rabbinic scholars down through the centuries. I therefore decided that I would go through all of the major commentaries on *Pirkei Avot* and search for exegetical motifs, or reoccurring expository themes, that relate to this mishnah and the concept of constructive/destructive conflict.

In total, I went through over a hundred commentaries. I believe that it is extremely noteworthy that among the reoccurring themes in these commentaries is the association of constructive conflict with *intellectual integrity*. According to many of the sources that I went through, among the basic prerequisites for achieving constructive conflict is the adherence to *principles of intellectual integrity*, or what is often described by commentators as sincerely seeking and establishing "the truth." These principles require a *diligent, objective, and honest analysis of the issues involved, engaging in dialogue with those who have different opinions, an open-mindedness to views that oppose one's own, and a willingness to retract one's opinion when called for*. Also noteworthy is that some commentators stress that constructive conflict also entails that arguments not be conducted in a hostile manner and that they should not in any way negatively affect the personal relationships of the parties involved (Kaminsky, 2017).

In my book, I point out a number of possible similarities between the aforementioned elements and those that have been promoted by contemporary conflict resolution theorists, specifically those of

Morton Deutsch in his classic work *Resolution of Conflict: Constructive and Destructive Processes* (Kaminsky, 2017).

Behavioral Guidelines and Rules of Conduct for Jewish Interpersonal Conflict Resolution

All models of interpersonal conflict resolution contain certain behavioral guidelines and rules of conduct. The purpose of these guidelines and rules is to steer the disputing parties through the arduous process of resolving their issues in the most effective way possible, as perceived through the eyes of the formulators of the model, and in consonance with the model's underlying values and theoretical concepts.

In Judaism, there are manifold normative requirements, which are termed *mitsvot* (commandments) and *halakhot* (laws), that directly relate to conflict and conflict resolution. In deciding upon which *mitsvot* and *halakhot* I would focus on in my research, I utilized the list of thirty-eight commandments that relate to conflict that appear in a work entitled *Hayim shel Shalom: Hilkhoteh Isure Mahaloket (A Life of Peace: Laws Pertaining to Prohibitions of Conflict)*, which was written by a Talmudic scholar by the name of R. Shmuel D. Eisenblatt (1989), as my starting point. I proceeded to narrow my focus to those *mitsvot* that I personally considered to be fundamental features of Judaism's approach to the promotion of social harmony and peace, and interpersonal conflict resolution (Kaminsky, 2017).

I started off by choosing six of Judaism's most basic obligations and prohibitions of interpersonal relations, which I believed played pivotal roles in the prevention of destructive conflict and serve major functions throughout the entire process of conflict resolution. These include the foundational interpersonal commandments of "You shall love your neighbor as yourself" (Lev. 19:18) and "You shall not hate your brother in your heart" (Lev. 19:17), the prohibition against physical violence (see Deut. 25:3, with *Mekhilta* [Horovitz and Rabin edition], *Mishpatim* 5, p. 266), and the prohibitions against "verbal abuse," which enjoin an individual from cursing, embarrassing, or saying hurtful things to another person (i.e., "A man shall not hurt his friend" (Lev. 25:17), which according to the Talmud is the source for the prohibition against saying hurtful things to people [see *Bava Metsia* 58b]; "You shall not bear sin because of him" [Lev. 19:17], which is the source for the prohibition against embarrassing someone [see *Arakhin* 16b]; and "You shall not curse a deaf person" [Lev. 19:14], which is the source for the prohibition of cursing someone [see *Shevuot* 36a and *Temurah* 4a]). For each one of these *mitsvot*, I present sources in Tanakh (the Hebrew Bible), the Talmud, and Midrashim, and later halakhic sources. And I discuss, *halakhah le-ma'aseh*, "practically speaking," the basic halakhic obligations and parameters of these six *mitsvot*.

In the next section of my book I focus on, what I term the "Basic Commandments and Laws of Interpersonal Conflict Resolution." The commandments that I discuss include those that deal with retaliation and resentment, that is the biblical prohibitions against taking revenge and bearing a grudge (see Lev. 19:18), and I discuss at length (it's the largest chapter of my book) the halakhic obligations and parameters of asking and granting forgiveness.

What I personally consider to be the most basic and essential behavioral element of Jewish interpersonal conflict resolution (that does not require a third-party intervention), which I discuss in this section of my book, and I describe as the centerpiece of the paradigm of Jewish conflict resolution that I present, is what is known in rabbinic parlance as *tokhahah*, "reproof" for interpersonal offenses. *Tokhahah*, "reproof," for interpersonal offenses, is the halakhic requirement for one to respond to an

interpersonal provocation, or interpersonal issue, through respectful and sensitive communication. That is, for example, when one is offended or hurt by someone, according to Jewish law one is supposed to go over to the person who committed the interpersonal offense, and discuss with that person what had occurred in a respectful and sensitive manner, and try to, thereby, resolve the matter.

The biblical source for *tokhaḥah* is the verse in Leviticus 19:17 that reads: “You shall not hate your brother in your heart; you shall surely reprove your friend, and you shall not bear sin because of him.” Since antiquity, there have existed various exegetical approaches to explaining this verse. According to one midrashic source (*Tanna de-Ve Eliyahu*, Ish Shalom ed., chap. 18) the verse should be interpreted as follows: “You shall not hate your brother in your heart, *but instead* you shall surely reprove your friend, and *thereby* you shall not bear sin because of him.” In other words, the verse is instructing one who feels that he has been mistreated by another—and therefore starts to experience feelings of hatred towards that person—to deal with the issue at hand by confronting the person and presenting his grievances, and thereby avoid sin. This verse is understood in a similar fashion in *Ben Sira* (c. early second century bce) and in the *Testaments of the Twelve Patriarchs* (composed between c. third century bce.–c. second century ce); virtually all modern critical commentaries have also elucidated Leviticus 19:17 in a similar fashion (Kugel, 1987). As far as traditional Jewish rabbinic scholars are concerned, there is a litany of biblical exegetes and halakhic authorities who offer similar explanations, one of the most important of which, unquestionably, is that of Maimonides in the *Mishneh Torah*.

In the *Mishneh Torah*, in his *Book of Knowledge: Laws of Dispositions* (subsections six through nine), Maimonides delineates the core halakhic components of *tokhaḥah*. After introducing the basic idea of interpersonal *tokhaḥah*—When person “A” does something that causes person “B” to start feeling hatred towards person “A,” person “B” should meet with person “A,” engage in an open dialogue, in which one questions, listens to, and is receptive to what the other party has to say, and, thereby, try to resolve the issue at hand (see *Mishneh Torah, De’ot 6:6*, with commentaries)—Maimonides then goes on to spell out the basic guidelines of constructive communication that are to be followed in performing the mitzvah of *tokhaḥah*:

He who reproves his friend . . . is required to reprove him [in private] between the other person and himself, and to speak to him gently and in a soft manner.
 (*Mishneh Torah, De’ot 6:7*)

In this subsection, Maimonides sets forth two basic requirements for the “*tokhaḥic* dialogue”: (1) privacy and (2) stating one’s position in a gentle and soft manner, which, understood simply, would entail that one carefully regulate the volume, tone, physical gestures, choice of words, and content of what is being said when speaking to the other person. Maimonides then adds on that “He who reproves his friend, initially must not speak to him harshly up to the point that he embarrasses him . . .” (*Mishneh Torah, De’ot 6:8*).

That means to say that one must maintain a relatively high degree of sensitivity for the other party’s feelings, even when engaging in open dialogue.

Maimonides concludes by stating that there are cases in which it may be preferable to simply overlook what had taken place. According to Maimonides, if one is dealing with an offender who suffers from the types of temperamental or intellectual shortcomings that inevitably would lead to an inordinate amount of difficulty when one is forced to engage in dialogue with that individual, the option of not engaging in dialogue is totally acceptable, if one can find it in his or her heart to forgive the other person (see *Mishneh Torah, De’ot 6:9*).

(For further elaboration on *tokhahah*, and how it is similar to, and differs from, the approach of contemporary conflict resolution, see Kaminsky, 2017, Chapter 6.)

Cognitive and Affective Elements of Jewish Interpersonal Conflict Resolution

As mentioned previously, all full-fledged models of interpersonal conflict resolution contain behavioral, affective, and cognitive components. In other words, in addition to promoting certain ways of acting (the behavioral component), they also ask the parties to engage in certain mental processes, offering various things for the parties to think about and contemplate, that is, a cognitive component, and they also offer approaches to dealing with a person's natural emotional responses to conflict, that means to say an affective component. All of these components, taken in conjunction with each other, are supposed to facilitate effective conflict resolution (Kaminsky, 2017).

Cognitive Elements

In Jewish conflict resolution, there are a number of cognitive elements that play key roles in conflict resolution. For example, one is supposed to put oneself in the other party's place and see things from the other party's perspective. In the words of the Talmudic sages, "Do not judge your friend until you are in his place" (*Avot* 2:4). This concept, of course, can also be found in other religious traditions and in contemporary conflict resolution as well. What I decided to focus on was the *sui generis* halakhic concept of judging people favorably, or giving someone the benefit of the doubt.

According to the Talmud (*Shabbat* 127a–b), judging a person "towards the scale of merit" is something that falls under the category of "bringing peace between a person and his friend." The Talmud (see *Shevuot* 30a) derives this concept of judging someone favorably from the verse "In righteousness you shall judge your friend" (Leviticus 19:15). I point out that a number of contemporary authors assert that the purpose of the mitzvah of judging people favorably is to counteract prejudices, distorted perceptions, and judgmental biases towards other people that contribute to conflict. This assertion is based upon the fact that in Judaism giving someone the benefit of the doubt and judging them favorably is not just some sort of nice, amorphous idea, rather it is a concrete cognitive process that has specific guidelines as to how someone should logically analyze the questionable actions and behaviors of another person.

The halakhic guidelines for judging someone favorably require one to take into consideration all of the pertinent information and facts that are readily available about the questionable actions of another person, both positive and negative, and objectively analyze them. According to the Halakhah, as codified in the work *Hafets Hayim*, by R. Israel Meir ha-Kohen (1838–1933), one is supposed to differentiate between categories of actions (analyzing the nature of the questionable action, that is, does it or does it not appear that a wrong was committed) and categories of people (i.e., considering the character of the person who performed the action as it relates to the present action), and then, based upon a specific set of guidelines (which would be impossible to explain in the limited amount of space allotted to me), to carefully and fairly assess other people's behaviors, taking into consideration a wide variety of variables and unknowns, such as possible extenuating circumstances and mitigating factors (Kaminsky, 2017).

The basic idea is that by taking into consideration the pertinent information and facts that are available about the questionable actions of another person and objectively analyzing them, one may rise above superficial impressions, emotional biases, and distorted perceptions, and counteract the natural

human tendency to often judge people in a harsh, negative, and unjustified fashion. In the conclusion of my book, I suggest that contemporary conflict resolution should explore the possibility of developing an approach to countering negative judgmental biases that is analogous to this type of Jewish approach, which would take into account both overt information and unknowns, and employ a prescriptive, analytic, rule-governed method that considers possible extenuating circumstances and mitigating factors.

Affective Elements

In the final chapter of my book, I discuss traditional Jewish approaches to anger management. In traditional Jewish sources, there exists a wealth of material that discusses the destructive effects of anger and offers an array of strategies for controlling it. Over a hundred years ago (that's about seventy years before Raymond Novaco, who's the father of contemporary anger management, had developed his approach to controlling anger), there were two seminal monographs written on the topic of anger in traditional Jewish sources. In 1906, a book came out entitled *Orekh Apayim (Slowness to Anger)*, written by R. Avraham Jelen, and, in 1911, another book was published, entitled *Ma'aneh Rakh (A Soft Response)*, which was written by R. Moshe Levinson. These two books were not only the first Jewish anthologies that specifically focused on anger, they also offered a wealth of insights, sage advice, and an array of strategies for controlling anger, which constitute well-developed, integrated cognitive-behavioral systems of anger management. In the last chapter of my book, I elaborate on the strategies for anger control that appear in *Orekh Apayim* and *Ma'aneh Rakh*, and compare and contrast them with the approaches of contemporary anger management.

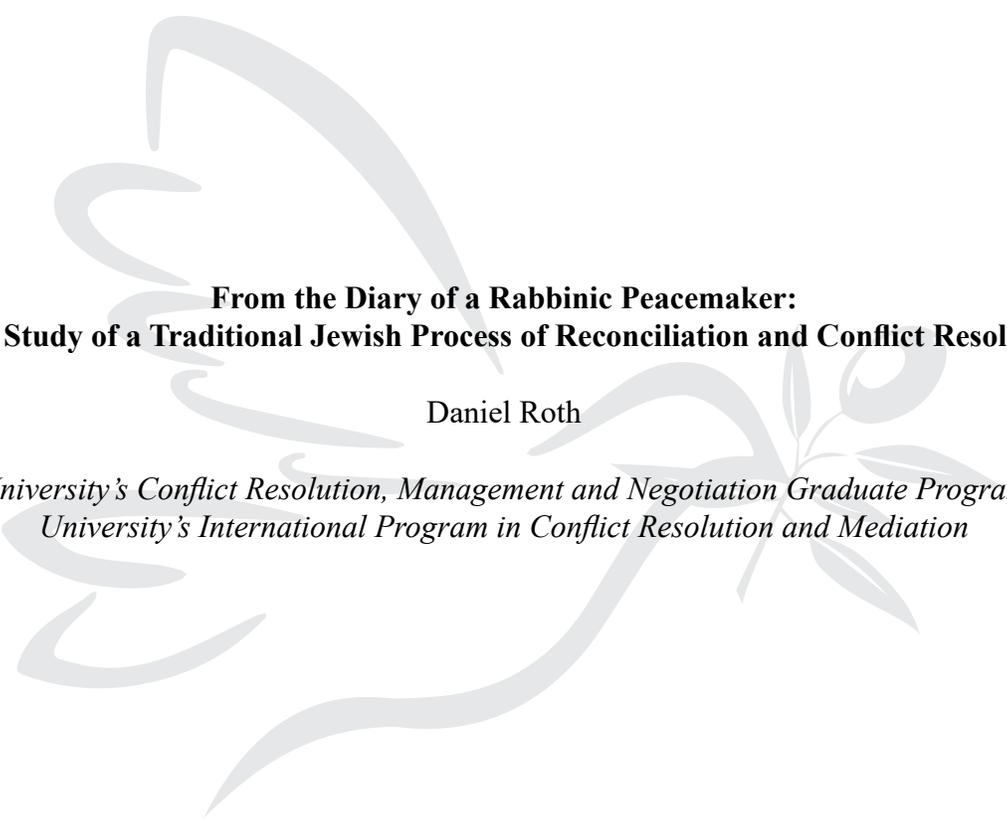
Some of the suggestions for controlling anger that appear in these works include:

- If possible, one should make an effort to simply avoid people and situations that may lead one to lose his/her temper.
- One should focus on controlling, or at least slowing down, emotional knee-jerk reactions to provocations.
- When it is necessary to respond to a provocation, a person should wait a period of time in which the anger being experienced may dissipate.
- One should put in the utmost effort when responding to an anger-eliciting situation to speak softly and with a gentle tone.
- A person should employ *tokhahah* in dealing with anger (that is, one should go over to the individual he or she is feeling anger towards and openly discuss the issues at hand in a sensitive and respectful manner).
- One should give the other person the benefit of the doubt and try to take the other person's perspective.
- The event, comment, or thought that triggered the person's anger should be placed into its proper perspective (e.g., that with the passage of a relatively short period of time, and from a more objective standpoint, whatever it is that is bothering the person right now will come to seem insignificant).
- Provocations should be viewed as opportunities for personal growth (Kaminsky, 2017).

I just want to conclude by emphasizing that what I have presented in this paper just constitutes the most miniscule sampling of what traditional Jewish sources have to say regarding resolving interpersonal conflict. Hopefully, it will stimulate some interest to do further research into what Judaism has to offer in this area, and may serve as a model for doing similar types of research into what other religious traditions also have to offer.

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**From the Diary of a Rabbinic Peacemaker:
Case Study of a Traditional Jewish Process of Reconciliation and Conflict Resolution**

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Abstract

Judaism, like other ethnic and religious groups, preserves a rich lore of traditional systems for conflict resolution. This paper will explore a fascinating case study from eighteenth-century Italy preserved in the personal diary of Rabbi Haim Yosef David Azulai. This case study is an important example of traditional Jewish peacemaking, as it presents a rare window into the inner thoughts of a highly respected, religious peacemaker as he engages in a long and grueling process of communal reconciliation and conflict resolution. The study also addresses several critical questions for scholars and practitioners interested in traditional systems of conflict resolution today. These include: How can a visiting third-party peacemaker establish trust and lasting peace in a local community conflict? How does a traditional peacemaker strike a healthy balance between his peacemaking efforts and his own spiritual and personal well-being? How can ritual space and sacred time be utilized in fostering peace? What should come first: *shalom*, the reconciliation of relationships; or *peshara*, the formal compromise agreement that addresses conflicting claims over tangible resources? This paper will also touch upon similarities and differences between this case study and other traditional systems of conflict resolution, in particular the Arab-Islamic *sulha* process. Finally, the author will share personal reflections on how this case study of a historical rabbinic peacemaker has been used in the training of rabbis today to serve as peacemakers.

Keywords: Judaism, reconciliation, conflict resolution, third party peacemaking, HIDA

Introduction

Judaism, like other ethnic and religious groups, enjoys a rich lore of traditional systems for conflict resolution, which have merited several scholarly studies in recent years (Gopin, 2000; Steinberg, 2008; Kaminsky, 2017; Roth, 2011; Roth 2018). This paper explores one particular case study of a conflict that took place in the eighteenth-century Jewish community of Ancona, Italy. The story, which was recorded in the personal diary of the third-party peacemaker to the conflict, Rabbi Haim Yosef David Azulai (commonly known as the Hida, 1724–1806), contains within it a rich and detailed example of a traditional Jewish process of reconciliation and conflict resolution.

Born in Jerusalem, Rabbi Azulai, a great Jewish legal scholar, mystic, philosopher and prolific writer, was considered one of the greatest rabbis of his generation. He traveled widely, including to Tunisia, Italy, France, Germany, Holland and England, to raise money on behalf of the Jewish community of Hebron in the late eighteenth century, which was considered a very prestigious role. He believed that infighting and baseless hatred, which traditionally has been viewed as the cause of the destruction of the Second Temple, was also delaying the redemption of the Jewish people and the world. It was therefore of highest priority to constantly be pursuing peace: between communities, different factions within a community, families and even spouses (Benayahu, 1959; Cohen, 2016).

The source that sheds the most light on Rabbi Azulai's peacemaking efforts is his personal travel diary, *Ma'agal Tov*. In this diary he does not merely keep an account of his various fundraising efforts, he also describes his thoughts about the places he visited and the experiences he had. He shares numerous stories of the interactions he had with Jewish community leaders, as well as the many positive encounters he had with Christian scholars and noblemen (Azulai, 1934; Benayahu, 1959; Cohen: 2016). As part of these diary entries he also records several accounts of his peacemaking efforts in both marital and intra-communal conflicts. These are important examples of traditional Jewish peacemaking and offer a rare window into the inner thoughts of a highly respected, religious peacemaker. The particular focus of this paper is on the longest and most grueling case of Rabbi Azulai's peacemaking career.

This case study raises several critical questions for scholars and practitioners interested in traditional and religious systems of conflict resolution. The primary questions to be explored are: (1) How can a third-party peacemaking "outsider" establish trust and lasting peace in a local community conflict? (2) How does a religious peacemaker strike a healthy balance between his peacemaking efforts and his own spiritual and personal well-being? (3) How can ritual space and sacred time be utilized in fostering peace? (4) What should take precedence: *shalom*, the reconciliation of relationships; or *peshara*, the formal compromise agreement that resolves the conflicting claims over tangible resources? This last question is the most significant that this case raises.

The methodology for analyzing this case and addressing these questions is to first present the various steps Rabbi Azulai took in the peacemaking process, as portrayed in chronological order in his diary. The process begins with the moment he first heard of the conflict up until his departure from the community as a heroic peacemaker. After presenting the story, I will then compare and contrast it with the traditional Arab system of conflict resolution and reconciliation known as the *sulha* process, which has been well documented. I will conclude with a brief discussion of two practical implications of this case study. The first pertains to theories of religious peacebuilding today, in particular within the context of the Israeli-Palestinian conflict; and the second to the practice of training rabbis to serve as peacemakers today.

The Case Study

Step 1: Defining the conflict as both financial and relational

On August 18, 1775, Rabbi Azulai arrived in Ancona, Italy, as part of his travels throughout Europe, staying at the home of the very wealthy Pinhas Coen within the gates of the ghetto. During his first weeks in Ancona he was raising money for the community of Hebron, which was, after all, his primary mission.

On September 17, Rabbi Azulai visited the home of David and Isaac, also known as Coen, who were the brothers of Pinhas' wife, apparently to solicit them. Upon his arrival, he discovered that Isaac and David, as well as David's wife, Rina, who was Pinhas' sister, had been in a major conflict with Pinhas, his wife, Judith, Pinhas' other sister, Sapira, and her husband, Samuel Kalai, for some twelve years. The conflict included a lawsuit entailing some 30,000 Italian *scudi* (as well as multiple land disputes and damages, as will become apparent later on in the story). Due to the family's social and economic status, rabbis, bishops and other senior Christian clergy had all tried to make peace between them but, as Rabbi Azulai notes in his diary, "to no avail, as the hatred between them was too great."

This did not deter Rabbi Azulai. On the contrary, he writes, "And a spirit came over my young self [to make peace]" (Azulai, 1934, p. 72). He immediately understood that the conflict was not only financial but also, or perhaps primarily, about the hatred and a breakdown in the relationship between the sides. His understanding of the two aspects of the conflict led him to advance two parallel tracks of peacemaking, as we will see: one of conflict resolution to bring the parties to a financial settlement and the other of reconciliation to heal the broken relationships of this deeply conflicted family.

Step 2: Taking the initiative to intervene

Upon hearing the details of the conflict, Rabbi Azulai immediately admonished David Coen to make peace (*shalom*) with everyone. He even persuaded him to cancel an upcoming trip to Venice he had already scheduled. He noted in his diary that David's brother Isaac, who was with them during this initial visit, assisted him in persuading David that they should make peace with the other side. However, both brothers insisted on two conditions: that the financial part of the conflict be decided upon by Rabbi Azulai and Rabbi Haim Avraham Israel of Rhodes, who had served as the local rabbi of Ancona since 1774; and that the decision of the rabbis be in accordance with the strict letter of Jewish law (*din*) and not through a compromise agreement (*peshara*) (Azulai, 1934).

Step 3: Establishing the third-party peacemakers and commitment of the sides to the process

Rabbi Azulai then went to the home of Rabbi Israel, who rejoiced upon hearing the news, and together they approached each side separately, having them swear to be committed to both the process and the ultimate ruling of the two rabbis. Rabbi Azulai describes the moment as a "great and awesome wonder." His decision to work closely with Rabbi Israel as his peacemaking partner in this process will prove to be critical, as he understood that it is imperative to have local third side who knows the personalities of the players in the dispute and the background of the conflict, and who will continue to accompany the sides after the peace process is completed.

Step 4: The reconciliation process (shalom)

A few days later, on September 22, Rabbi Azulai began the reconciliation process of healing the relationships, which he refers to simply as *shalom* (peace). Rabbi Azulai gathered together all the family members involved in the dispute, both the men and the women, at the local yeshiva (which also served as the synagogue), which apparently was jointly funded by their families and was located close to their homes. There, Rabbi Azulai writes, “*shalom* was made” (Azulai, 1934, p. 73). The family members would no longer be officially estranged from one another and normal relations would be renewed between the two sides – even though the financial dispute was still far from being resolved at this point. Unfortunately, Rabbi Azulai did not record any further details regarding how exactly he persuaded the sides to come together in the yeshiva and what exactly was done there.

Rabbi Azulai’s decision to gather the disputants together at this neutral, shared and holy ritual space was essential to his reestablishing their sense of common identity and familial relationship. This is similar to other traditional and religious systems of conflict resolution, as Lisa Schirch writes, “Creating a ritual space may help people feel more comfortable and open in a peacebuilding process. Peacebuilding planners should design physical and temporal spaces for peacebuilding that are liminal, safe spaces that symbolically support the desired transformation of perceptions and relationships” (Schirch, 2015, p. 529).

On the following day, September 23, which was the Sabbath, Rabbi Azulai walked with Pinhas to the synagogue, and after services walked with him to greet the other disputants, including David and Isaac. Then they all walked together to visit Samuel and Sapira Kalai’s home, and from there they went to the home of Pinhas and his wife, Judith – David’s and Isaac’s sister (Azulai, 1934). Rabbi Azulai was thus continuing the process of reestablishing normal relations between the parities by having them walk together around the community visiting each other’s homes – all the while being escorted by the highly respected rabbi on the sacred Sabbath. This was another step in the long journey of reconciling the relationship, and another example of Rabbi Azulai’s understanding of the importance of ritual in creating peace.

The next day, Sunday, September 24, was the eve of Rosh HaShana (the Jewish New Year). Rabbi Israel, the local rabbi, was eager to continue communal peacemaking efforts, this time between Samuel Kalai and Joseph Konsol, another respected member of the community. Rabbi Israel suggested Rabbi Azulai accompany him, but the latter turned down the offer, choosing instead to meditate in solitude at his temporary residence as part of his spiritual preparation for the holiday. Rabbi Israel’s peacemaking efforts were not successful that day; those involved felt it was because Rabbi Azulai was not present (Azulai, 1934). This is a powerful example of the peacemaker drawing boundaries around his own well-being and spiritual needs, choosing to focus on his inner peace even when it comes at the expense of the peacemaking process (Gopin, 2000).

Over the following months of October and November 1775, Rabbis Azulai and Israel examined together close to seventy different legal claims between the sides, which ranged from property damage to inheritance, and which were in addition to the financial dispute of the 30,000 *scudi*. Rabbi Azulai notes how he carefully balanced the amount of time he spent working with Rabbi Israel on the case with the amount of time he invested in writing his own book. He also describes the dynamics between the partners, writing, “and we had many arguments between us, but it was all with respect and great love” (Azulai, 1934, p. 73).

During this time of examining the legal aspects of the dispute, Rabbi Azulai recalls that sometime during November–December, a particular event occurred that was a testimony to the success of his peacemaking efforts. The niece of Pinhas, his sister Judith’s daughter Sarah, and her husband came from Pesaro to Ancona for a visit. The extended Coen family, who apparently all felt very close to her, decided to use this as an opportunity to throw a massive, lavish banquet full of liquor, singing, and general merriness. Over the course of the evening, several members of the family stood up and spoke, including Sapira, Pinhas and David, each one adding something great (presumably about) the previous speaker and doing so while apparently being slightly intoxicated. Rabbi Azulai describes this particular event as “causing *shalom* to further increase,” as he understood that the sides were becoming closer and closer to each other without his prodding.

It is worth mentioning that while Rabbi Azulai was very happy to see the warming of relations between the family members, he personally felt deeply awkward and out of place at such a lavish event, remarking that he stayed close to Rabbi Israel the whole evening, speaking only words of Torah and eating almost nothing (Azulai, 1934). This too adds to Rabbi Azulai’s heroism as a pursuer of peace. Despite his own discomfort with attending such an affair, he saw his presence as an important phase of his peacemaking efforts and a critical part of the evening’s success.

Step 5: The conflict resolution process: from strict law (din) to compromise (peshara)

Sometime between December 1775 and January 1776, Rabbi Azulai and Rabbi Israel finally concluded their legal investigation into the dispute and came up with their ruling in accordance with their understanding of the strict letter of the law (*din*), which the brothers David and Isaac Coen had insisted upon. But they felt that sharing their verdict with the parties in dispute would lead only to the dismantling of still-tenuous relations between family members and greater animosity. They therefore decided to change course and make a valiant effort to persuade the parties to come to a compromise agreement (*peshara*) in all aspects of the dispute, except for the 30,000 *scudi* which would be determined by their verdict (Azulai, 1934).

Rabbi Azulai writes that no words can describe how incredibly difficult this effort was, and it was only with God’s help that they had the wisdom, patience and creativity to succeed in convincing the sides to engage in a process of compromise as opposed to strict law. This process of bringing the sides to a compromise agreement would take Rabbi Azulai an additional several months of work (Azulai, 1934). His success likely had to do with the high regard in which both sides held him. On March 5, 1776, during the holiday of Purim, Rabbi Azulai writes that both sides gave him very generous gifts, as part of the holiday tradition. He interpreted this as a show of continued respect and trust (Azulai, 1934).

Step 6: Delivering the verdict

On March 21, Rabbis Azulai and Israel delivered their rulings: on the monetary dispute over the 30,000 *scudi*, which was in accordance with the strict letter of the law, and with regard to the compromise agreement which had been reached according to the will and opinions of the sides in conflict (Azulai, 1934). However, a few days later, on March 23, Rabbi Azulai learned that Isaac, and even more so David, were “extremely upset, and out of his mouth go burning torches” (Job 41, p. 11), apparently over the amount of money he ruled they were obligated to pay (Azulai, 1934). Six days later, Rabbi Azulai went to David’s home. He describes in his diary how he “spoke words of honesty and truth to [David’s] heart” (Azulai, 1934, p. 74). Isaac Coen then came to the house and assisted in calming his brother down until he accepted the ruling.

Step 7: The ceremonial taking of the oath

This left only the final stage in the process of resolving this complex and long conflict, namely the ceremonial taking of the oath by the two parties indicating that they accept the final ruling and compromise agreement (Azulai, 1934). This too was a major challenge, as the exact order, language and timing of the oath had to be just right and agreed upon by each party. Finally, on April 2, David and Isaac Coen and Pinhas Coen, after listening to the court scribe read off the oath, simultaneously swore to uphold it. Rabbi Azulai describes the moment as nothing short of a miracle (Azulai, 1934).

Step 8: The formal, legal signing in the papal court

On April 18, 1776, after the holiday of Passover, the agreement was brought before the official papal court scribe (Ancona was under direct jurisdiction of the pope at that time). The scribe, amazed and moved, recorded the agreement and added, according to Rabbi Azulai's diary, a note of his own on the document: "These many years there was fighting between the noblemen; the pope and the cardinal and the ministers labored but did not succeed, until one came from Jerusalem" (Azulai, 1934, p. 75). Rabbi Azulai describes this moment as the ultimate *kiddush Hashem*, the sanctification of God's Name, by means of casting the Jews, and therefore God, in a positive light in public by making peace.

On April 21, 1776, eight months after his arrival in Ancona, Rabbi Azulai finally left the city, with hundreds of residents bidding him farewell, and with Pinhas, Isaac and David escorting him together some eleven miles until he arrived at the next town (Azulai, 1934).

Comparing the Case Study to the Arab-Islamic Sulha Process

Reflecting back upon these eight steps of Rabbi Azulai's peacemaking process in Ancona, several aspects of his methods may now be delineated:

1. Rabbi Azulai, a well-respected, rabbinic "outsider," worked together with the less distinguished, local rabbinic "insider," who would serve together with him as a third-party peacemaker, thus contributing to Rabbi Azulai's goal of establishing trust and lasting peace within the community.
2. He initially met with each side separately, bringing them to commit to the process and its outcome, only after which he gathered them together in the ritual space of the synagogue, walked with the various sides on the sacred Sabbath and made a point of participating in their joint family gathering.
3. He sacrificed his time, extending his trip by seven months, as well as his personal comfort, such as when he participated in the family banquet. Yet he also protected his own spiritual needs by meditating before the Jewish New Year and writing his book.
4. He understood that the conflict was both financial and relational, and therefore distinguished between *shalom* (reconciling relationships), *din* (the strict letter of the law) and *peshara* (compromise). He also understood that the hatred between the parties was so great that reconciliation had to come first in order for the financial aspect of the conflict to be properly resolved.

The methods employed by Rabbi Azulai are reminiscent of other traditional methods of third-party peacemaking found in historical Jewish communities (Roth, 2018), and practiced still today as part of the Arab-Islamic *sulha* process. There too, the third-party peacemakers are well-respected, communal "insiders." Sometimes they are holy men, such as an imam or a sheikh, who possess important "moral

and spiritual legitimacy” (Kadayifci-Orellana et al., 2013). As these third parties are members of the community, they will therefore maintain long-lasting relationships with both sides. Like Rabbis Azulai and Israel, they will participate in “social events and celebrations, which involve many of the disputants that they have worked with” (Kadayifci-Orellana et al., 2013, p. 30). It is important that the third party have a great deal of patience, since the *sulha* process may take months, or even years, to complete (Ginat, 1997). These peacemakers also must embody humility and self-sacrifice as part of their peacemaking efforts (Roth, 2011).

The initiative to involve a third party in the *sulha* process generally comes from the side in the conflict considered to be the aggressor, although in certain circumstances it may come from the third-party peacemakers themselves, as was in the case of Rabbi Azulai (Pely, 2016). The third party meets with each side separately and brings them to the signing of what is called the *tafweeth*, which ensures that each side recognizes the authority of the third-party peacemakers and are committed to the process (Pely, 2016).

The third party then proceeds to negotiate between the two sides, first bringing them to a ceasefire and then ultimately to the *sulha* agreement, which determines the final financial verdict (Pely, 2016). Only after the *sulha* agreement has been reached is the *sulha* ceremony performed. This consists of both parties meeting and symbolically reconciling, first through gathering in a public ritual space and then each visiting the home of the other (Jabbour, 1996; Pely, 2016).

While there are numerous similarities here between the case of Rabbi Azulai and the *sulha* process, one significant difference should be highlighted. In the *sulha* process, the third party first brings about a resolution to the financial aspects of the conflict and only afterward do the two parties reconcile and reestablish normal relations. Indeed, it is generally considered inappropriate for the parties to have any normal interactions with each other until that final stage of the process (Jabbour, 1996; Ginat, 1997). In our case study, however, Rabbi Azulai first worked to reconcile the two sides and make peace between them, addressing the deep hatred each shared for the other, and then involved them in the process of resolving their financial dispute. Further research is needed to determine to what extent the difference between the story of Rabbi Azulai and the *sulha* process is in approach or simply in circumstance, as the former involved a heated family financial conflict while the latter quite often deals with a case of murder between families or clans. It is also important to note that in other cases of peacemaking Rabbi Azulai did work to resolve the financial conflict first and only afterward brought the sides together (Azulai, 1934).

Practical Implications for Today

This historical case study has important practical implications for traditional and religious peacemaking today. The first pertains to the theory of religious peacebuilding. Yvonne Wang, in her study of religious peacebuilding NGOs operating in the context of the Israeli-Palestinian conflict, makes an important distinction between “structural peacebuilding” and “cultural peacebuilding” (Wang, 2014). Structural peacebuilding organizations advocate for a just and amicable political peace agreement first, and only afterward encourage normalization and reconciliation between the two sides. Cultural peacebuilding organizations, on the other hand, promote strengthening social relations and mutual understanding, and reducing hatred between the two sides first; only then can political peace agreements become more attainable and sustainable.

Our case study is an example of cultural peacebuilding, as there was clearly a need to address the hatred between the sides and reconcile them before a compromise agreement could be reached. However, as noted above, in other cases Rabbi Azulai followed the sequence similar to that of the Arab *sulha* process, which supports resolution of the financial and structural conflict first, and only then reconciliation and normalization.

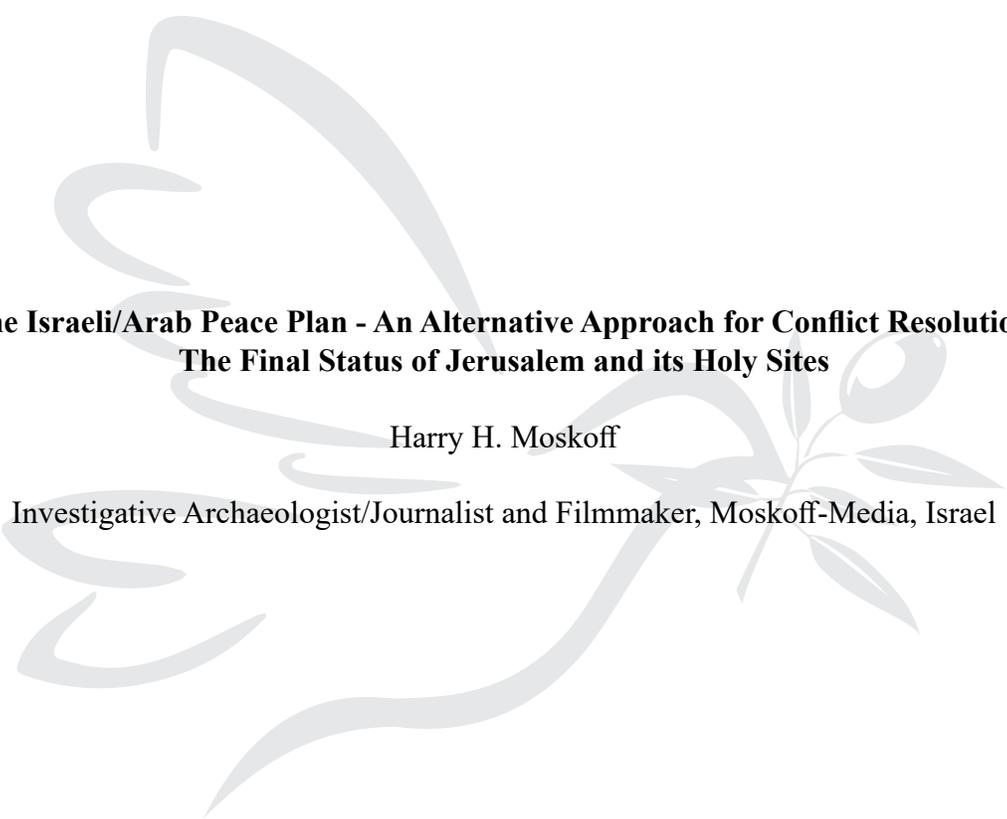
This distinction between cultural and structural peacebuilding, as noted by Wang (2014), has important ramifications for how best to build peace today, such as within the context of the Israeli-Palestinian conflict. Scholars and practitioners would benefit from studying varying case studies, including traditional systems found throughout history, to better assess which may be most appropriate for such conflicts today.

The second practical implication is that Rabbi Azulai's peacemaking efforts in Ancona can serve as an important religious precedent and inspiration for rabbis and laypeople to serve as peacemakers today. I have personally used this story numerous times in such contexts, through workshops that I run. There, participants analyze the various diary entries in *havruta* (study in pairs), the customary practice of traditional Jewish text study. Throughout the twists and turns of this story, participants, and now readers of this article as well, are asked to contemplate upon reflexive questions such as: What would you have done if you were in Rabbi Azulai's situation? What can we learn from Rabbi Azulai's actions that we can apply to our own communal activism? Finally, what are some of the key lessons you learned from the diary of Rabbi Azulai that you would like to take with you in your own efforts to pursue peace today?

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**The Israeli/Arab Peace Plan - An Alternative Approach for Conflict Resolution:
The Final Status of Jerusalem and its Holy Sites**

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Abstract

The US-brokered Middle East peace plan is in a quagmire. Both sides appear to be severely divided by the components of any solution, no matter what it entails and no matter which party, or even country, may be suggesting it. There are so many complex factors involved, some critical, and some less critical. This proposal comprises an innovative solution to the issues that surround the US-brokered Israeli/Arab peace plan and the final status that is now pending implementation. An innovative language-oriented solution is introduced herein that facilitates unique governmental, religious, and community levels of participation.

Keywords: Israeli-Palestinian conflict, United States, Jerusalem, holy sites, language, peace plan, alternative dispute resolution

Introduction

The peace process is not likely to move forward substantially in the near future. Although both sides ostensibly agree that a solution is necessary and forthcoming, they are severely divided by the components of that solution, whether it concerns final borders, Israeli communities over the Green Line, security guarantees, or the fate/ownership of Israel's holy sites.

- 1) Yet, pursuit of peace is a worthy goal, even when it seems far away. In the absence of progress on the core issues dividing the sides, progress might indeed be made on common concerns indirectly related to the core issues, using a specifically non-Western method of conflict resolution.
- 2) In 1991, the countries of the region embarked on multilateral talks based on the Madrid framework that eventually led to dozens of official and non-official meetings with various countries, and incorporating various forms of language (The Madrid Peace Conference, 1991; Special Document File, 1992; Lasensky, 2002). Five multilateral working groups addressed key regional issues such as arms control and regional security, water, economic development, and of no less importance, Jerusalem's religious holy sites. The idea was to make progress on issues of mutual concern that might serve as confidence-building measures to move the bilateral tracks forward. This concept of focusing on lesser disputes in order to help foster peaceful coexistence has historical roots that deserve to be further explored.
- 3) That was a time when Arabs and Israelis were talking about regional issues in a serious manner. Restarting similar multilateral talks in the present geopolitical environment requires a new mixed method approach, which would primarily consist of adopting a unique language-oriented code of conduct to be utilized with the citizens and directly in the negotiating process. The reason is due to the fact that we have now come to realize that modern western solutions are no longer feasible. A new, alternative approach is necessary.
- 4) One advantage of reconvening the multilateral talks in this way is that they would not really require any new concessions, as the framework has already been set up. If this new method improves the negotiating atmosphere, both parties might theoretically facilitate the conclusion of a lasting bilateral agreement. This would be accomplished by means of incorporating the proposed code of conduct.

The Middle East peace process has been exactly that, i.e., a "process" for far too many years. In fact, it is no longer a process, or even in process. The Israeli-Palestinian imbroglio has reached a standoff - Israel's most far reaching offers have consistently not met Palestinian expectations, as Palestinian Authority President, Mahmoud Abbas ("Abu Mazen"), related to the Washington Post's Jackson Diehl after acknowledging the Olmert offers of 2008: "the gaps were wide." Indeed, since then the past ten years have seen no significant change. As a result, there must be new forms of negotiation, and accountability can be upheld and enforced.

Solution

A new approach that focuses on language-based solutions could very much play a key role in resolving the current Israeli-Arab conflict. Just like a specific code of conduct was used in ancient times to negotiate land disputes between the Davidic Dynasty of Judean kings in Israel proper, and the Philistine rulers of ancient Gaza, the same might be utilized today, but emphasizing the linguistic elements of the negotiating process, and by setting up a new reality on the ground. Practically, this

alternative plan proposes that Israel should establish two special municipal authorities for two specific Jerusalem neighborhoods containing a mixture of Arabs and Israelis, as well as their holy sites within. This includes what we now refer to as the “Holy Basin” consisting of the Temple Mount, the Mount of Olives, Silwan, and the four Old City quarters that contain many of the houses of worship for all the major world religions (Shehori, 2004).

The municipal authorities would abide by a specific, language-oriented code, and the residents who hold Israeli residency cards would continue to live as such, respecting this code with all that it entails, i.e., to abide by a specific curriculum that teaches and promotes core values, ethical conduct and speech, as well as accountability. This paper argues that despite the potential for language differences to lead to and/or exacerbate the conflict, language can also be an important potential bridge in helping to resolve them. In addition, this paper examines the role of a corresponding code of conduct in conflict resolution, and specifically as applied to the US-brokered Middle East peace process.

A Language-Based Code

In 2018, there has been an alarming rise in hate-speech, both online and offline, as well as social media messages that spread hostility and hatred to all age groups. Indeed, in order to foster a new environment for peaceful coexistence, and specifically in the Middle East, a common language code along with a corresponding behavioural code must be constructed and applied, because core values are not inherited, they must be taught. Schools and mediation centers must therefore set up curricula to teach the necessary fundamentals for establishing ethical conduct and speech, and even therapy if necessary. For those living in Israel, simply desiring peace is not enough, and pushing the sides toward an agreement without laying the necessary community groundwork can result in disaster, as we have seen. President Barack Obama’s well-meaning but ill-conceived efforts have been dashed on the rocks of the Middle Eastern shoal. Yet, pursuit of peace is a worthy goal, even when it seems distant. The Western method of simply bringing two adversaries to the table at a time when they can’t suffer each other’s presence, has not worked for the peace plans of the past. We require a specifically non-Western approach of, for instance, having a traditional mediator go from party to party first, preparing each one with the proper terminology and conduct before sitting face to face in a room. Concrete commitments on paper must be established first in order to provide a foundation and framework for reconciliation. This process can take up to 6-9 months, and is what is commonly used in traditional Africa. Another version was recently incorporated by the Sultan of Oman, the “Arab-Islamic Sulha/Sablah Process.” In the African version, a public ceremonial reconciliation event is held afterwards that forms a real covenant between the two communities moving forward, including rituals of breaking bread together to bring in the post-conflict period. Only by incorporating these steps can a stable platform then be achieved. When some avenues are blocked, other alternative methods must be tried. It is therefore high time for new platforms to be set up, i.e., a code of conduct for language and behavior that both sides can adhere to that makes a synergy between the two traditional processes.

According to the theory proposed here, the Interior Ministry would be in charge of implementing the plan in two distinct Jerusalem districts, what’s called the “Holy Basin,” and a section of East Jerusalem. Practically speaking, the plan does not require legislative measures in the Knesset because it entails a change of municipal conduct within a territorial unit that is already within the state of Israel

and under Israeli sovereignty. The main difference here is that the plan begins with a combination of city level governing, and grass-roots community building and education. Hence this concept has high political feasibility compared to other plans. Indeed, what is being proposed is a good fit for the East Jerusalem residents. The residents stand to gain two local councils that will be budgeted by the state, like any other council. They will be able to improve their situation considerably and invest more funds in infrastructures and educational services - two very neglected areas in their neighborhoods, providing that an integral code of conduct is upheld. From an urban standpoint, they will not be dependent on the will of the decisive Jewish majority, which administers their affairs today. Unlike in the plans for dividing the city, the Arab residents will maintain their resident status with all the requisite rights and benefits, etc. With a view to a final arrangement that could possibly complete the peace plan, the most holy Temple Mount complex in Jerusalem would have a special status that includes visiting and prayer rights for all nations, what is now being called “embassy sovereignty.”

Arab residents will not be left to their fate after almost 50 years of Israeli rule, and they will not be transferred to the PA, something most of them do not want. Matching grants and government budgets that meet the needs to educate the population are an obvious prerequisite for implementing this plan. The Jerusalem city government (now with its new mayor) is now more supportive of this solution than it ever has been. The plan does not put this area, now or in the future, in the PA’s hands. It does not jeopardize Israeli’s security control of it, which is vital to maintaining security in the adjacent Jewish neighborhoods and for protecting Jerusalem’s holy sites in general, and the Temple Mount in particular. This plan, for the first time, assumes real responsibility for the rehabilitation of these neighborhoods and makes the residents part of the endeavor by fostering hands-on, peaceful coexistence between its Arab and Jewish residents. The plan does not ignore the Israeli demographic interest in Jerusalem, nor does it nullify the residency status of the Jerusalem population living in those areas.

It’s interesting to note that with respect to fostering peaceful coexistence, the current secretary-general of the religious Mecca-based NGO, Muslim World League, Sheikh Dr. Muhammad bin Abdul Karim Al-Issa, who is a former Saudi justice minister, is doing just that. He has already taken important steps toward breaking down boundaries, language barriers and overcoming prejudices by way of his radical new proposal to bring a ‘peace caravan’ to Jerusalem. “We should send a peace convoy that is representative of all three Abrahamic religions. They should be Muslim, Christian and Jewish and they should visit all holy sites,” he stated. Indeed, this peace caravan can be seen as a humanizing step toward recognizing the fact that all three religions worship the same God and share a connection to the Holy City. The Sheikh’s unique recognition of the Arabic-speaking Jews in Muslim majority lands, combined with speaking on behalf of the Muslim World League, cannot be underestimated. It gives hope in laying a path for mutual understanding, emphasizing the historical precedent through centuries of shared trade and culture (Hannah, 2019).

In fact, there are thousands of years of shared history, going back to the beginning of Muslim-Jewish relations in Medina, a city founded by Jewish refugees that fled the destruction of the Herodian Temple in Jerusalem in 70 AD. Hundreds of years later, the Prophet Muhammad grew up with Jewish friends and neighbors and included Jews as part of the “Ummah” - a diverse community in which individuals have equal rights and shared responsibilities - in his landmark constitution. Thus, there is no inherent tension between Judaism and Islam. Islam, which recognizes the Jewish Prophet Moses, their forefather Abraham, and Joseph the ancient Jewish/Egyptian Prime Minister, celebrates the rescue of

Jews from drowning in the Reed Sea while being pursued by the Egyptian Pharaoh's army. In fact, it has historically coexisted with Judaism to the point where in the early Muslim period, as well as in the times of Maimonides, there actually existed a Jewish edifice in the northeastern corner of the Temple Mount, where both sides didn't infringe upon their respective rituals of worship, and nobody got in each other's way. As today, it was due to political tensions, not religious disputes which led to Muhammad's eventual conflict with the Jewish tribes. In this case, both parties had started coexisting together by speaking the same language, literally and figuratively.

Language

Traditionally, language has played a key role in resolving dispute, and will likely play a key part in resolving the Israeli-Arab conflict. According to a 2017 Pew Research Poll, many people believe language is "the core of national identity." This was true in ancient times perhaps even more than today. Today, more than 70 percent of the population of the United States, Europe, Australia and Japan agree on this idea with respect to national identity. And yet, as scholars of faith-based conflict resolution and peacebuilding, we know that people pay too little attention to language, while overemphasizing the political issues. In contrast to many other factors, language is in fact deeply rooted in societies and not easily swept aside. It has its roots in ancient conflict resolution whereby the rulers and kings of nations would put their major differences aside in order to facilitate a working relationship that concentrates on what both nations have in common, and not the opposite. Nowhere is the role of language in conflict more evident than the Middle East, where there are so many overlapping languages. These conflicts also frequently infringe upon the rights of linguistic minorities to use their languages freely and without prejudice. For example, this is a central factor in the case of Turkish Kurds and the lesser-known struggles of Berber (Tamazigh) people in southern Libya. Israel is no exception. It's worth repeating that in the tough neighborhood that Israel finds itself, language has played a major role in perpetuating the Israeli-Arab conflict, but could just as easily play a role resolving it.

This language conflict is far more complex than "Hebrew versus Arabic." Jewish and non-Jewish communities in Israel have partly overlapping linguistic, ethnic/cultural and religious identities. For example, there are several distinct varieties of Arabic used in Israel: standard Arabic, Palestinian Arabic, Bedouin Arabic and even Judeo-Arabic. Speakers of some of these varieties, such as Palestinian and Bedouin Arabic, cannot always understand each other. Similar perhaps to the Cockney form of English accent as it is spoken by the (so-called) "true Londoners" of the East End.

Israeli Jews speak not only Hebrew and Arabic but also English, Yiddish, French and Spanish. Incredibly, Israel is also home to the third-largest Russian-speaking community outside the former Soviet Union, after the U.S. and Germany. Ironically, these major and minor language divisions leave Israelis themselves, of all affiliations, struggling with great "social" distances inside the small country. That is, even though people share public spaces - traveling, walking, playing and shopping alongside one other - they remain distant strangers without a common language. This distance is a problem in that it perpetuates Israel's internal conflicts. Unfortunately this problem is exacerbated immensely between Arabs and Jews. Estimates show that only 10 percent of Israeli Jews are fluent in spoken Arabic. Fewer can read and write the language. Even Arabs who know Hebrew are often not inclined to use either language in their interactions with Israeli Jews, preferring instead English as a neutral medium. Forcing

only one official negotiating language on the other party, i.e., either Hebrew or Arabic, can procure disastrous results. During the Bengali language movement in Pakistan for instance, the Urdu-Bengali controversy was intensely reignited when Jinnah's successor, governor-general Khawaja Nazimuddin, staunchly defended the "Urdu-only" policy (and using only Arabic script) in a speech on 27 January 1952 (Al Helal, 2003).

Recognizing this problem has led some to try language-based solutions. In the past 10 to 20 years, Hebrew-Arabic bilingual schools with a specific behavioral and ethical code have been established in different parts of the country as a test marker for enhancing peaceful relations. These schools are involved both in raising a generation of truly bilingual children and in growing the students' families into bicultural communities that can live side by side with common values, built from the ground up. While still somewhat experimental, there is reason to believe they have enormous potential for creating a population of Hebrew-Arabic speakers who will understand each other and coexist, while serving as a model, as in ancient times, for living a just and harmonious social life in Jerusalem.

It appears their preliminary success has not been lost on Israel's educational establishment. In 2016, Israel's Ministry of Education mandated Arabic language classes, beginning in first grade, in public schools where Hebrew is the language of instruction. This move generated opposition and has not yet led to fully bilingual education. Yet, analysts' and policymakers' recognition of the need to use language solutions promises to open new and gradual pathways to resolving the conflict, and by extension, with respect to the idea of sharing religious, holy sites. Moreover, recognition and use of language-based solutions to assist in diplomacy, if successfully applied here, might in fact serve as a model for the resolution of some of the other, more destructive and protracted conflicts that have long plagued the region.

Having established that, the good news is that there are now over 30 community mediation centers supported by the Israeli Ministry of Welfare, and even some NGO's, spread out through various cities across Israel, including Arabe, Beuna Nujedat, Binyamina, Daburiah, Ein Rafa, Kfar Tavor, Kiryat Ono, Raanana, Sde Boker, Tamra, and Tuba Zangaria. In the West Bank: Bethlehem, Bet Sachur, and Jericho. The concept is for these centers to also provide an important degree of accountability vis-à-vis the proposed code of conduct. Their dual purpose is to find that common language, a middle ground between the Arab and Jewish populations, and even within the Jewish sectors themselves. What does success look like for this plan? Getting civilians to look at one another and to ultimately believe that yes, 'they're one of us' (Ultimate Peace Middle East, n.d.).



A teacher from the Arab town of Kabul gives an Arabic class to Israeli schoolchildren. AP Photo/Oded Balilt

This paper is also being submitted into a formal draft proposal to the Ambassador of the United States to Israel, the Honorable David M. Friedman, as well as the United Nations Economic and Social Council (ECOSOC), designed to introduce and establish a language-based code of conduct that would affect these two Jerusalem municipalities in a unique, democratic and positive way. Arab countries currently participating in the talks in various capacities include Jordan, Egypt, Algeria, Bahrain, Morocco, Qatar, Saudi Arabia, and the UAE. However, hostile messages about Israel purveyed in the PA educational system and even found in some of the Jerusalem UNRWA school textbooks must be eradicated. Teaching and implementing proper terms of conduct and ethics from the ground up, in conjunction with an accepted form of accountability, can eventually force a new Palestinian leadership into a final acceptance of the Jewish state including a special status arrangement re: the Temple Mount and Holy Basin area. Recently, mainly as a result of procrastination, the US has applied more drastic punitive measures, most notably in terms of the withdrawal of financial support to the Palestinian Authority, etc.

To use a metaphor then, how can the proverbial wolf ever lie with the lamb? This famous verse from the prophet Isaiah is very important for illustrating how peace and unity between the opposite camps can, and will eventually, be realized in the future. At the end of the day though, human beings are not metaphors, and so the metaphors have to serve human beings, and that needs to take place in a more immediate way.

Israel in the meantime, if not formally, has effectively adopted a strategy of patient conflict management. An alternative approach whereby a common set of terms and conditions are setup beforehand, as previously noted, and upheld by both the population and the governing bodies, i.e., where both sides, Arab and Israeli, can ‘speak the same language’ (as it were). In the absence of meaningful negotiations, Israel, particularly Prime Minister Benjamin Netanyahu, has advocated the promotion of “economic peace” as a component of conflict management.

The above method of dealing with the problem also has its roots in ancient conflict resolution, based on the assumption that the Kingdom of Israel has never had anything to gain from disgruntled neighbours.

Exactingly pain from opposing societies is what war is all about, and pain often has a moderating effect on collective behavior. After the Yom Kippur War in 1973, Egypt, for example, decided to change course with regard to Israel because it grew reluctant to pay the costs of maintaining the conflict. In fact, Egypt's President, Abdel el-Sissi has courageously been contributing much to the current US-brokered peace plan in terms of already offering parts of the northern Sinai Peninsula to be designated for Palestinian high-tech agricultural zones, etc. By the same token, Oman, in its own right, has recently stepped up to the plate by agreeing to push forward with a plan to build a high-speed railway link that will connect the Middle East to Israel. The plan, appropriately called "Tracks for Middle East Peace" will create an additional trade route in the region and is tentatively supported by the US and Israeli administrations.



Palestinian protesters wave Palestinian flags as Israelis carrying Israeli flags walk past in front of the Damascus Gate outside Jerusalem's Old City. (photo credit: REUTERS)

Following an extended trial period of calm and confidence building measures on the ground at the grassroots level in these two municipalities, final status negotiations can then take place between Israel and Palestine regarding these areas, including the Temple Mount and Holy Basin. The core values and ethics that were taught as part of the codes of conduct between the two parties would affectively push aside the hate-speech and "bad behaviors" each side finds objectionable, while turning over a new leaf for the future. For example, establishing a joint Israeli/PA television station with offices in Ramallah (or Riyadh) and Jerusalem would offer a prime example of coexistence with the goal of disseminating a common set of facts and basic truths to both Arabs and Jews. Israeli news and opinions will be followed

by Arab rebuttal and vice-versa to create a broad, peaceful dialogue between peoples, both adhering to a strict speech policy and (lingual) code. Similarly, a very real testing ground to be set up in the two above specified regions of Jerusalem using a new economic package focusing on advancing joint Israeli-Palestinian business ventures, like this one. In this case, the municipal funding would flow directly to the localized media companies, and not through the centralized Palestinian Authority, and the like. The ultimate purpose being the expansion in “people-to-people” programs to decrease public incitement and hate-speech, seeing the religious and ethnic leaders calling out for strict compliance in the media as well as their respective houses of worship. Potentially, this novel idea of a language-based code of conduct could actually go beyond bilateral negotiations, encompassing those countries signing on to the multilateral track.

Historically, there is a precedent for this approach in the Bible, and even in modern times. It could be based on the code of conduct embodied in the Helsinki Final Act of 1975. The CSCE which it established began to operate despite the enormous political gaps between NATO and the Warsaw Pact countries on such sensitive issues as borders. Israel and Jordan are already committed in their 1994 Treaty of Peace to establish a Middle Eastern version of such a framework. While not every aspect of that code is applicable to the current Middle East situation, points could include refraining from the threat or use of force, the peaceful settlement of disputes, non-intervention in internal affairs, respect for human rights and fundamental freedoms, including freedom of thought, conscience, religion, or belief; and fulfillment in good faith of obligations under international law using a mutually agreed upon, common language-based code.

In fact, linguistic underpinnings of the current situation in Israel and Palestine go back to the British rule over the territory between 1922 and 1948. At the time, English, Hebrew and Arabic were all official languages of the Palestine Mandate - a former part of the Ottoman Empire comprising modern-day Israel and Jordan, which was ruled by Britain after World War I. When Israel declared independence in 1948, English was actually eliminated from this list, due in part to Israeli animosity toward British colonizers. Since independence however, Hebrew and Arabic have shared status as *de facto* official languages of Israel. Their status is nowhere near equal though, especially in lieu of the new nation-state law that has been passed in the Knesset (The Knesset, 2018; Wootliff, 2018; Hermann & Yaar, 2018; Dakwar, 2018; Ozer, 2018).

Furthermore, from a pragmatic point of view, Israeli society is far more linguistically complex than its two official languages would suggest. With a population that is around 80 percent Jewish, Hebrew’s status outstrips that of Arabic. With Israeli Arabs being more fluent in Hebrew, it is those Hebrew speakers who are socially disadvantaged by not being able to communicate with fellow Israelis who speak Arabic.

Conclusion and Recommendations

A language-based code of conduct will enable each side to proceed within the confines of the agreed code based on the following principles with respect to negotiating the US-brokered peace plan, such that:

- All negotiating parties acknowledge and reaffirm the continued relevance by which they recognize their “mutual legitimate and political rights” by adhering to a code of conduct, using mutually agreed upon language, behavioral codes, and civil education systems.

- “Language,” within the context of the negotiations, with a view to ensuring a positive ambiance, means that the representatives of all negotiating parties will refrain from any form of hate-speech and/or expressing any reservation or threat regarding the subject matter of negotiations, their continuation, the anticipated outcome of any topic, or the negotiations in general for the duration.
- “Code of Conduct” means that all negotiating parties will refrain from strict dictation of preconditions for entry into, continuation of, or completion of, negotiations on any topic. Furthermore, all negotiating parties, when discussing any specific issue, will refrain from actions related to that issue that could influence the outcome of negotiations on that topic, or on the negotiations in general, i.e., unilateral proclamations of a state, or submitting unofficial cases to the International Criminal Court.
- All partners to the negotiating process will seek, as partners, through their public statements and interviews to ensure ongoing public support for and encouragement of the negotiating process, as well as a positive negotiating ambiance, and to this end will refrain from derogatory statements or any form of hate-speech regarding other parties to the negotiation or their representatives.
- With a view to maintaining a constructive negotiating atmosphere, the parties will refrain from initiating or supporting actions in international or nongovernmental organizations, or in foreign countries, directed against another party or its representatives, leaders, or officials.
- With a view to maintaining a *bona fide* negotiating atmosphere, the parties will refrain from initiating, organizing, or supporting economic or other sanctions of any kind on another party, its representatives, or commercial enterprises.
- Negotiating parties will ensure freedom of movement by representatives of the other negotiating parties to all locations in which negotiations are being conducted.
- Every effort will be made to set up the requisite municipal offices, mediation centers and educational curricula to facilitate this code in all languages necessary for its implementation.

Finally, subscribing to this code would also facilitate the advancement of a more democratic way of life in those Arab districts currently undergoing turmoil. The previous head of the Israeli parliamentary opposition to Netanyahu, Tzipi Livni, proposed a “universal code for participation in democratic elections” that has points worthy of considering here. This would include requiring every municipal office to embrace, in word and deed, a set of core democratic principles: the renunciation of violence and hate-speech, the pursuit of aims by peaceful means, commitment to the rule of law and to equality before the law, and adherence to an international language-based code that promotes core values, ethics, and a mutual culture of peace at the grassroots level. A “culture of peace” is defined by the United Nations General Assembly (1998, 1999) as “a set of values, attitudes, modes of behavior and ways of life that reject violence and prevent conflicts by tackling their root causes to solve problems through dialogue and negotiation among individuals, groups and nations.”

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Exploring the Israeli-Palestinian Conflict from Religious Perspectives

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Abstract

Judaism and Islam are world's most important religions with adherents consisting of approximately half of the global population (Phipps, 1996, p. 11). The cultural conflict between the Israelis and Muslims in Israel and Palestine is deeply embedded in their histories and religions. This paper analyzes the historical influences of Judaism and Islam, and explores the fundamental beliefs of the two religions that encourage people to be kind and respectful to others. The purpose of this paper is to raise awareness of positive thinking between the two faiths and help people build trust by promoting positive communication. The paper attempts to enhance religious understanding by examining how Judaism and Islam can foster peaceful communication between Israelis and Muslims.

Keywords: Judaism, Islam, Israel, Palestine, social identity theory, cooperation, mutual understanding, kindheartedness

Historical Background

Populations in Israel are facing a difficult situation with religious conflict among the Israelis and Muslims. In 1949, Jerusalem was divided into two, with the western half belonging to Israel and the eastern half to Jordan. In the whole country, there were around 650,000 Jews (Goldscheider, 2002). “Historically, in the late nineteenth century, some European Jews decided to renew Jewish settlements in the region known as Palestine and to establish a refuge for Jews across the world” (Coward & Smith, 2004). A political movement aimed at reestablishing the Jewish community in Palestine dissatisfied the Muslims and caused intermittent conflicts.

Jerusalem is a city with a history of 6,000 years and enjoys a rich cultural diversity (Goldscheider, 2002). Jerusalem has experienced reconstruction, re-establishment, and renaissance throughout centuries of conflicts. Since ancient times, Jerusalem has been a focal point for many faiths. With the coexistence of different cultures and religions, it makes sense as to why there would be conflict. The chaos will be resolved when the people most affected are willing to work toward peace instead of allowing more wars to determine their future. This may be difficult because both Jews and Muslims in Israel and Palestine claim that Jerusalem should be their eternal capital (Goldscheider, 2002).

On May 14, 1948, the Jewish state of Israel was established. Shortly after, five large-scale wars took place between Israel and the surrounding Arab countries. As a result of these conflicts, thousands of Muslims were permanently displaced from their homes and became refugees. This displacement of large numbers of Muslims has been the source of one of the most significant grievances of the Palestinian people against Israel (Goldscheider, 2002).

