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Africa: Understanding and Managing Violent Conflicts

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Abstract. *In 2011, the World Bank reported that an estimated 1.5 billion people worldwide live in conflict-affected countries where repeated cycles of political and organized violence hinder development, reduce human security and result in massive humanitarian suffering. Out of this figure, the African continent is host to a significant number. Since the 1960s, the continent has been laden with varied dimensions of conflicts, orchestrated by, but not limited to, border disputes, communal/ethnic differences and political agitations caused by her colonial origin and other internal trajectories. Using document analysis conducted through systematic review, this work identifies causes and consequences of conflicts in Africa and prospects for peaceful and enduring conflict resolution mechanism. It was also identified that the response of African Union and other sub-regional organizations to the intense and chronic nature of conflict situations in the region has, over the years, ranged from apathy to reliance on short-term security measures, which has otherwise not able to proffer lasting solutions to the conflict situations. It was posited that rather than rely on heavy military operations and response-centric approaches to conflict management, there is a dire need for a robust effort at good governance and people-centred policy reforms where socioeconomic development is accorded high priority to mitigate the perception of alienation and marginalization among various groups in African countries. Besides, appropriate institutional responses by African states are critical and necessary to transforming the volatile environment to peaceful havens, conducive for development and progress.*

Keywords*: Africa, Violent conflicts, peaceful resolution, good governance.*

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Introduction

In Africa, the security landscape has become increasingly volatile and complex as a result of different actors involved. An examination

of the incidences of violence during this period reveals a multiplicity of conventional and unconventional armed conflict actors. These comprise state and non-state actors acting both domestically and trans-nationally. Furthermore, varying patterns of violence in different regions in Africa are observed, both of high and low intensity, alongside an unprecedented number of casualties. In some cases, the results are long-standing unresolved issues while in others, new sources of armed conflict have emerged to compound existing ones, exacerbating the scope and magnitude of violence. Across Africa, the various types of organized economic, social, religious, ethnic and political violence include, but are not limited to, terrorism, secessionist insurgency, inter- and intra-faith violence, sectarian strife and ethnic turf wars.

The strategic nexus and close coordination between various groups perpetuating the violence often makes it difficult to draw a distinction between the typology of violence and the motivations guiding the groups' behavior. The response of African Union and of other sub-regional organizations to the intense and chronic nature of these incidents has over the years ranged from apathy to reliance on short-term security measures. As rightly observed by Kofi Annan, these measures have included heavy-handed military operations to alleged extra-judicial killings, enforced disappearances involving the police and intelligence agencies and external military intervention since the 1960s, with the state's tacit consent (Annan, 1998). Efforts to meaningfully address underlying social, economic, religious, ethnic and political conditions contributing to the fragile environment in the African region have been negligible.

Africa's recent experience with extreme, high-intensity levels of violence has been reported in a number of prominent empirical studies. The Global Peace Index (GPI) 2014 identifies Africa as one of the regions that qualifies to be in the category of "war" having crossed the unfortunate figure of one thousand battle-related deaths in a year's time (GPI, 2014). The GPI 2014 positions Africa amongst the three least peaceful regions in the world. It suggests that, since the 1980s, Africa has been ranked as showing the fastest decline in peacefulness regionally and globally (Annan, 2001). Africa ranked first out of six regions in the 2014 GPI and remained first for the year 2015. The report further noted that Africa was among the worst performers in the world in terms of the number of armed conflicts fought (GPI, 2014).

This article critically examines the various manifestations of protracted violent conflicts in Africa and offers a contextual description of conflict dynamics. It examines the region generally. The article does not, however, address organized political or extremist violence in Africa. Although the African region experiences protracted violent conflicts, one of the items on the agenda of the African Union, and has been a perpetual battleground for a number of armed non-state actors mentioned in this article, the issue is beyond the scope of this study due to its predominant intra- and inter-state nature.

Conflict Categories in the African Region

Observably, violent conflicts in Africa and in most of the other parts too, can be broadly put in four categories, namely (i) those imposed and escalated by the global political, strategic and developmental dynamics, including the role of great powers, (ii) those inherited and strategically induced in inter-state engagements, (iii) those precipitated and nurtured by the internal political turbulence, socio-cultural fault-lines and developmental distortions and (iv) those that are caused and covered by the non-state actors. The first category includes violent conflicts inflicted by the forces and factors from outside the region. For example, conflict generated in or between the African countries as a result of the Cold War politics. The Cold War politics had impinged on Africa to deepen and sharpen various regional divides and complicate internal and inter-state violent conflicts. While the strategic imperatives of the world order dynamics have directly contributed to Africa's violent conflicts, the global developmental and ideological issues have done so indirectly and gradually by stimulating and reinforcing many internal violent conflicts, for example Libya. Globalization as a process, for instance, has, besides its many positive and creative dimensions, a negative fallout as well and that has added to Africa's woes and worries (Viggo, 2002). In the second category, violent conflicts would assume an important place. In the third category would fall all the insurgencies and ethnic/sectarian conflicts in Africa and the fourth category would cover the activities of the terrorist groups, like the attacks on Somalia, Nigeria, Mali, Chad, Cameroon, Kenya, etc., or the operations of the insurgent and criminal groups across the borders in West and North African regions.

The violent conflicts included in these categories could be those that manifest diplomatic tensions, strong disagreements and non-violent popular protests. Both violent and non-violent conflicts have a tendency to feed into each other and get transformed into each other. The science and art of violent conflict management also focus on transforming violent conflicts into non-violent conflicts and preventing the non-violent conflicts from assuming violent dimensions. Non-violent inter-state conflicts in the African region have been triggered by territorial disputes, disagreements on access to or sharing of resources like water, energy, fisheries as well as by disputes and disagreements on issues related to trade, transit and investments, migration of people across the borders, etc. The fourth category of violent conflicts, related to the operations of non-state actors, has, in recent years, attracted so much attention, particularly after the Cold War, as the nature of conflict on the continent evolved, moving away from the prevalence of border related inter-state violent conflicts to the proliferation of governance-related intra-state violent conflicts-across African borders with or without support from any established state. Underlining the importance of non-state actors in conflict studies, African Union Chairman Mr. Idriss Deby Itno, President of the Republic of Chad, said in his address to the General Assembly Meeting held in Addis Ababa in

30th January 2016:

> *Today, there is a fundamental change in the nature of violent conflicts, which is not just evolving from one stage to another, but is undergoing change as a result of shift in the character of the violent conflicts. The age of global inter-dependence has ensured the decline in violent conflicts between African states. Nevertheless, there is escalation in the violent conflicts involving non-state actors, particularly when the lines between state and non-state actors are considerably becoming vague… The cocktail of NGOs, social media and the like, as spotted in Africa, induce kinetic and physical consequences ultimately culminating in regime changes. In addition, the technology has also empowered the non-state actors to pose an important challenge to the state. The obliteration of distinction between state and non-state actors along with the punctured boundaries of state sovereignty has created new situations demanding novel perspectives* (AfricaNews.com, 2016).

The categories of violent conflicts identified above are analytical and therefore, the violent conflicts thus generated do not necessarily remain confined to any single category in their practical and real-life manifestations. More often, it is the spill-over of one category of violent conflict into the other one that makes real-life violent conflicts complex and intricate for the states and the analysts to address. This was amply demonstrated in the Ethiopia-Eritrea war that led to the emergence of a sovereign independent Eritrea. This inter-state violent conflict was generated by the internal turbulence in Ethiopia, by the military regime's authoritarian and ruthless way of dealing with the demands of the Eritrea people of then East Africa. There are many more instances of internal violent conflicts spilling over into a neighbouring country to precipitate inter-state conflict in Africa.

The categories of violent conflicts in Africa listed above also are not represented in any chronological or hierarchical order. There is a general assumption globally, and for good reasons, that inter-state violent conflicts have increasingly given way to violent conflicts within the states (Harvey, 1995). Africa is no exception to this but the boundaries of violent conflicts should be seen as porous and not rigid in Africa and elsewhere. The trends in violent conflict types are not unilineal either. There is even a possibility that another Ethiopia-Eritrea war or even an open DR Congo conflict facing a two-front war situation would emerge (Adeyemo, 2000). Some of the most intractable and protracted internal violent conflicts in Africa, like the Boko Haram insurgency in Nigeria, Lord's Resistance Army (LRA) in Uganda, ethnic challenges in Rwanda/Burundi and the Tuareg insurgency in Mali, have been brought to an end in rather unexpected ways.

However, bringing violent conflicts to an end does not mean that they have been resolved and that their root causes have been fully addressed and eliminated. In Uganda, even after the end of the war, political resolution of the ethnic issue is awaited and the

promise of building a new Uganda, that brought Yoweri Museveni into the mainstream of national politics, remains to be fulfilled and institutionalized, though militarism and authoritarianism have been removed and a republican political order has been established. Similarly, in Mali, the Tuareg revolt has been a reoccurring in the country's history without any possible hope of permanent resolution. Cases of farmer-herders' conflicts in Nigeria, which have assumed varied dimensions in time past, have been addressed with a kid-glove which has only produced a fragile or momentary peace without any sign or assurance of a permanent truce between warring parties.

Africa's Violent Conflicts:
Regional and International Pressures

Although this article focuses primarily on Africa's violent conflicts, the region's overall security situation is also shaped, both directly and indirectly, by relations with its neighbours and the role of the external actors in the international community. It is therefore important to acknowledge this outer layer of complexity and the key external players influencing security dynamics within the African region. Studying armed conflicts in Africa is a big intellectual enterprise. In today's Africa, identifying and managing hotspots is not simply a matter of pulling out a map, spotting the wildfires and empowering diplomats to douse the flames.

To understand today's major violent conflicts and confrontations, one must recognize the various ways in which Africa's economic, social, religious, ethnic and political conditions enable them. Violent conflicts are much more likely to arise or persist when those with the means to prevent or end them will not do so (Adedeji, 1999). One may even go further than this to say that violent conflicts will persist until the political and ethnic leaders of the region and the African power system that they create, perpetuate and manage, stop precipitating or fuelling them for their strategic interests. In violent conflict studies, the questions of resource-related conflicts, power-related conflicts and human security concerns (neglected until the end of the last millennium), are gradually being taken on board but the effort and resources allocated to them are not at adequate levels yet.

Africa has earned a status of its own as an important area of focus in violent conflict studies and why wouldn't it? After all, it is a continent which has witnessed many full-scale inter- and intra-state violent conflicts, where adversaries were armed. The Armed Conflict Database produced by the Institute of Security Studies (South Africa) has been identifying many African regional violent conflicts. A large number of African region think-tanks, including those funded by governments as well as those affiliated to established universities, are involved in violent conflict studies, with two of them based in South Africa – the Institute of Security Studies and ACCORD – running a many program on the study of "Armed Conflicts in African Region" for the past ten years

(Eminue, 2004). The Institute of Security Studies and ACCORD have been computing information on violent conflicts in Africa on a periodic basis (Otite, 1999). This paper proposes to identify the violent conflict types in African region and discuss their causes and consequences.

Causes of Violent Conflicts in African States

Two major roots of Africa's violent conflicts have been their colonial legacies and turbulent processes of post-independence nation- and state-building. Three sets of colonial legacies having considerable violent conflict potential were: (i) the creation of unnatural and absurd state systems, (ii) unresolved boundaries of these states and (iii) undefined status of diversity of its ethnic and religious minorities and social groups. The end of colonial rule in Africa came as a result of a combination of wars of independence and peaceful struggles waged by African leaders. The success of these struggles ensured 'decolonisation' of African countries. However, the partition of Africa created unnatural and absurd states of Africa as many-piece entities, in all regions of Africa, separated by a huge amount of territory and boundary problems. This absurdity is still yet to be rectified years after the partitioning and so many have been resolved after fierce violent conflicts. The British colonial interests converged here with the emerging US interests that shaped the contours of the Cold War in strategically dividing the whole Africa.

The communal basis of the region of Africa, however, kept African states uncertain of their national identity and created a potentially volatile and almost perennial cause of communal violent conflicts in all the regions. The absurdity of the methods used for transfer of power was also inherent in the application of the principle of *seat-tight* syndrome. Not only did this principle make the task of building and consolidating new states in Africa difficult and prone to violent conflicts, but also contributed to the persisting source of tensions and wars between them, such as on the Burundi case (Adebayo) and most recently the case of Gambia. The colonial mind-set to keep African region divided was evident in many other forms as well.

The colonial legacy of unresolved borders also continues to keep Africa relations prone to violent conflicts. Two of the longest imperial boundaries of French colonies left unsettled were with Mali/Burkina Faso and Ethiopia/Eritrea. While the former is a major contentious issue, the latter resulted in a war between Ethiopia/Eritrea in 1952 and continues to be vulnerable to another violent conflict. The two countries signed a boundary agreement and the complicated question of enclaves of one country in the territory of another was resolved. However, both these agreements remain to be ratified by the parties or actors owing to internal political pressures. Between the late 1950s and the late 1990s, more than half of Africa's states were involved in some form of boundary-related conflict. William Zartman have explained that while some of these conflicts were resolved speedily through bilateral negotiations or third-party facilitation

(Côte d'Ivoire–Liberia, 1960/1961; Mali–Mauritania, 1960/1963 and Dahomey–Bissau–Niger, 1963/1965), others were very protracted, e.g. Ethiopia–Somalia (1950 to 1978 and beyond) and Cameroon–Nigeria (1963 to 2002) (Zartman, 2013). In the case of Somalia and Ethiopia, the boundary issue gets complicated by the changing course of Somali-inhabited Haud and Ogaden regions of Ethiopia.

It was mentioned earlier that the violent conflicts of Africa resulted from sources located outside the region, in the global political and strategic order. The more-than-a-decade-long "war on global terrorism" that has engulfed many of the African countries like Somalia, Nigeria, Niger, Cameroon, Tunisia, Libya, Kenya, etc. directly and indirectly resulted from the Western intervention in the African region. However, there was something more in terror attacks than just an act of terrorism. To say that terrorism was a collateral damage may amount to stretching the argument a bit too far, but one must objectively assess that the attacks on African states were carefully planned against the region politically, militarily and economically. The targets were not African people but the icons of Western power and dominance which African terrorist groups have been resenting and preparing to challenge.

However, the end-game in African countries and its consequences for violent conflicts in African region remains to be seen and they promise to be hugely challenging to Africa's peace, stability and long-term security. This is however not the first time that an extra-regional power's intervention or an imperative of the global political dynamics has resulted in violent conflicts in Africa. Historically and contemporarily, the DR Congo is one of the most troubled nations in Africa. Right from and after its independence from Belgian colonization, the DR Congo has been in perpetual conflict. As far back as the early sixties, the DR Congo was caught in the web of Cold War politics and thus, became the first country in Africa to witness the UN peacekeeping intervention in Africa.

Since the demise of the Cold War politics, the story of DR Congo has hardly changed. The country is yet to know peace. While many authors and scholars have written extensively on the volatility and violence that have characterized DR Congo, more especially on the poor resources governance syndrome, few of these scholars have proffered effective pathways to ensuring peace this resource-rich country. That conflict is still the costliest violent conflict to this day.

The above instances underline the important role that the Cold War prevailing global strategic system played in imposing violent conflicts on African countries. The Cold War politics had also widened and sharpened the entire African region: the case in the Great Lakes region, West Africa and the Horn of Africa divide, and made the African violent conflicts intractable. The strategic aspects of the world order have directly contributed to the violent conflicts in Africa, but its ideological and developmental aspects have created conditions that have encouraged, intensified and sustained violent conflicts in African societies. Globalisation, which has otherwise stirred up the global developmen-

tal processes and opened up several opportunities for the countries of Africa, has also induced distortions by widening inequalities, creating and sustaining poverty, enhancing consumerism, encouraging crony capitalism and intensifying cultural alienation. These distortions in the development processes have generated conditions for violent conflicts identified by the Institute of Security Studies and ACCORD Conflict Analysis Framework (Laitin, 2007). Globalisation has unleashed three explosions in the African region, namely of information, of identity and of aspirations. Political systems have not been able to cope with the imperatives of these explosions in the face of severe governance and leadership deficits. A telling example of governance deficit can be seen in the failure of the African regimes not only in leaving large social constituencies and marginalised sections ungoverned and un/under-developed but also in not rehabilitating large numbers of African people uprooted as a result of mega developmental projects like high dams, mining and deforestation.

Numerous examples of leadership failure in Africa in the recent years are evident in the failure of institutionalising democratic gains in Burundi, Libya, Central African Republic, Somalia or Uganda and thus the creation of potential for violent conflicts. In Rwanda, even years after the defeat of the mass killing, the ruling regime has failed to find credible answers to the root causes of the ethnic violent conflict. Excessive preoccupation with personal and group (party) power has been a strong reason behind the leadership failures in such cases. Struggles for power and influence at various levels in African polities have sustained and vitiated raging violent conflicts. Remember the political use of Tutsi in Rwanda, Hausa in Nigeria, as some of the typical examples in this respect.

Africa's violent conflicts are also rooted in its turbulent and unfinished processes of state- and nation-building. Unsettled social equations and political hierarchies sharpen ethnic and sectarian violent conflicts. Identity and ownership of the state- and the nation-in-the-making bring diverse social groups at daggers drawn. The unsettled national identity of some African states accentuated by the dominance of Tutsi over the Hutu and Twa social groups and South Sudan's decision in 2011 to carve itself out as an independent state by ignoring the sensitivities of the minority groups of *Africanism* and *Arabism* has been at the root of serious internal violent conflicts in these countries. In Central African Republic, the past 30-plus years of democratic evolution had to confront numerous challenges of integrating the marginalised social groups and now the surge of hitherto neglected and discriminated caste and tribal groups are putting huge pressure on the capacities of the state and its political processes. Unequal distribution of the fruits of development and the widening gap between aspirations and acquisitions of the social groups also fuel violent conflicts. In Angola, Zimbabwe, Namibia, Uganda, Burundi and Rwanda, the years of insurgency were sustained by the marginalised tribal and regional groups that are now demanding equal and respectable status, which has in turn paralysed the process of constitution-drafting and institution-building.

Africa's unnatural and open borders along with its contiguous ethnic and social spread have easily allowed one region's internal violent conflicts to spill over into the other, leading to bilateral violent conflicts. Such spill-overs have been spurred by conscious decisions of one country to employ and exploit the internal violent conflicts of its neighbouring country in pursuance of its strategic, foreign or domestic policy interests. Most of the African countries are guilty of exploiting their neighbour's predicament in this respect at one time or another. Uganda's involvement in Rwanda's ethnic conflict and the emergence of Burundi, Somalia's cross-border terrorism against Kenya and Ethiopia, Somalia's resentment over the flow of Somali refugees from Garrisa (Kenya) are well known examples of internal violent conflicts turning into bilateral and regional violent conflicts in Africa. Some of these transformed violent conflicts have also been resolved by a radical shift in the policies of the aggravating state towards the violent conflict-affected state(s) and forging cooperation to deal with the spill-over(s).

Consequences of Africa's violent conflicts

The consequences of Africa's violent conflicts are evident in the structure of its states as well as in the societies that constitute these states. We noted earlier that violent conflicts were fuelled largely by the way African states were structured after the colonial rule and these inherent violent conflicts also restructured the states of Africa. Three examples stand out in this respect. One is the obvious question of Southern Africa (Zimbabwe, Namibia, South Africa, etc.), Western Africa (Nigeria, Mali, Cameroon, etc.) and Central Africa (Central African Republic, DR Congo, Sudan, South Sudan, etc.), which has, at least temporarily, altered the boundaries of the regions. It is not possible to say, at this stage, what the eventual solution of the Africa problem would be. The question of redefining and restructuring the structures of African states as a result of its violent conflicts remains relevant.

The Western or foreign military interventions have resolved many African violent conflicts, but if the ethnic question is not resolved militarily, politically and amicably, the re-emergence of separatist tendencies in future cannot be ruled out. In Mali, the persisting violent conflicts in northern region have the viruses of separatism, though it can be hoped that Mali's resilient polity would not let these issues explode. In South Sudan, if minority groups are not integrated through a federal structure and socio-economic accommodation, it is feared by Southern Sudanese that a separatist demand would gain momentum.

There is, however, no support for minorities' separatism in South Sudan. African states are also afflicted by the separatist sentiments which are facing insurgency. Somalia's frontier province facing Somaliland continues to have strong separatist sentiments based on unresolved national identity. There is a serious debate among analysts and policy makers whether Somalia would be able to keep its unity and territorial integrity

intact in the face of multiple internal violent conflicts and religious and sectarian extremism, divided polity, economic and developmental dilemma, and isolation from allies (Obi, 2012). The uncertainty in Somalia particularly after the state has been declared a failed state may result in a violent redefining of the Somaliland state as espoused by a number of analysts (Zounmenoun & Okeke, 2012).

In addition to creating new states and altering state boundaries, violent conflicts in Africa have also changed regimes and political systems. In Uganda, violent conflict was a driving force behind the 1967 constitution, when Obote abrogated the independence constitution and introduced the republican constitution (commonly referred to as the 'pigeon-hole constitution') which granted the president the means to exercise his executive powers in a discretionary manner. Distortions in this system, resulting from the abuse of powers vested constitutionally in the executive presidency, have initiated debate in Uganda if this is the best system and whether the time has come to review and revise. Even when systems and regimes have not been changed substantially, violent conflicts have induced incremental changes in the institutions of governance, especially those dealing with law and order, judiciary and development of the social sectors. Strengthening of the institutions of national security, including military, police and intelligence agencies, has been a common feature in most of the African states. Some of the states like South Africa, and to some extent, Zimbabwe, increasingly display the characteristics of being national security states.

Conflicts have also brought violence to African societies in a big way. Many of the prominent African leaders fell to the bullets and blasts of assassins including former Secretary-General of United Nations Organisation–Dag Hjalmar Agne Carl Hammarskjöld. Deaths of innocent African people in violent conflicts and terrorist attacks amount to thousands, women and children having been subjected to indescribable human rights abuses (UN, 1999). Such widespread violence and transmission of its gory images through television into the Africa living rooms and at dining tables are adding to the brutalisation of societies. Insurgencies and violent conflicts have also made Africa a prominent place of child-soldiers. African violent conflicts have significantly contributed to the deepening and aggravation of ethnic, communal and sectarian fault-lines. Also, identity-based polarisations have further fuelled political fragmentation and instability.