Mutual mistrust and religious misunderstandings increase the conflicts between Jews and Muslims. A recent study of Muslim voting patterns found that two-thirds of the Muslim public in Israel mistrust Jews. The Jews also mistrust their Muslim neighbors: 41% of the Jews regard Muslims as a real danger to national security, and 66% feel that it is impossible to trust them (Smootha, 1989). Historians have pointed out that religions can play a constructive role in promoting peace between Israelis and Muslims as “it is clear that religions or primordial identity need to provide adequate orientations to changing the confrontations” (Goldscheider, 2002). Through a positive understanding of the origins and cultural traditions of Judaism and Islam, people might find a peaceful way to foster smooth communication and to build trust between the two groups.

Islam and Judaism

Social Identity

Social identity theory helps to explain the differences between different religions and people’s identities. It looks into how group members categorize and identify themselves from other group members (Turner & Tajfel, 1986). This theory provides a better understanding of the relationship between Islam and Judaism. Social identity theory links individuals within groups. This theory proposes that individuals can exist in a certain social category that represents relative power and status relationship (Turner & Tajfel, 1986). People from different religions will have to positively consider how their religions can guide the doctrine and the rule of law of the country or the community.

Social identity theory provides insight into the relationship between self-concept and social groups (Tajfel & Turner, 1979). Jewish people and Muslims consider themselves to hold different

views and cultural beliefs. Religious in-group members might be more likely to support their own group members. Also, in-group members might act violently to discriminate or serge conflicts against out-group members in order to ensure the uniqueness and sovereignty of their own religion. It can represent power and reputation of a faithful person, and this person will be honored within that group (Hogg & Abrams, 1988). The religious leadership is associated with religious standards and rules. Also, religious members are asked to pray and act in specific ways, according to the Torah or Quran.

Social identity theory explains why group members support their religious and sociopolitical systems, which are related to individuals' collaborative ideology (Hogg & Abrams, 1988). People with a specific religious belief might feel threatened by others who are from different cultural and religious backgrounds. One might think they are better than another and use religious doctrine to teach their group members the importance of preserving their religious or ethical identities. For example, according to Judaism, unfaithfulness and dishonesty to their religion will be considered idolatry and sin (Miller, 2004).

Group members might also have missions to serve and teach people in order to shape individuals' religious beliefs and behaviors. However, group members might want to enhance self-esteem and dominance through propaganda or political hegemony (Hogg & Abrams, 1988). Islam has ethical guidelines and moral rules. Religious and political leaders might encourage people to follow Islamic rules and fundamental principles according to the Quran (Haleem, 2004). For example, the first pillar is the *Shahada*, which means that when a person declares and becomes a Muslim, he or she needs to commit to Islam in their entire life (Haleem, 2004). In addition, Islamic religion plays a vital role in the lives of Muslims who live in Western Europe. According to research, 74% of Muslim participants indicated that their religion is very important in their lives, and around 20% believed that religion is important. Moreover, there were 80% of Muslims who said that they visited mosques once a week or more (Verkuyten, 2007).

Social identity and religious belief can guide people on how to serve a leader (Hogg & Abrams, 1988). Religion can play an important role in politics. Establishing a positive cognitive knowledge towards different religions will be helpful to promote mutual understanding and share common interests. Group members might want to accomplish goals by taking political actions and media propaganda.

Furthermore, the Jewish people who live in Israel might have a strong sense of belongingness and be proud of their national identity because they believe that their ancestors have inherited God's wisdom and prosperity (Miller, 2008). Also, the Jewish people might be territorial and self-defensive when they feel threatened by another group with a different faith. For example, religious Israelis usually teach their children about the rule of law and moral regulations (Miller, 2008). The Islamic people also teach their children how to eat and dress, and the importance of respecting God and their tradition according to the Quran (Ali, 2001).

The positive knowledge and understanding of the two faiths will encourage groups to learn cultures and histories from the historical contexts. When two religious groups live in the same community, conflicts might occur. However, the researcher aims to find the similarities and positive meanings in the Quran and Torah for people to erase misunderstanding. Additionally, people can cultivate collective ideas and shared knowledge for living together peacefully. The two faiths come from the same ancestor Abraham, who played a critical role in the relationship between humans and God. The positive understanding from a historical perspective will help people to reconcile and develop prosperity together. Besides, for religious minorities, sharing religious beliefs will encourage them to understand and support each other spiritually.

Violence in Religions

Many contemporary people might exercise personal choices to interpret the Quran or the Torah according to their moral preconceptions about justifiable violence. However, the author will not only explain the facts but also reveal the truth from a positive perspective. Since the time of Prophet Muhammad, Islam has considered warfare to be a legitimate expression of being faithful to Islam. The Quran contains more than 100 verses, which proposes conflicts toward nonbelievers (Haleem, 2004). The Islamic military ruling class evolved following the interpretations of the Quran. The key theme in the religious contexts was the justness of war. For example, the Quran indicates the “eye for an eye” concept, “O you who have believed, prescribed for you is legal retribution for those murdered, the free for the free, the slave for the slave, and the female for the female... whoever transgresses after that will have a painful punishment (Ali, 2001). Also, the Quran said, “Fighting is prescribed for you, and ye dislike it. But it is possible that ye dislike a thing which is good for you, and that ye love a thing which is bad for you. However, Allah knoweth, and ye know not” (Qur’an, n.d.). This provides an idea about when they should defend themselves and take actions against their enemies. Religious Muslims also believe that if they refuse to join the fight with nonbelievers of the Quran, they will be called hypocrites.

Moreover, the Quran indicates, “As to those who reject faith, I will punish them with terrible agony in this world and in Hereafter, nor will they have anyone to help.” In addition, the Quran explains how unbelievers should be judged: “Soon shall We cast terror into the hearts of the Unbelievers, for that they joined companions with Allah, for which He had sent no authority. “ The Quran also illustrates that «Those who believe fight in the cause of Allah, and those who disbelieve... So fight you against the friends of Shaitan (Satan)» (Qur’an, n.d.). Moreover, some religious Muslims might believe that the Quran established the idea of who is the Messiah and why Jews should be condemned. As it indicates, “The Jews say: Ezra is the son of Allah; and the Christians say: The Messiah is the son of Allah; these are the words of their mouths; they imitate the saying of those who disbelieved before; may Allah destroy them; how they are turned away” (Qur’an, n.d.).

In addition, the Torah also mentioned how the Jewish God, Hashem, has punished and destroyed other people by sending flood, raining fire, and brimstone according to people’s sins, such as adultery and idol worship against God (Miller, 2008). Therefore, violence has theological consequences in the discussion of the Torah and the Quran. For example, the Torah indicates in the book of Exodus that after the Israelites escaped from Egypt, Jewish people wandered in the desert for forty years and have suffered hardships, as well as they had to run away from their enemy. At the same time, the Torah shows how Hashem (God of Jewish people) has saved the Jewish people’s lives and guided their way (Miller, 2004).

Jews in Israel

Historically, Israelis have had a deep emotional tie to the land of Israel. According to Jewish beliefs, God gave the land of Canaan to them in ancient times, a territory that included Israel, Gaza, the West Bank, and Jordan (Miller, 2004). According to the Jewish Bible, if people heed God’s command, the Lord will provide them a prosperous life in the Land of Israel. “Even if your outcasts are at the ends of the world, from there the Lord will gather you and bring you to the land that your father possessed, and make you more prosperous and more numerous than your fathers” (Berlin & Brettler, 1999).

Muslims in Palestine

Israel is located in western Asia, near the Mediterranean coast, and adjacent to many predominantly Muslim countries. The Islamic culture of the region has a rich and ancient history. Many Muslims believe in Islam. They have Sunni, Shia, and other religious sects. Some Muslims reject sharing the land with the Jews. Following Islamic law, every Muslim in the world must fight for the liberation of the occupied land (Borg & Henten, 2010). The Quran is a source of motivation for Muslims to support the Muslims since it encourages people to fight for the weak and against aggression.

Islamic ethical teaching reflects Muslim culture, such as cooperation with the other inhabitants of countries where Muslims live. However, Muslims also believe that the Israeli territory should belong to Palestine based on the Quran. Muslims define themselves as different from Jews, and some of them do not want to share the land and live with Jews. By discovering the deep meanings of the two religions and finding the similarities between them, it is possible to understand that the two religions prioritize maintaining regional peace over religious conflict and prejudice.

Relations between Judaism and Islam

Judaism and Islam both advocate virtuous behaviors and promote ethnic equality. Islam attaches great importance to the doctrine of contrition and expiation. The ideas in Islam have similarities with Judaism (Shuzhi, 1997). According to the Jewish Bible, God created humans because He wants to continue training people's souls and teaches them to do good things in order to purify their original sins (Berlin & Brettler, 1999). By studying the fundamental principles of their religions, Muslims and Jews can enhance mutual understanding and build trust through effective communication and the elimination of prejudice.

Judaism and Islam encourage freedom of expression and being respectful to others. Both religions espouse the concepts of kindness, honesty, and cooperation. Religious beliefs can produce profound effects on people's thoughts and behaviors. The essence of faith in Islam and Judaism is to encourage people to reconnect and communicate with God.

Essences of Judaism and Islam

Religion gives guidance to human civilization, and it aims to provide a deep cultural foundation for their adherents, which will guide behaviors spiritually (Chopra, 2005). Judaism and Islam imply that love represents forgiveness and nonviolent interaction. By understanding the deep meaning of human love, to be honest about human behaviors and language, societies will maintain fairness and peace between Muslims and the Jewish people.

Kindheartedness

Judaism and Islam emphasize morality and humanity. The two faiths also encourage people to resolve conflicts in a peaceful way, which implies murder and stealing is a sin (Chopra, 2005). Based on the Torah, human beings are all God's children and should be considered equal. People need to erase their sins by praying and asking for forgiveness from God. In Judaism, it is believed that there will be time for the final judgment of God towards the human spirits regarding whether people treat each other with dignity and respect (Chopra, 2005).

Moreover, according to the Hebrew Bible, liberty and equality are essential to the Jewish society. Judaism believes that humans have the right to choose to be kind-hearted. The Book of Exodus in the Torah suggests that God is merciful and not easily angered. He would like to bring mercy and truth to people (Berlin & Brettler, 1999). God always shows love and compassion to everyone, and He wants people to respect and love him in return (Brown, 2012).

Judaism instructs people to give compassion to both humans and animals. It is strictly forbidden in the Old Testament to give unnecessary pain to people and animals. The Old Testament remarks that Moses represents the shepherd of Israel by giving love to the slaves and saving their lives in Egypt. The implication of the “womb” actually was originated in the idea of either motherly love or sibling love. Jews believe it is God’s compassionate gift to Israel (Hosea, 6:6). Thus, “we are to love kindness” (Mic, 6:8), and exhibit God’s kindness and mercy” (Luke, 6:35-36).

Islam also encourages people to show affection and love to each other. Islam calls for peace in order to foster life in love (Haleem, 2004). In Islam, God loves the pure and clean human spirit. Muslims want to take the advantages of modernism and democracy to their sincere goodwill. Greetings for love and kindness between ordinary Muslims are a symbol of blessing for peace (Haleem, 2004). The Quran also advocates tolerance and regards it as a virtue. Tolerance and kindheartedness are the main characteristics of the Islamic faith (Haleem, 2004). In the Quran, it suggests that people should be kind and show sympathy to each other. Even if the enemy treats people by speaking rudely and exerting pressure, people should still be kind and tolerant. For example, Quran indicates that “Mothers tenderly love their children, animals’ world also has love, and they know how to live with each other harmoniously. When a pony has mare’s milk, their mother always lifts one leg to avoid hitting against the pony by accident” (Haleem, 2004).

Honesty

The Jewish and Islamic traditions both encourage people to be honest and loyal. According to the Old Testament, honesty is a sign of a righteous person (Hebrews, 6:18). For example, if a person knows the truth without telling the truth, he is called a liar. The Old Testament notes that “because you speak falsehood and lies, I will deal with you. My hand will be against who said falsehood, and they shall not remain my people and shall not be inscribed in the lists of the House of Israel” (Holy Bible, 2013). An honest person should cultivate the capability of love, not only by an obsession with relaying accurate information (Holy Bible, 2013). An honest person should also make accurate and trustworthy statements to themselves, others, and the Lord.

Honesty is an essential quality of individuals, and it is a fundamental guarantee leading to spiritual success. The Quran indicates that honesty is the root foundation of developing a family and career (Haleem, 2004). Also, the Quran suggests that “Do not ask for things that belong to others. When you sell food, you should use a good scale to balance goods” (Haleem, 2004). This indicates that honesty is an important principle in Islam. In addition, Prophet Muhammad exhorted Muslims to be scrupulously honest in all their dealings, “O you who believe! Fear God, and be with those who are true (in word and deeds)” (Haleem, 2004). An essential ingredient of the Muslim culture includes being truthful to oneself and adhering to God’s laws. This means that there should be no deceiving, cheating, falsifying, or withholding of information (Haleem, 2004).

Cooperation

Judaism and Islam illustrate that mature love can improve people's inner hearts to cooperate and to achieve peace with one another. For example, the two faiths both suggest that connecting people from different cultures can end isolation. Neighboring countries should show respect to people from other cultures and communicate effectively with them (Chopra, 2005). The Jewish people and Muslims should cultivate sincere friendship and mutual trust to cooperate and negotiate when there is a conflict.

Moreover, both religions emphasize protecting vulnerable social groups. Judaism teaches people to respect each other and not to force ideas on other people. It indicates that "When a stranger resides in your land, you shall not mistreat him. You shall love him as you love yourself" (Chopra, 2005). It encourages people to love their neighboring countries as they love themselves, and to learn how to coexist in a peaceful environment.

The commandments in the Old Testament are essential to traditional Jewish education. By listening and acting appropriately and obeying Jewish law, God will provide a good life. For example, the Old Testament notes that cooperating in free markets and building a harmonious civil society with sharing love is essential (Chopra, 2005). It suggests that people can improve cooperation by donating money to peace organizations and helping the poor.

Also, the Quran emphasizes strengthening individual's moral standards and improving ethical consciousness. It encourages people to build unity and friendship, as well as forgive the enemy and take initiative to support others. In spiritual terms, the Quran and the Old Testament intended to heal separation (Chopra, 2005). Both texts guide people on how to tolerate differences while seeking coexistence.

The Quran suggests that Muslims need to help other people and have concern for their needs. "You follow the public, Allah's hands with the masses, who ignore others, the one will be isolated" (Haleem, 2004), which means that cooperation is the opposite of forcing views on others and being egoistic. In addition, the Quran states that "When you see the evil behaviors, you should use your hands to stop it; If you cannot do it, then using your tongue to stop it; If you still cannot stop bad behaviors, you might reflectively think your heart and behaviors" (Haleem, 2004). Cooperation is essential to preserve peace and harmony. Religious study will help in improving wisdom and emotional intelligence, as well as assisting people in maintaining open relationship in a secure and friendly environment.

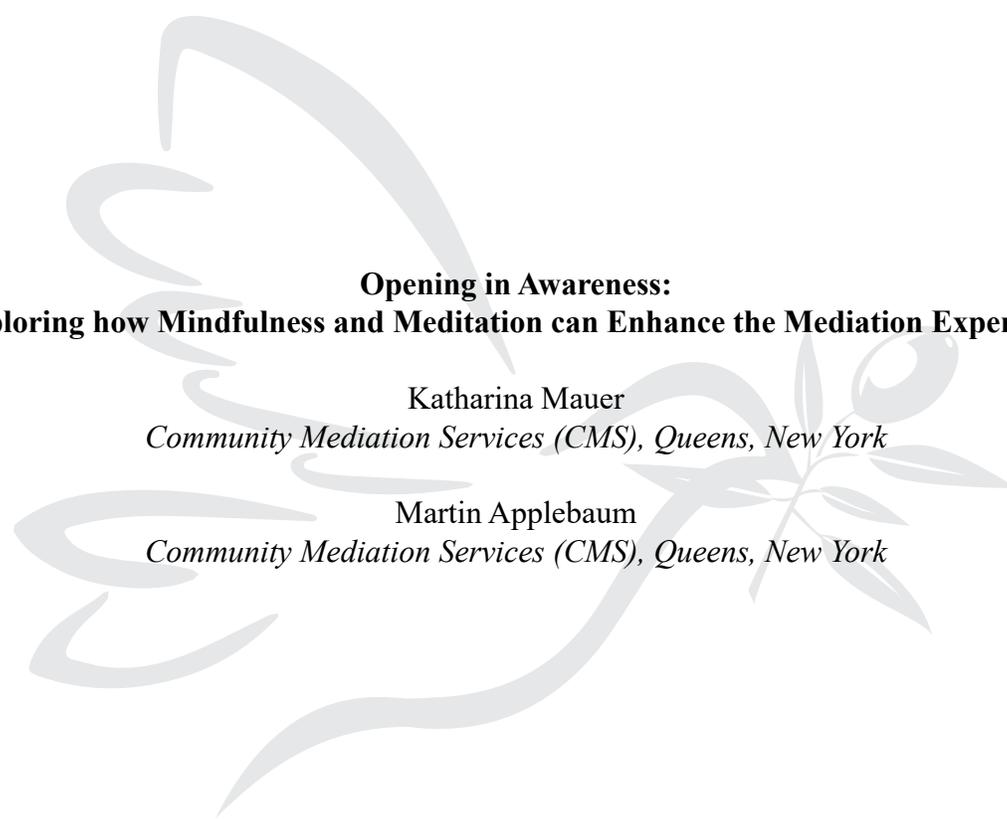
Conclusion

The uniqueness of the two faiths brings a positive meaning for promoting mutual understanding and well-being. The two groups can live differently according to their faiths, as well as preserve morality and altruistic behaviors. Peaceful cooperation and honest communication between individuals will promote civilization and social development, as well as satisfy the needs for belongingness. The destinies of Israelis and Muslims require people to maintain open communication and respect so that the conflict between Israelis and Muslims can be decreased and resolved in a humanistic way. Moreover, reconstructing a harmonious and altruistic society depends on people's actions and the way they communicate. Judaism and Islam both advocate love and coexistence. The progress of establishing a developed human society requires people to work together while maintaining cultural diversity.

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**Opening in Awareness:
Exploring how Mindfulness and Meditation can Enhance the Mediation Experience**

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Abstract

Given the over 2,500 year-long tradition of Buddhism, which is based upon the Buddha's teachings on suffering and its eradication and on an unbroken period of wide-ranging practical applications, the Buddhist framework continues to offer profound insights into the workings of the human mind and heart as it relates to the emergence and transformation of conflict. Embedded in the authors' practical experience and theoretical knowledge as mediators, trainers, and students of meditation, this paper will explore Buddhism's contribution to conflict transformation, particularly in mediation settings, by examining how Buddhist understandings of the human conditioned mind and its capacity for transformation through meditative awareness can complement traditional Western approaches to mediation and conflict. Inherent in this approach is the thesis that conflict transformation need not only center on altering systems and structures, but also on emphasizing and empowering the individual to understand the processes of the human mind that may lead to the construction of divisions leading to destructive conflict, and how these constructions may dissipate, personally and interpersonally, to yield transformative occasions (Spears, 1997). This paper, then, explores the Buddhist linkage between destructive conflicts and the human mind's construction of divisions that create psychological isolation, insecurity, and dissatisfaction, divisions that manifest suffering. It also explores how this suffering may be eased or eliminated through mindfulness and meditation practices that yield awareness of our true nature as fundamentally interconnected and interdependent beings. When the view of the self as standing apart from and against others (as experienced during destructive conflict) loses its hold, conflict is seen from a different angle and real transformation in relationships and in our ways of addressing problems are possible. Based on time-tested Buddhist principles, in this paper we will explore: (1) what Buddhism views as the source of our human experience of personal dissatisfaction and destructive disagreement; (2) what Buddhism suggests in dealing with our tendency to separate ourselves from our own conditions and from others; and (3) how the practice of tapping into and expanding awareness may help us in our interpersonal relations to see disagreement and its source differently.

Keywords: Buddhism, conflict, suffering, conflict transformation, awareness, mediation, meditation, vipassana

Setting the Stage: A Buddhist Perspective of Conflict and Peace

To frame a Buddhist perspective, we may start by defining traditional Western understandings of both conflict and peace. Typically, conflict is understood as a contradiction or set of contradictions between parties. Other authors further emphasize the interpersonal and interconnected nature that underlies conflict, defining it as an “interactive process manifested in incompatibility, disagreement, or dissonance within or between social entities (i.e., individual, group, organization, etc.)” (Rahim, 2001, p. 25), or as “the interaction of interdependent people who perceive incompatible goals and interference from each other in achieving those goals” (Folger et al., 1997, p. 5). Peace is defined as “nonviolent and creative conflict transformation” by Johan Galtung (1996, p. 9), one of the leading peace researchers of modern times, whereby conflict transformation is understood to be “the ebb and flow of social conflict as life-giving opportunities for creating constructive change processes that reduce violence, increase justice in direct interaction and social structures, and respond to real-life problems in human relationships” (Lederach, 2003, p. 14).

The Four Noble Truths: Life as “cease-able” suffering

In Buddhism, the quest for the causes of and peaceful solutions to conflict goes deeper than a simple investigation of particular conflicts and their resolutions. In order to contextualize the Buddhist approach to conflict transformation, one must first examine the basic orientation of Buddhism, succinctly set forth in *The Four Noble Truths*: (1) Our human existence is pervaded by suffering (in Pali, *dukkha*); (2) There is a root cause for our suffering; (3) Suffering can be ended; (4) through a prescribed path. From the Buddhist perspective, the notion of suffering is not understood as conveying an inherently negative worldview. Rather it is intended as a “pragmatic perspective that deals with the world as it is, and attempts to rectify it” (“Basics of Buddhism”, 2000). *Dukkha* literally means ‘incapable of satisfying’. It signals a fundamental ‘dissatisfaction’ or ‘dis-ease’ arising with the impermanence of things, where there essentially is nothing lasting or unchanging to rely on. According to Bhikkhu Bodhi (2000):

The origin [of *dukkha*] [the Buddha] locates within ourselves, in a fundamental malady that permeates our being, causing disorder in our minds and vitiating our relationships with others and with the world. The sign of this malady can be seen in our proclivity to certain unwholesome mental states [...] The most basic defilements are greed, aversion and delusion. Greed is [...] self-centered desire: the desire for pleasure and possessions, the drive for survival, the urge to bolster the sense of ego with power, status and prestige. Aversion [...] signifies the response of negation, expressed as rejection, irritation, condemnation, hatred, enmity, anger, and violence. Delusion [...] means mental darkness: the thick coat of insensitivity which blocks out clear understanding. (pp. 8-9)

At the root of these three defilements is ignorance, which is not merely a lack of knowledge, but an active ignoring of what is actually taking place (2000). Instead of seeing reality as is, we filter out many of its aspects through the overlays of various mental categories, habits and preferences. Later Buddhists would take as central the Buddha’s pointing to our problematic psychological formulations of a self that is standing in opposition to others, taking inherently fluid processes and assembling them into a seemingly isolated and unchanging self (centered now on the notions of ‘I, me, and mine’) that is grasping after or

pushing away objects utterly separate from itself (App, 1994; Izutsu, 1977; Newland, 2008). To eliminate suffering, the Buddha suggests developing ‘wisdom’ (Pali: *panna*) as it

Helps to correct the distorting work of ignorance. It enables us to grasp things as they are in actuality, directly and immediately, free from the screen of ideas, views and assumptions our minds ordinarily set up between themselves and the real. Wisdom cannot be gained by mere learning, gathering and accumulating a battery of facts. However, the Buddha says, wisdom can be cultivated. It comes into being through a set of conditions, which we have the power to develop. These conditions are actually mental factors, components of consciousness, fitting together into a systematic structure that can be called a path in the word’s essential meaning: a courseway for movement leading to a goal. The goal here is the end of suffering, and the path leading to it is the Noble Eightfold Path with its eight factors: Right view, right intention, right speech, right action, right effort, right livelihood, right mindfulness and right concentration. (Bodhi, 2000, pp. 10-11)

It is important to note that by using the term ‘right’ the Buddha did not intend to convey a moralistic judgment but rather to indicate that a certain way of carrying oneself in life leads to the end of suffering.

In connection with a Buddhist understanding of conflict and peace

The transience of things and of conditions in our lives makes conflict an inherent and unavoidable part of our existence. We have to continually find ways together to skillfully respond to changing circumstances and there invariably are disagreements over how to best proceed. As we have seen, the Buddha saw how suffering is the result of a set of conditions that include the interplay of afflictive mental factors (such as thought, like-and-dislike, and grasping-and-aversion). The absence of such afflictive factors results in the cessation of suffering. Of course, that does not mean that there is no real-world problem to resolve (for example, the distribution of a scarce resource). It means, though, that the instant conflict will not be addressed through the hardened divisions of self-interest (expressed in strongly-held positions) that suffering entails. In this sense, conflict may be either destructive or constructive, depending on conditions and on whether or not there are afflictive mental formations impelling suffering. As Olendzki (2009) puts it: “The bulk of our difficulties, [...] come not from the existential challenges themselves but from internally generated maladaptive responses activated by relentless and un-reflected pursuit of pleasure and avoidance of pain” (p. 40).

Likewise, our deep instincts for personal survival and security may result in greed, hatred, and delusion. Without afflictive mental formations, external events and issues would not carry the significance of narrow self-interest, too often taking others as objects for one’s own self-aggrandizement or as threats. In this connection, Arai (2017) points to the unique understanding of Buddhism on conflict and its transformation: every conflict emerges out of an internal stance that eventually manifests externally and within a relationship of two or more people. Therefore, the “ultimate goal of conflict transformation is the liberation of suffering which must take place within the inner realm of people involved so it can affect relationships and society” (Arai, 2017, p. 10). In transforming the relationships amongst parties in conflict, it is essential to build awareness in each individual (and so, eventually, in the collective) in order to acknowledge “a complex web of cause and effect relationships” (Arai, 2017, p. 25). Though

it can be initiated in the individual, the cessation of suffering cannot be accomplished in individual isolation. The internal investigation of one's suffering automatically yields an acknowledgment of the same constitution in others. This interconnectivity is made clear in the Buddha's explication of the *Noble Eightfold Path*, where cultivating moral conduct, wisdom, and insight in thought, word, and deed is accomplished in the midst of relationship, and is exemplified through the virtues of loving kindness and compassion for all beings (Leighton, 2012; Sheng-yen, 2001; Aitken, 1994). For Buddhists, the internal practice of wisdom therefore has far-reaching effects on the local communities, societies, and humanity at large, since it assumes that "social structure is ultimately a mirror image and reflection of how the human mind makes sense of the world [...]" (Arai, 2017, p. 21).

A Buddhist framework of conflict transformation seeks to end the closed cycle that constantly reproduces rounds of fearful insecurity and self-aggrandizement. It therefore requires the willingness of individuals to investigate and see through suffering, in the process sincerely engaging with others to build constructive relationships "that can systematically prevent human suffering" (Arai, 2017, p. 26).

Buddhist Remedies to Suffering and Conflict

As Bhikkhu Bodhi (1999) pointed out, since ignorance about what is actually taking place lies at the bottom of suffering, we need to cultivate a systematic path of wisdom, developing beneficial mental factors (essentially entailing the *Noble Eightfold Path*) that see through ignorance. While the individual components of the *Eightfold Path* are seen as "intertwining strands of a single cable that requires the contributions of all the strands for maximum strength" (Bodhi, 1999), the development of such an intertwining awareness usually requires sequential training in the *Noble Eightfold Path* (Kornfield, 2010; Chah, 2002). Given space constraints, however, this paper will briefly discuss only two components of the *Noble Eightfold Path*, namely 'Right View' and 'Right Mindfulness', two components that directly relate to this paper's focus on conflict transformation and the role of awareness in mediation.

Right View: Changing perspective as premise for transforming conflict

Right View sets the groundwork. As we know from our own practical experience in life and mediation, views have a wide-ranging impact, as they govern our attitudes, choices, goals, and actions. Similarly, Buddhism holds that "if we hold a wrong view, [...] it will lead us towards courses of action that eventuate in suffering. [...] If we adopt a right view, that view will steer us towards right action, and thereby towards freedom from suffering" (Bodhi, 1999). Since the Buddha's teachings are experiential in nature, they continuously need to be applied, tested, and fine-tuned in order to be fully realized in the framework of one's life. What is required, then, is the daily intention to investigate our strongly held opinions and assumptions and to see what is beneath that drives both internal and external frictions and conflict. By becoming aware of the root causes that underlie biases or judgments, by seeing our over-reliance on and over-identification with thoughts and feelings, and by seeing how our reductive and interpretive thought patterns ignore so much of what is taking place, one can become aware not only of the interdependence of all things but as well a larger appreciation of the causes and conditions that give rise to what is taking place.

Right Mindfulness: Opening up the field of awareness

In the contemporary sense, mindfulness is understood as the total presence of mind attending

to objects of current experience (Olendzki, 2009). Mindfulness is typically undertaken by attending to the breath on a moment-to-moment basis. A primary characteristic in mindfulness therefore is “one-pointedness,” focusing the mind on a single point by placing it upon an object (such as the breath) and noticing when the mind has wandered off only to return to the object again (Olendzki, 2009). The pitfall of the common Western understanding of mindfulness, however, is that it often has been dissociated from the greater context of Buddhist ethics and its traditional use of mindfulness linked with mindful analysis of human processes as a therapeutic response to suffering (Wright, 2009; Gethin, 2001; Bodhi, 2000; Kornfield, 2010).

Along these lines and in correction Arai (2017) defines *Right Mindfulness* as “self-awareness of both mental and physical dimensions of human experience” (p. 12). In this connection, the *Vipassana, or Insight Meditation*, tradition, which has gained traction in the Western world, emphasizes the meditative practice of mindfulness of breathing. Undertaken in combination with the contemplation of impermanence as observed in continuous bodily and mental changes, one eventually gains insight into the impermanence of self (Bond, 1992). The realization that nothing has self-existence – that nothing statically exists on its own – is at the heart of non-dual awareness and expresses the true nature of reality (Nyanaponika, 1998). Hence, to fully realize the profound insights of the practice of mindfulness and to enact them with others, mindfulness needs to be placed in its traditional context in order to open up to a more holistic understanding (Olendzki, 2009). If mindfulness is purely seen as an isolated instrument to enhance one’s focus, to break from mental and habitual patterns for a limited time, or to improve work productivity, it may not lead “people to behave better, [to] improve relationships or [to] make them happier” (Schwartz, 2014).

Easing the Pain: Utilizing Awareness to Address Conflict

Building awareness that is capable of perceiving the complex web of (root) causes and their effects on relationship is crucial in the interplay between self-reflection and active relationship building (Arai, 2017). Further, Arai notes “that this emphasis on simultaneity reflects the essential Buddhist worldview of non-duality, the belief that the ‘subjective’ experience of self cannot be differentiated from the ‘objective’ presence of the external environment” (p. 8). As we have seen, *Insight Meditation* offers a very practical way of enacting this understanding, precisely through the alternating interplay of focused immersion in an object of meditation and a larger contemplative awareness and analysis of what immersion bares: non-duality.

Non-dual awareness within and without as a premise to see through conflict

The Buddhist concept of *non-duality* challenges the mind’s tendency to consider one’s subjective reality as separate from the objective reality ‘out there’. This quite common dualistic vision leads us to view ourselves in terms of the “mistaken identity” (Kelly, 2015, p. 16) of a fixed and isolated self that is standing apart from the flow of what takes place, in some basic sense able to control what takes place, and in another sense needing to protect itself from it. This dualistic stance is reinforced by habitual thought patterns tied to pleasures and pains previously experienced, to be repeatedly sought or avoided. Through these thought patterns and feelings, we form our self-images, so that we even turn ourselves into objects, endlessly dividing, comparing and judging not only others but ourselves, comparing ‘what I am’ to ‘what

I should be', the gap between the two being our suffering. In this way, we suffer, incomplete and in disease, failing to wholly and transparently realize what is here and now and our intimate connection with it.

To rectify this flawed standpoint, the many strands of Buddhism offer a number of meditative approaches. Some, like *Insight Meditation*, stress attention and concentration (such as one-pointed focus on an object) set in an encompassing awareness to carefully analyze the processes that make up human experience, baring the fixed and isolated self as a phantom. Others open up meditation from the narrow attention on a particular object to simply resting in an inclusive awareness that is itself both the expression of non-duality and the cessation of clinging to division, comparison, preference and judgment (Seng-T'san, 2001; Leighton, 2000; Norbu & Shane, 1996; Adamek, 2011). In coming to inclusive awareness, for example, one may ask: "What is this 'I' that I attach onto everything I sense?" (Thompson, 2016). As Loch Kelly (2017), himself trained in *Insight Meditation* as well as in many of these other 'inclusive' practices (those not focusing on a specific object), frames this alternate approach: "Effortless mindfulness" empowers us with the natural capability to be with our thoughts and emotions, without obsessive monitoring. "From effortless mindfulness, we have the ability to experience the arising of thoughts, feelings, emotions, and even sub-personalities from within and all around – without needing to identify with them, deny them, or project them onto others."

In the *Mahayana* strand of Buddhism, the metaphoric image of *Indra's Net* is used to express the pervasive Buddhist teaching that no thing has an existence on its own, but always comes into existence in dependence upon other things. All phenomena are empty of 'substance' or 'essence' because they are dependently co-arisen (Kalupahana, 1994). In the words of the late Alan Watts (n.d.): "Imagine a multidimensional spider's web in the early morning covered with dew drops. And every dew drop contains the reflection of all the other dew drops. And, in each reflected dew drop, the reflections of all the other dew drops in that reflection [...]." The image of *Indra's Net* also speaks to our involvement in suffering. Because of our deep interdependence our hurt and self-centeredness perpetuate hurt and self-centeredness. While not excusing unskillful behavior, we realize what underlies afflictive emotions and fixed thoughts that build and maintain both personal and inter-personal conflicts: each person's suffering, and each person's sense of hurt, isolation, incompleteness and self-contradiction.

By accessing what Kelly frames "spacious awareness" (2015, p. 57), which allows us to be simultaneously aware of our 'inner' aliveness (physical sensations, thoughts and feelings) as well as of the outer environment of stimuli, the fluidity between ourselves and all things is manifested. In fact, the spacious awareness embracing all may itself come to the fore, so that there is a shift of focus from the forms of awareness to awareness itself. Seeing out of awareness itself, no one and nothing is excluded, so that the aware person can act in wisdom in the midst of human relationships (Mumon, 2004).

Enacting awareness in everyday life: Mediating (with) awareness – an experiential exploration

Spacious awareness can enlighten conflict in a number of distinct ways. It: (1) sets the conflict within the widened context of the inextricable intimacy of those in conflict here and now; (2) sees each person from multiple perspectives, as more than a two-dimensional position; (3) dissolves the psychological gap between self and other, which involves recognizing one another's humanity, dignity, and values; and (4) stays with 'what is' (i.e., open to all the aspects of the conflict, its causes and setting) as the ground for exploring 'what could be' (i.e., a co-creative resolution).

In the authors' experience as conflict mediators who practice open awareness in conflict settings,

the very acknowledgment and presence of that awareness in a room changes the way conflict is approached and understood. A calm, open, and non-reactive space can be initially accessed by introducing a brief meditation on the breath at the beginning of the conversation. In this way, the parties involved might gain a first insight into their current mental and emotional processes - by simply having a person attend to an easily accessible 'spacious' object like the breath, thereby opening up a calm, inclusive awareness, where a person is not caught by the force of sensations, thoughts and emotions, but can instead in that spaciousness note and reflect upon the internal and external workings of the moment just as they occur. Calm and insight may also be introduced in the mediator's willingness and capacity to approach the conflict from the standpoint of awareness of 'what is'; an inclusive space that allows the mediator's own inner processes and those of the parties at the table to appear without habitual reaction to them.

In fact, the very essence and structure of mediation holds a lot of practical 'hooks' for open awareness, and for a Buddhist approach to conflict transformation:

- 1) *Engaging in open listening* means putting the focus on empathy and non-judgment rather than on turning the mind to positions and immediately seeking solutions based on them. Awareness, since it excludes nothing, opens onto empathy, changing the quality of listening. One now comes from an inclusive, yet intimately interpersonal, sphere;
- 2) *Restating what is spoken and reframing it* in terms of the underlying values validates the speaker and conveys that (s)he is being heard, also helping to check the accuracy of the mediator's perceptions;
- 3) *In asking gentle probing questions*, the mediator can help conflict constituents to bring habitual positions and reactions to light;
- 4) *Listening for what is not stated* (through cues taken from body language and facial expressions, as well as from silent 'gaps' on certain topics, hinting to what may be avoided or left unsaid), the mediator can create a space for what remains unacknowledged to emerge;
- 5) *Through enhanced awareness*, going from 'what I want v. what you want' to 'what we together need and can do'.

In this way, the mediator may facilitate a deeply empathic, non-judgmental conversation enabling all at the table to see through the self-identity-based suffering that underlies our destructive conflicts - doing so in the context of simultaneous self-reflection and dialogue, as envisaged by Arai (2017).

Conclusion

In a world in which conflict and peace are often seen as rooted in social and cultural structures and systems, it is important to shed light on the power and responsibility of the individual to create destructive conflict, and to transform it constructively in order to generate peace. After all, no one other than each one of us together envision and establish whatever structures and systems are in place. These can be as flawed as the people who created them, as structures and systems are often made in the image of ignorance and division, of narrow self-interest and self-protection. Yet even within these hardened systems and structures, there is room for revolution: individuals can in awareness come together to see relations and problems more inclusively, perhaps calling rigid, position-based systems and structures into question.

Certainly, even conflict transformation as understood in the West allows for seeing the "ebb and flow" of life "as [a series of] life-giving opportunities for creating constructive change processes"

(Lederach, 2003, p. 14). And yet Buddhist understandings of suffering as a common feature of life, and of one's power to alleviate it, offer significant, though relatively little known, additions to the discourse on the influence of the human mind and its conditioning on how we see and respond to conflict. While the Western, large scale approach to conflict transformation aims at liberating people, communities, societies and humanity-at-large from violence, injustice, discrimination, and other forms of suffering, there is another dimension to how this may be accomplished. As Arai (2017) skillfully puts it, this liberation needs to happen in the "inner realm of people" so that it affects their interactions and relationships, scaling up to communities, societies, and humanity-at-large. Naturally, the work of inner reflection and the acknowledgement of its role in relationships take time and attention and so is not currently a readily available quick fix for our human conflicts and division. It is an approach that asks society at the level of its individuals to take up the long-term commitment and effort of getting to the source of alienating views, thoughts, and actions, understanding that lasting change needs to come 'from the inside out' and from the 'bottom-up'. For this understanding to widely develop, we again start with each individual, taking each one at a time, developing awareness in conflict by practicing it with those around us, sharing its efficacy in the trenches of actual conflict.

Raising awareness of the non-duality, inclusiveness, and spaciousness of our lives must indeed be an everyday and deliberate choice to meet the authentic workings of our mind and heart, to realize "the complex web of cause and effect relationships" (Arai, 2017, p. 25). Based on the authors' own experiences in breath meditation and other techniques, a consistent investigation and practice of awareness have a 'therapeutic effect' (Olendzki, 2009) on life's daily and more global sufferings. Bringing this wisdom into mediation and conflict settings, we believe that it will find various expressions, some of which include already widely-applied mediation practices that dismantle afflictive constructs and reframe how we see and relate to one another.

Here are a few concrete suggestions for how Buddhist 'psychology', meditation, and awareness practices can facilitate conflict transformation (in the interaction between self-reflection and relationship building), both on individual and communal scales:

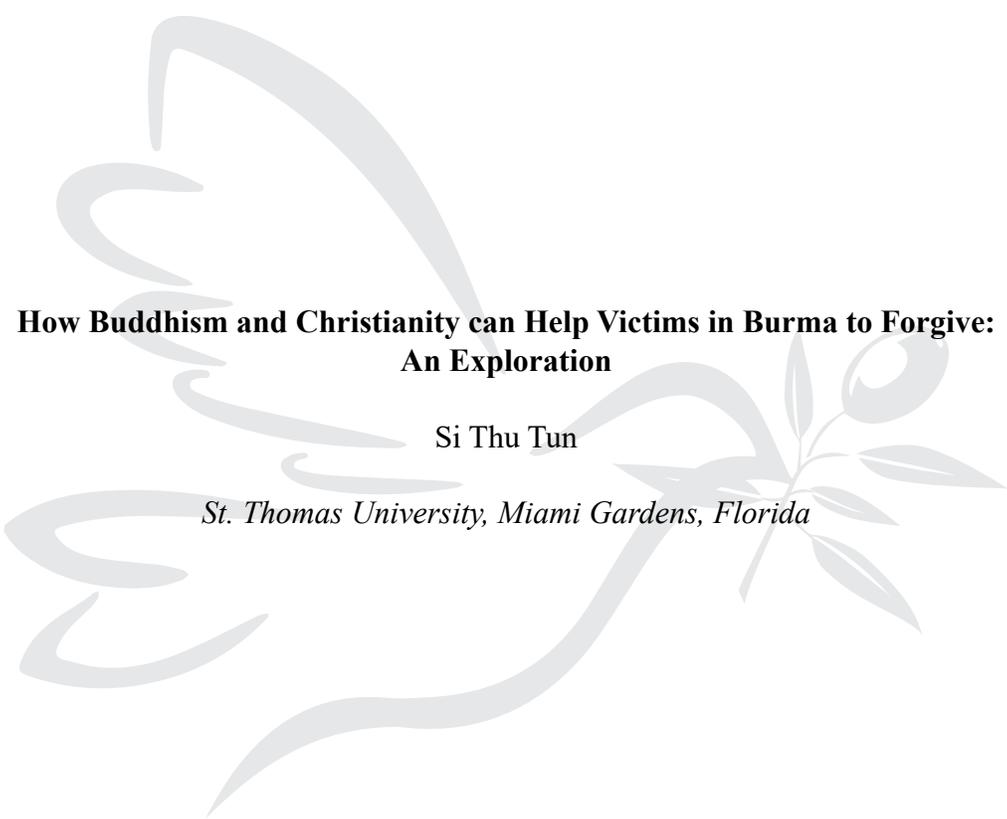
- 1) *Provide meditation training to mediators*, set in the framework of the Buddhist understanding of conflict and peace, to facilitate both reflective mindfulness practices and an inclusive, non-dual awareness in the mediator, who will then be able to bring this meditative stance into conflict settings;
- 2) *Introduce meditation and awareness practices into mediations*, both directly and indirectly, through breath meditations (especially when there are a lot of heated emotions), active and empathic listening, attentive restating and reframing, and gentle probing questions;
- 3) *Train communities served in meditation* to facilitate self-reflection and relationship building skills in community members, by investigating the workings of the human mind and how we view our selves;
- 4) *Continuously emphasize both self-reflection and sincere, trusting and truthful dialogue* as empowering, creative, sustainable, mutually reinforcing approaches to resolving conflicts, using both meditation as well as nonviolent communication as effective tools.

While we acknowledge the long-range orientation of a Buddhist approach to conflict transformation, we are convinced that the world, our communities, and each of us, need a more sustainably humane, consistent, and flexible approach to resolving conflicts: one enacted through each individual's sustained peace, and commitment to peace – within and without.

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**How Buddhism and Christianity can Help Victims in Burma to Forgive:
An Exploration**

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Abstract

The word forgiveness is a word that people hear quite frequently. While some people believe that they need to or should forgive, there are also people who want to be forgiven or believe that they deserve to be forgiven. Some people want to forgive while others do not. Some people believe that there are good reasons to forgive while others think that those reasons are not good enough for them to forgive. Whenever there is a consideration to offer forgiveness or the desire to seek forgiveness, it is highly possible that someone has wronged another person or one group has hurt another group. Many people in Burma today are the victims of a long and brutal military rule of that country. This military rule killed many innocent people, made many people to become Internally Displaced Persons (IDPs) or refugees in some neighboring countries, and committed many forms of human rights violations against its citizenry. If the talk of forgiveness comes into this context, millions of people in Burma will be the group that can offer forgiveness while the military is the group who can receive forgiveness. This author argues that it is a good thing if the victims in Burma can forgive their wrongdoers because forgiveness benefits the victims first and foremost. The author does not urge the victims in Burma to forgive their perpetrators because he acknowledges that it is inappropriate to urge any victim to forgive his/her perpetrator. He does not ask the victims in Burma to forgive also because he believes that it can be very difficult for them to forgive because of what happened to them. However, the author does point out that it can be detrimental to the victims if they rule out the option to consider forgiveness because forgiveness benefits the victims first and foremost, and not the perpetrators. Since it can be very difficult for the victims in Burma to forgive, it may be possible for them to forgive if they receive help. The author believes that Christianity and Buddhism can help the victims in Burma to be able to forgive.

Keywords: Christianity, Buddhism, Burma, forgiveness, victim, perpetrator, Burmese military

Introduction

Burma fell under complete military control at least from 1962 to 2010 (Smith, 1999; Holliday, 2011). This decades-long militarization in Burma has harmed many people in Burma. Under military rule, many people in Burma suffered from rape (Shan Human Rights Foundation & Shan Women's Action Network, 2002), extrajudicial killings (International Human Rights Clinic at Harvard Law School, 2009), forced labor, torture (Human Rights Documentation Unit, 2007), and forced relocations (International Human Rights Clinic at Harvard Law School, 2009). This brutal military rule victimized the majority of the population in Burma.

The author argues two points here. The first is that the practice of forgiveness benefits these victims in two particular ways. The victims may consider if they can forgive their offenders. The second is that both Buddhism and Christianity can help these victims to be able to forgive.

Forgiveness Benefits Victims in Burma

At present, even though Burma is not free from military control, the country has become more open and free (Holliday, 2011). Politically, the country is trying to move on after the end of complete military control. However, victims of political oppression in Burma have never been apologized to, let alone compensated for what they have suffered. Military rule in Burma has caused a lot of injuries to these victims, and their wounds have not been attended to. They are still in pain. The practice of forgiveness has the potential to help victims of militarization in Burma to reduce the pain that they have been suffering from. Certainly, to forgive is easier said than done and there are people in Burma who cannot forgive the military for what they did to them.

For instance, Win Tin, who was one of the most famous political prisoners in Burma, admitted that he found it very difficult to forgive the military government. Win Tin was a writer, politician, founding member of the National League for Democracy (NLD), which was the main opposition political party to the military government in Burma. He served in prison more than nineteen years because of his political activities and beliefs. He never received fair trial and was tortured in prison (Wiles, 2015; Martin, 2014). After he came out of prison, he said the following:

I have no grudge against the military rulers and junta members, but I cannot forgive and forget, as long as they don't change their minds, practices, and political ambitions. How can we forgive? Thousands of people are dead, in prisons and so on. Nowadays there are people including Aung San Suu Kyi who would like to forgive the military — but I said I cannot do it so long as they don't change their philosophy and don't give assistance to ex-political prisoners. (Wiles, 2015, pp. 63-64)

To forgive, according to *Oxford English Dictionary*, means to pardon an offense or an offender. To pardon an offense means to give up anger or claim, and compensation or retaliation for an offense. On the other hand, to pardon an offender means to give up resentment that one has against an offender. Therefore, if someone does not forgive his/her offender, that person still holds resentment against his/her offender, and refuses to give up the possibility of retaliation or claim for compensation from the offender (Tutu & Tutu, 2014). Tutu and Tutu (2014) believe that when an individual fails to forgive his/her

offender, it means that that individual cannot yet let go of feelings of bitterness toward his/her offender.

If victims in Burma can forgive their offenders, these victims will benefit in two particular ways. First, they will be free from harm that an unforgiving heart imposes upon them. Feelings such as anger, resentment, and revenge cause harm to the humanity and personhood of a person (Tutu, 1999). When someone forgives, he/she gets rid of the feelings that harm him/her. For this reason, Desmond Tutu (1999) believes that forgiveness serves as the best form of self-interest for victims. However, Andrew Fiala (2012) argues that “forgiveness offered as an exchange would not count as genuinely moral” (p. 495).

Fiala (2012) makes a fair and important argument, but this argument misses something important. It misses the reality of the pain that the victim is suffering. It is moral for victims to forgive because the practice of forgiveness takes away some of the pain that they are suffering. Their practice of forgiveness does not hurt anyone. It is immoral to counsel victims not to forgive because these victims want to forgive as they want some of their pain to go away. This counsel is not appropriate because it does not take the suffering of the victims into account. Therefore, it is not morally wrong for the victims in Burma to forgive their perpetrators because these victims want to feel less pain.

Second, the practice of forgiveness puts victims in the position of power. Offenders do not enact the practice of forgiveness, but the victims do. Victims do not owe forgiveness to their offenders. Offenders also do not have the right to forgiveness (Philpot, 2012). Only the victims decide whether to forgive or not, but no one else. This puts victims in the position of power over their offenders. Victims were once objects in their relation to their perpetrators. But when it comes to forgiveness, there is nothing perpetrators can do. Victims are in full control. Victims are no longer humiliated in their relationship with their offenders. Since forgiveness serves victims primarily at least in these two particular ways, victims in Burma may not want to ignore to try to forgive their offenders.

It may not be easy to forgive, but there is help

It could be easier for victims to forgive their perpetrators if their perpetrators feel remorse and offer an apology (Philpot, 2012; Tutu, 1999). However, sometimes it is still very difficult for victims to forgive their perpetrators even when perpetrators offer an apology (Tutu, 1999). Therefore, it can be much more difficult to forgive when perpetrators do not offer an apology. Perpetrators in Burma have not apologized to their victims yet, and it is not clear whether they will do so at all. This means that it is likely that victims in Burma will have to forgive their offenders before their offenders apologize or without hoping that they will apologize at all.

As it can be more difficult to forgive without an apology from offenders, victims in Burma may forgive their perpetrators if they receive help. To that end, the author wants to explore how Buddhism and Christianity can help victims in Burma to practice forgiveness. The author wants to explore these two particular religions on this subject because Buddhism is the majority religion in Burma (Augurlion, 2018) and the author is a Christian from Burma. The author also wants to find out how these two religions can supplement each other when it comes to the practice of forgiveness.

Forgiveness in Buddhism

Buddhism does not have a concept or vocabulary that perfectly matches the Western understanding of forgiveness (Peterson & Seligman, 2004), but this does not mean that forgiveness is unimportant to Buddha. Buddhism gives strong emphasis on forgiveness in personal relationship. Buddha understands

forgiveness as an action that prevents harmful thoughts that harm the one who cannot forgive. Buddha teaches that when someone cannot forgive, that person holds on to anger. To hold on to anger is like holding a *hot coal*, which one wants to throw at someone else. However, the person who is holding that *hot coal* is the one who gets burned. Therefore, Buddha encourages to forgive because when someone forgives, that person stops hurting himself/herself (Pareek & Mathur, 2013).

To forgo the perpetrator and perpetrator's action serves as a foundation for forgiveness in Buddhism (Cheng, 2008). Buddhism teaches two virtues that have become a method to forgo the perpetrator and the perpetrator's action. These two virtues are forbearance and compassion (Peterson & Seligman, 2004). First, one practices forbearance toward one's perpetrator. The forbearing person eliminates the possibility of retribution. A victim may give up the possibility of retribution in forbearing, but this victim may still hold on to anger. Therefore, in the second step, the forbearing person moves on to show compassion to the wrongdoer. This requires an individual to abandon anger or resentment that one has for one's wrongdoer (Rye et al., 2000).

In fact, to show compassion to one's wrongdoer, in Buddhism, goes beyond the abandonment of anger. Generally, the English word *compassion* is the translation for Pali word *karuṇa*. The person who has *karuṇa* wants others to be free from suffering (Harvey, 1990). Therefore, when a victim shows *karuṇa* to his/her perpetrator, this victim does not want the perpetrator to suffer. What Buddha said about his response to wrongdoing helps one to understand more about the practice of *karuṇa*. Buddha said: "if a person foolishly does me wrong, I will return to him the protection of my boundless love. The more evil that comes from him, the more good will go from me. I will only give off the fragrance of goodness" (Alarid & Want, 2001, p. 236).

Buddha clearly ruled out the option to retaliate (the practice of forbearance). He gave no place for anger toward his wrongdoer. Instead, he would give this person the protection of his boundless love (the practice of *karuṇa*). What Buddha did not say here was also important to note. Buddha did not say that the wrongdoer needed to be remorseful in order to earn forbearance and *karuṇa* from him. Either apology or remorseful heart is a requirement here, because what matters most here is suffering. The practices of forbearing and *karuṇa* aim to end suffering. Buddhism teaches that "suffering pervades all experience in the world" (Rye et al., 2000, p. 27) and Buddhism seeks to end this suffering (Rye et al., 2000). The Buddhist practice of forgiveness also aims to end suffering.

When someone retaliates against his/her offender, suffering does not end. Instead, retaliation increases suffering. In order to avoid more suffering and even to end it, one needs to give up anger and the desire to retaliate. That is to practice forbearance. However, the effort to end suffering does not end with the practice of forbearance. One still needs to have compassion for his/her offender. When a person has compassion for his/her offender, that person will not only avoid causing pain, but will also try to do good to his/her offender. Buddhist version of forgiveness, which is to practice forbearance and compassion toward one's wrongdoer, helps to end the suffering of both the victim and perpetrator. Buddhist practice of forgiveness helps the victim to drop the *hot coal* he/she is holding. It prevents more suffering as it helps the victim not to retaliate, but to give the perpetrator boundless love.

Forgiveness in Christianity

Christianity places a strong emphasis on forgiveness. It teaches to forgive without any condition. This means that Christians need to forgive even if the wrongdoer is not remorseful (Lutjen et al., 2012;

Peterson & Seligman, 2004). The Christian understanding of forgiveness is based on God's action: how God acts to forgive human beings (Philpot, 2012). Christian understanding of God's forgiveness for human beings begins with the sinfulness of human beings. All human beings perform sinful actions, are guilty of their sinful actions, and the result is that they are trapped in their own sin. There is no way out for them except God saves or delivers them from this situation (Eastman, 2016).

In Christianity, the price for sin is death (eternal death) (Romans, 6:23). This means that human beings will experience death if their sins are not forgiven. For this reason, God acts to grant forgiveness to human beings. God became a human being in Jesus Christ (the incarnation of God). Jesus Christ died in the place of human beings and he resurrected from death three days after his death (1 Corinthians, 15:4). Jesus Christ died in the place of human beings means that through his death God liberates human beings from the power of sin because Jesus Christ (God incarnate) paid the wage of human sin (Kärkkäinen, 2016; Philpot, 2012). This divine forgiveness delivers human beings from death and gives eternal life as a free gift (Romans, 6:23). Therefore, in Christian tradition God's forgiveness for human beings is a free gift (Eastman, 2016).

Human to human forgiveness in Christianity is based on this divine forgiveness for human beings (Schreiter, 1998). Christians are urged to forgive others as God forgives them (Ephesians, 4:32). Jesus Christ himself, on many occasions, encouraged his followers to forgive one another in order to be forgiven by God (Philpot, 2012). This sounds like there is a requirement to receive God's forgiveness. However, the *New Testament* seems to indicate that there are no requirements in advance for humans to receive God's forgiveness. Instead, they receive God's forgiveness unconditionally (Romans, 5:8). If human to human forgiveness is modeled on divine forgiveness for human beings, humans need to forgive each other without any precondition. Therefore, Christianity teaches that human beings need to imitate divine forgiveness and forgive each other in the same manner (Kärkkäinen, 2016).

God's unconditional forgiveness for human beings is best understood in light of God's love for human beings (Schreiter, 1998). God decided to save human beings from sin because God loved them so much that God did not want them to perish because of their sins (John, 3:16-17). For Christians, this means that they forgive their offenders because they are able to love their offenders. In fact, Jesus Christ teaches to love even one's enemies (Matthew, 5:44). Therefore, Christianity teaches not only to forgive one's perpetrators unconditionally, but also to love them.

However, Christian understanding of human forgiveness does not simply teach to forgive offenders and love them. Jesus said, "If another member of the church sins against you, go and point out the fault when the two of you are alone. If the member listens to you, you have regained that one" (Matthew, 18:15). This means that the forgiver has the responsibility to expose the offense of the offender. This exposure of the offense of the offender has to happen in private, not in public. The aim here is not to shame the offender, but to convince him/her that he/she has done something wrong. To expose the offense of the offender is to invoke justice between the forgiver and offender (Kärkkäinen, 2016).

Comparison of Forgiveness in Buddhism and Christianity

Forgive unconditionally. Both Buddhism and Christianity teach to forgive unconditionally. Buddhism teaches to forego the offense and its agent even if the agent is lacking remorse. Christianity, likewise, teaches to imitate divine forgiveness and forgive unconditionally. Therefore, there is hope that

if victims in Burma take their respective religion's teaching on forgiveness seriously, they will likely consider to forgive if they have not done so. They may be able to forgive even if their offenders do not apologize to them just as both Buddhism and Christianity teach to forgive even if one's perpetrator is not repentant.

Love your offender. After getting rid of anger, Buddhism teaches to have compassion for one's offender. In the same way, Christianity teaches not only to give up resentment and the desire to retaliate, but also to love one's enemies (Matthew, 5: 44). Both religions teach this same point not simply as an ideal, but also because of practical reasons. Buddhism teaches to practice forbearance and compassion (that is, to forgive) for two basic practical reasons. This practice, firstly, prevents victims from hurting themselves more as they let go negative feelings such as anger and resentment. Secondly, as victims forgive, they foreclose the option to retaliate. As victims do not retaliate, the practice of forgiveness ends suffering and promotes bliss in the society. Christianity also teaches to forgive and even to love one's enemies because it is the only way to end anger, hatred, and more violence.

Justice. To assert that in general Buddhism does not give explicit attention to the idea of justice or an elaborated understanding of justice, as Paul F. Knitter (2013) believes, is not a fair assessment of Buddhism. In Khetjoi and Thasa's (2017) journal article, an in-depth understanding of the place of justice in Buddhist teachings is presented. Like Jesus, Buddha was born into an unjust society and was deeply concerned with justice as Jesus was (Phan, 2006). However, it is clear that Buddhist teaching on forgiveness does not have a direct relation to the idea of justice. The emphasis is only on forbearing and compassion. Buddhists' understanding of the Buddhist doctrine of *kamma* (Sanskrit: *karma*) at times makes Buddhists to disassociate justice from the practice of forgiveness. For instance, there are Buddhists in Thailand who forgive their offenders with little or no attachment to the issue of justice because of their understanding of the doctrine of *kamma* (Engel & Engel, 2010).

In Buddhism, *kamma* "means volitional action in deeds, words, and thoughts which may be morally good or bad" (Jones, 1988, p. 67). *Kamma* has its fruit or result. Good *kamma* yields good results while bad *kamma* yields bad results (Rahula, 1974). One may reap the fruits of one's *kamma* either in this life or in a future one (King, 2009). This, sometimes, makes victims to believe that they suffer now not because of the action of an outside agent or agents. Instead, these victims believe that they are simply reaping the fruits of their bad *kamma* from the past.

Even if they believe that what they are suffering now is the result of someone's wrongdoing, they also tend to believe that justice will prevail in the future because of the law of *kamma*. The wrongdoer will reap his/her fruit of bad *kamma* either in this life or in a future life. The author has come across many Buddhists in Burma who sincerely believe that they suffered under a repressive military regime because of their past bad *kamma*. Some Buddhists in Thailand too think in the same way (Engel & Engel, 2010). This understanding of *kamma* may lead many Buddhists in Burma to forgive their offenders too quickly (King, 2005). Sulak Sivaraksa, a scholar and activist from Thailand, believes that this kind of understanding of *kamma* as a system of justice may make people to forgive prematurely (King, 2005).

At this point, Christians in Burma have the responsibility to remind their Buddhist brothers and sisters about the importance of justice in the practice of forgiveness. Otherwise, forgiveness can become a cheap word and practice. It would not be difficult for Buddhists in Burma to understand the importance of justice in forgiveness when their Christian brothers and sisters remind them about that. One prominent Buddhist from Thailand, Sulak Sivaraksa, believes that to forgive without thinking about justice is not

appropriate in all cases. For instance, he believes that it is important to bring the leaders of Khmer Rouge in Cambodia to trial (King, 2005). As their fellow Buddhist such as Sulak understands the importance of justice in forgiving, there is hope that Buddhists in Burma too can understand this.

On the other hand, preoccupation with justice may hinder one to practice forgiveness (Volf, 1996). Indeed, there are Christians who prefer *justice before forgiveness* sequence. For instance, liberation theologians believe that it is inappropriate to offer forgiveness without addressing injustice first (Bell, 2001). Justice is important, but the fixation on justice should not become a roadblock for victims to practice forgiveness. This should not be the case especially because the practice of forgiveness primarily benefits the victims, and not the perpetrators. If the issue of justice in forgiveness becomes a roadblock for Christians to forgive their offenders, Buddhists have the potential to help Christians to overcome it.

Buddhism teaches non-attachment or non-self, known in Pali as *anatta*. Buddha teaches that everything is impermanent (*anicca*) and there is no such thing as permanent soul or self (Soko, 2009). This is not the place to elaborate extensively on the Buddhist doctrine of *anatta*. For a fuller account on this doctrine consult sources such as Soko (2009), Harvey (1990), and Rahula (1974). The aim here is to explain how Buddhist doctrine of *anatta* can help Christians who are entangled with justice issue in forgiveness. This Buddhist doctrine of the non-existence of self “is primarily a practical teaching aimed at the overcoming of attachment” (Harvey, 1990, p. 52). The desire to see justice prevail before forgiving one’s offender is the result of attachment to self. Preoccupation with one’s suffering as a result of someone else’s actions leads to preoccupation with *justice before forgiveness* sequence.

Christians in Burma do not necessarily have to agree with the Buddhist’s view on self to be able to overcome their preoccupation with self in forgiveness. Instead, the Buddhist doctrine of non-self and nonattachment will remind these Christians that Jesus also teaches to forgive without seeking justice first. Yes, Jesus teaches to include justice in forgiveness (Matthew, 18:15). But he also teaches that in the practice of forgiveness one gives up the claim against the wrongdoer or one sets free one’s debtors from the responsibility to repay the debts (Matthew, 18: 27; Luke, 7: 42-43; Pettigrove, 2009). Therefore, here the Buddhist doctrine of non-self will serve as a reminder for Christians that Jesus also teaches to forgive without thinking first about justice for oneself.

Conclusion

Victims of political oppression in Burma have suffered a lot. They will continue to suffer in some forms if they cannot forgive their perpetrators. As they cannot forgive, they will be under the influence of negative feelings such as anger, resentment, and the desire to retaliate. However, if they can forgive their perpetrators, they will be free from these negative feelings that can harm them. To forgive for this seemingly therapeutic reason may not sound as noble as the view that one needs to forgive because it is morally right to do so. However, the argument that it is a good thing to forgive because the practice of forgiveness serves the victims in the first place is as noble as the moral argument and is not less moral.

To agree with victims who want to forgive their offenders because it serves the victims primarily is noble especially in light of the sufferings of the victims of political oppression in Burma. These victims have not received acknowledgement, apology, or compensations from their offenders for what they have suffered. Therefore, they are still suffering. When they are able to forgive their offenders, they will be in less pain. Their practice of forgiveness will take away some negative feelings and emotions that continue to hurt them.

Here the practice of forgiveness is not viewed as merely instrumental. To agree with victims who want to forgive their violators because this will serve them first and foremost means to acknowledge that they have been wronged and support them in their desire and effort to continue their lives with less pain. It is a noble decision to agree with them to forgive for this particular reason because it means to stand on the side of the victims. It is not also less moral than the moral argument because their practice of forgiveness does not hurt their former perpetrators. Instead, it is morally commendable because in forgiveness the victims not only cease negative views and feelings about the offenders, they also love the offenders.

The practice of forgiveness also changes the nature of the relationship between victims of political oppression in Burma and their former offenders dramatically. This change begins even when these victims start to think about forgiving their former perpetrators. They are no longer helpless individuals who were under the tight control of their former violators. They are now in power. They have the power either to forgive or not to forgive. Their former offenders do not have the right to the victims' forgiveness. Since the practice of forgiveness can benefit the victims in this particular way as well, it is important for the victims in Burma not to foreclose the option to forgive.

Both Buddhism and Christianity have the potential to help victims of political oppression in Burma to be able to forgive their perpetrators. Therefore, it is important for Buddhists and Christians in Burma to take both Buddhism and Christianity seriously on the issue of forgiveness. These religions can help the victims in Burma to be in less pain as Buddhism and Christianity can assist them in the practice of forgiveness. When victims of political oppression in Burma are able to forgive their violators, there is hope that eventually this ability to forgive might lead to reconciliation. Although Erin Daly and Jeremy Sarkin (2007) argue that the practice of forgiveness does not always lead to reconciliation, the author agrees with Philpot (2012) that forgiveness is "a practice of reconciliation and a tool of peacebuilding" (p. 252). The practice of forgiveness is a crucial component in the reconciliation process.

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**The Politics of Conflict Resolution:
A Study of the Mediation Practices of Sayyid Muhammad Ali Shihab**

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Abstract

The paper examines conflict resolution methods and techniques practiced by Sayyid Muhammad Ali Shihab (1936-2009) and his role in community building in a pluralist society. He is a Muslim religious and political leader from Kerala, a south Indian state. The population of Kerala is religiously diverse with 54.73 % Hindus, 26.56 % Muslims and 18.38 % Christians. The state is known for its composite culture and religious harmony. He was the state president of Indian Union Muslim League, the third-largest political party in the state from 1975 to 2009 and the Qazi (religious authority) of many Mahals (Muslim association centered in a mosque in a specific geographical location). He headed many religious and educational institutions across the state and practiced traditional Islamic healing. As a person belonging to the Sayyid family (descendants of prophet Muhammed) who migrated to Kerala from Yemen around 300 years ago, he already possessed a traditional authority over the Muslim population of the region. As a leader, he was the center of the conflict resolution in his society. Tuesday was the day of the week he entirely dedicated to problem-solving practices and public interactions. Hence, every Tuesday, people from and outside of the Muslim community visited him to solve their personal problems, interpersonal quarrels, inter-community conflicts, and the issues in everyday working of the Mahals. His popularity in the field was widely accepted as there was a time when he was assigned mediation by the High Court of Kerala. The study examines how he practiced conflict resolution as a principle of his political engagement and as a tool for strengthening religious harmony, especially in the post-Babari Masjid demolition of 1992.

Keywords: Islam, Muslim, India, conflict resolution, politics

Introduction

The inter-community relationship in India has invited the attention of scholars of politics, sociology, economics, and other disciplines. Most of the scholastic contribution presents a conflicting picture of post-colonial India regarding the relationship between communities (Palshikar & Deshpande, 2019; Brass, 2003; Varshney, 2002). It is because the modern Indian state is culturally and religiously diverse; the imagination of the nation continued to be very diverse. It opened ways to the emergence of conflicting interests. The political discourses in the post-colonial India are very much communally sensitive as it is centered around the perspectives, questions and demands of competing communities on history, memory and the contemporary politics (Chandra, 1984; Das, 1990; Engineer, 1984). In 2016, Pew Research Center ranked India first in its index of social hostilities involving religion (Pew Research Center, 2016).

At the same time, the popular and academic discourse about Kerala - a south Indian state - was different as the public opinion and the studies described it as a space for coexistence among religious communities. The population of Kerala consists of 54.73 % of Hindus, 26.56 % of Muslims and 18.38 % of Christians (Population Census, 2011; Zachariah, 2016). The composition of three religious communities in Kerala has invited the attention of scholars on many aspects of shared socio-cultural space. George Mathew's (1989) work, *Communal Road to Secular Kerala*, is a seminal work that deals with many issues of inter-community relationships and its political implications in Kerala.

The Muslim political experiments and engagements in the post-1947 Kerala have an important role in the constitution of the current political culture of the state (Aziz, 1992; Lakshmi, 2012). Muslim political choices in the state are diverse as the community members work in communist parties, Indian National Congress, and other political parties. Still, the Indian Union Muslim League (IUML) has dominance over others in representing Muslim members. IUML is the successor of All India Muslim League (AIML) in India after India-Pakistan partition. Currently, it is the third-largest party in the state of Kerala. It has a considerable presence in Tamil Nadu and a nominal presence in other parts of India. Electorally, politics in Kerala is a contest between two alliances: Left Democratic Front and United Democratic Front. IUML is a member of the later. The political trend in the state supports one of the alliances after another in the subsequent elections. Usually, IUML wins its pockets whether its alliance succeeds or fails.

The politics of IUML is a compelling case for scholars of conflict resolution in traditional societies. Ideologically, IUML proposes Muslim politics and stands for Muslim rights specifically. Being a political party that primarily focuses on a religious community in a secular state, IUML had to engage with discourses that invalidates its legitimacy. The political opponents tagged it as a communal party. (In India, the words *communal* and *communalism* have a negative connotation. It is because the words are used in opposition to secular and secularism.) The label centers on the argument that it is communal to organize politically on a religious identity in a secular country.

There were multiple efforts to ban IUML by the central government. The communalism tag also was a prime reason for the dismissal or failure of the League in its pockets in north India after independence. Hence, maintaining good relations with other communities was an essential tool in IUML politics and its political development. Therefore, mediation, solving, or preventing conflicts between communities were a vital tool for the politics and the political development of IUML. In this context, the study addresses the conflict resolution practices of Sayyid Muhammad Ali Shihab (Shihab Thangal

hereafter as he was popularly known) who was the president of Indian Union Muslim League (IUML) from 1975 to 2009 and the importance of these conflict resolution practices in the political identity formation of IUML and Muslim politics.

Conflict resolution is generally conceptualized as practices, methods, and processes intended to solve a conflict and retain peace and normalcy. Academically, it is a multidisciplinary study area and widely deliberated topic, especially in International Relations, Political Science, Social Work and Management Studies. Prominent scholars in the field have explained multiple ways and strategies to deal with conflict or analyzed how societies engage with it and documented the cultural differences of those engagements. For instance, Allan E. Barsky (2017) proposes five approaches to conflict resolution: rights, power, therapeutic, interests and transformation, and their application to the different range of conflict manifestation. John Bossy (2003) discusses conflict resolution practices in the West. John Paul Lederach (2010) criticizes limiting studies on conflict resolution to proposing strategies or analyzing practices as the above said works propose. Instead, he advocates for including spirituality, imagination, and creativity. Some scholars question the universality of western notions of conflict resolution. For instance, Avruch (1998) discusses the importance of considering the culture and local contexts while applying the methods, and Salem (1993) analyzes the western notions from the context of the Middle East.

In short, conflict resolution in the current literature, both mainstream and critical literature, begins after “conflict.” In other words, the focus of the studies are societies or persons affected by conflicts or problems, and the objective is to solve and deal with the situation. The present research, while building on the current concepts, also departs from them. It is because it advocates for the necessity of incorporating the society’s potential for conflicts in the scope of conflict resolution studies. The case addressed in this study is the mediation practices of a community leader. The society and situations he dealt are different from a conflict zone. But, his practices are intended to prevent conflicts and maintain prevailing peace in a multi-religious society that has a history of inter-community conflicts during the British period, and the relationship between same communities continues to be strained in some other parts of the country. Hence, the term conflict resolution used in this study accommodates practices intended to sustain normalcy and peace. The case is significant for the advancement of conflict resolution studies and practices in different contexts. This is because the study deals with the role of mediation and the power of community leaders in fostering peaceful coexistence in multi-religious societies.

Methodologically, the study is built on the methodological and theoretical perspectives of poststructuralist discourse analysis. According to the poststructuralist discourse analysis proposed by Laclau and Mouffe, the meaning of an act, statement, event, and individual appears and sustains through the hegemonic articulation of that meaning (Torfing, 1999). These articulations constitute the identity of the subject. Discourse analysis is the analysis of the formation of the meanings. The study analyzes discourses about Shihab Thangal, especially those that concern his conflict resolution and mediation practices, and examines how his mediation and discourses about it constitute his politics, personality, Muslim League politics and the society in which he lives. The primary materials of the study are political practices, articles, and statements of Shihab Thangal as well as memoirs published about him.

Shihab Thangal; Family, Education, and the Beginning of his Political Career

Shihab Thangal was born in a Sayyid Family of Panakkad on May 04, 1936. Panakkad is a village in Malappuram district, a district in Malabar region of Kerala. Malappuram is a state that has 70.24% Muslim population (Census, 2011). The Sayyids are descendants of prophet Muhammed. Scholars have studied the movements of Sayyid families from Yemen and other Arab countries to different locations across the Indian Ocean (Ho, 2006; Dale, 1997). Shihab Thangal's ancestors also migrated to Kerala from Hadhramaut, Yemen (Kanthapuram, 2011). His father, PMSA Pookkoya Thangal, with Sayyid Abdu Rahman Bafaqi was very instrumental in developing Muslim political consciousness. They were top leaders of the Muslim League in Malabar during the end of colonialism and the first and second decades of post-colonial India (Vadakara, 2015; Gangadharan, 1995).

He completed secondary education from Madrasathul Muhammadiyah Higher Secondary School in March 1953 (Vadakara, 2011). Then he joined Dars (a popular system of religious education in Kerala where Muslim clerics teach Islamic texts at the Mosques and students stay there to study) at Thalakkadathur from 1953-55. After, he moved to another Dars at Kanancheri in 1956 with a famous scholar in Islamic jurisprudence (fiqh), Ponmala Moideen Musliyar. Later he left for Cairo to join Al Azhar University for higher studies, and studied there during 1958-61. He moved to Cairo University from 1961 to 1966, studying Arabic literature and Sufism. While he was a student, he wrote articles in Arabic and Malayalam magazines about Arabic literature and media (Vadakara, 2011).

He was elected president of IUML Kerala State committee after the death of his father, PMSA Pookkoya Thangal on September 1, 1975. It was at the age of thirty-nine. In an interview with Jhony Lukoos, a journalist, he recalls that he was reluctant to receive the position. But, pressure from the top leaders of the party made him to accept the nomination (Lukoos, 2007). He continued as the president of the party until his death on August 1, 2009. He transcended the binary between religion and politics, as he was Qadi (Supreme religious authority) of 404 Mahals. As a Qadi, he is responsible for issuing Fatwas (opinion on religious issues) and supervising Muslim life under his jurisdiction. He practiced Islamic healing - a system of curing diseases through prayer, Quranic texts, and traditional medicines. The practice of Islamic healing was very normal in the Sayyid families of Malabar (Lang, 2014). In short, the religious authority of his family, his spiritual practices and political power placed him in a position that enabled him to be an influential leader, *Panakkatte kireedam vekkatha Sulthan* (The king form, *Panakkad*, who does not wear a crown). This was a popular introduction about him by the Muslim community, and it shaped community's social interactions, inter-community relationships and the Muslim political identity for three and half decades.

Everyday Practices of Conflict Resolution

An analysis of memoirs about Shihab Thangal reveals that the popular view about him is that he was a man of mediation and conflict resolution. The traditional authority of the Sayyids in the Muslim community is the prime reason for people's dependence on them for mediation. The Sayyid families in different localities play this role in Kerala. Panakkad Syed's family has more acceptance in the region than the other Syed families. The reputation of Panakkad Syed's family is based on the political and religious role they played in the area. PMSA Pookkoya Thangal (father of Shihab Thangal) was the state president of Indian Union Muslim League. He was arrested in 1948 as part of the government's move

against the Muslim League during Hyderabad action (a military plan to annex Hyderabad to Indian Union) (Vadakara, 2015). He also was a person extensively engaged in mediation and solving problems. One famous story about him illustrates his role in problem-solving practices in the community. One day, when he came out of his house during the early morning, he found some people sitting in the courtyard of his house and waiting. He realized that they were waiting for him since the midnight for an urgent matter and they could not wake him up as he was sleeping in a very inner part of the house. He felt very sorry about the incident, and decided to shift his bedroom to a room adjacent to the entrance of the house. He believed that it would be convenient for his visitors to wake him up if they needed to meet him during the nightly hours (Konnar, 2008).

Shihab Thangal continued the legacy of his family in mediation and solving conflicts. He reserved every Tuesday for a meeting with the public. Traditionally, the Sayyids at Panakkad family meet with people on Tuesdays. It was a custom practiced by his father too. On Tuesdays, his brothers also interacted with the public at their respective houses. All of them are either leaders of Samastha Kerala Jamiyyathul Ulama: an organization of Ulema/Muslim clerics (Members of the organization supports Muslim League in practice although there is no official collaboration between them) or they bear high position in the Muslim League. As the Sayyid houses are located in the same neighborhood in Panakkad, Tuesdays are usually very crowded there. People from different parts of Kerala come to the village to make an appointment with the Sayyids. The purpose of the visit varies from person to person and it includes healing, solving interpersonal quarrels, family problems, and inter-community conflicts. He usually sits in the front side of the house on his chair in front of a roundtable, and the people surround him from the three sides while presenting their issues to him. He listens to everybody and responds to the problems.

The study analyzed memoirs and popular stories about him. During the study, the spread of many stories and narratives about his mediation role in the community was revealed. It is beyond the scope of the study to document all those stories. Here is one such a story. It was widely circulated on social media in the form of a Facebook video by Basheer Faizy Deshamangalam. He is one of the leaders of the student wing of Samastha, the Ulema organization. Shajahan Madampat (2017) has quoted the same story in his article entitled “Malappuram isn’t Mini Kashmir.”

One day a quarrel was reported to the Panakkad family. A coconut tree owned by a neighboring Hindu family troubled a Masjid committee because it grew over the Masjid and the coconuts falling down from the tree regularly broke the thatched tiles of the Masjid. The situation became worse as the house owner declined the request of the masjid committee to cut the tree. The tension escalated to a conflict between the Muslim and Hindu communities. Finally, they decided to approach Shihab Thangal to mediate and solve the problem. He listened to both parties. The Muslim representative said that they (i.e., the Muslims) are tired of changing the tiles and there is no other way other than cutting the coconut tree. Hindu family members countered that the situation has gone out of their hand and the other community members are not satisfied with cutting the tree. Shihab Thangal ordered the Masjid committee to demolish the current structure and rebuild the Masjid with a concrete roof. He then handed over his donation for the rebuilding project. Everybody was happy with an unexpected solution proposed by him. The representative of the Hindu family also made a donation for the masjid reconstruction. The twist in the story begins as they returned home. The old mother at the Hindu home was shocked when she knew about the solution. She thought it is not fair to ask Muslims to rebuild their Masjid for the sake of a coconut tree. She requested an urgent meeting with Shihab Thangal as soon as possible to inform

him that they are ready to cut the tree. They rushed to his home; it was the early nightly hours. Still, the house was crowded. She entered the courtyard crying, apologizing and saying that she is ready to cut the tree. Shihab Thangal consoled her, and convinced her to continue with his earlier solution to the conflict (Deshamangalam, 2016).

There are similar popular stories about his engagement with solving problems and mediating everyday conflicts. The popularity of his practices of mediation and solving conflicts was officially endorsed when a Kerala High court assigned him a case for mediation. The family court of Malappuram was handling the case initially. A divorced woman named Chemban Imthihasunnisa filed a lawsuit against her ex-husband Kodasseri Abdul Hameed seeking money for the cost of care support services for herself and their children. The family court's verdict was in favor of Imthihasunnisa. Abdul Hameed appealed to the High Court of Kerala. While the case was processing in the court, the parties agreed for a settlement. Then the High Court judges - Kurian Joseph and Harun-ul-Rasheed - ordered that the case be sent to Shihab Thangal for mediation as the parties agreed that they will abide by his decision (Kodasseri Abdul Hameed Vs. Chemban Imthihasunnisa, 2007). They reached an agreement mediated by Shihab Thangal at his residence, and the court later produced its final judgement (Kodasseri Abdul Hameed vs. Chemban Imthihasunnisa, 2009).

He also mediated conflicts among Muslim organizations representing various sects in the Muslim community. Competition and contestation among religious organizations are a very important aspect of Kerala Islam (Santhosh, 2013; Kooria, 2013). The organizational split in the Muslim community of the region was a big problem for IUML as it reduces the collective power of the community while standing for the community rights and engaging with the government. Hence, engagements with conflicting religious organizations were part of everyday politics of the Muslim League. Considering the situation, Shihab Thangal developed a common platform for Muslim organizations to deal with cases that affect Muslims generally. The most crucial instance of such a movement was during *Mohd. Ahmed Khan v. Shah Bano Begum Case Verdict* of the Supreme Court of India in 1985. Muslim organizations considered the verdict as a move against the Islamic Sharia. Leaders of Muslim organizations have recognized his ability to bring rival Muslim organizations to a common platform (Hassan, 2009).

The Politics of Conflict Resolution

This section examines how Shihab Thangal extended his practices of mediation to the political arena. As he was the state president of Indian Union Muslim League, he had an influential role in shaping the political spectrum of his time. The political controversy over Babari Masjid is an integral part of post-colonial political discourses in India. The claim of Hindu nationalists over the Babari Masjid in Ayodhya, Uttar Pradesh was very instrumental in their emergence as a powerful political force in the country. The demolition of Babri Masjid by Hindu nationalists on December 6, 1992 reflected the entire country in the form of outbreaks of communal violence (India Today, 2011, December 5). The politics over Babri Masjid continued after its demolition also as Hindu nationalists propose a Hindu temple at the site. The incident and the political discourses around it changed the political fabric of India. It opened doors for the Bharatiya Janata Party to seize power and caused the decline of secularism and the rise of communalism (sectarianism). The outbreak of communal violence followed by the destruction of the Masjid was very massive and countrywide (Brass, 2003; Engineer, 2004).

Following the demolition of Babri Masjid and the eruption of communal violence across the country, Shihab Thangal issued a statement requesting the Muslim community to keep quiet and calm and not to indulge in any forms of retaliation against the Hindu community. He asked party members to stand around the Hindu temple, protecting it from any acts of violence. His statement was published in the leading daily newspapers. *Malayala Manorama* reports it as follows: “Muslim League president Shihab Thangal appeals to all sections of the people to maintain peace and obey law and order even at the stage of extreme provocation from the opponents until Muslim leaders across the country make a decision on the case” (Samadhanam Palikkuka, 1992). IUML provided vehicles, drove through the villages and announced Shihab Thangal’s statement in a loudspeaker while asking people to live in communal harmony (Madampat, 2010). His articles in *Chandrika Daily* proposes his idea about the Babri Masjid controversy. His article is entitled “Let thousand years old ideologies not get into conflicts.” In the article, he debunks Hindu nationalists’ claim over Babari Masjid citing historical and legal sources. He states IUML’s position over the issues, its desire for peace among communities and the willingness of the party to obey court order whatever it is. According to him, the preservation of religious institutions and their protection is the basis of Indian secularism proposed by the constitution. He refers to the August 15, 1947 private bill introduced by Muslim League in the parliament that advocates for maintaining the status quo regarding the ownership of religious institutions as a reference point (Shihab, 1990).

His statement and interference in the post-Babari scenario gathered appreciation from diverse sections of the communities. He was named *a man of peace*, and the secular credentials of his party strengthened in the public sphere (Sreedaran, 2011; Nair, 2011). His party leaders and supporters designated him with the title, *Samadanathinte Vellaripravu*, meaning *the dove of peace*. The title was trendy and widely used to introduce him in party pamphlets, articles, and speeches. Another incident, which invited much public appreciation, was his visit to Angadippuram Tali Temple. It is a famous Hindu temple in the Malabar. One morning, the temple authorities realized that somebody had burnt the giant door at the entrance of the temple. The situation was enough to fuel communal tension as the typical suspects are Muslims. It was a Friday. Finishing the Friday Prayer, he visited the temple and met Hindu priests. The picture, which shows him coming out of the temple after the visit and the Hindu priests accompanying him, was the frontline story of the next day newspapers. The image was enough to control the situation from erupting into a communal clash. There are similar incidents where he played a reconciling role, and the narrations about those are very popular in writings and speeches about him. The representational stories described in the above lines are enough to understand how he was perceived as a mediator and a man of reconciliation, and how he placed conflict resolution at the center of his politics.

Shihab Thangal and the Art of not Making a Conflict

As the introductory section explained, usually, conflict resolution studies the conflict zones, traces the causes or the constitution of the situation, and suggests the solution. An analysis of Shihab Thangal’s life and his mediation practices enlarges the domain of conflict resolution research to study the art of not making conflicts and its methods. The case of Shihab Thangal illustrates such a situation. His social and political policies were mostly to prevent conflicts, which is different from solving conflicts. International Relations scholarship has explained the scenario using the term diplomacy. The illegitimacy of violence or coercion and the risk of war have compelled modern states to choose diplomacy as a method to pursue

self-interests. Presently, the primary duty of a diplomat is to prevent conflicts or war between countries. Diplomatic practices have reduced wars and high-density conflicts between nations. On the other hand, inter-community clashes have become common within the countries, especially in multi-ethnic or multi-religious countries. Hence, maintaining and preserving mutual trust and respect between communities is essential to prevent an outbreak of conflict and clash between them.

In this context, Johnston's (2014) discussion of internal diplomacy invites more deliberations. According to him, "divisive character of religious influences is widely appreciated and understood, their obverse contributions to resolving conflict are all but unknown (Johnston, 2014, p. 1434). He argues that while international organizations have limited capability to intervene in internal conflicts of member states, religious figures and spiritual leaders have a significant role to play regarding mediation and conflict resolution. Some spiritual leaders played a significant role in controlling conflicts either through public diplomacy or as actors behind the scene. He illustrates with the instances of Mahatma Gandhi, Martin Luther King Jr. and Bishop Desmond Tutu (Johnston, 2014).

Shihab Thangal comes under Johnston's category of internal diplomats, and his practices of conflict resolution can be characterized as internal diplomacy. Scholars and practitioners of conflict resolution have outlined different methods to ease tension and solve problems. Mediation, negotiation, coordination, consensus building, circles, and nonviolent communication are some methods among them. Shihab Thangal utilized multiple methods of mediation according to the contexts and situations. The most common method he practiced is circles. The circle is a problem-solving method in which concerned people sit in a circle and share their problems with a person who may be either a leader of the community or an elder. Kay Pranis (2005) has documented the effectiveness of circles in conflict resolution. Shihab Thangal has a special arrangement at his residence to listen to the problems of the people. There is a round table at the sit-out of his house. Sit-outs are a very common part of Kerala houses. It is an open space in the front side of a home. He sits in a char facing the round table, and the people stand around him and the table sharing their problems and seeking solutions. The structural arrangements form a circle of people while he listens to the people. The memoirs and popular narratives about him have mentioned about this round table as it is a place where thousands of problems have been solved. He used this method to deal with personal issues, interpersonal quarrels, family problems, and other regular social issues. His models of conflict resolution in political cases are politics of self-restraint, compromise, and forgiveness. He advised against retaliation and revenge. Hence solving conflict and maintaining a harmonious relationship with other communities were central to his idea of doing community politics in a multi-religious society.

Shihab Thangal and the Making of the Muslim Polity

The section examines how Shihab Thangal's leadership and his political decisions centered around conflict resolution, self-restraint and reconciliation constituted the Muslim polity of Kerala. The introductory section has explained the difference in the political culture of Kerala comparing to some other parts of the country, as Kerala enjoys good relationship between and among major religious communities. A historical account of IUML reveals that it was a party that was isolated by other parties because of historical reasons, especially its relationship with its parental party, All India Muslim League. The later was considered in Indian public discourses as the cause of India-Pakistan partition. The political

discourses in India downgraded establishing a political party exclusively for a community. IUML had to struggle to get accepted at the political spectrum of Kerala. Hence, it was the primary duty of IUML to establish that its movement for Muslim rights is not to deny the rights of others. So maintaining a good relationship with other communities became an essential part of IUML politics. Shihab Thangal's period was very crucial in the party's political development.

Shihab Thangal and IUML projected communal harmony as the central element of their politics in the post-Babari scenario. He projected conflict resolution as the principal element of his politics. His actions and statements, especially in the post-Babari Masjid Scenario, and his intervention to prevent tensions between religious communities in different places produced political discourses and public opinions that increased the acceptance of Muslim League. As a result, Muslim League internalized peace and communal harmony as the center of its politics. For instance, the 70th-anniversary celebration of IUML at Malappuram by the youth wing of the party, the Muslim Youth League was conducted by flying doves to the sky. The state president of Muslim Youth League, Sayyid Munawwarali Shihab Thangal (Son of Shihab Thangal) was seen in the pictures of the celebration accompanying Hindu priest Melshandhi Subramanian and Father Jose Sebastian (Nasar, 2018).

At the same time, the Shihab Thangal's post-Babari policy also necessitated a split in the party as the national president Ibrahim Sulaiman Sait left the party. He formed Indian National League blaming inefficiency of Muslim League in addressing Muslim issues. The post-Babari scenario also witnessed the rise of new parties Like Popular Front of India and People Democratic Party advocating the need for more assertive Muslim politics and questioning IUML's stand on Babari Masjid demolition (KC, 2015). IUML countered the politics of new Muslim political parties arguing that these parties engage in politics of hatred, trying to break the relationship between communities and destruct peace and tranquility. The Babari demolition and its aftermath are very crucial in Kerala Muslim politics. It is because the political discourses of the time were about the ontology of Muslim politics in a situation that turns more hostile toward Muslims day by day (Chiriyankandath, 1996). In short, the constitution of Muslim polity in Kerala was very much associated with the discourses on conflict resolution, inter-community peace, and communal harmony.

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Transforming Ethnic Conflict and Building Peace in the Chittagong Hill Tracts, Bangladesh

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Abstract

The Chittagong Hill Tracts (CHT) has experienced conflicts and violence in both colonial and post-colonial periods. Ethnic violence in post-independence Bangladesh exists there since the 1980s. Despite the formal ending of the armed conflict between the state security forces and the peace force of the indigenous people with a peace treaty in 1997, the intercommunal violence continues in the CHT. This paper explores the salient factors of the CHT conflict by applying the social cubism model within a critical and emancipatory peacebuilding framework. The CHT conflict results from the dispossession of the indigenous communities from their ancestors' land, the deprivation of the indigenous people of their traditional and customary practices with nature and environment, and the silence over their histories, needs and identities. This paper argues that the CHT conflict is complex and protracted due to interlocking conflict factors that need to be considered in order to transform the conflict and build peace in the CHT territory of Bangladesh. This paper has immense research and policy implications for transformative and constructive peacebuilding in the CHT by addressing the social cube's multi-causal driving forces of the ongoing ethnic violence.

Keywords: Chittagong Hill Tracts, ethnic conflict, peacebuilding, social cubism

Introduction

Bangladesh (formerly East Pakistan) became an independent nation state in 1971. With a land area of only 147,000 sqm, Bangladesh is the home for over 160 million people (BBS, 2016). The ethnic groups comprise 1.10 percent of the total population (BBS, 2011). The Chittagong Hill Tracts (CHT) indigenous population accounts for 0.0049 percent of the total population of the country (Gurr, 1993). The CHT comprising three hilly districts - Khagrachari, Rangamati and Bandarban - has an area of 5,093 square miles that constitute about 10 percent of the total land area of Bangladesh (UNDP, 2005; Uddin, 2016). The CHT has a total population of 1,587,000, of which about half are indigenous people (BBS, 2015; Uddin, 2016).

The CHT, located in the southeast of Bangladesh, is a confluence of two regions - South Asia and Southeast Asia bordered by Myanmar on the southeast, the Indian state of Tripura in the north and Mizoram on the east, and the Chittagong district in the west. The CHT, surrounded by hills, forests, rivers, and lakes with scenic beauty, is rich in cultural heritage and natural resources. It is the home for thirteen indigenous (*adivasi* in Bengali) peoples who have been living there for centuries, at least from the fifteenth century (Adnan, 2004; Schendel et al., 2000; Datta, 2015).

The *Chakma* is the largest ethnic group (about half of the ethnic minority population) followed by the *Marma* and the *Tripura* among CHT's different tribal communities, each having their own cultural identity (MAR, 2016; Uddin, 2016). Other major *adivasi* (indigenous) groups are the *Bawm*, the *Mro*, the *Tanchangya*, the *Chak*, the *Pangkho*, the *Lushai*, the *Khyang* and the *Khumi* (Uddin, 2016). Indigenous communities are heterogeneous by faith, most are the followers of Buddhism, Hinduism, Christianity, and animism, while the Bengalis are mostly Muslims (Uddin, 2016; Partha, 2016). The tribal groups speak multiple languages, practice religious traditions, and are racially related to the tribes in neighboring Burma, Northeast India, and Thailand (MAR, 2016; Uddin, 2016). The CHT's tribal groups form an identity often called the *Jumma* nation (Chowdhury, 2014; Datta, 2015; MOCHTA, 2015; Adnan, 2004; Chowdhury, 2008; Dastidar & Adnan, 2011; Roy, 2000). The term '*Jumma*' is derived from the word '*jhum*' meaning shifting cultivation (slash and burn) on the hills (*pahar* in Bengali) practiced by these indigenous communities (Uddin, 2016).

The CHT has hosted one of the world's least known deadliest and longest violent conflicts (IWGIA, 2012; Chakma, 2010; Adnan, & Dastagir, 2011; Adnan, 2004; Mohsin, 1997; Roy, 2000). The *Parbatya Chattagram Jana Shanhati Samity (PCJSS)* meaning Chittagong Hill Tracts People's Solidarity Association was formed in 1972 as a regional political movement for the cultural recognition and political autonomy of the CHT. It organized hill tribes politically based on the *Jumma* identity to pursue a secessionist movement against the state (Adnan, 2004; Chakma, 2010; IWGIA, 2012). This tribal war resulted from the "fear of marginalization, sense of relative deprivation, and sense of powerlessness" among the CHT people (Shahadevan, 2003, p. 405).

The armed conflict since 1976 between the *Shanti Bahini* (Peace Force) of the CHT indigenous peoples led by PCJSS and the state's security forces challenged the newly independent nation that just got independence in 1971 (Shahadevan, 2003). Given the reality of no win for the indigenous people nor for the state security forces, the CHT war ended in political negotiation in 1997. Despite the formal ending of the armed violence between the state security forces and indigenous rebel groups with the surrender of arms by at least 2,000 rebels two decades ago, intercommunal violence is continuing (Uddin, 2016; AWGIA, 2012; Chakma, 2010; Adnan, 2004).

This paper examines the CHT conflict from a critical and emancipatory peacebuilding (CEP) lens. The paper has three main sections. The theoretical framework section highlights the social cubism model underneath CEP and the importance of the local perspective of the causes of the conflict and the locally driven peacebuilding in the CHT based on a review of available literature. The analysis section involves the six conflict factors of the CHT conflict in both pre-and post-CHT peace accord. The last section critically discusses the post-accord conflict, and transformative peacebuilding in the CHT.

Theoretical Framework

The CHT conflict is apparently, in Lederach's (1997) term, an intrastate conflict between indigenous minorities of the CHT and the state in Bangladesh. Given the involvement of the minority indigenous peoples and the dominant Bengalis, the CHT conflict can be designated as an inter-communal, ethnic, and identity conflict. The CHT conflict is ethno-political as it involves intertwining of identity and politics (Carter et al., 2009) around the *Jumma* nation's demand for self-determination or political autonomy rights. Since the CHT conflict is lodged in long-standing relationships of animosity, perception of enmity, and deep-rooted fear between indigenous peoples and Bengalis, the CHT conflict, in Lederach's (2009) words, is 'protracted' and 'intractable'. Despite the peace accord, the continuation of violence and conflicts remind us of the CHT's current stats as *no war no peace* in Mac Ginty's (2006) view.

The causes of a complex conflict cannot be adequately explained with any single factor, any single theory, or any single level of analysis (Hauss, 2010; Levy, 2007; MacGinty & Williams, 2009; Gurr, 2007; Lederach, 1997). This paper explores the CHT conflict, applying the social cubism analytical model (Byrne & Carter, 1996; Byrne et al., 2001) within a critical and emancipatory peacebuilding framework. The critical and emancipatory peacebuilding (CEP) process constructively nurtures grassroots cross-communal relations as well as deconstructs unjust social, cultural, economic, and political structures (Mac Ginty, 2008, 2013a; Richmond, 2011). CEP is centered around the emancipatory issues of empowerment, agency, inclusion, resiliency, and grassroots approaches to peacebuilding that includes those on the margins of the local (Özerdem, 2016). Local resistance, and local stories are found in the socially embedded networks, practices, relations, and spaces of everyday life (Chandler, 2017). Critical and emancipatory peacebuilding emphasizes the local perspective in the peacebuilding processes (Richmond, 2007, 2011). CEP includes local people in locally driven peacebuilding, minority voices with their resistance to dominant discourses and powerful actors as vital components of positive peace or social justice. Although most of the previous studies investigated the CHT issues from the perspectives of sociology, anthropology and development studies, the CHT conflict remains under-researched in the field of peace and conflict studies. Moreover, social cubism has never been explored either alone or within a CEP framework in the CHT conflict context.

Social cubism is a multidimensional perspective that includes not only political and structural factors but also psychological and cultural forces to understand the complex pattern of ethno-political conflict. Six interlocking facets of the social cube model of conflict include demographics, economics, history, politics, psycho-culture, and religion (Byrne & Senehi, 2012). "A holistic, social cubism approach to intergroup conflict must account for how social and psychocultural mechanism interacts to exacerbate or, indeed, ameliorate ethnoterritorial conflicts" (Byrne & Carter, 2002, p. 763). Both Northern Ireland

and Quebec conflicts exhibit these micro and macro social forces of the social cube (Byrne & Carter, 2002). The analytical potential of the interlocking social cube model lies in its consideration of both material and psychological factors as the drivers or sources of an ethnoterritorial conflict (Byrne & Carter, 2002). Social cubism is a qualitative approach that considers how the relationships among the six conflict factors - “demographics (e.g., double minority-double majority, space), economics (e.g., poverty, internal colonialism), history (e.g., golden age, events), politics (e.g., nationalism, populism), psychoculture (e.g., identity, fear, symbols), and religion (e.g., true believers, sectarianism)” (Byrne & Senehi, 2012, p. 141) are important to understand how ethnic conflict evolves, transforms and ends.

Numerous studies have been conducted on the CHT by colonial administrators during the colonial rule (1757-1947), by Western scholars during the Pakistan period (1947-1971) and by Bangladeshi and foreign academicians, intellectuals, and journalists during the Bangladesh period (from 1971 onwards) (Sajib & Sohad, 2018; Halim & Chowdhury, 2016). Most of the academic studies undertaken during the Pakistani and Bangladeshi period used anthropological perspectives (Uddin, 2016). Many publications on the CHT (Chowdhury, 2014; IAGA, 2012; Levene, 1999; Panday & Jamil, 2009) focused on human rights violations in the CHT. Some recent publications in the postaccord period examine the peace accord implementation (IWGIA, 2012; UNDP, 2005; Partha, 2016; UNDP, 2005; Jamil & Panday, 2008; Chakma, 2008, 2010; Adnan & Dastidar, 2011), the role of non-government organizations (NGOs) or grassroots organizations in peacebuilding (Chakma, 2018; Gerharz, 2002, 2014), and development and peacebuilding (Chakma, 2017; Sajib & Sohad, 2018; Barakat, 2016; Gerharz, 2014). A handful of PhD and master’s theses on the CHT examine the land problem, and the relations of land, nature and geography to the livelihoods of indigenous peoples (Ahmed, 2017; Adnan, 2013, 2004; Chowdhury, 2016; Chowdhury, 2012; Chowdhury, 2005; Datta, 2015; Hasan, 2014). A number of recent studies attached the failure of addressing the local needs and participation to the ongoing CHT conflict, and the failure of the CHT peace accord (Partha, 2016; Chakma, 2018; Uddin, 2017; Uddin, 2012; Chakma, 2017, 2018; Sajib & Sohad, 2018; Halim & Chowdhury, 2016; Gerharz, 2002, 2014). Some studies indicate the resiliency of the indigenous peoples amid the protracted conflict situations even after signing the peace accord, and multiple survival strategies in relation to the context of CHT’s land scarcity and insecurity realities (Uddin, 2016). Chakma (2017) argues that the CHT has witnessed a donor-driven top-down peacebuilding approach that cannot ensure the local ownership of the peace process. Barakat (2016), using a political economy approach, finds the core-periphery relation between the state and the CHT, and links the state’s demographic, political, and economic engineering to the unpeopling of indigenous people in the CHT. To him, the indigenous peoples are victims of exploitation-destitution-distress-discrimination-deprivation-inequality. The indigenous people in the CHT have experienced extermination, marginalization and deprivation in all forms and dimensions. They have been unpeopled and exterminated through grabbing of their own land, settlement, forest, and other resources (Barakat, 2016). An integrated critical holistic perspective is necessary to comprehend the local perspective of the macro and micro causes of the conflict and of the peacebuilding process in the CHT. The six analytical factors expounded by the Social Cube model provides a comprehensive picture of the CHT conflict.

Social Cubism Analysis of the CHT Conflict

Historical Factors of the CHT Conflict

The history of groups in conflict involves the golden past and historical experiences of each

group that in turn devalues the histories and identities of other groups (Reimer et al, 2015). History, recounted by conflicting groups, emphasizes different interpretations of past events and characterizations of other groups that can increase hostility in inter-group behavior (Byrne & Carter, 2002). The CHT conflict's historical factors begin with the tribalism policy of the British colonizers dividing the CHT people into tribal/hill people (*paharis*) and the Bengalis to expand their authority and power and exploit environmental resources such as forests (Rahman et al., 2018; Adnan, 2004; Jashimuddin & Inouse, 2012; Datta, 2015; Chowdhury, 2014). The British incorporated the CHT as an administrative district of Bengal in 1860 and proclaimed it as *Tribal dominated area* and *Totally excluded area* under the Chittagong Hill Tracts Regulation of 1900, and the Government of India Act of 1935 respectively.

The Pakistani and Bangladeshi governments have continued similar policies mostly centering economic interests in the CHT (Adnan & Dastidar, 2011; Chakma, 2010; IWGIA, 2012; Rahman, 2015, 2017; Schendel et al., 2000). The Pakistani government abolished the CHT's special status by enacting a new law in 1964 and undertook different projects since the 1960s ignoring the CHT's traditional culture and customary practices. For example, the Karnafully Paper Mill project initiated in 1953 and the Kapati Dam constructed in the Karnafully River for hydropower project in 1957 displaced the indigenous people and dispossessed them of their lands. The Kaptai Dam flooded CHT's cultivable agricultural land, displaced many indigenous people internally and forced many to flee to neighboring Indian states (Adnan, 2004; Schendel et al., 2001; Mohsin, 2002; Chakma, 2010). The victims who were evicted from their homes and lands because of the Karnafully Paper Mill project undertaken in 1953 and the Kapati Dam in 1957 were not given any compensation.

After the independence of the country in 1971, the Bangladeshi government from 1972 undertook massive Bengali resettlement policies, infrastructure plans, and development schemes in the CHT (e.g., transportation, forestry, agriculture, and manufacturing). The resettlement of 400,000 outsiders (Bengali settlers from the mainland) in the CHT affected not only the lives of indigenous communities but also the environment - soil fertility, the relations of ethnic communities with nature, land, plants, animals, the biodiversity, and land management practices (Chakma, 2010; Adnan, 2004; Roy, 1996; Datta, 2015).

Demographic Factors of the CHT Conflict

Demographics involve multiple forces including ethnicity and socioeconomic factors that can have huge influence on the conflict. The CHT's demographics have significantly changed after the British rule. The CHT has experienced the declining population growth rate because of the resettlement of the non-indigenous Bengalis especially by the Pakistani and Bangladeshi governments (Partha, 2016; Uddin, 2016). Different governments' undertaking of development projects contributed to slow down the growth rate among the indigenous population in the CHT area. The Bengalis constituted only about 11.6 percent of the CHT population in 1974 (i.e. pre-settlement period), but according to the 1991 population census, they constituted about 48.5 percent of the total population of the CHT (MOCHTA, 2015; IWGIA, 2012). According to the 2011 population census, the Jumma people constitute about half of the total population of the three CHT districts (BBS, 2015).

Bangladeshi governments have implemented a policy to *Bengalize* the CHT. A massive-scale demographic engineering happened within the first decade of the independence of the country. Despite the resistance from local *Pahari* communities, 200,000 to 450,000 lowland Bengalis were resettled in the CHT (Chakma, 2010; Adnan, 2004; IWGIA, 2012; Uddin, 2016; Partha, 2016). This overpopulation

has affected the lives and cultures of indigenous communities living in the CHT. Within a short span of time, the majority indigenous population has become the minority population (Adnan, 2004; Schendel et al., 2000; Chakma, 2010; Roy, 1996; Mohsin, 1997; Gerharz, 2014; Uddin, 2016; Partha, 2016; Barakat, 2016).

Economic Factors of the CHT Conflict

Economic factors are linked to resources and power that are embedded in structural inequalities and economic disparities among the conflicting groups. Land is a critical factor in the CHT conflict. The CHT's economic potentials with a mix of rivers, hills, forests, lakes and natural fountains led the British, Pakistani, and Bangladeshi authorities to colonize this ethnic territory. The British colonizer initiated exploitative projects such as reserve forest, timber logging, and cotton plantation that affected their customary rights to land, and freedom (Mohsin, 1997; Chakma, 2010; Adnan, 2004, Adnan & Dastidar, 2011; Schendel et al., 2001; Chowdhury, 2014; Datta, 2015). Around 1868, British colonialists created *Reserve Forests*, and this policy forced some indigenous peoples to move to Myanmar and India.

Post-colonial policies and projects since the 1960s have not addressed the CHT's needs and welfare (Mohsin, 202; Roy, 2002; Chakma, 2010; Datta, 2015). The abolition of the CHT Act of 1900 by the Pakistani government in 1964 opened the CHT more to the outsiders. The Pakistani government constructed the Kaptai Dam project in 1962 to generate hydropower from the Karnafully river (Uddin, 2016; Adnan, 2004; Schendel et al., 2000). This project flooded 40 percent of the CHT's best agricultural land and displaced 100,000 indigenous people (Uddin, 2016; Adnan, 2004; Schendel et al., 2001; Mohsin, 2002; Chakma, 2010; Chowdhury, 2014; Datta, 2015). Indigenous peoples, mostly *Chakmas*, were internally displaced, and around 55,000 displaced people accepted refugee status in the bordering Indian states: Tripura, Arunachal Pradesh, and Mizoram (Uddin, 2016; Schendel et al., 2000).

Successive Bangladeshi governments colonized the CHT's land ignoring the needs and interests of its indigenous people (Shahadevan, 2003; Adnan, 2004; Datta, 2015). The indigenous peoples' ancestral customary lands have been allotted to the non-indigenous Bengali settlers. The Bengalis were brought under state resettlement schemes and given food rations under the military's pacification program with a view to increasing the number of non-indigenous population in the CHT. The political patronization in the CHT sided with the political elites, leaders of different occupational cooperatives and other big businesspersons, and facilitated grabbing of land and building up a Bengali-centric leadership. Bangladeshi governments' policy of ethnic colonization and internal colonialism (for example, large-scale settlement of Bengalis in the CHT) created a sense of relative deprivation, alienation, marginalization, and powerlessness (Shahadevan, 2003).

Demographic shifts and development projects led thousands of *adivasis* into poverty, insecurity and alienation from the land. Many indigenous families have been evicted and become homeless. The post-conflict violence has been fueled neither by nationalist ethnic sentiment, nor by external security concerns, but rather by the political economy of land and natural resources. The undertaking of security infrastructures, businesses, roads, resorts, picnic spots, tourist spots, park, motels, tourism, and social forestry programs in the name of economic development (MOCHTA, 2015) have happened at the cost of the indigenous people. Land acquisition has been implanted for non-security and non-tourist purposes, such as for setting up a Buddhist meditation center. Although ethnic, nationalist sentiments have been used repeatedly to inflame the conflict, what lies behind is the interest of land-grabbers and the political

elite who have support from state forces. Tribal people felt subjugation to Bengalis as government undertook biased development programs that benefited Bengalis while denying tribal interests. As a result, indigenous people resorted to insurgency to protect their ancestors' land, cultural traditions and rights, and the state resorted to counter-insurgency, considering the insurgency as antinationalist and terrorist activity (Mohsin, 1997; Roy, 2002; Chakma, 2010, Datta, 2015).

Political Factors of the CHT Conflict

According to the social cube theory, politics includes power distributed across and the political institutions and mechanisms used by the groups in conflict. The CHT's policies, institutions, and structural mechanisms have ignored indigenous people's needs since the British period. The British Raj enacted the first forest act for its economic interests, and development schemes based on environmental resources started to dispossess the indigenous people of their ancestors' land, and marginalize hill peoples (Chowdhury, 2014; Sivaramakrishnan, 1995, 1997 as cited in Chowdhuty, 2014).

To counter the ethnic insurgency in the CHT, Bangladeshi government initiated massive-scale resettlement of Bengalis in the CHT, bringing poor Bengalis from other parts of the country within the first decade of independence. The state patronized Bengali settlers and their illegal settlement as well as allocated indigenous people's customary land to the Bengali settlers in the name of development, law and order, and sovereignty for political gains. Jumma nationalists' demand for autonomy led to the militarization policy in the CHT and was treated as a secessionist challenge to Bengali nationalism and as a conspiracy against the sovereignty of Bangladesh (Shahadevan, 2003). Government documents and policies display political elites' narratives that the tribal people are violent, terrorist, anti-development, anti-nationalist elements, and threat to the sovereignty and prosperity of the country. Anti-Bengali narratives can be understood from the Bangladeshi security forces' declaration that they wanted "the soil and not the people" (Shahadevan, 2003).

The CHT's armed conflict between the military forces and the organized armed group (called *Shanti Bahini*) took over 25,000 lives in the entire course of the conflict. The CHT conflict displaced many indigenous peoples from their ancestors' land, and many of them became refugees in neighboring India. After four decades of bloody armed violence, a peace treaty was signed between the Shanti Bahini led by PCJSS leader, Santu Larma, and the government of Bangladesh under the leadership of Prime Minister (PM) Sheikh Hasina on December 2, 1997. The Bangladeshi government had a diplomatic success in receiving India's support to end cross-border movement of the Chakma rebels. Rebels used to cross the border and mix with the Chakma refugees in India's northeast region and had received sympathetic military support from the insurgent groups of India's northeast regions.

Despite the successful political negotiation resulting in the peace accord, the CHT peace accord has failed to address the issues of land rights, rights to self-determination, and cultural rights (Barakat, 2016; Chakma, 2017, 2018; Uddin, 2016; Uddin, 2012, 2017). Following the CHT peace accord, the Ministry of Chittagong Hill Tracts Affairs (MOCHTA) was formed in 1998 but the formation of its affiliates - Chittagong Hill Tracts Regional Council, Rangamati Hill Tracts District Council, Bandarban Hill Tracts District Council, and Khagrachhari Hill Tracts District Council was delayed (IWGIA, 2012, Chittagong Hill Tracts Commission, 2015). The delayed formation of boards/councils including the Land Dispute Resolution Commission and the constitution of boards/councils based on patron-client relations have promoted the Bengalis over the indigenous communities. Certain tribal elites also take advantage of state power and economic benefits by sitting on CHT boards and councils.

The PCJSS Chakma leaders are often blamed for taking the advantage of state power and economic benefits by sitting on the CHT boards and councils under the peace treaty accorded in 1997. The internal fractions in the PCJSS led by the movement's leader Jyotirindra Bodhipriya Larma with the new regional party called the United People's Democratic Front (UPDF) - the anti-peace treaty faction - further complicated the CHT conflict. This internal factional violence killed hundreds of hill people since the creation of UPDF in 2008 by M. N. Larma over his dissatisfaction on the implementation status of the peace treaty.

The Chittagong Hill Tracts Development Board, Refugee Rehabilitation Task Force, and local government bodies created under the CHT Local Government Act of 1989 have not addressed indigenous rights and needs as per the treaty. The Chittagong Hill Tracts Land Dispute Resolution Commission Act of 2001 has yet to be consistent with the peace treaty of 1997. The Land Dispute Resolution Commission has failed to resolve land disputes and to award the land rights that the *adivasis* customarily have inherited for centuries, and it has neither removed illegal settlers nor recovered the land allocated for rubber plantations to non-locals. Manipulating the land documents with the help of the corrupt officials, the state and the local political leaders from major political parties of the country patronize the Bengali settlers, businessmen, and corporations to illegally grab lands of the indigenous people and deprive them of their customary land rights.

In the post-conflict age, the state's land acquisition for law and order has increased the presence of personnel of security forces: the Bangladesh Police (BP), Border Guard Bangladesh (BGB), and the Bangladesh Army. According to Barakat (2016), grabbing of land, settlement, forest and other resources by the state, settlers, security forces or corporates lead to unpeopling and extermination of indigenous people in the CHT. The establishment of infrastructures for businesses, roads, tourism, and forestry programs in the name of economic development has not addressed the needs of the indigenous peoples in the CHT region. Since the colonial time, indigenous people's land rights have been neglected. The CHT Jumma people's needs of land for shelter and *jhum* cultivation, livelihood security, cultural rights and identity have been threatened by the Bengali settlers and by the state's discriminatory policies and structural mechanisms. Apart from governmental acquisition, grabbing by the powerful including Bengali settlers, through forged documents, land record forgery, and lack of documents are other main reasons and means of land dispossession of indigenous people (Barakat, 2016).

The Bengali settlements, and the camps of security forces being raided several times in 1976, the state established more than a dozen army camps in the CHT territory by 1981 (Amnesty International, 2003; Islam, 2003). The militarization policy has not only increased the military size, but increasingly involved the military in establishing and managing tourist spots (MOCHTA, 2017; IWGIA, 2012). Despite promising to end the army occupation in the CHT, full time army camps have continued to operate in the CHT and many more such camps are being planned (IWGIA, 2012). The state took the ethnic militancy and terrorism in the CHT as a serious security, and law and order issue (Rahman & Kashem, 2011). More than 8,500 people were killed in raids and counter raids, including 2,500 civilians, hundreds of houses were torched by Bengali settlers and Bangladesh Army during 1973-2010 (Amnesty International, 2003; IWGIA, 2012). During the insurgency, communal violence, murders, kidnapping, and sexual assaults were common. During 1998-2016, the inter-group conflicts took more than 700 lives. Between 2004 and 2012, the Bangladeshi army alone committed a total of 1,487 human rights violations. Many see the communal riots, rape, murder, and arson attacks as a mechanism of pressuring Indigenous

families and communities to leave their traditional land apart from the military-led counter-insurgency measures in the 1980s and 1990s (Chakma, 2010 as cited in Datta, 2015).

There are pro- and anti- peace treaty peoples in the CHT. PCJSS led by the movement's leader, Jyotirindra Bodhipriya Larma, is the main outlet through which the Hill people express their demands for full implementation of the peace accord, including land ownership rights, withdrawal of army and Bengali resettlement in the CHT (MAR, 2016). The peace treaty divides the indigenous and Bengalis as well as the different indigenous groups like the Chakma and smaller tribal groups because of the position and power of the largest tribal groups secured under the peace treaty and laws (MAR, 2016). Although the call for war attracted many Chakmas (the largest tribal population group), two major groups - the Marma and Tripuri - did not fully support the PCJSS. The government, using factionalism in the PCJSS, tried to cultivate the Manna and Murang tribes by special development schemes (including amnesties and cash awards) to leave insurgency.

Since the signing of the peace accord, several new resistance organizations have emerged within the indigenous communities. The United Peoples Democratic Front (UPDF) and the PCJSS Reformist Group are two remarkable organizations. The Bengalis are naturally anti-treaty since the treaty has provisions to limit the Bengalis' resettlement and to return the land to the indigenous communities. The Bengalis under the banner of different forums and movements demonstrate that their equal rights are violated through the CHT peace accord. The Somo Odhikar Andolon (Equal Rights Movement) and other such groups are playing the ethnic nationalism card. The right-wing media depicted CHT Commission as anti-Bengali, and government policies as secessionist policies for the Bengalis. This anti-peace treaty sentiment and narratives are destructive for the peaceful coexistence of both groups, and the implementation of the peace treaty.

Psycho-cultural Factors of the CHT Conflict

Psycho-cultural factors refer to the psychological and cultural issues that are significant to the groups in conflict. Emotions and symbols attached to these issues are linked to intergroup interaction and shape group perceptions. The CHT is not homogeneous in terms of the cultural markers of ethnic groups, yet the *Paharis* (peoples living in the hills) constitute a rich *Jumma* nation of indigenous communities in relation to ethnicity, geographic region, and culture. The *Jumma* identity is the indicative of their historical occupation of slash and burn cultivation in the CHT. From the British colonial period till now, the ethnic and cultural identity of the CHT *adivasis* (indigenous people) has been threatened (Partha, 2016; Adnan, 2004). The *Jumma* culture is clearly different from the Bengali culture.

The CHT is the homeland for the *Pahari* communities, yet the British as well as Pakistani and Bangladeshi authorities have ignored their histories, socio-cultural issues and cultural identity. Because of colonial and neo-colonial policies and projects, many local people became unhappy for occupying their ancestors' land and disconnecting them with the environment (land, animals, plants, and so on) (Adnan, 2004; Chakma, 2010; Datta, 2015; Chowdhury, 2014). By patronizing Bengali settlers for illegal settlement and allocating the CHT customary land to the encroachers, the state has engendered grief, fear, frustration, anger, and emotion. Viewing the resettlement of Bengalis as encroachment, the *Paharis* feel fear and threatened by an increased land grabbing in the name of development and increased militarization in the name of law and order in the CHT.

The Bengalis are being projected as minorities while tribal people are labeled violent, terrorist,

anti-development and anti-nationalist elements as well as threats to the sovereignty and peace of the country. The state patronizes certain groups of non-tribal elites by allowing illegal logging, and land-leasing for commercial plantation and tobacco type businesses in the CHT.

Many members of the indigenous communities or the Bengalis in the CHT do not seem to be happy with the peace treaty given the backlash by various ethnic groups and organizations, and inadequate implementation of the CHT peace treaty (AWGIA, 2012; Chakma, 2010; Adnan, 2004). The 1997 peace accord also kept the term 'tribe' intact instead of *adibhasi meaning indigenous people* (MOCHT, 2015), which is the indicative of colonial mindset to not acknowledge their self-recognition and cultural identity. The ministry's website does not recognize the conflict from the rights and welfare perspective of the indigenous people (MOCHTA, 2015).

The immunity from prosecution and impunity for human rights abuses by the military or law enforcement, as well as the division and the creation of new political and pressure groups among indigenous people, and the formation of new groups among the Bengalis with the slogan of equal rights and nationalism are other escalators of the conflict. The backlash of anti-treaty strikes, vandalism of government properties, the blockade of the CHT peace treaty monitoring body's visit, and frequent violent attacks on the hilly people indicate the possibility of the re-escalation of violence in the future (AWGIA, 2012; Chowdhury, 2014; Datta, 2015).

Religious Factors of the CHT Conflict

According to the social cube model, religion is used as a political instrument to create divisions and mobilize violence among conflicting groups. Heterogeneously religious, indigenous communities are mostly the followers of Buddhism, Hinduism, Christianity, and animism, and the *Bengalis* are predominantly Muslims (Dewan, 1990; Partha, 2016). Religious differences between the *Jumma* and the *Bengalis* have not played a dominant role in the CHT conflict, but the *Bengalis'* cultural imperialism has predominated the CHT (IWGA, 2012; Chowdhury, 2014; Datta, 2015; Partha, 2016). Although the *Jumma* nation is not homogeneous in terms of ethnicity, language, religion, and culture, it does share cultural markers, such as mode of life, customs, practices and economic and political systems because the people have lived on the exclusive hilly areas for centuries.

The Bengalis have changed the original names of localities/settlements, disrupted the celebration of religious and cultural festivals/rituals, and harassed religious leaders (Partha, 2016). Businesses have mushroomed to meet the cultural traditions of the Muslim and Bengali settlers, officials, and NGO workers. The *Jumma* communities' traditional customary legal and political systems executed by *Jumma* leader, *Karbari* (headman and chief), dealing with law and order disputes, have been defied by the Bengalis in the CHT (Partha, 2016). On the grounds of anti-Muslim sensitive posting on Facebook by a Buddhist from the CHT, attacks on Buddhist temples, and torching Buddhist houses by the *Bengalis* indicate the intolerance level of the Bengalis and the political patronization of such acts on the indigenous people.

Post-Accord Conflict, Conflict Transformation, and Peacebuilding in the CHT

The Chittagong Hill Tracts Peace Accord (CHTPA) is a landmark in the political annals of Bangladesh. Signed in 1997 after two decades of a bloody armed violence, the CHT peace treaty promised

to end conflict, ensure land rights to indigenous people, revive their cultural identities, rehabilitate displaced people, withdraw military from the CHT and give self-rule (Jamil & Panday, 2008; Tripura, 2017). The CHT accord was considered a turning point for the stability in the CHT territory as well as for the South Asia region. In fact, it created a congenial atmosphere for the international community to take part in the development and peacebuilding (Chakma, 2008; Chakma, 2017, 2018; Sajib & Sohad, 2018).

Although the CHT enjoyed a kind of autonomy in the Mughal and British period as their customary land rights and practices were not substantially affected (Uddin, 2016; Chakma, 2018; Roy, 2000, 2014). This paper finds the land as the critical factor, and Barakat (2016) refers to unpeopling of the indigenous people through unjust land acquisition and land dispossession. This unpeopling of indigenous people in the CHT began during the British period through their exploitation of forest and other environmental resources, and by bringing non-CHT people from the mainland into the CHT for their economic interests (Barakat, 2016; Chowdhury, 2014; Halim & Chowdhury, 2016; Schendel et al., 2000; Partha, 2016). The demographic engineering policy was designed by the colonial rulers first for their economic interest. But the Pakistani government's massive demographic engineering was intended to replace the indigenous minority with non-indigenous people for political control of the territory, leading to 'unpeopling' in Barakat's (2016) term. The Bangladeshi government's transmigration program inherited the same logic with added agenda of counter insurgency in the 1980s (Barakat, 2016; Partha, 2016; Chakma, 2010, 2018; Chakma, 2008). The state increased the number of outsiders purposively to address insurgency and redirect their political autonomy demand. Indigenous people resorted to insurgency to protect their ancestors' land, cultural traditions and rights on the one hand, and the state resorted to counterinsurgency considering the insurgency as antinationalist and terrorist activity (Mohsin, 202; Roy, 2002; Chakma, 2010). The two -decades- long (1976-1997) armed conflict between the state forces and the insurgent groups in the CHT took over 25,000 lives, and forced more than 100,000 indigenous people to flee to neighbouring country, India (Chakma, 2010; Adnan, 2004; Datta, 2015; Dewan, 1990; Chowdhury, 2014; Schendel et al., 2000).

Despite the CHT people's demand for using the globally established word 'indigenous', the Bangladeshi government kept the word 'tribe', which the colonial government first used, intact in the peace accord (Halim, Chowdhury, 2016; Barakat, 2016; Uddin, 2016; Gerharz, 2014). In fact, the political will of the Bangladeshi rulers regarding the CHT could be traced from the state-building policy since independence in 1971. The Bangladeshi Constitution does not acknowledge ethnic minorities, but instead use the words - tribe, ethnic minorities, small ethnic groups (Barakat, 2016; Uddin, 2016). In independent Bangladesh, the indigenous people did not accept the father of the nation's policy of Bengali nationalism (Chakma, 2008, 2010; Jamil & Panday, 2008). The CHT people find the state building project based on Bengali nationalism (Bengali monoculturalism) to be assimilatory, which ignores their identity, culture and language, and without safeguarding their rights for self-determination (Partha, 2016; Chowdhury, 2012).

The colonial administration first used the term 'tribe' that is still being used by the Bangladeshi government today (Gerharz, 2014; Partha, 2016). The British colonialist used the 'divide and rule' policy to control the CHT territory for economic and political reasons (Rahman et al., 2018). This 'divide and rule' policy has been continued as a colonial legacy as echoed in the measures of dismissing the special status law, constructing the Kaptai dame project, and massive resettlement of poor people from the mainland in the CHT during the Pakistani age. It is also reflected in the policies and programs

of land acquisition, militarization, *Bengalization*, and commercial operations of the resources during the Bangladeshi period. Barakat (2013) tags demographic, political and economic engineering to the unpeopling and extermination of indigenous people in the CHT since the 1960s. The constitutional non-recognition of indigenous people, the CHT accord's avoidance of the term 'indigenous', and the non-granting of territorial autonomy involve various rationalities of the Bangladeshi governments and Bengali politicians (Chakma, 2017, 2018; Chakma, 2008; Barakat, 2016; Partha, 2016; Uddin, 2011; Uddin, 2016). One such reason is the pre-partition loyalty of the CHT people to joining India. Another is the concern over the newly independent state's sovereignty because of the indigenous insurgency movement demanding for the autonomy of the CHT. The military's concern over demilitarization is the potential danger of terrorism and violence within the indigenous people and between indigenous and non-indigenous people. Besides, pre-accord and post-accord regional and geopolitical concerns are linked to the stability and security of the region (Barakat, 2016). Amid the CHT insurgency, the Bangladeshi government wanted to stabilize the CHT by bringing the PCJSS into the table, but their attempts were affected because of India's offer of safe haven to the PCJSS leaders. The symbiotic relationship of the CHT insurgents with Indian seven sisters' counterparts, and with Arakanese insurgents has been reported (Rahman, 2016). The recent Myanmar military's operations in the Arakan state against the Rakhine and Rohingya insurgents pose a serious threat to the security and stability in the CHT area. The geographic morphology of the CHT facilitates the operations of various organized crimes like drug trade, arms smuggling, and militancy. Barakat (2016) rightly mentions that geopolitics is one of the major reasons behind the land alienation, demographic engineering and militarization in the CHT.

The CHT has witnessed anti-peace treaty backlash within indigenous peoples and Bengalis, the creation of new political and pressure groups among both indigenous people and the Bengalis (Uddin, 2016; AWGIA, 2012; Chakma, 2010; Adnan, 2004). There has been another intrinsic cleavage among the indigenous groups over the control and benefit of the peace accord. This intra-ethnic division has been rooted in the size and power blocks between three larger indigenous groups and other smaller indigenous groups. Smaller groups lack trust on the PCJSS leadership which is led by the larger indigenous groups. Smaller groups also find the bigger groups suspicious for their vested interests in the peace accord as the larger groups are the beneficiary of the accord. Most members of the majority groups hold power and enjoy better economic opportunities.

The conflict between army-backed Bengali settlers and the indigenous people has continued and inter-group conflicts have taken more than 700 lives (Basha, 2011). Over the years since the signing of the peace accord, repeated direct violence including communal riots, rape, murder, and arson attacks between indigenous people and Bengali people, between the state forces and local people, and between different groups of indigenous people on various grounds and issue have continued. The accord was not, however, welcomed by all groups of the CHT indigenous groups. They were unhappy with some clauses of the treaty. Dissatisfied with the treaty, some groups of the indigenous people came out from the PCJSS and formed a political party known as United People's Democratic Front (UPDF). The PCJSS and the UPDF, thus, surfaced with two opposing ideologies that wrecked cohesion and wreaked division of the indigenous people who gradually got involved in violence, human rights violations and fratricidal killings (Jamil & Panday, 2008). Yet, the Jumma carries their shared trajectories of oppression, marginalization and deprivation (Uddin, 2016; Barakat, 2016).

The Bengalis under the banner of different forums and movements such as the Somo Odhikar

Andolon (Equal Rights Movement) demonstrate that their equal rights are violated through the CHT peace accord. The Bengalis protest the CHT Commission, and the peace accord and demand that the functioning of the CHT Commission should be suspended. Anti-treaty strikes, vandalism of government properties, blockade of the CHT peace treaty monitoring body's visit, and frequent violent attacks on the hilly people indicate the early warnings signs of violence re-escalation between the indigenous and the Bengali people (AWIGA, 2012).

The Bangladeshi government and political elites have used the ethnic divisions to perpetuate the agenda as many argue that the Bengali politicians were not eager for the full implementation of the CHT accord, and also many of the clauses of the peace treaty cannot be implemented, which will be highlighted later in this section. As the treaty was against the will of this opposition party, the Bangladesh Nationalist Party showed no interest in implementing the accord when it came to power in 2001 for five years. Given the election manifestos of the current ruling party – Bangladesh Awami League, who signed the peace accord in 1997, and has been in power since 2009 for third consecutive tenure, took some significant measures for the implementation of the peace accord by enacting the land dispute act, and empowering the CHT commission,

All Bangladeshi governments since the first post-independent Sheikh Mujib government have viewed the development and welfare of the CHT indigenous people as pathways toward peace in the CHT. However, tribal development projects did not change the life of the indigenous people (Mohsin 1997; Chowdhury, 2005; Gerharz, 2014; Chowdhury, 2005). The governments of Zia-ur Rahman and Ershad identified backwardness as the root cause of the war and undertook many development projects in the areas of infrastructure, communications, agriculture, education, industry, and social welfare in the 1980s and 1990s. The government established three district councils in 1989 and delegated limited powers in the CHT. The army carried out various civic functions to earn the goodwill of the people. In fact, post-accord Bangladeshi governments have emphasized the economic development and peacebuilding activities by uplifting the living conditions of the CHT people using top-down approach (Chakma, 2018; Mohsin, 1997; Gerharz, 2014). The CHT was able to have special status under colonial rule because of indigenous representatives' voices (Gerharz, 2014). This totally excluded area status and acknowledged the distinct identity, culture, language and customs. But the Pakistani government immediately after partition in 1947 cancelled the CHT's special territorial status, and undertook legal, political, demographic, and economic policies and programs with the goal of denying indigenous identity, rights, and needs. The Kaptai hydroelectric dam project was undertaken without any consultation with the community and without caring about the consequences of the project that would have affected the land, settlement, and livelihoods of the river-valley dwelling indigenous people (Uddin, 2016; Gerharz, 2014). The Bangladesh government immediately after independence refused to give the CHT a special status (Gerharz, 2014). The Bangladeshi government has undertaken massive infrastructure and economic development projects by acquiring large-scale land, forest, and waterbodies. Most of these developments have occurred after the peace accord and affected the land that was used for settlement, swidden or slash and burn (*jhum*) cultivation (IWGIA, 2012, Ahmed, 2017; Gerharz, 2014). According to Gerharz's (2014) study on the post-accord CHT, indigenous people find development activities prescribed by international agencies as 'intrusion', and indigenous knowledge as exploited rather than as 'indigenous people development'. Such foreign or top-down approaches are not considering local needs (Gerharz, 2014). Development through tourism is identified as one which not only benefitted civilian business interests but also the

military (Ahmed, 2017; MOCHTA 2017; IWGIA, 2012; Tripura, 2017; Chowdhury, 2005). Sajek and Nilgiri are two military-controlled tourist establishments that confiscated indigenous land. The website portal of the ministry of Chittagong Hill Tracts Affairs (MOCHTA, 2017) mentions resorts, picnic spots, tourist spots, park, and motel as recent development activities. These development activities evict Jumma people. For Nilgiri, 200 families from six villages are displaced. Indigenous people consider such developments as land-grabbing. For example, they view the establishment of Rangamati Medical College as a conspiracy to evict the Jumma people. The development projects seem to have detrimental effects on indigenous people in terms of displacement, impoverishment, inequality, discrimination and deprivation (Barakat, 2016; Gerharz, 2014). The content of the messages (mentioned below) from the protest posters, photographs and media reports from the CHT indicate their fear, frustration, and insecurity of land grabbing and eviction in the post-accord CHT. Barakat (2016) argues that the CHT has not witnessed true development for the indigenous people as five substantive types of freedom - political freedom, economic opportunities, social facilities (mainly education, health, and welfare of children and older people), transparency guarantee, and protective security.