The impact of violent conflicts on economic growth and social development may be a matter of debate in Africa. Many experts argue that there are examples of violent conflict areas being quarantined to let economic activities go uninterrupted elsewhere. For instance, the dynamism of Djibouti's tourism and garment manufacturing sectors remaining unaffected by its violent conflict is often being referred to in this respect. Similarly, Kenyan economy has grown impressively while still coping with internal and external violent conflicts. But these examples are not very definitive as contrary examples of the countries like Angola, Burundi, the Central African Republic, Chad, DRC,

Republic of Congo, Côte d'Ivoire, Djibouti, Eritrea, Ethiopia, Ghana, Guinea, Guinea-Bissau, Liberia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Sudan and Uganda, recording poor growth under the impact of violent conflicts as well.

There is however no denying the fact that violent conflicts escalate opportunity costs in the affected countries or even in other countries, especially for those that have trade relations with the affected states. In Mali, it has been publicly admitted by the leaders that the extremist insurgency is a major setback to Mali's growth. With the ending of insurgencies in some parts of Africa, prospects of growth have brightened. Leaders of all the regions in Africa have also repeatedly stressed that peaceful relations between them are necessary to maintain the momentum of growth and development. It is acknowledged in Africa that one of the greatest obstacles to the success of regional cooperation under Africa Union has been the violent conflicts in the Horn of Africa. As bi- and multilateral trade channels are being activated within the region, it is hoped that regional trade will grow to the advantage of all the member-countries. Violent conflicts and regional rivalries within the region are also obstructing the prospects of their mutual cooperation, which, if facilitated, can in turn help all other regions (Southern African Region, North African Region, Great Lakes region, West Africa and the Horn of Africa) fight their internal insurgencies better.

Violent conflicts in Africa have impinged adversely on the autonomy of the region and its countries. They have made the African states porous and vulnerable to external interventions and influences. Some of such influences have been both benign and destructive. The induction of Cold War in the region has been mutually reinforcing and is well documented (Trevor, 1999). Thus, we find that the consequences of violent conflicts in Africa have been diverse and damaging. These consequences have affected all the vital sectors of life in the region such as security, stability, political order, economic growth and development, social harmony and stability. Africa's people need to learn from these violent conflicts and commit themselves to resolving them in the interests of their own security and well-being.

Are there any prospects towards African Conflicts?

As opined by Meles Zenawi, a former prime minister of Ethiopia, violent conflicts are inherent in human nature as long as people are going to live in states and societies (Zenawi, 1999). Africa cannot be an exception in this respect. Almost all the causes of African violent conflicts listed in this paper, ranging from historical legacies to turbulent state- and nation-building processes and distorted developmental dynamics, continue to be relevant. Even when one set of violent conflicts is resolved, another set appears, maybe in a somewhat transformed or redefined form, to be dealt with.

The root causes of violent conflict in South Sudan as well as in Burundi remain unresolved and unmitigated despite efforts to put in place confidence-building measures.

In Somalia, Al-Shabaab question remains unresolved and the spill-over of Somalia's internal identity crisis and dominance of army in politics generate instruments of violent conflicts like cross-border terrorism that continue to thrive, undercutting expressions of peaceful intent. Any repeat of a Garrissa, Kenyan-type cross-border terror attack, can trigger passions and political moves leading to an unmanageable situation. The rise of Boko Haram in Nigeria, Cameroon, Niger and Chad and Jihadi extremism in Mali may create conditions for such an attack.

Ethiopia and Somalia both have stakes in peace and stability so that their growth dynamics can go forward uninterrupted. Ethiopia's deepening engagement on territorial disputes with Somalia, hopefully, will keep it keen on having peace and understanding with Kenya. Ethiopia's new leadership has also laid greater emphasis on its perceived core interests in Ogaden where war drums are sounding louder than ever. Despite the imperative of keeping the East front peaceful and stable, Ethiopia seems less prepared to resolve the border issue and is worried about the possible firming up of strategic partnership between western and Arab world, impinging on its interests in the East African region. In such a situation, Ethiopia is making moves to disturb Somalia either directly, on the pretext of border and Ogaden district issues, or indirectly, by encouraging *Cote Francaise des Somalis* (now Republic of Djibouti) to keep Somalia engaged on its western front cannot be ruled out, howsoever remote it appears. It has been noted earlier that prior to colonialization, Somalia's strategic equations with the USSR and the USA, during the cold war era, was a major factor prompting Ethiopia to undertake the border offensive.

Inter-state violent conflicts within Africa, barring the Ethiopia-Somalia Ogaden, may be ruled out for any foreseeable future. There could be tensions on a number of other issues from the spill-over effects of internal conflicts to the sharing of resources (common rivers, territorial waters and extended maritime economic zone, trade and investment-related issues, human migration, etc.), but outright war looks nearly impossible. However, internal conflicts within African countries do not seem to be coming to an end in a foreseeable future. Africa's insurgencies (in Somalia, Mali, Cameroon, Libya, Niger and Chad) seem likely to persist. The African region is resilient in dealing with identity challenges and has also shown promise in coping with ideological insurgency, but the task of coordinating state actions in a divisive and federal polity with highly bureaucratised state institutions is not an easy one. Tensions within Africa on the ethnic question do not seem to be dying out anywhere. In Africa, a new polarisation between the secular and sectarian forces on the question of 'war crime trials' is gradually assuming threatening dimensions. In the West African and East African regions, Islamic extremism and sectarian clashes may experience a surge and in Mali the breakaway faction of the Tuaregs continues to adhere to the concept of 'people's war'.

Capabilities of the African states to effectively manage and/or resolve these internal conflicts would depend critically on two aspects: institutionalising democratic function-

ing and ensuring a respectable pace of economic growth with distributive justice. Both these have so far proved to be formidable challenges in most of the African countries. For example, both South Sudan and DR Congo have so far failed to institutionalise the democratic upsurge witnessed in the first decade of the 21st century. It is to the credit of Burundi's elected civilian administration led by the Burundi Peoples' Party that it has completed its full term (only the third term in the entire history of Burundi so far), but the tensions among the principal governing institutions like the executive, army and judiciary seem considerably tumultuous. Reinforcing of democratic norms and economic growth will also strengthen African countries internally and will also improve the prospects of regional integration and cooperation through African Union.

Conclusions and Recommendations

Since the Balkanization and partition of Africa by colonialists, African countries have navigated a chequered military and civilian political trajectory whereby the economic growth and political development process have been interrupted time and again by competing political and military interests. Even when democratically elected civilian leaders are at the helm, key state institutions and policies appear to have been predominantly under the control of the military. Enabling the military's intervention in the affairs of government, civilian regimes in Africa have often rendered institutions as instruments for short-term solutions to deep-seated social and political problems and unrest. Long-term people-centred approaches promoting socio-economic development, equitable and just provision of human rights and conflict resolution processes to address genuine grievances of disaffected communities have generally been overlooked.

Successive military and civilian regimes have traditionally served the interests of the ruling class rather than the ruled. Corruption levels and the ineptitude of various democratically elected governments in Africa have over the years served to undermine the credibility of the democratic process itself. The military by virtue of its capacity to enforce a relatively greater semblance of law and order in the region was, for a long time, the most highly respected institution of the state. In Africa's recent history, however, there has been a dramatic reduction in the society's appetite for the militarization of politics and government. In a demonstration of this shift towards democratic consciousness across African society, the most recent elections held in African countries were the first occasions in the region's political history that an elected government, having completed a full mandated-year term uninterrupted by a military coup d'état, handed over power to a new government also elected by popular vote.

Regrettably, however, military dictatorships and civilian authoritarianism throughout Africa's history have undermined the development of robust state institutions upholding the social contract, the principle that government exists to serve the interests of society rather than those of the state and the ruling elite. The African state's unwillingness or

inability to adequately provide public goods and services, justice and security, coupled with poor socioeconomic development, have extensively undermined its legitimacy, most evident in the zones of violence identified in this study. Pervasive insecurity, ungoverned spaces, parallel legal systems, the erosion of the social contract, the acute perception of relative deprivation and ethnic, religious and sectarian fragmentation are among some of the factors challenging the African state's writ, thereby sowing the seeds of political and extremist violence and perpetuating protracted conflict. The African state's own security-centred posturing continues to spur confrontations with various groups across the African countries in the region, exacerbating the perception of alienation and victimization in many African countries affected by violence. Data suggest that during the past decade, violence has become endemic across many parts of Africa. The region's own experience suggests that if the existing conditions persist, the region could face escalation of violence, widespread lawlessness and potential fragmentation. There is a dire need for a robust effort at good governance and people-centred policy reforms where socioeconomic development is accorded high priority to mitigate the perception of alienation and marginalization among various groups in African countries. Appropriate institutional responses by the African states are critical and necessary to transform the volatile environment. Given the diverse and broad spectrum of conflicts afflicting African region, it is important to analyse and address each conflict in its own context and plan for comprehensive African state stabilization and peace-building processes entailing both short- and long-term measures.

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West Africa: From Peacekeeping to Peace Enforcement. ECOWAS and the Regulations of Regional Security

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Abstract. *The ECOWAS principle of non-interference in the internal affairs of member states included in its Charter was in line with the sovereignty of states in the international system. This principle, ECOWAS, has to some extent been kept, but the growing insecurity arising from internal conflicts in West Africa states motivated the adoption of ECOMOG as a mechanism for peace and security. The ECOMOG, in the effort to securitize the region to enable economic integration and development as major goals of ECOWAS, has engaged in several peacekeeping operations. However, the nature of the conflict from these states rendered peacekeeping operations inadequate, leading to the adoption of peace enforcement as a new mechanism for mitigating intractable conflicts in West Africa. It is in this context that this article investigates the role of ECOWAS in peacekeeping operations and its transformation to peace enforcement in the West African security complexes.*

Keywords: *peacekeeping, peace enforcement, conflict, peace and security, West Africa.*

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Introduction

The Economic Community of West African States (ECOWAS) was mainly formed based on the objective of economic integration and development, but not without political undertones. The idea of forming ECOWAS

dates back to 1964 when the late Liberian President William Tubman first made a proposal for the need of having a union to promote economic integration and development in West Africa. This attempt brought Cote d'Ivoire, Guinea, Liberia and Sierra Leone into signing the agreement in 1965. The aspiration could not produce meaningful results until in 1972 when the late President Gnesigba Eyedema of Togolese Republic and General Yakubu Gowon of Federal Republic of Nigeria decided to tour 12 countries in the region in support of the idea of integrating the West African economies and monetary policy. By 28 May 1975, fifteen West African countries signed the treaty that established ECOWAS in Lagos, Nigeria. The protocols that led to the inauguration of ECOWAS were signed in Lome, Togo, on 5 November 1976 (Malu, 2009; Okere, 2015).

Since 1975, the twin concepts of economic integration and development in West Africa have been the guiding principles of ECOWAS, though the economic integration has been emphasized more than security regulations. Indeed, without peace and security, no economic development can thrive. As Olukoshi (2001) observed, establishing the supranational organisation to generate rapid growth and development in West Africa, was based on the assumption of providing a stable and secure environment for integrating economies. Achieving the task of economic integration and development has remained difficult to attain as a result of political instability and recurrent conflicts in West Africa as responses to the bad, corrupt and weak institutional governance. The unstable nature of the sub region compelled ECOWAS to go beyond the goals of economic integration and development to include peace and security as essential requirements to achieve those goals (Bah, 2004). The ECOWAS intervention in some of the internal conflicts in the member states was as a result of the failure of internal institutional mechanism put in place to regulate security governance. This led to violent conflicts of a higher magnitude that called for extra-national solution.

The need for ECOWAS also coincided with an era in the history of Africa when most states lost legitimacy due to enormous pressure capitalist centres with their unfriendly economic policies have had on the subregion. It was also an era when the powers that are at the international level that regulates security issues were fatigued with or not interested in African conflicts. These challenges reinforced the need for an African solution to what was largely perceived as an African problem by United Nations and those in control of global governance (Khobe, 2000). In this light, the most important ECOWAS institution, the "Authority of the Head of States and Government" was mobilized by the then Chairman of ECOWAS Head of States and Government, President Dauda Jawara, to devise the modalities of ending the Liberian conflict and to determine the probable effects that the conflict was going to have on West Africa. An emergency summit was convened in Banjul, Gambia, where the Head of states and Government of ECOWAS met and devised the way out of the Liberian conflict. The outcome of the summit was the establishment of a Standing Mediation Committee (SMC) comprising Ghana, Mali, Gambia, Togo and Nigeria (Birikorang, 2013; Malu, 2009).

The Committee decided that ECOWAS should establish, under the Authority of Head of States and Government of ECOWAS member States, a Cease-Fire Monitoring Observer Group (ECOMOG) to be composed of military contingents drawn from member States of the SMC, Guinea and Sierra Leone. The military intervention in Liberian conflict on 25 August 1990 marked the formal regulation of peace and security in member states, ignoring the non-interference in the internal affairs of states within the global governance and regulations of international order (Howe, 1996; Malu, 2009; Birikorang, 2013). The pertinent question to ask is, did the transformation of the securitisation strategy from peacekeeping to peace enforcement bring effective regulations of security in West Africa? If not, what are the challenges deterring ECOWAS from achieving its goals? These questions are guides to the study of ECOWAS peacekeeping and peace enforcement as strategies of regulating security threats in West Africa.

In the attempt to respond to the foregoing, the study is organized under seven headings. The first is preceded by introduction, which is a background to how ECOWAS came about in West Africa. The second is the methodology, describing the methods of data collection and analysis of the study. The third is concerned with theoretical orientation adopted for study. The fourth conceptualizes security, peacekeeping, and peace enforcement to guide the discourse. The fifth deals with how ECOWAS, transformed from economic integration into regulating security and why in West Africa. The sixth discussed the dynamics involved in governing peace and regulating regional security, and the last contains the conclusion and recommendations.

Methodology

The documentary research method has been adopted for this study to generate information necessary for investigating ECOWAS efforts in the regulation of security in West Africa, particularly how the dynamics of conflicts in member States motivated the transformation of peacekeeping operations to peace enforcement. The use of the documentary method requires a careful and systematic study and analysis of documented sources such as written texts, visual and pictorial data (Bailey, 1994; Payne & Payne, 2004), which may be primarily based on the experience of eye-witness accounts or secondarily based on documented facts, evidence, or both (Mogalakwe, 2006; Bailey, 1994; Scott, 1990). Essentially, the data used in this study is sourced from the documented facts or evidence, a careful and systematic synthesis of data from available and reachable documents on ECOWAS and its operations in the effort to bring about sustained peaceful coexistence in West African countries as an instrument for achieving effective and profitable interstate relations.

The method of analysis adopted for this study is the qualitative method. The reason for the choice of the analytical method is motivated by the fact that the study is dealing with already documented evidences. Therefore, it requires descriptive, interpretive

and historical techniques or approaches to achieve the purpose for engaging the study (Ahmed, 2010). The use of descriptive, interpretive and historical analytical techniques is to discover both latent and manifest contents of the data, which perhaps has not received attention but are necessary for understanding the patterns or regularities of behaviour in the study of ECOWAS peace operations in the subregion. To illuminate the study further, tables and maps are used.

Toward Theoretical Underpinnings: The Regional Security Complex Theory

The Regional Security Complex theory is adopted to study peacekeeping and peace enforcement in ECOWAS operations and the regulation of security in West Africa. The regional security complex theory was propounded in 2003 by Barry Buzan and Ole Wæver. Beyond the classical security discourse, these scholars advanced the securitization theory to include regional security, particularly how regional security complexes shape regions and the interactions within each of the regions. Barry Buzan, Ole Wæver and Jaap de Wilde (1998) argue that security concerns at the regional level relate to international security, which is about how human collectivities interact in the circumstances of perceived threats. Some of the threats and vulnerabilities could be manifest or latent in nature, which often undermines the relationship between different actors in the regions. It is in this context that Buzan (1986) viewed regional security complexes as localized sets of anarchy that mirrors the international system. In the regional sense, a set of states exists on the perceptions and concerns that their security is linked sufficiently and closely together such that it is unrealistic to state that their national security perceptions are apart from each other. This conception of security creates the atmosphere for interdependence in an intense manner, excluding a set that is external to the sets of states (Buzan, 1986; 1989). Barry Buzan and Ole Wæver (2003) put it that:

> *... all states in the system are to some extent enmeshed in a global web of security interdependence. But because insecurity is often associated with proximity this interdependence is far from uniform. Anarchy plus the distance effect plus geographical diversity yields a pattern of regionally-based clusters where security interdependence is markedly more intense between the states inside the complex than those outside it* (p. 46).

From the foregoing, it is deducible that the regional security complex theory presents a situation where security of states is interdependent in an intrinsic pattern of common and conflicting interests, interconnected perceptions and interdependent behaviour. The interdependence is defined or conditioned by enmity and amity, rivalry rather than a shared interest, where the preponderance of threats or fears exist on a high level among states within a region (Buzan & Wæver, 2003). In terms of enmity, regional security actors see enemy in the others, creating the tendency towards intense level of conflict formation of the region and in term of amity, even with prevailing regional con-

flict formations, through security regime formation cooperate and mutually acceptable forms of behavior among regional security actors achieve security in their interaction, which means a community of security is formed (Buzan & Wæver, 2003). Put differently, the conflict between two states within a region shapes the security architecture of the region, because of the preponderance of manifest or latent fears emerging from such interactions. In the context of interdependence, the security architecture of states within a region, also seen from the perspective that it is collective and congruent as such, requires the collectiveness of actions against a referent object posing threats or affecting a sector in a country within the region (Buzan & Wæver, 2003). The purpose is to mitigate the tendency towards volatile relations. Therefore, a security threat is an ideational social construction build around the fact that security concerns are not usually distant from the region. The threat to security is the factor within the region between states, because of the intrinsic nature of security interaction between actors in the security complex (Buzan & Wæver, 2003).

The regional security complex theory offers an understanding of the concept of security from the horizontal and vertical planes. On the horizontal plane, security is expanded to include non-military sectors such as political, economic, societal and environmental sectors while on the vertical plane and it goes beyond the state as the main actor in international relations to include individual, social groups and humanity as a whole. Both the horizontal plane and vertical plane have the capacity to shape the security architecture of a region, to motivate security interdependence among different actors within the region to respond to the challenges (Buzan & Wæver, 2003). Security complexes exist geographically, but not necessarily between or among states, though a majority of these complexes exist within states in a region, which poses a security threat to the security of other states within the region. Therefore, adopting the strict criteria for defining a security complex becomes problematic because security complexes are understood from the geographical proximity of actors whose security interacts, acted upon by force internal to the region due to the rivalry between two or more actors (Buzan, 1991). In this context, a region is a subsystem that is distinct and significant in terms of security relations, which exist between a set of states closely locked geographically and are proximate to one another (Buzan, 1991; Buzan & Wæver, 2003).

Applying the theoretical construct to ECOWAS, it presents the supranational organisation as existing on a security complex composed of states in the West African subregion. However, the supranational organisation motivated by shared interests rather than rivalry became a major interest of ECOWAS. Therefore, interdependence in terms of securitization of member states is clearer. The characters of the states as major actors in ECOWAS are conditioned by a rule-governed practice defined, determined and directed by the charter governing ECOWAS which they collectively admitted (Balzacq, 2005; Bah, 2005). Contravening ECOWAS-rule governed practices attracts sanctions,

suspension or both. Also, in the case of the internal security threat posed to a member state, other member states intervene taking into consideration the basic principles governing peacekeeping (Jaye & Garuba, 2011). The goal is to make peace and restore security of life and property. Where peacekeeping fails, peace enforcement takes effect using the military to de-escalate the conflicting relation in a member state or between member states because if they do not intervene, such situation could generate security complexes that may undermine the basis of economic integration and development in West Africa (Bah, 2005; Arthur, 2010).

Security, Peacekeeping and Peace Enforcement

The recurrences of events in Africa, particularly in West Africa, are of security, peacekeeping and peace enforcement implications. The concept of security, peacekeeping and peace enforcement are therefore contextual and cannot be neglected. Security is an embracing phenomenon that has direct implications on the security of the state, being a very important issue in the survival of any country. There is the tendency of lawlessness to occur, rendering insecure the lives and property of the people. Security is polymorphic in approach, meaning it can take the form of a military, ideological, economic or cultural approach (Wæver, 1997; 2000). Central to security are law and order as essential needs for the society to work smoothly and effectively in a way that no segment of the society is worse-off.

Security is a social construct (Baldwin, 1997), which is associated with an illocutionary speech act, which by pronouncement or by labelling a phenomenon, becomes a security issue (Wæver, 1995; 1997). However, security goes beyond the speech act of labelling a phenomenon as a security issue. Thierry Balzacq (2005) argued that security is audience-centered, context-dependent and power-laden before it becomes a security issue that requires intervention. Notwithstanding, McGrew (1988:101) puts it that security is about maintenance of peace and protection of the socioeconomic order from internal and external threats, as well as promoting international and domestic order that minimises the threat to widely-held core-values and interest. Security is holistic because it encompasses both state and humanistic points of view about security of life and property in any society (Baldwin, 1997). From the state point of view, security has entailed securing the sovereignty of the state from internal insurrection and external aggression using the instruments of aggression and, from a humanistic point of view, it entails securing the people from outside assaults as well as from decimating outcomes of inside changes, unemployment, hunger, starvation, sicknesses, numbness, vagrancy, ecological corruption and contamination with financial shameful acts (Nwolise, 2006; Wæver, 2000).

The security of lives and property requires the conceptual mechanism to situate and deal with security concerns appropriately. These security concerns also require securitiza-

tion, which informs the "process through which an inter-subjective understanding is constructed within a political community to treat something as an existential threat to valued referent object and to enable a call for urgent and exceptional measures to deal with the threat" (Buzan & Wæver, 2003, p. 491). Security challenges and securitization of the political community led to the development of concepts such as peacekeeping and peace enforcement. These two concepts have often been used interchangeably, but they are not the same. Peacekeeping is a technique designed purportedly to make sure peace returns in previously hostile society. It involves the use of military, police and civilian primarily as a model of observing cease-fire among the belligerents. The role of the peace-keepers is to create the conditions that bring about prevention of hostility between and among parties in conflict. Central to peacekeeping is the mutual observance of the rights and freedom of the people while working to help make sure the lasting peaceful relations in war-ravaged countries are returned and or sustained (de Coning, Aoi & Karlsrud, 2017).

Peacekeeping efforts precede peace enforcement. Peace enforcement comes about when peacekeeping fails to make the goals set out to bring the parties in conflict to the point of restraint. Peace enforcement, therefore, is about the use of a range of coercion methods, including the military force, particularly when there is a threat or a breach of peace or aggression (de Coning, Aoi & Karlsrud, 2017).[1] Peace enforcement, as a technique, is designed to end hostility and, before it comes into operation, the Security Council must approve of it, given that the conditions surrounding the relationship between parties in conflict is becoming or has become precarious and, above all, there is violation of human rights and freedom of the people (de Coning, 2017).[2] The purpose is to dispel existential threats to life and property, which is feared to have effect on or the tendency of spilling over other states in the subregion. But before peacekeeping or peace enforcement is adopted, there must be a designated existential threat justified and a requirement for extraordinary measure to handle it (Wæver, 1995, p. 55). Security, peacekeeping and peace enforcement are integral to ECOWAS regulation of security in West Africa and are foundational to achieving economic growth and development through trade relations.