This paper adopts a broader critical and emancipatory peacebuilding lens toward transforming the conflict and building peace in the CHT. This paper finds that the interplay of six social forces as proposed by the social cubism model are at work and can explain the pre- and post-accord conflict. The aspiration of the indigenous people is high, yet the peace process remained detached from the local people. The peace accord has not addressed the local needs and voices. *Adivasi* people feel Bengali settlers have encroached on their land, and resettled Bengalis should be rehabilitated elsewhere. Illegally grabbed land and confiscated land should be returned to the indigenous people. They also want the withdrawal of the Bangladesh Army and temporary camps for security forces from the CHT. They feel they are being evicted from their land in the name of development of the CHT. They want no more settlers, no military, and no more rapist in the CHT. Their protests and slogans demanding self-determination rights, stopping illegal land grabbing, stopping eviction from their land, stopping violence against Jhumma people are regularly displayed, which is not expected to be so in the post-accord age. To transform the conflict toward building peace in the CHT, the local as embedded in emancipatory peacebuilding, must be the key in governance, development and peacebuilding in the CHT.

This paper suggests building inter-communal relations between indigenous and non-indigenous communities around the CHT peace accord. The central government, the CHT regional and local councils, and grassroots organizations must work together in this regard. Among the most pressing issues for which the indigenous people have been dissatisfied and suspicious of the government are land, resettlement, militarization, delegation of power to the regional councils, and development activities. According to Lederach (1997), three levels of actors (leadership) - influential top-level leaders or actors from political and military sectors, middle-range leaders from the fields such as religion, academia, the arts, business, education or agriculture, and grassroots leadership coming from the grassroots or community based organizations - are needed in transformative peacebuilding process.

The Bangladeshi state must acknowledge the notion of indigenous people, and their rights as per the United Nations' declaration on indigenous rights. The Bangladeshi government's position of designating indigenous people as *small ethnic minorities* is rigid. Since the indigenous people are not original settlers, the UN's notion of indigenous people is inapplicable to the Bangladeshi context (Gerharz, 2014). Despite the constitutional and peace accord's lack of adequate recognition, the CHT

accord recognizes the CHT as Tribal Populated Region (Chakma, 2008). Although the government has undertaken various measures to recognize the languages of small ethnic groups, a legal measure can establish the recognition of indigenous languages and cultures in the constitution.

Despite the denial of the word ‘indigenous’, the CHT’s tribal populated status must be respected and protected by implementing the peace accord. The political elites and other top-level actors must implement without delay the clauses of the CHT accord that are not yet implemented. For example, the clauses of the peace accord regarding the delegation and transfer of power to the local CHT bodies must be fully implemented. Since land is the most critical issue, some of the measures can be implemented without delay to show the honest will and spirit of the peace accord from the state level. However, some of the promises of peace accord such as relocation of resettled Bengalis, demilitarization, and economic infrastructures are viable or practical. Despite the peace accord, the CHT has witnessed alarming levels of human rights abuses against the indigenous people. The government must strengthen the National Human Rights Commission with adequate legal basis and logistics to monitor incidents and protect human rights of the ethnic minorities. Interactive problem-solving, collaborative analysis of the problems and conflict resolution trainings, as well as peace commission and peace conferences are effective for conflict transformation (Lederach, 1997).

The land acquired for already existing establishments for the state and its security forces, for Bengali resettlement, and for various economic and development projects, cannot be returned to the indigenous people. The land commission can transparently deal with cases of illegal grabbing of land, land acquired or leased using fraudulent means or documents or false land record survey. New settlements should be fully banned, which is the key demand of the indigenous people. Rehabilitation of resettled Bengalis elsewhere is not practical and can be detrimental to the peace and stability in the CHT. Demilitarization is also undesirable for both security and geopolitical concerns. But the temporary camps and new establishments need to be discouraged. The army must have little participation in the development initiatives and the indigenous people must have ownership of projects and development activities. The local people must be at the center of decision making for all development activities. By fully implementing the clauses of the peace accord, the regional and local councils can decide on the CHT’s development and peacebuilding programs and policies in the future. Above all, for all these to happen for sustained peace and development, the indigenous people and the Bengalis will have to work together in the CHT based on the principles of interdependence, mutual recognition, and human rights seen as the key to peaceful coexistence of multi-ethnic and multi-cultural societies (Byrne & Senehi, 2012).

Top-level leaders from the central, regional and local levels can organize problem solving workshops, dialogue groups, peace education and training, and various community building initiatives to promote interdependence and collaborative peacebuilding. Middle-range leaders should advocate for establishing a reconciliation commission for the CHT. Reconciliation is central to transformative peacebuilding (Lederach, 1997). Peace commission initiative has been proven very effective for building relations between indigenous and non-indigenous or among the conflicting parties in Canada, South Africa, and Rwanda (Rahman et al, 2017; Byrne et al, 2018; Byrne & Senehi, 2012). The histories, identities, heritage, and practices of indigenous people that are denied or ignored in the past can be preserved by this measure. Such a commission can share the truth including the past golden stories, violence, trauma and resiliency through constructive storytelling and narratives. This commission can

undertake various community building activities that will ultimately promote interdependence, mutual coexistence, peace and human rights. At the local level, cultural traditions training, communications and problem-solving skills trainings are necessary to promote interfaith tolerance and interdependence in the CHT, as such measures are required for sustainable transformation of the destructive conflicts given the long-standing animosity and intercommunal tensions (Lederach, 2007; Augsburg, 1992). Empowerment at the community and personal level through grassroots initiatives can enhance self-efficacy, resilience and capacities of individuals, as well as social and political participation (Byrne & Senehi, 2012).

Conclusion

The Bangladesh nation celebrated the twenty-first anniversary of the signing of the CHT peace treaty in December 2018, but the communal violence between the indigenous people and Bengali people continues. It is obvious from the above discussion that the causes and roots of the CHT conflict are deep and multidimensional. To explain the CHT conflict resulting from structural inequalities, political dynamics, economic disparities, communal identities, group loyalties, cognitive differences and fear of the other, this paper highlights the interaction among the six aspects of the cube (Carter & Byrne, 2000). This paper finds that the CHT conflict is complex because of different intertwined conflict elements and protracted because it started since the onset of British colonialism and continues till today. However, it is challenging to examine the conflict factors individually in the CHT context as political issues, historical factors, demographics, economics, psychocultural, and religious factors are intertwined. Inheriting the legacy of the British policy, Pakistani and Bangladeshi governments continued similar programs discounting the needs of the indigenous people (Rahman et al., 2018; Mohsin, 1997; Adnan, 2004; Adnan & Dastidar, 2011; Chowdhury, 2008; Datta, 2015). Colonial and post-colonial states' economic and development policies created structural inequalities, economic disparities and fear of marginalization among the tribal communities. The PCJSS has used these past historical events and stories to unite the CHT people to rebel against the state (Adnan, 2004; Chakma, 2010; Chowdhury, 2008, 2014; IWGIA, 2012).

The British, the Pakistani and the Bangladeshi governments have indiscriminately exploited environmental resources ignoring the histories, jhum-based livelihood, culture and identity of the CHT people. The environmental resource-based projects undertaken for economic and political interests by the pre- and post- peace accord governments have sustained conflicts between the local indigenous people and the Bengalis in the CHT region. Although the social cube theory considers six conflict factors as critical, it does not count environment as significant conflict factor. This study finds the environment as salient as the six factors of model. As such, this paper suggests the need to expand the social cube model by including environment as a critical conflict factor. Some other studies have suggested to expand the model by including other salient issues of ethnic conflict (Matyok et al., 2014 as cited in Reimer et al., 2015; Russ-Trent, 2002; Byrne et al., 2001), which are not elaborated here because of the limited scope of this paper.

To transform ethnic conflict toward building peace is an uphill task. This is because varied parties are to be involved and included in the peace processes. The peace process of ethnic conflict in Bangladesh does not, however, need to involve multiple parties. The process needs an honest participation of only

two parties with open hearts: the indigenous people and the government. The local ownership of the accord and the real participation of local people in governance, development and peacebuilding can transform the ethnic conflict.

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**The Utility of Traditional Justice System of “Panchayat”
in Resolving Pakistan-India Interstate Conflict**

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Abstract

By employing the analogy-making approach, this paper seeks to examine the psycho-dynamics behind the traditional system of conflict management of “Panchayat” in the Asian subcontinent and presents it as an analogous model to resolve interstate conflicts between India and Pakistan. By examining the psychological and moral structure of Panchayat system, the paper develops a conceptual framework to make use of indigenous psychology behind the success of this local justice system in the conflict resolution process between the two neighboring countries. Panchayat system links both societies through this centuries-old model of conflict resolution which predates the British colonial justice system. People in the subcontinent tend to map the psychological and moral structure of their indigenous institutions onto other institutions in the outside world. Accordingly, by learning the psychological mechanism operating behind Panchayat institution, international mediators can build a better conciliatory framework to manage the conflicts between both countries. The paper proposes that the Panchayat system does not need to be used in its original shape, but the psycho-dynamics of Panchayat should be included in modern conflict resolution techniques used to manage the Pakistan-India case.

Keywords: India-Pakistan, Panchayat, conflict resolution, indigenous psychology, international mediation

Introduction

The Pakistan-India conflict has been raging for about more than 70 years, and there have been many attempts by international mediators and arbitrators to get both parties to sit down and work out their differences. All such attempts have failed so far because the mediators have not properly assessed the psychological nature of the problem. They have also largely ignored the traditional conflict resolution systems in the subcontinent of India and Pakistan. If international peacekeepers were to delve deeper, they could take hope and inspiration from a smaller, older and more local justice and conflict resolution system, *Panchayat*, which has been effective in mediating disputes in warring territories since ages. For millennia, people in the subcontinent have been psychologically tuned to seek management for their conflicts through the institution of *Panchayat*. This paper suggests that the study of traditional wisdom used within the Panchayat system can help international mediators to adopt a better approach towards conflict management between these two rival states. Sustainable peace is always required to be accepted and owned by the people based on their indigenous system of conflict resolution (Gohar, 2018).

There are a variety of culturally constituted methods for handling conflict around the world. Different cultures develop their own formal and informal ways of handling conflict – such as *Ubuntu*, *Gacaca* and *Mato Oput* in Africa, *Jirga* in Afghanistan and *Sulah* in the Middle East (Adebayo et al., 2014). Ironically, the traditional models have been ignored by international mediators because they can make conflict resolution more complicated as each specific cultural model has its own perception of conflict and techniques for resolving it. Therefore, these models are not considered much effective to resolve conflicts between nation-states.

However, it is also evident that a large number of intractable conflicts in the world are between culturally similar groups. This paper argues that the psycho-dynamics of traditional systems of conflict resolution could be very useful while searching resolution of the conflicts between such nation-states whose people had lived side by side in the past (e.g., North-South Korea, Serbia-Croatia-Bosnia, and India-Pakistan). Usually, such warring nations or groups possess similar traditional approaches to manage and resolve their conflicts. For example, Pakistani and Indian societies are linked through an age-old model of conflict-resolution, i.e., Panchayat system. The traditional methods of conflict resolution must not be ignored in the peacebuilding process between these countries inhabiting people possessing more or less similar cultural values, shared past, and identical conflict resolution institutions such as *Panchayat*.

Panchayat system is a South Asian political and justice-providing system mainly in India, Pakistan, Bangladesh and Nepal. As a colonial legacy, culturally similar groups were divided into different nation-states in the Asian subcontinent. Therefore, despite numerous ethnic diversity and religious differences, both Indians and Pakistanis share common history, geographical proximity, similar cultural gene pool, identical kinship institutions (S. Kakar & Kakar, 2009), and identical local justice system. Although, the Panchayat model is still to be applied in respect of resolving interstate conflict, the relevance of Panchayat system cannot be overemphasized for the people of Pakistan and India who parted their ways into new territorial states after living together and who have been resolving their disputes through this local justice system for centuries.

Doubtlessly, the intergroup conflicts between culturally similar groups are, sometimes, more difficult to be resolved as compared to the conflicts between culturally dissimilar groups as well as states (Ross, 1997, 2004). It partly explains why international arbitrators have failed so far to resolve the conflict

between India and Pakistan. One of the reasons for this failure lies in assigning both groups diametrically opposite religious and cultural identities. Secondly, mediators have often ignored indigenous knowledge of culture, conflict perception, and conflict resolution methods, which is common in both groups. The mediators often miss the psychology behind traditional conflict resolution system in the subcontinent.

Methodology and Theoretical Framework

The main objective of this paper resides in exploring the psychological attributes of the local Panchayat justice system and utilizing them for interstate conflict resolution processes. Therefore, the *analogy-making* approach has been used in this paper to compare the indigenous conflict resolution mechanism to that of the interstate conflict resolution process. The *analogy-making* method follows Aristotle's saying that “to be a master of metaphor is a sign of ‘genius’, since a good metaphor implies an eye for resemblance” (Lancaster, 2015). Analogy is “a form of scientific method that uses one set of behavior to analyze and explain the behavior of other phenomena” (Morlidge & Player, 2010, p. 287). The analogies are used to relate known knowledge to unknown experiences, to uncover similarities once some basic resemblances are noted (O’Conner, 1971).

Several inferences emerge by analogizing the typology of intragroup and inter-group conflicts to interstate conflicts, since to paraphrase Zimmerman and Jacobson (1993): while the conflict between families and groups is inevitable; as families are systems, so are groups; and, intentions matter, as does how people interpret reality. Therefore, by employing the psycho-dynamics of Panchayat system, this methodology will help me to compare the interpersonal/intergroup conflict dynamics to that of interstate conflicts between Pakistan and India, and manage them in a better way. It is imperative to mention here that certainly *Panchayat* has no history of resolving interstate conflicts in South Asia. However, the inclusion of psycho-dynamics operating behind this local justice system into an interstate conflict resolution process can affect the overall discourse on war and peace in the region. This methodology enables us to build a fresh conceptual framework to re-assess the conflict management procedure between both nations.

The remaining section is aimed at building a theoretical case that explains how learning the indigenous psychology behind a traditional justice system such as *Panchayat* can prove beneficial for international mediators to build an “indigenous-theory” for resolving interstate conflicts. The strategies adopted by these indigenous justice systems are not only relevant but in many cases they can give better results. No doubt, ‘conflict’ is inherent in human nature but conflict resolution can be regarded as more a cultural phenomenon than a biological or universal phenomenon. While conflict is universal, the ways in which it is expressed and managed are not (Fry & Bjorkqvist, 2013). Humans have always been inventing ‘indigenous’ methods for resolving their conflicts according to their society’s norms, practices and institutions, and these traditional methods have endured through ages.

Arguably, the culture-specific responses to conflicts remain invisible between culturally similar groups (Pakistan-India case). However, such groups are hardly ready to accept any conflict resolution proposal, which is inconsistent with their own cultural norms regarding conflict resolution. The mediators can overcome this issue by deeply studying the psycho-dynamics of traditional conflict resolution systems which have been providing time-tested solutions to the local people. Such study requires an observation of local people’s worldviews regarding conflict perception as well as resolution, and society’s overall emotional climate.

As conflict means “perceived divergence of interest or a belief developed by parties that cannot be achieved simultaneously” (Rubin et al., 1994, p. 4), an effective approach of conflict resolution requires that mediators should convince the parties that their perceptions of divergent interests are not correct. To a great extent, parties’ conflict perceptions are shaped by culture. Ross (1993) observes that: “any society’s specific norms, practices, and institutions regarding conflict provide a framework for people’s perception of conflict” (p. 19). It implies that conflict resolution must be culture-specific which is termed as ‘culture of conflict resolution’ as noted by Avruch (1991).

Avruch and Black (1991) advocated the inclusion of culture and traditional wisdom to resolve conflicts and critiqued culture-blind theoretical approaches. They propose that indigenous common-sense or understandings of conflict must be included in the inquiry which may form ‘native theories’ of conflict and conflict resolution. It is necessary to know before analyzing or managing conflict how the parties conceptualize conflict and how they approach its management or resolution. In India and Pakistan, the psychological imagery related to conflict, violence, conflict resolution and peace emanates from *within* the kinship institution (Kadir, 2019), which must not be ignored as it is another identical institution between two nations. In brief, the local ‘common-sense’ about conflict and conflict resolution distributed among individuals in culturally similar groups can help to understand the nature of conflict and its management in a better way. Avruch and Black (1991) refer to such cultural knowledge or common-sense about conflict as *ethno-conflict theory*, and such indigenous conflict resolution techniques and practices as *ethno-praxes*.

Ledarach (1995) also maintains that conflict mediation attempts should not be against the relevant cultural understanding: “[t]he greatest resource for sustaining peace in the long term is always rooted in the local people and their culture” (p.10). He points out that simple resolution approaches may be too narrow to bring about lasting peace because they are not inclusive. On another place, he cautions the conflict resolvers that attempting to mediate within a culture different from their own, need to be both flexible and sensitive to avoid acting like the proverbial bull in a china shop (Lederach, 1991). He observed that western (North American) conflict resolution training and practices could not be effectively exported to other cultural settings. Lederach (1991, 1995) supports the proposal of this paper that conflict resolution techniques must use disputant’s frame of reference to understand how the participants interpret the boundaries and context of their conflict. The psycho-dynamics of indigenous conflict-resolution methods such as *Panchayat* in India-Pakistan case, therefore, needs to be properly analyzed and included in conflict resolution techniques at interstate level.

The History of the Panchayat System of Conflict Resolution

Panchayat means a court of arbitrators, usually consisting of community’s elders; traditionally, their number was supposed to be five (*panch*) – hence *Panchayat* (Pandey, 1990). This term has been used since ages for the traditional ‘village-assemblies’ in the Asian subcontinent which have been acting as the justice-providing/conflict-resolution institution. It is imperative to mention here that the Panchayat system is not a colonial model and it predates the western colonial justice system. There are several types of *Panchayats* based on their scale and jurisdictional area: Family Panchayat, Inter-family Panchayat, Village Panchayat, Inter-village Panchayat, etc.

Rural societies in India and Pakistan are structurally similar, if not identical in every detail

(Alavi, 1972). Both are agrarian societies and basic needs, including justice, have always been provided to people at the village level. These village communities have been termed as “little kingdoms” (Cohn, 1976, pp. 139-42). Thomas Metcalf, a British colonial administrator, aptly made a remark on these village communities that they are “little-republics having nearly everything they want within themselves including the justice system, and, almost independent of any foreign relations” (Cohn, 1965, p. 96). The Panchayat system of conflict resolution is still practiced in many parts of India and Pakistan as most of the people still live in villages despite massive urbanization during the last decades. *Panchayat* is one of many common institutions in both countries and enjoins both societies psychologically in the sense that people on both sides of the border are culturally trained to resolve their conflicts through this indigenous model of conflict resolution.

The available ethnographic-legal literature suggests that the western legal system was tried to ‘impose’ on Indian people by the British administration (Chaudhary, 1999). The attempts were also made during the British Raj to centralize the autonomous Panchayat system (Baxi, 1982). Despite these efforts, Panchayat system was sustained in both formal and informal ways in British India. In the recent past, India has made serious attempts to revive its traditional justice system of Panchayat in its true spirit (Ananth, 2014).

The colonists had promoted the modern justice system of ‘courts’ as a part of their ‘civilizing mission’ which promised to provide ‘equal justice’ to indigenous people. However, not only did this system fail to provide equal justice, but it also deprived poor people of “relative” justice they managed to get from their traditional Panchayat justice system. Sadly, modern justice system also drastically dismantled the local cultural norms and values resulting in imploding the centuries-old social harmony and solidarity in the subcontinent, the detail of which is out of the scope of this paper.

Indigenous Psychology behind Panchayat System

Naturally, people are mentally programmed to settle their disputes according to their social environment and value system. For example, in British society, the system examines one distinct dispute under ‘laboratory conditions’ in which disputants lose their social status (Moore, 1985). Nonetheless, in South Asian hierarchical social structure, people are not supposed to be born equal and they have widely differing inherent worth (Cohn, 1967). Therefore, the local justice system in the subcontinent attempts to provide a win-win situation for all the parties than providing them with equal justice. Moore (1985) described the gist of indigenous psychology behind the working of the Panchayat system:

In the village council (Panchayat), a dispute is seen as part of the emotional environment from which it grew. Not only individuals, but their families, the community and the histories that led to the discord are also put on trial. The community participates in open discussion and the decision arrived at, by a core of respected leaders, focuses on compromise. (p. 6)

The Psycho-Dynamics of Panchayat: Building a Model for Interstate Conflict Resolution

By employing the *analogy-making* method, this paper proposes that international peacemakers need to know what the secrets behind the success of the Panchayat system are before utilizing them into

their modern conflict resolution techniques. The salient features and psycho-dynamics of Panchayat system are briefly discussed here as an analogous model to build a conceptual framework for interstate conflict resolution between India and Pakistan.

The success of *Panchayatees* or *Panchs* (which is the local name for five Panchayat judges or jury members while the chief jurist is called Ser-Panch) largely depends upon both their scale of ‘respect’ and ‘status’ within parties. It is not only the social standing of the jury members that enables them to impose their verdicts, but the ‘honor’ bestowed upon them by the disputant parties. As an indigenous saying explains: “even the prostitutes are filthy rich, but have no prestige.” Therefore, a person having good moral values is more desirable as a jury member to a person having more wealth or power. The *Panchayatees* are always well known for their positive and fair qualities (Chaudhary, 1999). It could partly explain why superpowers like USA or USSR failed to permanently resolve the conflict between India and Pakistan because both are not honored equally by the people on both sides. As a prerequisite, international mediators (or arbitrating state) must be respected unconditionally by both warring states.

In contrast to western principles of equality, Panchayat system provides “relative” justice to the individuals as well as the groups. Panchayat members provide ‘face-saving’ solutions to both parties by offering them relatively different ‘doses’ of honor and material benefits. The weaker party is usually privileged in terms of material benefits while the powerful party is promised an elevation in status if it accommodates the weaker party well. This aspect may seem strange to western arbitrators as an arbitration tactic; however, it needs proper attention of the arbitrators by assuming Pakistan as a weaker party.

The honor (*Izzat*) and social status of disputant parties matter much in arriving at decisions (Chaudhary, 1999). Panchayat decisions aim more to save the honor of both parties, than tending to facts. Panchayat members know exactly that people in the subcontinent can bear the material loss, but not the loss of honor. The enforcement of those decisions is difficult, which may hurt the honor (*Izzat*) of either party. The honor of both parties has always been a strong bearing on the final decision – rather than sticking very closely to the facts. It implies that both parties (states) need to be convinced by the mediators that the acceptance of a certain resolution of the conflict would enhance their status in the community of nations.

Panchayat system deals with both socio-economic and emotional aspects of the conflict. One strategy involves hearing the grievances of those in dispute repeatedly to help desensitize the problem. This technique helps *Panchayatees* to ‘de-escalate’ the conflict. The prolonged discussions covering all potential perspectives facilitate a kind of emotional catharsis for the disputants. The dissipation of the emotional content of the dispute through repeated recalling and ‘re-experiencing’ of the conflict, aids to the resolution of material and social components of the conflict. It is appropriate to mention here that the trauma of partition of 1947 which took more than a million lives is an important contributor to the India-Pakistan conflict that still haunts the people on both sides.

The history of the conflict is a major factor considered very seriously by the *Panchayatees*. The history of the conflict and past wounds are often of more concern to the warring parties than the actual conflict itself. The material part of the conflict is only a fraction of the years-old enmity between the two groups. Gulliver (1969) states that: “there are three main stages of conflict in the subcontinent: the prehistory of the dispute, the dispute itself, and the social consequences that follow settlement” (p. 15). Cohn (1967) also observed: “The case which is the crux of the dispute is only a minor expression

of a long-standing antagonistic relationship between two families or groups” (p. 156). Therefore, long hearings in the presence of the entire community help to dissipate much of the emotions through this repeated recalling and re-experiencing of the grievance. The psychology behind this is to uproot the enmity from the hearts of the disputants. Here, international arbitrators need to provide both parties with such a platform where they can sit peacefully and talk out their hearts as a catharsis process.

Panchayat decisions are not abrupt but a gradual development of their meetings with both parties in the presence of the community. If a compromise is arrived at and is accepted by both parties, they are made to stand up to embrace each other and shake hands. It is a symbol of ending the conflict. The parties are asked to take an oath on sacred books (Quran, Bhagavad Gita, Granth, etc.) to abide by the decision of the *Panchayat*. This tradition has far-reaching results as breaking an oath is considered a very low-esteem act not only from the religious perspective but it is also considered as lowering one’s own ‘status’; a thing much sought after in this region. Such a binding oath-taking ritual can be used by international mediators as a conflict resolution tool in the India-Pakistan case.

In the subcontinent of India and Pakistan, the whole community gets involved in disputes based on their closeness with the disputants. Many village conflicts continue for generations, thus leading to the involvement of the whole community. A colonial administrator, Walsh (1929), wrote about the nature of crimes and conflicts in British India:

In England, a very large proportion of crime is committed single-handed, and the average number of offenders per crime must be under two. The average number per crime in the united provinces (UP, present India) must be nearer ten than two. Even the conflicts which start between individuals, soon become group conflicts due to mutual obligation of kinsmen or fellow villagers. (p. 10)

Therefore, *Panchayat* involves the entire community of the disputant parties, because they know that the single disputant cannot take a decision on its own. And even if he does so in the absence of his group members, he is likely to revert from his decision due to pressure from the other members. It therefore brings to the fore why (every) ruling party has to face the wrath of the opposition party in both countries when they tend to reconcile differences with their traditional rivals. It implies that international arbitrators must engage all the stake-holders – all the leading socio-political and religious factions in both countries – while simultaneously tending to the mediation process.

Another very important factor behind conflicts in the subcontinent is ‘land’, which is very casually treated just as a “commodity” in the western world. People, in the subcontinent, develop emotional attachment to land as it provides food and status. Land is no less than a *Maa* (mother) to local people. *Panchayatees* take this emotional perspective into consideration before proposing a resolution of conflict involving land. International arbitrators also need to pay attention to this aspect. This aspect can give useful insights for resolving the intractable Kashmir dispute between India and Pakistan.

To sum up, the main difference between *Panchayat* and modern justice system is that modern system punishes, leaving the enmities as they were, while *Panchayat* resolves the enmities permanently, addresses its root causes, reconciles and rehabilitates the parties. The elders help to soften the hearts and minds of the conflicting parties and make them think about the consequences of violent conflict. The main purpose of *Panchayat* is to contain conflict, and focus on reconciliation rather than providing absolute justice. Both parties are assured somehow that resolving the conflict would enhance their statuses within

the community. Similarly, both India and Pakistan must be assured by the international arbitrators that settling their mutual issues would not harm their credibility in the global power structure.

Conclusion

Before the emergence of the nation-state system, each community in the world was governed through centuries-old traditional methods. Similarly, Indian communities have used their indigenous knowledge for centuries to resolve their intra/inter-community conflicts. The community elders have been using indigenous values to resolve conflicts through the Panchayat system in many parts of South Asia. The Panchayat system has been much successful in reaching a consensus or amicable settlement of disputes. Therefore, the possibility of effective international mediation between India and Pakistan is only a question of understanding the psycho-dynamics behind this micro institution of Panchayat and utilizing it at the macro level interstate conflict resolution mechanism.

What is not being proposed here is that the original Panchayat system should replace the institutional layers of the modern international state system, nor am I proposing that international mediators should replicate the old-fashioned style of proceedings by summoning both parties on a ground or in a hall. However, the emphasis is on the utilization of micro-level psycho-dynamics of Panchayat as an inspiration to develop a workable model for interstate conflict resolution between both countries. Such a model can borrow from the traditional knowledge and psychological/moral structures of this centuries-old justice system. It is also worth mentioning that, psychologically, people in the subcontinent tend to transpose the psycho-cultural moralities learned through their primary social institutions into every other institution present in the outside world (Kakar, 1978). This aspect gives credence to the proposition that the moralities of the Panchayat system could be useful in resolving interstate conflicts as well. Lieven (2012) also puts forward that Pakistanis conceptualize themselves as ‘one’ large kin-group in the community of nations and grant Indians a special rival status of ‘another’ such kin-group.

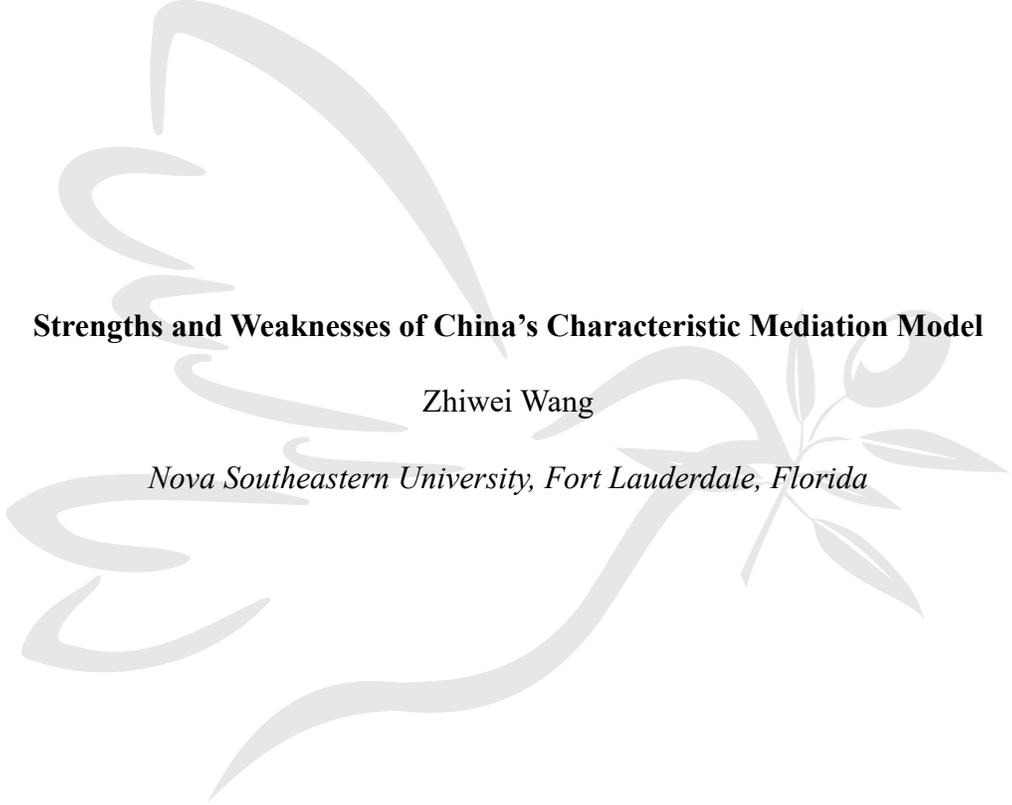
This paper has argued that the main reasons behind the failure of international mediators – to bring peace in this emotionally charged region – lies in ignoring the indigenous psychology behind traditional conflict resolution systems. Following the traditional norms may eliminate the trust gap between the mediators and the parties, and increase the respect-level of the former. Therefore, this paper proposes that it is time for international arbitrators to utilize the subcontinental indigenous ‘common-sense’ of conflict resolution into their modern mediation techniques. An Indian cultural psychologist, Nandy (2002), also argues that south Asian ethnic conflicts owe to similarity and nearness rather than differences.

Finally, this paper pointed out that the psychology behind conflict resolution does not differ much for intra-group, inter-group or interstate conflicts within the same cultural milieu. There is no reason that interstate conflicts cannot be compared to conflicts in older and more traditional societies. They cannot be studied in isolation from their past. Therefore, traditional strategies are relevant to resolving them. After all, it is always the size of the snake-catching stick that varies for catching either a small snake or a giant anaconda; while the shape and contours of the stick always remain the same. Similarly, although the Pakistan-India inter-state conflict is at the top of the continuum scale when compared to intra-group and inter-group conflicts in the subcontinent, the characteristics appear to be the same for both micro and macro level conflicts.

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Strengths and Weaknesses of China's Characteristic Mediation Model

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Abstract

As a preferred and popular method for dispute resolution with a long history and tradition, Chinese mediation model has evolved into a characteristic and mixed form. The characteristic mediation model indicates that on one hand, the heavily institutionalized mediation style guided by local courts has been widely employed in most coastal cities with relatively economic development; on the other hand, the traditional mediation approach by which disputes are mostly resolved through village heads, clan leaders and/or community elites still exists and is practiced in China's rural areas. This research study introduces the distinctive features of China's mediation model and discusses the merits and weaknesses of China's characteristic mediation model.

Keywords: China, mediation, characteristic mediation model, dispute resolution, traditional dispute resolution

Introduction

Community mediation has long been a preferred and popular dispute resolution tool in China for several hundred years. Some prominent western scholars in the field of conflict resolution studies have often cited this in their book following Chinese old saying: "it is better to be vexed to death than to bring a lawsuit" (Auerback, 1983; Chow, 2002; Cohen, 1966). As the existing China's mediation model is *de facto* a mixed and complex model combining its traditional self-customary dispute resolution systems and the court-based mediation system, strengths and weaknesses of this mixed mediation model need to be discussed more specifically for deepening understandings of how China's experiences in developing mediation systems can contribute to other countries.

In order to carefully examine the strengths and weaknesses of China's mediation model, this study is divided into four sections. The first section aims at introducing the existing mediation model and Chinese mediation culture. Then, the strengths and weaknesses of China's mediation model are respectively discussed and analyzed in the second and third section of this study. At the end of this paper is a conclusion in which the whole picture of China's mediation model can be shown to readers.

Through discussing the strengths and weaknesses of China's mediation model, this paper aims at providing the experiences of how the Chinese government has immersed the traditional, non-western, and self-customary mediation systems into the modern, standardized, court-based mediation systems. Practitioners and scholars in the field of mediation are thus able to gain valuable lessons in terms of discussions regarding China's mediation model.

Existing China's Mediation Model

Similar to many Non-western societies, African countries especially, China's society has its traditionally self-customary mediation systems as one of the important historical legacies (Nader, 1991). There are two main reasons for the natural development of China's traditionally self-customary mediation systems. On one hand, China was an agricultural country for thousands of years and an agricultural lifestyle required people to live together in the same community. Therefore, maintaining a harmonious relationship in the community is a key concept of Chinese culture (Hazan & Shi, 2009). The prevailing *Confucianism* that focuses on developing a harmonious relationship inside the community also greatly helped the development and popular use of the self-customary mediation model in ancient China (Perkovich, 1996). In this regard, governmental court intervention for resolving disputes was normally regarded as a threat to the community and strongly discouraged, while bringing disputes to local community leaders and/or clan chiefs was highly promoted. In fact, the intervention of the central government in the community/village affairs was widely regarded as a negative way of impairing the authority of local community leaders in a high-contextual society such as China, making them lose face and/or look "bad" (Ausburger, 1995). Thus, local community leaders and/or village elders normally encouraged community members to report and bring their disputes and grievances to them first before taking them to the court or to other higher officials.

On the other hand, the considerable territory of China was another critical factor for the formation of the self-customary mediation model. The size of Chinese territory was too large to effectively deliver the judicial power of the central government to every corner of its territory, especially to those rural

villages far away from big cities. This geographical limitation of the judicial power functioned as a catalyst to stimulate the development of the local community mediation system, making mediation thriving in those remote areas (Davidheiser, 2006). In fact, the Chinese central government used to suffer greatly from controlling such a big country. For this reason, disputes at both the village and county levels had in general been resolved through the mediation of clan leaders and/or respected elders (Macauley, 1998; Huang, 1996; Li 2009). The gap of the legal field caused by the geographical limits of the judicial system did not only provide a suitable environment for the development of the community mediation system, but further re-embedded grassroots and community members with thoughts that the local mediation system was more feasible and cheaper.

Thus, as discussed above, these two preconditions provided a suitable environment for the development of the traditionally self-customary mediation model that was historically popular in China (Cohen, 1966; Utter, 1990; Wong, 1995). However, the current Chinese mediation model is not the same one with the traditional mediation model discussed. Instead, it has mixed systems combining the self-customary mediation system and the internationalized, court-based mediation system. The court-based mediation system is primarily used in big and economically developed cities, while the traditionally self-customary mediation system is often practiced in rural villages where village heads and clan leaders are legally responsible for resolving disputes. In Chinese big cities, legal culture and judicial behavior have become more consistent with international norms and practice (Potter, 2001), so the court-based mediation system is somewhat like mediation systems of western countries which focus on creating a fair and just mediation procedure that helps promote a mutually acceptable resolution for involved parties (Moore, 2003). In contrast, the traditional, community-based mediation system in rural areas of China does not really focus on a standardized mediation process, but concerns more with long-term relationships of involved parties and a flexible process which can be navigated to a mutually acceptable conclusion (Qian, 2010; Yuan, 2017).

It is worth noting that the two divided mediation systems are not working separately according to the geographical/economic difference, but one is embedded within the other. The integration of two mediation systems costs tremendous administrative efforts of the Chinese government. For example, it is not uncommon that court-based mediators go to villages to introduce and impart legal knowledge to village heads and/or community mediators so mediators in rural villages can better help disputants with their legal knowledge. Also, aged traditional mediators are often invited to big cities to introduce their mediation skills and experiences to court-based mediators so that the toolkits of court-based mediators can be enlarged. What is more, in face of long-lasting and intractable disputes, police officers, lawyers, community mediators, and other third parties occasionally work as a team to mediate involved parties' cases. In this situation, mediators, both court-based mediators and village heads, are closely working together to achieve a workable resolution.

Merits of China's Mediation Model

In the previous section, the development of the traditional Chinese mediation model and the characters of the current Chinese mediation model have been discussed. Having a basic understanding of the current Chinese mediation model, which includes traditional mediation systems and modern, court-based systems, is important and necessary for a discussion on the merits and weaknesses of the Chinese

mediation model. In this section, strengths of the distinctive Chinese mediation model are discussed and analyzed in detail with examples.

There is no doubt that China's mediation model, with its complex mediation systems, has been doing an effective job in helping resolve disputes and maintain social stability for the past decade. For example, the civil mediation/dispute room established by the police in Beijing city successfully handled 88.9% cases from March to July 2010, according to data released by Beijing Municipal Public Security Bureau (2010). Another example is the Shanghai District Courts, where a people's mediation window inside the courtroom was set up so that disputants are able to have a good chance to mediate their case first in advance of litigation. This initiative helped decrease about 15% of cases handled by the courts in 2006 compared to 2005 (Hong, 2007).

In fact, the Chinese central government has been working hard to help develop mediation, which can be learned from a course of legal actions that the Chinese central government enacted. At the beginning of the 21st century, two influential law documents in China were put into effect: *Judicial interpretation on Hearing Civil Cases Involving People's Mediation Agreement* by the Supreme People's Court and *Some Provisions Regarding the Work of People's Mediation* by the Ministry of Justice. Besides, the *Mediation laws of China* legislated later in 2010 can be regarded as a legal way to protect, extend and reinforce these two provisions.

At the core of all these law documents is the enhancement of the legal status of mediation by strongly immersing the traditional mediation system into the Chinese legal system, so that mediation is able to gain more attraction and become more effective in helping litigious people living in big cities. For example, before the enactment of these law documents, judges of China's People courts often ignored the agreement made through mediation in legal practice (Halegua, 2005), which made many Chinese people just doubt the authority of mediation agreements. *Mediation laws of China*, together with *Some Provisions Regarding the Work of People's Mediation*, for the first time in Chinese legal history, allow agreements made in mediation to enjoy a legal status equivalent to civil contracts, which help dispel people's worries (Di & Wu, 2009). By officially and legally recognizing the legitimacy of mediation, mediation services in big cities become more trustworthy and thus become more attractive.

The mutual communications between Chinese traditional mediators mostly from rural areas and court-based mediators from big cities are also an important merit that makes China's mediation model successful, effective, and popular. Through mutual communications, mediation skills and experiences of the traditional mediators can be passed on to many court-based mediators in the next generation. Meanwhile, those village heads and/or clan elders are able to have the latest legal knowledge to deal with disputes and better solutions may thus be created. Again, the Chinese government at all levels should be given credits for their strong administrative power to mobilize all types of mediators together and create opportunities and platforms for them.

Last but not the least, *Confucianism*, as a dominant ideology in China, has played an important role in promoting the development of mediation, especially contributing to the Chinese mediation skills and process (Colaterlla, 2000; Jianxin, 1997). With the strong influence of *Confucian* philosophy, Chinese people prefer to resolve their disputes through a way that hurts their personal connection at the minimum (Cohen, 1966; Utter, 1987). There are just many precious thoughts from *Confucianism* used by Chinese mediators for enlarging their mediation tool boxes. For example, encouraging disputants to conduct self-criticism is a distinctive one (Fei, 1993). The central idea of self-criticism originally from

Confucianism in mediation practice is to encourage disputants to focus on what they have done wrong (Perkovich, 1996). Disputants are always strongly encouraged to apologize first in the mediation process to earn other's forgiveness and respect in order to reach an agreement in good faith.

Weaknesses of China's Mediation Model

Even though China's mediation model works effectively in maintaining social order and resolving disputes, there are three obvious drawbacks in the development of China's mediation. First and foremost, there is no single university in China providing mediation/conflict resolution degree program. Although some Chinese universities do offer some mediation courses in law schools, it is far away from their western counterparts who have been growing their teaching interests in offering degree programs in mediation and conflict resolution. Lack of university education, many Chinese mediators are short of theories and skills in conflict resolution and have to learn it at their job from experienced mediators. In fact, there is a huge gap between the growing mediation services and the professional and skillful mediators in the Chinese mediation services market.

Moreover, although the Chinese central government attempted harder to promote legal education in rural town and villages than big cities, the effects of these top-down movements were indeed limited (Song, 2006). As a result of the lack of enough institutional support and legal resources, people living in rural areas rely more on the mediation of clan leaders and/or village heads. Although these clan leaders and/or village heads are powerful in maintaining villages' order and skillful in practicing mediation skills, they may not be strictly impartial, nor absolutely neutral. Quite often, village heads and/or clan leaders approach a dispute by opening a discussion in a village meeting room with all of the villagers or sometimes important villagers, listening to complaints from both sides, but they always show their strong personal styles in resolving conflicts, emphasizing the importance of harmony of village or community (Chia et al., 2004). In some situations, the role of these Chinese mediators, especially those village heads, could be "authoritative mediators" in the modern ADR system as Moore (2003) describes that the mediator has "an authoritative relationship to the parties in that he or she is in a superior or more powerful position and has potential or actual capacity to influence the outcome of a dispute" (p. 47). Therefore, the justification of the agreements made by those mediators sometimes can be daunting.

Furthermore, mediation has long been viewed by Beijing as "the first line of defense to guarantee social stability," so the Chinese officials from the central level to the local level have been strongly supporting the use of mediation for maintaining the social order and peace with strong administrative power since 1990 (Kleinlei, 2014). It does effectively contribute to the popular use of mediation in China. However, the strong invention of the governmental power can be harmful to the process and outcome of mediation too as mediation has to proceed with the willingness and good faith of involved parties (Moore, 2003). In China, some disputants are forced to go to mediation rooms but not willingly seek the help of mediation. In fact, mediation has also been placed in China at a priority position with a policy promoted by the China's supreme people's court in 2010 (Zhang, 2012). The policy is called "mediation first" (*tiajie you xian*), which encourages, sometimes even enforces disputants to go for mediation first before entering the courtroom. For example, Chinese courts in many situations would not review the case by deliberately delaying the process until disputants go for mediation first.

Conclusion

The past two decades of the 21st century are the golden years for the development of China's mediation model which has been doing a good job in combining its two arms. One arm of the mediation model is the court-based and more standardized mediation system in big cities and the other arm practices the relatively traditional mediation style in rural areas. Through a variety of legal documents, administrative power, *Confucian* ideology, and communications between different types of mediators, China's complex mediation model exemplifies how traditional mediation patterns can be embedded into the institutionalized mediation model and co-work with court-based mediation systems in non-western society. The experiences of how the Chinese government has integrated two different mediation systems also provide a new angle to scholars and practitioners in the field of mediation.

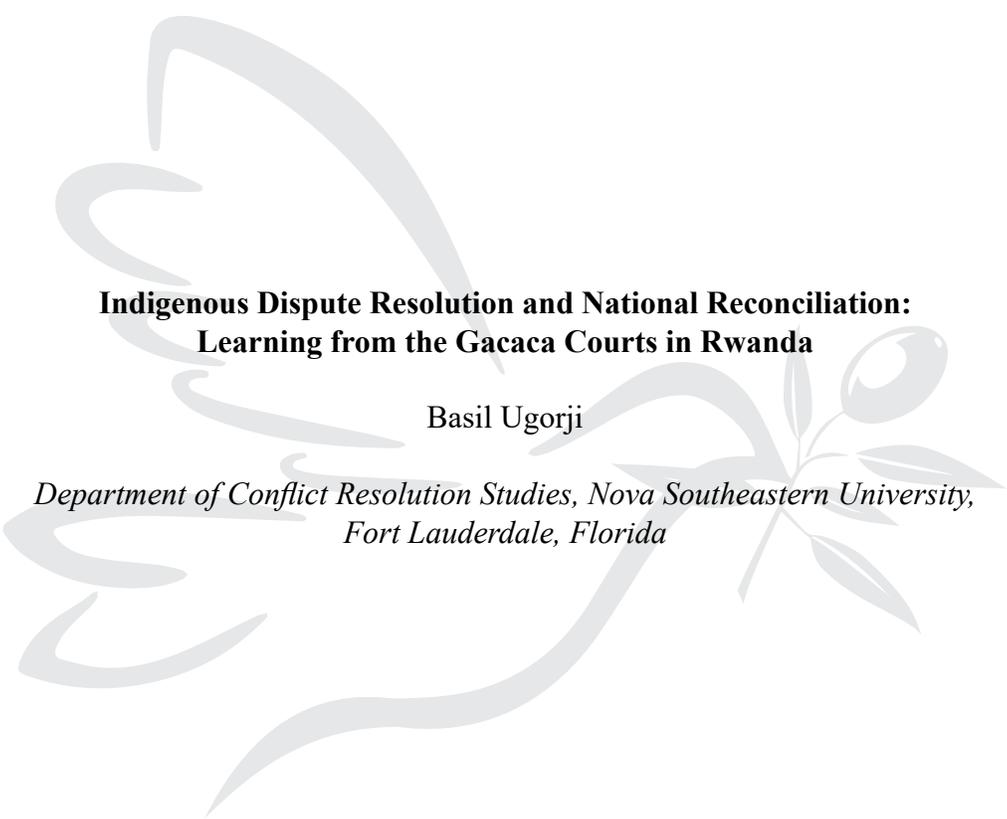
However, it seems that the continuation of the prosperity of China's mixed mediation model faces many serious challenges. The lack of good mediation teaching programs in higher education severely fades the future of mediation's development away in China. The government-led development model makes mediation relies more on administrative power rather than on market needs. Once the central government changes or adjusts its strategies, mediation may become less popular. In addition, the traditionally acquaintance-community-based mediation systems in rural areas of China have some flaws such as depending occasionally on mediators' personal skills and thus may not be fair enough in resolving disputes (Yang et al., 2005; Zhang, 2015).

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**Indigenous Dispute Resolution and National Reconciliation:
Learning from the Gacaca Courts in Rwanda**

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Abstract

This essay explores how the Gacaca courts system, a traditional system of dispute resolution, was revitalized after the 1994 genocide against the Tutsi to promote national unity and reconciliation in Rwanda. To realize this goal, the essay examines five major points: the revitalization process of the Gacaca courts in Rwanda; the conflict resolution practice utilized in the Gacaca courts; the practice theory of change underlying this intervention; Lederach's (1997) views on "sustainable reconciliation in divided societies" as applicable to the Gacaca case; and finally the lessons learned from the Gacaca courts system and how the Gacaca courts were used to foster national reconciliation and peace after the genocide.

Keywords: Rwanda, Hutu, Tutsi, Gacaca court, genocide, alternative dispute resolution, traditional conflict resolution, indigenous people, national reconciliation

Introduction

On June 16, 2016, I delivered a lecture at the Department of Conflict Resolution Studies, Nova Southeastern University, Florida, USA on the topic: “Revitalizing Tradition to Promote Reconciliation: The Gacaca Courts in Rwanda” (Malan, 2005, pp. 466-471). The process by which I chose the Gacaca case in Rwanda was both serendipitous and teleological. *Serendipity*, a word used by Horace Walpole in 1754 to mean “discoveries, by accident and sagacity, of things” (Lederach, 2005, p. 114), was re-appropriated by Lederach (2005) to explain “the fascination and frustration of sideways progress that constitutes the human endeavor of building peace in settings of violence, for constructive social change is often what accompanies and surrounds the journey more than what was originally and intentionally pursued and produced” (p. 115). Initially, I was fascinated by and drawn toward the “faith-based organizations: the religious dimension of peacebuilding,” especially the case of “the Pastor and the Imam: the Muslim-Christian dialogue forum in Nigeria” (Johnston, 2005, p. 226). However, and as the French expression goes, *par hasard*, meaning ‘accidentally or by chance’, I had an opportunity and honor of meeting “Imam Muhammad Ashafa and Pastor James Wuye of the Interfaith Mediation Center, Kaduna, northern Nigeria” (ICERM Press Release, 2016) at a conference in Sacramento, California. Having established a relationship with them, and given that I have access to enormous materials about their work and theory of change, I thought of studying and discovering another practice theory of change that is less familiar to me; hence, my second area of interest: “traditional and local conflict resolution” (Malan, 2005, p. 449), specifically “the Gacaca courts in Rwanda” (Malan, 2005, p. 466).

My choice of the Gacaca case was not just to learn about the history of the 1994 genocide against the Tutsi in Rwanda. Prior to this presentation, I had done some studies on the genocide against the Tutsi in Rwanda. From a *teleological* perspective, however, I wanted to explore, discover, learn and understand how to revitalize traditional customs and practices for social change through alternative dispute resolution processes – particularly restorative justice and victim-offender-mediation. Many conflict resolution theorists and practitioners, and even policymakers, do not recognize the importance of traditional customs and practices in creating the conditions for sustainable peace. The presentation reveals that the Gacaca courts played an important role in promoting interethnic understanding, national unity and reconciliation after the 1994 genocide against the Tutsi in Rwanda.

In light of Lederach’s (1997) views on “sustainable reconciliation in divided societies,” the presentation explores why the Gacaca courts were institutionalized and the processes by which this traditional model of dispute resolution helped in creating sustainable reconciliation and transformation after the genocide. For a detailed understanding of the presentation, this essay covers five important aspects: the revitalization process of the Gacaca courts system in Rwanda; the conflict resolution practice utilized in the Gacaca courts; the practice theory of change underlying this intervention; Lederach’s (1997) views on “sustainable reconciliation in divided societies” as applicable to the Gacaca case; and finally, a conclusion that highlights lessons learned from this practice theory of change, including its weaknesses and strengths.

Revitalization Process of the Gacaca Courts System in Rwanda

The 1994 genocide against the Tutsi in Rwanda raises fundamental, political, policy, judicial, socio-ethical, and moral questions, not only in Rwanda, but also around the world. These questions

center on how the Hutus, Tutsis, and Twas could live together in peace and harmony as Rwandans after the massacre of about one million Tutsi ethnic members and their Hutu sympathizers, and with a high level of trauma, pain, anger, hatred, boiling animosity, refugee crisis, and loss or damage of property that the genocide inflicted on the survivors. How could a new national identity be reconstructed in the post-1994 genocide era? And from a judicial perspective, how could the perpetrators of genocide be tried? What kind(s) of punishment should be given to them to appease, soothe, and comfort the victims? Which model of dispute resolution could help in creating the conditions for the emergence of a new narrative, a narrative that is different from the hateful narrative spread through the media, especially by *Radio Télévision Libre des Mille Collines*? Are there ways by which reparations, trauma healing, and possibly, forgiveness and reconciliation could take place? And finally, which method of conflict resolution has the potential for building bridges between the Hutus and the Tutsis for the emergence of a *national unity and national identity card* as an antithesis of the Belgian government's tactic of divide and rule during its conflict inducing colonization practices in Rwanda and its *divisive ethnic identity cards*?

Five years after the 1994 genocide against the Tutsi, the RPF's (Rwandan Patriotic Front) controlled government led by President Paul Kagame initiated a *National Unity and Reconciliation Commission* with the goal of "reconstructing the Rwandan identity, as well as balancing justice, truth, peace and security in the country" (United Nations Department of Public Information, Outreach Programme on the Rwanda Genocide, n.d.). The notion of justice after a genocide implies that the perpetrators should be arrested, tried and sentenced. The problem with the case of Rwanda was the high number of people accused of participating in the genocide at different levels and in various capacities. According to Malan (2005), "with 120,000 people accused of war crimes in prison, experts calculated that it would take 350 years before all defendants would be tried if the official judicial system and procedures would be pursued unaltered" (pp. 466-467). Relying solely on the formal national courts and the international criminal tribunal (which was created specifically for the 1994 genocide against the Tutsi) for justice could make the process unnecessarily long, and as usual, slow. By the nature and operation of the judicial system, the outcomes are designed to satisfy only the abstract legal and retributive principles, deter further occurrence of genocide, and remove the bad guys from the society by giving them a life sentence. In addition, the agents of change within the formal judicial system (i.e., the judges) may not be trusted by the parties; and the cost of the process is usually expensive that with little or no budget after the genocide, Rwanda could not have afforded the cost of holding formal judicial (court) trials for more than 120,000 people initially identified (Malan, 2005).

Confronted with these challenges, the Rwandan government and its post-genocide citizens thought that it was even better to return to their tradition to explore and revitalize the dispute resolution system and process their ancestors used to resolve conflicts in their various villages and communities. This was the beginning of the revitalization process of the Gacaca courts system in Rwanda. As "a traditional Rwandan method of conflict resolution at the village level [used to settle] land-based disputes, property damage, marital issues, and inheritance rights" (Malan, 2005, p. 466), the Gacaca courts system was revitalized in 2001 and its implementation started in 2002 and ended in 2012.

According to Malan (2005), the Gacaca courts system was used to hear three categories of crimes: "crimes against property; serious assaults against the person; and criminal acts that place the perpetrators among the perpetrators and accomplices of international homicide" (p. 467). The judges or jurors who facilitated the process were community members selected from the grassroots levels based

on their proven records of “integrity, conduct, and lack of involvement in the genocide” (Malan, 2005, p. 467). Through a non-adversarial, restorative justice oriented victim-offender-mediation process, about 250,000 elected judge-facilitators held weekly hearings in “more than 12,000 community-based courts [for] more than 1.2 million cases throughout the country” (Malan, 2005, p. 467). Unlike the Western, formal judicial system, the duration of Gacaca court cases were short and the process was fast, thereby helping the Rwandan government to save a lot of money. As Kayigamba (2012) notes:

Perhaps the achievements of the Gacaca courts should be measured against those of the International Criminal Tribunal for Rwanda (ICTR) based in Arusha, Tanzania. While the Rwandan grassroots courts have tackled as many as two million cases, the ICTR has only managed to complete 69 trials. Gacaca trials have cost \$40 million, whereas the ICTR trials have cost a staggering \$1 billion. (para. 24)

The short duration and the inexpensive nature of the Gacaca courts system did not jeopardize the process outcome which includes truth finding, confession, remorse, apology, forgiveness, letting go, reparation or restitution, community service, reconciliation, reintegration, healing, closure, and peace.

Conflict Resolution Practice Utilized in the Gacaca Courts

Based on the foregoing characteristic elements of the Gacaca courts system, it could be said that the dispute resolution practice that was utilized in the Gacaca courts falls within the non-adversarial and restorative justice system and processes, especially victim offender mediation. In 2012, I did a study on the “possibility of ethno-religious mediation in Africa” (Ugorji, 2012), and my findings on the restorative justice program as was implemented in South Africa and later in Rwanda reveal that “unlike the retributive justice (or punitive, repressive) which aims to restore order through the imposition of sufferings, sanctions, revenge, and proportionate reprisals; restorative justice (or transformative) is concerned with: a) the restoration or reconstruction of the victims; and b) the reintegration of offenders into the community” (Ugorji, 2012, p. 160). This finding explains how the Gacaca courts were able to facilitate not only a national reconciliation and the healing process of the victims, but also the system provided a space for the perpetrators to be heard by their communities in which they were to be reintegrated after the terms of reparations were met.

From this perspective, the Gacaca courts system focused on the following seven areas among the other things it achieved: damage(s) caused to the victims and the community, reparation, restoration of the broken equilibrium among the parties: society, offenders and victims; reconciliation, relationship, peace in the community; and finally, a focus on the reestablishment of a balance - “a balance between a number of different tensions: between therapeutic and retributive models of justice; between the rights of offenders and the needs of victims; and between the need to rehabilitate offenders and the duty to protect the public” (Liebmann, 2007, p. 33).

The success of restorative justice programs like the Gacaca courts system depends on the types of questions that are asked. As explained by Zehr (2002), restorative justice process like victim-offender-mediation wants to know who was injured, what the needs of the parties are, and who should be held responsible or accountable for the injury. This approach is totally different in retributive justice system.

The formal, West-inspired judicial system focuses on the laws and tries to debate on which of the laws are broken, which of the parties broke these laws, and the penalty or punishment (sentence) that should be given to those who are found guilty (as explained in Ugorji, 2012, pp. 160-162).

The Practice Theory of Change Underlying this Intervention

Leveraging on Shapiro’s (2002) “theory of practice and change flowchart,” the table below illustrates how change occurs in the Gacaca courts system.

Diagnosis/Problem Framing	Intervention Framing & Goals	Methods	How Change Happens	Intended Effects
The need for the Hutu, Tutsi, and Twa survivors (those who were hunted to be killed during the genocide against the Tutsi) to live together in peace and harmony as Rwandans after the genocide and massacre of about one million Tutsi ethnic members and their Hutu sympathizers.	Use non-adversarial and restorative justice system and processes. Revitalize and incorporate the traditional customary dispute resolution system and processes.	Engage in victim-offender-mediation. Story telling – perpetrators, victims and witnesses (community members) tell their stories about what happened.	Using the Gacaca courts system will lead to community grieving, healing of traumatic memories, soothing of anger and pain, and reduction of fears and hatred. Sharing stories and listening to one another will lead to metacognition, mutual understanding, and rebuilding of relationship.	National unity. New Rwandan national identity. National reconciliation.
High level of trauma, pain, anger, hatred, boiling animosity, refugee crisis, and loss or damage of property in the wake of the genocide.	Establish community-based courts or Gacaca courts and hold hearings.	Active and reflective listening. Confession.	Confession, remorse, apology, and commitment to reparation will elicit forgiveness.	New narrative about what happened.
Victims need to know the truth about what happened.	Elect community members from the grassroots levels based on their proven records of “integrity, conduct, and lack of involvement in the genocide” to serve as Judges.	Truth finding, acknowledgement and validation.	Rehabilitation of offenders will lead to public safety.	Healing.
Perpetrators need a safe space to confess.		Acknowledgement and validation of hurts and damage caused.	Allowing community members with good reputation to facilitate the mediation process will add confidence to, and legitimize, the process.	Closure. Reintegration of offenders into the community.
Initially, “more than 120,000 people were waiting for trial for bearing criminal responsibility for their participation in the killings.”	Hold hearings in all the affected communities.	Remorse, apology, forgiveness, letting go, reparation or restitution, and community service.	Frequent hearings will bring relief to the affected population and add credibility to the process.	Peace.
Time and cost of holding formal judicial court trials for more than 120,000 people initially identified.		Hold hearings every week.		Reliable process, inexpensive, and fast.

Lederach’s (1997) Views on “Sustainable Reconciliation in Divided Societies” as Applicable to the Gacaca Case

“Building peace: Sustainable reconciliation in divided societies” by Lederach (1997) constitutes an important theoretical framework from which the Gacaca courts system and processes could be

explained. Published three years after the 1994 genocide against the Tutsi and four years before the revitalization process of the Gacaca courts system started, the timing of this book may suggest that the author was asked to lay out a theory of change for the post-1994 genocide national unity and reconciliation programs in Rwanda. On the contrary, the author rarely mentioned Rwanda in the book; rather, and according to him, the framework of “sustainable reconciliation” draws on his “experiences in Nicaragua, Somalia, Colombia, Northern Ireland, the Philippines and the Basque country” (Lederach, 1997, p. xvii). This marks another important serendipitous moment in my reflection on the Gacaca case. With a prophetic vision and serendipitous prowess, Lederach (1997) suggests two interdependent paradigm shifts in the manifestation of conflict, and conflict analysis and resolution. These paradigm shifts shed light on the practice theory of change evident in the Gacaca courts system. The first is that there is a shift from international conflict manifestation to intra-national or intra-state conflicts; and the second is a shift from western oriented “statist diplomacy” or “the negotiation of substantive interests and issues” to “peaceful and constructive transformation of conflict” through “sustainable reconciliation from within [the affected] society” (Lederach, 1997, p. 25).

The first paradigm shift shows that today’s conflicts, especially since the end of the cold war, are basically intra-national or interethnic conflicts caused by unhealed, unresolved, and untransformed deep rooted historic animosities and memories of past trauma, pain and hurt, colored by mutual suspicion and hostility, fear, and struggle over power and economic resources.

These factors make such conflicts intractable and protractible. Because of the continuous proximity of the parties, the immediacy of the issues in conflict, and the cultural practices on which the stakeholders’ communication styles are based, the second paradigm shift stresses that using the formal western model of conflict resolution, for example, the judicial or retributive system or peripherally “static” and mechanical diplomacy at the top level alone will never touch the heart and sources of the issues, but can only suppress the problem momentarily, thereby creating a condition that will lead to a new cycle of violent escalation. To transform the entire system where the conflict exists, what is needed according to Lederach (1997) is a focus “on the restoration and rebuilding of relationships” (pp. 24-25) from the bottom up through innovative reconciliation programs and activities, and by creating psychological, physical, and social meeting spaces (places) or “points of encounter” where “truth (acknowledgement, transparency, revelation, clarity) and mercy (acceptance, forgiveness, support, compassion, healing) meet; and justice (equality, right relationships, making things right, restitution) and peace (harmony, unity, well-being, security, respect)” (Lederach, 1997, pp. 28-30) are validated and promoted.

Lederach’s (1997) theoretical framework and conflict transformation model depict exactly the basic tenets on which the Gacaca courts system are based. The Gacaca Courts system acting as a vehicle for inter-personal, inter-group, and national reconciliation and transformation after the genocide was needed to realize the dreams of the Rwandan people: national unity, new Rwandan national identity, new narrative about what happened, healing, closure, reintegration of offenders into the community, and peace. The processes by which these longings are realized are evident in Lederach’s (1997) theory of change: “a focus on relationship will provide new ways to address the impasse on issues; provide a space for grieving the past; permit a reorientation toward the future; and envisioning a common future creates new lenses for dealing with the past” (p. 31). Reconciliation, as the Gacaca Courts system reveals and as the author opines, helps to restore broken relationships between the whole and the parts so that the system will begin to work again harmoniously.

Conclusion

This essay will not be complete without highlighting the lessons learned from the practice theory of change on the one hand, and evaluating the conflict intervention and practice theory of change underlying the Gacaca Courts system on the other hand.

As a conflict resolution practitioner and scholar, I see the Gacaca courts system as a success story from where many lessons emerge. Among the lessons learned, the following two stand out. First, it is important for each country and people to review their traditions and customary practices in order to explore and revitalize conflict resolution practices inherent in and suitable for their cultures. In line with Salem's (2007) "Critique of western conflict resolution from a nonwestern perspective," it is often counterproductive to transport western conflict resolution theories and models to non-western cultures. Second, in each society, there are men and women of peace, or peace agents, or agents of change, what Lederach (1997) calls "peace constituency" (p. 94). Like the ordinary people who served as judges (*Inyangamugayo*) in the Gacaca courts, these peacemakers have "a vision for peace," capacity to build bridges "across the lines of conflict" (Lederach, 1997, p. 94), and the reputation needed to earn public recognition and legitimacy. Local governments, civil society organizations, and donor countries and agencies should identify, partner with, empower these local peacemakers, and help them with resources to do their peacebuilding work. They should desist from providing hundreds of thousands of dollars to the so-called external or foreign conflict resolution experts who, in the process of trying to fix the problem, contribute to its exacerbation.

Although the Gacaca courts system is full of success stories, it has been criticized for some inadequacies. At the early stage of the process, some survivors questioned the gain in participating since their family members who were killed during the genocide will not be brought back to life (Malan, 2005). Others expressed fear of retaliation after testifying in the courts. Other issues associated with the Gacaca courts include lack of compensation for judges; absence of "a right to legal advice or counsel" (Malan, 2005, p. 468); conflicts of interests on the part of the witnesses and elected judges which often manifested in "misuse of the process to give false testimonies against other community members leading to tensions rather than enhancing reconciliation" (Malan, 2005, p. 469); accusation of confession under torture; and women's reluctance to "come forward and speak about sexual violence" (Malan, 2005, p. 470) in public hearings.

Even with all these defects - some of which were later corrected, for instance, women were included in the process, and provisions were made for special/private hearings on cases of sexual abuse/violence-, the Gacaca courts system provides an exceptional, reliable, and inexpensive model for resolving and transforming intractable ethnic conflicts that are deeply rooted in historic animosities. This indigenous dispute resolution, revitalized and implemented after the 1994 genocide against the Tutsi in Rwanda, paved the way for the emergence of national unity, new Rwandan national identity, national reconciliation, new narrative about what happened, healing, closure for the victims, reintegration of offenders into the community, and sustainable peace.

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**Principles, Effectiveness and Challenges of Traditional Dispute Resolution Mechanisms:
A Review of Cases from Kenya, Rwanda, Sudan and Uganda**

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Abstract

Conflict is inevitable and so is an increased quest for peaceful coexistence in modern societies. Therefore, the process and effectiveness of applied resolution mechanism are what matters. Formal legal systems of conflict resolution in African countries are post-colonial western institutions used to seek justice. However, entwined within the cultures of most communities are traditional dispute resolution mechanisms (TDRM). Although used, these TDRMs remain unrecognized. This paper critically analyzes broad literature on four such mechanisms as practiced by various communities in East Africa. The selected mechanisms include *mato oput*, a traditional justice system of the Acholi tribe in Uganda; *abunzi* mediation, a Rwandan approach to local justice; *judiyya*, a grassroots system of arbitration that focuses on reconciliation and the restoration of social relationships in Darfur community in Sudan; and *taboo system*, a source of peace for Isukhas of Kakamega in Kenya. The paper explores the general principles used in traditional dispute resolution mechanisms, their effectiveness in enhancing human relationships, and implementation challenges with the establishment of formal legal systems and the complexity of disputes encountered. Process of change is identified. The methodology is critical analysis of secondary sources and data. Four common principles, known as the *4Rs*, emerge from this analysis: respect and sincerity; reconciliation and forgiveness; restitution and atonement; and restoration of peace. The effectiveness of the selected TDRMs is seen in four areas: fostering justice; truth and compensation; enhancing human relationships; forgiveness and reconciliation; and restoration of peace and harmony. Synthesis of the literature reveals that most *African countries still hold onto customary laws under which application of traditional dispute resolution mechanisms is common*. The paper argues that although it is important to solve conflict using international, national and state institutions, we must underscore the role of traditional dispute resolution mechanisms for certain conflicts or parts of it, especially interpersonal and intergroup disputes. These expeditiously implemented mechanisms of resolving conflict are effective, enhance human relationships and peaceful coexistence, and focus on the needs and interests of parties involved and the community as a whole.

Keywords: conflict resolution, dispute resolution, mediation, peacebuilding, peaceful coexistence, reconciliation, traditional mechanisms

Introduction

Conflict is a natural phenomenon in the life of human beings which occurs in relation to interaction for socio-cultural, economic and political purposes. It exists when parties acknowledge the existence of incompatible goals, scarce resources, and interference from others in achieving their objectives (Burton, 1990). Traditional African societies are closely attached to deep-rooted cultural facts and elders play a major role in solving problems, creating strategies and shaping local visions based on skills and wisdom (Tafese, 2016). In order to do this, they use their past experience and knowledge cultivated from the local community and transmitted from generation to generation to develop, plan, and solve social problems (Tafese, 2016). According to Macfarlane (2007), indigenous knowledge is run by elders who are well known and respected members of the community and may comprise religious leaders, wise-men and other community leaders. Fiseha et al. (2011) similarly assert that prominent and old-age groups within a society are the source of indigenous knowledge as they have experience and critical perception about their environment. According to Mutisi (2012), while traditional institutions are rooted in the culture and history of African societies, the modern state exerts a large amount of influence on these institutions. In some cases, the traditional institutions are politicized and have become instruments of propagating state ideology. In other cases, especially where they express dissent with the state, these traditional institutions have often been undermined or usurped by the state (Mutisi, 2012).

Despite such state interference, almost every ethnic group has various traditional justice practices with fundamental features such as cleansing, truth telling, punishment or atonement through the requirement of compensation, forgiveness, and reconciliation (Baguna, 2012; Mutisi, 2011; Tom, 2006). More important, though, is that traditional conflict resolution processes in Africa are part of a well-structured, time-proven social system geared toward reconciliation, maintenance and improvement of social relationships (Tafese, 2016). These underlying themes in *Mato oput*, a traditional justice system of the Acholi tribe in Uganda (Wasonga, 2009), *abunzi* mediation, a Rwandan approach to local justice, *judiyya*, a grassroots system of arbitration that focuses on reconciliation and the restoration of social relationships in Darfur community in Sudan, and *taboo system*, a source of peace for Isukhas of Kakamega in Kenya, will be discussed.

Although peace does not necessarily mean the absence of violence, the selected TDRMs include one or more of the following themes: healing, reconciliation, and social justice. Similarly, Ajayi and Buhari (2014) note that conflict resolution in traditional African societies provides an opportunity to interact with the parties concerned. It promotes consensus-building, social bridge reconstruction, and enactment of order in the society. Traditional approaches to conflict transformation have not been adequately addressed by scholarly research and political practice. For the most part they are widely ignored, although empirical evidence from relatively successful cases of conflict transformation demonstrates their practical relevance (Boege, 2006). Principles, effectiveness, and challenges of TDRMs will be discussed.

Terminologies and Conceptual Framework

For the purpose of this paper, traditional institutions of conflict resolution are defined as those that have been practiced for an extended period and have evolved within African societies, rather than being

the product of external importation (Zartman, 2000). In essence, these institutions are rooted in the culture and history of societies, and are ingrained in the socio-political and economic environment of particular communities. They are usually built around the concepts of mediation, compensation, restitution and restoration (Mutisi, 2011). Ethnic group is defined as a section of the population, which by virtue of sharing a common cultural characteristic they are separated from others within that population (Onwuejeogwu, 2000). Nnoli (1978) describes ethnicity as a social phenomenon associated with interactions among members of different ethnic groups. Ethnic groups are social formations distinguished by the communal character of their boundaries whose relevant communal factor may be language, culture, or both (Nnoli, 1978).

A principle is defined as a fundamental truth or proposition that serves as the foundation for a system of belief or behavior or for a chain of reasoning (Def. 1, n.d.). It is a rule or code of conduct (Def. 2, n.d.) that is used as a guide to evaluate behavior. There are four principles, some or all of which are manifested in each of the identified traditional dispute resolution mechanisms (TDRMs).

Manifestation of the Four Principles

The principle of respect and sincerity

Mato Oput is an Acholi traditional peace and justice mechanism implemented as a local peace initiative involving perpetrators' confession and victims' decision to undertake the process led by elders. The process starts only after the perpetrator comes forward and confesses. Then the victim's family decides to inform the elders who will initiate the process. A "long process of confession, mediation and payment of compensation (*culo kwor*) to reconcile the clans" (Tom, 2006) initiated and conducted by the elders precedes the actual *mato oput* ritual. Investigation by respected elders is done to determine sincerity of the perpetrator.

Similarly, in Sudan, a community-based customary mediation known as *Judiyya* is preferred to the court system because, "customary mediation provides a more attractive, less costly and restorative resolution of the dispute" (Ogbaharya, 2010, p. 14). *Ajaweed*, the mediators, (Aljoodie-singular), are called upon to intervene in the conflict and they are versed in the communal customs and traditions (Wahab, 2018). Baguna (2012) contends that traditional justice, based on restorative principles, is widely supported as a favorable alternative to the punitive approach of the Court.

The principle of reconciliation and forgiveness

According to Wasonga (2009), the nature and practice of *mato oput* as an instrument for conflict resolution and reconciliation among the traditional Acholi is based on the Acholis' understanding of conflict as a life-threatening phenomenon. *Mato oput* is not a one-day event. It could last even five years as mediations and negotiations take place. *Mato oput* involves confession, a show of remorse, forgiveness, and compensation that leads to reconciliation and healing after a killing. This ritual has an important component used for fostering justice, truth, and compensation in Acholi land. Forgiveness and reconciliation are said to be at the center of the traditional Acholi culture (Tom, 2006). Forgiveness, therefore, reflects the non-violent community that is illustrated by the rule of hospitality over any criminal intentions (Niwano Peace Foundation, 2004).

The aspect of peaceful communal coexistence among the Isukha of western Kenya is a common

factor in African communities where people share resources with and take care of each other as brothers and sisters. The elders ensure that the *taboo* system acts as a control on all conflicts and tension, which if not resolved can cause disequilibrium. Living peacefully as a community is critical. Therefore, peaceful coexistence is enhanced through the enforcement of taboos with the purpose of healing and reconciliation.

The principle of restitution and atonement

Mato oput is not a one-day event. It could last even five years as mediations and negotiations take place. *Mato oput* involves confession, a show of remorse, forgiveness, and compensation that leads to reconciliation and healing after a killing. Through compensation, restitution and atonement are achieved.

Ogbaharya (2010) posits that mediated settlements are mandatory and failure to comply with them is seen as a culturally unacceptable behavior and is subject to tremendous social and communal sanctions in Sudan. In his research, Wahab (2018) reiterates that the *juddiya* model's emphasis on restitution and compensation for harm, to revise damaged relationships, ensures the full integration of parties into their tribal community and resumption of collaboration for the well-being of the group.

The principle of restoration of peace

This principle is manifested in many TDRMs. The *abunzi* mediation is part of the Rwandan justice system, whose restorative approach helps people to address their conflicts without resorting to litigation and other retributive approaches (Mutisi, 2011). By its locality, family, friends and community members are free to attend an *abunzi* mediation and their presence symbolizes belonging and community, enhancing peaceful coexistence.

Tom (2016) further asserts that the traditional Acholi culture views justice as a means of restoring social relations, hence justice should be considered as restorative. Baguna (2012) contends that traditional justice, based on restorative principles, is widely supported as a favorable alternative to the punitive approach of the Court. Therefore, it increases restoration of peace. For centuries, *judiyya* as a model has been maintaining harmony among Darfuris' ethnic tribal communities, repairing a complex web of relationships, and providing justice for the indigenous people according to accepted local customs and norms (Wahab, 2018).

Isukha *taboos* have for a long time been purposefully used to prevent misuse and instead enhance conservation of natural resources. Kakamega Forest has "more than 300 species of birds, 32 species of snakes, 7 species of primates, and 400 species of butterflies on less than 22,000 hectares of land" (Kilonzo et al, 2009, p. 41). A variety of taboos (*Table 1 and Table 2*) protect plants, animals, snakes, sacred sites, and birds as their abuse or misuse will lead to conflict in the community (Kilonzo et al, 2009). Conservation or protection of certain birds including "storks, cranes, and francolin help the community predict the approach of planting seasons, whereas kingfishers protect homesteads from evil" (Kilonzo et al, 2009, p. 57). Hence, abiding by the taboos and conservation of these resources ensures peace.

Taboos to conserve flora in Kakamega forest -Table 1

Isukha Plant Name	Scientific Name	Taboo	Belief
<i>Mukumu</i>	<i>Ficus thoningi</i>	Not to be cut	Hail stones will fall, or lighting will strike
<i>Likhono</i>	<i>Chaetame aristat</i>	Not to be cut	The victim's body will develop a rough skin
<i>Mutsulio</i>	<i>Spadodea canopanulala</i>	Not to be cut	The victim's skin roughens
<i>Omuseno</i>	<i>Ficus exasperate</i>	Not to be used as firewood	The smoke will lead to blindness
<i>Isambakhalu</i>	<i>Boehmeria marc</i>	Women are not allowed to cut it	Will lead to miscarriage during pregnancy
<i>Murembe</i>	<i>Erithrina abyssinica</i>	Not to be cut	Evil spirits will punish the perpetrator
<i>Murave</i>	<i>Kigelia moosa</i>	Not to be cut	The Perpetrator's body will swell
<i>Mulundu</i>	<i>Antaris toxicana</i>	Not to be cut	Demons will attack the reaper
<i>Musire</i>	<i>Crotons megalocapu</i>	Not to be used as firewood	The smoke will cause blindness
<i>Mutere</i>	<i>Maesopsi eminii</i>	Not to be cut	Will lead to the extinction of other trees
<i>Kukomosi</i>	<i>Maytenas hete</i>	Not to be cut	Men and women in the family of the perpetrator will become infertile
<i>Omutoto</i>	<i>Ficus aribela</i>	Not to be cut	Will lead to a curse from the ancestors
<i>Lusiola</i>	<i>Markhamia lulea</i>	Not to be cut	Ancestors will be annoyed
<i>Mukhomoli</i>	<i>Markhamia playtali</i>	Not to be cut	Evil spirits will attack the reaper

Source: (Omare, 2006)

Taboos that protect birds -Table 2

Bird's Name	Isukha Equivalent	Taboo	Belief
Owl	<i>Likhule</i>	Not to be killed	Evil spirits will take revenge through the death of the killer
Night jar	<i>Lihududu</i>	Not to be killed	Evil birds kept by the witches will bewitch the killer

Wag tail	<i>Vijonjionjio</i>	Not to be killed	The killer's house will catch fire
Ibis	<i>Shinamaha</i>	Not to be killed	Will lead to bad luck
Doves	<i>Liluma</i>	Not to be killed	Will cause a decrease in harvest
Cuckoo	<i>Tsinamandu</i>	Not to be killed	Death will come to the clan
Pied crows	<i>Likhokho</i>	Not to be killed	The killer's life will be shortened
Sun birds	<i>Mitsuni</i>	Not to be killed	Demons will attack the killer
Swifts	<i>Tsiminji</i>	Not to be killed	Drought will strike
Grey backed fiscal	<i>Inamande</i>	Not to be killed	All chickens will die
Hammer kop	<i>Shishindavoli</i>	Not to be killed	Will bring others to help revenge
Fly catcher	<i>Liroleli</i>	Not to be killed	The killer will get a bad disease

Sources: (Omare, 2006; Zimmerman et al., 2001)

Effectiveness and Process of Change

Mato Oput is both a process and a ritual ceremony that aims at 'restoring relationships' between the clans that would have been affected by either an intentional murder or accidental killing (Tom, 2006). A major function of the traditional chiefs is to act as arbitrators and reconcilers when disputes occur in order to 'restore peace' and 'maintain harmonious relations' between families and clans (Brock-Utne, 2001). *Taboos* are perceived to contain within them certain assumed dangers with repercussions for anyone who transgresses them. They exist to ensure that the moral structure of the universe 'remains undisturbed' for the good of humanity (Parrinder, 1969). During *abunzi* sessions and meetings, there is often a great deal of evocation of the notion of 'oneness' or the concept of *abanyarwanda* (Rwandan-ness), as opposed to being Hutu, Tutsi or Twa (Mutisi, 2011).

Although the process of change differs for each TDRM, the common factor in all of them is the elders, priests, or religious leaders who are leading mediation and negotiation for conflicting parties. In *Mato oput*, the willingness of the offender's clan (not the offender as a single person) to assume responsibility for the act committed, as well as readiness and ability to 'pay compensation' are necessary precursors for a successful process leading to the ceremony. Until the ceremony is concluded, *cen* would be expected to 'haunt the killer and his/her entire clan', a strong motivation to the successful conclusion of the ceremony.

Based on their integrity, *abunzi* mediators are chosen to handle local civil and criminal cases with the mediation committees undeniably rooted in traditional conflict resolution practices. Success of the *isukha taboos* is associated with their passing on of this knowledge from one generation to generation. Basic beliefs and values of the Isukha community, attributed to religion, are taught from childhood to adulthood. Kilonzo et al. (2009) ascertain that the ideological knowledge acquired is transformed almost automatically into belief because the adults act within a complex of social structures that conform to these beliefs, thereby reinforcing them among the youths. Community members understand that the 'violation' of any taboo is 'punishable' by God (Nyasaye/Were) or evil spirit.

These consequences for violators of traditional customs and principles such as being 'haunted' or 'punished' by evil spirit, as well as the aims or purposes of each TDRM such as restoring relationships,

restoring peace, and paying compensation, among others, enhance their effectiveness. Despite the challenges (See Table 3) of TDRMs, their effectiveness traverses the following four areas:

1. Fostering justice, truth, and compensation (*abunzi, mato opu, juddiya*)
2. Enhancing human relationships (*abunzi, mato oput, juddiyya, isukha taboo*)
3. Forgiveness and reconciliation (*abunzi, mato oput, juddiyya, isukha taboo*)
4. Restoration of peace and harmony (*abunzi, mato oput, juddiyya, isukha taboo*)

Challenges of Traditional Dispute Resolution Mechanisms

Traditional Dispute Resolution Mechanism (By Country)	Challenges
<i>Abunzi</i> (Rwanda)	<p><i>The politicization of the abunzi institution</i></p> <ul style="list-style-type: none"> • State involvement in determining jurisdiction, mandate, and conduct <p><i>Elements of obligation and coercion (voluntary yet mandatory control)</i></p> <ul style="list-style-type: none"> • The combined adversarial and conciliatory process makes it complex <p><i>Application is limited to specific conditions</i></p> <ul style="list-style-type: none"> • Not equipped to handle every violent conflict such as sexual violence, and so on
<i>Isukha Taboos</i> (Kenya)	<p><i>Increasing population in the district</i></p> <ul style="list-style-type: none"> • Puts pressure on land and available resources for survival <p><i>Secularization, modernization, urbanization, and globalization</i></p> <ul style="list-style-type: none"> • Increased individualism that impacts communalism • Globalization has negatively impacted the contribution of an indigenous belief system to natural resource conservation and peacebuilding <p><i>Formal education and foreign religiosities</i></p> <p><i>Government sanctions and political interference</i></p> <ul style="list-style-type: none"> • Locals prevented from involvement with the conservation of environmental resources • Government rules about forests keep changing and contrasting <i>Isukha's</i> religious and taboo system • Political instability affects biodiversity

Mato Oput (Uganda)	<p><i>Formalization does not guarantee legitimacy</i></p> <ul style="list-style-type: none"> • State control compromises its positive attributes <p><i>Nature and magnitude of crimes</i></p> <ul style="list-style-type: none"> • Small scale homicides versus mass atrocities including those that go beyond borders <p><i>Lack of competence in dealing with child soldiers, sexual slavery and abductions</i></p> <p><i>The legitimacy of process and lack of trust in elders presiding over the process whose appointments are based on political affiliations</i></p>
Judiyya (Sudan)	<p><i>Politicization by post-independence nationalists and socialists</i></p> <ul style="list-style-type: none"> • Tribal communities pressured to eliminate <i>judiyya</i> and use the national system instead • Efforts to enlist tribal and religious leaders into political parties

Table 3: Challenges of Abunzi, Isukha Taboos, Mato-Oput and Judiyya

Conclusion

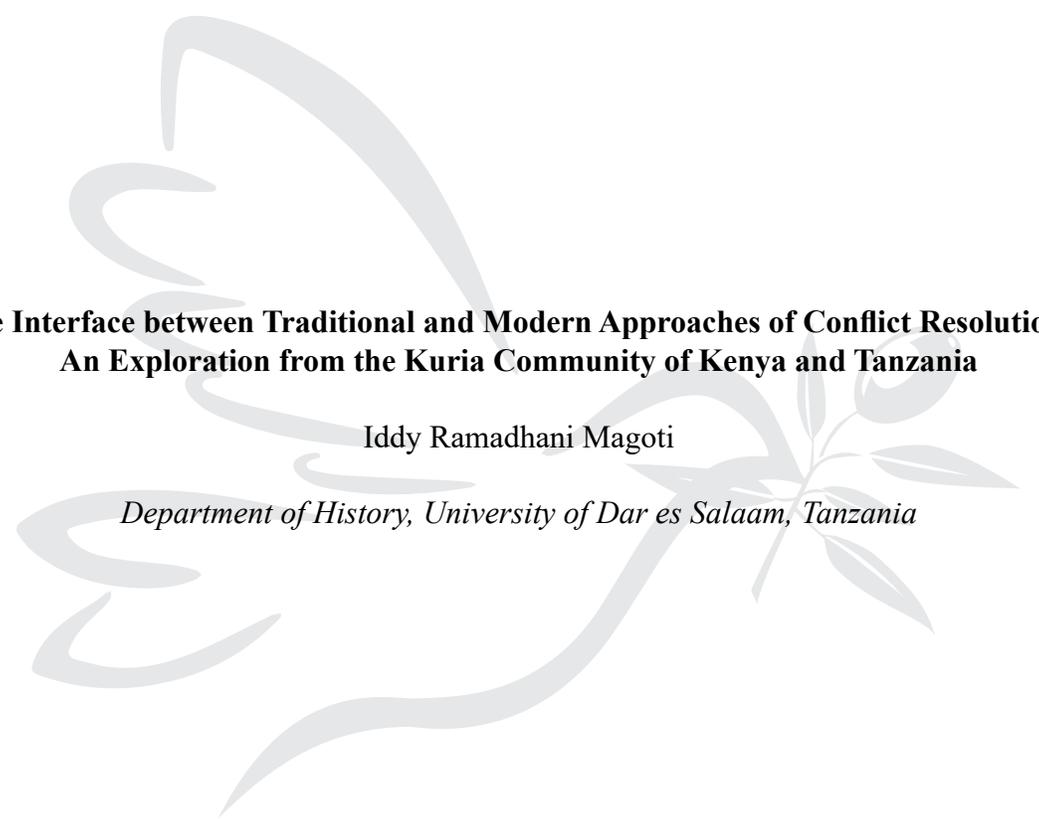
Most African countries still hold onto customary laws under which application of traditional dispute resolution mechanisms is common. Local models have their roots in the continent's diverse cultures and belief systems; hence, tapping into the potential they offer in present situations could help to expand the success and legitimacy of conflict transformation endeavors in Africa at large (Wahab, 2018). The principles upon which the elders rely to resolve conflicts include respect and sincerity; reconciliation and forgiveness; restitution and atonement; and restoration of peace. Although limited to resolving specific local, community, family, and individual conflicts, effectiveness of TDRMs is evident in (i) fostering justice, truth, and compensation, (ii) enhancing human relationships, (iii) forgiveness and reconciliation, and (iv) restoration of peace and harmony.

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**The Interface between Traditional and Modern Approaches of Conflict Resolutions:
An Exploration from the Kuria Community of Kenya and Tanzania**

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Abstract

Traditional and modern approaches to conflict management and peacebuilding have attracted the attention of many scholars and researchers in the world. However, there is a hot debate as regards the use of the two approaches in managing and resolving ethnic conflicts in Africa. Some scholars argue that traditional approaches to conflict management and resolutions have great potential for managing conflicts and building peace in Africa. Others view African traditional approaches to conflict management and peacebuilding as being ineffective and limited; that conflicts may only be resolved through the use of modern approaches designed by the states with western influence. Amidst the two perspectives there is a call by some scholars for synergy between traditional and modern approaches. Drawing evidence from the Kuria community which straddles on both sides of the Tanzania – Kenya border, this paper examines the evolution of the two approaches, their collaboration and how they can be effectively integrated to ensure sustainable peace in African communities. The paper relies on secondary, archival and oral sources collected both in Kenya and Tanzania. It argues that traditional and modern approaches should not be used independently of each other. Instead, African states should develop policies which allow the two approaches to have a mutual relationship in the process of building sustainable peace.

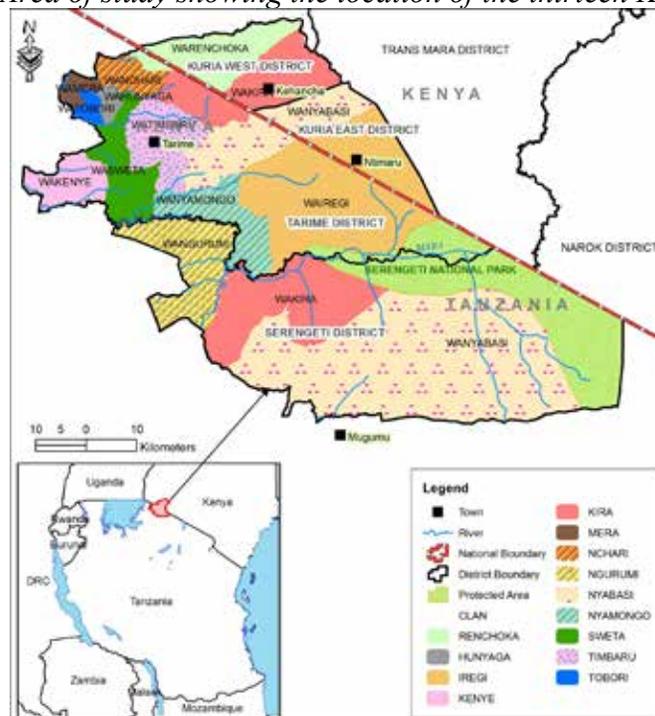
Keywords: Tanzania, Kenya, Kuria, conflict, approach, peacebuilding

Introduction

The Kuria are agro-pastoral Bantu speaking people who inhabit areas which stretch across the Tanzania–Kenya border (see map 1 below). They are divided into thirteen clans, namely Iregi, Nyabasi, Kira, Renchoka (Gumbe), Timbaru, Nyamongo, Nchari, Kenye, Sweta, Mera, Hunyaga, Tabori, and Simbiti. Majority of these clans live in Tarime and Serengeti districts in Mara region in Tanzania. The Kira and Renchoka clans extend into Kenya to constitute Kuria West District, while the Nyabasi and Iregi clans extend to constitute Kuria East District (Fleisher, 2000; Kungu et al., 2015; Magoti, 2017). Although the thirteen clans constitute a single Kuria ethnic group and all of them believe to have descended from a common ancestor (*Mkuria*), clan affiliation has always been of greater significance to a Kuria than ethnic affiliation. Each clan continues to have its traditional leaders who are responsible for performing rituals and arbitrating conflicts.

Unlike other African areas where inter-ethnic conflicts have been widely witnessed and recorded, the Kuria have witnessed inter-clan conflicts among themselves. Cattle theft, allegiance to clan identity, population growth, and struggles for land as a result of changes in chiefdom and village boundaries have been recorded as the main causes of inter-clan conflicts among the Kuria (Fleisher, 2000; Heald, 2005; Ramadhani, 2007; Kungu et al., 2015; Magoti, 2017). In an attempt to resolve inter-clan conflicts among the Kuria, both the traditional and modern approaches have been employed at different intervals.

Map 1: Area of study showing the location of the thirteen Kuria clans



Source: Designed by the author in collaboration with Olipa Simon, Senior GIS Laboratory Scientist, University of Dar es Salaam (November 2018).

This paper, therefore, uses a historical approach to examine the evolution of traditional and modern approaches among the Kuria, how the two approaches have worked together over time, and ways the two approaches can be effectively integrated to ensure sustainable peace among the Kuria and African communities in general. The paper relies on secondary, archival and oral sources collected both in Kenya and Tanzania. It argues that traditional and modern approaches should not be used independently of each other. Instead, African states should develop policies which allow for the two approaches to work together in a mutual relationship. The paper is divided into five sections, namely the introduction, conceptual and theoretical review, evolution and collaboration of traditional and modern approaches, ways of improving integration of the two approaches, and conclusion.

Conceptual and Theoretical Review

The use of the terms *traditional* and *modern* is now a subject of debate. Scholars argue that the terms suggest a binary construction created by the West to justify their hegemony over other societies, particularly the developing countries which were subjected to western colonialism. Frederic Cooper in his book *Colonialism in Question* discusses this issue at length (Cooper 2005). Thus, that discussion will not constitute the main subject of this paper. Being aware of the negative connotation attached to those terms, they have been used in this paper in a manner that sensitizes readers, but most importantly, to show that they can still be used in academic discourse. Conceptually, traditional and modern approaches which are the main thrust of this paper encompass several issues but, as I have said, can be viewed differently depending on the inclination of an individual. The term *traditional* is used in this paper to refer to peacebuilding and conflict resolution approaches which rely on non-formal or non-state based customary institutions such as council of elders, council of chiefs, headmen and local religious institutions. Some scholars call this an indigenous or a bottom-up approach because its practices stem from the grassroots in local communities without an influence from external forces. In an attempt to resolve conflicts and maintain peace in their areas, traditional or indigenous institutions employ different techniques, including organizing prolonged consensus and reconciliation meetings, as well as performing peace rituals (Nweke, 2012; Mwakitalu, 2013; Brock-Utne, 2001; Boege et al., 2008). Brock-Utne (2001) notes that traditional approaches are cooperative in nature in the sense that members of the community had a voice and elders rule with the consent of the community. According to Brock-Utne (2001), “consensus is reached for the interest of the general community rather than the interests of individuals who are offended, and conflict resolution aims at incorporating the offender in the community” (pp. 3-4).

On the other hand, *modern* is used to refer to formal or state-centered approach to peace keeping and conflict resolution. It is also known as the Weberian or Westphalian – the liberal peace or the top-down peace keeping and conflict resolution approach. It involves the use of force and imposition of penalties and sanctions against the offender. The central assumption in this approach is that peace can be maintained and conflict be minimized by establishing democratic governments and observing human rights, as well as embracing the rule of law. The approach involves the use of litigation measures in resolving conflicts, sending peace missions in conflict zones, and organizing military operations (Boege et al., 2008; Belloni, 2012; Dinnen & Kent, 2015; Anam, 2015). In comparing traditional and modern approaches, Brock-Utne (2001) states that “modern approaches emphasize establishing the guilty and executing retribution and punishment without referring to the wider community or thinking about future re-incorporation of the offenders in the community” (pp. 3-4).

Existing literature shows that there is a hot debate in regards to the use of the two approaches in managing and resolving conflicts worldwide and in Africa in particular. Some scholars are of the view that traditional approaches have great potential in managing conflicts and building peace in Africa (Castro & Ettenger, 1996; Castro & Nielsen, 2001; Murithi, 2006; Mutisi, 2009; Mwakitalu, 2013). On the other hand, there is a group of scholars who view African traditional approaches as being ineffective and limited. These scholars argue that conflicts in Africa may only be resolved through the use of modern approaches (Boege, 2006; Sansculotte-Greenidge, 2009). Yet, other scholars though acknowledge that contemporary global peacebuilding is predominantly grounded in modern approaches, such scholars strongly criticize modern approaches arguing that they have failed to create comprehensive and sustainable peace in several areas (MacGinty, 2010; Bellon, 2012; Anam, 2015). According to MacGinty(2010) and Anam (2015), the Westphalian approaches (called ‘modern’ in this paper) have been lopsided as they reinforce hegemonic practices in which the West determines the fate of the developing countries. As a result, peacebuilding has been mainly dependent on international actors instead of being locally owned and self-sustaining. Amidst this debate, there is a call by some scholars (Zartman, 2000; Wasonga, 2009; Mutisi, 2011; Brock-Utne, 2001) for synergy between traditional and modern approaches.

Considering the weaknesses embedded in both the modern and traditional approaches as well as the strengths of each approach, some scholars have proposed an approach which combines traditional and modern techniques of peacebuilding and conflict resolution. The newly proposed approach, which actually is already in use in some places, is known by different but almost synonymous names such as *Hybrid Peace Building* (HPB), *Hybrid Peace Governance* (HPG) or *Hybrid Political Orders* (HPO) (Belloni, 2012; Boege et al., 2008; Dinnen & Kent, 2015; MacGinty, 2010; Anam, 2015). According to proponents of this approach, ‘hybrid’ is employed to imply the coexistence and interaction of the traditional and modern institutions, norms and actors in the process of peacebuilding, conflict resolution or governance systems. In its literal sense, the term ‘hybrid’ is used to refer to a product of the process of mixing or combining two or more distinct elements. According to Dinnen and Kent (2015), the use of this term in social sciences and peace studies have been recently coined from the biological science. While I support the idea of establishing synergy between the traditional and modern approaches, I am skeptical about the use of the term ‘hybrid’ as currently applied in peace studies. As Roberto Belloni (2012) has noted, there is a conceptual limitation inherent in the use of the term ‘hybrid’. From its literary and scientific meaning, ‘hybrid’ connotes formulating a quite new product (herein referred to as an approach) which carries some *genes* from traditional and modern institutions. In actual sense, this is not done in peace and conflict resolution processes. The coexistence and interactions between traditional and modern institutions which are spelled out by scholars mentioned above imply that the two approaches shape each other and thus may work together to arrive at a common end. Such coexistence does not imply ignoring either traditional or modern institutions which exist and creating a new distinct approach which accommodates the features of the previous approaches. What is actually done is that the institutions and mechanism used to build peace and resolve conflicts under the traditional and modern approaches are maintained, or sometimes slightly modified to meet the contexts of the conflicts in the respective communities.

In my own view, to avoid the conceptual limitation inherent in the use of the term ‘hybrid’, I would suggest the concept ‘integrate’ to replace ‘hybrid’. By doing so we will be borrowing Gunther Schlee and Elizabeth E. Watson’s (2009) approach commonly known as an “integrative approach” (see pp.

1-3). Schlee and Watson (2009) applied an ‘integrative approach’ in the study of identities and conflicts in north-east Africa and found that the approach worked significantly. Thus, we will be able to replace ‘hybrid’ peacebuilding with an ‘integrative approach’ in peacebuilding and conflict resolution processes. Literally, ‘integrate’ implies mixing up things, or joining a society or group of people in the way that often allows members of those groups to change a bit and fit in the ways of life, habits and customs of the other. Similarly, ‘integrate’ implies combining two or more things in order to become more effective. The synergy suggested by some scholars is all about making peacebuilding and conflict resolution processes more effective to the extent that we can create sustainable peace in conflict zones. It is all about changing ourselves to the extent that we establish mutual relations between the two approaches in the process of peacebuilding and conflict resolution. Rather than creating a new thing as suggested in the concept of ‘hybrid’, integration is all about effective collaboration to maximize efficiency and have better outcomes. The next section attempts to show how traditional and modern approaches have collaborated among the Kuria.

The Evolution and Collaboration of Traditional and Modern Approaches

By the 1890s when colonial rule began to penetrate into the interior of East Africa, Africans had already developed their own ways of managing and resolving conflicts. Among the Kuria, conflicts were resolved by the council of elders commonly called *Inchama*. Members who constituted *Inchama* inherited their positions. Each clan had its own *Inchama* which worked independently but could sometimes collaborate with *Inchama* of other clans in resolving inter-clan conflicts. In resolving conflicts, *Inchama* applied different techniques which included the use of traditional oath (*ekehore*) to establish the truth about a particular crime and punish the convicted, as well as demanding them to pay compensation, establishing blood covenants (*imuma*), and offering sacrifices to their ancestral shrines (Ramadhani, 2007; Kungu et al., 2015; Magoti, 2017).

During the colonial period, some changes were introduced. The colonial governments in Kenya and Tanganyika introduced the police force and courts as modern institutions of maintaining peace and resolving conflicts among Africans. Although it is difficult to establish when the police force and courts started, it is quite clear that those institutions were in full operation as early as the 1920s. As part of their indirect rule system, the British colonial government also introduced the title of paramount chief in the 1920s which ousted the normal chiefs whom African communities were familiar with (Mbunda, 1985; Kenya National Archives, 1926-1928; Kenya National Archives, 1941-1954). Such changes suppressed the power of *Inchama* among the Kuria. As a result, there was an increase in unrest and lack of peace among the Kuria (North Mara District Constitution, n.d.).

The colonial governments responded to the problem of unrest and lack of peace in different ways. For example, the police force was divided into two broad categories – the village police which sometimes was referred to as ‘tribal police’ and the proper police commonly called Kenya Police or Tanganyika Police. The primary functions of the proper police were to maintain law and order and investigate and prosecute offences against what they called substantive criminal laws. The ‘tribal police’ investigated and prosecuted in African courts offences against native laws and customs, African district council bylaws, and the native authority ordinances (Kenya National Archives, 1926-1928). The court was also divided into two categories – the African courts which were sometimes referred to as native

courts and the magistrate, supreme courts and the court of appeals. Native courts were set to provide judicial service to African communities while the magistrate courts were offering service to the white community, although sometimes there were appeals of some cases from African courts to magistrate courts and court of appeals. In principle, native courts were empowered to administer cases on the basis of native laws and customs. Courts of the other categories relied on modern laws and principles established by the colonial government. Elders of the respective areas constituted the native courts. Although some members of the native courts were appointed by district and provincial commissioners, it was absolutely essential for native courts to consult respected and influential elders (*Inchama*) of the areas in arbitration of several cases, including land disputes and cattle theft cases (Mbunda, 1985; Kenya National Archives, 1941-1954; Kenya National Archives, 1956-1961).

Moreover, the colonial government in Tanganyika commissioned Hans Cory to investigate the problem of unrest and lack of peace among the Kuria of North Mara and report the best ways of improving the situation in the area. In his report which was submitted on 28 September 1945, Cory recommended for the revival of the clan system because clan elders continued to maintain greater authority in the allocation of land and arbitration of conflicts of various nature. Cory called for re-organization of *Inchama* and suggested that chiefs be elected by *Inchama*, and native courts be reformed so that clan elders would be appointed as paid members of the courts instead of being invited as unpaid assessors. The suggestion about the inclusion of clan elders in the court was based on the fact that clan elders knew their traditional laws and were frequently involved in arbitrating conflicts in their clans. Thus, their influences and experiences would be useful in the courts (Cory, n.d.). Cory's recommendations were accepted and implemented a few years later.

In addition to the revival of *Inchama*, the colonial government also set two rules which aimed at curbing inter-clan conflicts among the Kuria of North Mara. These rules were the *North Mara Stock Theft Prevention Rule* of 1946, and the *North Mara Settlement Rule* of 1952. While the stock theft rule aimed at preventing cattle theft by ensuring that thieves were detected and then required to pay compensation, the settlement rule aimed at managing conflicts caused by illegal immigration. However, early implementation of the two rules under the patronage of colonial appointed chiefs and headmen alone failed. It was found that thieves frequently evaded detection by covering up the tracks of the stolen cattle near their villages with tracks of their own cattle. Sometimes they did that in an accomplice's village. Afterwards, therefore, there was no proof of the theft, as the cattle were then removed to a hideout elsewhere and might not be seen for years. Following that weakness, the *Cattle Theft Prevention Rule* was amended in 1955 to allow effective participation of the community in the detection of theft as well as thieves. Thereafter, the court would order thieves to pay compensation. In case there was a disagreement on the part of those who were convicted, the community relied on the power of the *Inchama* of their respective areas to investigate the matter by interrogating the convicted and establishing the truth. With regard to the settlement rule, the parish council which was empowered to control immigration and allocate land was also composed of clan representatives, the majority of them being members of *Inchama*. Archival records show that by the 1950s, Kuria parish councils were the most efficient and effective councils of all councils found in Mara region. Their strength emanated from their ability to arbitrate several conflicts (Tanzania National Archives, n.d.).

Collaboration between the state and council of elders was also observed in Tanzania –Kenya border meetings which were held frequently to resolve cross-border conflicts. Border meetings started in

the 1940s but continued throughout the colonial period and were also inherited during the post-colonial period. Members of border meetings were government officials and elders from the respective clans. During those meetings, clan elders were effectively utilized in enhance peace in their areas. In most cases, members of those meetings unanimously agreed to use traditional techniques of conflict resolution and management (Ramadhani, 2007; Kenya National Archives, 1950-1951; Kenya National Archives, 1961-1969).

The above narratives show that although the colonial government introduced modern ways of managing and resolving conflicts, the traditional approaches were often used to complement the modern techniques. This implies that the traditional approaches were often integrated within the state-designed institutions of maintaining peace and resolving conflicts in the community. This trend was inherited in the post-colonial period. For example, although the Tanzania government abolished chieftainship in 1962, traditional leaders were still prominent in handling different matters including arbitrating conflicts in their areas. In 1974, the Tanzania government also re-introduced a system which operated during the colonial period under which villagers following the tracks of their stolen cattle were instructed to put a mark into the ground at the place where the track stopped, and polices were authorized to confiscate head of cattle from every homestead in the nearest village if its residents failed to return the cattle and to surrender the cattle raiders who had taken them (Fleisher, 2000). This system is still in use today but the police do not confiscate cattle as it used to be in the 1970s. Instead, the police provide support and ensure the security of the traditional leaders (*Inchama*) who arrange for negotiation meetings between the conflicting parties (i.e., those whose cattle were stolen and those alleged to have stolen the cattle). After a consensus is reached, compensation is finally paid by the alleged party.

In 1980, a *Stock Theft Prevention Unit* (STPU) was established in each region in Tanzania mainland following prolonged intra- and inter- ethnic conflicts caused by massive cattle raiding which involved the use of military weapons such as LMG and AK 47. On the Kenyan side, the *Anti-Stock Theft Unit* (ASTU) was also established in the 1980s. While STPU was under the Field Force Unit, the military wing of the Tanzania Police, ASTU stood as an independent Kenyan police wing empowered to deal with cattle thefts alone. Throughout the 1980s and 1990s, STPU organized periodic operations in Mara region with the intention of stopping intra- and inter- ethnic warfare, clamping down cattle raiding, and confiscating weapons from illegal owners (Fleisher, 2000; Ramadhani, 2007). However, it was reported that the most successful operation took place in 1990 under the leadership of Kubia, the chief commander of the special military force set in Mara region. Kubia's success was mainly attributed to the respect he paid to Kuria traditions, including collaborating with *Inchama* and *Ritongo*. *Ritongo* is Kuria term for local village vigilantism commonly called *sungusungu* among the Sukuma and Nyamwezi people of the western central part of Tanzania. *Ritongo* was introduced based on the fact that indigenous people were the ones best equipped to identify and bring to justice cattle raiders in their midst far better than the police, who were all outsiders, and sometimes corrupt.

There was a special *Ritongo* at the district, division and village levels. Members of *Ritongo* would solicit accusations against anyone or a group of people suspected to impinge peace and cause inter-clan conflicts. During their formal meetings, the accused were intensively interrogated by members of *Ritongo* including beating them with hippopotamus - hide whip (Heald, 2005; Fleisher, 2000; Magoti, 2017; Mara Regional Commissioner's Office, n.d.). In their work, Boege and his colleagues (2008) cited *sungusungu* as one of the best examples which shows how local people can utilize their own

institutions to maintain peace in their area (see p. 14). In addition to that, there was the formation of joint district committees of traditional leaders from all Kuria clans in Kenya and Tanzania in 2006 and 2010 respectively (Magoti, 2017). The main task of those committees was to arbitrate conflicts between one clan and the other based on the request submitted by the elders of respective clans. These committees were sometimes sponsored by government officials, specifically the district commissioners and the district police commanders of the respective areas. In 2006, the Tanzania police also made major transformation by introducing what is called *community policing*. *Community policing* aimed at involving local community in maintaining peace and resolving their own conflicts. To broaden local people's participation in maintaining peace, *community policing* was renamed community engagement commission in 2017 (Ntogwa, 2018; Zimbo, 2018; Edson, 2018). In early 2018, the police department in Mara region established social conflict technical advisory committees (SCTACs). The main function of the committees is to provide legal advice and assist the community in resolving their own conflicts. SCTACs are attached to the defense and security committees (DSCs) which are found in all administrative units (i.e., the village, ward, division, district and region) of Mara region. Members of SCTACs include traditional leaders or members of *Inchama*, elected members from the general public, some government officials and some police officers who act as advisors. By establishing *community policing* and SCTACs, the police force has transformed from reactive to pro-active approaches of maintaining order and peace, whereas the community together with their own local institutions are considered the main custodian of their own security. Different slogans such as *your security and peace begin with you* are now frequently advocated by the police.

The preceding paragraphs have shown that there have been some kinds of collaborations or attempts to integrate traditional and modern institutions or mechanisms of peacebuilding and resolving conflicts among the Kuria of Tanzania and Kenya. This kind of integration has also taken place in other parts of the world. For example, after the collapse of Somali state in 1991, customary institutions, in particular council of elders (the *guurti*), worked together with modern state institutions to build and maintain peace in north-western Somalia commonly called Somaliland. Clan elders and their councils were the main actors in the peacebuilding process using customary forms and mechanisms of conflict resolution. After observing that the *guurti* played a significant role in peacebuilding, they have been constitutionally integrated in the political system of Somaliland. Traditional institutions were also effectively involved in building peace in Bougainville after more than a decade of war which ended in 2001. Consequently, customary institutions were incorporated in the new constitution of Bougainville. In Rwanda, the *gacaca* (traditional dispute resolution mechanism) was effectively utilized by the state to deliver justice for a number of cases after the Rwandan genocide of 1994. Similar cases where traditional institutions have been integrated in state institutions were also reported in Afghanistan, Vanuatu, and Sierra Leone (Boege et al., 2008; Belloni, 2012).

While the cited cases above refer to post-conflict peacebuilding mechanisms at broader national levels, the Kuria cases narrated in this paper have mainly taken place at local levels to the extent that they are rarely known in international peacebuilding discourse. It may sound awkward to compare local and national conflicts and the mechanisms employed to resolve them. Indeed, the narratives provided here help us to understand that it is possible to integrate traditional and modern approaches in peacebuilding and conflict resolution processes regardless of the types of conflicts and the levels where these conflicts occur. Despite the fact that collaboration between traditional and modern approaches has existed among

the Kuria, there have been some weaknesses which have limited the effective performance of the integration. In the section which follows below, I attempt to show such weaknesses and suggest ways of improving collaboration between the two approaches.

Ways of Improving Integration between Traditional and Modern Approaches

We have seen that it is possible to combine or rather integrate traditional and modern approaches to peacebuilding and conflict resolution. In order to understand how the two approaches can efficiently be integrated, it is crucially important to overcome challenges which affected their performance and mutual collaboration. Available evidence shows that traditional and modern approaches of conflict management and resolution among the Kuria have been affected by three major issues: corruption and unethical conduct of some officials, lack of legal basis, and insufficient fund and other infrastructures required by those involved in conflict arbitration. Corruption and unethical conducts of some officials were frequently reported throughout the colonial and the post-colonial periods (Cory, n.d.; Kenya National Archives, 1950-1951; Kenya National Archives, 1961-1969; Mara Regional Commissioner's Office, n.d.). Corruption and unethical conducts resulted in the delay of execution of justice and suppression of decisions made by arbitrators.

Lack of legal basis and contradiction of existing laws was also reported since the colonial period. For example, the colonial government made several changes on the native systems of my areas of study from the 1920s to 1950s (Native Authority Ordinance General, n.d.; Progress Report on the Development of Local Government in Lake Province, n.d.; Land and Mines: Chiefdom's Boundary Dispute in North Mara District, 1922-1950; Cory, n.d.). Despite changes that introduced new modern approaches of administering the natives, they left some loopholes for the utilization of indigenous systems of conflict resolutions. As a result, throughout the 1920s, 1930s, and 1940s, North Mara District Commissioners relied on the support of chiefs and traditional leaders in resolving chiefdom boundary disputes which occurred in the area (Land and Mines: Chiefdom's Boundary Dispute in North Mara District, 1922-1950).

Similar situations prevailed in the post-colonial period. The report of Mara Region Security Committee of April 1987; the report of S. A. Shelukindo's Commission which was set to investigate the performance and challenges facing traditional institutions (*ritongo*) in Mara region in 1988; and the report of the National Commission on Defense, Security and International Diplomatic Relations which worked on a proposal submitted in 1992 by the Mara Regional Commissioner – Joseph Butiku, all of them found that the engagement of traditional institutions was inevitable in order to keep and maintain peace, law and order in Mara Region. Unfortunately those reports noted that traditional institutions were still operating without legal basis (Mara Regional Commissioner's Office, n.d.).

It seems that no attempt was done to give legal protection to the council of elders. Michael Fleisher (2000), for example, observed that in the 1980s, *Ritongo* had a bad experience in Tarime because the police and judges arrested, tried, and sentenced some members of *Ritongo* (see pp. 107-108). In 1991, Musoma District Commissioner reported that conflicts of interests prevailed between ward tribunals which were established by laws and traditional councils which had no any legal basis for its conducts. Similar complaints continued throughout the 2000s (Mara Regional Commissioner's Office, n.d.). It follows that traditional institutions continued to operate without any legal protection. Evidence

suggests that the traditional systems of conflict management were frequently utilized at the discretion of individual government leaders but not as a result of legal provisions in the existing laws or bylaws. This implies that resolutions made by traditional institutions, whether good or bad, could be downplayed by some government officials or swept away by existing laws.

Evidence also shows that lack of fund and other infrastructures have been the main hindrance for collaboration in conflict resolutions and management in many areas. In his report to the Honourable Chief Native Commissioner in Nairobi on 27 June 1928, the Nyanza Provincial Commissioner stated:

...the Abakuria members have a journey of fifty to sixty miles to attend meetings. There is no accommodation for them at Kisii except in the tribal retainer's lines. Many of the Kisii members also have difficulty in finding anywhere to sleep... (Kenya National Archives, 1928)

The Nyanza Provincial Commissioner was referring to members of Kisii-Bakuria Local Native Council (K-BLNC) in South Kavirondo which was empowered to deliberate cases of various natures in their localities. As the quotation shows, K-BLNC members were suffering a lot in an attempt to execute their duties. In order to solve the problem of accommodation, K-BLNC proposed the construction of a small building which will be accommodating them. This proposal was also not taken into account. In 1926, K-BLNC proposed a subsistence allowance of Shs. 10/- per man per meeting but the Chief Native Commissioner reduced it to Sh. 1/- a day (Kenya National Archives, 1928; Kenya National Archives, 1926). The 1950s *Inter-Relations Report on Local Native Council Finance* also indicated that funds for local native councils were still insufficient (see Inter Relations Committee Report in Relation to Local Native Council Finance, 1941-1944; Kenya National Archives, 1950-1951). Although the allowance paid to members of local native councils in Kenya was increased to Shs. 10/- in the late 1950s, that amount was reduced to Shs. 7/- in 1963. The number of meetings scheduled for hearing cases were also reduced from six in the late 1950s to four meetings only per year in 1963 (Kenya National Archives, 1961-1969). Similar problems continued in the post-colonial period (Mara Regional Commissioner's Office, n.d.).

Therefore, to ensure that the integration of traditional and modern approaches is maintained and strengthened, the challenges narrated above should be sufficiently addressed. In order to ensure effective collaboration between traditional and state-designed institutions, such collaboration should operate under legal framework and not by chance and willingness of individual leaders. The Somaliland, Bougainville, Rwanda, Afghanistan, Vanuatu, and Sierra Leone cases which were cited earlier provide a good lesson on how traditional and modern institutions can be legally integrated. Furthermore, state interference in the operations of traditional institutions should be minimized.

Conclusion

This paper has, to some extent, shown that traditional and modern approaches of conflict management and resolutions have operated together since the colonial period to the post colonial period. However, such collaboration has mainly depended on the discretion of some government leaders, and rarely was grounded on some existing laws or bylaws. Evidence has shown that, in most cases, government officials did not rely on modern approaches alone but they also wanted the support of traditional institutions of conflict management and resolutions. Based on that evidence, I don't support

Boege (2006) and Sansculotte-Greenidge (2009)'s argument that African traditional approaches to conflict management and peacebuilding are ineffective, and that African conflicts should only be resolved through modern approaches. While I subscribe to some scholars (Castro & Ettenger, 1996; Castro & Nielsen, 2001; Murithi, 2006; Mutisi, 2009; Nweke, 2012; Mwakitalu, 2013) who believe that traditional approaches to conflict management and resolutions still have the potential for managing conflicts in Africa, I slightly differ with them that traditional approaches should not be left to work independently of themselves. Instead, there should be mutual cooperation between traditional and modern approaches as evidence has shown in this paper. This kind of mutual cooperation will definitely take us to an approach which I called an *integrative approach* of conflict resolution and peacebuilding in African communities.

In order to improve the performance of the two approaches, establish good synergies between the two approaches, and ensure that sustainable peace is attained among the Kuria, we generally need to address the challenges mentioned in this paper. In particular, we need to ensure that corruption is dealt with accordingly, traditional institutions of conflict management and resolutions are officially and legally recognized and protected, and collaboration between traditional and modern institutions of peacebuilding and conflict resolutions are legally established and reinforced.

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Special Note

Below is a list of archival materials studied and utilized by the author to write this paper:

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- TNA – Mwanza, Acc. No. 1, File No. 876, Native Authority Ordinance General.
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University of Dar es Salam-East Africana (UDSM-EAF), Hans Cory No. 171, Report on the
General Situation in the Kuria Chiefdoms of North Mara and Proposals for Its Improvement.
UDSM-EAF, Hans Cory No. 356, North Mara District Constitution - the Local Government
Constitution of North Mara District, Proposed Changes in the Native Authority Organization.

**Dialectics of War and Peace:
The Pokot Alternate Regimes of War and Peace**

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Abstract

For a long time outsider-led conflict interventions aimed at addressing violent conflicts between and among communities straddling northern Kenya and eastern Uganda have been less than satisfactory, only managing to achieve temporary ceasefire and short episodes of relative peace. Given such persistent failure of these efforts, this study sought to establish whether the cultural system of the Pokot people (and her neighbors) is responsible for rendering such efforts ineffective. The study adopted a qualitative approach with interviews and focus group discussions as data collection methods. The study established that the generation-set system of the Pokot people (and her Ateker cluster neighbors) which produces century-long alternating regimes of war and peace is responsible for the unending interethnic cattle raiding. Secondly, outsider-led conflict interventions in the past decades were unsuccessful because of inadequate understanding of the context (generation-set system and conflict), perceiving the conflict as influenced by factors outside the pastoralists' context and failure to seek working conflict interventions inherent in pastoral cultural systems. To increase chances of success in peace efforts among these communities, peace actors need to look more into the cultural systems for underlying foundations that sustain conflict in particular ethnic and interethnic setting in order innovate culturally-relevant and working conflict interventions. Further research is needed to establish whether these communities have mechanisms to hasten processes of power handover to the regime of peace.

Keywords: peace-conflict dialectic, regime of war, regime of peace, conflict interventions, culture, generation-set, ngimor, ngetei

Introduction

The Pokot, Karamojong, Turkana, Sabiny, Samburu and Marakwet who straddle the region from eastern Uganda to northern Kenya have been in constant conflict since it was first documented by European explorers who described them as “wild” and “warlike” (Barber, 1968; Smith, 1900). The Turkana, in particular, were described as “an extremely aggressive tribe” (Brasnett, 1958, p. 118) and a “people of treacherous character” (Barber, 1968, p. 73).

The Pokot, then referred to as Suk and the subject of this paper, have been in cattle rustling conflict with Karamojong (Uganda), Turkana (Kenya), Sabiny (Uganda and Kenya), Samburu (Kenya) and Marakwet (Kenya) communities. Cattle raiding, pastoral conflict and cattle rustling are used interchangeably in this paper. Many interventions by the state and non-state actors have largely failed to end cattle raiding culture between the Pokot and her raiding neighbors. This failure has been blamed on both the peace actors’ ineffective interventions and the communities’ unwillingness to change from cattle raiding culture.

This study sought to examine whether the cultural system of the Pokot (and her neighbors) is responsible for the failure of past conflict interventions in producing long term peace. To do this, the study explored the Pokot generation-set system dynamics and its relationship with conflict and peace between the Pokot and her neighbors. A particular attention was on how the generation-set system facilitates peace or conflict.

Related Literature

Cattle rustling literature can be broadly summed up in four themes: motivations to cattle raiding, role of small arms, cattle rustling interventions, impact of cattle raiding and peace actors. Whereas the issues studied and debated around this conflict are varied and wide, this paper restricts itself to culture as an infrastructure supporting peace and conflict, history, motivations to cattle rustling, and the past conflict interventions.

Culture as an infrastructure for peace and conflict

Culture is one of the key drivers to raiding. On a more theoretical sphere, culture operates as a dynamic and rigid structure. That duality of existence of culture makes possible preservation and sustenance of cultural practices and equally allows change in whole or in part. As a rigid structure, culture indoctrinates its members through rites and rituals into particular identities to systematize their perceptions of reality into the mainstream cultural reality (LeBaron, 2001). Culture does not only provide us with our cultural perspective of reality, it locates and positions it within and/or outside that reality thereby directing our actions.

As a dynamic structure, culture can facilitate change. As LeBaron (2001) observes: “culture is neither a formidable fortress nor a dispensable platform; it is an integral part of existence that has the potential to serve as an important resource in transforming intercultural conflict” (p. 2). It means peace cannot be made outside the provisions of culture because culture guides “how conflicts are staged and how they are brought to close” (Somjee, 2000). For peace actors, culture provides both the opportunities and means for making peace. The cultural perceptions about peace, conflict and conflict interventions can be defining factors for success of a peace effort.

The culture's ability to resist certain changes and stay responsive to prevailing pressures for change make societies relatively dynamic and sustainable systems. Cultures adjust to prevailing pressures by responding to either inevitable changes (change is the only option) or persuasions (e.g., innovations) from its environment. Both of these processes (inevitable forces and persuasion) can also occur simultaneously.

Cattle rustling in the past and present

Cattle rustling is not a new development among East African pastoralists. The Pokot, Sabiny, Karamojong and Turkana have raided each other for livestock for centuries (Austin, 1899; Leff, 2009). Studies on cattle rustling in the last three decades have suggested that cattle raids have become more devastating due to access to small arms (Mkutu, 2003), loss of traditional authority (Akabwai & Ateyo, 2007) and commercialization of cattle raids (Eaton, 2010). The impression by these studies that cattle raids have become more frequent, more violent and more devastating in its livestock and human costs has been blamed on access to small arms (Gray, 2000). However, analysis of historical reports suggests that cattle raiding is as bad as it was more than a century ago (Knighton, 2007).

A critic of the view that small arms have exacerbated cattle raiding, Knighton (2002) observed that the researchers may have been influenced by regional and global trends in inter-ethnic conflicts associated with access to small arms. His observation points to researchers' temptation to anchor and situate local problems within the global patterns and trends. Cattle rustling is entrenched in the pastoral cultures; it is a problem unique and internal to pastoralists' culture and identity. It would be more instrumental to pay more attention to more culturally intrinsic drivers that sustain this pastoral conflict in order to develop working models from within their cultural systems.

Much of cattle rustling literature is awash with gloom and doom that portrays pastoralists as a people perpetually at war hence failing to notice their peacemaking character. Pastoralists have, albeit brief, episodes of peace after war most of which result from intercommunity peace pacts (Turpin, 1948). They are also kind to each other especially in times of need. In most instances, peace pacts are initiated by the weaker party, often suffering from consequences of either drought, livestock disease or depleted pasture (Lando & Kochomay, 2016). Request for ceasefire or peace pact by the weaker party is always granted suggesting that these raiding communities are not the kind of enemies that seek to wipe out each other from the face of the earth.

Motivations to cattle raiding

Commercialization of cattle raiding (Eaton, 2010), political incitements (Adan & Pkalya, 2005), poverty (Mkutu, 2003), traditional values (Goldsmith, 2005), illiteracy (Cheserek et al., 2012), women pester power (Watson, 2003), hero culture of celebrating raiders and mocking non-raiders (Cheserek et al., 2012), cattle rustling as an expression of historical claims, restricted movement and land privatization (Goldsmith, 2005), drought and dry season resource scarcities (Leff, 2009), proliferation of small arms (Mkutu, 2003), state underinvestment in the pastoral areas (Leff, 2009) and loss of traditional authority (Akabwai & Ateyo, 2007) are some of the motivations to cattle rustling conflict that have been extensively discussed. These factors have been presented as key drivers to cattle raiding among pastoralists.

Although this list of motivations to cattle rustling problem is skewed toward variables external to pastoralists, traditional values and traditional authority represent motivations that point the responsibility

to pastoralists' cattle raiding culture. There are a number of inaccuracies in the way these motivations have been framed and explained. The claim that cattle raiding is motivated by the need for bride price by young men who want to marry is inaccurate. As established by Knighton (2007), raided stock is neither sufficient nor a primary source for bride wealth as the raided loot is often shared by relatives and friends. Further, cattle raiding is not just an exclusive non-literate affair, educated individuals are also directly involved (Knighton, 2002). The claim that cattle rustling among pastoralists is an outcome of colonial or post-colonial administrative decisions as implied by Goldsmith (2005) or resource scarcity as claimed by Leff (2009) ignores the fact that the earliest European explorers found pastoralists at war with each other. For resource scarcity, pastoralist for centuries have developed superior socio-cultural adaptation to environmental vagaries and consequences including striking peace deals in times of distress and crises (Lando & Kochomay, 2016).

Whereas their claims of loss of traditional authority may have merit, there is implicit rule that even when elders have not sanctioned raids, they legitimize them once appeased by the raiders who must slaughter raided oxen for elders to feast on. The collective age grade punishment (*ameto*) is still practiced among the Karamojong (Knighton, 2007) and the Pokot.

Cattle rustling conflict interventions

To governments and other external development actors, cattle rustling has been and is still a problem that needs to be resolved. From colonial administration, many state and non-state interventions aimed at bringing an end to cattle raiding culture have not succeeded. Disarmament operations, *depastoralization* policies, and livestock branding have been popularly used by the state. Disarmament, the most popular of the interventions since colonial era has not produced a lasting peace and security but often leaves the disarmed group at the mercies of their armed traditional enemies. Disarmament occurs as military operation where military forces are deployed to a designated community to mop up arms. These disarmament operations have been accused of committing atrocities against civilians (Stites & Akabwai, 2010). These military interventions have been ineffective because of their failure to procure cooperation from the communities and the government's inability to provide security after disarmament (ISS, 2009).

The post-colonial governments in the region continued the colonial *depastoralization* legacy of enacting legislations, adopting policies on land ownership and public underinvestment in pastoral areas designed to discourage pastoralism (Leff, 2009). These laws and policies were meant to curtail movement and subdue pastoralists into sedentary culture. Livestock branding has also been used as a means to ease tracing raided cattle. All these state efforts have not achieved much perhaps because they were based on inaccurate understanding of underlying cultural motivations for cattle rustling.

The non-state peace actors have also made effort at resolving the cattle raiding problem. An assessment of some of the non-state efforts including POKATUSA peace project is documented in reasonable detail in Lando and Kochomay (2016). Relative to state interventions, efforts by non-state actors get positive reception from the communities; however, fruits of their efforts are often either cut short by state actions such as disarmament or wind up because of their short life span.

Generation-sets, conflict and peace

One feature of East African pastoralists is their social stratification by generations and age-set

systems. Substantially detailed work on generation-set system of Karamoja cluster communities have been done by Gulliver (1953), Dyson-Hudson (1963, 1966), Lamphear (1976), Müller-Dempf (1989, 2009, 2017) and Knighton (1990, 2002, 2007). Their works provide detailed description of generational organization, variations of generation-set systems among communities and power dynamics between generation-sets as well as within generation-sets.

On a more general scope, generations-sets serve several functions among pastoral communities. They reduce rivalry, offer rules that aid settling conflicts, ease access to assistance away from home and make it easy for quick mobilization of community members whenever needed (Müller-Dempf, 2017). Because each generation-set knows its place in the social and political strata, chances of conflict of roles between generation-sets and age-sets within each generation-set are reduced. The generation-set system demarcates boundaries of what one can do or cannot within or without presence of either a higher or lower generation-set. It assigns more power to senior generations and by so doing makes the chain of command explicit. In Karamojong culture, “ameto”, a collective punishment of members of junior set by members of senior set is used when a member from a junior set acts in a grossly disrespectful way to a member or members of senior sets (Knighton, 1990).