ECOWAS: From Economic Integration to Regulations of Security in West Africa

The reinvigorating support by Eyadema and Gowon for establishing ECOWAS was motivated by several reasons. To Eyedema, there was the need to set up a supranational organisation capable of achieving the collective goal of making the West Africa economically self-sufficient through a single bloc that would be a rallying point for trade among member states (Agbo, 2003). This understanding hinges on the fact that no country can attain self-sufficiency without relying on the other. Specifically, from the Gowon point of view, the supranational organisation was to secure the regulations of security in the West African subregion from external influence, especially from France, considering her

role in the Nigeria-Biafra civil war. During the Nigeria-Biafra civil war, it was assumed that France had sympathy for the secessionist movement of the Igbo people in Nigeria to form Biafra (Agbo, 2003). This concern over security precariousness of states in the immediate postcolonial societies, particularly in the West Africa, motivated the need of establishing an integration supranational organization to mediate security challenges faced by member states by not allowing foreign powers to interfere with the security matters in, as well as enhancing economic integration of West Africa. The protocol of ECOWAS was signed by sixteen countries (see table 1), a set of contiguous countries, bordered to the south and west by the Atlantic Ocean and to the north by the Sahara Desert (see figure 1).

Table 1: ECOWAS Member States

1	28 May 1975	Benin	Full Member
2	28 May 1975	Burkina Faso	Full Member
3	28 May 1975	Cote d'Ivoire	Full Member
4	28 May 1975	Gambia	Full Member
5	28 May 1975	Ghana	Full Member
6	28 May 1975	Guinea-Bissau	Full Member
7	28 May 1975	Liberia	Full Member
8	28 May 1975	Mali	Full Member
9	28 May 1975	Nigeria	Full Member
10	28 May 1975	Senegal	Full Member
11	28 May 1975	Sierra Leone	Full Member
12	28 May 1975	Togo	Full Member
13	28 May 1975	Mauritania	Full Member*
14	28 May 1975	Guinea	Full Member**
15	28 May 1975	Niger	Full Member**
16	1977	Cape Verde	Full Member

* In 2002 Mauritania withdrew membership from the community.
** Guinea was suspended after the 2008 coup d'état; Niger also was suspended after the 2009 coup d'état.

Source: www.internationaldemocracywatch.org/index.php/economic-community-of-west-african-states-

Since its establishment, ECOWAS has become one single formidable force in not only promoting economic integration but also in mitigating security challenges among member states in West Africa. The principal goal of ECOWAS was economic integration expanded to include food and agriculture, industry, science and technology, energy, environment and natural resources, transport, communication and tourism, trade, customs, taxation, statistics, money and payments, and political, judicial and legal affairs, regional security and immigration, among other areas. The scope of interest and operation of ECOWAS, as noted in the revised treaty signed at Cotonou, the Republic of Benin on the 24 July

Figure 1: Map of West Africa
Source: Maps of World, www.mapsofworld.com/africa/regions/western-africa-map.html

1993, was indicative that the supranational organization was more than just an economic integration organization, but a one that is also interested in the security of West Africa (Jaye & Garuba, 2011). The need to meet the many goals set out by ECOWAS as essentials for economic integration of the subregion led to establishing ECOWAS Cease-fire Monitoring and Observer Group (ECOMOG).

ECOWAS: Governing Peace and the Regulation of Regional Security in West Africa

The West African sub region has remained over the years one of the security complexes in Africa since the 1990s, constituting major challenges to realising the objectives of ECOWAS. The effort to tame the monster of conflicting relations in West Africa, led to the establishment of ECOWAS Cease-fire Monitoring and Observer Group (ECOMOG) established in 1990. The ECOMOG is ad-hoc body saddled with the responsibility of regulating peace and security in West Africa subregion.[3] The Librarian crisis made ECOWAS member states to discover that economic integration and development can only be achieved in an environment of peace and security. As Tagowa (2007:106) observed, it was amidst contradictions and poor performance that ECOWAS transformed into a political security outfit. The ECOWAS mediation, peacekeeping and peace enforcement in Liberia, Sierra-Leone, Guinea Bissau and Cote d'Ivoire were testimonies of insecurity in West African subregion (Integrated Regional Information Network for West Africa, 1998; Emuekpere, 2015). The dynamics of global govern-

ance and regulations which have been unfavourable to Africa, before and after Cold War era, changed the focus of ECOWAS from merely economic integration to peace and security governance. Some of the security governance interventions of ECOWAS through ECOMOG are in table 2.

Table 2: ECOWAS Peace and Security Interventions in West Africa

Period	Some ECOWAS Intervention in Peace and Security Governance
1990	Intervenes in Liberian civil war; presence peaks at 12,000 troops
1997	Election of Charles Taylor as Liberian president marks the culmination of Liberian mission.
1997	ECOWAS deployed large-scale force in Sierra Leone after rebels overthrow President Kabbah, and to prevent the Revolutionary United Front (RUF) from overrunning the state.
1998	Drives rebels from Sierra Leone capital reinstates Kabbah as president.
1999	Deploys peacekeepers in Guinea-Bissau after armed conflict between the president and rebel military chief.
1999	Recaptures Sierra Leone capital Freetown after the guerrilla offensive
2001	Stations troops on Guinea-Liberia border to stop guerrilla infiltration.
2002	ECOWAS intervened in Cote d'Ivoire crisis and help negotiate the process that led to the restoration of peace.
2003	ECOWAS launched a peacekeeping mission named ECOMIL to halt the occupation of Monrovia by the rebel force to ensure transition to democracy was successful.
2012	ECOWAS showed strong political will in providing leadership to solve the problem and in negotiating the Framework Agreement of 6 April 2012that help Mali to resolve its security, political and institutional crises.
2017	ECOWAS restates demonstrated commitment to peace, security and democracy in the Gambia.

Sources: Economic Community of West African States (ECOWAS), www.ecowas.int/ecowas-restates-commitment-to-peace-security-and-democracy-in-the-gambia/; BBC News, Profiling ECOMOG, http://news.bbc.co.uk/1/hi/world/africa/country_profiles/2364029.stm, Jibrin Ibrahim (2014) The Malian Crisis: West Africa and the Hegemons, February 10, www.premiumtimesng.com/opinion/154954-malian-crisis-west-africa-hegemons-jibrin-ibrahim.html.

The enormities of conflicts in the subregion were far-reaching effects of the disequilibrium in the global governance system, which favours the centres of capitalism more than the periphery. The post Cold War global governance and regulation as in other third world states left states in the West African subregion with no option, but to adopt capitalism and harsh economic policies. The capitalist system weakened states in Africa and forcefully pushed for reforms that were detrimental to the human security in Africa. Across West Africa, elected governments had to stick to the implementation of unpopular International Monetary Fund (IMF) and World Bank's Structural Adjustments Programmes (SAP) that brought a severe impact on the working and living conditions of the majority of the populace (Olukoshi, 2001). This situation created "armies in waiting" in most states in West Africa, ready to be manipulated by the political class. The response to the situation by the various states took away their interest from human security and re-defined the context of national security to mean the protection of the

regime in power. This situation in 1980s led to several violent conflicts that lasted for over two decades in some West African states.

The ECOWAS security architecture, the ECOMOG, operated in a manner that responded to the need of protecting life and property of the people and ensuring an atmosphere of relative peace in which they can pursue lawful activities (Horsfall, 1991, p. 7). With such unprecedented large scale involvement of civilians in armed conflict, it became clear that security discourse in ECOWAS had to evolve beyond its statist conceptions and assumptions. It was in this context that ECOWAS revised its treaty in 1993 (Horsfall, 1991, p. 7).[4] The revised treaty signalled a departure from an approach in which the old authoritarian regimes accepted as normal and emphasised democracy and rule of law as frameworks in which the economic integration and development agenda should be pursued. The frameworks now form the core of the ECOWAS peace and security architecture. The ECOWAS intervention in the Liberian conflicts marked the watershed in the peacekeeping operation in West Africa. Liberia was the testing ground for ECOMOG, which shifted from peacekeeping to peace enforcement due to the conflict. Majority of the ECOWAS member state saw the Liberian conflict as a regional security challenge because of its tendency of spilling over into other countries in West Africa, hence the need to intervene. ECOMOG restored stability and enabled democracy to thrive in Liberia (Obi, 2009).

The ECOMOG has executed peacekeeping operations in other countries and has contributed heavily to the peace and security of the subregion (Human Rights Watch, 1993; Integrated Regional Information Network for West Africa, 1998). Therefore, the relative stability in the security complexes in West Africa can be attributed to the role of the ECOMOG (Pitts, 1999). It is noteworthy that for ECOWAS to achieve its goals of economic integration, the principle of non-interference in the internal affairs of sovereign states was ignored. That was the first time when a near-genocide has taken place in the Mano River region (Birikorang, 2013; Osadolor, 2011). The big states in ECOWAS helped, by using the supranational institution to regulate security challenges in small states considered to have a negative impact in the subregion. There is no doubt that ECOWAS security architecture has been commendable at more than one point – putting warring groups to a cease-fire, ensuring that parties in conflict do not negate the principles governing war and the protection of non-combatants and the supervision of transitions to democracy in the subregion (Obi, 2009; Maiangwa, 2015; Okere, 2015).

ECOWAS and the Challenges of Regulation of Regional Security in West Africa

The ECOWAS efforts in peacekeeping and peace enforcement have not been without challenges. The coordination of ECOWAS in peacekeeping and peace enforcement operations cover a wide range of territorial space that has poor transport and communication

networks with several patterns of conflict dynamics across the states in West Africa. The pattern of the conflicts in the West African subregion also motivated the changes in the pattern of ECOWAS security governance from peacekeeping to peace enforcement.

The ECOWAS interventions in Liberia and Sierra-Leone marked the beginning of peace enforcement in entirely different ways. Before the conflicts in the Mano River region, the pattern of ECOWAS security governance has been on an ad-hoc basis or sealed in protocols (Adebajo & Adebajo, 2002; Integrated Regional Information Network for West Africa, 1998). These protocols framed the perceptions and responses to security challenges along external threats. For instance, the 1978 protocol on non-aggression signed in Lagos and the 1981 protocol relating to Mutual Assistance on Defense signed in Freetown was based on the aforesaid prevailing security thinking of externalities of threats (Osadolor, 2011; Kabia, 2009). The post-Cold War security threats are more internal to West Africa because of the predominant use of small and light weapons among different ethnic groups, rendering the conflicts in the region highly intractable and far-reaching in terms of humanitarian consequences (Malu, 2003). These dynamics showed that ECOWAS misjudged the nature of the security challenges confronting West Africa (Ukeje, 2015; Howe, 1996).

The new challenges of security governance in the subregion which most states are facing in West Africa informed the reason for ECOWAS not preferring to regard internal conflicts as internal affairs of member states. The Mano River region conflicts no doubt challenged ECOWAS to re-examine its security mechanism and ignore the non-interference in internal affairs of states doctrine by deploying the first contingents of the ECOMOG military intervention to bring peace and security to Liberia in the 1990s (Adebajo & Adebajo, 2002; Kabia, 2009). The level of violence in Liberia involving the ragtag military operation that had no regards for human rights with accompanied abuses of the rules governing war, led ECOMOG to change its mode of operation to peace enforcement (Kabia, 2009; Engel & Gomes, 2016). Despite the fact that the import of peace enforcement under the Nigerian leadership of ECOMOG was treated with suspicion, militarization appeared necessary to contain both real and potential violent threats to life and property in the region, its very nature becoming a threat to peace and notions of sovereignty and independence (Iwilade & Agbo, 2012).

Another challenge ECOWAS is confronted with is the polarisation of member states along colonial history, which greatly undermines its capabilities of countering security challenges that the subregion faces. The impact of colonialism affects the effectiveness of ECOWAS, in that the division along Francophone, Anglophone and Losophone identities creates division among the Heads of States and Governments of member states, making it difficult for the supranational organisation to achieve a common front for West Africa. The differences in colonial history and languages in West Africa further influence the different patterns of ideological orientation of member states also because the Heads of

States and Governments of ECOWAS are more disposed, sympathetic and passionate to issues and resolutions that affect their own people. The implication is mutual suspicion and distrust, which creates tension between some of the states (Iwilade & Agbo, 2012). The most disturbing aspect is that the majority if not all the Francophone countries have a French military base in their states, which France often uses to maintain authoritarian regimes that pledge loyalty to Paris in the subregion. The case of Cote d'Ivoire Crisis is an example (Kabia, 2009). Even though ECOWAS responded quite robustly to the changing security complexes in West Africa, it has yet to develop the capacity to effectively respond to the various conflict dynamics in the subregion.

The ECOWAS still depends significantly on the logistical support of the international community, particularly of the Western countries, for peacekeeping and peace enforcement operations. The support otherwise provided by the United Nations and France has had serious implications on the legitimacy of ECOWAS peacekeeping mission in the recent Cote d'Ivoire crisis (Obi, 2009; Maiangwa, 2015). Nevertheless, ECOWAS also depend on the willingness of regional hegemonic countries like Nigeria to take the burden of the political, military and financial costs of peacekeeping or peace-enforcing in the subregion (Iwilade & Agbo, 2012).

It also follows that Nigeria is confronted with the Boko Haram insurgency, which constrains its support for ECOWAS in responding to the West African security complexes (Maiangwa, 2015). Furthermore, one of the most silent but potent challenges of ECOWAS are institutional and democratic deficits. The institutions that sustain democracy are very weak in ECOWAS member states. Such weaknesses provide the avenues for authoritarianism in member states, and the implications are agitations and confrontations by marginalized and disenchanted groups against the state, which in most instances transforms into civil conflicts. Democracy in most states has not strengthened institutional mechanisms capable of preventing that large-scale conflicts in West Africa. It explains the inability of ECOWAS to effectively confront the authoritarian currents that continue to run deep in West Africa. These challenges render ECOWAS as Jallow (2015) described, "an arena of mediocrity and dysfunction" in contemporary times. Despite the challenges, ECOWAS has significantly attenuated the effects of violence across other states in the subregion (Bah, 2005; Arthur, 2010). ECOWAS has the opportunity to improve on its capabilities in navigating between the principles of economic integration and development and the peacekeeping and peace enforcement operations in West Africa.

Conclusion and Recommendations

This study was set out to respond to the pertinent question of *did the transformation of the securitisation strategy from peacekeeping to peace enforcement bring effective regulations of security in West Africa?* If not, *what are the challenges deterring ECOWAS from achieving its goals?* The study revealed that ECOMOG is a mechanism adopted by ECOWAS in the

face of excruciating security challenges that have undermined its goals of economic integration and development. Particularly from the 1990s, West Africa experienced several internal conflicting relations among member states. There was the understanding that ECOWAS countries could not have engaged member states in meaningful and profitable relationship necessary for economic integration and development in an atmosphere heralded by insecurity, hence the adoption of ECOMOG as a mechanism to keep and enforce peace and security in West Africa. The ECOMOG initially had monitoring and observatory roles in peacekeeping operations as a way of fostering peace and security in West Africa. The circumstances that surrounded the conflicts in most states in West Africa and beyond were not only violent but near-genocidal in nature, particularly the Liberian conflict in the 1990s. That also motivated the transformation of peacekeeping operations into peace enforcement, which mitigated and transformed the violent atmosphere to negotiate for peace and stability that returned the country to democracy. The ECOWAS, as a supranational organisation building on the interdependence of security architecture, despite the enormity of challenges, has contributed in mitigating security threats and fostering peace and security in West Africa. However, there is still much to be desired of ECOWAS within the security complexes of West Africa.

In order to improve on the ECOWAS capabilities, the regulations of peace and security should begin from the perspectives of the people after the culmination of the peacekeeping operation. ECOMOG has been celebrated as ECOWAS efforts to guarantee peace and security in the subregion, but the fact remains that the conflicts that engulfed ECOWAS member states were caused by the economic conditions of the people which the state failed to address. In this context, it is pertinent to state that ECOWAS has not done excellently, because goals of economic integration and development have not, in most parts of West Africa, resulted in the empowerment of the poor population. Economic integration and development are largely rhetoric yet to be realised in concrete terms. If economic integration would have been realistic, it would have saved ECOWAS the enormity of conflicts in West Africa in contemporary times.

Nevertheless, ECOWAS should learn from the EU. The first task for new members is to work on their internal democratic institutional frameworks, governance and economic systems to measure up with the standard required before admitting them into ECOWAS. Therefore, the regulatory mechanism for peace and security in ECOWAS should start with the member states. ECOWAS must influence member states to intensify their efforts to improve democracy in their respective countries, because the majority of the democracies in the subregion reflect the political character of postcolonial states (Alavi, 1973), with prevalence of coloniality of power masquerading as democracy, thereby fuelling conflicts in most countries within the West African security complex.

Again, the internal regulatory agencies and institutions of member states are all colonially inherited and are still used by the political elites without reducing their oppressive

and repressive contents. What this means is that the regulatory agencies and institutions in most member states are meant only to protect the regime in power, not directed towards providing human security. The ECOWAS should encourage member states to work on their regulatory agencies and other institutions, whose weaknesses form the basis for the insecurity in the subregion and the reason for which peace enforcement efforts are deployed. The securitisation of West Africa and its economic integration and development strategies depend on ECOWAS' ability to make member states pass a test of internal democracy modelled after the EU, which has institutional building that enhances democratic consolidation, the rooted nature of the rule of law and the protection of fundamental human rights of the people, as well as the respect for and protection of the minorities as cardinal requirements for admission into the EU. Without reaching these requirements, ECOWAS' goals will not be attained.

Notes:

1 See, GlobalSecurity.org, www.globalsecurity.org/military/library/report/call/call_93-8_chap3.htm.
2 See United Nations Peacekeeping, Peace and security, www.un.org/en/peacekeeping/operations/peace.shtml
3 See, Profile: ECOMOG. Nigerian soldier in Sierra Leone, 1999 Nigerian troops form the backbone of the peacekeeping force, BBC News (2004) The bloody civil war in Liberia prompted the Economic Community of West African States (ECOWAS) to set up an armed Monitoring Group – ECOMOG for short – in 1990. http://news.bbc.co.uk/1/hi/world/africa/country_profiles/2364029.stm; also see ECOWAS Standing Mediation Committee (SMC) (1990) Decision-A/Dec 1/8/90 on the Cease-Fire and Establishment of ECOMOG, For Liberia Banjul, 7 August.
4 See, the ECOWAS Treaty signed in Cotonou on 24 July 1993.

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Africa: Alternative Dispute Resolution in a Comparative Perspective

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Abstract. *In many African countries, attempts to address poor access to justice, have led to the promotion of Alternative Dispute Resolution (ADR), in the form of mediation, negotiation and arbitration. The popularisation and promotion of ADR is done using "international best practices and standards" developed in countries such as the USA, Australia and UK. Yet, a closer examination of some of the challenges with access to justice in Africa, which ADR is attempting to address, reveal, among other things, that the use of foreign procedures, principles and languages, in the formal justice systems, alienate many people and have contributed in creating a real barrier to the accessibility of justice. By using a comparative approach, the purpose of this article is to raise caution that although ADR may have useful components to improve access to justice in Africa, it cannot be viewed or introduced as a new concept coming from developed countries. Doing so, it perpetuates imperialistic attitudes, disempowers millions of people by disregarding their cultural practices and invalidates systems which have been in use for centuries.*

Keywords*: ADR, mediation, negotiation, arbitration, traditional conflict resolution.*

Introduction

Further examination of justice systems in Africa reveals legal pluralism, made up of formal justice and traditional justice systems, which are predominantly used by the rural population. In countries such as South Sudan, traditional justice resolves as much as 90% of civil and criminal disputes (African Union Commission Report, 2015). These traditional justice systems, like ADR, utilize the same tools of mediation, negotiation and arbitration and have been in exist-

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ence in African cultures for centuries. Yet, in many instances, they are overlooked, undermined, under resourced and only seen as relevant in transitional justice processes.

Given the fact that foreign procedures, principles and languages, pose a serious challenge to access to formal justice in many African countries, what is the justification of introducing ADR, using "international best practices and standards" developed outside of Africa? Does this not run the risk of introducing, once again, concepts which are foreign and far removed from the cultural context with which most Africans are familiar and, therefore, result in ADR also being inaccessible? Furthermore, because mediation, negotiation and arbitration underpin all traditional justice systems, would it not be sensible, when introducing ADR in Africa, to adapt it to local cultural context and practices used in traditional justice?

This paper raises caution that although ADR may have useful components to improve access to justice in Africa, it cannot be viewed or introduced as a new concept coming from developed countries. Doing so, perpetuates imperialistic attitudes, disempowers millions of people by disregarding their cultural practices and invalidates systems which have been in use for centuries. It also does little to address the challenges of foreign concepts and language in the formal justice system, which creates a barrier to access to justice. Instead, when introducing ADR in Africa, knowledge should be drawn from the traditional justice systems to ensure that the final product, considers the cultural context and produces familiar ways of resolving disputes.

The paper will first briefly look at the rationale for promoting ADR. It will then look at the unique challenges of access to justice in Africa, through briefly examining the history of African legal systems and their relationship with traditional justice systems during colonial times. It then postulates that mediation, negotiation and arbitration are not new concepts in Africa, by looking at traditional justice mechanisms from different African countries. The paper will then briefly review the similarities and differences between traditional justice systems and ADR before moving to examine initiatives taken by African government to incorporated traditional justice practices into the formal justice system. It will also look at the challenges experienced in introducing ADR in the formal justice system and some the criticism of traditional justice systems.

Justification for the use of ADR

Disputes are part of human existence and relationships. How parties chose to resolve them is often dependent on the immediate circumstances and nature of the dispute. Parties may attempt to ignore the dispute; negotiate among themselves; get an independent **third party** to adjudicate, mediate or arbitrate the matter; or resort to using **violence**. All these, are valid ways of resolving disputes, depending on the circumstances. However, despite the different avenues available for resolving disputes, many countries preferred and have placed greater importance on adjudication through the courts.