The Pokot system, which has greater similarity to Karimojong, has two alternating generation-sets, “Ngimor” and “Ngetei” (Müller-Dempf, 2017). Symbolic of membership in respective generation sets, Ngimor wears red copper ornaments (e.g. bangles, fingerings and earrings) while Ngetei wears golden colored ones. Like in Karimojong system, every male by default becomes a member of generation-set of his paternal grandfather. When a generation-set in power retires, the power is handed over to the next generation-set through an elaborate succession ceremony. More detailed variations in practices of generation-sets among Ateker communities (Karamoja cluster) are well documented in Müller-Dempf (1989, 2009, 2017). Whereas substantial research on generation-sets among the Ateker communities has been documented, little is published about the Pokot generation-set system and the relationship to cattle rustling conflict.

Research Methodology

This study took a qualitative approach with informant interviews and focus groups discussions as key data collection methods. The study was conducted in Pokot North Sub County (Kenya) and Amudat District (Uganda). This area hosts section of the Pokot with long history of contact with Karamojong, Tepes, Sabinu and the Turkana communities.

Informants were drawn from elders and non-state peace actors. Elders were instrumental in providing information relating to generation-set system dynamics while non-state actors provided insight into the reasons behind failure of decades of interventions on cattle raiding conflict. The interviews were conducted between November 2016 and February 2018. Three focus group discussions of elders, peace actors and warriors were also conducted in February 2018.

Findings

Generation-set system as social and political organizing structure

In the Pokot culture, the generation-set system is an organizing structure providing to its members

with the roadmap to their place and respective obligations in and within the social and political stratification. The Pokot culture has two generation-sets that alternate in such a way that one generation-set ascends to power and stays in power for at least a century then hands over power to the next generation-set. These sets have opposite mandates: Ngimor's mandate is to pursue war (regime of war) while Ngetei's is to pursue peace (regime of peace). Whichever regime is in power, the community members know the relevant aspirations to pursue. As summed up by L. Merikori (personal communication, May 12, 2017), "Trying to make peace in regime of war is not the right thing; people know it won't succeed."

Generation-set identities as a negative and positive force for peace and conflict

The deep-rootedness of cultural practices such as regimes of war and regimes of peace can serve as negative organizing force against efforts toward peace or can serve as positive organizing force for peace. The fact that it is within the awareness of the community members that when Ngimor generation-set is in power no peace pact can last, opens up a window within which a group of community members can choose to disrupt existing peace and instead of being treated as a violation of the peace deal, it becomes accepted as a fate - it was going to happen anyway. A. Losili's (personal communication, June 22, 2017) remark, "I tell you, no peace or stability is with Ngimor in power, they are cursed to war and misfortune," reveals deep-rootedness of cultural notions about reigning generation-set system expectations. The belief that no long-term peace will happen with regime of war and the acceptance that it was bound to happen work against achieving long term peace. One member in the Elders' focus group discussion said: "Ngimor's reign is of war, it is time for raiding and Ngetei when they come [to power] will stop war, it will be time of no raiding" (Elders, personal communication, February 10, 2018). This implies a consensus that time for war must be time for war, not peace.

Generation-set as a political regime

The generation-set in power is a political regime mandated to manage all aspects of community life. From the elders' focus group discussion, the generation-set in power is responsible for making community-wide decisions ranging from religious (rituals, ceremonies), natural resource sharing, negotiating and approving negotiations with other polities on matters relating to resource use, peace or war. In the Pokot belief system, the regime of peace (Ngetei) comes in with good fortunes and the community is expected to experience peace, stability and prosperity during their reign but when the regime of war (Ngimor) takes over, the hell breaks loose with war, natural disasters and other misfortunes that arise as a result of poor decisions or naturally occurring circumstances.

On ascending to power a generation-set earns the right to pursue its mandate which is war or peace for Ngimor and Ngetei generation-sets respectively. When Ngimor ascends to power, the regime of war reigns; "theirs is to wage war on the ethnic enemies" (W. Atukoi, personal communication, May 13, 2017). This regime is also associated with poverty, instability and other misfortunes. When Ngetei ascends to power, "the regime is of peace, we know God (Töröröt) and nature will give us peace, plenty, stability and prosperity. All good things will follow their leadership" (L. Riamangorok, personal communication, November 14, 2016).

In the desire for exceptional record for their legacies, the regime in power must do as much as it can to surpass the previous regimes of their kind. For instance, a regime of war will wage as much war and exhaust all war opportunities to outdo the previous war regime. In such competition, "Ngimor

(regime of war) brings as much destruction to their enemy and in the same measure attract as much destruction and war to their people” (N. Lopira, personal communication, November 14, 2016). During their turn, the peace regime with its energy will work as much but to bring peace, stability and prosperity for “Ngetei were blessed with the heart for peace from time immemorial; theirs is to ensure there is peace within their community and with their ethnic neighbors” (A. Lochom, personal communication, November 17, 2016).

Power dynamics in the Pokot generation-set system and unending conflict

Power dynamics in the Pokot generation-set system is to a large extent responsible for sustained conflict between Pokot and her neighbors for more than a century. Ngimor’s unwillingness to hand over power to Ngetei (regime of peace) explains the unending cattle raiding problem between the Pokot and her neighbors. But how did this regime manage to break the norm? First, Ngimor cunningly understood every step of power handover process and found a weak point within the process where if skipped will undermine legitimacy of the process. Secondly, they understood that they were the one with power and mandate to make such decisions but chose otherwise. The process of power hand over and the generation-set timelines illustrate the Pokot generation-set power dynamics and the unending pastoral conflict.

In the account of the elders’ focus group discussion, the transition from peace to war or from war to peace regimes involves a procedure of rituals conducted in prescribed ritual sites within specified timelines and in a particular order by the ritual expert, usually a seer. If the ceremonial and ritual processes are pronounced successful by the ritual expert, the eventual end is the handing over power to the designate generation-set who will hold power for the next 100 years before handing it over to the next generation-set. Just like in modern governments, power handover involves ritualistic and symbolic transfer of instruments of power to the incoming government. In the Pokot generation-set context, the instrument of power that must be handed over ritually and symbolically at a central site to the most senior member or members of incoming generation-set who will ritually cut it to signify complete transfer of power is the “amuro” (right hind of an ox). After the central handover, each settlement or village will schedule their handover rituals.

Pokot oral references and historical records provide a sketch of Pokot generation-set system of power dynamics and the persistence of pastoral conflict.

- 1850s: Ngetei (regime of peace) were in power until about the 1850s when they handed over power to Ngimor who had piled pressure on Ngetei to hand over power to allow them (Ngimor) to go to war. Ngetei bowed to the pressure and gave-in to the demands of the war-yearning Ngimor leading to a ritual process that involved burying symbols of peace, stability, wealth and prosperity to usher in a regime of war (Elders, personal communication, February 3, 2018). Handing over power means giving decision making authority to generation-set in power. In their war of domination endeavor, Ngimor were successful in their early years of reign defeating and driving away Orkom (Oropom) and Maasai (Brasnett, 1958; Robbins, 2010; Wakefield & Johnson, 1870).
- 1890s: The brief success was disrupted by defeats, counter raids, animal diseases (rinderpest and scab) and small pox epidemic rendering the Pokot weak and unable to wage successful battles on their enemies (Barber, 1968; Bollig, 2006; Turpin, 1948).
- 1920s: To survive raids from their neighbors, they adopted a diplomatic scheme by seeking peace from their neighbors leading to the Pokot, Karamojong Turkana and Sabinu peace pact in the 1920s

at two ritual sites witnessed by colonial administrators of both Kenya and Uganda (Barber, 1968). The Pokot ritual expert had directed Ngimor to hand over power to Ngetei (regime of peace) for long-term peace and stability but Ngimor did not like the idea of giving away power and did not therefore implement rituals as required to allow power handover (Elders, personal communication, February 3, 2018).

- 1965: Rituals in the third site were delayed until 1965 but still power was not handed over to regime of peace (Ngetei). Because the instrument of power and authority (“amuro”) was never handed over, Ngimor continued to hold power and the rights that come with it.
- 1990s: A new cycle of handing over rituals began in the 1990s but was interrupted by Kenya and Uganda disarmament operations targeting cross border pastoralists.
- 2015: The 1990s cycle resumed in 2015 (Elders, personal communication, February 3, 2018). Just the way political regimes wish to hold power a little longer, this is what happened to Pokot generation-sets power handover. Ngimor generation-set had delayed handover to allow itself a longer stay in power. The strain in the generation-set power handover is the underlying factor for the unending conflict between the Pokot and her neighbors.

Pastoralists, peace actors and peace outcomes

Pastoralists are shy to tell external actors the truth about the certainty of the failure of their peace efforts. One non-state peace actor expressed his experience with pastoralists in these words:

When they (pastoral communities) come to your meetings, they listen very attentively, in dead silence, no interruptions and one, two or three of them speak on behalf of the rest in support of peace. Their faces tell they are honest. But you will be a disappointed lad at the end of your three year peace project. (S. Zacheas, personal communication, October 10, 2017)

From this peace actor’s observation, we can draw some inferences. First, peace actors rely largely on the host communities’ willingness to genuinely support their peace efforts. The judgment on whether the hosts are willing, open and supportive depends on the peace actor. It also reveals that cultures are closed systems with mechanisms for dealing with out-groups. This study has established that in spite of their knowledge of the outcome of a peace initiative (internally or externally-driven), these pastoralists are unwilling to forthrightly discourage the peace actors. It is a face-saving norm. Based on their understanding of the mandates of the generation-set in power, they can predict with certainty the success or failure of a peace initiative. The failure of outsider-led interventions to achieve a lasting peace between the Pokot and her neighbors for decades can be attributed to the host’s knowledge that no long-term peace can be expected during the regime of war. Their participation in the peace efforts is therefore a face saving act – peace is not part of the expected outcome.

Looking-in: Cracking cultural system’s peace code

For more successful peace efforts, peace actors have better chances of success if they avoid adopting templates in inter-ethnic and intra-ethnic conflicts from other contexts. *POKATUSA*, one of the peace projects well remembered by the communities began with trust and consensus building methods from the host cultures (Peace Actors, personal communication, February 8, 2018) but whose efforts were disrupted by Uganda disarmament program in early 2000. This illustrates the significance of seeking

opportunities from the host culture and the means provided by the culture to exploit those opportunities. There are virgin revelations and opportunities within cultural systems for enhancing peace outcomes.

Conclusion and Recommendation

Conclusion

The cultural system of the Pokot (and her neighbors) is responsible for the unending interethnic cattle raiding.

- 1) As social and political organizing structure, the Pokot (and Karamojong) generation-set system produce alternate regimes of war and peace, each with a reign period of not less than a century. For more than a century, the regime of war has been in power and that explains the unending cattle raids between the Pokot and her neighbors.
- 2) The regime in power receives power and authority to make political, religious, sociocultural and economic decisions but through culturally prescribed process. With its authority, it can repeal existing or introduce new cultural practices (sociocultural) or change the nature of cultural power structure (political). From this view, Pokot generation-set system presents an opportunity for peace that change agents can exploit. The peace actors' hasty peace projects have failed to notice these opportunities.
- 3) Ngimor, the regime of war, has clung on power for more than a century and their unwillingness to hand over power to Ngetei is one of the underlying forces that has sustained inter-ethnic cattle raiding.
- 4) Outsider-driven conflict interventions came at the wrong time, were based on wrong assumptions, and failed to understand underlying conflict drivers. These interventions were based on models that did not take into account the complexity of conflict and cultures of these cattle raiding communities.

Recommendation

The study makes the following recommendations. That peace actors in pastoral conflict need to adopt a long range approach which must begin with seeking more deeper understanding of the people, culture and the conflict dynamics. Policy makers equally need to give indigenous mechanisms more attention in respect of addressing pastoral conflict. This study has pointed to the fact that pastoral communities make peace with themselves in absence of external actors. That needs to be supported more. This study also invites researchers to do more research on practices embedded in pastoral cultures that promote and sustain cattle raiding.

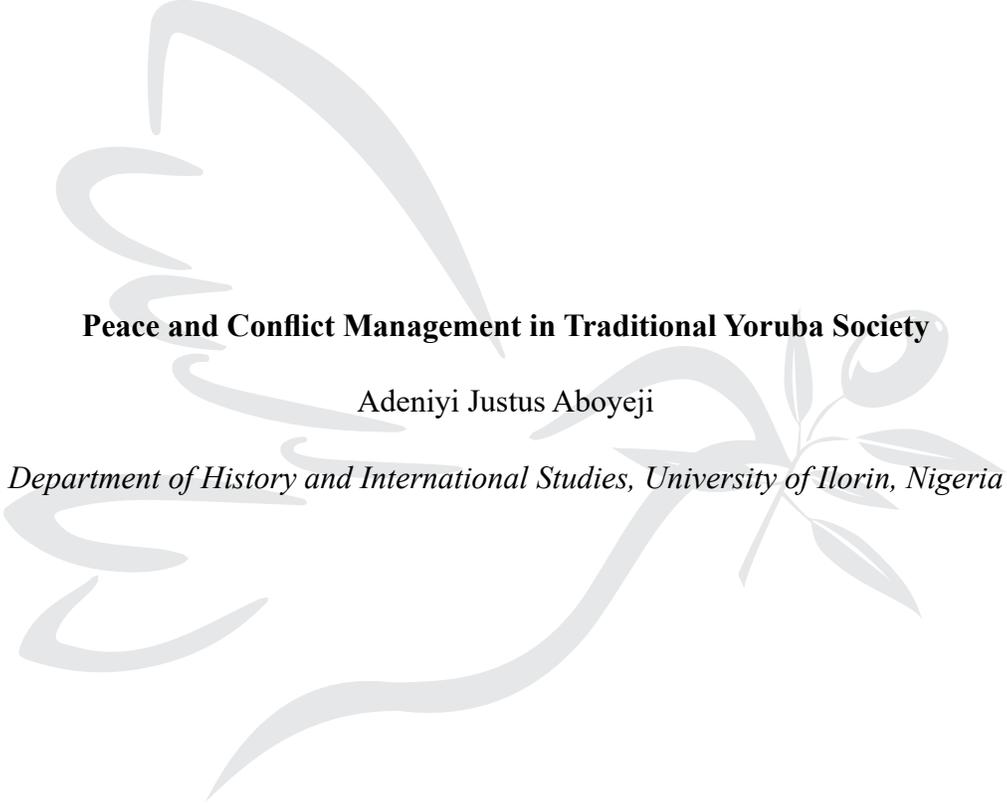
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Peace and Conflict Management in Traditional Yoruba Society

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Abstract

Peace management is more imperative than conflict resolution. Indeed, if peace is effectively managed, there will be no conflict to resolve. Given that conflict is a ubiquitous and inevitable part of human existence, this paper borders its thesis on the imperatives for peace and conflict management (PCM) in human society, using the traditional Yoruba society model. A comparative analysis of *PCM* in the Yoruba society in traditional and modern times reveals a radical departure from the indigenous *PCM* framework which had kept animosity at bay and ensured peaceful coexistence. Relying on the qualitative method of data collection and analysis, based on extant secondary materials, this study aims at systematically exploring the robust heritage of the traditional system of jurisprudence (TSJ) in Yorubaland, such as the spirito-extra-judicial framework, use of masquerades, sasswood concoction administration, “broom-and-key” method, and use of legal proverbs. Findings of this study affirm that the incursion of foreign ideology and introduction of the western colonialist model of jurisprudence into the African (and Yoruba) setting, which introduced alien methods such as litigation, came as a rude interruption to the existing judicial ethos. As such, litigation is completely un-African, considering the Yoruba belief system of “No camaraderie continuum after litigation.” Conclusively, the recent renaissance of the crusade for alternative dispute resolution (ADR) only resonates a call to revert to the Yoruba *TSJ* with its array of long-standing indigenous mechanisms circumspectly instituted and jealously guarded for effective *PCM*. We recommend, *inter alia* therefore, a reversion to out-of-court settlement, dubbed *ADR*.

Keywords: Yoruba, conflict, tradition, peace and conflict management, traditional system of jurisprudence, alternative dispute resolution

Introduction

The universality and inevitability of conflict, throughout all known ages of our known world, from the pre-historic (period with neither written records nor reliable oral traditions) to proto-historic (period with scanty written sources and reliable oral traditions) and historic epochs (for which we have plethora of written records and reliable oral traditions), arguably, is no longer a subject of debate. By the inevitability of conflict, we simply mean that conflict is perhaps, at best, unavoidable. Conflict is like one's shadow. One cannot run away from it. In fact, the more you try to avoid it, the more you embrace it. A video footage reveals a young girl of about two years old who saw herself being apparently chased around by a 'goblin'. Every direction she ran to, she saw herself being trailed after by this mysterious fairy who, more scarily, wore her shape and figure. She ran forth and back till she fell. Lo and behold, unknown to the innocent girl though, she was only trying to run away from her own very shadow. Unknown to the poor innocent girl, you cannot run away from your shadow, as her frantic efforts to run away from her own very shadow not only ended up an exercise in futility but also in frustration. As such, conflict is an inevitable phenomenon and a daily reality in our heterogeneous, pluralistic, multi-ethnic, multi-lingual, multi-cultural and multi-religious, highly complex, globalized contemporary society.

The universality of conflict undermines the *selectionist* argument of Eurocentric apologetics who try to paint Africa as being a land of barbaric savages. Conflict, after all, is not exclusive of any continent or color, creed, place or race, region or religion. In their argument, they bicker that Africa had for centuries been a *vast battlefield* for unending brouhaha. Making reference to the *warrior instincts* which have remained extremely powerful among the black race, they equally posited that those warrior qualities of the black race were hereditary, and that their cold-blooded and fatalistic temperament made them terrible in the prevailing conditions of modern warfare (Lunn, 1999). Perhaps given the incessant and ubiquitous nature of wars in the Yoruba country during the 19th century, for instance, Smith (1969) describes warfare as a way of life of the Yoruba. But wars were not undertaken without serious thoughts given to them. However, as Smith (1969) notes:

Warfare was undertaken by the Yoruba with deliberation. Only after lengthy discussion in the Councils of the kingdom, exhortatory speeches to the troops, and sacrifices to the war standard did the army move out to the vicinity of the enemy. (p. 104)

The people often resorted to warfare when all forms of diplomatic and religious means had failed. The opinion held by European observers and subscribed to by some writers had since been demolished. It is now well known that the issues of the wars were basically political or economic regarding questions of *Balance of Power* (BOP). This is not to say that the Yoruba wars were fought for the purpose of acquiring slaves (Smith, 1969). Akiwowo (1998) has provided us with *War Ethics among the Yoruba*, comparing it with the compelling evidences of a phenomenal growth of militarism in the global society of today, and decrying the possession of the nuclear capability of blowing up the planet earth by the world super powers and their allies. War has therefore been described as a barbarity that for generations had been waged under strict rules of conduct for the protection of homes and the civilization of a nation. However, it has, today, lost the justification of this purpose as mass slaughter appears to have become one of its primary objectives. Today, armies no longer fight armies alone; they seek the death and obliteration of an entire populace. For instance, the UNESCO (as cited by Nzeako & Tumba, 2018) reveals that more than

half of African countries are at risk of one form of peace and security crisis or the other, ranging from state collapse, terrorism, weak states, civil wars, ethnic conflicts and social and political deprivations of its citizens.

Ever since the emergence of Napoleon Bonaparte on the political terrain of France ushered Europe (and the world by extension) into the *Age of total war*, during the closing decade of the 18th century, the universal man has constantly lived in frantic search for peace and tranquillity. This is because, as Brionne Frazier (2019) revealed, “during the French revolution, the Revolutionary Tribunal engaged in acts of total war, nicknamed “The Terror.”... During the Napoleonic Wars that followed the revolution, it is estimated that approximately five million people died over the twenty-year period” (para. 9). After a century of the much cherished peace and security orchestrated by certain mechanisms, the resurgence of the horrors of conflict has been astronomical. The many deadly conflicts that have ensued (such as the World Wars I and II—1914-1918 and 1939-1945 as well as the Cold War thereafter) and which are still raging across the global community today, probably made Fisher (2014) to dare all optimism by positing that the hope for enduring peace has become somewhat elusive. This, painfully enough, has turned our God-given habitation of tranquility into the den of cruelty (Aboyeji, 2015^a). However, although the world is apparently tired of war, and peace is apparently somewhat elusive in today’s world, yet, peace and conflict have remained topmost and among the most recurrent issues in recent times. The need for peace in our planet, therefore, cannot be overemphasized.

Provided that the universality and inevitability of conflict has been ascertained, where conflict is portrayed like a shadow that one cannot run away from, it therefore behooves us that if conflict cannot be prevented or is poorly managed, resolution must be handled with utmost caution. Given the inherent weaknesses of the modern judicial system, which has not been able to curb the ever growing social vices, the need to revert to the neglected old order of pre-colonial justice therefore becomes imperative. Given that conflict is an ubiquitous and inevitable part of human existence, this paper borders its thesis on the imperatives for peace and conflict management (PCM) in human society, using the traditional Yoruba society model.

Conceptual Clarification

For the sake of clarity and better understanding of this paper, some concepts need clarification for their easy adaptability in the course of this discourse.

Peace

Christians, Muslims, animists, fascists, communists, democrats, and psychologists, all view the concept of peace differently. It is therefore pertinent to note that there are many perspectives to the conception of peace. For instance, according to Jando (2018), while psychologists would view peace as a state of mind in harmony and balance; a function of the mind of an individual or group of people to their state of being, sociologists could see it as the value that emanates from the human relationships, which enhances social harmony, creativity and productivity and prevention of war; whereas political perspective depicts a broad concept subsumed in balance of power. For Jando (2018), peace is:

- i. the absence or opposite of conflict, abhorring violence and wars;
- ii. a state of justice, goodness and civil government;

iii. “a state of mind in concourse and with serenity; a state of harmony, tranquility, concord and balance of equilibrium of powers” (pp. 75-76).

In addition to the above, it suffices to add that peace may not necessarily mean the absence of conflict but an unperturbed state in conflict situations, with confidence in the justice system, that justice would eventually prevail.

Conflict prevention or management

Best (2006) distinguishes conflict resolution from conflict management, prevention, transformation and suppression.

Conflict prevention

The Final Report of the Carnegie Corporation of New York issued in 1997, having distinguished various phases of conflict, ranging from tensions to crises, conflict proper and post-conflict settlements, advocated long-term prevention by, *inter alia*, stressing the necessity for an effective and robust early warning system, which can detect the early signs of trouble, as well as the setting up of institutions to deal with the potential root causes of conflicts (Carnegie Commission, 1997). Mwanasali (2016) highlighted four key variables which have generally been identified based on consensus as lying at the root of conflicts, namely insecurity, inequality, incentives and perceptions. The expression *Conflict Prevention* is often used to depict an action undertaken with the express intent to anticipate a conflict or forestall the possibility of its escalation into generalized, free-for-all and uncontrolled violence, whether between two groups or at the level of society at large.

Conflict management

Prevention, we often say, is better than cure. In relation to conflict, conflict prevention is however, perhaps, only applicable to such situations that are not bound by inevitability or causality. As such, although conflict can be prevented in some occasions, it can only be managed in others (Jando, 2018). For instance, while such conflicts as are related to resources may be permanently resolvable, especially when the basic needs of the aggrieved parties have been reconciled or met with necessary satisfiers and their palpable fears have been allayed, however, others as may relate to values may be non-resolvable and may therefore, perhaps, at best be transformed, regulated or managed (Best, 2016).

Ojo and Akinyoade (2016) who harped on the erroneousness in the interchangeable use of such expressions as conflict prevention, control, termination and resolution, often used as synonymous with conflict management, argued that conflict management refers to “an attempt to reduce the negative or destructive consequences of conflict, and produce more positive outcomes for parties in the conflict. [This involves] devising strategies to reduce the destructive effects of human interaction to the barest minimum, by transforming seemingly irreconcilable conflicts into tolerable relations” (pp. 110-112). Although Best (2016) distinguished conflict management from conflict regulation, suppression and transformation, it would suffice us, for the purpose of this study, to subsume all others under conflict management, since it is sometimes used synonymously with conflict regulation, limitation, containment and litigation. Management of conflict seems to be in support of the inevitability of conflict and that not all conflicts are always resolvable. As such, the best practitioners can do is to manage and regulate them. Management of conflict therefore covers all areas of handling conflicts positively at different stages,

including efforts towards conflict prevention, by being proactive. Thus, conflict management is viewed as the process of relaxing the negative and destructive effect of conflict through certain measures and by working with and through the conflicting parties.

In the interest of peaceful coexistence and societal development among the different peoples worldwide, every society evolved its own unique and peculiar mechanisms and instruments of conflict management. The historical antecedents and robust values inherent in the traditional/indigenous judicial systems/institutions of the various pre-colonial peoples of the Nigerian region for conflict management therefore deserves to be placed in apposite perspective (Ojo & Akinyoade, 2016).

Conflict resolution

Conflict resolution is intrinsically not aimed at conflict prevention, since conflicts can invariably be destructive or creative, but to ensure that its occurrence does not threaten the fundamental basis of our corporate existence. Conflict resolution has been variously defined as:

- i. An outcome in which the issues in an existing conflict are satisfactorily dealt with through a solution that is mutually acceptable to the parties, self-sustaining in the long run and productive of a new, positive relationship between parties that were previously hostile adversaries; and any process or procedure by which such an outcome is achieved.
- ii. A sense of finality, where the parties to a conflict are mutually satisfied with the outcome of a settlement and the conflict is resolved in a true sense.
- iii. A variety of approaches aimed at terminating conflicts through the constructive solving of problems, distinct from management or transformation of conflict (Best, 2016, pp. 93-96).

By conflict resolution, it is expected that the deep rooted sources of conflict are addressed and resolved, and behavior is no longer violent, nor are attributes hostile any longer, while the structure of the conflict has been changed (Best, 2016). For the purpose of this paper, the concept *conflict management* would be used synonymously with and to include *conflict resolution*.

Be that as it may, irrespective of the variation and nature (including physical or naked warfare), conflict has usually made the world unsafe for human beings and, by extension, has impeded the development of both capital and material resources both of which are necessary for human welfare. An understanding of this candor, therefore, only harps on the need for effective means of conflict resolution for peaceful coexistence in a cantankerous and volatile society. In this light, if conflict cannot be prevented from ensuing, going by its inevitability, universality and/or ubiquity, it therefore becomes imperative to seek peace by resolving or managing conflict situations.

Conflict

Succinctly put, conflict is the inverse or opposite of peace. It is indeed, pertinent to note that all over the world, there seems to be one form of conflict or the other, although varied in nature and dimension. Although conflict is by its nature complex, the nature of conflict varies from one conflict to another. In other words, the nature is largely induced by the cause of a particular conflict. Above all, a conflict situation creates chaos and makes the environment unsafe for life and property. In a conflict situation, threat, fear, anxiety, and general insecurity become the order of the day. Conflict indexes include, among others, mutual image of misunderstanding, hate speech or hostile utterances, action and responses that seek to put the interest of the other party in a disadvantaged position.

The Yoruba

Aboyegi (2018) who identified ethno-political tension as one peculiar feature of a multi-ethnic society like Nigeria, further described Nigeria as “a complex ethno-political landscape” (p. 448). According to him, ‘such ethno-political tensions are capable of igniting the embers of anarchy and dissensions in the attempt of groups within the group to satisfy their cravings for parochial interest’s satisfaction’. Nigeria is a potpourri of ethno-cultural groups, nations and ethnicities put at about 395 (Lukpata, Dada, & Tanko, 2016), each of which has its own ethos and idiosyncrasy. Of these, three are most dominant: Hausa-Fulani in the north, Igbo in the south-east and Yoruba in the south-west.

Like any other ethnic or tribal group in Nigeria, the popular history of the Yoruba, according to Jeje (2018) is often linked to the *Hamitic Hypothesis*, premised upon two broad legends of origin: one autochthonous, the other migratory. The first has it that the Yoruba people claim an autochthonous civilization which began at Ile-Ife, the oldest town allegedly founded by the deities, *Oduduwa* and *Obatala*, where these gods reportedly descended to earth. Whereas Obatala is believed to have fashioned the first humans out of clay, Oduduwa is held to be the first divine monarch of the Yoruba. The migratory traditions made reference to a Middle Eastern origin of a prince who relocated from Arabia, Mecca or Egypt. Although divergent in details, they both, at least, have two things in common: Oduduwa as the central figure and Ile-Ife is their ancestral home. However, evidences from findings seem to be overwhelming and compelling enough that the Oduduwa legend could not have been the very origin of the Yoruba but only an episode—just the beginning of a new political dynasty of the Yoruba; though a significant turning point in the Yoruba historiography. This is because of the compelling evidences of pre-Oduduwa inhabitants in Ile-Ife, as argued by Aboyegi (2015^a). Be that as it may, however, Oduduwa’s descendants are believed to have established or super-imposed themselves on all Yoruba settlements.

Meanwhile, archaeological evidences have dated settlements at Ile-Ife to the 4th century BC, although it was not until around the 12th century AD, often described as the *Golden Age* of Ile-Ife, before urban structures started to appear. This was ever before the rise of Oyo (1100-1600). Although the name Yoruba was originally used exclusively in reference to the Oyo empire, being the name for the Oyo people, the name is now being used as a collective label for all Yoruba, held to be the most urbanized ethnic group in Africa. Linguistically, the Yoruba race, a distinctive Niger-Congo ethnic group of the south-western and north-central Nigeria as well as southern and central Benin, is said to belong to the Kwa group of languages classified by Greenberge (as cited in Jeje, 2018).

The Yoruba territory lies roughly between latitudes 6^o and 9^o N and longitudes 2^o 30/ and 6^o30/ East of Nigeria. The Yoruba remains one of the largest and predominant ethnic groups in Nigeria and Africa with about 35 percent of Nigeria’s population and about 40 million people around the globe (Jeje, 2018). Although they are majorly found in south-western Nigeria, they also extend to other parts of West Africa such as Dahomey, Republic of Benin and Togo, being one of the major diasporic ethnic groups in the world from Africa. They are also widely dispersed all over Africa and the entire global community in places like Sierra Leone, Liberia, Gambia, across the Atlantic as far as the Caribbean, West Indies, Americas, Brazil, Cuba, Asia and in Europe for divergent profitable socio-economic enterprises (Jeje, 2018).

Although believed to be an homogenous nation, being progenies of the same progenitor—*Oduduwa*, from the 19th century, internal division began to ensue when the various Yorùbá groups

namely, the Oyo, Egba, Ondo, Ijebu, Igbomina, Ife, Ijesa and Ekiti, *inter alia*, apparently began to reject the eponymous ‘Yorùbá’ label, to which they all hitherto answered, and would rather prefer to consider themselves as distinct tribes—‘states’ within a ‘nation’. Aboyeji (2016) further argued that although the ‘nationhood’ of the Yoruba seems not in question, during the cataclysmic period of the 19th century Yoruba inter-state and/or civil wars, which has misguided some into seeing Yorùbá history in the 19th century in exclusively martial terms (Smith & Ajayi, 1964), they began to stress this sub-ethnic distinctiveness and ‘statehood’, thereby also turning their country into a century-long theatre of war (Aboyeji, 2016).

Maps of Nigeria showing Yorubaland



(Source: <https://www.google.com.ng/url?sa=i&source=images&cd=&ved=2a>)

Western Ideology and Change of Ethos

Ige (2017) identified Western conflict resolution mechanisms to include dialogue, communication, collaborations, negotiation, mediation, arbitration and war of attrition. Oddiri (2004) also included facilitation, explaining that when a neutral party enters discussions to help the parties work towards consensus, the process is described as *facilitated negotiation* or facilitation. The facilitator does not concentrate on the substance of the issues for discussion. Rather, he or she assists the parties to focus on the salient issues to improve their chances of reaching an agreement. Best (2016) added to the Western ADR mechanisms good governance, conciliation, adjudication and crisis management. Ojiji (2016) also identified among other spectrum of conflict handling styles: domination, avoidance, accommodation, collaboration, confrontation/fighting, compromise and problem-solving, highlighting the strengths and weaknesses of each. He however observed culture as a major domineering determinant of the preferences in conflict handling styles. Although Gulliver (1974, cited in Ojiji, 2016) highlighted four types of conflict handling procedures that probably could be found in all cultures of the world (that is, negotiation, mediation, conciliation and arbitration), the application depends, by and large, on the type of relationship of disputants, whether *simplex* or *multiplex*. *Simplex* relationship is one which is confined to a single interest, and often relies on adjudication or arbitration in settlement; whereas *multiplex* relationship depicts a relationship that serves multiple or many interests, which often relies basically on negotiation or mediation for settlement. Others include multi-track diplomacy (Diamond & McDonald, 1996), litigation (Aboyeji & Aboyeji, 2018), among others.

As noted earlier, the major issue here is not the outbreak of conflict itself, given that it has been identified as an inevitable necessity of human existence. It has therefore been argued that the goal of effective conflict management is such that the incident of conflicts does not threaten the fundamental basis of the collective existence of parties involved, and not necessarily an attempt to prevent outbreak of conflicts. However, the modern framework for conflict management has not only worsened matters but is found culpable for the present spate of unending crisis situations. This is because, according to Ojo and Akinyoade (2016), the modern judicial system breeds ‘professionals’ as against the ‘peace-makers’ of the indigenous framework. As such, in spite of the proliferation of ‘professionals’ in the contemporary society, conflict situations have secured a way of escalating into violent stages, probably to guarantee a continued relevance and/or maintain the continuity for their ‘profession’ and ‘professionalism’. This change of ethos has therefore led us this far. An understanding of the foregoing will therefore help our comparative analysis of the past and present; that is, the traditional (indigenous) and modern (foreign) frameworks.

While some have seen the effects of the incursion of foreign ideology on Africa as ‘mixed blessing’ with both positive and negative implications, such influences have left unprecedented impact on every fabric of the African culture, tradition and belief system (Ojo & Akinyoade, 2016). One fundamental area that has been gruesomely affected by the incursion of foreign ideology in the African society was in the jurisprudence sector.

Peace and Conflict Management in Traditional Yoruba Society: ADR

It should be noted that peace management is more imperative than conflict resolution. Indeed, every society has its own ethos and idiosyncrasies. Every society or institution has its own ways and

methods of resolving conflicts. As such, almost throughout all African societies, there was preference for peaceful means of conflict settlement in *tandem* with the particular community's institutional perceptions and juridical prescriptions. It is interesting to note that in traditional African societies, conflicts of whatever sources or dimensions were exclusively handled through indigenous judicial institutions of conflict management. Hence, an examination of Yoruba ways of resolving conflicts would be done with particular emphasis to ADR. The idea of ADR is all about the quest for and application of non-conventional but peaceful methods of settling conflicts, using least expensive means as is satisfying to the parties as to also preserve relationships after a settlement might have been reached (Best, 2016). Oddiri (2004) has argued that owing to the exigencies of commercial dealings in our modern era, many of the countries in the world now complement dispute resolution by applying alternative methods of dispute resolution.

Alternative Dispute Resolution (ADR), which is specially meant to serve as an alternative to the conventional means of settling disputes, mainly through litigation and the court system, basically refers to all the means and modes of disputes resolution outside of the formal judicial process - litigation - or simply put, out-of-court settlement. Preference for non-violence is its major hallmark (Best, 2016). It is a collective term for the ways in which disputing parties can settle disputes, with (or without) the help of a third party (Eleanya, n.d.). This method is particularly traditional, African and indigenous to the African legal system. It involves the use of non-conventional peaceful means of settling conflicts. In most cases, the method avoids the use of litigation.

Yoruba Traditional Judicial Institutions

One fundamental uniqueness of the traditional African society is the gift of goodness from God. Besides the enormous assets and values such as mineral and natural resources: gold, diamond, fertile and arable soil, timber, and so on, that Africa is blessed with, Africa is also blessed with invaluable human resources such as good leaders (chiefs, family heads, clan heads, kings, priests, and so on); as well as non-material resources such as peace, security, good governance, brotherliness, good family ties including the extended family, and kindness. Generally speaking, under the traditional judicial system, conflicts were resolved at family, village and community levels and the aggrieved parties were appealed to, to accept and operate in the spirit of the agreement reached. Findings show that these traditional mechanisms were analogous across Yorubaland, with slight adaptations to peculiar situations and communities. Traditional Yoruba communities, towns and villages were structured along three graded hierarchical units, for administrative purposes, namely family council, quarter or compound council, and village council.

Family council

This is the earliest and lowest basic unit of the social organization and is headed by the *Olori ebi*, that is, family or clan head. The Yoruba were renowned for their elaborate *ebi* (that is, clan or family) system, which in the old days extended beyond the immediate nuclear family comprising the man, his wife or wives and their children, but included all members of the extended family. This council, among other things, was obliged to settle family disputes and arrange other family matters.

Quarter or compound council

By arrangement, the whole village was divided into quarters or compounds. The quarter council therefore comprises all titled chiefs and family heads and elders in the quarter, headed or presided over by the *olori agboole* (compound head). He was expected to be a man of considerable tact and importance to serve as the spokesman of his quarters in town or village gatherings. Among several increasing responsibilities, he was to ensure harmony by settling scores and disputes among members of the different families within his area of jurisdiction—his quarters/compound. The political dimension of culture underpins development such as law and order, peace and security. In fact, chiefs and elders were charged with the responsibility of maintaining a serene community. They were arbiters and conflict resolution experts who solved social problems in a fair, just, truthful, and brotherly manner.

Village council

This comprises all groups of chiefs from all families and clans of all quarters or compounds, be they civilian or military. It was presided over by the village head—*Baale* (paramount chief, in the case of a chiefdom) or *Oba* (paramount king in the case of a kingdom). Yoruba *obas* generally were regarded as being divine (*Alase igba keji Orisa* – meaning, divine monarch, second only to the gods of the land), wielding enormous political, judicial and religious powers, after due consultation with the *Oba*-in-council or council of chiefs, such as the *Iwarefa* or the *Oyomesi*. As such, law making (legislation), law interpretation and enforcement adjudication (judiciary) were all added to the king's executive duties. The *Oba*-in-council advised the *Oba* in the court to decide cases, be they civil or criminal. Only cases beyond the jurisdiction of the quarters or village heads were referred to the *Oba*'s court, which was the final Court of Appeal and Supreme Court for all cases (Atanda, 1973). Here, all cases, criminal and civil were brought to bear and laid to rest. It was there only that capital punishments could be pronounced upon an erring and guilty person, if and when needed.

The setting for dispute resolution would normally be a neutral place such as the market square, village square, an open hut, land boundary in the case of a land/boundary dispute, village court (community adjudication center) or a traditional shrine, as the case may be. Having performed necessary rites such as oath taking, pouring of libation, invocation of ancestral spirits, sacrifice of a live animal, invocation of the spirit of gods such as *Ogun* (accredited god of iron), *Sango* (god of thunder and lightning), *Sanpona* (god of small pox) or *Esu laalu* or *Elegbara*, *Ayelala* (an effective deity that punishes crime of various types) in order to wreak calamity on the guilty person who may want to interfere with the judicial process or get involved in duplicity (Best, 2016). All said and done, disputants thereafter swear to oaths and state their cases accordingly to the hearing of the assembly. Regardless of the degree of masculinity and gerontocracy of the Assembly, following the hearing and due considerations, fact-finding interrogations, investigations, and consultations, the elders would give their verdict, meant to promote community solidarity and non-violence or peaceful settlement/management of conflict.

On the whole, social organization and arrangement exhibited a sort of clinical nature in which every individual belonged to several overlapping groups, which provided the framework for his daily life. The mechanism, therefore, consisted of structures, institutions, processes and instruments, while the structure comprised, among others, hierarchical juridical-cum-political institutions from the *Oba*-in-Council or Council of chiefs of the king/*Oba* such as the *Oyomesi*, the highest ruling Council of chiefs of the *Alaafin* down to the division into wards, each having its representative in the *Oba*'s cabinet. While

legal matters were firstly considered at the family and ward levels by family heads/elders and ward chiefs respectively, appeals were made to the next court in rank till it reached the Council of chiefs, which served as both appeal and apex/supreme court. This way, the rights, needs and interests of citizens were satisfactorily represented and assured. This way, peace and order reigned supreme. These have been embedded in the traditional unwritten codes which have found their way and become engraved in the hearts of the people.

There are, at least, three levels of crimes throughout Yorubaland. They are crimes against the gods; crimes against the *Oba*; and crimes against other people.

- i. *Crimes against the gods*: This may include insult against the *orisa* (god/deity) or their priest or burning of a sacred grove. In such cases as these affecting the gods, propitiation sacrifices may be required to appease the gods, while the offender would be punished as guided or advised by the oracle.
- ii. *Crimes against the Oba*: In general terms, it should be noted that the *Oba* himself is considered a god in his own right/capacity, being the representative and spokesman of the gods here on earth. Yoruba *Obas* were often considered and so addressed as second to the gods of their lands. Offenses such as adultery against an *Oba*'s wife was punishable by death by being tied to a stake. Insult to the *Oba* attracted heavy fine and the offender's house may be completely razed down to ashes.
- iii. *Crimes against other people*: Crimes or offenses against fellow people such as rape or wound would attract punishment(s) and/or fine in commensuration with the offense committed, with compensation paid to the aggrieved person(s).

"Ayelala Deity" published in 2016 further narrowed these categorizations of crimes to two main types, namely:

...social and spiritual crimes. Social crimes cover those which upset the societal harmony. Notable among such crimes are adultery, fighting, lying, stealing, egocentrism and similar ones. Spiritual crimes are viewed with more seriousness. They include: incest, murder, suicide, killing sacred animals, occult killing, witchcraft killing, unmasking of masquerades. A victim of robbery would go to a shrine and ask the goddess to sanction the culprit in a particular fashion and would promise rewards to the goddess. The culprit, possessed by Ayelala would make his way to the shrine and confess. Most often, series of strange deaths may occur in the culprit's family. (para. 6-8)

Age grade system

Age grades also constituted another very powerful institution in most traditional Yoruba societies. Although there are still traces of the preservation of this in some Yoruba communities, Age Grades were generally most powerful and effective up till the arrival of the colonial powers. In fact, the colonial masters endeavored to influence the functions of the senior age grades in the execution of judicial administration by motivating them to join the police so as to assist the district officers by bringing offenders to court. The indigenous non-violent conflict settlement processes are in two fangs: the voluntary processes are conflict settlement methods in which the parties involved have some level of say, influence or control over the outcome such as fact-finding, in-depth research and case studies, facilitation, negotiation, conciliation, mediation and brokerage (Best, 2016); while the involuntary processes, by and large, are most often

beyond the control of the conflicting parties and non-violent. They entail third party involvement as in arbitration, adjudication and law enforcement using the state-wide coercive apparatus, which were significantly contrary to the western model.

Broadly speaking, African indigenous peaceful methods operated in two broad perspectives: the proactive and reactive methods. The first was aimed at conflict *prevention* (community-based trust and confidence building measures such as unwritten pacts and treaties, communication, good governance and collaborations) while the second was meant to address situations that had already become conflictive or were potentially so, that is, conflict *management* and *resolution* (including third party interventions such as mediation, brokerage, conciliation, arbitration and litigation) (Best, 2016). It is worthy of note that these methods within the conflict management spectrum which have been effectively and efficiently employed within the indigenous African societies prior to the eastern or western interruptions provide us with a template of alternatives to violence. The traditional Yoruba society would be used here as an example that in indigenous Africa, structures and procedures abound for non-violent management and resolution of conflicts.

The Broom and Key Method

An instance of the application of the ADR in pre-modern society, especially when everyone around had denied knowledge of a reported offense, involved the use of the local broom and a key firmly fixed in between. Suspects were summoned, with their names called in succession to the broom, which is being held firmly but in a loose/relaxed way. Anyone at whose instance the broom moves is considered culpable of the misdemeanor. This is analogous to the ‘casting of lots’ in Jewish culture, recorded in the Bible. Proverbs 18:18 says: “Casting lots can end arguments; it settles disputes between powerful opponents” (The Holy Bible, NLT).

Spirito-Extra-Juridical Framework

Aboyeji and Aboyeji (2018) considered religion, which has shaped the lives of the Yorùbá people, as central to Yoruba culture. Indeed, much of humanity finds it difficult or, at best, unthinkable to exist outside of spirituality—religion. They argue further that religion, which is conceivably the strongest element in African culture, is perhaps, at best, inseparable and intertwined with the traditional way of the people’s life (Aboyeji & Aboyeji, 2018^b). Although Borokinni and Lawal (2014) revealed that there are about 201 deities, 30 of which are commonly worshipped in Yorubaland. By contrast, Odejobi (2014) argued that there are over 401 deities or divinities in Yorubaland. Yet, each of these has its special place in the cosmological system of the Yoruba of Nigeria. For instance, the belief in the role of Ogun the god of iron, Sango the god of lightning and thunder, and Ayelala, among other Yoruba deities, was particularly paramount in controlling crimes and corruption. The beliefs also promoted good kinship and cordial interpersonal relations and respect for elders, kindness and habit of sharing, compliance with social norms, taboos and totems, and control of deviant behaviors in the society.

Achoba (2017) observed that the pre-colonial African system of jurisprudence was indeed intertwined with the religion of the people. Thus, juridical decisions at the family, ward or palace levels remained binding unless if an appeal is filed and the appeal judgement supersedes the former. Religion

and morality were, indeed, very much important in the social order and social change process. The belief in witchcraft, supernatural beings and ancestral spirits promoted very strong and healthy relationships and provided protection to the environment. For instance, in the Yoruba cosmological system in Nigeria, the belief in the role of Ayelala, Ogun the accredited god of iron and justice, and Sango the god of lightning and thunder were paramount in controlling crimes and corruption. The belief in witchcraft was important, not only in the traditional healing and medication practices in the treatment of various ailments and diseases in African society, but equally in the traditional African judicial system.

The involvement of the spirit world of the gods and ancestral spirits, considered as the source of wisdom for the elders who were deemed to be the representatives of the interests of the ancestors, who though dead, but believed to still continue to live, in the adjudication process helped to strengthen the judicial system, thus making rulings and injunctions sacrosanct. In furtherance, the disputing parties were always cautioned against an anti-peace and anti-justice stance, lest they incur the wrath of the gods, who had the capacity to be both malevolent and benevolent, depending on the prevailing circumstances. For instance, in intricate cases where parties concerned proved obstinate, the royal court, which had the supreme representation of the gods and ancestral spirits, could choose to present them before a spot usually located very close to the throne in the palace where both parties were made to vow to their own peril. The *Ayelala* institution among the Ilaje in Ondo state and the *Ojopo* institution in Iresi, a small town in Boluwaduro local government area of Osun state provide us with examples of this (Ojo & Akinyoade, 2016).

Use of masquerades

There were also other numerous modes of dispensing justice and various agents mandated to punish law breakers in traditional societies. Achoba (2017), for instance, identified the use of masquerades and the sasswood in dispensing justice and putting the society aright. Masquerades were sometimes directed to publicly discipline indolent people, the haughty, adulterers and thieves, among others. While the talking masquerades could publicly identify, rebuke, curse or warn erring members of the society, the cane-bearers of the bigger and highly revered masquerades could publicly spank the erring person or socially misfit after such an offender might have been proved guilty of the accused offense.

Administration of the sasswood

Sasswood, otherwise known as sassy (Latin name: *Erythrophleum suaveolens*), a tree with poisonous bark, an insect-resistant wood used for building, native to West Africa (Encarta Dictionaries, 2009), in most cases, was administered as a last resort to punish an outlaw. The Yoruba call it *eepo igi obo* or *asunrin*. At the instance of the chief, a man or woman accused of witchcraft, wizardry, adultery or any other heinous misdemeanor, may be compelled to drink a native concoction before the community to prove his or her guilt or innocence. This belief in the indigenous knowledge system of the Yoruba has been entrenched and encapsulated in the proverb *Aje kii jobo...* meaning “witches do not dare sasswood concoction.” This system, in itself, was more of a means of obtaining evidence or truth than a trial. Anyone who survived this process was not only generally allowed to go free, but also went vindicated and had his or her innocence established before the entire community. In the case of wrongful indictment or accusation, the wrongfully indicted person would vomit poison after drinking the sasswood concoction. The plaintiff or litigant was then punished for defamation of character. However, if the indicted person was indeed guilty, s/he would not be able to vomit the sasswood and the consequences was death.

Use of legal proverbs in dispensing justice

In the words of Best (2016), icebreakers and introductory sessions are part of the African judicial system, usually comprising of wise sayings, words of wisdoms from elders and ancestors, reference to the ancestors' good deed/will and proverbs. They are usually short witty sayings, at times funny, but always pregnant with reflective meanings. The hallmark of such food for thought lies in their validation of the traditional justice system as they played prominent roles as reference points, establishing precedence, to unravel knotty cases or to provoke somber reflection and deeper thinking, or simply as pieces of advice in the case of blistering matters.

Achoba (2017) provides numerous legal proverbs employed in the dispensation of justice in pre-colonial Igalaland. This writer has taken time to carefully select some of them and their equivalence among the Yoruba, with their legal connotations, to affirm the commonality of traditional judicial system among Africans.

- i. *There are always different styles in wrestling. The witty bird says, it (the bird) kills snakes and snakes kill human beings, whereas human beings kill it (the bird).* Its Yoruba equivalence has it that *Agbe loko, o de o pa oko mo, o ti gbagbe pe ojo kan, oko yio pa oun naa mo.* This is in reference to the cyclical/oscillating nature or vicious cycle of life, which warns that what goes round, comes around.
- ii. *The real weight of a load is not immediately felt.* Legally, this indicates that the nemesis of a crime is not instantaneous. It is analogous to the Yoruba saying: *Omode bu Sango, o boju wehin, o ro pe oojo ni Sango n ja.*
- iii. *The monarch sits with ease to receive his entertainers.* This affirms that the judge presides over the court without fear or favor. *Eru o bodo eni ti o wodo lominu nko.*
- iv. *One does not harvest mushroom in a haste,* which in legal interpretation, cautions that justice dispensation should not be done impatiently, so as to weigh the pros and cons of every matter. Yorubas also say *Ai kanju labe gbigbona.*
- v. *One cannot tell the type of rat that can cut down vegetation.* The legal meaning is that one cannot absolutely vouch for or trust anyone. Its Yoruba equivalence states that *Tan ba ni omi ni yoo se eja jinna, a o pe iro ni.*
- vi. *One cannot compare smallpox with ordinary rashes,* implying that every crime has its own gravity and weight in terms of punishment. Yoruba equivalent has it that *Ai fi iku we oorun.*
- vii. *When a pot is on the fire boiling yam, people are not aware but when the mortar starts pounding, everyone in the neighborhood hears the noise.* Its Yoruba equivalence has it that *Igba ti ikoko n se isu, enikan o mo; odo wa n gun iyan, ariwo ta;* legally meaning that crimes are always committed in secret, but their effects cannot be hidden.
- viii. *Trickery/avoiding confrontation is not cowardice.* The Yoruba equivalence has it that *Yiyo ekun, tojo ko;* that is, one, at times, needs to avoid confrontation to avoid problem.
- ix. *It is only God that drives away flies from a tailless cow.* Its Yoruba equivalence says *Malu ti ko niru, Olorun Oba lo m ba a le esinsin.* The legal implication of this is that God is the only advocate for an apparently defenseless person.
- x. *One who cries is not blind; still sees.* Its Yoruba equivalence has it that, *Baa ba n sokun, a si maa n riran,* meaning that ignorance is not enough an excuse for committing a crime.

Features of Traditional Judicial System and Rules of Etiquettes

It is worthy of note that African juridical idea and application of third party interventions differ significantly from the Western or modern third party interventions. Even though the Western ADR, like the African, seeks to promote the use of non-violent approaches to settlement of conflicts, yet they both differ significantly in several respects (Best, 2016). It must be emphasized that modernization, Christianity and Islam have all greatly impacted on, eroded and altered the approaches used in modern Africa. Inferences from Ojo and Akinyoade (2016) reveal certain features of the traditional judicial system and/or rules of etiquettes, some of which are highlighted below:

- i. *No Justice Delayed*: There was no unnecessary delay of justice. To them, unlike today, justice (as depicting the adjudication of fairness and system or application of law, that is, the legal system, or the act of applying or upholding the law) delayed was seen as justice denied.
- ii. *Prevalence of truth and justice* was the hallmark. As such, fair-hearing and cross-examination was considered vital, with the king, his chiefs and respected elders who were considered to be the mouth-piece of the gods and ancestors, as cross-examiners. This was to give all parties the benefit of the doubt and ensure fair-hearing so that nobody's feeling was hurt. Proverbs 18:17 clearly drives it home: "The first to speak in court sounds right until cross-examination begins" (The Holy Bible, NLT). This is also in tandem with the Yoruba belief that *A gbo ejo eni/apa kan da, agba osika ni*, meaning an elder who adjudicates based on a one-sided hearing is perverse and wicked. Besides, neutral hands adjudicated matters since a cockroach can hardly ever be innocent in a gathering of fowls.
- iii. *Culture and Bond of Communalism*: The spirit of fraternity and bond of kinship known as *alajobi* helped to settle misgivings amicably, devoid of litigation. Elders had a way of nipping conflicts in the bud at its very latent stage by appealing to people's consciences to be mindful of their communal bond. Conflicting parties could be made to swear an oath with their ancestral spirit *Ki alajobi daa ti mo ba fi'gba kan b'okan ninu lori oro yi*, meaning "May our ancestral spirits adjudicate on the matter if I perverse the truth on this matter."
- iv. *Use of Judicial Precedence*: Reference to extant related cases were made to bolster arguments so as to shed more lights to the present matter of discourse.
- v. *Punishments were meted out as were commensurate with offenses*. The indigenous system would not draw a sword or pull a trigger to kill a mosquito. Punishments were meted out to offenses committed according to the weight, or nature of offense. Culprits were given appropriate charges and punishment while victims were duly compensated. In addition to the above, Ojo and Akinyoade (2016) also identified certain rules of etiquettes in traditional societies:
- vi. *Silence and absolute decorum* in the course of the judicial process of hearing or presentation of cases.
- vii. During the court session, *women were required to kneel down while men were expected to open their caps*. Best (2016) equally added the following features of the traditional judicial system.

Gerontocracy

As indicated earlier, the traditional judicial system in most African societies was highly gerontocratic in nature. The young in such judicial assemblies were typically not meant to be heard

but were expected to listen with rapt attention to hearings and proceedings through listening to and observing the senior participants.

Masculinity

As a general rule, women were kept out of African shrines. Although African ADR typically depended on the sensitivities and peculiarities of each community, however, it normally tilted more in favor of men. In most cases, it is open to all male members of the society. However, although the involvement of masculinity is predominant, some communities tolerate the presence of female members.

Openness

African ADR decries secrecy. Contrary to the confidentiality of the Western model, the African judicial system was characterized by its openness. This is because the African ADR process was not just a judicial process but was perhaps more importantly a socialization process for the younger generations. This is because, on the one hand, it was to ensure and enhance transparency and forestall injustice. On the other hand, it was also often conducted in the open based on the institutionalization of the judicial system as a socialization process for the younger generations. It was seen as a means of teaching succeeding generations the processes and values of the African ADR, thus passing this incorruptible sense of judgement on.

Establishment of guilt

It is particularly noteworthy that in the traditional African system in general, very much unlike the Western system, it was not in all cases that guilt must be established. Mediators or arbiters in certain third party family cases were keener about finding an enduring solution to matters while sustaining camaraderie than apportioning blames or establishing guilt to either party. Unlike many unavoidable conflicts, some others are considered avoidable, needless, trivial or absolutely unnecessary. In such, the aim would be to reconcile parties, with the possibility of sweeping such trivial conflicting issues under the carpet, without declaring one guilty and vindicating the other, thus resulting in a win-win outcome.

Reward system

Generally, Yoruba leaders were accountable to their subjects. For instance, during the annual festivals, foods were served to the whole public for promoting unity and peaceful coexistence. The key objective of traditional peace and conflict management system was the maintenance of peaceful coexistence.

Communality

African ADR places greater premium on community interests rather than individual needs or interest, regardless of the status or personality of those involved. Traditional African ADR is scarcely an individual's job but rather predominantly a community responsibility. The focus of traditional Yoruba judicial system is to pass verdicts reflecting and promoting community solidarity. The traditional Yoruba judicial system promoted good kinship, cordial interpersonal and communal relations, respect for elders, kindness and habit of sharing, compliance with social norms, taboos and totems, and control of deviant behaviors in the society. Settlement of disputes was one in which the community, rather than individual leader, was at the center. Dispute resolution or management was informal, with an air of democratization

in the process and outcome. The entire judicial process was such that was owned, run and felt by the community. This is particularly applicable to communities where there was either absence of centralized authority or in the segmented or egalitarian where there was decentralization of (judicial) authority. In Yorubaland, the latter was the commonest. Yoruba traditional system of arbitration, therefore, took the form of judicial arbitration in which there was some level of negotiation and mediation as it is in the western sense. Collectivism in judicial matters received utmost critical attention because, according to the Yoruba, *Isin woo, iwori woo, ohun taa ba dijo wo, gigun nii gun*, pointing to the impeccability of collective consideration (Ojo & Akinyoade 2016).

Abhorrence for violence

The beauty of the traditional system of jurisprudence, the indigenous system of maintaining the culture of peace, which has been interrupted and overtaken by foreign ideological systems, lies in its careful management of and commitment to non-violent means of conflict managements. Generally, there was repugnant abhorrence for violence and in cases where it must be employed or tolerated, the community rather than individuals was the sanctioning authority and this must follow due process. Reconciliation and reunion were also important values to the governance process. There were nothing like law courts and prisons where victims and culprits were being disgraced before the public eye. Ultimately, the need to resolve conflicts is particularly imperative because development can only thrive in an atmosphere of peace and tranquility. Ojo and Akinyoade (2016) averred that justice was prime in traditional African society. This had to be, as an atmosphere of peace and tranquility was held as *sine qua non* to social equilibrium. It is particularly interesting to note that the Yoruba had no indigenous word for 'court' and had to loan it (*kootu*) from English.

On the whole, African ADR differs very significantly from the Western ADR considering the fact that it is a combination of negotiation, mediation, judicial arbitration, adjudication, and so on. Best (2016) maintained that:

...it also does not have other elements of Western ADR such as confidentiality, the right and freedom to disagree with the mediators, flexibility, emphasis on a win-win outcome, gender sensitivity, trained and professional mediators, assurance of neutrality on the part of mediators, tackling emotional issues, signing of agreements, and so on. (p. 100)

It should be noted here that ever since the wake of the modern era, litigation has hitherto remained the primary means of conflict resolution (Oddiri, 2004). Yet, prior to the domestication of corn, the fowl did not only subsist but survived on something. As such, this modern/Western system has been largely considered un-African as entrenched in the Yoruba belief system that *A kii ti kootu de sore*, meaning you do not return from law court or suit and sustain or continue camaraderie. Besides, increase in the number of cases in courts have also led to congestion and delay in their resolution. As such, concerns over cost and delays in litigation procedures, among other factors, have led to more flexible out-of-court means of resolving disputes as against court-based litigation governed by the law and procedure of a particular state or country.

At this juncture, the growing recourse to peaceful means of conflict management or resolution throughout all civilized societies in the world is noteworthy. This is because violence only increases and exacerbates the cost of conflict and is therefore not a preferred method of conflict settlement, resolution or management. It is therefore remarkable that the world seems to be working hard toward moving away

from the use of violence as a method of settling disputes. For instance, Mwanasali (2016) observed that conflict prevention has been on top of the United Nations and defunct Organization of African Unity (OAU)'s agenda ever since their formation. Even the OAU's successor organization, the African Union (AU) is noted to have severally hammered on the idea of peaceful resolution of conflicts as embedded in its Constitutive Act and Objectives. Even in Nigeria, it has been observed that as at present, more and more factors are inducing a re-consideration of the administration of ADR in justice dispensation, thus leading to the gradual waning of the strictly western judicial ideology that has dilapidated our society to this level. These, according to Eleanya (n.d.), include:

1. The increasing or in some cases over-flowing caseload of the courts leading to protracted delays in the resolution of conflicts;
2. The perception that ADR is relatively affordable compared to the often prohibitive cost of obtaining quality litigation services in Nigeria;
3. Crisis of confidence in the ability of the rank and file of Nigeria's judiciary to deliver justice on the merits of particular cases on time. The result is a greater desire of more parties to have greater control over the selection of the individual or individuals who will decide their dispute;
4. A preference for confidentiality, especially among large corporations intent on maintaining long standing relationships and goodwill with their disputants;
5. An urgent need to provide another pathway to justice resolution that can act as a counterpoint to violent self-help methods in the guise of militancy, insurgency and extremism, especially among the younger elements of the country.

To its credit, it has been further argued that ADR is indeed less formal, less expensive, and less time-wasting than the modern court trial, suit or litigation. Ultimately, the process of litigation has become increasingly time-consuming, resources-draining, relationship-shattering and cumbersome. Since ADR provides people with better opportunity to determine when and how their dispute will be resolved, it is therefore being increasingly embraced as a welcomed alternative system of dispute resolution ("ADR Types & Benefits," n.d.).

Conclusion

The prevalence of conflict from the 20th through the 21st century constitutes a nauseating phenomenon, which has endangered local and international peace and security. The pervasiveness of unending ethno-religious brawl in most modern societies has often pushed many of such societies to the brink of disintegration. Thus, Akiwowo (1998) and Aboyaji (2015) pointed out compelling evidences of the phenomenal growth of militarism in most nations of the world today as state terrorism competes with fighting for freedom in relentless and uncompromising armed conflict. What is more, the world great powers possess the nuclear capability of blowing up the planet earth. No wonder, war has been described as a barbarity, which has been waged for generations, for which mass slaughter has become its primary objective.

Peace and security of lives and property have been seriously undermined in Nigeria over the years due to incessant conflicts and crises the country has been bedeviled with, arising from factors such as ethnicity, political affiliation, marginalization or exclusion, ideological differences, religious fundamentalism, *inter alia* (Jando, 2018). This has so frequently threatened to tear Nigeria, the much

celebrated ‘Giant of Africa’, apart, as it has reached the point that, today, as averred by Osaretin Akov (2013) and Aguh (n.d.), the country is apparently demonstrating symptoms of a collapsing state. It is our contention that the judiciary, with its system of litigation, often erroneously described to as the last hope of the common man has *outrightly* lost every requisite moral right for that appellation. Indeed, regional or universal, justice, in the face of the governing principles and system or application of law (that is, the legal system), or the act of applying or upholding the law of a given society, is predicated, *inter alia*, on fairness.

The introduction of orthodox legal/judicial system, with its attendant abuse of justice dispensation, devoid of the virtue and sacred means of establishing truth, however ushered in a complete departure from the indigenous Yoruba juridical idiosyncrasies. This has totally crippled our indigenous justice system, which was jealously and religiously guided by a complex Yoruba-wide web of taboos, beliefs and norms, entrenched and preserved in adages and proverbs. *Ti a ba n ja, bii ka’ku ko* for instance, connotes that the indigenous Yoruba society was not used to the “fight to finish” or “fight to death/grave” situation of the modern era. Most of the conflicts in our modern world so easily escalate to unmanageable proportion, as a result of the weak, permissible, maneuverable system where justice is obviously for the highest bidder.

The traditional era in the African society refers to the pre-19th century era, a time prior to the introduction of foreign (Western/Christian and Eastern/Islamic) ideals. The Yoruba, like most other Africans, during this glorious epoch, effectively and efficiently managed their peace and conflicts by purely traditional framework without a modicum of western or eastern influence. Meanwhile, the contemporary era, most regrettably has robbed African societies of these unprecedented values of its heritage, virginity, beauty and originality (Ojo & Akinyoade 2016). The situation is analogous to what was revealed by Bishop Desmond Tutu, that:

When the Missionaries came to Africa, they had the Bible and we had the land. They said, ‘Let us pray.’ We closed our eyes. When we opened them, we had the Bible and they had the land. (Shah, 2010)

In this same vein that they took spoil of African land, in which about one-fifth of the total land area of the entire earth was added to the European overseas colonial possession between 1870 (when the European nations were at one another’s throats over land acquisition in Africa) and 1914 (when the differences they had been bottling up eventually set the entire world ablaze in global warfare), they stripped Africa bare of its heritage as cradle of civilization, in their characteristic manner of beefing up *Eurocentric* arrogance (Ali Mazrui 1977; Rodney, 1972). The judicial system was also badly affected in that tsunami. Ever since the incursion of foreign ideology, which initiated a change of ethos, un-African approaches to issues and events in contemporary African society have become the bane of Africa’s dilemma (Ojo & Akinyoade 2016). It is in the bid toward exploring alternatives to litigation that this paper re-diverts our attention to the traditional Yoruba system of jurisprudence, replete with various approaches to peace and conflict management indigenous to it. Particular emphasis is placed on the Yorubas of south-western Nigeria.