It was not until the litigation costs escalated and caseload became unmanageable that countries like the USA and England decided to pay closer attention to other forms of dispute resolution to improve access to justice. Although both countries had a history of using arbitration and mediation, its use before the 60's was negligible. In the USA, the Patent Act of 1790 recognised the use of mediation. However, it was only in 1898 that Congress authorised the use of mediation for collective bargaining in New York and Massachusetts. In the 1920's, other states also began using alternative dispute resolution to deal with case backlog. Several states passed arbitration laws in 1920 and in 1926, the American Bar Association was set up to provide guidance to parties on how arbitration should be implemented (McManus & Silverstein, 2011). The enactment of the Civil Rights Act of 1964, coupled with the woman's right movement and environmental challenges in the 60's, resulted in an increase in individual lawsuits, which flooded the courts and caused serious delays in resolving disputes (Goldberg, Sander, Rogers & Cole, 2012). This further propelled the need to use ADR in courts. Today, mediation is the most commonly used form of ADR in the USA courts (Goldberg *et al.*, 2012).

In England, it was the Woolf Report on Access to Justice of 1995 and 1996 which propelled the use of ADR. The report looked at how to improve access to justice and improve speed of resolving disputes, as well as accessibility to the courts (Genn, 2012). The report found that costs, complexity of procedures, as well as delay tactics by lawyers, were the greatest contributors to delays and lack of access to justice. The report recommended, among other things, a stronger focus on the use of ADR and that courts should be used as a last resort, after attempting other methods of resolving disputes.

This shift toward ADR resulted in ADR being promoted in many other countries, including Australia, Canada and some African countries, using "international best practices and standards" developed to professionalise the ADR profession.

Africa's rational for introducing ADR was no different to other parts of the world. ADR was seen as a possible solution to address lack of access to justice caused by case backlog, lengthy processes, cost of litigation and lack of human and financial resources. It was also seen as a way of simplifying court processes. Other challenges identified by the Institute for Security Studies (ISS), which hinder access to justice, included lack of court facilities in rural areas, where 62% of the people in Sub Saharan Africa still live (World Bank & International Monetary Fund, 2013), low literacy levels', poverty, prohibitive costs of legal representation without sufficient legal aid, prohibitive cost of travel to the courts and, most relevant to this paper, the use of foreign, complex processes and languages, unfamiliar to many Africans (Bowd, 2009). The court processes seldom utilise restorative principles used in traditional justice systems, which people are accustomed to (Spinks, 2001).

The ISS' claim that access to justice is hindered by the use of foreign processes and languages in courts, can better be understood by looking at how the formal justice

system came about in Africa. Many African countries inherited their legal systems during the time of decolonisation (Sium, 2010). These inherited legal systems, comprising of common law, civil law, religious law or hybrid systems, were far removed from the cultural systems which were in place in many African countries prior to colonialism. These legal systems were built on irrational, violent and malevolent practices, through which the colonial master achieved public control and deprivation of the colonised people (Sium, 2010). They were established by autocratic, racist and chauvinistic colonial governments, whose focus was de-indigenization, divide-and-rule and to ensure that, by using foreign languages, principles and procedures, Africans had no way of dealing with the injustices of the state (Davidson, 1992). Colonial powers regarded African tradition and systems as primitive and only appropriate for the natives (Joireman, 2001). In fact, when disputes arose, race was the predetermining factor for which legal system Africans were entitled to (South African Law Commission [SALC] Report, 1999).

When the independence was proclaimed, these systems were passed down with their foreign languages and processes, regardless of whether they were French, British or Portuguese and without consideration of local conditions and cultural context. They were soon described as "the machinery which had changed hands, but not its parts" (SALC Report, 1999, p. 113). For a very long time, the justice systems inherited by African nations remained as they were during colonial times and, in some instances, this continues to be the case (Berinzon & Briggs, 2017). Little or no attempts were made to dismantle the oppressive systems of governance and replace it with an alternative system rooted in African culture.

The introduction of these foreign legal systems created tension with the existing traditional justice systems, which were meant to resolve disputes in pre-colonial times. The colonial administrations initially did not recognise traditional justice systems because they were perceived to be too primitive. However, they were later acknowledged as necessary to provide justice to indigenous people, where colonial infrastructure could not and in areas which were considered of little significance to the colonial administration, for matters such as marriage and land tenure. This approach resulted in the devaluing of traditional justice. In the meantime, a growing number of Africans were gaining exposure and education in the colonial justice systems through studying law in foreign countries. On their return, they too reinforced the notion of traditional justice as primitive and did not want to subject themselves to traditional justice systems (Davidson, 1992). The rejection of traditional justice by educated Africans had the effect of further relegating traditional justice and practices to be suitable only for those who were perceived as primitive, uneducated and living in rural areas where formal court infrastructure was not available.

This tension between traditional practices and foreign systems was heightened when the colonial powers were planning their withdrawal from the colonies. The educated

Africans believed that they should be the natural successors of power because they were educated, civilised and understood constitutional law and issues of sovereignty (Davidson, 1992). The chiefs and traditionalist found this offensive and advocated for the retention of African culture. However, at independence, it was indeed the educated Africans who became successors of the colonial powers. Their beliefs about traditional African culture were now formed by the colonial powers. Therefore, they were better able to perpetuate the colonial legacy. This is best described by Edward Wilmot Blyden (an Afro Caribbean diplomat) who in 1900 wrote;

> *"Those who are instructed in the English language, are taught by those from whom they have received their training, that all native institutions are in their character, darkness and deprivation, and in effect only evil and evil continually…. the Christianised Negro, looks away from his native heath. He is under the curse of an insatiable ambition for imitation of foreign ideas and foreign customs*" (Davidson,1992, p. 43).

Sadly, this tension between traditional African practices and Western practises continues, not only in the justice field, but also in many other sectors.

Another factor that has created lack of access to justice, in some African countries, is the destruction of judicial institutions during civil wars. Institutions, that were already not conducive to providing justice to citizens, were further destroyed during civil conflicts, either through physical damage to buildings or loss of judicial officials, through death or immigration. With all the challenges highlighted above, initiatives to strengthen access to justice in Africa still focus primarily on the formal justice sector (judiciary, police, prosecution) with little or no regard to African heritage, culture and history.

Overview of traditional justice in Africa

Over many centuries, citizens in many African countries have relied, and continue to do so, on traditional justice systems to resolve disputes. In pre-colonial times, many African communities organised themselves according to kingdoms and clans, each with its own dispute resolution systems to resolve intra and inter-community disputes. For centuries, traditional justice systems utilised forms of negotiation, arbitration and mediation to resolve disputes (Mutisi, 2011). These systems were rooted in the culture and history of the societies and built around the concepts of reconciliation, accountability, truth-telling and reparation (Huyse & Salter, 2008).

All types of disputes were resolved using traditional justice, including theft, family disputes, commercial disputes, water and land rights disputes and other criminal matters, such as rape and murder (Radar & Karimi, 2004). In many communities, transgressions were not regarded as individual failings, but rather as a collective failure by the family, clan or community, to prevent individuals from committing the transgression (GIZ,

2013). Therefore, transgressions and disputes were collectively owned and prioritised for urgent resolution within the community.

Local actors and persons with authority, such as community elders, family elders and/or the chiefs and kinship, were tasked with managing, making decisions and resolving daily disputes. These local actors were selected based on their reputation, position, wisdom, patience, familiarity with local customs, being good listeners, impartiality and experience. In resolving disputes, they maintained social cohesion in their communities and ensured implementation of agreements reached to improve relationships (GIZ, 2013).

The process of dispute resolution was a consultative and collective effort, involving various community stakeholders and often held at a neutral, public and open space such as the village square, under a tree or an open hut (Umunadi, 2011). Preparation for the dispute resolution processes involved consultation with the parties, invitation of appropriate persons, gathering material for rituals (such as sacrificial animals), local brew for consumption after the process and selecting a date that does not clash with events such as the market day or farming (Umunadi, 2011). Parties were afforded an opportunity to express themselves without direct confrontation and members of the community, not party to the dispute, were also able to make representation during the dispute resolution process. This ensured that, no matter the status level, everyone who felt they had something to contribute to the dispute for the good of the community, was given an opportunity to speak. The public nature of the dispute resolution process created social pressure on the disputants and this played a strong role in ensuring compliance with the outcome. Disobeying the final ruling was tantamount to disobeying the whole community and resulted in a party being ostracised (Spinks, 2001).

The use of mediation and arbitration varied depending on the society and the seriousness of the case (Grande, 1999). In some instance, the role of the elders was to mediate the dispute and assist parties to come to their own decisions. In other instances, the last word belonged to the elders or authority figures, thereby making the process closer to arbitration. After deciding, the elders or chief would still obtain the consent of the disputing parties and of the community, to legitimise their decisions. In other times, the king or chief would consult with his counsel before deciding (Grande, 1999).

The main purpose of traditional justice systems was to create consensus, bring reconciliation and to maintain social cohesion within the community. The process focused on the victim rather than the offender (Elechi, 2004). The punishment was meant to bring healing to the victim, the victim's family and the community. This was often in the form of compensation, which included an apology (often a public apology) to the victim and/or atonement by the offender to the victim and the community (Elechi, 2004). Unlike the Western forms of justice, which seek to establish guilty then issue a punishment with little reference to the victim, or seeking to reintegrate the offender back into the com-

munity, the traditional justice approach encouraged peace and reconciliation, thereby enabling the offenders to admit guilt knowing that forgiveness, re-integration and social cohesion govern the processes (Chereji & Wratto, 2013). In African tradition, the belief was that all human beings are important and that they are naturally good, that human beings can change and, consequently, deserve a second chance.

Central to the process of dispute resolution were food and spiritual rituals. The dispute resolution process started and/or concluded with an offering of an animal to the ancestors. Certain rituals were performed after the process, such as dancing, eating and drinking traditional beer. Even the compensation was often an animal offering, food or drink.

These practices are still in place in many countries and more than half of the population in sub-Saharan Africa still rely on them to provide access to justice. In rural areas, only 36% of the population would consider referring the mattes to court (Loschky, 2016). Their first point of call when they have disputes is the traditional justice mechanisms or religious leaders. Below are a few examples from various parts of Africa that embody some basic principles of dispute resolution described above, focusing on reconciliation, healing and social cohesion.

Ethiopia

The Horn of Africa is home to Lucy, one of the oldest early fossils (*Australopithecus afarensis* (AL 288-1), (Haile-Selassiea *et al.*, 2010)dating back 3.2 million years. This region is also home to the Afar people, who are one of the first inhabitants of the Horn of Africa in Eretria, Ethiopia and Djibouti and have a long-standing history of self-governance. The Afar people utilise the *Madáa* system of governance which prescribes, among other things, how inter and intra-clan disputes are to be resolved, based on customary laws which are passed down orally through the generations (Gebre-Egziabher, 2014). The society is divided into clans and sub-clans and, although the application of the *Madaa* varies slightly from clan to clan, the general principles and practices have been the same over the years. The elders or clan leaders are tasked with resolving disputes using arbitration (*Maro*) or mediation (*Mablo*) (Pankhurst& Assefa, 2008).

The *"Maro"* is used to resolve all serious violations, except for divorce, marriage and inheritance, which are left to the Sharia Law. The process is conducted at a venue, usually an open space under a tree, near a water source and centrally located for all parties. In attendance is the judge (the *"Mekabon*") or several judges, depending on the seriousness of the offence, an elder with a good reputation, the disputing parties, witnesses and a duplicator, all of them sitting in a circle under the tree. The accused also has a guarantor who undertakes to ensure that the accused accepts the outcome. The guarantor provides the food and drinks for the ceremony (Pankhurst & Assefa,

2008). Once the proceedings begin, the parties are given an opportunity to state their case. After that, the duplicator summarises and rephrases everything the parties have said in a culturally acceptable manner. This ensures that parties feel they were heard (GIZ, 2013). After the parties are heard, a decision is made about the appropriate punishment, if applicable. The punishment varies depending on whether the offence was intentional or accidental. Because offenses are seen not as individual offenses, but as a collective responsibility of a clan, the clan collectively makes compensation (Tesfay & Tafere, 2004). At the end of the proceedings, the parties celebrate using the food and drink provided by the guarantors.

For minor disputes, such as light physical injury, theft and insults, the Afar people utilise the mediation process, *"Mablo"*, which is informal and managed by the elders, to provide quick and efficient resolution to disputes (Mu'uz, 2013). In cases of severe inter-clan offenses (such as inter-clan murder), the Mablo is also utilised, often using neutral mediators (*Isi*) and judges (*Mekabon*) who are known and respected people, from a clan neutral to the dispute (Sansculotte-Greenidge &. Fantaye, 2012). Once the identity of the murderer and the deceased is identified, the *Isi* and *Mekabon* hold the first meeting with the clans involved. At this meeting, a cow or camel is sacrificed to demonstrate commitment by the parties to the process. The purpose of this process is to contain the dispute so that it does not escalate into violence and to require the disputing clans to take an oath – not to revenge for 40 days, until the Mablo process has been finalised (Sansculotte-Greenidge & Fantaye, 2012). The Afar do not bury a victim until the animal has been sacrificed. Once the burial has taken place, the investigation is conducted and concluded. After that, inter-clan negotiations commence and an open meeting is held for the verdict. Often, the victim's family is asked whether it seeks capital punishment for the crime. This is largely a symbolic gesture. To prevent inter-clan feuds, the victim's family almost always choose compensation, which is predetermined by the *Madaá* for every offence. If a family chose to retaliate, the elders of the clan would be sent to dissuade the family by begging. Where a family chose to go ahead with revenge despite the elder's begging, this leads to loss of clan membership and ostracising for up to seven generations (Tesfay & Tarefe, 2004).

If the family chooses to forgive, the meeting ends with the slaughtering of an animal along the road so that passer-by's may learn the lesson of forgiveness and reconciliation. The principle behind the dispute resolution systems of the Afar people is to make peace and central to this process is forgiveness, respect for the elders and transfer of resources of compensation (Tesfay & Tarefe, 2004).

This dispute resolution system is still the preferred system for the Afar people. Decisions by formal courts are not as effective in resolving conflicts and maintaining peace as the traditional justice system, due, largely, to the unfamiliar procedures and use of people unknown to the Afar communities (Tesfay & Tarefe, 2004).

The Department of Justice in the Afar Region in Ethiopia estimates that as much as 90-95% of people in the Afar region utilise traditional justice systems. According to Mr. Ge'ase Ahmed, courts coordinator in the Southern Red Sea in Eretria, it is rare for the Afar to file a suit at government court or any law enforcing government body. Court cases are considered a taboo that violates the long-standing customs of Afar communities (Ghebrehiwet, 2010).

Liberia

Liberia is the oldest independent republic in Africa, established by the free slaves repatriated from the USA and the West Indies in 1847. From the onset, the free slaves ruled the country to the exclusion of the 90% indigenous population (Huyse & Salter, 2008). This gave rise to multiple civil wars (1989-1996 and 1999-2003) which resulted in the breakdown of the already exclusive and weak justice system. Fortunately, the Liberian people, much like other African countries, had existing traditional justice systems in place, namely the Sassy Wood (trial by Ordeal), the Palava Hut and Sharing the Kola Nut (Huyse & Salter, 2008).

The *Sassywood*, which is a controversial dispute resolution system and was recently banned by the Liberian government, is an adjudicative process that rests on the belief that the judgement of guilt, is in the hands of ancestral spirits. It was reserved for serious crimes such as murder, rape, theft and witchcraft. The trial was conducted either by drinking a bitter drink or by using a hot machete. In the case of the bitter drink, the drink was made from an indigenous bitter plant and given to the accused to consume. Regurgitating the drink demonstrated innocence, whereas failure to regurgitate, was indicative of guilt. Where the machete was used in place of the bitter drink, the machete was placed on the fire until it was red-hot. It was then placed on the accused's leg. If the accused moved the leg or was burnt, it was an indication of guilt; if nothing happened to the accused, this indicated innocence (Chereji & Wratto, 2013).

If the accused was found guilty using either of the above methods, the accused would be publicly shamed and would have to repent and make a public apology before paying compensation to the accuser. After the compensation was paid, the offender was reunited with the victim and the community. In the case of murder or witchcraft, the offender could be ostracised from the village. Although the *Sassywood* has been banned by the government of Liberia, it continues to be used and trusted by many.

Other traditional dispute resolution systems used in Liberia are "sharing the *kola nut*" and the "*palava hut*". In the case of sharing the Kola Nut, when someone is accused of wrongdoing, the elders investigate. If the accused is found guilty, he/she is requested to ask for forgiveness from the victim and make amends through compensation. However, prior to making compensation, the offender offers a kola nut to the victim. If the victim takes the nut and puts it away, it indicates that the victim is not willing to forgive.

However, if the victim takes the nut, bites it and offers the other half to the offender, it is a sign of forgiveness. Compensation, in the form of a goat, cane juice or a chicken, was then made to the victim after the kola nut has been shared. This system is based on forgiveness and follows a local saying "let bygones be bygones" (Pajabo, 2008).

The Palava Hut, like sharing the Kola Nut, focuses on reconciliation. It is typically held in a round hut where villagers gather to resolve disputes under the leadership of elders. It is believed that ancestral spirits are present during the process and thus, when discussions are held in the palava hut, no one is permitted to leave until the dispute has been resolved. The palava hut is used for all types of disputes, including inter-village disputes (Pajabo, 2008). Its purpose is to seek admission of guilty from the offender, an apology, then forgiveness from the victim. Once the apology has been accepted, the offender pays compensation to the victim's family, in the form of Cane juice, a chicken, palm oil, rice or a goat. On conclusion of the process, the offender and the victim share a plate of food (Danso, 2016). Cane juice is poured out to invoke the ancestral spirits. It is believed that by invoking the spirits, the parties are likely to be true to their word and respect the resolution, otherwise they open themselves up to the wrath of the spirits (Danso, 2016). The offender is often given advise by the elders to prevent a repeat of the offence, while the victim is often praised for accepting the apology.

Where a serious offence has taken place (such as murder), the process followed is like that of the Afar people in the Horn of Africa. Before the dispute resolution process takes place to deal with the murder, both parties are required to observe a grieving period. This period is also used to calm tempers so that the dispute resolution process is more effective. The offender is kept in a safe place to prevent retaliation from the victim's family. An animal is slaughter and the blood poured on the victim's grave to ensure that the ancestors accept the victim's spirit (Danso, 2016).

The dispute resolution process proceeds after the grieving period. A meeting is held where the offender is given a penalty and is required to make compensation. The compensation is also seen as a cleansing process to rid the offender of the evil spirits that lead to the murder (Danso, 2016). The victim and offender's families are then required to share a meal and eat all the food provided to them to complete the cleansing process. Once the cleansing is completed, the offender makes a public apology and presents the victim's family with a white plate which is a symbol of remorse and atonement. Once the victim's family accepts the plate, the offender is banished from the community for several years. The number of years are dependent on the gruesome nature of the crime and whether it was a mistake or intentional (Danso, 2016).

The Palava hut is so widely used in Liberia, that in 2013 the government launched a National Palava Hut programme as part of the recommendations that emanated from the TRC process and report to promote access to justice.

Burundi

The *Bashingantahe* are responsible for settling disputes at all level. The term, which means men of integrity (Huyse & Salter, 2008), goes back as far as the 17th century. The *Bashingantahe* are made up of elders with irreproachable morality and they have three essential roles – mediation, reconciliation and arbitration. The *Bashingantahe* are driven by the principles of neutrality, impartiality, transparency, honesty, equality and service. When a dispute arises, mediation is always seen as the first point of call conducted by an *umishingantahe* (singular). Where no resolution is found during mediation, the matter is referred to a counsel of *Bashingantahe* to find a compromise. The *Bashingantahe* try to find a resolution by counselling the parties and proposing mutual forgiveness and reconciliation, instead of compensation. Together with mediation, this process is seen as a compulsory step for all conflicts. Where the process drags out for a long time, the *Bashingantahe* assume the role of arbiter. They hand down judgement and their decision is binding on the parties. If the party is dissatisfied with the finding of the *Bashingantahe*, they may appeal the matter in a formal court (Huyse & Salter, 2008).

Mande People in West Africa

Many traditional justice systems utilise similar practises and focus on reconciling disputing parties as well as maintaining social cohesion. However, some have very distinct characteristics that make them unconventional and unique. The Mande people, who spread over large parts of West Africa, have some very innovative ways of resolving a conflict. The storyteller, musician and historians, praise singer and poet, also known as Jeli (Griots) among the Mande people in West Africa, plays an important role in resolving disputes. The Jeli, who according to the caste system, are historically considered of lower social status than the nobles, occupy an unconventional position of influence in the community (Hoffman, 2000).

Their prominent role as entertainers means that a wedding or funeral without them is unthinkable. Their role as praise singers, historians, genealogists, storyteller and poets, makes them a repository of knowledge, history and culture, which is passed down orally through a hereditary lineage. They are the guardians of cultural practices and knowledge in the community and they communicate this culture and knowledge through music and words. This role has made them indispensable and has earned them admiration and respect within the society (Hoffman, 2000). Historically, they also provided counsel to the kings and the community. Politicians have also used them to convey political messages during electoral campaigns.

Because of their in-depth knowledge of genealogy, culture and custom, they mediate family and community disputes. They claim that because culture and custom is passed down over generations through them, they know the oaths that the ancestors of the disputants made to one other (Ebine, 2017). The Jeli's position of influence in society,

their ability to speak freely and criticise even high-ranking officials, without fear of retribution, means that disputants often seek their approval and they are, therefore, well placed to be effective mediators. (Chikwanha, 2008). Their role and ability to shame, gives them power to persuade the parties to reconcile. Shaming is an effective tool, as it can result in a person being marginalised.

Another unique feature of the Mande dispute resolution mechanisms is *Sanankuya*, also known as joking relations or *cousinage*, which are a big part of the conflict resolution culture in Senegal, Guinea, Mali and Gambia (Davidheiser, 2006). *Sanankuya* relies on pre-existing relationships between people from the same clans, ethnic group, religion or profession. Those in a *Sakankuya* treat each other as though they are cousins or close family members who can exchange familiar jokes or insults related to some stereotypes or historic facts about the particular clan, ethnic group, religion or profession, (Smith, 2004) which otherwise would be offensive and intolerable in a different setting. This way of interacting is perhaps motivated by the Tuareg proverb "laughter gives confidence, its absence causes conflict."

Rather than suppressing these stereotypes, they are neutralised by expressing them through humour. What is important in the exchange is that each party feels superior to the other and, therefore, can insult or joke about the other. If the banter is about being a slave, both parties will consider the other their slave and, in that moment of banter, there is a reversal and balancing of a relationship of domination (Smith, 2004). It allows for unconventional interaction between parties, regardless of hierarchy. A commoner may insult a chief and a grandchild may insult a grandparent. In that moment, neither take offence because the exchange is all done in gest (O'Bannon, 2008). The use of such banter creates a sense of community by revealing a sense of equality in difference, through the use of humour.

The use of *Sanankuya* to resolve disputes relies heavily on culture and custom. The aim of mediation in the context of this region is to use the customs of humour, to persuade the parties to forgive and settle their dispute, rather than a facilitative tool for parties to discuss and resolve their disputes, as is the case in ADR. Mediators often remind the parties of the interpersonal ties that they, as mediators, may share with the disputants, including family, historic, religious and ancestral ties(Smith, 2004). Where there is no direct kinship, mediators rely on ethnic, communal and friendship ties to create the kinship. Mediators often evoke *sanankuya* to persuade the parties into having a cooperative interaction and reciprocal banter. This is transformative because it changes the attitude of the disputants.

Typically, the mediator evokes the joking relationship between her/himself and the disputants. If they respond favourably by engaging in the banter, this creates a bond that enables the mediator to encourage the parties to forgive and reconcile. If the disputants challenge the banter initiated by the mediator, the mediator will diffuse the

situation by pointing out that the disputant is behaving like one of his/her relatives, thereby creating a joking kinship. The emphasis of the mediation is not to reconstruct the facts of the dispute, but rather to focus on the present and how the parties can move forward in a reconciliatory manner.

Mediation using joking relations is not always successful. However, where there are strong historic ties between the parties, the outcome is often positive and often results in forgiveness and reconciliation of the parties.

Distinction between traditional justice and ADR

Like ADR, mediation, negotiation and arbitration underpin traditional justice systems. Both systems are less formal and adversarial than the court processes and often less time consuming and, therefore, less costly. They both utilise a third party to assist the disputing parties to resolve disputes. The parties are active participants in the process and the third party is expected to be impartial and to handle disputes in an even-handed manner. However, despite the similarities, there are distinct features of traditional justice that make it very different from ADR.

Neutrality

In ADR, neutrality is important. The third party is appointed based on their training and experience in handling the ADR process. They are expected not to have an interest in the outcome of the dispute and not to have a relationship with the disputing parties outside of mediation. However, this is not the case with traditional justice. Traditional justice utilises third party elders, chiefs or other authority heads, who are well known and respected by the community for their wisdom. These individuals are part of the community and often know the disputants or their family or clan, outside of the process. Because the purpose of the dispute resolution process is to maintain social cohesion and reconcile the disputing parties, the elder or chief always has a vested interest in the outcome of the dispute, because it affects more than just the disputants. Therefore, the approach to dispute resolution is more directive in search for a compromise than it is in ADR. This also goes away with the notion of self-determination. In ADR processes, the parties to the dispute are encouraged to come to their own decisions about the outcomes they seek from the process, without influence from the third party. This is not the case in traditional justice processes.

Confidentiality

ADR is held in private to preserve confidentiality of the parties and issues discussed. This is one of the things that appeals to many disputants about ADR. In mediation, parties can make admissions without fear that the information will be shared with the other party, thereby saving face and preserving the party's reputation. In arbitration, parties

can choose to deviate from strict legal processes to create a suitable process. Unlike ADR, confidentiality is not a prerequisite of traditional justice processes. In many communities, an offence by an individual is perceived as a failure by the community and, as a result, the process of resolving disputes is a collective effort. Often, it is conducted in an open, public place, where community members were free to attend and weigh in on the dispute if they believe it affects them. When the elders are convening the meeting, they ensure that it does not clash with market days to enable community members to attend the proceedings. The public nature of the process creates transparency, accountability, builds trust and serves as a lesson to the community on reconciliation, forgiveness and atonement. The only instance where confidentiality is considered, in certain communities like the Afar, is rape. Confidentiality is important to protect the reputation of the person who has been raped and to prevent them from being ridiculed by community members.

Distinction between mediation and arbitration

Traditional African justice does not always clearly distinguish between arbitration and mediation the way ADR does. Hence, even in mediation processes, parties expect the mediator (elder or chief) to decide or give guidance and direction for the solution. In some instances, where the authority or elder gives direction during a process, they may still seek consensus from the parties and the community to validate the decision. Other times, they may consult with a traditional counsel before making the decision. Cultural and historic roots govern traditional justice systems. Often, there are set precedents on how certain disputes will be resolved and how much compensation the offender should pay. Even where the parties voluntarily reconcile, the third party still decides on compensation. The traditional justice process is closer to Med-Arb, where the mediation and arbitration are used to reach resolution.

People focused

ADR often focuses on separating people from the problem;focusing on the issue and not on the people (Fischer & Ury, 1991). However, traditional justice focuses more on the people and the relationships. Because of the need to preserve social cohesion and the view that an offence by the individual is seen a failure of the entire clan, the resolution of disputes is primarily focused on relationships. This is sometimes to the extent that during the dispute resolution process, the parties are not given an opportunity to articulate their side of the story, but rather encouraged to look forward and forget about the past, as is the case with the use of joking cousins in West Africa.

Rituals

Traditional justice systems all have some form of rituals associated with them. In some processes, there is a strong belief in the presence of ancestors during the proceeding,

which can be used as a pressure point for disputants to settle. In processes like the palava hut and sassy wood, ancestral presence during the process is at the heart of the process. Other parts of the dispute resolution rituals include slaughtering an animal, either before the process begins or at the end of the process, dancing, drinking and eating, which are all integral parts of the process. Often, they signify the restoration of community relations, reconciliation and forgiveness. These rituals are completely absent in ADR.

Can ADR enhance access to justice in Africa?

In many instances, ADR is introduced as an alternative to the court process and touted as having the potential to make justice more accessible. This may be true for those people who already have access to formal justice. However, for those people in the rural parts of Africa who have no court infrastructure and struggle with the foreign processes and languages used in formal justice system in urban areas, introducing ADR into the formal justice system,does not change much. Furthermore, research conducted in the European Union and Australia demonstrates that merely introducing ADR, even in the formal justice system, is not enough to guarantee better access to justice.

According to an EU study published in February 2014, the introduction of mediation to the formal justice system has not yielded the expected outcomes of creating better access to justice. In 2008, the EU introduced a mediation directive (Directive 52/EC) "*to facilitate access to alternative dispute resolution and to promote the amicable settlement of disputes by encouraging the use of mediation and by ensuring a balanced relationship between mediation and judicial proceedings*" (European Parliament and Council, 2008). The rationale for introducing the directive was based on mounting concerns about court costs and congestion and the need to create better access to judicial and extra judicial dispute resolution systems. However, the results were disappointing. Mediation was used in less than 1% of cases in the EU, during the period under review. Only Italy demonstrated a high usage of mediation, with over 200,000 mediation matters initiated annually. Of these, 50% were settled. The next top three countries have managed to grow mediation in the EU to just over 10.000 cases annually, with the rest of the EU countries seeing less than 2,000 cases per annum. The report also found that having an element of compulsion, was what resulted in Italy, having such positive results. When mediation stopped being compulsory in Italy, the usage of mediation dropped to almost zero (Rebooting the Mediation Directive, 2014).

This study demonstrates that merely introducing ADR as part of a justice system was not enough to achieve the desired outcomes in Europe. The successes which were achieved in Italy, were a result of mediation being mandatory. Where mediation was not mandatory, its introduction into the justice system yielded poor results.

Also, relevant in determining whether ADR may be beneficial in Africa is a study conducted on ADR in Australia. The study sought to establish how the Aboriginal Communities,

who like Africans, are accustomed to a collective and reconciliatory way of resolving disputes, have embraced the introduction of ADR into the justice system (Ciftci & Howard-Wagned, 2012). The study reveals that,often, the Aboriginal communities feel alienated by the ADR process and that merely introducing ADR into the justice system is not enough.

The 1990s Australia, like other developed countries, saw a growth in the use of ADR and the laws mandating its use. However, research soon revealed that the use of ADR was not necessarily a good fit for the Aboriginal community. Aboriginal people believe that conflicts should be treated like property and guarded jealously so that they are not stolen from the community, as is the case with criminal offences which have become offenses against the state and require little effort on the part of the disputants to resolve (O'Donnell, 1995). ADR is perceived as privatisation of disputes, which is unacceptable to the Aboriginal community. Resolution of disputes in the Aboriginal community is a public affair because matters are often of importance to the wider community. This enables families and interested parties to be aware of the negotiations, outcome and settlements, so that they can influence the process if required (O'Donnell, 1995). Therefore, principles of ADR, such as confidentiality,are perceived by the Aboriginal community as problematic. The community also feels that utilising a neutral third party diminished the role played by the elders in resolving disputes. This presents a challenge for the Aboriginal community because the neutral third party does not know the parties and has no interest in building communal relationships (Ciftci &Howard-Wagned, 2012). The research also concludes that the facilitative and determinative type of ADR can be alienating to indigenous communities, as it is prone to systematically favour the more powerful elite parties and perpetuate the dominant Western culture. This is because the style of ADR and language used still represents the Western dominant culture. Furthermore, the Aboriginal community have little trust in the formal justice system because of the historic injustices which the justice institutions have displayed against them. Therefore, ADR is received with the same suspicion that the community has for the formal justice system.

Because of these observations, Australia put in place a range of initiatives,such as the Community Justice Programme and Care Circles(in the family division for child protection), to incorporate the various aspects of indigenous justice into the mainstream justice system. The care circles are used once a magistrate has determined that a child needs protection. The elders in the community convene a public meeting where the community is seated in a circle to discuss issues related to child protection plan and to determine the best solution in a matter for the child and the community at large. The care circles closely resemble the dispute resolution processes that the community is accustomed to, but they combine the use of formal justice (magistrate) with traditional justice (elders).

In Africa, where most of the population still prefer traditional justice systems, the introduction of ADR into the formal justice system may not have the desired results of creating better access to justice,as seen in the Aboriginal community in Australia. In Liberia,for instance, where a survey conducted in 2009 found that only 3% of criminal and civil disputes were taken to a formal court and over 40% sought resolution through informal mechanisms (Uwazie, 2011),introducing ADR into the formal justice system may only cater for the 3% already using the formal justice system.

In South Africa,the government set up the Equality Courts in 2003 to create better access to justice for the marginalized and poor to deal with issues of systematic inequality and discrimination (Kruger, 2011). These courts were set up to be simple, cheap and informal so that parties feel more comfortable with the process and do not need to be represented by a lawyer. However, due to the poor usage of these courts, the government began decommissioning them. Of the 220 designated courts in all the provinces, less than 700 cases were filed between 2003 and 2006 and, in the same period, no case was filed in the rural areas(Kaersvang, 2008). The reasons for the poor performance of these courts is unclear due to the lack of sufficient data to conduct proper studies. However, this further point out that access to justice will not improve by merely setting up more court or simplifying the formal justice system. There is a need for justice systems that are sensitive to the historic injustices and imbalances and that take into consideration cultural practices and values of the people they are intended to serve.

Merging of justice systems

the promotion of ADR has grown in many African countries. These countries have made great strides to incorporate the use of ADR in various forms in the formal justice system for the purposes of resolving disputes and creating better access to justice. Court connected mediation and the use of arbitration are becoming common occurrences in many African justice systems. Some African countries have taken things a step further by introducing ADR into the upper court of the formal justice system and merging traditional justice systems into the formal justice system so that they are used at the lower court level to become the first court of instance in resolving disputes.

The United Nations encouraged this approach in 2004 when Koffi Anan acknowledged that due regard should be given to traditional justice systems in the settlement of disputes to help them continue their vital role of resolving disputes, but to also help traditional justice conform with international standards. Incorporating traditional justice into the formal justice system has proven to be a successful way to create better access to justice and to reduce case backlog in some countries because it is home grown, locally owned and culturally embedded.

Rwanda

Perhaps the best-known example of this is the Gacaca courts in Rwanda, used to resolve disputes arising out of the 1994 genocide. At the end of the Rwandan genocide, the number of people detained for genocide related charges was as high as 125,000. This meant that prisons were not easily able to accommodate all the detainees. Some died in prison before their cases were heard. This is because the country was faced with a serious capacity challenge after the genocide. Before the genocide took place, there were 785 judges in Rwanda. Only 244 remained after the genocide because they either had been killed or had fled the country. Only 12 prosecutors remained out of 50 before the genocide and 22 criminal investigators remained out of a former 197 (United Nations, 2000). This affected the entire judicial system by creating backlog not only for genocide related matters but also other regular crimes.

The Gacaca court system enabled communities at the local level to elect judges to hear the trials of genocide suspects accused of all crimes, except planning of genocide. The system was based on the traditional justice system of settling disputes using judges (inyangamugayo) who were people within the community, with great integrity and influence. It was estimate that using the formal justice system to deal with genocide crimes would have taken more than 200 years to put all the accused through trial (Kayigamba, 2012). The Gacaca courts were estimated to have heard approximately two million cases between 2001 and 2012, with the process costing an estimate of $40 million. The use of Gacaca's resulted in considerable cost and time saving, compared to the International Criminal Tribunal of Rwanda (ICTR), which heard its first case in 1997 and by 2012 had only completed 69 cases, with a staggering cost of $1 billion (Kayigamba, 2012).

Rwanda has also gone further to reinstitute and recognise the *"comite y'abunzi*" (abunzi). These *"comite y'abunzi"* were mandated by Article 159 of the Constitution and the Organic Law No. 31/2006 and Organic Law No. 02/2010/OL. The law was amended in July 2016 (Abunzi Act, 2016), following the amendment of the Constitution in 2015. Abunzi is a Kinyarwanda word meaning "those who reconcile" and it provides for a system that utilises trained local mediators to resolve disputes in communities. The Abunzi is a traditional dispute resolution mechanism, which has been modernised, to provide mediation for civil and criminal disputes of values not exceeding 3 million Rwandan Francs at Cell and Sector level. The *abunzi'* was officially launched in 2004 and forms part of the local government structures falling under the administration of the Ministry of Justice. The Abunzi committee is made up of seven members, all of whom must reside within the Cell and Sector. They are persons known for of integrity and their ability to mediate disputes. The lawa lso requires that 30% of the committee members to be women.

In conducting the dispute resolution process, the law requires the Abunzi to take local culture and custom into account, both when evaluating the parties' testimonies and

when making decisions, provided the local custom and culture, do not clash with any laws (Abunzi Act, 2016). Like the traditional justice mechanisms described above, the process is conducted in an open, public place. Parties give testimony before the abunzi, after which testimony from any other person who feels affected by the dispute is also permissible. The Abunzi encourage the parties to reach a compromise and reconcile their differences in an attempt to maintain unity and social cohesion. If the parties fail to reconcile, the Abunzi makes a decision. A party that opposes the verdict of the Abunzi at Cell level may appeal to the Abunzi at Sector level. Where the party opposes the verdict of the Abunzi at Sector level, they may file an appeal with the primary court Abunzi Act,2016).

According to the Rwanda Governance Advisory Council (RGAC), the Ministry of Justice in Rwanda has approximately 32.400 Abunzi Committee members across 2,150 cells and within 30 districts (Mutesi, 2011). Some of the achievements of this initiative are that there has been a 75% drop in land disputes referred to court for adjudication. A survey conducted by Transparency International Rwanda reported that 81.6% of the communities are satisfied with the use of these committees to mediate matters because it promotes access to justice ('Rwanda: Abunzi Must Jealously Guard Their Reputation', 2004). On the other hand, in comparison with the ordinary courts, the most highlighted indicators are the 86.7% reduction of time spent to settle cases, an 84.2% reduction of economic costs of cases in cell and sector level and an 80% mitigation of disputes between parties (Nsanzimana, 2012).

Zimbabwe

When Zimbabwe gained independence in 1980, a process of overhauling the judiciary began. The Customary Law and Primary Court's Act was enacted to introduce a new judicial structure of upper and lower courts (Spinks, 2001). The lower courts were constituted by village courts and community courts which were used to appeal decisions of the village court. These lower courts, whose operational model is based on tradition justice systems, have jurisdiction over customary issues. Appeals of community court decisions go to the magistrate courts (Spinks, 2001).

The proceedings in the lower courts share similarities with traditional justice systems in that they are informal, flexible, simple and allow for public participation. The aim of these courts is to provide access to justice to people in the rural areas, based on customary practise which they are accustomed to (Saki & Chiware, 2007). The courts focus on resolving disputes in a manner that promotes social harmony within the community. Disputants present their own cases without the need for lawyers and may present any evidence they believe to be relevant to the case (Spinks, 2001). The proceedings are public and anyone who believes that they have something to contribute towards the case may make presentation.

A further overhaul of the judicial system was undertaken in 1990 to modify the lower court by making community courts the customary division of the magistrate court. Headmen courts were made the courts of first instance, with the Headman and any other person appointed by the Minister of Justice as presiding officers. Chief Courts became the community courts that could hear appeals from the court of first instance. These are presided over by the local chiefs.

Uganda

Uganda utilises Local Council Courts, which are less formal and complex than higher courts. The judicial function of these courts developed during the war of the National Resistance Movement Army (NRM) between 1981-1986 in the Luwero Triangle (UNDP Report, 2005). The structure was set up by the NRM, to create governance structures where none existed. When the NRM came into power, they sought to formalise and democratise the structures established during the war.

In 1988, the NRM formally gave judicial powers of civil matters to the Local Council Courts. Up until then, these adjudication powers rested with the chief in the village, parish and sub-county level. The Local Council Courts, were formalised by the Local Council Court Act of 2006. The main objective was to achieve a more accessible courts system that utilised cultural norms and provided a dispute resolution mechanism with which the locals were familiar. These Local Council Courts were also closer to the rural people (UNDP Report, 2005). They were established in every village (LC1), parish (LC3) and sub-county level (LC5) with jurisdiction to handle civil matters up to a total value of 2 million Ugandan Shilling (Adonyo, 2012). In 2007, the Government of Uganda and the Lord's Resistance Army (LRA) signed a pact to promote the use of traditional justice mechanisms for the purposes of accountability and reconciliation (Huyse & Salter 2008). This was to ensure that the practises of traditional justice which existed before British colonial rule were incorporated into the justice system to make it more accessible to people.

In keeping with the traditional African culture, the courts can give the victim relief in the form of reconciliation, compensation, restitution and an apology. The court utilises local languages during proceedings and prohibits the representation of parties by lawyers, except in cases where the bylaws have been broken.

The LC courts have become the most significant provider of justice for millions of Ugandans, especially in Northern Uganda (UNDP, 2005). At least 70% of people indicate that they have access to the local council courts and that 80% of all matters are resolved within the requisite 30-day period.

However, the local council courts are not without challenges. One the key challenges faced by the local council courts is that the presiding officers receive very little pay for

presiding over matters. This creates a breeding ground for corruption. The parties may be charged more money to file their matters so that the presiding officer can be paid more. The presiding officer may also solicit funds from parties' thereby compromising impartiality.

Challenges when introducing ADR

The growth of ADR in its present form on the continent is certainly an overall positive step for the promotion of access to justice in the formal justice system. Ghana, South Africa and Uganda are among the countries in Africa who have recorded remarkable success in using ADR in the formal justice system. The Commercial Division of the High Court of Ghana under the High Court Civil Procedure Rules (C.I. 47) uses mediation as a mandatory pre-settlement procedure. In 2000, a pilot programme on court annexed mediation was put in place in Ghana, and it achieved an average settlement rate of above 60% on all cases mediated.

In South Africa one of the flagship uses of ADR is the Commission for Conciliation Mediation and Arbitration (**CCMA**) whose functions is to conciliate/mediate and arbitrate work place disputes as set out in the Labour Relations Act No. 66 of 1995. And in Uganda, the Statutory Instrument 2013 No. 10**.** The Judicature (Mediation) Rules 2013, which enables the use of mediation for civil actions filed in the High Court of Uganda and other subordinate court to the High Court has enabled court connected mediation to take off in Uganda. Therefore, ADR certainly has a role to play in enhancing access to justice and a lot can be learnt from it. However,the introduction of ADR has not been without its challenges.

1. **Lack of knowledge.**

In Lesotho, and some other countries that have introduced ADR into the court system through court-annexed mediation, the lack of knowledge and understanding of ADR by court users, has resulted in reluctance to undergo mediation. Because the court administrative staff also had limited knowledge and understanding of ADR, they were ill-equipped to provide proper guidance to court users on ADR processes,thereby exacerbating the problem. However, this is not an insurmountable problem. Extensive public awareness exercises have been used successfully in Uganda to mitigate this challenge.

2. **Resistance by legal professionals to participate in ADR processes.**

This is largely driven by lack of knowledge and understanding of ADR processes among legal professionals. There is also a perception that because ADR reduces the time for resolving disputes, it results in loss of revenue for legal practitioners. Furthermore, there is a concern that using ADR will erode the creation of jurisprudence. In every process of change, people first resist the change before embracing it. Even where lawyers have embraced ADR,their litigious nature, due to legal training, still results in an adversarial approach to ADR which is often counterproductive.

3. **ADR is not necessarily a time saver.**

Lawyers in court annexed mediation processes often argue that ADR does not necessarily save time. It is perceived as an additional step in the litigation process because where no settlement is reached during mediation, the case is still transferred to a judge. Furthermore, in countries where parties pay for mediator's fees, it is argued that implementing compulsory mediation prior to litigation is in itself a barrier to access to justice, because it increases the cost of resolving disputes, especially where mediation is not successful. Mediation may also be dragged out for months and even years if no clear timelines are agreed upon. This is contrary to the claim that ADR is faster and therefore cheaper.

4. **ADR professionals require training**

ADR requires specific skills and cannot be conducted by persons simply because they have knowledge of the law. Lack of training can have detrimental effects on the public's attitude towards ADR. The way the ADR practitioners conduct the process, can create confidence or mistrust in the process. When this happens, it is near impossible to get the parties to have a positive attitude towards ADR. Furthermore, in many countries, the mediation profession is largely unregulated. This, together with the principle of confidentiality,means that the process is held behind closed doors and, because no other persons are permitted to attend the process without the consent of the parties, determining the mediator's competence during a process can be a challenge.

5. **ADR is only used in formal justice**

ADR is mostly introduced at the upper court level, from the high court upwards. Few attempts have been made to see how ADR can be used to enhance traditional justice practices. Nor have traditional justice practices been used to enhance ADR initiatives introduced in the formal justice system. This exclusion of traditional justice, further enforces perceptions that the system is bias and systematically favour the more powerful, elite parties and perpetuate the dominant Western culture.

Conclusion

This paper sought to argue that traditional justice mechanisms need to be incorporated into the ADR practices that are introduced in Africa. This will create familiarity and, in turn, better access to justice. This will also give recognition to existing systems of dispute resolution that are aligned to the social fabric of many African communities.

However, the paper is not suggesting that we throw out the baby with the bath water, because in many places, ADR has demonstrated its effectiveness in improving access to justice when the conditions are right. What the paper is suggesting is that caution should be exercised when trying to address issues of access to justice, not to export a model which will continue to alienate most Africans who are already alienated by the formal justice system. Instead, lessons should be drawn from studies conducted in the

EU and Australia on the effectiveness of ADR to see how best to incorporate traditional justice systems into the formal justice system.