Although the feasibility of this ‘return-to-basics’ thesis in a contemporary society that has been incorporated as part of a super-state structure, further ‘hampered’, or so it seems, by the facilities of globalization and the likes may be lean, given that the traditional Yoruba system was a thoroughly communal set-up, there are undoubtedly lessons to be learned, which could better the judicial system of our contemporary society. As such, understanding the African culture and system from an African

perspective is a major hub in this study. It suffices to conclude that indeed, no society is really hermetic, no less African ones, in spite of ‘forced’ westernization via colonialism and the likes, at any rate, however, Dr. Leaky, the European paleontologist who discovered the oldest set of human bones (Lucy) ever, has not only placed it on record that Africa is the birthplace of the human family, but also that world civilization had its origins traceable to Africa via Egypt. Mendel, another European scientist, also proved that Africans are the original people, and the parents of all human beings, arguing that “dark genes are dominant and light genes are recessive” (Assata, 2006). This study, therefore, harps on the need to strive to showcase the excellence of the African traditional/indigenous system prior to the incursion of foreign ideology, with the possibility of reverting to the Alternative Dispute Resolution mechanism.

Recommendation

Africans must therefore resist the westernized models being brought back to Africa, from what they took from her years before. A renaissance of Marcus Garvey’s “Africa for Africans” is perhaps even more apt now than it was in Marcus’s days. Africa should remain African, as most European ideals are often considered, not only as aberrant, but also incompatible with the African idiosyncrasies. Africans need to believe in themselves and their values, which were well entrenched in their indigenous knowledge system. While Africans may inculcate western values that are in tandem with their cultural values, they must, however, repel western and alien ones which are cancerous to their values, ethos and idiosyncrasies.

The central focus of this paper harps on the reconsideration of ADR for peace and conflict management among Africans, and the Yorubas in particular. This is because, although the world perceivably seems tired of war, yet peace has remained rather elusive. Peace has therefore become the most sought-after phenomenon in our contemporary society. We therefore make bold to argue that for effective peace and conflict management in Yorubaland, toward a revitalization of our crinkling judicial system, there is no better alternative to dispute resolution than the Alternative Dispute Resolution—ADR (Out-of-court Settlement).

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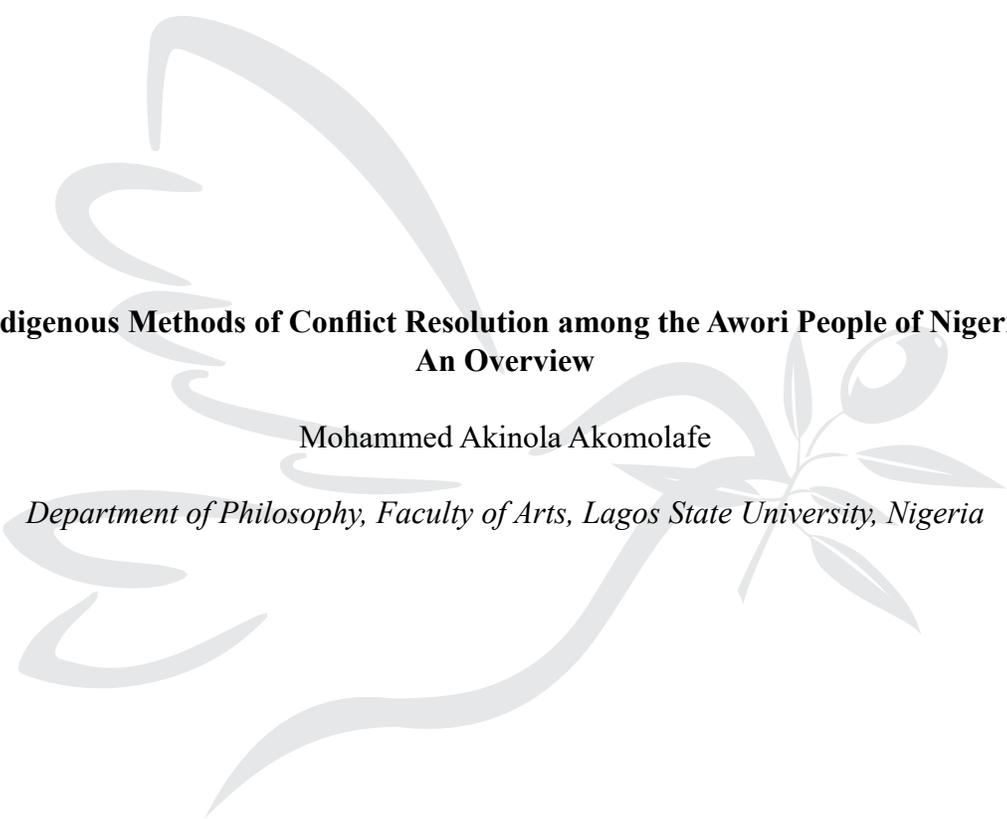
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**Indigenous Methods of Conflict Resolution among the Awori People of Nigeria:
An Overview**

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Abstract

This paper examines the traditional mechanisms for conflict resolution in Igbesa, an Awori speaking town located in the western part of Nigeria. It is an attempt to analyze how an indigenous African society has been managing conflicts, peacemaking and peacebuilding among its members and neighbors prior to the arrival of foreign conflict management mechanisms. Beyond ethnographic narratives, this paper provides a philosophical analysis of the fundamental jurisprudential principles underlying the indigenous conflict resolution system with some implications drawn for contemporary global liberal societies. Guided by the non-adversary principle of conflict management, and using the mechanisms of intercession, settlement, compromise, adjudication, concession and coercion, every conflict, regardless of its complexity is manageable and resolvable among the Aworis. The peoples' indigenous conflict resolution mechanisms entail a process of thorough investigation and discussion of the claims of the parties to a conflict by the traditional governing authorities. The palace often easily resolves ordinary cases. However, difficult Yoruba cases may take complex turn by involving the expertise of 'the Ijoru Cult Group', the body whose duty is to enforce the decisions of the traditional authorities on complicated cases. It should be stressed, however, that the emergence of modern system of law and new religions (Christianity and Islam) has limited the practice of the old methods of conflict management among the Aworis. In order to articulate the thesis of this paper, I shall divide the work into five sections. Section one is the introduction to the paper. In section two, an exposition of the major concepts in the work such as 'traditional mechanisms' and 'the Ijoru Cult Group' shall be done. In section three, details of the traditional methods, the *modus operandi* and salient values shall be critically examined. Section four attempts a criticism of the methods and their reconstruction to allow for global applications in contemporary liberal and diversified ethnic system. The final section is the concluding part of the work with notes on future areas for scholarship.

Keywords: Awori Yoruba speaking people, conflict resolution, Ijoru cult, traditional mechanism

Introduction

Igbesa town is an Awori speaking people in Ogun West senatorial district of Ogun state, southwestern Nigeria. It is located about 11 kilometers west of Lagos, with a population of about 11,000 people. It was a small agricultural hub with a few large agricultural businesses until recently when it turned to an industrial focal point with the establishment of a Free Trade Zone in the area by the state government. They could be grouped into two major divisions. These are the early Awori and the later Awori groups. Igbesa is an early Awori settlement in Ogun state of Nigeria, having been founded before 1500. Thus, the monarch of the town is a first-class Oba (Oreva, 2017). The later Awori towns are post 1500 settlements. Both groups have Ile-Ife as their ancestral home. This paper focuses its attention on Igbesa-Awori simply because it is one of the early Awori settlements, which makes its culture typical of a Yoruba sub-ethnic group.

In this paper, therefore, efforts would be made to present and appraise the workings of the old town's mechanisms to resolve conflict with a view to finding out their relevance in modern times for adoption in democratic dispensations. To achieve this, it would be profitable to start by embarking on the exposition of the major concepts to be engaged in the work.

Exposition of the Major Concepts

Conflict Resolution

The Cassell Concise Dictionary (1987) defines conflict as (i) a fight, a struggle, a contest; (ii) a clash or the opposition of interests, opinions, or purposes; (iii) to differ, to disagree; and as (iv) the opposition of incompatible needs, desires, etc. Conflicts often have their roots in ideological dissimilarity. For instance, when two people disagree on how certain issues are to be resolved, the stronger between them tries as much as possible to dominate the other's view. He/she may, in this case, impose his/her view on the other. However, in a situation where the other party is as equal as him in strength, ideological disparity may lead to physical conflict, which leads to war.

The Ijoru Cult Group

This was a formidable secret sect that operated in the town in the dead of the night. The function of this group was mainly to enforce the decisions of the traditional authorities on difficult issues, especially on security. It is the community's special anti-criminal squad that handled the execution of high-profile criminal cases. It also protected the community from external enemies.

Oro Cult

'Orò' is one of the important traditional cults in Igbesaland. The group is very vital to the resolution of crises in the community. It was responsible for the imposition of curfew in the town whenever there is an issue to be resolved by the Ijorus. Oro cult prohibits women from being a member, and also, women are banned in the vicinity of its rituals. The cult's rituals are distinguished by a screeching sound coming from a piece of bamboo tied to a piece of sturdy thread (Daramola & Jeje, 1969).

Igbodogu Shrine

'Igbodogu' is the most formidable deity brought by the founding father of the community,

Akeredun. Its place of veneration is the popular ‘Igbodogu Shrine’ in the town. The god is believed to have ‘automatic answering command mechanism’ known as ‘Olugboun’, ‘Ase’ or ‘Gbetugbetu’ built into its shrine. That means any request made in the shrine gets instant approval. The deity is believed by the community to have been responsible for the survival of the town since its inception, especially against external aggression. The chief priest of the town superintended over the shrine.

Ojuaale Shrines

These are also the places of worship of some powerful gods in the town, but their power is subordinate to that of Igbodogu. Four Ojuaales are in the town, located in each of the four quarters that made up the community. The Quarters are: (i) Idomo, (ii) Osi, (iii) Igbe, and (iv) Ogona. Each of the Ojuaales has its own priest, who works independently of the chief priest on issues that concern his quarters, but works in conjunction with the chief priest on spiritual issues that affect the entire community.

Oath-taking

An oath is a vow, which is followed by an invocation; it spells out what should befall an oath taker who deliberately violates the pledge. This oath is often invoked in the name of an indigenous god(s), spirit(s) or *juju*. When taken, an oath would make an accused person say the exact truth for the fear of the consequences of telling lies.

Aroko

‘Aroko’ is a process involving the passing of messages through the use of symbols, which all parties in the communication media understand. The purpose of using this means of communication is to pass on messages and information with the intention that the receiver of the coded idea would understand and possibly react to it.

Ase, Olugboun or Gbetugbetu

An ‘Ase’, ‘Olugboun’ or Gbetugbetu’ is a *juju*, charm or voodoo, installed in the shrine of the deity or brought to the venue of the oath taking by the priest of the deity. It has a built-in command mechanism, which makes the vow made by the oath-taker active.

Aale

‘Aale’ is a cautionary sign in the form of a palm frond placed on a property to warn that anybody who trespasses on the property will incur the wrath of the gods.

The ‘Modus Operandi’ of Traditional Methods of Conflict Resolution in Igbesa

Prior to the arrival of the Europeans in Nigeria, the Igbesa community had been managing conflicts, arising from such causes as boundary disputes, power tussles among the indigenes, power tussles between indigenes and neighbors, foreigners or women, land disputes between members of the community, and between community members and their neighbors, using the mechanisms of intercession, settlement, compromise, adjudication, concession and coercion. In all the methods, there was an intervention of a peacemaker within the community, who was known to be a sage and respected by all due to his wealth

of experience and wisdom. In all of them, negotiation was the keyword, whereby reinstallation of peace was attached to the idea of ‘give’ and ‘take’, wherein disputants gave up some of their grounds in the conflict in order to ensure there was peace and harmony in the community.

For easy administration, the town was bifurcated into four quarters: Idomo, Igbe, Osi, and Ogono. A chief supervised each of the quarters. The chiefs stood for their quarters in the Oba-in-Council meetings. Apart from the quarters’ chiefs, the monarch also appointed some high chiefs: Otun Oba (right-hand man to the Oba), Osi Oba (left-hand man to the Oba), Balogun (warlord), the Otun and Osi Balogun (right and left-hand subordinates to Balogun), Abore or Oluwo (the chief priest, who was an experienced and renowned Ifa priest), and quite a number of other chiefs representing various interests. Each quarter was headed by a Baale; a quarter was sub-divided into compounds (Agbole). A compound was headed by an Alagba Adugbo, who was supposed to be a sage and highly respected male member of his compound. The compounds were broken down into families. A family in this context consists of a man, his wife, their children, and extended members of the household. Each family had its head (Olori-Ebi, who was the most senior male member of his folks).

Choosing an Oba in the town involved various activities before the right person could be found. During the process of selecting an Oba for the town, the names of the persons chosen by the various ruling families would be given to the kingmakers who would take them to the Ifa chief priest. The Ifa priest would consult the oracle so as to help the kingmakers to make the right choice. Only the candidate from the existing royal lineages whose candidacy was approved by the oracle would eventually emerge the occupant of the stool. Hence, it is a well-known fact that in the town’s traditional setting, “the rules were carefully set out, and members of the community were aware of the rules as they affected them” (Salami, 2006, p. 70).

In the business of conflict resolution in the town, the family head (Olori-Ebi) was to settle conflicts emanating from his folks (except those that involved life). Where the matter could not be successfully resolved at the family level, it moved to the compound. At this level, the compound head (Olori Agbole) was empowered to adjudicate over all matters in his compound (except a murder case). Where the matter could not be resolved at this stage, it would move to the quarter level, where the Baale handled the case. Any issue that could not be successfully handled by the Quarters’ Council, moved to the palace (i.e., the town’s traditional governing authorities headed by the town’s monarch).

The process in the town was an open affair. It commenced with the laying of complaint by the parties to a conflict at the palace of Oloja of Igbesaland. The strict condition for the acceptance of any complaint at the palace was the proof as to whether the issue had passed through the lower echelons of conflict resolution authorities (i.e., the family, the compound and the quarters’ levels). If the case failed this test, it would be referred back to the appropriate level for adjudication. However, if the complaint passed the test, it would be accepted and slated for hearing by the Traditional Governing Council. The council comprised male and female elders/sages (some of whom were paramount chiefs, with the king at the apex. The regular local authority police normally executed its decisions. However, execution of the council’s decisions on complicated cases was often referred to a special traditional security squad called the ‘Ijorus’, members of which were appointed by the Oba-in-Council.

At the commencement of the trial, the disputants were mandated to take oath administered by the chief priest so that they would not lay false claims or give false information at the trial. During trial, parties were given fair hearing (nobody could interject while one of the disputants was having the floor). The

object of trial was the establishment of truth. In the course of the trial, the council members intermittently cross-examined the claimants with a view to establishing the facts, after which the claims were thoroughly investigated. Depending on the nature and circumstances of the case, the period of investigation could last weeks or months. After its findings, the trial officials would withdraw to a reclusive session to look at the issues more critically with a view to coming up with a fair and an unbiased judgment. After the judgment had been delivered, the conflict was deemed to have been successfully resolved when the disputants indicated interest in feasting in the palace within seven days. Failure of the two parties or one of them to indicate interest to feast in the palace within this period meant that there was a difficult case at hand. The decision of the palace on such an extra-ordinary case was usually transferred to the Ijoru Cult Group by the palace for execution.

The job of the Ijorus included the use of the Oro cult to warn disputants of the consequences of not allowing peace to reign in the community through their actions, and ultimatum would be given to them to reconsider their position; failure of which the cultists would compulsorily summon them to 'Igbodogu Shrine', where an oath would be administered to them to force them to agree that the conflict had been finally settled. Any of the parties who engaged in any activity thereafter to resurrect the conflict would incur the wrath of the deity. This stage usually led to the final resolution of a conflict between two parties. It was characterized by the disputants' joint preparation of a sumptuous feast for the palace. If it was the case of a criminal, the Ijorus dealt with him/her summarily.

However, the advent of the Europeans had whittled down the influence of the indigenous mechanisms in the community. This is because the indigenous judicial institutions have come to be seen as barbaric, outdated, and ineffective. Thus, while traditional institutions' assignment was the amicable settlement of crises, regular courts and police systems established in their places place emphasis on punishment as a method of deterring criminals. The consequence is that most of the cases are not properly handled, leading to recurrent crisis situations. Ademowo (2017) vividly captures this mood when he writes that in many situations under the modern systems, "these disputes were not properly resolved because the administration of justice in Africa was, mostly, aimed at resolving conflict rather than pronouncing judgments. Emphasis was placed on reconciliation and restoration of social harmony than on punishment of the conflicting parties" (p. 3).

Added to the above was the introduction of foreign religions into the town: Islam and Christianity. At inception, the main goal of the two foreign religions was to destroy the local religion and its institutions. For instance, not only was it that the new converts to the foreign faiths were mandated to destroy everything about their former religion (such as the burning down of the shrines and other paraphernalia of the office of the deities), also, they were made to divulge some secrets of the deities for public consumption. The result is that the town's indigenous peace institutions were destroyed.

Criticism, Reconstruction and Adoption of the Old Systems

As could be seen, therefore, the traditional epoch revealed almost clearly the danger to which a society could be exposed by the absence of a clear-cut effective institutional guarantee of the independence of the judiciary. For example, the Oba appointed the chiefs, the palace officials, and leadership of the Oro and Ijoru cult groups at his own discretion. The Oba could indiscriminately dismiss the chiefs and palace officials who could be judicial officers. An Oba could also utterly ignore the views of the chiefs in arriving

at a judicial ruling in contending cases. Of utmost importance were the activities of the Oro and Ijeru cult groups, which were shrouded in secrecy. The Oba might decide to summarily deal with his adversaries who might be accused of criminal activities on ‘trump-up’ charges, and he might send such ‘perceived enemies’ to the cultists for punishment without any avenue for redress. Also, some community members might have crossed their paths of the cult groups who might take revenge. One should also be worried by the cases of persons who might innocently violate the terms of the community’s poorly publicized curfews, which could lead to their paying the supreme price.

Moreover, the cultists have no objective means of ascertaining the guilt of an accused person. The gross self-righteousness displayed by these cultists, which is apparently accepted by the palace, showed that the traditional governing authorities presumed the guilt of the accused persons and placed the onus on them to prove their innocence. But unfortunately, all avenues to establish their innocence were closed, which is contrary to the spirit of justice. The minimum content of the rule of law is that the rights and duties of a person in a community, and the consequences of breach of any such rights and duties, must be capable of objective determination.

However, despite the great power said to be possessed by the town’s monarch, he did not exercise absolute authority over the community. This was because there was an elaborate institution of palace officials or chiefs he had to consider in his day-to-day functions. The executive, legislative and judicial functions in the town were performed by the Oba-in-Council. The council comprised the representatives of all the segments of the community. There were hierarchies of judicial institutions: from the family, to compound, to quarters, with the palace serving as the final court of appeal.

Also, apart from merely being the kingmakers, the high chiefs entrusted with the duty of selecting the Oba could also moderate the power and influence of the Oba. Very importantly also, the leadership of the kingmakers had the power to present an Oba with an empty calabash (as an ‘aroko’, against the Oba’s high-handedness) to compel him to commit suicide. Also, the high chiefs (who were believed to belong to all the cult groups in the community) moderated the powers of the Oba and the kingmakers. Of immense importance in the control mechanism of the power exercised by the Oba was the presence of the Abore or Oluwo (high priest). Like in all Yoruba traditional societies, the Abore was in charge of rituals. So, “when issues arose, the town in the olden days used to employ ritual checks and balances for resolving conflicts” (Okunola & Ojo, 2012, p. 11). Thus, the Oba had to govern with caution and respect for his subjects, who, in turn, held him in high esteem.

As to what appears as the excessive power exercised by the Oro and Ijeru cult groups, one is tempted to believe that the Oba-in-Council that appointed the cultists would monitor and check them. Very importantly also, rituals were usually performed and guidance of the deities sought to determine the culpability of an accused person before the cultists acted. In fact, determining the culpability of an accused person in a situation like this is so important to the Yoruba that it is reflected in their maxims such as: “Ika ti o ba se ni Oba nge” (meaning that it is only the guilty that is punished by the monarch) (Owomoyela, 2005, p. 19). The import of the saying is that the traditional Igbesa society had an objective way of determining the guilt of offenders before meting out punishment to them.

At this point, in view of the levity with which public officers treat the oath of office in modern times, it is the view of this paper that the use of oath, wherein ‘Ase’, ‘Olugboun’ or ‘Gbetugbetu’ is employed to get the facts of complicated cases should be encouraged in the judicial systems of liberal societies, instead of the demand of proof beyond reasonable doubt from the accused, which often, is a

difficult task. “It is irrelevant whether the swearer believes in juju or not ... The efficacy of juju is not a matter of belief. It is real. And the man who believes that juju is not really efficacious is not losing anything; let him swear by it all the same” (Momoh, 1991, p. 132).

Moreover, the contemporary society should also borrow a leaf from the Igbesa judicial processes that while emphasis on punishment does not help matter, everybody must, however, be made to obey the law always to make society possible, for their authentic freedom lies in obeying the general will of the society, otherwise they should be forced to do so (Rousseau, 1913). Therefore, the cultists’ supposed overbearing power to achieve this goal may be justifiable. It is the duty of the society to ensure that its laws are compulsorily enforced; for law without compulsory enforcement is empty (Ihering, 1968).

Finally, at the international level, a democratically constituted body could be given the role being played by the Ijerus in the community. This body, which must be widely represented by nations, must, however, have its activities open for scrutiny and necessary checks. Again, it is the submission of this paper that *juju* should be employed at important United Nations Summits, where international leaders are slated to take serious decisions on global securities issues. With this mechanism in place, no leader could afford to renege in the pledge he/she took at such important meetings.

Conclusion

In conclusion, as the Igbesa customary community’s methods of conflict resolution and management seemed to be efficacious, this paper recommends it for adoption in contemporary democratic system in Nigeria. The paper, however, elicits further research into the dark and shady operational areas of the cult groups. This is necessary because what might ordinarily appear to us to be crude and unacceptable manner of operation could, on deeper study, turn out not to be so crude; and could even be desirable. Thus, instead of throwing away the baby with the bath water, a rigorous research should be embarked upon to unveil the cults’ ‘modus operandi’, so as to know which aspect of it humanity should do away with, and which aspect could be incorporated into the ethos of democratic societies.

However, the paper is opposed to the Ijorus’ method of operation. It is true that there may be special moments in the life of a society which may demand use of force in the application of law; this situation should not give a compelling reason for taking law, in the last analysis, to be nothing but a rule which can only be made effective by the use of force.

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Examining the Status of Traditional Rulers in the Pre-Post-Colonial Yoruba Society

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Abstract

Traditional rulers in Yoruba society have over the years played significant roles in the social, political and economic development of the traditional society. What constitutes the major roles of traditional rulers as they affect the society generally have been discussed by various scholars. However, there was little or no attention on the dwindling in status of traditional rulers in the modern society due to modernity and civilization which has relegated them. This has over the years rendered them and the institution almost irrelevant and mere figureheads. It has also contributed in no small measure to the security threat, unbridled recklessness and instability in the nation. The paper therefore examines the change in status and prestige of traditional rulers in the pre- and post-colonial periods in Yorubaland and how their status could be re-invigorated and re-energized to play a complementary role in addressing various problems facing the nation today.

Keywords: Yorùbá, traditional ruler, status, society, colonialism

Introduction

The roles of traditional rulers in the traditional Yoruba society cannot be over-emphasized. They are the custodians of norms and values in the society. Their words were laws for the people (Udegha, 1979). These norms and values were the basis upon which the traditional rulers exercised governance, power and authority over their subjects. They played the role of custodians of customary laws and communal assets, preservation of cultural values, dispensing justice, and resolving conflicts (Olusola & Arigu, 2013). Since man is considered as a social being whose action and inaction can either have a beneficial or detrimental effect on the people around him, the resolution mechanism of traditional rulers was borne out of the fact that there is the need for members of the society to live in peace and harmony. To achieve this, conflict must be addressed as they occur so that the society will not turn to a place of lawlessness as Thomas Hobbes puts it (Omoregbe, 2004).

Traditional rulers at various levels interact with warring parties in their communities by developing a common principle and mechanism that would return cordial relationship against violence. They are viewed as divinely ordained individuals chosen by their peoples to control the affairs of their respective domains in accordance with the customs and traditions; intercommunal and intertribal conflicts were settled (Nworah, 2007; Fatile & Adejuwon, 2009). One of the most developed characteristics of African civilization was traditional monarchical institution which is well noted for its dynamism, resilience and unending relevance. In spite of changes and modifications introduced by modernity, the traditional political institution has endured all vicissitudes and has continued to re-define itself for relevance. Traditional rulers made use of unwritten laws to govern their people and anyone who behaved contrary to such unwritten laws would be seriously dealt with accordingly. It has been known that traditional Yorùbá societies, indeed, had a well-established system of administration where public order was provided and maintained; where laws were made and implemented.

However, the experience in the recent time has clearly shown the dwindling powers of these traditional rulers in Yorùbáland as many of them are now involved in politics thereby reducing the prestige, honor, dignity and respect that were accorded them in the pre-colonial era. They have to do the bidding of the governor or the chairman of their local governments since their salaries and allowances are determined by them (Idonije, 2008). The reality now is that the fact that they are directly under the control of the state or local government as the case may be has, to a great extent, demystified the mysterious aura surrounding the spiritual and political authorities of traditional rulers in the country (Tonwe & Osemwota, 2013). It is then quite unfortunate to note that many of them occupy the exalted stools as mere figureheads. But, this was not the case in the pre-colonial society as traditional rulers were given their deserved respect and honor (Olowu & Erero, 1997).

Traditional Rulers and Their Status in the Pre-Colonial Yorùbá Society

Before the advent of colonial administration to the country, there existed a very strong monarchical administrative structure which was well organized in administering executive, legislative and judicial powers. The system of indigenous traditional administration varied from one part of the country to the other (Sokoh, 2018). But, our focus in this paper is to consider the administrative structures applicable to the Yorùbá nation. The *Oba* had the responsibility of making laws, enforcing them and maintaining

peace and order in his communities with the assistance of his chiefs who in most of the communities represent their various compounds, *Agbo Ilé* (Albert et al., 1995).

Monarchical system of government has remained the predominant form of traditional political system in most Nigerian societies and communities. The contributions of traditional rulers to the growth and development of towns and cities in Nigeria and most importantly Yorubaland over the years demonstrate the diligence, astuteness and resourcefulness of those traditional rulers in their domains. It is not far-fetched therefore to say that it was this well-structured traditional political institution in Nigeria that gave the British colonial authorities a soft-landing since the traditional rulers were accorded high level of respect by their subjects. This happened as a result of the strong belief that *Obas* are the custodians of their ancestral, social and cultural values. The introduction of *Indirect Rule* system by Fredrick Lugard in 1914 did not suffer any setback as the traditional rulers were made use of by the colonial authority, most especially in the northern part of the country. Apart from the chiefs who helped in the day to day administration of their communities and towns, the *Obas* were assisted in the discharge of their duties by *Baálès* who were in charge of towns and villages and paid royalties to the *Obas* at specified times of the year. The power of *Oba* was not absolute as the doctrine of checks and balances were strongly enshrined (Fadipe, 1991). Under this pre-colonial constitutional arrangement, traditional rulers in Yorubaland exercised legislative, executive and judicial powers put together. However, in many places, they exercised these powers with the advice of their respective high chiefs, counsellors and a consciousness of being under the close watch of the gods, ancestors and his subjects.

Obaship in Yorubaland in the past was not based on wealth, popularity or connection. The Yorubá people have a peculiar way of selecting their traditional rulers. They were appointed after a due process had been followed and the choice of the *Oba* was confirmed by the *Ifá* oracle. It was expected of Yorubá *Oba* to be a living repository of the history, culture and traditions of his throne, people and race, including their relationship with neighbours. This is why they remain in *Àkòdì* for few months to learn all these before been enthroned. The Yorubá traditional ruler was the focus of political authority and the rallying point for social, cultural, economic and diplomatic activities; hence his description as representatives of the gods and ancestors (Albert et al., 1995).

Due to the enormous responsibilities of the traditional rulers in Yorubaland, *Báálè* of various communities were allowed to settle cases within their communities, such as theft, battery, housewives rivalry, misunderstanding between husbands and wives. At times, there were cases that the *Baalè* could not settle; such cases were brought to the notice of the *Oba* and his council of chiefs for intervention. Whatever decision taken by the *Oba* and his chiefs was considered as final. They managed affairs, administered justice and resolved any inter-compound tension. Since there was no written laws as said earlier, the people relied so much on the wealth of experience of the *Oba* and his chiefs passed on to them through stories, myths, legend, folklore, rituals, or songs from generation to generation, and formed part of the general social structure which in turn bred order, development, peace and stability in these localities (Olaniran & Arigu, 2013). Though, the presence of this administrative structure does not suggest that there were no conflict at every level. But, cases were quickly settled as they were brought to them to restore order; this is because of the strong belief that traditional rulers were seen as the living representatives of their ancestors whose power and authority are derived from Supreme Being or God (Albert et al., 1995).

Settlement of matters in the traditional society was based on the vibrancy of Yoruba legal culture

which makes it very lively and enduring. Though it is a general belief that conflict is inevitable as long as man lives, but in the traditional societies, there were measures put in place to make sure that peace is restored as soon as possible (Olaoba, 2008). On many occasions, proverbs, words of wisdom and experience were used to resolve conflict. References were made to past occurrences to drive home their points. This is apposite to the Yoruba saying that *Àgbà kíl wà lójà, kí orí ọmọ tuntun wọ*. An elder should not be in the market-place and allow a child's head to bend. *Obas* in Yorùbáland are so versed and versatile in the usage and application of Yorùbá proverbs. They made use of the principle of fair hearing (*audi autem pathem*) their watch words in the settlement of cases brought before them (Aiyedun & Ordor, 2016). This is why Yoruba people say *A kì í fá orí lẹhìn olóri* and *Agbọ ejọ ẹnìkan dá, àgbà òsìkà*. No one gives verdict to a case in absentia and wicked and iniquitous is that one who hears the evidence of one party to a case. The reign of the *Ọba* was always a referential phase in the history of his domain just as his achievements were a measure of his success and contribution to society. Yorùbá people use words of caution on any member of the society who tries to exhibit any behavior that is antithetical to peace and harmony in the community by taking such an individual through memory lane with the wise saying: *Ọba tó jẹ tí ilú tòrò, orúkọ rẹ kò ní parẹ, èyí tó jẹ tí ilú bà jẹ, orúkọ rẹ nàà kò ní parẹ*. (King that reigns and there is peace in the community will be remembered for ever and the one who reigns and there is problem in the community, his name will also be remembered). Most traditional rulers were always conscious of this reality that his reign would be dispassionately observed, assessed, scrutinized and put in the memories of his people while alive or dead. The wise saying is not even limited to the king, but whoever is placed in the position of authority (Achebe, 2017). Such people are expected therefore to live with moral consciousness of this fact and also live above board by providing functional leadership on all matters brought before them and in their day-to-day administrative duties.

Traditional Rulers and Their Status in the Post-Colonial Period

There is now a total departure from what we understood to be the role of traditional rulers in the pre-colonial period and what we are experiencing in modern day Nigeria as it applies to community development and maintenance of peace and harmony. Since the introduction of local government reforms of 1976, the roles of traditional rulers have been taken over by the local government and this is expressly stated in the reform. Though, it stated that it is not the intention of government to destroy the organic unity of the traditional institutions (Reed, 1982). But, in actual fact, this is not the case as traditional rulers are now at the mercy of local government chairmen for their salary and all other entitlements. This goes with the saying that he that plays the piper dictates the tune. The role of traditional rulers has been undergoing changes in the contemporary society.

The advent of colonial administrators ushered in a transformation in the role of traditional rulers. This change was necessitated by the desire to realize the objectives of colonialism, which were to exploit the natural resources of Nigeria to meet the industrial needs of the capitalist metro poles. Traditional rulers were therefore used to serve these objectives and ever since then, it has been a tale of rulers losing their powers over their subjects. The *Obas* and the chiefs were used as intermediaries during the colonial administration. They were mere representatives. Even with the coming to power of the military administrators at the different times, the situation remains the same. The military heads of state like Generals Yakubu Gowon, Ramat Muritala Muhammed, Olúségun Ọbásanjó, Muhammed

Buhari, Ibrahim Badamasi Babaginda (IBB), Sanni Abacha and Abdulsalam Abubakar had different attitudes toward traditional leadership in Nigeria and their role in nation building. General Babaginda led military administration had mixed perception toward traditional institution. During his administration, the governor of the defunct Gongola state, Colonel Yohana Madaki, deposed some traditional rulers such as Emir of Muri, Alhaji Umar Abba Tukur, and this really had serious effect on traditional institution across the nation as many governors removed traditional rulers at will as long as they discovered that they were not in their support.

The military junta used the traditional rulers to mobilize people. This was the case during the inglorious one million man march for the former military head of state, Sanni Abacha, in his bid to become the civilian president of the country. The interest specifically in this paper is to see how the exalted status of Yorùbá traditional ruler has become a stool where corruption, recklessness and unbridled disregard for the tradition and custom of the land have taken the centre stage in both administrative and political history of the country. A typical example of this was when governor Isiaq Abíólá Ajímòbi won the governorship election for the second term. The ideal thing in an ideal cultural society where custom and tradition are being respected is for the governor to make a ‘thank you’ visit to all the *Obas* in their various towns. At least, he made a tour round the communities when he was seeking his re-election. But, the unfortunate thing was that about 24 kings across Òyó state were led by the *Alààfin* of Òyó, *Oba Làmídì Adéyemí II*, to pay a congratulatory visit to the governor at his home in Ibadan. This is nothing but a major dishonor and disrepute to the historic, cultural, traditional and esteemed thrones of the *Obas* - this is because the homage receivers suddenly turned to homage payers.

The Status of Traditional Rulers in the Modern Day Yorùbá Society

This paper will not be complete if it fails to address the status of traditional rulers in the contemporary Yorùbáland society. This is very important because of the various opinions that have diverged across the country on the current status of traditional rulers to see whether or not traditional rulers still maintain the dignity, respect and honor accorded them in the past. There are those who were persuaded that the traditional rulers have lost their respect and honor as many of them have abandoned their stools to become political jobbers. That instead of them to be contented with their respective primary calling of focusing their attention on how to improve the lots of those in their domains through purposeful leadership, they hobnob with politicians and political office holders. This is more obvious as many of the *Kábíyèsí* are finding it very difficult to manage internal crises successfully in their respective domains. There are those with the belief that Nigeria’s political climate was rather too rough and that traditional rulers are needed to clear the debris because they are the custodians of culture and traditions, and because of their closeness to their subjects, they are in a better position to advise political office holders on the need to do it right.

Traditional institution has taken a new turn today as traditional rulers now canvass for support for political office seekers because of the enormity of the control they exert on the local society. Some traditional rulers drum support for politicians in order to win elections. Campaigns begin and end in the palaces of traditional rulers, who by being a symbol of respect, could cause the political machinery to swing in a particular direction. Recent experience in Nigerian politics and most especially in Yorùbá land would confirm that politicians use the traditional rulers as godfathers and as channels through

which they could get the votes and support of the electorates. Many Yorùbá *Obas* now publicly declare support for a particular political aspirant against the other and this has brought disaffection and political bickering among politicians and members of various communities (Olukoya, 2018; Mogbede, 2017). Political negotiations and horse trading by traditional rulers have become the order of the day. They now heartlessly pursue material and pecuniary benefits for themselves, and this is why they drum support for those they think will benefit them when they are eventually appointed, selected or elected as the case may be. On the contrary, since they are regarded as *Oba tó bá lóri ohun gbogbo*, (a king that reigns over everything belongs to everybody), traditional rulers, by virtue of their office, ought to remain objective, politically neutral and live above board.

Factors Militating against the Relevance of Traditional Rulers in Yorùbáland

There is no gainsaying denying the fact that the traditional institutions particularly in Yorùbáland have been relegated to the background in modern political system in Nigeria. The statement by Abba Mahmood in an opinion piece published in the Leadership newspaper titled: *Traditional Rulers and Contemporary Challenges* corroborates this fact:

Traditional rulers used to have a constitutional role. The 1960 and 1963 constitutions created a Council of Chiefs for them in the regions and some of them were even regional governors. The 1979 Constitution gave them representation in the National Council of State. The current 1999 Constitution did not even mention the traditional institution. Is this not enough indicator of their plight and dwindling prestige? (Mahmood, 2007)

They are considered today as materials to be used and dumped and pick up at any time they are needed. This is quite unfortunate. They are more important to the political class during electioneering. They have, in recent times, been subjected to public ridicule and untold embarrassment by those at the corridors of power. This did not just occur as politicians cannot be totally blamed for this ugly development, as Yoruba people will say, *wón ti fi ogbe ori won fún kòlòkòlò jẹ*, meaning that they have given out their respect, honor and dignity. Though, the institution has not given way totally to complete irrelevance in the democratic structure of the modern Nigeria.

Traditional rulers' relevance, one can still say, is more felt at the grassroots than in the urban centers due to the fact that they are closer to their people, unlike in the cities where the political class has almost taken over the control of administration. The researcher can safely say therefore that there are many factors responsible for this drastic decline in their relevance. One of the factors militating against their relevance is that some of their roles have been taken over by the court. In the past, the traditional rulers had significant executive, legislative and judicial powers over their people. They ensured that disputes among the members in their various communities were settled amicably. The Yoruba wise saying has it that *Ahón àti eyin n jà, ká jà ká pari rẹ niyì ọmọlúàbí*, meaning that the tongue and teeth often come in conflict; to quarrel and get reconciled is a mark of responsibility. Restoration of harmony is what is paramount in the traditional society. They made sure that warring parties go back home happily (Ajayi & Buhari, 2014). But, today, this revered institution is going into oblivion because of the cases of partiality, bias and lack of trust leveled against many of the traditional rulers by the members of the public.

Also, in this democratic period, most politicians and political office holders do not give deserved

respect to traditional rulers in their various communities. Their appointment, presentation of the staff of office and promotion are performed constitutionally by the governor of the state. With this, the governor can decide to do and undo, and the reason for such action is due to the fact that traditional rulers are actively involved in politics thereby defecating the traditional customs and values. Many have also thrown integrity into the wind. As the craving for money is the beginning of wisdom for them, chieftaincy titles are now given to the highest bidder. Merit is being sacrificed at the altar of unbridled corruption. Hardly now is anybody taking into cognizance the character, family background and the pedigree policies of those to be honored with a chieftaincy title as long as he or she has the money to spend for the community. The exalted stool of the traditional rulers has also been bedevilled with in-fighting and *obaship* tussles.

Many communities, because of unwarranted tussle for *obaship*, have brought unending acrimony among their people. There are cases of small communities having two to three kings as a result of endless and baseless in-fighting and power tussle. Many politicians use these disagreements to launch their political campaigns in these affected communities (Nworah, 2007). Another reason for the dwindling trend in the prestige of traditional rulers in Yorubaland is as a result of tension between them and the political class. The royal fathers are considered as weak and in-experienced in political matters who should be concerned about their domains. They claim that the political class has left them behind in the scheme of things particularly with regard to the well-being of their people and the development of their communities.

The political class perceives them as clog in the wheel of progress. We have instances of such clashes and misunderstanding between governors of states and traditional rulers. Examples of this is the misunderstanding between the late *Oba* Samuel Odùlanà Odùgádé of Ibadan and former governor of Oyo state, Chief Adébáyò Àlàó Akálà, over the removal of Onídó of Ìdó, *Oba* Benjamin Ìsòlá Oròbíyí II, by the council of chiefs and recent rift between the current Olúbàdàn of Ibadan, *Oba* Sálíù Àkànmú Adétúnjí, and the incumbent governor of Oyo state, Senator Isiaq Abíólá Ajímòbi, over the appointment and installation of over twenty kings without following due process and without any approval from Olúbàdàn as declared by the court of competent jurisdiction in Oyo state (Olunloyo, 2017).

Social malaise has also caused the traditional institution in Yorùbáland to suffer loss of relevance (Nworah, 2007). The moral decadence among the youths in the society and lack of respect for elders and traditional institutions has really affected the exalted position of the traditional rulers. There have been cases of youths in various communities demonstrating against the action of some traditional rulers. They see the action of their traditional rulers as draconic and dictatorial in nature. This happens most especially when a traditional ruler is bias and takes side on matters where objectivity and openness are expected.

The last straw that broke the Carmel's back as it relates to the roles of traditional rulers is the unabated conflict of interest between local government authorities and traditional rulers, and a need to clarify who should do what in local community matters. There have been cases of local government chairmen trying to punish traditional rulers for not obeying their command or do their bidding. The traditional rulers are not left out in the unstable economy situation in the country which has further eroded their influence. We know of a fact that few of the traditional rulers were rich before ascending the throne of their forebears. But, we still have in the majority those who depend only on salary from their local council which is grossly inadequate to cater for their immediate families let alone the communities under them. This has really affected their influence and authority. A situation where some traditional

rulers request financial assistance from individuals in the community and even from politicians say much about the institution they represent.

Other reasons that have led to the decline in respect and prestige of *Obas* in Yorùbáland include a situation where *Obas* who are expected to be the custodians of values, morality and norms are found wanted. For instance, it was widely reported in May 2010 that the *Dèjì* of Àkúrẹ̀, *Oba Adépòjù Adésinà*, beat his wife, Olori Bòlánílé. The woman eventually died in July. The woman before her death claimed that the king poured poisonous concoction on her. Another reported case was that of *Oba Alọwá* of Ilọwa in Òsun state and *Oba Bùkòlá Alli* who allegedly raped a corps member at Òsogbo on Friday, March 25, 2011. All these attitudes by the *Obas* in Yorùbáland have really affected them and their exalted positions in the society.

The Way Forward

At this juncture, there is an urgent need for something to be done to the dwindling status and prestige of our traditional rulers headlong. The dilemma here therefore is how to find the best way forward in order not to endanger the ancient institutions with their well established structure the traditional rulers represent, which is that of acting as custodians of native customs, culture and tradition of their immediate communities. Since no society can progress without well-defined cultural norms and values that regulate the activities of its people, traditional rulers who are the custodians of these norms and values are to be conscious of this fact and make sure that their communities are at peace.

The traditional rulers have been neglected in the scheme of things in Nigeria. The experience in Nigeria of Boko Haram, the Niger Delta militants, Oòdùà People's Congress, Indigenous People of Biafra (IPOB) and others would have been a thing of the past if traditional rulers were carried along and empowered because of their closeness to their people. All these nomenclatures would have been nipped in the bud and confined to the dustbin of history during their infancy stages. But, the unfortunate thing is that most traditional rulers are mere figure heads and rubber stamps, they are likened to a dog that can bark but cannot bite, as they do not have any financial support from the government except the ones received from sons and daughters in their various communities to ensure the security of lives and property within their domains. Those in government should explore the wealth of experience of these traditional rulers in order to intercede for the common man due to the close affinity they have to the people as most of them are educated, enlightened and well-travelled. For them to be honored and respected, traditional rulers should concentrate more on the discharge of the duties imposed on them by local traditions. Traditional rulers should be held in high esteem and should not be dragged into politics. Any political involvement by traditional rulers may lead to the erosion of whatever credibility and respect they command among their people. They should leave the politicians to deal with all their 'dirty business of politics'. A traditional ruler that pitches his or her tent with a particular political party will not earn any respect from the people. The welfare package of traditional rulers should not be turned to a political matter; rather, it should be incorporated and accommodated in yearly budget cycles. That way, the institution will regain its lost glory of dignity and respect.

The government of the day at every level should engage traditional rulers more in local government affairs as this will preserve the dignity of the institution rather than begging for money from politicians. The royal fathers will be very useful in the area of tackling security challenges facing the country today,

as we all know that one of the teething problems that has really affected the sustainability of Nigeria is insecurity which is a byproduct of poverty and thugery. The security apparatus and strategies for tackling security challenges in the country should be re-structured in such a way that traditional rulers should be made to handle issues pertaining to security at the grassroots.

The wealth of experience of traditional rulers can still be tapped when they are incorporated into alternative dispute resolution mechanism (ADR) being championed in the law courts today. Many disputes can be resolved by traditional rulers where disagreeing parties come to an agreement short of litigation. Since the aim of alternative dispute resolution is reconciliation, traditional rulers are well positioned to drive this successfully and thereby reducing the congestion of cases in court. In reality, alternative dispute resolution has over the years been anchored by traditional institution, but it can still be strengthened and taken away from rudimentary level as any far-reaching and binding decisions on their subjects will have the backing of the law. Traditional rulers must also be wary of the temptation of bias, bribery, intimidation, harassment or influence in order for them not to depart from their sacred oath of office and the path of honor and rectitude.

Conclusion

The aim of this paper has been achieved. We have tried to take a critical look at the status of Yoruba *Oba* in the pre-colonial and post-colonial periods. We also examined the various factors that necessitated the downward trend in the prestige, honor and respect accorded the traditional institution today.

This paper therefore concludes that in order to have a well-balanced political structure that will tackle the various teething problems being faced in Nigeria, traditional rulers' position and status should not be relegated to the background and that traditional rulers should also do more by making themselves relevant through a holistic approach to issues. They should also focus more on how to develop their domains and stir clear of muddy water of politics in order to avoid indelible stains on their personality and integrity.

If all the recommendations above are followed strictly, the status, prestige and honor associated with traditional rulers in the past will be restored. This will serve as an impetus in complementing the efforts of the government in tackling various problems facing the country.

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The Role of African Traditional Religion in Conflict Management in Nigeria

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Abstract

Religion has been observed to be a very strong factor of conflict in contemporary Africa. Many religious crises and those with religious undertone pervade the African continent and happen on high frequency with high proportion of cataclysmic consequences across the states of Africa, for instance, Boko Haram insurgency in Nigeria, Al-Shabab religious violence in Somalia, Kenya and Eritrea, as well as religious crisis in Sudan. Notwithstanding the potency of religion for conflict creation, religion can still be exploited to be positively functional and beneficial as well as useful for conflict management process in Africa. This work, from the prism of qualitative analytical approach, offers to explore the character and doctrine of African Traditional Religion (ATR) as they are advantageous and essential for conflict prevention, conflict resolution, conflict transformation and peacebuilding in Nigeria. The paper suggests, among other things, a social re-engineering of communitarian ethos as promoted by the African belief system. This is believed to encourage and ensure more peaceful and harmonious coexistence among different societies of the Nigerian state. Data for this work are collected from books, journal articles, newspapers, and other relevant historical documents.

Keywords: Africa, African Traditional Religion, conflict management, communitarian ethos

Introduction

One of the variables that define human interactions is religion, and among human interactions, conflict is inevitable because communities of people naturally pursue different interests. In this situation, conflict is inevitable; hence the need for its management. The need and desire to manage conflict find expression in the human desire to live in peace for the purpose of progress and community development. Oguntomisin (2004) captured the significance of peace to societal progress, when he stated that “peace is a *sine qua non* to political stability, socio-economic development and societal wellbeing. It is the greatest desire of all human communities all times” (p. 1). To underscore this universal desideratum, he posited that, gospel of peace becomes a cardinal focus of traditional and orthodox religions all over the world, both in the past and present times. In early Africa, according to Rodney (1972), religious beliefs were associated with the mobilization and discipline of large numbers of people to form states. Religions also provided concepts in the struggle for social justice (Rodney, 1972). From this point of view, religion’s role in the management of conflict in human society is indisputable.

It is observed that religion as well as conflict is inherent in human existence. According to Idowu (1973), religion is very much and always with us. It is with us at every moment of life in our innermost beings and with regard to the great or minor events of life. It needs no apologetics to establish the fact of its existence and that it has been a concomitant of almost every sphere of human activity from time immemorial. In light of the foregoing, one can conclude that the hand of religion cannot be removed amongst the human interactions and existence which are always fraught with conflicts if the living would have its divine meaning. Bouquet (1933) asserted that religion cannot wisely or safely be ignored or neglected as it is by so many frivolous persons today. Even a defective or obsolete scheme of religion will serve the individual better than none at all. Keith (1930) also noted that we who wish to make reason the guide of life can no longer afford to be mere breakers of images, if our way of thinking is to make any progress in the world, we have no more right to deprive men and women of their religion than of their favorite drinking unless we can provide reasonable and acceptable substitutes.

However, the concept of religion, being a phenomenon that is inexorably linked with and intrinsic in human interrelationships, does not lend itself to a unipolar interpretation. There are a lot of interpretations that are accumulated around it. But simply put, religion is the sum total of a person’s beliefs and practices in relation to the Divine Being. Idowu (1973) elaborated this by defining religion as follows:

Religion results from man’s spontaneous awareness of, and spontaneous reaction to, his immediate awareness of a living power. “Wholly other” and infinitely greater than himself; a power mysterious because unseen, yet a present and urgent reality, seeking to bring man into communion with Himself. This awareness includes that of something reaching out from the depths of man’s being for close communion with, and vital relationship to this power as a source of real life. (p. 75)

Further to this is therefore an attempt to conceptualize African Traditional Religion (ATR), which would help to guide the kernel of this discourse. Awolalu (1976) trying to disabuse minds of the Eurocentric view of ATR, stated that:

When we speak of African Traditional Religion we mean the indigenous

religion of the Africans. It is the religion that has been handed down from generation to generation by the fore-bears of the present generation of Africans. It is not a fossil religion (a thing of the past) but a religion that Africans today have made theirs by living it and practicing it. This is a religion that has no written literature, yet it is “written” everywhere for those who care to see and read. It is largely written in the peoples’ myths and folktales, in their songs and dances, in their liturgies and shrines and in their proverbs and pithy sayings. It is a religion whose historical founder is neither known nor worshipped; it is a religion that has no zeal for membership drive, yet it offers persistent fascination for Africans, young or old. (p. 275)

Therefore, from the definitions given, one can infer and interpret religion to be the sum total of man’s interaction with the Supreme Being or supernatural entities.

Conflict, just like religion, is also a social phenomenon, which forms a crucial and unavoidable part of human life (Ginty, 2008), and manifests in all human social interactions. This is based on the notion that there are groups in society that have different interests. In light of this, it is believed that social arrangements tend to benefit some groups to the detriment of others, thus, the potential for, and likelihood of, conflict always manifest (Haralambos & Holborn, 2008). In the observation of Bamigbose (2017), when conflict happens it can escalate and degenerate to become a large scale crisis of magnitude proportion if not properly managed. The nation, Nigeria, has been a victim of incessant and intermittent crises of various dimensions which had made the country suffer many woes. However, the mechanisms adopted to manage conflict have not been so effective to bring about sustainable peace and progress in the country.

It is on this note that this work tends to examine the role of African Traditional Religion in managing conflict in Nigeria. Using the reductionist historical analytical method, the paper discusses the crux of conflict management in Nigeria.

Conceptualizing Conflict Management

Management is an important parameter that dictates the progress or otherwise of any human establishment. In fact, one can say that management is the soul of business. In the case of conflict, how it is managed has a long way to determine how soon it will be resolved and what peace would be achieved after all. The way conflict is also managed determines whether it will re-occur in the future or escalate into a crisis of magnitude effect. Therefore, in order to prevent the occurrence of conflict, its re-occurrence and escalation, conflict management needs to be taken seriously. Hence, conflict management is not limited to, but encompasses, conflict prevention, dispute resolution, conflict settlement and all peace processes like mediation, negotiation, arbitration, etc. According to Schmid (1998), conflict management can be referred to as intervention in an ongoing conflict process in such a way as to contain and, if possible, a) reduce the level of violence and destruction; b) prevent the vertical escalation toward the use of weapons of mass destruction (WMD); and c) prevent the horizontal expansion into other theatres. In the opinion of Lund (1997), conflict management is: a) transforming the (potential or actual) clash into less damaging form of interaction or b) searching for (temporary) solutions that can prevent escalation and

move conflicting parties toward either a settlement of the conflict or at least a termination of the killing, e.g., through a cease-fire. Zartman (1997) considered it as interventionist efforts toward preventing the escalation and negative effects of ongoing conflicts.

The aim of conflict management, in the opinion of this paper, is to bring about permanent solution to a conflict and thus ensure positive peace and harmonious coexistence among the people. The work therefore considers conflict management as transformation of all that characterize the conflict such as the causes, the parties in conflict, the environment, the circumstances, while focusing on peacebuilding among human interactions.

Trajectory of Conflicts and Crises in Nigeria Since 1960

The fact of political history of Nigeria remains that the country got her independence in 1960; however the sociological reality of the independence hinges on the amalgamation of the southern and northern protectorates and Lagos colony of 1914 by Fredrick Lord Lugard, the then colonial governor of the area called Nigeria (NAI, 1914; Osuntokun, 2018). This brought about a fusion of different ethnic groups with varying aspirations and different worldviews. Consequently, the country secured an independence that brought her into the reality of ethnic pluralism with its attendant challenges. Hence, Nigeria is usually characterized as a deeply divided state in which major political issues are vigorously and violently contested along the lines of complex ethnic, religious and regional divisions (Smyth & Robinson, 2001). This has been the trend since independence in Nigeria.

The issues that prop-up violent contestation are essentially those ones that are very fundamental to the existence and legitimacy of the state, over which competing groups tend to adopt exclusionary, zero-sum-game strategy. Osaghae and Suberu (2005) observed these issues to include the control of state power, resource allocation and citizenship. Thus, according to them, disintegration, secession, civil strife, civil war, minority agitation, and violent conflicts, all of which would normally be considered aberrant to 'normal' state formation, are prevalent threats to, and actual occurrences in, Nigeria. As a result, the country oscillates between the deep blue sea of integration and the devil of disintegration.

Violent conflicts occurring in Nigeria, like similar ones internationally, have suffered from the crisis of appropriate label and identity. Ornet (2008) noted that such a lack of clarity has characterized many scholarly works since the seventies. According to him:

Since the 1970-1980s, this type of violence has been the subject of increased study... the list of terms used to describe it is long and diverse. Terms like 'identity conflict', 'ethnic conflict', 'religious conflict', 'ethno-religious conflict', 'sectarian conflict', 'communal riots' and protracted social conflict' are among the most commonly found in the literature. Often, however, these terms are adopted without being defined or clarified, resulting in conflict analysis based on assumptions and conceptual confusion-particularly as the way these terms are currently used, they contain many similarities and many overlap, yet they continue to be used indiscriminately and without agreement between analysts. (p. 25)

In the Nigerian context, ethnicity and religion are the principal identities around which violent conflicts occur. Ethnicity in conflict in Nigerian perspective is used to refer to categories that share a common

culture (language being an essential parameter) and who are mobilized for political ends. Religion in conflict, on the other hand, is used for faith-based forms of identity when similarly mobilized for political ends. Of these two, religious identity, principally Christianity and Islam, has played more crucial role in mobilizing people for urban violence since the 1980s (Best & Hoomlong, 2011).

It is pertinent to therefore state that, Nigeria, since 1960 has been bedeviled with one crisis or the other. The country has had many occasions of large scale conflicts which had greatly caused a lot of un-rectifiable damages and destructions in the land. In fact, the various wounds these numerous crises have inflicted and foisted on the psyche of many Nigerians, draining the Atlantic Ocean for the sake of healing them, might not be effective and sufficient. It would, however, require a supernatural mechanism to do justice to the healing. This may be found in the instrumentality of the African Traditional Religion.

Some Violent Conflicts and Wars in Nigeria: A Dateline (1962-2002)

S/N	Conflict	Region	Nature	Date
1.	Action group crisis	Southwest	Political	1962
2.	Census crisis	National		1964
3.	Civil war	National	Structural/political	1967 to 70
4.	Maitatsine conflict	North (Kano)	Religious	1980
5.	Maitatsine conflict	North Bulumkutu Maiduguri and Ri- gassa/Kasuna)	Religious	1982
6.	Kano crisis	North	Religious	1982
7.	Maitatsine conflict	North (Jimeta/Yola)	Religious	1984
8.	Maitatsine conflict	North (Gombe)	Religious	1985
9.	The campus riots	North	Religious	1986
10.	The Kafanchan crisis	North	Religious	1987
11.	Kano riots	North	Religious	1991
12.	The Katsina fracas	North	Religious	1991
13.	Maitatsine conflict	North (Funtua)	Religious	1993
14.	June 12 crisis	National	Political	1993
15.	Renewed Warri communal clash	Delta State	Communal	1999
16.	OPC and Hausa traders clashes	Sagamu (Ogun State)	Ethnic	1999
17.	OPC and Hausa Traders	Lagos	Communal	1999
18.	The Kaduna crisis	North	Religious	2000
19.	Communal clash in Brass Local Government	Bayelsa	Communal	2000
20.	Communal clash in Etsako Local Government	Edo	Communal	2000

21.	Boundary dispute between communities in Akwa Ibom and Cross River state		Communal	2000
22.	Clash between farmers and cattle herders in Saki	Saki (Oyo State)		2000
23.	Communal clash between the people of Ikot Offing and Oku-Iboku	Cross River	Communal	2000
24.	Communal clash in Ikare Akoko	Ondo state	Communal	2000
25.	Hostility between Ijaw and Urhobo	Delta state	Communal	2000
26.	Clash between Igbo and Hausa Traders at Alaba Rago market	Lagos state		2000
27.	Clashes between Ife and Modakeke	Osun state	Communal	2000
28.	Boko Haram crisis	National	Religious	2000 to date
29.	OPC and Hausa people clash at Idi Araba	Lagos state		2002

(Best & Hoomlong, 2011)

Impact of Conflict in Nigeria

To a common sense, there is no conflict, most especially destructive or negative, that does not have its tolls on people. It is just exactly the same in the case of Nigeria. Every occasion of conflict has always left behind its trail, tales of woes and catastrophes of high proportion and magnitude effects. This section discusses the effects of conflicts in Nigeria.

The fact remains that whenever conflict occurs in Nigeria, the development of the society in most times is seriously and badly affected. The costs of conflict in Nigeria in terms of human life and property, as well as the destruction of social infrastructure, are stupendous. For example, over two million lives were lost to the Nigerian Civil War of 1967-1970. In addition, once conflict occurs, scarce resources are inevitably diverted to the purchase of military equipment at the expense of socio-economic development of the country. An example is the security vote to fight Boko Haram in Nigeria during the reign of President Goodluck Jonathan. However, the money was embezzled by some political elites in the country (Nwabughio, 2016).

According to the World Bank (2013), weakness in the oil sector arising from years of conflicts have increased macroeconomic risks for Nigeria. Oil accounts for 90% of exports and roughly 75% of consolidated budgetary revenues. The decline in oil output, together with weaker oil prices led to a weakened balance of payments and shortfalls of budgetary revenues. The balance of payments surplus

registered from October 2011 to April 2013 thus disappeared. Official foreign reserves also declined slightly from almost \$49 billion in end of April 2013 to \$46 billion on September 19, 2013 (Odoh et al., 2014). As of the second half of the year 2013, total federation revenues available for sharing among the tiers of government fell short of projections by 21%, this was as a result of the protracted social conflicts especially the crisis of Boko Haram insurgency.

One other implication of persistent conflicts is the insecurity of lives and properties which tends to hinders foreign economic relations to jumpstart the economy (Adeyemi, 2006). For instance, the crisis of Boko Haram which began in 2000 had caused a lot of destruction of lives and property in the country and life has become unbearable for the majority of people living in the northeastern part of the country, most especially Maiduguri, Borno state. The Nigerian national dailies are awashed on a daily basis with the draconian and dastardly inhuman activities of Boko Haram.

It is also important to state the effects of social conflicts on gross domestic product, exchange rate, inflation and per capita income in Nigeria in \$ USD. The IMF (2012) reveals a steady decline in the value of the Nigerian currency, naira, in comparative terms with other major currencies in the world between 1980 and 2012. According to the report, in 1980 one Naira was exchanged for one U.S. Dollar. The exchange rates were three Naira to one US Dollar in 1985, nine Naira to \$1 in 1990, 50 Naira to \$1 in 2005, 150 Naira to \$1 in 2010 and 168 Naira to \$1 in 2012. As at the time of writing this paper \$1 is exchanged for 350 Naira. This portrays a country's slide in weakness in its global economic positions with other nations. The World Bank report of 2013 also revealed a steady increase in inflation and continuous slide in per capita income and consequently the standard of living index, among other things, grew unbearable. These were as a result of the intractable social conflicts in the country over the years because the required economic stability to take care of these variables has been hampered. The enabling environment was deactivated thus making difficult or practically impossible the thriving of business. Conflicts also made the country unsafe for business and commercial practices. As a result, a lot of factories and businesses became bankrupt and consequently closed. Besides, foreign direct investment (FDI) was not encouraged in the country.

The Role of African Traditional Religion in Conflict Management in Nigeria

Religion has been observed to be a very strong factor of conflict in contemporary Nigeria. Notwithstanding its potency for conflict creation, religion can be exploited to be positively functional and beneficial in conflict management process, most especially in Nigeria. However, it should be noted here that the goal of this paper is not to glorify African Traditional Religion or set it above the orthodox or conventional model of conflict management as represented by the western model, but to objectively examine the functional attributes of African Traditional Religion in order to explore its contributions to conflict management in Nigeria.

African Traditional Religion is regarded as one of the cohesive factors in the society. Its major aims are to bring peace and harmony among the people. It binds the community together (Awolalu & Dopamu, 1979). However, it is lamentable that because imperial Christian European forces invaded, conquered and vandalized African societies between 1860 and 1900, and because Africans were deceived and coerced in the process into believing that they had no God, no religion, no culture, no history and no civilization, all the deities through which they worshiped God, the Creator, and with which they

effectively and efficiently exercised social control and ensured peaceful, humane, just and egalitarian society were labeled demonic (Nwolise, 2004). Thus the utility of African indigenous religion in conflict management became disparaged and the continent suffered for it. However, it needs to be emphasized that Africa, before the coming of colonial rule, had efficient conflict management mechanisms. For instance, in the Kalahari desert in Botswana and Namibia, the Bushmen had led traditional lives for thousands of years. The lack of technological refinement belies sophistication in dispute resolution practices which evolved without the courts and a formal state system and are suited to the needs of a collective hunter-gatherer society (Boulle, 2005).

Nigeria, today, presents an excellent laboratory for the study of serious confusion, and peculiar problems associated with the values, principles and dynamics of conflict prevention, management and resolution. Hence, the focus of this work is not out of place to help a nation like Nigeria, which is faced with multifarious and multidimensional conflicts. Religion is an inescapable involvement of every member of human race and it is manifested and practiced in various forms in Nigeria, such as funerals, initiations, child naming ceremony, rituals, festivals, etc. Some of these practices are examined as they relate to conflict management.

Festivals and conflict resolution

Festivals are recurrent religious ceremonies. There are a lot of festivals in Nigeria as well as Africa in general. No one can claim to have perfect knowledge of festivals in West Africa and most especially in Nigeria. What one knows about festivals is relative to his or her environment and the little he/she read or learned. Oduoye (1998) affirmed this by asserting that nobody studying traditional religion in West Africa is expected to become an expert in describing West African religious festivals. To justify this, a reference was made to Ayeni (1983) who gave descriptions of sixty-nine festivals only in old Bendel state of Nigeria. It should however be stated that the significance of festivals lies in the fact that they illustrate among other things historical events, coming of age, harvesting of crops, and appeasement to various gods for protection against enemies, evil or epidemic disease (Ayeni, 1983), as well as peace-making process.

Gelede festival is an example of festivals that play significant role in conflict management in Yoruba land of southwestern Nigeria. The *Gelede* festival is held during the dry season, when people return home from their farms with the fruits of the harvest and there is an abundant food. This period is good for conflict resolution because it used to be a time when people in the area are naturally very happy to reap the fruits of their annual labor. This state of mind is exploited to add fun to the period through the *Gelede* festival which is a festival that also includes entertainment as one of its feature. The festival is held in the town's market place, which is the sphere of female activity and the metaphor of the world as a place of human struggle and conflict. It always comes up in the night till the twilight. The festival is used to settle disputes among husband and wives (matrimonial conflicts) and other social conflicts. The purpose of the *Gelede* festival, according to Lawal (1996), is nothing less than the promotion of social harmony, not only in gender relations but in relations among all people: "to entertain the general public in the process, sensitize it to the virtues of social 'living and good citizenship' (Ray, 1999).