The paper is also not suggesting that traditional justice systems be incorporated as is. Modification of the systems is required to stem out discriminatory and oppressive cultural practises that are not in line with international human right doctrines, especially relating to women. Traditional Justice systems are rooted in patriarchal cultural norms which sometimes perpetuate discrimination against women, particularly with regards to inheritance, the status of widows, marriage, domestic abuse, rape and education of a girl child. Culturally men tend to have more power than women and this power can be abused to the detriment of women and children. One of the key reasons why South Africa's Traditional Court Bill has not been passed,the controversy surrounding the role of Traditional Leaders, who would be the custodians of justice in these courts, who are perceived by some to be an undemocratic, unaccountable and unelected institution, which upholds discriminatory cultural against women (Sithole & Mbele, 2008).

Drawing the best from both systems to create something which is contextually and culturally relevant to Africa,bearing in mind that Africa is not homogenous, may be a good starting point to improve access to justice.

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Nigeria: Oil Exploitation and Conflict Transformation in Edo State

Samuel Osagie ODOBO

Abstract. *The article is an extract from a broader empirical study conducted in 2015. It examined the dynamics of oil exploitation and conflict transformation in Edo State, Nigeria - an area often erroneously viewed as one of the zones of peace in Nigeria's turbulent Niger Delta region. The mixed method research was adopted. Using content analysis and descriptive statistics, the paper argued that oil-induced conflicts in Edo State are embedded in the narrative of grievances, poverty, absence of development, suppression and perceived neglect by government and oil companies. These issues have been addressed largely through the use of force, selective dialogue, suppression and infiltration of activism. Conflict transformation requires addressing the underlying causes of the conflict and building long-standing relationship through a process of change in perception and attitude of stakeholders. Beyond remediation of the environment, resource-rich communities in Nigeria yearn for infrastructural and human capital development both of which have remained elusive. Addressing community demands require confidence building, robust engagement and active local participation in community development and peacebuilding initiatives.*

Keywords: *Oil exploitation, conflicts, conflict transformation, Edo state, Nigeria.*

Introduction

Studies on oil and conflicts in Nigeria abound (Bassey, 2012; Clark, 2016; Adeosun, Norafidah and Zengeni, 2016). What seems to be the general consensus in these studies is that despite the fact that oil remains the backbone of Nigeria's economy, yet its exploitation has not translated into any tangible socio-economic benefits in the Niger Delta region, where the bulk of the oil is extracted. The puzzling inability of the

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Nigerian state to utilize oil revenue to drive economic growth and development validates the resource curse hypothesis and the massive environmental degradation and sundry social deprivations in the Niger Delta have triggered and exacerbated a complex mix of multi-dimensional oil-induced conflicts in the region. Within the last two decades, a swarm of violent armed groups emerged and clashed intermittently with security forces, vandalized oil installations, carried out lethal bombing of civilian and non-civilian targets alike, taken foreign and local oil workers hostage and initiated a culture of kidnapping for ransom that has now become a major national security problem in Nigeria.

Efforts to manage the crisis through non-adversarial modes of conflict management, such as the amnesty initiative and development interventions, have not had the expected impact on the socio-economic conditions of the people of the region, while adversarial strong-arm tactics also backfired in most cases. Consequently, the Niger Delta area remains one of the most volatile regions in Nigeria and home to several armed groups such as the Movement for the Emancipation of the Niger Delta (MEND), the Niger Delta Avengers (NDA), Niger Delta Revolutionary Crusaders, Reformed Egbesu Boys of the Niger Delta, the Niger Delta Greenland Justice Mandate and AdakaBoro Avengers. Although the magnitude and impacts of activism vary, local grievances are similar in core and fringe Niger Delta areas. The activities of these groups have, over time, attracted significant negative socio-economic and political consequences for the nation.

Edo State, by classification, is a fringe state in the Niger Delta, along with Abia, Akwa Ibom, Cross River, Imo and Ondo. It has had its fair share of oil-induced conflicts. However, the dynamics of these conflicts and how they are managed hardly feature in the analyses of oil and conflicts in the Niger Delta which have largely focused on the core Niger Delta states of Bayelsa, Delta and Rivers which are the main conflict theatres in the region. Oil was first discovered in Edo State in 1967 but actual production only began in the early 1970s. Oil is present and exploited in three local government areas in the state: Orhionmwon, Ikpoba-Okha and Ovia North East. Like their counterparts in core Niger Delta states, oil-bearing communities in the state have experienced problems associated with oil exploitation.

Guiding Theory: Conflict Transformation

Conflict transformation has been used enormously in the place of conflict management because they are thought to have overlapping meanings. However, while conflict management aims to regulate and contain conflict without necessarily ending it, transformation involves reframing the positions, social structures and underlying factors that gave rise to the conflict in the first place (Paffenholz, 2009). It is the argument of conflict management theorists that conflict is a consequence of competing values and interests within and between groups (Debraj & Esteban, 2017). Such conflicts can

be managed or contained through compromises that put the conflict aside and allow peaceful relationship to thrive (Paffenholz, 2009).

Conflict transformation recommends that beyond containment, conflicts can be transformed into positive peacebuilding. Lederach (1997) developed one of the most authoritative and widely discussed transformation-focused conflict intervention approaches. It is his view that conflicts can be transformed in the long term by gradually altering perceptions of issues, actions and the conflict actors. Since conflict usually transforms perceptions by accentuating incompatibilities and differences between people and positions, effective conflict transformation will focus on improving mutual understanding of interests, values and needs and how these are pursued. Accordingly, it also involves transforming the way conflict is expressed. It may be expressed competitively, aggressively, or violently, or it may be expressed through nonviolent means such as conciliation, cooperation or joint problem solving.

Conflict transformation focuses on four key areas: actor transformation, issue transformation, rule transformation and structural transformation. It is the goal of conflict transformation to cause positive change in the fundamental relationships among stakeholders beyond merely containing the conflict. Perhaps, the largest contribution of the conflict transformation school is its focus on local community participation in decision-making in the process of peacebuilding, as well as the insistence on addressing the underlying causes of conflicts because transformation cannot take place until the root causes of conflicts and the structures that support violence are removed and conscious efforts instituted to restore and facilitate positive stakeholder relationships.

Literature Review: Oil Exploitation and Conflict Transformation in Nigeria

A significant number of studies on causes of conflicts in the Niger Delta hinge their arguments on Collier and Hoeffler's (2004) greed-grievance hypothesis. A general belief is that negative ecological impact of oil exploitation that affects the economic base of local communities is a primary cause of oil-induced conflicts in the Niger Delta area (Clark, 2016; Shebbs & Njoku, 2016). These studies argue that after decades of oil exploitation, the Niger Delta environment had become devastated to the extent that preexisting patterns of production in the local communities have become irreparably altered. Failure of the Nigerian state and multinational oil companies to address associated problems eventually elicited violent response from the local population.

In his analysis of the political economy of resource conflicts, Ikelegbe (2005) noted that grievance can quickly transform into greed. Although oil-related conflicts could be driven by grievances, the motivation to sustain the conflict may be driven by a desire to exploit the situation for private gains, especially where the actors (state and non-state) benefit directly or indirectly from the conflict. It can be argued, therefore, that while

oil conflicts in the Niger Delta area were not originally driven by greed, it appeared at some point to have become the reason for sustaining the conflicts. For Joab-Peterside, Porter and Watts (2012), state officials, security agents, politicians, armed groups and others have become major actors and conflict entrepreneurs in the Niger Delta because there were gains to be made thereby.

The unhealthy competition for crude oil and control of oil rents, which has been a permanent feature in stakeholders' relationship in Nigeria's weakened nation-building, led to the decline of other productive sectors of the nation's economy and increased the struggle for political power in a desperate bid to control oil revenue (Siollun, 2009). Thus, oil presence not only became an impediment to democratic development, it also incentivized and sustained military incursion into politics and plunged Nigeria deep into protracted conflicts starting with the civil war that raged between 1967 and 1970. Furthermore, oil wealth eroded fiscal federalism and replaced it with fiscal centralism and in the process eroded regional autonomy and resource control.

The new political arrangement robbed the southern minority areas of the Niger Delta of the control over the oil revenue. Instead, what the region gets is a meagre derivation token which barely compensates for the ecological devastation and the other negative externalities of oil exploitation in the region. Thus, the question of ownership of oil resources or any resource for that matter remains a major trigger of tumults in the Niger Delta region. Added to these are the issues of compensation and poor remediation for environmental problems associated with oil exploitation and the much criticized half-hearted measures to develop the oil-bearing communities.

The question of compensation is, perhaps, the most cited reason for the intractability of conflicts across the Niger Delta region. Dissatisfaction of oil-bearing communities with compensation payments by oil companies and the government rests largely with the failure of the government to understand local perspectives on compensation that sustain the conflict and the reason why the people are up in arms against both the Nigerian state and the multinational oil companies. Ibeanu (2000) refers to this as the *contradiction of security* which the Nigerian government and the oil multinationals are unable to manage. For the local people, security implies recognition that reckless exploitation of crude oil and the resultant negative externalities threaten and even obliterate their livelihoods. Meanwhile, for the government and the oil companies, security means uninterrupted exploitation of crude oil irrespective of environmental and social impacts.

This preoccupation with unfettered extraction of crude oil partly explains the strong-arm tactics employed by the state and the oil companies against local communities whenever they agitate. Studies by Human Rights Watch (1999), Faleti (2010), Bassey (2012) and a host of others have discussed extensively the repressive tactics of the government against popular mobilizations in the Niger Delta region. They tend to agree on this tactic having failed to address the core issues in the conflict, only succeeding in

escalating the dysfunctional relationships in the region. As Bassey (2012) noted, youths in oil-bearing communities were radicalized by the government's repressive tactics and their response came in the form of attacks against oil facilities and infrastructures with serious consequences forboth the nation and oil firms.

Apart from the adversarial strategy adopted by the government and oil multinationals combined, another approach adopted by the government included the establishment of interventionist agencies to drive development in the region. Beginning with the Niger Delta Development Board (NDDB) in 1961, Niger Delta Basin Development Authority (NDBDA) in 1976, the Oil Minerals Producing Areas Development Commission (OMPADEC) in 1992, the Niger Delta Development Commission (NDDC) in 2001, to the Ministry of Niger Delta Affairs in 2008, the government tried to address the infrastructural and human capital development deficits in the Niger Delta. However, the lack of political commitment to energize the development agencies, funding issues, political interference and lack of autonomy were problems that plagued these interventionist bodies. Other problems included accountability and transparency deficits, massive official corruption and non-involvement of the local communities whose interests they were designed to serve (Emuedo, 2015).

At the level of corporate efforts to address the dysfunctional relationships in the region, Faleti (2010) examined development initiatives by oil multinationals who were focused on procuring a license to operate and douse tensions in the host communities across the Niger Delta. The central argument in the study is that oil companies operating in the region were initially reluctant to give back to the communities where they operated chiefly because they deemed that their responsibility was limited to paying taxes and remaining law abiding. As community agitations mounted, oil companies deployed all manners of tactics including 'divide and rule' that set individuals and groups within host communities against each other while friendly community leaders were rewarded with lucrative contracts and other perks including paid holidays and medical trips abroad. The recalcitrant and activist-minded were given short shrift and were likely to be targeted by security agents.

Aiyede (2006) and Idemudia (2009a) similarly commented on how this adversarial conflict management strategy worked until the 1990s when it came under increasing attacks from communities, human rights and environmental activists. Community leaders who were deemed to have compromised were roundly branded as traitors. The negative publicity that the government's strong arm tactics and multinational oil companies' unethical practices attracted, became major motivations that compelled both the Nigeria government and multinational oil companies to rethink their relationships with local communities.

Consequently, oil companies reframed their community engagement approaches by providing social infrastructures such as roads, electricity, health care, borehole water

supply, scholarship programmes, employment of indigenes from host communities and other forms of community support programmes. The government also adopted a softer approach to communities' agitations. Notwithstanding, oil companies CSR initiatives have roundly been criticized for lacking adequate community participation in the planning, implementation and execution of community assistance projects, as well as accusations of selective patronages (Emuedo, 2015). The sort of privileged status that selective patronage confers on a few individuals within the community creates fragmentation and dislocation of social cohesion in the community. Community leaders and youths who benefit directly from patronage networks created by their association with the oil companies, use the medium to accumulate wealth,as funds that are earmarked for community development are diverted for personal use (Faleti, 2010).

Failure of these conflict management styles to work on the multidimensional conflicts in oil-bearing communities meant that the conflict remained largely intractable. Added to this was the emergence of new and more violent conflicts with crippling impact on the Nigerian economy. The failure of the military forces to diffuse conflict, especially militancy in the Niger Delta, made former President Yar'Aduainitiate a conditional offer of amnesty to militants in 2009 in return for peace. The 2009 amnesty initiative had three components. The first was disarmament of members of the armed groups who were expected to turn in their weapons and complete the requisite form of renunciation of violence. The second stage involved rehabilitation and reintegration of demobilized militants, including the payment of stipends. The third covered the post-amnesty package of massive infrastructural development.

The amnesty programme helped in dousing tension in the Niger Delta area. It brought about improvement in oil production and revenues, fewer deaths and hostage taking. However, it failed to address the third phase of the programme - socio-economic development of the region. The deep-rooted causes of conflict in the region, such as poverty, high youth unemployment, underdevelopment, inequality, local economy dysfunction, official corruption and continued environmental degradation, have remained unresolved (Ikelegbe & Umukoro, 2014). The amnesty process was not only corrupt and unsustainable, but it also promoted warlordism and the spread of organized crime among other things (Sayne, 2013). The particular focus on (ex) militants made the amnesty initiative difficult to view as part of a larger Niger Delta peace plan. Hence, it amounted to a mere attempt by the Nigerian government to buy short-term ceasefire (Newsom, 2011).

Scope and Methodology

The study focused on six selected oil-bearing communities of Edo State: Oben, Ologbo, Iguelaba, Ughoton, Gelegele and Obagie-Nokenkporo. It examined oil exploitation and conflict dynamics in the area. The study reviewed the strategies for conflict management and transformation. A combination of qualitative and quantitative methods was

adopted. Oral interviews were conducted with traditional rulers, community leaders, youths and women leaders, staff members of oil companies and government oil commissions and civil society organizations. The interviews were complemented with a sample survey of 400 respondents across the six selected communities. The observation method was also utilized. Data collected through sample survey was analysed using simple descriptive statistics while the qualitative data were content-analysed.

Oil and Conflict in Edo State

Local agitations against oil companies were not obvious until the late 1990s and early 2000s. Host communities' agitations in Edo State were triggered by the rebellions of oil-bearing communities in other Niger Delta states, especially the core oil states of Delta, Bayelsa and Rivers. Agitations and militancy in these states had a mirror effect on the oil-bearing communities in Edo State, as the local populations became more conscious of the negative externalities of oil exploitation and the fact that they were being cheated by the government and oil companies who exploited the resource without corresponding benefits for the communities where the resource is located.

Furthermore, while ecological degradation due to exploitation of oil is often advanced as the main source of oil-related conflicts in the Niger Delta, the field survey of the studied communities indicated that it is not the most important conflict issue. Inadequate compensation, neglect by oil companies and neglect by the state constituted the central causes of conflict.

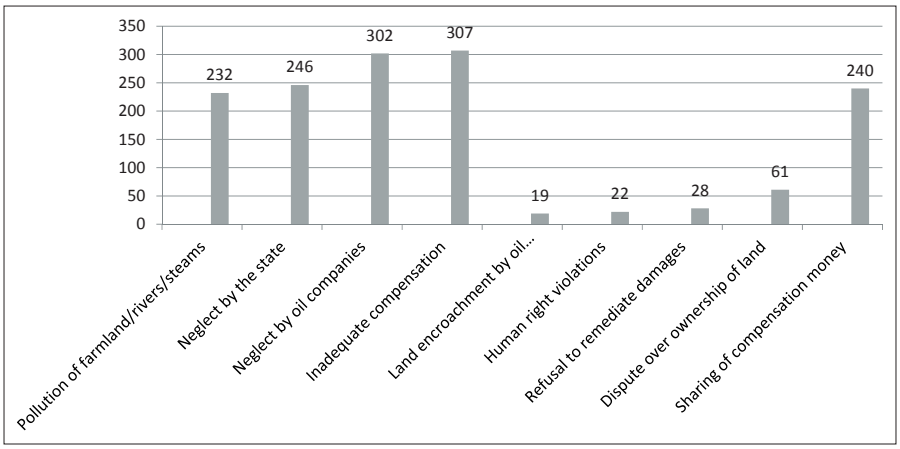

Fig. 1: Specific conflict issues in the communities
Source: Fieldwork report, 2015

The conflict issues arising from the exploitation of oil are linked together in a complex way and involve several stakeholders, including the youths, traditional rulers, commu-

nity leaders, the state, oil commissions, oil companies, women and other social actors. While the youths are the most active players in the conflicts, other key actors exist. These include traditional rulers, community leaders, the oil companies and security forces. These actors are simultaneously involved in a number of these conflicts, and different forms of conflicts often feed off each other. The levels of conflict may be classified into four, though in practice, it is difficult to draw a clear line of distinction among them.

Table 1: Conflict Issues and Key Stakeholders

Levels of Conflicts	Key Stakeholders	Conflict Issues
Intra-Communal	traditional rulers, community leaders, youths, community development associations	leadership struggle, mismanagement of community funds, sharing of employment slots, local contracts
Inter-Communal	traditional/community leaders youth groups	land, power struggle, oil patronages, host community status, local economy buoyed by oil presence and control
Oil Community vs. Oil Companies	traditional rulers, community leaders, community development associations, youth groups, civil society actors	oil rents/rights, compensation, physical development, employment, remediation of the environment, preference for "outsider" contractors for lucrative jobs
Oil Community vs. Government	traditional rulers, community leaders, youth groups, civil society actors, community development association	government neglect, infrastructural deficits, unemployment, oil rights, participation in extractive activities

***Source*:** Field report, 2015

Intra-Communal Conflicts: The key issues in intra-community conflicts are leadership struggles, embezzlement/mismanagement (real or imagined) of community development funds by community leaders, sharing of employment slots, local contracts and so on. Intra-communal conflicts are often over power and control of oil benefits. They involve struggle over community resources and disagreement among different community factions over how resources should be shared or managed. The issues in contention usually include composition of community representative bodies, how to utilize development funds, who gets contracts to execute community projects or has access to, or controls compensation money paid to the community by the oil companies. Sometimes, the disagreement involves low-level violence, as conflict parties mobilize support especially from among youth groups in their struggle for control of oil benefits. Watts (2004) labels these sorts of intra-communal feuds as struggle for "governable spaces" where the local elite scuffle to position themselves as intermediaries between the oil companies and the community.

Inter-Communal Conflicts: Inter-communal conflicts are mainly competition for "host community status," which confers some level of access to oil benefits, such as compensation, development projects, employment slots as well as struggle over oil-rich land.

The attraction of host community status pitted Oben against neighbouring communities of Iguelaba, Ikobi and Obozogbe. In fact, the Bini-Ijaw conflict over Gelegele community assumed prominence as a result of discovery of oil wells in the area. According to Ofunama (personal communication, September 5, 2015),

> They (Bini in Ughoton) have been laying claim of ownership over our land because of the oil and this has been causing problem. Oil is the main issue. The word "Edo State" should not be used to victimize settlers. They are hiding under the guise to say since Gelegele is under Edo State. It has caused a lot of problems.

For decades, the Bini of Ughoton and Ijaw of Gelegele have continued to feud over ownership of Gelegele. The two ethnic groups were peaceful neighbors before oil was discovered in the area. The presence of oil led to claims and counter-claims over who owned Gelegele. It also brought the settler/indigene question to the front burner of politics in Edo State.

Oil Communities versus Oil Companies: Conflicts emerged primarily from failure or reluctance of the oil companies to meet the key demands of the communities. These demands include compensation for occupied land or exploitation of their resources, development projects, employment, contracts and greater access to participate in the oil industry.

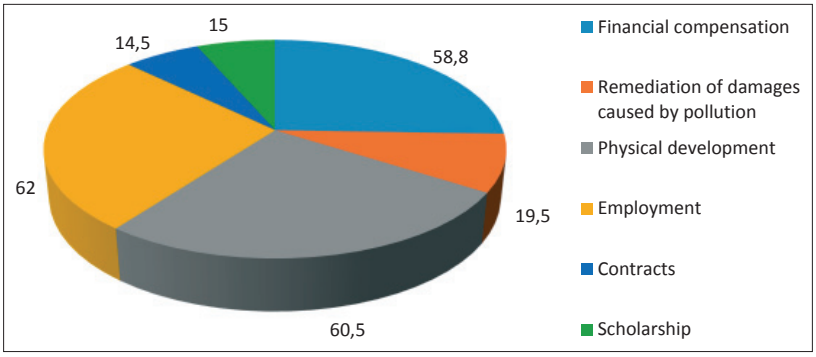

Fig 2: Key demands of oil-bearing communities
***Source*:** Field report, 2015

Oil companies considered the provisions of some community demands, such as road construction and electrification projects, as unrealistic because they argued that it is the primary duty of government to meet such demands. Hence, the companies viewed their development interventions as complementary to government efforts and not assumption of the role of government. Ineffective communication or inadequate engagement between the companies and community representative usually resulted in strained relationships.

Ecological impact of oil exploitation activities created further conflict. The altering of preexisting livelihood patterns compelled the local population to direct their attention towards securing increased local participation in the petroleum business and maximizing their benefits from oil exploitation.

Furthermore, the relationship between the oil-bearing communities and the oil companies is often characterized by suspicion and lack of trust. The local populations often accused the oil companies of using infiltration tactics to destabilize community harmony and prevent the local population from mustering an organized and united front against the companies. Aiyede (2006) notes that Shell and the other oil majors deliberately pursued divide-and-rule tactics that set individuals, groups and local communities against one another in the Niger Delta instead of fighting the "common enemies" which were the oil companies.

Ogiemwonyi (personal communication, September 24, 2015) noted that discontent of the local community in Obenagainst the oil companies partly emanated from their tendency to always use divide-and-rule tactics to manipulate local interest groups so as to avoid their corporate social responsibilities and/or meeting other commitments and promises made to the community. Instead of working with the community to address their needs, the companies often resorted to buying the cooperation of a few community leaders who were, in turn, mobilized to suppress community protest. Nevertheless, this strategy failed to achieve the desired result in Oben. Rather, it only created more problems within the community, which affected the oil company. Of note was the 2005 community youth protest which resulted in a temporary shutdown of the gas plant located at Shell's flow station in the community.

Oil Communities versus the Government: The main conflict issue between the local communities and the government is what the local people called "utter neglect" of oil communities by the government at all levels–federal, state and local. However, much of the blame is directed at the Federal Government which the local population accused of marginalizing the oil-bearing communities. The oil communities constitute a minority even within Edo State. Their main grievances with the government include the poor state of development and the very low level of government presence when compared to other oil-bearing communities in the core Niger Delta states where militancy is rife. They also criticized the contradiction of excruciating poverty in the communities against tremendous wealth being flagrantly displayed by government officials and staff members of government oil commissions who are supposed to cater for the needs of the oil-bearing communities.

These grievances are compounded by government's use of repression and suppression tactics. Attempts by the local populations to demand for what they considered as their "fair share" of oil benefits have, sometimes, been met with force by the police, soldiers and other government security agencies. However, unlike in the core Niger Delta states

where these issues have triggered violent confrontations, leading to loss of lives and property, militancy, hostage taking, kidnapping and attacks on oil installations, conflicts between oil-bearing communities and the government in the studied communities were largely low-intensity conflicts, involving less violence.

Strategies for Conflict Management and Transformation

Managing Intra-Communal Conflicts: Dealing with intra-communal conflicts arising from oil exploitation was essentially the responsibility of the community development association (CDA) and the traditional elders' council (TEC). The TEC headed by the Enogie or Odionwere (traditional head) provided overall leadership in the oil-bearing communities. The CDA was not only empowered by the traditional elders' council to negotiate with the oil companies on matters of community needs, but also the body, in agreement with the TEC, was responsible for dealing with issues of compensation sharing, allocation of job slots and the management of community development funds. Essentially, the CDA framework provided some form of coherence and local participation in decision-making and management of oil benefits in the community. As Corwall, (2006) noted, the framework could be viewed as an important conflict management tool and development strategy since it provided some sort of community coherence in articulating its needs and the strategies for meeting such needs, including attracting development to the community.

However, poor gender representation in the composition of the CDA leadership constituted a problem to effectiveness of the CDA. Omorodion (personal communication, September 7 and 9, 2015) observed that though women associations existed within the communities, they were hardly members of such community representative bodies and were never part of the team that often interfaced with the management of oil companies or had a say in the management of compensation money. Poor leadership, lack of transparency and issues of favouritism were other significant issues in the management of intra-communal conflicts. Minister (2015) claimed that community leadership often hijacked the process to attract self-development projects rather than community development projects. In fact, the allure of having access to large community funds, local contracts from the oil companies and other benefits made election/selection of leadership of most community development associations very competitive, secretive and sometime involving violence.

Omoregie (personal communication, September 23, 2015) averred that even Enogies and Odionweres occasionally became parties to the conflicts rather than managers of such. In Iguelaba and Ughoton, the Odionwere and Ohen (priest) got enmeshed in a dispute over who was the authentic head of the community. As the crisis escalated in Iguelaba, factions emerged in what transformed into a bloody conflict where youths were mobilized by both the Odionwere and Ohen factions. Such leadership struggles

complicated the ability of the TEC or the CDA to manage emergent oil-related conflicts in the communities. Disputes involving community leadership were usually resolved either through litigation or conciliated by the palace of the Benin monarch, the Oba of Benin. Since the Enogie, Odionwere and Ohen were appointees of the Oba, the Oba gave the final verdict on the rightful head of the community.

Managing Inter-Communal Conflicts: Verbal threats, demonstrations and low-scale violence often characterized disputes between feuding communities. The initial response of communities especially to a contested oil-rich area was always confrontational. Communities laying claim to a particular area where an oil well was located, for example, oftentimes tended to use force to intimidate the other parties. This strategy always threatened to escalate tensions between the communities. The usual pattern was for the community leadership to mobilize demonstrations across the community stating their claim to the contested land area or the community's right to benefits coming from the oil companies. In an attempt by Ughoton to implement a Supreme Court judgment on land demarcation around a contested oil-rich area with Gelegele, Ughoton and Evborokho community leaders became embroiled in a clash that resulted in injuries.

Similarly, the Bini and Urhobo engaged in violent confrontations over a disputed oil well in Ukpakele. The dispute effectively prevented Pan Ocean Oil Company from engaging in drilling activities in the area. The Oba of Benin intervened in the dispute, declaring that the disputed area belonged to the Bini. Consequently, the Oba sent representatives to the area to install an Okao (traditional head) in the community. The Urhobo rejected the Oba's decision, refusing the Okao entry into the community. This approach heightened tension and insecurity in the area, affecting other spheres of the community, including businesses and schools being shut down for fear of attacks.

One approach that warring communities engaged in managing oil-related dispute was the adoption of intercommunity representative committee (IRC). Considering the fact that some of the underlying issues in intercommunity disputes were basically intense struggles for oil benefits, these communities were encouraged mainly by the oil companies to establish IRC, otherwise known as steering committee. The framework could be viewed as a corporate-community relation strategy (Idemudia, 2009a). It entailed a group of oil-bearing communities establishing a steering committee made up of representatives from each community to interface with the oil companies on matters of common interest. The mechanism also articulated modalities for sharing oil benefits amongst the cooperating communities.

The IRC mechanism achieved modest success in managing oil-related disputes between communities making up Oben Oilfield (Oben, Iguelaba, Ikobi and Obozogbe). It was particularly useful in sharing employment slots, development projects, "homages" and other financial rewards amongst the four communities. It was also useful in reducing inter-community/interethnic hostilities among oil-bearing communities making up

Ologbo Dukedom, which are Imasabor, Oghobaye, Ologbo Central, and Itsekiri Waterside. Particularly, the framework significantly reduced the frequent agitations by the Itsekiri who complained of marginalization in the sharing of royalties and other largesse that came from the oil companies (Minister, 2015).

Although the IRC reflected some form of intercommunity peacebuilding measures and achieved, to some extent, community commitment to participatory partnership, there were still running battles and competitions among communities. Lack of trust was the biggest setback for the mechanism. Communities frequently accused one another of trying to sideline the others by going behind to negotiate with the oil companies. The oil companies were also accused of deliberately favouring some communities over others which went against agreed principles in the IRC arrangement. For example, the respondents in Iguelaba claimed that Oben continued to enjoy greater benefits from Seplat despite existing agreement that all four communities must share all oil benefits equally. Osakue (personal communication, September 8, 2015) noted also that the location of Dubril's flow station in Gelegele meant that the community attracted more development projects and other benefits than Ughoton and other communities in the area. Trust, accountability and transparency were some of the reasons Idemudia (2009b) argued that the extent to which the IRC approach have been able to engender effective intercommunity relations remains questionable.

Managing Conflicts between Oil Communities and Oil Companies: Initial disposition of oil communities towards the oil companies over the negative effects of exploitation activities on the communities was largely pacifist (Emuedo, 2015). Recourse to protest was indicative of the insensitivity and unwillingness of the oil companies to address fundamental issues raised by the communities. Effects of these protest, coupled with international criticism against the oil companies, forced the companies to adopt corporate social responsibility (CSR) initiatives as a mechanism for managing corporate-host community relations in the Niger Delta. CSR initiatives were basically targeted at addressing local grievances, community development, improved livelihood, conflict reduction and "freedom" to operate in the community.

The CSR initiatives of the oil companies in the Niger Delta have evolved over time from community assistance to community development and then, sustainable community development through corporate-community partnership (Faleti, 2010; Idemudia, 2011). In the studied communities, what was most visible in terms of CSR practices was a combination of philanthropy, social investment and stakeholder engagement. The oil companies engaged community representatives primarily on quarterly basis to discuss community needs and address potential threats to mutual coexistence between them and the community. Part of the process involved needs identification and agreeing on modalities to meet these needs. Oil companies social investment programmes often come in the form of community development projects, such as construction or renova-

tion of classrooms, healthcare facilities and roads; provision of pipe-borne water and electricity; equipping school laboratories; provision of employment and scholarship programmes for the youths as well as women empowerment scheme. Some of these development projects, such as the teachers' quarters built in Oben and Iguelaba, the cottage hospitals in Oben and Gelegele, water scheme and electricity project in Gelegele and Ughoton were considerably successful in meeting specific needs of the local population.

However, proliferation of unnecessary projects, lack of community participation, problems of project sustainability and the tendency for community development projects to incite intra-and inter-communal conflicts were identified as some of the problems associated with the oil companies' CSR initiatives in the area. Ogiemwonyi (personal communication, September 24, 2015) is of the view that oil companies have never been genuinely committed to addressing the real development issues of oil-bearing communities. Rather, their community engagement initiatives are basically designed to satisfy selected individuals within the community who posed considerable threats to their operations. Ogiemwonyi's argument is consistent with the assertion of Carr and Snyder (2002) who describe such corporate crisis management response as one that basically recognizes the existence of threats, determines their consequences and mainstreams responses to mitigate their adverse consequences.

CSR responses that deliberately target or benefit only a particular set of individuals rather than the entire community could be viewed as a form of infiltration tactics. The implication is that it not only denies the community benefits that are commensurate with perceived value of the resources being exploited in the community. It also implies the unfortunate incorporation of the so-called cabals that have been settled into the crisis management or mitigation strategy of the oil companies. Minister (2015) captured the sort of relationship that exists between these influential individuals and the oil companies thus:

> They are part of the oil company's management strategy. Once the leaders are settled, the issue is over and that is how they ensure everybody keeps quiet in the community. These stakeholders are employed by the oil companies to ensure there are no disturbances to their operations.

Thus, though this strategy contributed to dousing tension within oil-bearing communities, they stoked the embers of frustration and animosity among the local population towards such community leaders perceived to have compromised community interest in return for personal gains by yielding to the interests of the oil companies. Thus, community grievances against the oil companies have continued unabated despite the community development initiatives of the oil companies.

Managing Conflicts between Oil Communities and the Government: Oil community responses to perceived government neglect have largely involved agitations through town

hall/community meetings, written petitions to government, sending delegations to government oil commissions, street demonstrations, mounting roadblocks and occasional interruption of the activities of oil companies. Conversely, it appears government mainly perceived community agitations especially those that interrupted oil extraction in any form as rebellion and acts of economic sabotage considering the strategic importance of crude oil to the nation's economy. Perhaps, this explains government's proclivity to deployment of state coercive apparatuses whenever it perceives a threat to crude oil exploitation. Thus, government's management style, as Okoh (2005) observed, has been one of containing or controlling the conflict mainly through coercive measures. This is in tandem with survey results on the perception of the respondents on how government has managed oil-induced conflicts in the study area.

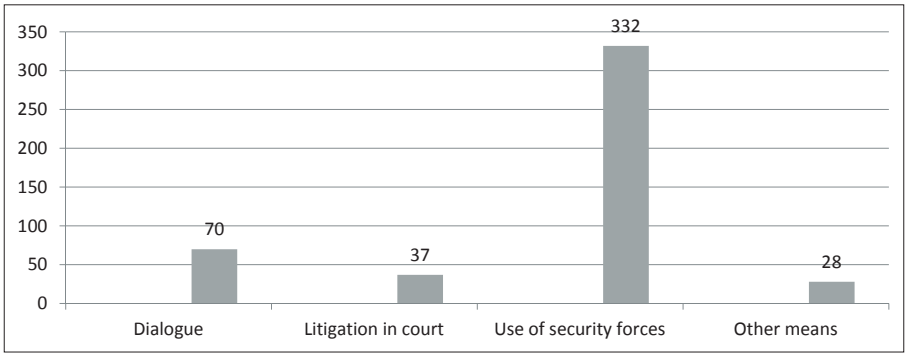

Fig. 3: Perception on government's conflict management strategies
***Source*:** Fieldwork report, 2015

Besides the use of force, however, government also pursued non-adversarial measures of conflict management. These involved peace talks and town hall meetings organized by government agencies in collaboration with the oil companies, civil society organizations, and other different groups aimed at building peace between the government, oil companies and the communities. Such peace meetings resulted in the payment of compensation to communities for ecological degradation, investment in socio-economic infrastructures, scholarship and skill-acquisition programmes for youths, provision of soft loans, subsidies and other empowerment programmes for the women. It was also within this framework that the derivation principle grew from 3% to 13%, thus increasing the revenue shared to the Niger Delta states. A corollary of this approach was the establishment of interventionist agencies to cater for the development needs of the oil communities. The Niger Delta Development Commission (NDDC) and Ministry of Niger Delta Affairs play this role at the federal level. Edo State Oil and Gas Producing Areas Development Commission (EDSOGPADEC) is a creation of Edo State Government mandated to bring development to the oil-bearing areas of the state.

Some of the projects executed by the NDDC in the selected oil-bearing communities included building or renovation of classrooms, provision of electricity transformers, health centres and dispensaries. NDDC built six blocks of classrooms, tarred a road, provided pipe-borne water and rural electrification projects in Gelegele. It constructed six blocks of classrooms in Oben, a primary school and health centre in Ologbo and provided health centre, water scheme and rural electrification project in Ughoton. However, field observation showed that the NDDC had no presence in Iguelaba. EDSOGPADEC, on the other hand, constructed a secondary school in Gelegele, renovated Ozolua Grammar School in Ologbo, sunk borehole in Iguelaba and Oben. In the area of human capital development, EDSOGPADEC distributed motorbikes to youths in Oben and Gelegele. It provided skill acquisition training for a number of women in fashion design and hairdressing. It also constructed blocks of flat for teachers and health workers in the rural communities. Similarly, it tarred about 30 km of road – 10 km each in the three oil-bearing local government areas of the state: Orhionmwon, Ikpoba-Okha and Ovia North East.

Nevertheless, both agencies have attracted criticisms. Oshodin (personal communication, October 2, 2015) argued that official corruption, political interference and mismanagement of funds were some of the greatest impediments facing these oil commissions. They have also been criticized for not being community-oriented, serving basically the interests of active stakeholders, such as politicians, government officials, board members, high-ranking staff members of the commissions, and a few traditional rulers/community leaders, contractors and consultants. It was argued that conception, planning and implementation of community development projects did not adequately involve objective, all-inclusive and sincere needs assessment or local community inputs. Rather, it was always characterized by lack of transparency and a tendency to allocate resources to satisfy only those active stakeholders. These individuals influence the location of development projects; and, in some cases, projects are cited in non-oil communities to compensate "friends of the government".

The NDDC, in particular, has been accused of paying less attention to human capital development and over-politicization of projects, as successive managements award new contracts instead of completing existing ones. That is why the region is littered with several abandoned projects. The few completed projects lack quality. These projects face sustainability issues, as they were largely executed with little or no consideration for their end use or sustenance (personal communication, September 25, 2015). Furthermore, the NDDC lacks visible presence in the oil-bearing areas of Edo State perhaps because the state is located at the periphery in terms of oil production in the Niger Delta. The commission appears to have concentrated its interventions on the core Niger Delta States where the conflicts are perceived to constitute greater challenge to economic stability and national security. However, as Tokunbo (personal communica-

tion, September 30, 2015) argued, though more preponderant in the core oil-bearing states, challenges that naturally flow with oil companies' exploitative activities being the same everywhere and also constitute a threat in peace in the oil-bearing areas of Edo State.

Conclusion: Imperative of Conflict Transformation

Low-intensity conflicts induced by oil exploitation in Edo State have the potential to transit into high-intensity conflicts. Although the various conflict management strategies adopted have been able to douse tension and prevent conflict escalation, they have largely remained ineffective as mechanisms for conflict transformation mainly due to inadequate engagement, lack of transparency, and the absence of a participatory approach to conflict management. Conflict transformation requires addressing the underlying causes of the conflict and building long-standing relationship through a process of change in perception and attitude of stakeholders. What the oil-bearing communities need is development. Beyond remediation of the environment, these communities have yearned for infrastructural and human capital development which has remained elusive. Addressing these key community demands requires adequate engagement and active local community participation in the community development and peacebuilding initiatives of the government and oil companies.

Furthermore, the pathway to building long-standing stakeholder relationship and sustainable peace must be community-centred. It must take into consideration the need for socioeconomic empowerment and justice for the oil-bearing community. Experiences in the Niger Delta showed that mismanagement of local community agitations, perceived neglect, marginalization, and exclusion of these communities from the oil-industry were largely responsible for transformation of the conflicts and subsequent militarization of the region. Thus, paying weak attention to the frustration and grievances of the oil-bearing communities can lead to conflict escalation, which would inadvertently contribute to the already heightened insecurity situation in the Niger Delta area.

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Philippines: Factors of Century-Old Conflict and Current Violent Extremism in the South

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Abstract. *The perpetual struggle for separatism among Moros in Mindanao is produced on a background of historical and cultural injustices and by the presence of Moro liberation fronts, along with the government responses to this issue. This article endeavors to trace and interweave the roots of historical and cultural factors of Muslim separatism in Mindanao, along with its implication to the present Marawi crisis as fueled by the ISIS-linked groups who attacked the Philippines' Islamic city on May 23, 2017. It looks into the history of the arrival of Islam and the subsequent islamization of Mindanao. It then discusses the Muslim resistance movement against two foreign regimes, Spanish and American, which is followed by its resistance against the Philippine government. Factors that trigger Muslims' desire for separatism include at least three notorious massacres: Jabidah, Manili, and the Tacub Massacre. Such historical factors of injustices have fuelled the century-old struggle for separatism and self-determination. With the government's and non-government forces' failure to pacify the island, such struggle resulted into continuing war in the region killing over 120,000 Mindanaoans. Recently, this conflict in the region was reignited when an ISIS-linked group attacked the Philippines' Islamic city of Marawi, affecting over 84,000 internally displaced persons from over 18,000 families who are now seeking refuge in 70 different evacuation centers, in a state of discomfort, missing home and psychologically distress.*

Keywords: *Marawi, Mindanao, Muslim, Philippines, separatism, violent extremism.*

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Introduction

In one interfaith forum attended by leaders and peace advocates of various religious faith around Mindanao, one member of the Moro Islamic Liberation Front (MILF) stood 81-94and said,

> *Klaro kayo nga sa atong kasaysayan*
> *wa gyud masakop ang mga Muslim;*

> *unya isagol na hinoon mi sa Pilipinas? Dili kami mga Pilipino, mga Muslim kami!* (It is clear in our history that Muslims were never conquered; and why integrate us in the Republic of the Philippines? We are not Filipinos, we are Muslims!)

The issue of Muslim separatism in Mindanao is not a recent one; it originated as early as the beginning of 18th century during the Spanish colonization – accidents in political history that placed the hitherto autonomous Muslim communities under alien rule (Che Man, 1990). However, the intensity of the issue in the contemporary period is as intense as it was before. As a matter of fact, Dacobor of the Mindanaw Tripartite Youth Core (2008, personal communication) commented that "every time topics in peace forum reach to the issue on Muslim Separatism, it is not uncommon that the conversation will end up a serious and intense one".

Geographically known as the second biggest island of the Philippine archipelago, Mindanao is now home to three major ethno-linguistic groups, namely: the *lumads* (indigenous peoples), Christian settlers, and the Muslim community (AFRIM Resource Center, 1980). Also referred to as Moros, the Muslim community in Mindanao is divided into 13 different ethnic groups which are all tied by their religion of Islam. As cited by Che Man (1990), De Vos and Romanucci-Ross (1975) and Hall (1979) defined ethnic community as "a self- perceived group of people who hold in common a set of traditions not shared by the other with whom they are in contact". This definition assumes that for an ethnic group to emerge, there must be some 'primordial' ties around which to build a sense of community. These primordial ties include such traditions as common myth of descent or place of origin, sense of historical continuity and distinct cultural practices (Che Man, 1990).

In line with this, the Muslim community in Southern Philippines does not lack any of these 'primordial ties' that enable them to emerge. As a matter of fact, the Muslims in the Philippines are known for their very rich culture that is still evident to these days. Their community is well bounded by the strong foundation that ties them – their religion, Islam. With this, it is evident that their fearless, bloody and determined struggle for separation never weakens because of the influence of their religion. They are determined that Allah is with them and shall keep His promises. As what Allah revealed to Prophet Muhammad (SAW) as indicated in Qur'an II: 190 "whosoever fight for the sake of Allah, shall inherit the paradise that Allah prepared for them".

Mindanao as the Homeland of Muslims Filipinos

Mindanao is a variant of the name "Maguindanao" which means 'inundation by river, lake or sea'. The region comprises of the principal island of Mindanao and a chain of some 369 smaller islands of the Sulu archipelago and is about 96,438 sq.km. in area (Che Man, 1990). The geographical characteristics of Mindanao, being at the Southern part of the Philippine archipelago, consequently makes it near to the Malay World. That

is a substantial factor which made Mindanao the most Islamized island throughout the archipelago. Islam is one of the oldest organized religions established in the Philippines. Its origins in the country may be traced back as early as to the 14th century, with the arrival of Arab and Malay Muslim traders who converted some of the native inhabitants in the southwestern Philippine Islands (Gowing, 1988). Islam is the Philippines' second largest religion, with 5,127,084 followers as of 2010 (Bueza, 2015).

Figure 1. Map of Mindanao, the second biggest island, located in Southern Philippines

Representing less than 15 percent of the population of the Philippines (the only predominately Christian country in Southeast Asia), Filipino Muslims are geographically concentrated in the South of the country in Mindanao and Sulu and are distinguished from Christian Filipinos not only by their confession of Islam but also by their evasion of over 300 years of Spanish colonial domination. In addition, these Filipino Muslims themselves have always been separated from one another in this archipelagic nation by significant linguistic and geographic distance intothree major and ten minor ethno-linguistic groups who are dispersed across southern Philippines. The three largest ethno-linguistic groups are the Maguindanaons of the Pulangi river basin of central Mindanao, the Maranaos of the Lanao Lake region of central Mindanao and the Tausugs of Jolo island in the Sulu archipelago. Smaller groups include the Yakans of Basilan Island, the Samals of the Tawi-Tawi island group in Sulu and the Iranuns of the Cotabato coast of Mindanao. In some parts of their traditional territory, Philippine Muslim population retains its majority; about 98 per cent of the populations of the Sulu archipelago, for example, are Muslims.

In Mindanao-Sulu as a whole, however, Philippine Muslims now comprise less than 17 per cent of the population, due primarily to large scale Christian immigration from the north over the past 60 years (National Commission on Muslim Filipinos, 2016).

Philippine Muslims share their religious culture with the neighboring Muslim-majority nations of Indonesia and Malaysia. They also retain certain elements of an indigenous pre-Islamic and precolonial lowland Philippine culture (expressed in dress, music, political traditions and a rich array of folk beliefs and practices) that are similar to those found elsewhere in island Southeast Asia, but are today mostly absent among Christian Filipinos. Thus, while Philippine Christians and Muslims inhabit the same state and are linked together by various attachments, a profound cultural gulf created by historical circumstance separates them. That gulf is the outcome of two interlinked events; the conversion of some regions of the Philippines to Islam and the Spanish colonial occupation of other regions shortly afterward. Islamization was still underway in the archipelago when the Spaniards gained their foothold in the Northern Philippines in 1571. After consolidating control of the Northern tier of the Philippine islands, they failed, despite repeated attempts, to subdue the well-organized Muslim sultanates of the South.