Rituals and conflict resolution

The role of rituals in conflict management cannot be overemphasized. Oguntomisin (2004)

asserted that ritual sanctions were deeply rooted in the people's religion described as "the engine of the law" (p. 3). In societies where the king had divine authority and was *ipso facto* the *pontifex maximus*, he could impose ritual sanctions. In some communities in Nigeria certain gods or goddesses were believed to be naturally averse to injustices. Such deities included Ogun, Sango, Ayelala in Yorubaland (Olaoba, 1992) and Swemd in Tivland (Dzurgba, 1977). For instance, in Yoruba land, there are cases of conflict resolution through the instrumentality of Ogun or Sango depending on the gravity of the issues in conflict. Most times in traditional typical Yorubaland, to determine justice in a conflict among the disputants, a gun or iron (Emblem of Ogun) is used to swear an oath by the parties in conflict in order to detect a culprit or determine the innocence or otherwise of the parties.

Offering in peace-making process

Another supernatural way of peace-making, according to Idowu (1996), involved periodic peace offerings. Such offerings were made in some communities after consulting with the *Ifa Oracle*. In Yorubaland for instance, the Ooni of Ife celebrated the *Olojo* festival annually to offer sacrifices to the gods in order to ensure peace and stability in his domain. Once this is done, it is believed that people will live to prevent the occasion of conflict and resolve it amicably to forestall its escalation when it occurs. This makes peace prevail throughout the year.

Deities and conflict management

Consultation of deities as final arbiters in disputes that could not be settled in the village assemblies was a common practice among the Igbo. Igbo traditional society practiced village social-political system, and conflicts were always settled in the village assemblies, but the ones that could not be settled at that level were referred to the courts and institutions of their gods and goddesses. These supernatural agencies were the oracles which were believed to be capable of restoring peace (positive peace) among the parties in conflict in a fair and impartial manner. Among the famous oracles to which cases were referred for justice include *Ibiniukpabi* or *Arochukwu* (Long Juju) oracle at Arochukwu, Agbala in Awka and *Igwe-ka-Ala* in Umunneoha (Afigbo, 1973).

Religious organization and conflict settlement

In Benue state among the Egede, the *alikpe* cult was a formidable traditional institution saddled with a responsibility for conflict management. Once its members were called into a case they could not be stopped. They had a special god of their own whose power was symbolized by a spear stuck in the ground in the compound where they were to intervene in conflicts (Forde, 1970).

Joke as instrument of conflict resolution

Joking relationships are a form of managing conflict between the Fulbe (Fulani) and others. A joking relationship is either a resolved or a signpost of a former dependency or tribute - paying relationship. Joking relationships exist between lineage and between ethnic groups (Wilson-fall, 2000). Wilson-fall (2000) stated that joking relationships have ritualized the acknowledgment that former enemies have become friends. Joking relationships between the Fulbe and the Tiv of the north central plateau of northern Nigeria, according to him, developed as a result of land overuse. After agreeing to negotiate, the parties in conflict established joking relationships so that future generations would

avoid conflict. In principle, one is supposed to be more tolerant of those with whom one has a joking relationship. This is how it was being practiced among the traditional Fulani people of the northern Nigeria.

Judging from the above, it is therefore discovered that traditional religion plays impartial and neutral roles in bringing about fairness and justice, such that parties in conflict would accommodate, tolerate one another and reciprocate gestures that aim at genuine reconciliation, which will be good for future relationships.

Recommendations

If the focus of traditional African religion in conflict management is to ensure genuine reconciliation and harmonious peaceful coexistence among the people, it is necessary and recommended to be part of the judicial legal system of Nigeria.

Also, traditional African religion should be given an ample space in the socio-political system of Nigeria, for instance, by employing traditional religious instruments like gun, sand from the tomb, etc. to administer oath of office on the political office holders. This might create fear that would mitigate political crisis in the country other than litigation, which takes long time in conflict settlement.

Besides, any erring office holder should always be tried by the instrumentality of the indigenous religions, instead of using conventional judicial, legal process (or litigation).

Conclusion

This paper has discussed conflict and religion as a social phenomenon which cannot be removed from human society. The work also delved into dimensions of conflicts in Nigeria and examined the roles that African traditional religion is capable of playing in the process of managing those conflicts irrespective of their dimensions.

The conclusion therefore is that the best solution for any problem such as conflict is better sourced from within. There is no way an imported or alien instrument can give a required solution to a native problem. The conflicts which happened in Nigeria are as a result of the dynamics of the unique environment and people of the land, and it is only a conflict management mechanism developed from the indigenous traditions, customs and peculiarities of the land that is best suited for offering a solution. Hence the work toes the line of scholars who called for African solutions to African problems (Zartman, 1989).

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Negotiating for Life: Liberian Women's Negotiating Skills

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Abstract

In 2003, the Women Peace Building Network (WIPNET) led Liberia out of violent conflict by employing non-violent resistance. A scrutiny of their struggle revealed that they practiced an authentic bottom-up peaceful resistance. First, they abridged the religious differences between themselves. Then, they formed a social network-based organization and derived synergy. They started their struggle at the family level by convincing their spouses to stand for peace and took their battle to the state level by courageously approaching President Charles Taylor to influence him to enter the negotiation process. Further, they transcended national boundaries by following the negotiators to Ghana and pressuring them (including the mediators) to settle. After settlement, they ensured the sustainability of their voice by rallying behind the first female candidate and enabling her to secure victory. This bottom-up approach imparted a valuable lesson of applying negotiation strategy to the peaceful settlement of disputes.

Keywords: Liberian women, negotiation skills, non-violent movements, negotiation constituencies

Introduction

In 2010, President Obama won the Nobel Peace Prize. In 2011, three women shared the Prize: two Liberian women and a Yemeni journalist (Nobel Prize, 2011). One of the Liberian women, President Ellen Johnson Sirleaf, is famous because she is the first woman African head of state. The second Liberian woman, Ms. Leymah R. Gbowee, was not very popular despite founding and leading the Liberian branch of the Women in Peacebuilding Network (WIPNET). This organization played a crucial role in Liberia's transition from civil war to a stable nation led by Dr. Ellen Johnson Sirleaf.

Women had a minimal role in international peace negotiations. This fact led the UN Security Council to enact Resolution 1325 in October 2000. The resolution "urges member states to ensure increased representation of women at all decision-making levels" (UN, 2000), including peacebuilding initiatives. Although this resolution is timely, the reality on the ground is different since women remain the most affected victims of conflict and the least represented in peace negotiations. A rare event in Liberia has upended this tradition. In 2003, Liberian women played a crucial role in initiating, facilitating, and settling negotiations among warring factions. What made their role special is the fact that they invited themselves to the negotiation stage.

Before 2005, subsequent civil wars tormented Liberia for about 14 years. There are different arguments regarding the root causes of the conflict. Some of the common ones include identity clashes, corruption, and external plunder (UCDP, 2011; Kugmeh, 2007). The international community and Economic Cooperation of West African States (ECOWAS) made several attempts to soothe these clashes. Until 2003, the conflicting parties made ten peace agreements; however, those agreements were ephemeral. Unlike previous treaties, the deal signed on August 18, 2003 was both unique and effective.

The 2003 peace process embodied several elements that made it quite peculiar. It included several external and internal actors who put so much effort into its ultimate success - the Liberian women represented by the WIPNET amongst the first actors who guided the negotiation process to fruition. By launching a non-violent protest, the women voiced their demand for peace, urging, and finally convincing the warring parties to stop the war and negotiate (Gizelis, 2011). While they explicitly stated their demands, they used several tactics to achieve these demands (Disney, 2008).

In this paper, I discuss the Liberian women's role in the 2003 peace negotiation in depth. More precisely, I identify negotiation strategies and tactics Liberian women employed. The position of Liberian women was unique because they were not included at the negotiation table since they had no stake in the outcome of the parties, and they could not be counted as constituents. However, these women were bystanders and victims of the civil war. I, therefore, investigate 'how' ordinary powerless women can influence a negotiation process from the outside. To address this question, I utilized data from books, journals, newspaper articles and a video documentary on Liberian women's struggle for peace. The paper has five sections. After this introduction part, the second section identifies the primary parties in the conflict, along with their main issues of contention. The third section draws upon theories of negotiation and highlights the core negotiation concepts that are relevant to this paper. The fourth section examines the strategies and tactics adopted by the women and evaluates them in light of the theoretical framework in section three. Finally, I conclude by outlining the core themes and delimitations of this paper in the fifth section.

Conflict Analysis of the 1999-2003 Liberia's Civil War

The first Civil War in Liberia culminated with the election of Charles Taylor as President in 1997. However, Taylor's election did not lead the country out of the ongoing 14-year war; instead, it ushered in a new round of civil war that tormented the people for four more years. Two years after Taylor's election, the Second Liberian Civil War started (UCDP, 2011) which included several parties. The following sections will employ Wehr's (1979) conflict analysis model to identify the parties.

Parties, causes, and effects

The second Liberian civil war included primary and secondary parties. According to Wehr (1979), major parties are the central actors in a conflict believed to sustain conflicting interests. On the other hand, secondary parties pertain to people who are not directly involved in a conflict, but the conflict affects them. Wehr (1979) also noted cases where secondary parties could evolve to being primary parties. In this case, there were three principal actors. These were the ruling party (National Patriotic Party-NPP), and the two rebel groups (Liberian United for Reconciliation and Democracy-LURD and the Movement for Democracy in Liberia-MODEL) according to UCDP.

Essentially, the ruling party (NPP) is also an amalgam of former rebel fighters keeping a bad domestic and international reputation. This was due to the rampant corruption, human rights abuse records, involvement in cross border conflicts, and illicit trade of arms and resources. The other primary party was the LURD created by the supporters of former Liberian dictator Samuel Doe. The group organized itself in Guinea and then waged an all-out civil war in 1999. The main goal of this group was to remove Charles Taylor from power (Brabazon, 2003). MODEL was the third anti-NPP rebel group founded in Ivory Coast in early 2003 (Sherman, 2011). Civilians were the secondary parties in this conflict. However, some were also actively engaged in the conflict as protesters, which qualify them as primary parties. In this sense, the Liberian women (WIPNET) gradually evolved from a secondary to major party.

Issues

The primary point of contention was the control of power and natural resources. Both the elites and the poor demanded a fair share. The conflict in Liberia dated back to its foundation as a free state due to high tensions between new settlers from the U.S. and indigenous people (Dupuy & Detzel, 2008; Sawyer, 2005; Souare, 2010). However, there were also external factors that were exacerbating the reoccurrence of civil war, including imposed international peaceful settlements, power-sharing among rebels, and negligence of the needs of civilians (Boas, 2009; Call, 2010; Mehler, 2009). At the end of the first Liberian War, the NPP was in a greater position of power and wealth. The masses elected its leader Charles Taylor for fear that he might use his resources to destabilize the country (UCDP, 2011; Kugmeh, 2007).

Positions and interests

In negotiation, positions are preconditions that the parties *say* they want. This is a stand taken by the parties about what should or must happen; however, it has nothing to do with what they wanted out of the negotiation. In Liberia's 1999-2003 civil war, the civilians and three major parties to the

conflict had divergent positions. For the rebels, peace in Liberia was possible only when the leader of NPP – President Charles Taylor stepped down from power. Both rebel groups indicated this position as a precondition to come to a negotiated settlement.

On the contrary, the NPP, particularly the president, had a strong position to keep the presidential power (Hayner, 2007). The third parties, mainly the women civilian's position, was a cessation of the war and peaceful settlement of the conflict. All of these positions contradict, and it was difficult for parties to negotiate on these positions.

Unlike positions, interests are based on what the parties *want*. In other words, interests are the underlining reasons why they are fighting. The interests of the two rebel groups were that they wanted to share power, yet they cannot take power by force (Hayner, 2007); hence, they need to stop fighting and negotiate. To negotiate, the rebels had to deal with NPP leader, Charles Taylor, who wanted a cease-fire and to run for election in 2005. Third parties, mainly civilians, wanted peace because their day to day life was at stake.

Theoretical Framework

Negotiation theories

Negotiations are one way of resolving conflicts between groups with different positions and wants. Most civil wars that don't lead to one winning faction are resolved through negotiations and mediations. These negotiations, while they include the main conflicting parties, do not include different groups who will be affected by the outcome of the negotiations. Negotiation theories explain these parties, their role, and the effect of negotiations. The following section examines these concepts.

Audiences: constituents and bystanders

Lewicki et al. (2006) classified audiences into two categories. These are constituents and bystanders. Constituents are individuals or group/s who appoint others to negotiate on their behalf. On the other hand, bystanders include individuals or group/s that despite having a stake in the negotiation outcome are excluded from it. According to scholars, one group may assume both roles simultaneously. Audiences perceived as impartial could bring forth a big difference in the negotiation process and outcome. Their mode of relationship with the negotiation team may be direct (constituents) or indirect (bystanders). In some cases, Lewicki et al. (2006) say that this relationship could slow down decision-making. Besides, the negotiator could face a negotiator dilemma, which is satisfying the demands of his constituency while making a concession.

Power

Depending on the context, power has different meanings. Lewicki et al. (2006) defined power as “capabilities negotiators can assemble to give themselves an advantage or increase the probability of achieving their objectives” (p. 183). This definition indicates why power is useful in negotiation. Power could have different forms. It is up to the negotiator to use it for his advantage. *Power over* implies dependence of the coerced party. *Power with* embodies concepts of sharing and cooperation. Once a negotiator has identified the need for the power and its effect on his negotiating position, then the person can make use of it.

Use of threat

Threat is a tactic commonly applied in a distributive negotiation type. It entails forcing the other party to comply with one's concession for fear of punishment. In other words, it exercises the "if-then" statement, which explicitly draws the consequence to non-compliance (Brett, 2001). For a threat to be effective, it should fulfill two criteria (Lewicki et al., 2006). First, it is crucial to communicate the terms of compliance and the consequence of non-compliance. Second and most importantly, it needs to be credible. If a threat lacks credibility, then there is no reason for the other party to comply (Lewicki et al., 2006). In a circumstance where one party is unwilling to make concessions, power, and interest-based strategic approaches are quite effective. Threat could help in bringing the other party to comply with the demand and understand what is at stake (Lewicke et al., 2006).

Emotions and context

In a dispute, it is natural for the parties to fail to separate the issues from the person. This is very common in situations where a claim is either rejected or considered as legitimate and right (Brett, 2001). These elements of negotiation could only work when the negotiators have a separate audience who are affected by the outcome of the single negotiator. However, what will happen to the negotiators with an audience who have made themselves visible as constituents during the process but with a legitimate reason to be a constituent? In international peace settlement negotiations, the conflicting parties are negotiating on behalf of the civilians (invisible constituents). Hence, this makes the emotion of attacking opponents as enemies. This is salient when all the negotiating parties equally consider the constituents' demands as high stake interests.

As a result, this will have a significant impact on the negotiation context and the outcome. In the Liberian 2003 peace negotiation, these elements existed throughout the negotiation process. The next section assesses how women became proactive constituencies and the impact it had on the peace negotiation process.

The Negotiation Process

Pre-negotiation: The women

As members of the community at large, the Liberian women assumed several roles during the conflict. Although some women took part in the civil war, most of them stayed at home and cared for their family and children (Badmus, 2009; Fuest, 2008). Others fled to neighboring countries. Among those who stayed at home, some activists sparked the initiative to wage peace against the civil war (Boateng, 2010). The movement for peace started by a handful of women who work in an NGO called West African Network for Peacebuilding (WANEP) (Gbowee, 2009). They organized a regional network called women in peacebuilding network (WIPNET) which has a Liberian branch. This branch aimed to voice the demand of many women and Liberian civilians openly and peacefully.

In 2003, the Liberian civil war reached its apex. The rebels surrounded Monrovia. Despite this and international pressure for negotiation, Charles Taylor rejected the call for negotiation. Under the WIPNET banner, the Liberian women made a decisive effort to convince Taylor to seat at the negotiation table. What could they possibly have done to change his mind? This is a good starting point to assess women's role in untangling the pre-negotiation impasse.

The push from different directions

Taylor's refusal to come to a peace table became intolerable for the ECOWAS, the AU, the Liberian Inter-religious Council, and the women. These parties had a stake in resolving the conflict peacefully. Most importantly, the women wanted to lead normal lives. This urge led them to confront Charles Taylor and rebel groups directly to halt the civil war unconditionally (Gbowee, 2009). Before they reached this fit of courage and influence, they applied several tactics to concentrate their voice at one point and command attention. This required passing several obstacles. First, they bridged the religious differences between them. They identified the most influential women from both the Muslim and Christian sects. It did not take these women long to recognize their common interest. The answer to the question, "Does a bullet know a Christian from a Muslim?" was evident to them (Ekiyor & Gbowee, 2005). This unity brought critical mass in forging web-like strength. As a result, it bestowed their campaign popular support from all women despite their religious backgrounds.

Once the women were united, the next step was including the men. Each woman took home an assignment of convincing her spouse to stand for the cause. Noting the possibility of negativity, they made sex-strike against them for two years (Gbowee, Interview, 2011). This was not easy for most women in the rural areas because uttering the word itself, leave alone openly practicing it, was a taboo. The implications on the patriarchic family relation were also dangerous. Hence, they needed to provide a reason that can co-opt the men into their nonviolent strike. Thus, they co-opted them by stating that the Holy Book (the Bible and Kuran) did not allow intercourse during a time of fasting and praying for peace (Ekiyor & Gbowee, 2005). These tactics have two meanings. First, the women used their gendered role to solicit their partner's voices to the mass action. On a second note, however, this tactic pushed them to endorse and reinforce the discriminatory gender roles the Liberian society has given them. Nevertheless, taking the context they were in their tactic is justifiable as the *Best Alternative Negotiated Agreement* (BATNA). Moreover, this tactic is also a hardball tactic, which is context-specific.

Once they secured unity, support, and cohesion at the family level, they marched to the streets and confronted the real perpetrators. However, they had to orchestrate a peaceful protest meticulously in a way that does not provoke the parties to violence. The first step was choosing a premise. They choose a street corner where the Liberian leader drives through to work every morning. This allowed them to send non-verbal message repeatedly. Their white shirts and peace chants penetrated the limited attention span of the president. Gradually, their repeated appearance in the streets paid off slowly. The president invited them to his palace compound and agreed to negotiate. This taught them the value of perseverance (Pollock, 2007; Press, 2010).

The cost of war

Toward the end of the civil war, both LURD and MODEL advanced to the capital city of Liberia. According to Hayner (2007), this scenario was very challenging for both the rebels and the government. For the rebels, it will make them responsible for forcible regime change and hence make their action illegal. Besides, the forceful regime change was feared; it would create a vacuum in the leadership. On the other hand, for Charles Taylor, it will be a significant loss. Hence, accepting a peace negotiation was a necessity for both parties, and they agreed to resolve the conflict peacefully in 2003 (Hayner, 2007).

During the negotiation

Although twenty-one parties involved sat at the negotiation table, as mentioned earlier, the main parties were only three (NPP, LURD, and MODEL). Charles Taylor created the rest to gain the upper hand in the negotiation. Several participants took part as audiences and international observers (the US government delegates, for example). Women from Monrovia and Liberian refugee in Ghana were also actively engaged in the peace process. These women, organized under the WIPNET, were making their presence noticed by showing up every single day of the peace negotiation (Hayner, 2007). Their main goal was to voice what they demand from this negotiation, posting signs of their plea. What could be their statuses?

Their presence was not through an invitation or delegation from either the negotiators or mediators. They made themselves part of the negotiation process, and as a result, many unexpected events unfolded throughout the process. Seven women delegates of the mass movement traveled to Accra, Ghana to follow the peace talks. These women mobilized the Liberian refugees in Ghana to accompany them to the peace negotiation (Gbowee, 2009). There were over 200 women dressed in white t-shirts and holding placards which state: “We want peace no more war,” since day one of the peace talks (Pollock, 2007).

Tactics of the women

The women, wishing the conflict would end soon, pushed the signing of peace agreement and continued their non-violent protest relentlessly. Contrary to their wish, the parties could not reach a negotiated settlement within six weeks. This created frustration and anger because of what was happening to their families and friends back in Liberia. The civil war still was taking the lives of many innocent civilians every single day while the negotiation was taking place. To their dismay, the parties were falling into deadlocks on issues that were not relevant to the governed. These issues were mainly about power and wealth sharing (who gets the power and wealth of Liberia) (Disney, 2008).

Later on, they signed the cease-fire agreement with a clause that stated the exclusion of Charles Taylor from the election. However, the ceasefire was not effective right away. Despite several impasses, the women made everyday appearance sending a clear message to the negotiators and the international community. Their main message was that women demand an unconditional ceasefire and a lasting peace with no delay. This created its own context for the negotiation process. Initially, the women were there as bystanders from the negotiating parties viewpoint because they were considered the outsiders who had no stake in the negotiation. For instance, one of the five women who was involved in the negotiation process representing the conflicting parties told the women not to expect her “to sit on the ground and eat lunch with them” (Morgan, 2011).

The women who were trying to show the parties what their needs were, who did not have any rights to get information about the peace process, stayed for six weeks. As time went by, they realized their place as bystanders was taking them nowhere but changing the issue back home into crisis. This was because of the violence that was still going on in Liberia, causing death and insecurity for the civilians they represented. Hence, their demand needed a timely response while the parties were only negotiating about power and wealth sharing. This had nothing to do with what the people of Liberia, specifically people at the grassroots (who had no say either on the peace negotiation or in the civil war) needed most at that specific time. Once they realized their nonviolent movement as bystanders were not making any difference, they decided to use another tactic.

Blockage as power over

Once the women saw that the parties were wasting a lot of time, they protested their discontentment by forming a body chain and blocking the negotiators from getting out of the conference hall. Their commitment was to force them to sign the peace deal. However, this commitment of not moving away from the doors was not good enough to threaten the negotiators to comply with the demands of the women. Hence, the response was, “you need to move because you are obstructing justice” (PBS, 2008). This was a turning point for the women's leader, who became so emotional and started to challenge them right upfront. Her response was filled with threat.

Threat

The women's leader, disappointed by the response they received from the authorities, made a short statement that she will undress if they fail to reach an agreement. This statement could seem very lame because it indicates the powerlessness of women. However, their weaknesses which include being women, illiterate, and weak made a significant impact on their negotiating capability or source of power. This power enabled them to have a good bargaining position or commitment to seek out what they are expecting of the negotiation. Besides, this statement was a threat because it had all the three elements of an effective threat in negotiations. In this case, the women's stance was specific in that they demanded there is an issue that needed prior attention, which is the peace of the Liberians. This targeted the overall negotiation process. Moreover, the statement was credible, and at the same time, it has a consequence. The consequence was culturally specific that they all believed it is inappropriate to let mothers undress in public.

As a result, the mediators approached and asked the women's leader Leymah to take part in the negotiation and add other women (Disney, 2008). However, the leader refused to be co-opted by this offer. As a result, this opened a venue for them to be constituents for both negotiating parties. As they were neutral, constituents for all parties were coming and asking them their say. This, in reverse, created a negotiator's dilemma, which in this case was not difficult to reconcile the needs of their common constituents with the concessions they have to make in the negotiation.

Conclusion

The 2003 Liberian peace settlement ended the 14-year-long civil war. Several parties participated in the peace process, mainly top-level leaders. This settlement, like many other international peace negotiations, did not include women from the grassroots. Hence, the issues on the peace table did not include the demands of many Liberians. Contrary to this, Liberian women played a significant role in staging the negotiation to the final enactment of the peace accord. This was possible through a coordinated nonviolent movement assembled under a Liberian branch of a regional network called women in peacebuilding network (WIPNET).

These women used several negotiation tactics, which allowed them to have a status of proactive constituents from mere bystanders. Their relationship with the negotiating parties was neutral, and this allowed them to be a constituent for both negotiating parties. While this was good for bringing the conflicting parties to work on their shared interests, it changed the whole negotiation context because the negotiators had to make sure they were addressing the demands of their common constituent. Thus, this

explains the uniqueness of the Liberian negotiation process. Further research is needed to thoroughly explore the *pros and cons* of this negotiation model and identify how to apply it to similar conflict situations in other countries.

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**Gendered Language as an Obscured Causal Factor of the Dagbon Chieftaincy Conflict in
Northern Ghana**

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Abstract

The Dagbon chieftaincy conflict is a dispute over chieftaincy title by two royal families: the Abudu family and Andani family in the northern region of Ghana. The conflict defied all resolution mechanisms from the colonial period to the independence of 1957. Although both successive governments and civil society organizations have devoted resources over the years to facilitate the resolution of the conflict, the conflict continues to persist. A number of factors have been adduced to substantiate the protracted nature of the conflict: the contention over the chieftaincy position by factions which is the primary cause, the ineffective intervention mechanisms to facilitate the peace processes of the conflict, and the invisible hand of modern party-politics in the affairs of the chieftaincy conflict. More important is one other causal factor which is gradually, but seriously, affecting the peace strategies of the conflict - the women use of intemperate and violent language to inflame passions in the context of the crisis. Using qualitative method of research, this paper explores how language is gendered in respect of the conflict and its resolution processes. The paper unravels, among other findings, the effects of the choice of language of women in the context of the conflict and its resolution processes. Consequently, the paper recommends appropriate use of language in conflict times and in conflict resolution processes, as well as encourages further studies on the impact of language in peace and conflict disciplines in our universities.

Keywords: Dagbon, Dagomba, Abudu, Andani, chieftaincy, conflict resolution, gendered language

Introduction

The historic chieftaincy dispute of Dagbon in the northern region of Ghana is one major violent conflict in modern Ghana (Tonah, 2012). The conflict is “characterized by wanton destruction of life and property, development reversals, [and] serious abuse of human rights” (Ahorsu and Gebe, 2011, p. 7-8). The major cause of the dispute, since the 19th century, has been a rivalry over legitimate chieftaincy title between two royal families: the Abudu and Andani families respectively (Albert, 2008; Ahorsu and Gebe, 2011). The contention boils down to who has the legitimate right to the chieftaincy position (Tonah, 2012). Though the dispute started since the 19th century, it only received scholarly attention in the 1940s when rotational method of succession was established between the two royal clans by the government. But sadly, this system failed based on the reason that parties attempted to usurp or bypass each other in ascending the throne (Brukum, 1979). Since the independence of 1957 up till date, a lot of intervention strategies have been put in place to find a lasting solution to the problem, but to no avail. Notably, the Nkrumah government of 1957–66 as well as the Mate Kole Committee of the National Liberation Council government of 1966–69 saw the need to implement and restore the rotational succession systems in Dagbon (Ahorsu and Gebe, 2011; Ladouceur, 1972; Tonah, 2012). Similarly, the Acheampong’s government of 1972–78 formed the Ollenu Committee of Enquiry which aimed at ensuring the restoration of the rotational system in the chieftaincy affairs. But this attempt, like the previous ones, also failed because of the inability of the factions to agree on the terms and conditions of the method (Tonah, 2012).

The eruption of the dispute in March 2002 witnessed yet another phase of mediation and arbitration attempts by the government, the Wuaku Commission of Enquiry, as well as the Committee of Eminent Chiefs and other interest groups who championed the cause of peaceful resolution to the crisis, but all to no avail (Tonah, 2012).

A number of factors accounted for the protracted nature of the dispute. First, the politicization of the dispute and its peaceful resolution mechanisms; Second, the weak and inefficient intervention strategies; Third, the women choice of language and utterances to inflame passions in the context of the crisis. This last factor has been overlooked in previous research on this conflict. In this paper, the geo-political and socio-cultural background of the conflict is seriously examined. This examination is meant to provide the reader the context in order to appreciate the dynamics therein. The linguistic situation in Ghana will give an overview of the languages in the country. The position of the women in Dagbon culture forms an integral bloc of the paper. The aim is to put in perspective the experiences of women in relation to the conflict and its intervention strategies. Gendered language in the paper examines the cultural connotation of language use by both sexes which has the possibility of sparking violence in Dagbon culture. Finally, the major causes of the conflict and how the choice of language by women induces the conflict will also be given attention in this paper. The main thrust of the discussion would, however, be centred on how the utterances of women contribute to the far-reaching consequences of the Dagbon conflict and its resolution mechanisms.

Brief Review of Literature

The Geo-Political Context and Background of the Chieftaincy Conflict

The protracted chieftaincy conflict of Dagbon in the northern region of Ghana is a contention

over chieftaincy position between two factions - the Abudu and Andani royal families (Tonah, 2012). Even though the dispute predates the colonial period, the arrival of the British in Ghana introduced several failed uncoded successive conventional attempts by the colonial administration to resolve the dispute in the 1930s (Albert, 2008).

At this epoch in the history of Dagbon, there was no scholarly attention given to this development until the events in the 1940s, including the death of Ya Na (The Paramount Chief) Mahama II from the Andani royal family. Per the customs of the land, his son was supposed to have been enskinned as the new Ya Na, but instead Mahama III (a contender from the Abudu family) was installed as the Paramount Chief of Dagbon (Tonah, 2012). This brought a deadly clash between the two factions. In an attempt to restore sanity and peace in the area, the British administration instituted a rotational system of leadership which allowed the contending chieftaincy title to rotate between the two families on the death of the incumbent Ya Na. But years down the lane, the Andani family felt neglected and sidelined in the provisional rotational system. This resulted in the exacerbation of the impasse which defied several resolution attempts since pre-colonial times through colonial to post-independence. For instance, successive governments, including the Nkrumah government of 1957–66, the Mate Kole Committee of the National Liberation Council of 1966–69, the Ollenu Committee of Acheampong's government of 1972–78, all attempted to restore the rotational method of succession (Ahorsu and Gebe, 2011; Ladouceur, 1972; Tonah, 2012). But all failed as a result of the inability of the contending parties to compromise (Tonah, 2012).

For years, Dagbon witnessed a relative peace until March 25 to 27, 2002, when the matter reared its ugly head again leading to the death of Ya Na Yakubu Andani II and many others. There was a swift response by the then Kufour government which instituted the Wuaku Commission of Inquiry led by Justice I.N.K. Wuaku, a retired Justice of the Republic of Ghana, to investigate the matter and make the necessary recommendation. The Commission identified several possible causes: unresolved misunderstanding of the chieftaincy dispute, the denial of the Abudu royal family to perform the funeral rites of Ya Na Abdulai IV who died since 1974 by the Andani royal family, and the refusal of Mahamadu Abdulai-Bolin La Na (heir apparent) from Abudu family to be installed as overlord of Dagbon by the rivalry Andani family (Tonah, 2012).

Furthermore, there was also an establishment of Committee of Four Eminent Chiefs by the government in 2003 to assist in the peace negotiation processes of the crisis. The Committee, after their findings in 2006, recommended a "Roadmap to Peace" (Tonah, 2012). According to the study of Tonah (2012), the Committee recommended "the burial of the late Ya Na Andani II (who died in the last encounter of the families); the installation of the regent of the late king; the performance of the funeral rites of both Ya Na Mahamadu Abdulai IV and Ya Na Yakubu Andani II respectively; and finally, the selection and enskinment of a new Ya Na for Dagbon" (p. 10). After signing a peace accord to abide by the tenets of the roadmap, the factions disappointed the Committee by their inability to abide by the terms and conditions of the peace pact (Tonah, 2012).

There were also efforts made by religious groups as well as civil society organizations to complement the government's effort in the peace processes. The National Commission of Civic Education (NCCE) in Yendi, the Regional Peace Council, the West Africa Network for Peacebuilding (WANEP-Ghana), the Catholic Diocese of Yendi Women Peace group, and the Women in Peace Movement-Tamale devoted resources in contributing to the peace campaign of the crisis.

In spite of these efforts, the conflict remains protracted. Several possible reasons explain the resounding failures. One, the ineffective conflict resolution mechanisms accounted for the protracted nature of the conflict. Second, it is blameable on the political class of Ghana. Invariably, Albert (2008) lamented that the protracted nature of the crisis is to be blamed on the elites who sacrificed the crisis on the altar of political expediency. This revelation came to light in Tonah's (2012) empirical study: *The Politicisation of a Chieftaincy Conflict: The Case of Dagbon, Northern Ghana*, which chronicles the events in the 1940s when the selection process of the paramount chief was left in the hands of the elites from both factions. According to Albert (2008) the period "coincided with the pre-independence political activities in Ghana and thus became exploited by politicians" (p. 8). The aim of rival politicians from each side was to win the favour of candidates to the chieftaincy position. Therefore, the chieftaincy position regrettably, either directly or otherwise, was influenced by successive administration since independence, "with the elite within the two factions aligning themselves with the ... political parties in the country" (Tonah, 2012, p. 7).

One other setback in the search for lasting solution to the crisis is the use of violent and intemperate language by parties in the dispute, especially by the women. The use of language by women during the crisis has alluded scholarly attention. This revelation came to light during my empirical studies on the women activities and experience in the peace negotiation processes of the crisis. In light of this, this paper seeks to examine the use of language by women which gradually, but adversely, impacted the peace negotiation strategies of the crisis.

The Linguistic Situation of Ghana

The concept of language is as old as mankind. It is central to the identity of individuals in a particular society. It is a social product which serves as a medium through which the culture of a people is expressed. Therefore, the customs and traditions, as well as the norms and values, of a society is expressed through their language. According to David Crystal (2003), language "is the repository of the history of a people; it is their identity- oral testimony, in the form of sagas, folktales, songs, rituals, proverbs, and many other practices [that] provides us with a unique view of our world" (p. 20).

Fundamentally, language is the means through which thoughts and feelings are conveyed among individuals in a particular cultural setting. It could be verbal or non-verbal means such as spoken words or gestures and signs. By studying the importance of language, one is able to make sense of the attitudes and values about people - their shared values and norms, their predominant idiosyncrasies, ideologies and belief systems, including their prejudices and biases which are linked to identity and race, gender and class, and many other categorizations that set them apart from others (Alhassan, 2014; Gal, 2001).

Language is also understood in terms of gender, and Dagbani language has a clear-cut distinction of words and expressions of masculinity and femininity. It has well-defined distinctions in terms of language and vocabulary that show the existence of linguistic gender categorization which makes other gender representations more visible and natural in Dagbon culture (Alhassan, 2014).

The differences of language use between men and women have been an issue of concern in the discourse of anthropology since the 17th century (Coates, 2016). Mostly, the differences are basically phonological (that is, sounds and pronunciations), morphological or lexical (that is, the choice of words and expressions in everyday life) (Flannery, 1946; Coates, 2016). Gender activists and feminists alike in the 1970s and 1980s have brought to light the prejudices and biases that the practice of language has

produced and perpetuated overtime. They believed that languages across various cultures are sexist – referring to the use of language or language type “that shows bias in favor of one sex or discriminates, demeans or stereotypes members of either sex” (Alhassan, 2014, p. 394). Sexist language emphasizes differential or asymmetrical forms of representation or categorization of people base on their gender (Pauwels, 2003; Alhassan, 2014). It could be in the form of exclusion of women from societal matters, including those language type that discriminate, devalue, demean and see women as insignificant sub-cultural group (Alhassan, 2014; Henley, 1987, Gomard, 1995; Romaine 1999; Ravitch, 2003).

There exist an avalanche of ethnographic research on many African languages which reveals significant differences between men and women, producing and sustaining gender prejudices and bias in everyday conversation. The differences produced are mostly perpetuated by language taboos and prohibitions (Mbaya, 2002). Yankah (1988) and Dakubu (1997) observe, for instance, unequal spatial differences and application of rules and prohibitions in communicating family or societal matters among men and women in daily language use (Mbaya 2002; Romaine 1999; Moshi 1985). Among the Oromo society of Ethiopia, men can address women by their first names. However, it is prohibited for women to address their spouses and other members of the husband’s family by their first name (Mbaya, 2002). This case is no different in Ghana, especially in many patriarchal societies as Dagbon.

Ghana is a multilingual nation with an estimated number of 80 indigenous languages spoken daily. The most wildly spoken and the government approved ones in the educational curriculum are the Akan, Dangbe, Ewe, Gonja, Dagbani, Kasem, Nzema, Ga, and Dagaare-Wali (Opoku-Amankwa, 2009; Hall, 1983). The Ghanaian culture, like other cultures, is expressed in the various Ghanaian languages. The Ghanaian political systems, economic activities, socio-cultural practices as well as the history of the people are expressed in the various Ghanaian languages (Alhassan, 2014; Sapir, 1921). This buttresses why a high level of premium is placed on the individual’s linguistic abilities - the correctness or otherwise of the language use of a person. The appropriateness or otherwise of language use by people resonates with appropriate and befitting language for men and women, and thus put in place some specific mode of utterances for each gender. This moral underpinning regarding language use by both gender justifies why a person’s character is judged through conversation (Saah, 1986).

Dagbon culture is essentially patriarchal in nature, and so men are seen as the most assertive and domineering group which further reveals in the language variation of men and women in every discourse. Whereas the language use by men is seen as assertive, firm and resolute, women use of language in Dagbon is usually considered weak, trivial and powerless (O’Barr and Atkins, 1980; Adetunji, 2010; Coates, 2016). This chauvinistic tendency further informs the basic fundamental feature of the Dagbani language which indicates male overriding dominance and female submissiveness in language use.

In reaction to this gender imbalance in language use, feminine theorists in linguistics argue that this differentiation in language use of both men and women find interpretations in the theory of dominance and difference in gender linguistic studies (Adetunji, 2010). The former establishes that women are subjugated, disadvantaged and marginalized in the use of language, and the latter sees the differences in language use as purely cultural where both sexes are socialized to kowtow to different conversational pattern and style that are deemed fitting for each of them (Zimmerman and West, 1975; Maltz and Borker, 1982; Tannen, 1990; Tannen, 1991; Adetunji, 2010).

Gender Differences in the Dagbon Chieftaincy Conflict

Even though women are considered as the weaker vessels and suffer the most during violent conflicts, some of them serve as instigators - those who induce people (especially the men) into fighting. It is very instructive to state that women, on several occasions in history, triggered conflicts and wars between nations and kingdoms. In the history of Dagbon for instance, women have sparked intermittent skirmishes among people and towns and 'officially' act as warmongers by inducing men into war through their actions and inactions. The work of the celebrated anthropologist, Professor Wyatt MacGaffey, is very instructive here. MacGaffey (2013) writes on the tragic landmark encounter between two revered kings: Naa Luro and Kalugisi Dajia in Dagbon kingdom and Gonja kingdom respectively, which was behaviourally masterstroke by an action of a woman:

The epic conflict between Na Luro [Dagbon chief] and Kalugisi Dajia [Gonja kingdom chief] in northern Ghana took place in the 15th century. According to oral tradition, it happened that Na Darizegu who ruled Dagbon before Na Luro was killed and burnt by the Gonja chief. So, Dagbon had no Paramount chief for many years and eventually Na Luro was enskinned as chief of the kingdom. His maternal uncles came to congratulate him. As customs demanded, he tasked Koyibga (one of the wives) to cook for the visitors. The wife failed to do so and that prompted him to beat her up. Consequently, the wife remarked that food should not be his concern; he [the chief] should rather be concerned about avenging the death of Ya Na Darizegu [his predecessor] whose death gave him [Na Luro] the opportunity to become chief. Angered by this remark, the chief against all odds went to battle against Kalugisi Dajia and defeated him; but died also on his way home because of the deeply sustained wound by the spear of his contender. (pp. 43-44)

The authenticity or otherwise of the above scenario is verifiable. On the one hand, the fact that Dagbon eulogies/praise singers in appellations make reference to this historic event makes it relevant, and thus historically founded in Dagbon. On the other, the fact that this epoch has direct bearing on the current study call for more research on people and the language use in crisis times. In this current study, therefore, a link is drawn to establish the choice of words by women from both sides of the Yendi chieftaincy feud of Dagbon, and how these utterances are implicated in the protracted state of the conflict, thus adversely affecting the peace negotiation strategies of the crisis.

The Dagbon and Dagomba People

The Dagomba people are the microcosm of the Mole-Dagbani ethnic group which comprises the people of the Voltaic states: the Nanumba, Mamprusi, and Mosse people in Burkina Faso (MacGaffey, 2013; Kwame, 2016). The Dagomba people are one of the most dominant ethnic groups in Ghana and for that matter northern Ghana. Even though they are predominantly located in the northern region of Ghana, they are equally dotted all over the country due to migration, inter-cultural marriages, formal job transfer, and the desire to seek greener pasture elsewhere in the country. In terms of demography, the 2010 Ghana Statistical Service (GSS) survey concludes that there are over two million Dagombas nationwide (GSS, 2010).

The Dagbon state is the traditional home of the Dagomba people. As part of the colonial legacies, the Dagbon kingdom is divided into western Dagbon, with Tamale as cosmopolitan city and the administrative region of the entire northern region and eastern Dagbon, with Yendi (which is about 97kms east of Tamale) as the traditional capital as well as the seat of the *Ya-Na* (the Chief with Absolute Authority), who doubles also as the Paramount Chief of the Dagbon kingdom (Awedoba, 2009; Kwame, 2016). According to the GSS 2010 population census, Yendi has a total population of 199,592 (GSS, 2010) and covers a land mass of about 4,087.2km.

In territory wise, Dagbon state is next to Gonja traditional area in northern Ghana (Knusen, 1994). Martinson (2002, as cited in Awedoba, 2009) reveals that a total of 8,082 square miles of the land mass represent Dagbon territorial sovereignty.

The socio-political system of Dagomba is hinged on kinship system where patrilineal descent system is practiced, making it an absolute right for sons to inherit their fathers' positions (Knusen, 1994). They practiced the acephalous system of leadership where there is an absolute power vested in one central figure who sees to the affairs of the kinship group. Predominantly, marriage system is traditionally polygamous.

Historically, the Dagomba practice the indigenous African traditional religion even though the Islamic faith has now taken over virtually every aspect of people's life. About 60 percent of the population practice the Islamic religion (GSS, 2010). Writing on the impact of foreign religions on the indigenes, Abdul-Hamid's (2010) studies on the influence of Islam in Dagbon reveals that "less than 10 percent of the Dagomba population still refers to themselves as traditional believers" (p. 3). He asserts further that some of the African traditional religion practitioners combine Islamic doctrines and rituals into their spiritual lives and that alone indicates the level of influence Islam has on the entire culture of the Dagomba people. Yet still, an insignificant percentage of the people profess the Christian faith.

In terms of occupation, more than half of Dagomba's population live in the rural settings and depend largely on the environment especially agriculture and other natural resources as their major source of livelihood. They cultivate crops such as maize, millet, guinea corn, yam, and so on, and rear animals such as goats, sheep, cattle and poultry birds. Dagbon is in the heart of the savannah vegetation region with scattered short tress and tall grasses. The land contains trees of economic benefits, including dawadwa, baobab, shea nut, teak and others.

The Dagomba speak Dagbani or Dagbanli, which is a fraction of the Oti-Volta sub-cultural entity of umbrella Gur languages of the Niger-Congo language family of sub-Saharan Africa with over two million native speakers nationwide (Olawsky, 1996; Hudu, 2010; Alhassan, 2014). The Dagomba language, just like any other language worldwide, is the foundation on which culture is transmitted down to the next generation. It is a practical tool that brings people together. Predominantly, language functions as a two-edged sword. In other words, language in whichever shape or form can either build and mend or break relationships, and the Dagomba language is no exception. In Dagbon, the use of intemperate language to induce or instigate violent conflict by women is historically founded and significant for our appreciations of the Dagbon crisis (MacGaffey, 2013). It is important to state that, among the major causal factors of the crisis, other factors contribute significantly to the protracted nature of the crisis of which the use of intemperate and violent language by people especially women have alluded scholarly and peace practitioners' attention. Consequently, this paper is purported to theorize and conceptualize the language use by women in the Yendi chieftaincy crisis of Dagbon.

Gender Differences in Dagbon

The leadership and political structures of the Dagbon kingdom, like others in the other parts of Ghana, have women assuming complementary responsibilities to men. The women involvement in the body politics, the economy, the family, and the entire society has been part of the Dagbon culture since time immemorial. Even though modernity has greatly impacted on some of these practices, the women's role within the domestic settings in recent times stands non-contestable (Oppong, 1973).

At the family level, women assist in the maintenance of the family. Unlike the matrilineal Akan groups where "women hold leadership positions and exercise authority equivalent to that of men" (Sudarkasa, 1986 p. 95), the women in Dagbon tradition rarely hold formal leadership positions. According to Christine Oppong's (1973) view on the place of women within the social structures of Dagbon, the mother or first wife (*Mmapaani* and *Walgira*) within the chief palace and ordinary homes respectively assumes leadership position within the womenfolk.

In the case of women in chieftaincy institution, there is little or no studies on women leadership in contemporary chieftaincy and political systems in Dagbon. Nonetheless, some existing research reveals interesting findings. The Dagbon culture acknowledges female leadership within the chieftaincy institution and Queen Mothers and Princesses exercise authority within their areas of jurisdiction (Stoeltje, 1997). The communities such as Gundogu, Kpatuya, Kulogu and others have female chiefs who exercise authority over their people just like their male counterparts (Boafo-Arthur, 2003; Odotei, 2006). Apart from ceremonial roles, they exercise judiciary duties: settlement of cases relative to land litigation and land use, livestock and domestic violence and divorce, and capable of punishing perpetrators accordingly (Stoeltje, 1997; Stoeltje, 1998).

Economically, more than half of the women in Dagbon depend largely on the informal sector for their livelihood and other needs. Haug (2014) reveals about 90.9% labor force as women in the informal sector. Like other societies in sub-Saharan Africa, gender division of labor in Dagbon subsistence agricultural communities is very prominent. The men are the primary producers of grains, legumes, cereals and tuber crops, while women on the other hand complement that with vegetables. Primarily, the indigenous women's vocation includes trade such as shea-butter production and petty trading, as well as food vending.

Gendered Language in Dagbon

The Dagbani language contains a lot of semantic asymmetries and expressions that designate and represent daily conversation into male and female, or masculinity and femininity. Some words and expressions in Dagbani do not only depict the biological sex of the referent, but it does connote and reveal gender asymmetries and semantically assigned derogatory representation which devalue the worth and quality of the referent (Alhassan, 2014).

In a typical Dagbon society, the word man (*doo*) and female (*paya*) do not depict or denote only the biological makeup of the individual talked about, but it conveys and carries with it gender biases and stereotypes to mean a different thing all together. So it is for several words and expressions in every day communication. For example, when a Dagomba man describes someone as being a man, it does not necessarily implies the state or the biological makeup of the person. But it does expresses the idea that the person "has shown certain qualities like courage, brawn, resoluteness, decisiveness or any of those qualities that the Dagomba believe are found only in males" (Alhassan, 2014, p. 399). Similarly,

a person who is described as a woman, *paya*, does not in any way imply the genetic composition of the referent as a female; but it does connote the character and qualities of timidity, cowardice, submissiveness, irresoluteness, and so on, which is believed to be the basic qualities of a complete woman in Dagbon culture. Here, the referent could either be a man or woman, but more demeaning is the case of a man who is described as a woman in a particular situation (Alhassan, 2014).

Again, the word *doo* (man) in Dagbani can also convey acts of bravery- a praise for an accomplishment of a task that is worth bravery or legendary. Conversely, to describe someone, especially a man as “female” implies a derogatory remark and a mockery to men who have failed to live up to the expectations and standards for men in Dagbon culture (Alhassan, 2014).

From the concept of *doo* (man) and *paya* (female), Alhassan (2014) examines the interpretations of *dotali* to include masculinity, maleness, manliness and manhood. Invariably, these terms denote the state of being a man - the ascribed qualities of the male which include boldness, courageousness, bravery, forthrightness, and legendary among other qualities, and the euphemistic reference to the male genitalia. Similarly, *paytali* also refers to femininity, womanhood, and femaleness which denote the condition of being female. On that score, the expatiation of the lexical and morphological sense of the male (*dotali*) and female (*paytali*) uncover the Dagomba conceptions and worldview of being a male or female in Dagbon culture. It must be stressed also that their philosophical conception of male and female or masculinity and femininity provide the understanding of the connotative gendered language and expressions of the words *doo* and *paya* and other terminologies and expressions that come to denote masculinity and femininity in Dagbon culture.

It is therefore instructive that *dotali* and *paytali* are used sometimes to either commend or condemn the behaviour of people (especially men) in Dagbon culture. For instance, the man’s conduct or behavior may command praise or commendation if it shows or proves an act of “*dotali*”- including agility, bravery, forthrightness, aggressiveness, and virile among other expected qualities of a man. On the other hand, the male conduct or behavior attracts communal disapproval and condemnation if it is deemed “*paytali*” (feminine) – that is, cowardice, soft-spoken, submissiveness, tenderness, and compassionate among other qualities that are deemed feminine.

Alhassan (2014) concludes that the words *dotali* and *paytali* exemplify two separate but related concepts and expressions which produce and sustain a semantically assigned derogatory gender roles differences/specializations, and seek to devalue the worth and quality of the referent in Dagbani. Also, the idea of *dotali* and *paytali* indicates the subjective and stereotypical qualities and abilities assigned to the various sexes in Dagbon culture.

(i) *Reference to the roles assigned to the two sexes*

On one aspect, the interpretation of *dotali* stresses the gender roles assigned to individuals based on their sex. *Dotali* in this sense implies a responsible man - the man who can guarantee the safety or protection of his family by providing food, shelter, clothes, health care and other necessities of life. On the other hand, the conceptualization of *paytali* in terms of gender roles acquisition and specialization reveals assigned qualities of responsible woman who cares for the home by cooking and fetching water, sweeping, and nurturing the young ones. This role division inform the ubiquitous expression of division of labor in Dagbon society (Alhassan, 2014)

(ii) *The qualities or behavior they believe to be ingrained in males or females*

On another angle, *dotali* and *paytali* emphasize the expected character disposition of both male and female where *dotali* implies courageousness, fortitude, virile, confidence, combative, and so on, and *paytali* indicates squeamishness, qualmishness, timidity, weakness, emotional, and so on. From this discussion, we can derive the “sense that the words *do* and *paya* assume the additional meanings of ‘a brave or strong person’ and ‘a weak or cowardly person’” (Alhassan, 2014, pp. 399-400).

From the above review, it is seen that in Dagbon tradition, women do not play any roles in societal matters in the open, including conflict management. They are seen as weaker vessels of the society, and are therefore debarred from being heard because their contribution is considered insignificant. However, women use their marginalized position to their advantage, especially in the Dagbon chieftaincy conflict and its resolution processes. They are quick to manipulate and instigate men into engaging in violent activities.

The use of violent and intemperate language by both men and women have different impact and effect in traditional Dagbon society. The intemperate language used by men would result in less violence than that of women. The reason being that men (in Dagbon culture) are by nature seen as combative, fearless and courageous, and so attitudes of violence are considered normal in the character disposition of men. Accordingly, a man would go any length in defense of his masculinity if tagged in any behavior that is deemed feminine – including cowardice, timidity, submissiveness, and so on. The belief is that such a man is reduced in value and made less important in matters of society.

Also, women sing with indirect speeches, use proverbs and provocative languages, and spread rumors easily during chores at home, at the market square, and with the use of body language (eye contacts, walking style), and so on. The use of provocative songs and jargons, and other related utterances have the tendency of instigating violence, especially when these are directed toward men. The men would want to justify and defend their masculinity as people with absolute authority over the household.

Nonetheless, women also know the kind of language to use to speak to men in crisis times. They have the ability to calm down nerves of armed men. They have the natural propensity to convince and speak directly to the heart in order to salvage crisis in the society. Hence, this must be explored to harness women’s talents in conflict management and resolution in Ghana, Africa, and all over the world.

Methodology

This paper is borne out of my post-graduate *Thesis* in Development Studies. The research was carried out using qualitative research method. The aim was to emphasize the value of depth over quantity and work at delving into social complexities, in order to truly explore and understand the interactions, lived experiences, and belief systems that are part of individuals and institutions in relation to the chieftaincy crisis of the area (Ridwan, 2016). In this regard, my main aim was to understand the social reality and worldview of the women in the conflict situation.

Thus, in generating data and creating knowledge with participants, about 15 separate interviews were conducted, including the women Chiefs of the area. Also, a number of institutions that mattered in the conflict resolution processes were contacted. These were the Nation Commission for Civic Education (NCCE), the West Africa Network for Peacebuilding (WANEP), the Regional Peace Council, and the Catholic Diocese of Yendi Women in Peacebuilding Group and Women in Peacebuilding Movement-Tamale. The interviews were recorded and transcription was done manually.

Inductive content analysis was applied in the discussion of findings. For the purpose of this paper, data emerged out of the conversation I had with the women at the research site. Theoretically, the entire study examined the contribution of women in Yendi, and for that matter Dagbon, in the peace processes of the chieftaincy crisis of the area. However, this article hinges on the use of language by women as a causal factor in the crisis and its resolution mechanisms as theoretical perspective.

Discussions and Findings

The Yendi chieftaincy crisis, since colonial times till now defied every resolution attempts by successive governments and other interest groups. The reasons for the protracted nature of the crisis are not far-fetched.

The Major Causes of the Chieftaincy Crisis

Fundamentally, the main cause of the on-going crisis is the contention between the two main families - the Abudu and the Andani respectively over chieftaincy title (Tonah, 2012). It was an attempt by one family to usurp the chieftaincy title to the detriment of the other. Brukum (1979) confirms that the prolonged nature of the conflict results from unacceptable procedure in choosing traditional leaders or an attempt by one faction to take over the position from other contenders. The governments' attempts to resolve this issue, among others, called for the rotational method between the two divide in order to maintain sanity in the sacred chieftaincy institution in Dagbon. It is regrettably, however, that this mechanism could not stand the test of time as parties accused each other of machination and scheming to wrongfully obtain the contending chieftaincy title.

Also, the invisible hand of modern politics is believed to have done more harm than good in the conflict and its resolution processes. The influence of party-politics in the feud is traceable to the system of *indirect rule* by the British through which the colonies were ruled through local chiefs, and this regrettably laid the foundation on which modern party-politics got married to chieftaincy affairs as in the case of the Dagbon crisis (Ladouceur, 1972). Since the independence of 1957 up to date, Albert (2008) observes critically that the Dagbon issue has been a theatre of political gymnastic in the history of Ghana. For instance, apart from the major two political parties (the New Patriotic Party and the National Democratic Congress) aligning themselves to the factions in the disputes - Abudu family (pro-New Patriotic Party) and Andani family (pro-National Democratic Congress) -, every national election was an opportunity for the contending candidates to exploit the two clans in the dispute for political gains. In the words of Alex Akurgo (2010), the Dagbon case was an altar on which politicians sacrificed the dispute and its resolution mechanisms for political merits. Accordingly, the creeping of party-politics into chieftaincy institution in defiance of the constitutional provision to remain neutral makes the dispute and its peaceful resolution difficult if not impossible in the area (Deflem, 1994; Crook, 1986; Van Gyampo, 2008).

Again, the ineffectiveness of the resolution strategies is another observed concern. For instance, injustices in court rulings pertaining to the resolution of the crisis is also identified as one plausible cause of the unending feud. Participants reveal impartial justice delivery as something that threatens the peace negotiation processes of the area. When one party feels denied in terms of justice delivery, they would disregard the law with impunity as a way of registering their displeasure. With this attitude in justice

delivery, Agyekum (2002) confirms that ‘The Yendi Chieftaincy Trials of 1987’ which was aimed at bringing perpetrators to book failed in the implementation of judgement, and that gives reasons for more atrocities to be committed with impunity. Similarly, the Mate Kole Committee of 1966-69, the Ollenu Committee of 1972–78, the Wuaku Commission of Inquiry, and the Committee of the Eminent Chiefs of 2002 and 2003 were all failed attempts by the government to resolve the conflict.

Gender Differences Conflict and Evidence in the Dagbon Chieftaincy Conflict

The contribution of women in the peace negotiation processes of the Dagbon crisis cannot be overemphasized. This to a larger extent, underscores the role of women in conflict management and resolution at both the local and national levels in many parts of Africa and beyond (Gbowee, 2009; Maoz, 2009; Taylor, 2001). The women, like their Liberia counterparts (Gbowee, 2009) embarked on rigorous peace campaign missions amid peace seminars and workshops to tell their own experience in the search for lasting solution to the crisis.

Undoubtedly, many studies have revealed the efforts made by women in peace missions, and how their motherly propensity could privilege them to lobby and appeal to the most aggrieved parties in conflicts into peace talks (El-Bushra, 2007). Ajodo-Adebanjoko (2013) observes the following:

when the MARWOPNET delegation [Mano River Women’s Peace Network, a local peace organization that coordinated peace programs between Sierra Leone, Guinea and Liberia] went to Guinea to convince President Conte to come and sit at a table next to Charles Taylor, the President answered to their offer: ‘What man do you think would say that to me? Only a woman could do such a thing and get by with it’. He finally accepted to participate in the summit admitting: ‘Many people have tried to convince me to meet with President Taylor, [but could not succeed].

Your commitment and appeal have convinced me. (p.11)

The above scenario (among others) reveals the power of the woman’s tongue in peace talks and conflict resolution. Nonetheless, women could also contribute greatly to resolving the prolonged conflicts in many parts of Africa and beyond, and the Dagbon crisis which is the focus is just one example.

The use of violent and provocative language by women during the Dagbon crisis is a typical case in point as this adversely affects the peace negotiations of the conflict. In one of the interviews, a participant shares her experience about an inciting comment by a woman that led to the death of the husband during the 2002 deadly encounter between the two factions when the husband escaped home.

What are you coming back for? When your colleagues are defending the Chief at the palace. What you are interested in is my vagina! Come for it; I’m here! That is what you know! Your colleagues have gone to fight; I didn’t know that I have been married to my fellow woman, I wish I was born a man. (Anonymous, 18 July 2016)

This was in reaction to a husband who fled the chief’s palace when the situation became unbearable. Sadly, the ego in men could not stand this disparaging remarks. The husband, in an effort to prove his worth as a man, went back and unfortunately was killed. Further discussion with this woman revealed that nobody from the husband’s family is ready to assist in the upbringing of the children.

In Dagbon, just like in some other patriarchal societies in Africa, men hate attacks on their personality especially when the attack is motivated by a woman. They will do everything in their capacity to defend the status quo. Consequently, being aware of this weakness, the women exploited this to their advantage in their utterances in both crisis and peace moments. In another interview session, a key informant explains the language invoked by women during crisis period which sometimes cost the lives of their husbands. This is in reaction to a situation where men wouldn't naturally like to participate in disputes:

Which of the men in this house could lend me [his] penis so I can go out and fight! I didn't know we are all women in this compound; what they [men] are interested in is the vagina! When other men are out there fighting. (Anonymous, 2 August 2016)

When this remark gets to the targeted victims, the reaction has always been to defend their position as men of the house by taking up arms to fight. Regrettably, some of these men are killed in the process of proving their worth. A participant shared another practical experience during the Yendi crisis in 2002:

When the situation became so critical during the encounter between the two families in 2002, one man had to withdraw and go back home. On his arrival, the wife asked if he was coming home for food when the other fighters were defending the chief at the Palace. He angrily went back and was killed. (Anonymous, 14 August 2016).

This explains MacGaffey (2013) findings on the episode of the historic encounter between Na Luro [Dagbon chief] and Kalugisi Dajia [Gonja kingdom chief] during the tribal wars in the 15th century Ghana. In the same context of food, the former's wife provoked him into waging war against the latter. This further buttresses the fact that the use of violent and intemperate language by women to instigate conflicts in Dagbon is historically and contemporarily significant as this may help us appreciate the causes and solutions to the impasse in Dagbon.

Furthermore, the use of body language and gestures such as eye contact, mode of dressing, use of proverbs and provocative songs and indirect speeches are all employed by women to cause problems, especially during crisis times. Similarly, the idea of backbiting and spreading rumors at the river side and the market square are all factors that sustained the conflict. The excerpt below was the response from an interviewee on a question on how women induce the conflict:

The songs we sing while performing household chores are all full of messages. A message in a song could be in the form of praise or insults that can cause a fight. The same thing applies to the proverbs and the jargons we use in our everyday life, be it in the market or on the farm, at the river side and even in the compound of the house are all markers that make the search for peace in the area difficult as these make cooperation among parties difficult. (Personal communication with Anonymous, 17 July 2016)

This quotation exhibits a thorough knowledge of the negative impact of verbal communication of any kind in the society. It is understood from the response that the type of language we use in communication can either bring division or unity among people. In view of this, there is need to encourage

people to use the best form of language that would foster peace and unity in the Yendi community and throughout the Dagbon region.

Conclusion

The above discussion shows that one unique thing that characterizes the Dagbon chieftaincy conflict is its ability to defy every resolution attempts by non-state peace agents, governments and the civil society organizations. This, indeed, has been the concern for both the governments and interest groups in Ghana. In this paper, a critical reflection was made on the reasons why the conflict still persists in spite of the attempts made to resolve it.

First, the conflict remains unresolved because of the desire of the contending parties to bypass each other in order to ascend the chieftaincy position. Second, the mechanisms put in place to facilitate the peace processes have not offered the desired results, and also the politicization of the conflict over the years has posed a herculean threat to the peaceful resolution of the dispute as politicians turned to exploit the crisis for their own political advantage. Lastly, the use of provocative language during the conflict period by the different factions, especially the women, has equally contributed greatly to the prolonged nature of the conflict.

The paper examined critically how the use of language by the women in the area adversely affected the resolution processes of the crisis. It further shows that a person's choice of language can either induce conflict or help in peace processes. Consequently, the people of Dagbon, especially women, are therefore advised to use constructive discourses in their daily lives. This is believed to foster peace and unity in Yendi and the entire Dagbon region. The paper recommends further studies on the effect of language on the peaceful settlement of chieftaincy conflicts both in other regions of Ghana and other West African countries.

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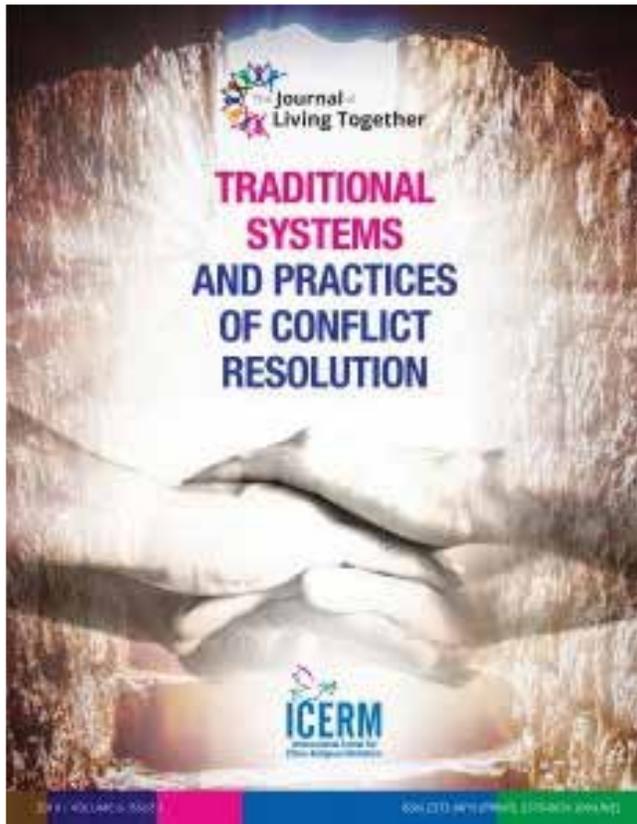
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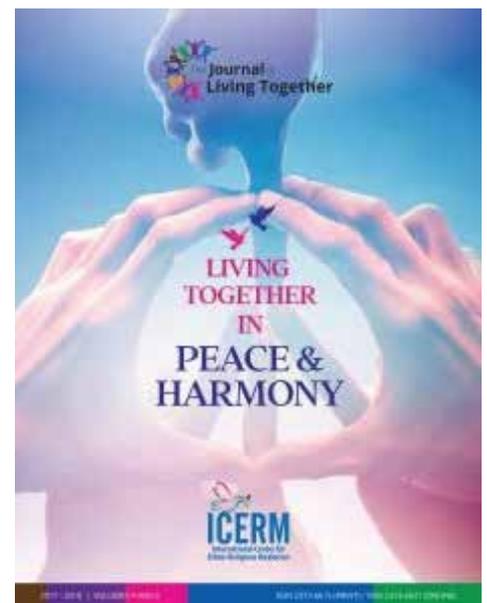
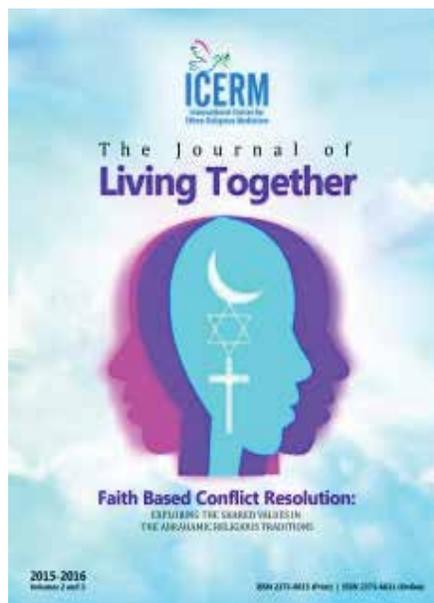
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