The Spaniards assigned to the unsubjugated Muslim peoples of the southern sultanates the label previously bestowed on their familiar Muslim enemies from Mauritania and Morocco, "Moros" (Moors). The term "Moro" was applied categorically and pejoratively with scant attention paid to linguistic or political distinctions among various "Moro" societies. The American colonizers who succeeded the Spaniards and eventually subdued Philippine Muslims in the early twentieth century by means of overwhelming force, continued the usage of "Moro" even though it had become pejorative among Christian Filipinos, denoting savages and pirates. In a bold semantic shift, Philippine Muslim separatists during the late 1960s appropriated the term "Moro" and transformed it into a positive symbol of collective identity, one that denominated the citizens of their newly imagined nation. For more than 30 years, Moro activists have sought self-determination for Philippine Muslims, sometimes through armed struggle. Their efforts have caused the Philippine state to experiment with regional autonomy for the Muslim South and have conditioned state responses to the claims of other unhispanized minorities.

Fox and Flory (as cited by Gowing, 1980) identified cultural-linguistics who are of Muslim denomination, though a few of the groups, such as the Badjao of Sulu, have been less intensively Islamized. These thirteen Moro groups, mainly found in the Cotabato region, Sulu archipelago and Lanao region, do speak various dialects (often the name of the group and the name of the language being the same) (Gowing, 1980). Moreover, Moro groups differ[1] to some extent in their historical development and in the intensity of their contacts. They also differ in the details of their social organization; in the degree of their Islamic acculturation; and in their dress, customs, arts and many other aspects of culture (Gowing, 1980).

The Islamization in the southern Philippines occurred along with the Islamization of Borneo Sulawesi, Celebes and the Moluccas island of Indonesia. It is likely that Muslim Arab traders had begun trading in the Philippines long before the Filipinos started to embrace Islam. Scholars today believe that Muslim merchants, trading profitably in the Malay world, brought Borneo to the attention of the Chinese during the tenth century. Further, he also points to a venerated grave of a foreign Muslim (possibly an Arab), which is found in a *tempat* (sacred grave) on Bud Dato, a few miles from Jolo town. Moreover, the genealogy of Sulu speak of a foreigner who bore a title Tuan Mashai'ka and who came to Jolo long ago, married to a daughter of a local chieftain and begot Muslims- meaning that he raised his children as Muslims. Another genealogy that Tuan Mashai'ka came when the people of Jolo were still worshipping stones and other inanimate objects. Thus, Islamization, the process of Islam taking root among the people outlive to Sulu, may will have begun to Tuan Mashai'ka who raised Muslim children with his wife (Gowing, 1980).

More so, Gowing (1980) argued that the genealogies of Sulu were not written as scientific histories of the archipelago's chief families, as documents of their time and space. Rather they contain elements that are mythological and baffling for the present generation. Even so, they are important sources for clues as to the beginning of Islam in the Philippines. Furthermore, the Sulu traditions speak also of Rajah Baguinda, who late in the fourteenth or early fifteenth century came to Jolo from the Menangkabaw region of Sumatra at the head of a small fleet of *praus* (sail craft) transporting a force of warriors and settlers. Other than this, more traditions speak of an Arab, Sayyid Abu Bakr, who came to Buansa towards the middle of the fifteen-century and lived with Rajah Baguinda. He married the old Rajah's daughter, Paramisuli. After the death of his father in law, Sayyid Abu Bakr succeeded to the latter's political authority and eventually founded the Sultanate of Sulu (Gowing, 1980).

The Muslim Resistance Movements

Like other early Filipinos settlements, the Moros in Mindanao lived harmoniously and independently before the advent of foreign invaders. However, the coming of the colonizers disturbed their peaceful living, and so resistance followed. The Islam religion, their unifying element, made their resistance stronger compared to any other early settlements that had resisted. This is evidence for the fact that, among other things, Spaniards found it difficult to colonize and Christianize them.

As Majul (1999) puts it, the Spanish colonization in the Philippines can be summarized under the headings of God, Glory, and Gold. The kind of colonial system Spain established in the Philippines depended of the broad aim for Spanish colonialism. More resistance against Spain began in 16th century when Spain established her sovereignty in Visayas and Luzon and then sought to extend it to Mindanao and Sulu as well. Unfortunately, the

Moros responded to such intentions with violence and warfare. As a matter of fact, Jolo alone was attacked 16 times. Yet, the plan to "Hispanize and Christianize the Moros", one of the four laid plans of the Spanish Moro Policies, has never been realized. This drove Gen. Luis de la Torre, a Spanish officer, to write to the governor general of the Philippines: "The Moro race is completely antithetic to the Spanish … and will ever be our enemy" (Majul, 1999). Evidently, the Moros responded to such designs with violence and warfare. Moro buccaneers harassed Spanish ships and so were deemedpirates. Moro expeditions carried Jihad to the coast of Visayas and Luzon where their war vessels periodically raided, killed and plundered Christian settlements (Majul, 1999).

In August 1898, when Spain raised their white flag, as Agoncillo (1990) puts it, the Americans successfully took over the administration of the Philippines. Consequently, the American administration of the Moro land, which was developed in three successive stages, took place between 1899 and 1920. In 1899, there was an initial Muslim-American contact and military occupation of the Moro land, which ended in July 1903 upon the inauguration of the Moro Province. Next a decade of establishment of the Moro Province (1903-1913) followed which exercised politico-military control over the region and prepared Muslims for a civil government. Finally, a six-year period (1914-1920) of bringing Mindanao and Sulu into the general governmental framework of the Philippines followed.

Nevertheless, this transfer of sovereignty over Moro land from Spain to the United States of America did not render the Moros less vigorous in their resistance to colonialism. Thousands of them fought and died resisting the American policy of incorporating their homeland into the Philippine state (Che Man, 1990). Act Number 2878 of the Philippine Legislature formally abolished the Department of the Interior, exercising its power through the Bureau of Non-Christian Tribes (Che Man, 1990). Though American officials continued to play important roles in administering the affairs of the Moros, the region was now largely under the control of Christian Filipinos.

However, Thomas (1971, as cited by Gowing, 1980) argued that the Moros believed that the Christian Filipinos, influenced by centuries of Spanish domination, had hidden motives to stamp out their religion and traditions. As a result, Moro leaders in Sulu presented a petition to the president of the United States requesting that Sulu be governed separately from the rest of the Philippines. Yet, their petition went unheeded. Thus, Moro and Filipino communities were incorporated (Gowing, 1979).To this end, Moros expressed their discontent through armed resistance, though they no longer had the strength to represent the same threat they did to the Americans up to 1913 (Tan, 1977, as cited by Gowing, 1979).

After decades of resisting the American efforts to include their homeland in the Philippines, some Moro leaders realized that their resistance was pointless (Che Man, 1990). Moro land was structurally integrated into the Republic of the Philippines which

was proclaimed on July 04, 1946. There were development efforts laid down by the national government to Mindanao, however, only Christian settlers and foreign entrepreneurs benefited from it (Gowing, 1979). As a result, some Moros expressed their discontent towards the government through armed struggle again.

Factors leading to the Muslim Separatism

The Moro resistance ended-up becoming a full-fledged and organized Moro separatist movement. Muslim separatism intended the preservation of the Muslim community which was possible only through its separation from the Philippines. The Moros pursued their separation during the administration of Ferdinand Marcos from1965 until 1986. There were significant events that led to the formation of Separatist Movements.

The 1968 Jabidah Massacre

Details of the Jabidah Massacre are less clear because of conflicting reports. However, between 28 and 64 Moro recruits out of a large number undergoing guerilla warfare training in Corregidor Island were massacred in late March 1968 by the Philippine Army men. The training was allegedly in secret preparation for Philippine military operations in Sabah-code-named "Operation Merdeka". *Operation Merdeka*, as explained by some Moros, was an attempt by the Philippine government to split Islamic ranks and provoke a war between Sulu and Sabah. The cause of the execution was never made public by the Philippine government. Jubair (1984, as cited by Che Man, 1990) mentioned that according to the lone survivor, Jibin Arola, the "trainees were shot because they refused to follow the order to attack Sabah". Aware of the possible impact of the leakage of this secret plan, the military authorities executed the entire company so that no one survived to tell the story (Jubair, 1984). Further, Noble (1983) pointed out that the Jabidah Massacre had two important political consequences. First, the Moros were angered at the disregard for their lives shown by the Marcos government. Secondly, it inflamed the Malaysian Government of Tunku Abdul Rahman, which, having made compromises to Marcos' desire to establish diplomatic relations, saw itself "stabbed in the back by the Philippines" (Che Man, 1990).

Two months after the Jabidah accident, Datu Udtog Matalam founded the Muslim Independence Movement (MIM) which the Malaysian government supported (Lucman, 1982). In 1969, the first group of young Moros (comprising of 67 Maranaos, 8 Maguindanaons, and 15 Suluanos) was sent to Malaysia for military training (Che Man, 1990).

From mid-1970 to 1971, a conflict between Muslims and Christians began to erupt in Lanao del Norte, Cotabato and Lanao del Sur. The Muslim groups, identified as Barracudas and Blackshirts, were allegedly linked to Congressman Ali Dimaporo in Lanao del Norte and tothe MIM in Cotabato, respectively. The Christian groups, known

as 'Ilagas' ('rats'), were allegedly linked to Congressman Arsenio Quibranza of Lanao del Norte and tollonggo settlers, Tiruray tribal people and constabulary units in Cotabato. By the end of 1970, fighting between these two rival groups had resulted in many casualties, disruption of the economy, and mass evacuation. More than 30,000 Muslims, Christians, and Tirurays had been forced to leave their farms (Che Man, 1990).

The Manili Massacre of 1971

The most publicized incident after the Jabidah Massacre was the Manili Massacre. It occurred in June 1971when about 65 Muslims – men, women, and children – were murdered by Ilagas at a mosque in Barrio Manili, North Cotabato (Gowing, 1979). On the part of the Muslims, the Manili incident carried a special weight because it took place in a compounded mosque. It was seen as an act of religious humiliation. In line with this, Ali Treki of Libya (1972, as cited by Che Man, 1990) believed that the conflict became a religious war. When the late Libyan Information and Foreign Minister, Saleh Bouyasser, was informed about the killings of the Muslims during his visit to the Philippines in 1971, he took the initiative to talk with the Moro leaders. It was as a result of this meeting that, on the one hand, Bouyasser recommended to his government that it should help the Moro people and, on the other hand, a declaration of unity was signed among different groups of Muslim leaders. Cries of 'genocide' began to be heard from the Moro leaders.

The Tacub Massacre and the Election of 1971

During the 1971 elections for the Constitutional Convention, there was a bitter rivalry between a Muslim Congressman and a Christian Governor in Lanao Del Norte. This rivalry developed quickly into a poll battle dividing Muslims and Christians (Gowing, 1979). As a result, a special election had to be scheduled. On the day of the special elections, a group of unarmed Moro voters were fired upon by the government troops in Barrio Tacub in the municipality of Kauswagan, Lanao Del Norte. About forty Moros were killed with no fatality on the government side (Gowing, 1979).

Investigation by the National Bureau of Investigation resulted in charges of multiple homicides being brought against 21 army men and three civilians. Muslim leaders counseled patience to allow the law to take its course, but by March of 1972, the charges against the civilians and against five of the soldiers were dropped "for lack of evidence". The disposition of the case against the remaining 16 soldiers was never reported– presumably the case was quietly dropped, a practice not uncommon with cases in which the victims are Moros (Gowing, 1979).

With such events during the 1971 elections, Noble (1976, as cited by Gowing, 1979) stressed that it stimulated the rise and activity of rival Muslim and Christian groups, escalated the level of violence and attracted the attention of Muslim state abroad. By the end of 1971, the Mindanao insurgency had taken a toll of 800 lives and over 100,000

refugees. In 1972, the conflict spread to Zamboanga del Sur, where Ilaga bands appeared, and to Balabagan near Malabang in Lanao del Sur, which have a mixed Muslim-Christian population.

Moro Liberation Fronts and the Government Responses

The uncertainty and fears generated in the aftermath of the Jabidah Massacre in 1968 created a new urge among the Moros to search for alternatives to secure the Ummah (or the community of faith). To the Moros, the Filipino Christian Government had proved to be insensitive to their demands and unwilling to ensure protection of their lives (Asani, 1985, as cited by Che Man, 1990). More so, this period saw Muslim youth and student activists beginning to assert their demands for better treatment of the Moro people. As a result, several Moro liberation fronts emerged.

According to Che Man (1990), there exist five Moro underground groups in Southern Philippines by 1990. These were the Misuari and Pundatu factions of the Moro National Liberation Front (MNLF), the Bangsa Moro Liberation Organization (BMLO), which was latter change into as the Bangsa Muslimin Islamic Liberation Organization (BMILO), the Moro Islamic Liberation Front (MILF) and the Moro Revolutionary Organization (MORO).

Unfortunately, these liberation fronts do not exist anymore, except for the MILF[2] which is still operating mainly in the Cotabato region. Further, Since September 11, 2001, however, the Muslim struggle for autonomy has been recast as part of the War on Terror, politicizing international interest and overshadowing humanitarian concerns. As a result, the needs of at least 100,000 refugees and displaced persons from the region have been largely ignored.

While there is no question that Muslim extremists have found a haven in the Southern Philippines, the conflict in Mindanao reflects long-standing tensions between local movements advocating for political autonomy and the central government, which represents the outlook of the Catholic majority of the country. The situation in the southern Philippines is a classic case of humanitarian concerns and consequences being ignored in the context of violent political conflict exacerbated by external forces.

Later on, the Philippine government faced a bloody battle against another liberation front: the Abu Sayyaf.[3] The Abu Sayyaf Group, also known as al-Harakat al-Islamiyya, is one of several militant Islamist separatist groups based in and around the Southern islands of the Philippines, particularly in Jolo and Basilan, where for almost 30 years various groups have been engaged in an insurgency for an Islamic state, independent of the predominantly Christian Philippines. Hostilities broke out again in Basilan's Al-Barka town in July this year after MILF fighters attacked government forces and killed 14 soldiers who strayed into a rebel stronghold while pursuing the Abu Sayyaf. The Abu Sayyaf later beheaded ten of the soldiers as they retreated (History Commons, 2007).

Since 2002, the Philippine offensive against Abu Sayyaf became more intense and effective on Basilan and Jolo islands, with many of its members killed and captured. However, the Abu Sayyaf has established links with the Indonesian terror group, Jemaah Islamiah, and a local radical organization called the Rajah Soliman Movement, which is made up of Filipinos who converted to Islam. The MILF has repeatedly denied any links with JI, although military commanders say there is a connection between the two groups. They say JI militants – among them Indonesian bombers Dulmatin and Umar Patek and Malaysian Zulkifli bin Hir, who heads the Kumpulun Mujahidin Malaysia (KMM) terrorist organization – provided the MILF and Abu Sayyaf training on explosives (Jacinto, 2007).

Former Philippine President Arroyo ordered the Armed Forces to crush insurgencies in the three years before her she steps down by 2010. But it was a tall order and is unlikely that the military will be able to wipe out the Abu Sayyaf, or the leftist New People's Army. New breeds of insurgents and terrorists, deadlier and smarter, will come and go and leave their marks in strife-scarred Mindanao, despite the so-called war on terror, unless poverty and corruption in the government are eliminated and eventually peace will reign (Jacinto, 2007). The Philippine branch of the International Islamic Relief Organization (IIRO) was founded in 1991 by Khalifa. This former member, who uses the alias "Abu Anzar", says the IIRO continues to fund the Abu Sayyaf after Khalifa's arrest in the US in late 1994. In 2006, the U.S. Government officially lists the Philippine IIRO branch as a terrorism financier and state that it is still being run by one of Khalifa's associates (The Globetrotter, 2007).

Armed separatist mobilization is the price the Philippine government continues to pay for its past mistakes (and those of its colonial predecessors) in Muslim Mindanao. By marginalizing Philippine Muslims in their own homeland through massive government-sponsored immigration, the government created a relatively impoverished regional minority resentful of the benefits provided to Christian migrants and highly suspicious of government motives. Even so, the Muslim separatist rebellion begun in 1972 was by no means inevitable. It was the highly aggressive actions of the martial law regime that transformed Muslim suspicion into organized armed antagonism toward the central state. Armed separatist resistance, and the international support it attracted, led to the signing of the Tripoli Agreement and it is continued armed resistance (actual or threatened) that has brought about all subsequent autonomy agreements, including the most recent. It is difficult or impossible to imagine any government offer of Muslim autonomy without the armed challenge (Araneta, 1999).

The Philippine government has thus found itself caught between its desire to end a costly armed separatist challenge that has proved impervious to military suppression and the significant pressures placed upon it by various interest groups, especially Mindanao Christians, not to make any substantive concessions to Muslim separatists. This has resulted in the creation of a succession of formally autonomous entities that are extremely

limited in both their power and scope. It has also caused the Philippine government to ignore to the greatest extent possible the MILF, the Muslim separatist front based in Central Mindanao and operating most closely to concentrations of Christian population. Since 1987, the MILF has engaged in offensive action only to force the government to the negotiating table with a show of its armed capacity. In 1987 it turned to offensive armed action after a peaceful mass demonstration in Cotabato City drew absolutely no government response. It is likely also that the MILF changed its announced goals from its original demand from autonomy to a call for a separate state primarily to gain the government's attention. If the experience of the past 28 years of armed conflict in Muslim Mindanao teaches anything, it is that the current administration's "get tough" policy will have the opposite of its intended effect. It will energize the MILF and increase its popular support while undermining what is left of the 1996 Peace Agreement. There is an untried alternative to an attempted military solution to the continued armed separatist challenge in Muslim Mindanao – genuine regional development. After more than 25 years of Philippine government claims to be "developing" Muslim Mindanao, recent national statistics illustrate the sad reality (Jacinto, 2007).

In virtually all measures of physical and economic well-being, the Autonomous Region for Muslim Mindanao (ARMM) is found at or near the bottom of the national rankings (National Statistics Office, 2008). In government-supplied services ranging from access to prenatal care to availability of college scholarships for low-income students, ARMM ranks last (National Statistics Office, 2000). As found with separatist movements elsewhere, ordinary Philippine Muslims are most likely to fight for or support an armed separatist front when they perceive no alternative means to overcome discrimination and better their living conditions. Rather than empty autonomy arrangements or further military offensives, the Philippine government might substitute a genuine commitment to both protect the cultural heritage of Philippine Muslims and provide them with tangible means to improve their livelihood. Those provisions are, after all, what Philippine Muslims most require from the Philippine government.

Beyond Muslim Separatism:
ISIS-Linked Maute Group attack in Marawi City

The battle for Marawi began on May 23, 2017 when the Philippine military tried to capture Isnilon Hapilon, the head of a Southern militia that has pledged loyalty to ISIS leader Abu Bakr al-Baghdadi. But the army met an unexpectedly fierce resistance. Allied with another pro-ISIS brigade called the Maute Group, Hapilon's fighters took a priest and his congregation hostage, freed prisoners from the local jail and overran the city. More than four months later, the fighting persists, hundreds have died – militants, soldiers, civilians – and hundreds more residents remain trapped in the city. Many have no electricity or running water. Food stocks are diminishing fast. As residents seek safety, much of Marawi has become a ghost town (Hincks, 2017).

Figure 2. Map of Marawi City, also known as the Islamic City of the Philippines
Adapted from: Rappler (2017).

Marawi is the latest front in what has been a recent surge of apparently ISIS-linked attacks beyond the carnage in Iraq and Syria. These include: a bloody late May assault on Coptic Christian pilgrims in Egypt, the suicide bomber at the Ariana Grande concert in Manchester, the London Bridge assailants the following week, twin suicide bomb attacks that killed three policemen in Jakarta and twin attacks in Tehran. For now that struggle revolves around Marawi and Mindanao. Nearly 200 families were squeezed into Iligan's rapidly repurposed Buru-un evacuation center. Some occupied squares of floor space partitioned by wooden slats and shared with bags, cardboard boxes, and Tupperware containers of milk powder. Others spilled onto an adjacent sports field or baked under the tarp of U.N. tents. Two weeks earlier, this center had been a school assembly hall, says camp manager Eva Dela Cruz. It isn't clear where these families will, or can, go when classes restart. While the Marawi militants have targeted Christians, as elsewhere in the world, the majority of victims of the Islamist terrorism are Muslims who reject violence. Tens of thousands of inhabitants have been forced to flee since the fighting broke out.

If the history of Mindanao conflict revolved around religion and the quest of self-determination, this has not been the case of the recent violent attack by the ISIS-linked Maute Group. Though the attacks are spearheaded by a group of Islam believers, victims are no longer non-Muslims alone. As a matter of fact, more than 80% of the victims of the current crisis are Muslims from Marawi City, majority of which belongs to Maranao tribe. Thus, the present situation of the long evolution of century-old conflict in Mindanao has no longer been characterized as a religious rivalry or an attack to a cultural minority. Efforts to rehabilitate the city and help the internally displaced persons (IDPs) are done hand-in-hand by people from various socio-cultural and religious backgrounds.

With such, this implies that while the current conflict is a manifestation of religious extremism, it is not directly connected to the historical fuels of Mindanao conflict. It is also good to emphasize that while efforts for self-determination and Muslim separatism have not ended, the current situation is not a link that binds the efforts Muslim Filipinos wanting to separate from the Republic of the Philippines.

Conclusion

This research has presented information about the nature of Muslim separatism in Mindanao, which became a perpetual struggle among the Moros. Such struggle has marked the history of the Moro people and left in delible ink in the heart of every Moros.

It has also presented the historical background of the Moros in the Philippines, their ethnicity and the long process of the coming and penetration of Islam religion in Mindanao. It also enumerated the series of Muslim resistance against the foreign rules of incorporating them into the Philippines, *viz*: the Jabidah Massacre in 1968, Manili Massacre in 1971, Tacub Massacre and the election in 1971. The essence of the study is that it has presented different factors which ignite the Moro people to fight for separation from the Philippines. It includes also the government responses to the Moro Liberation Fronts that was become rampant during the Marcos administration. The advocacy for separatism continues. What perhaps distinguishes Muslim separatist Movements from the rest is that they have integrated Islamic concepts and symbols into a national dogma and that Islam and nationalism reinforced each other against foreign rulers, while at the time linking them with the wider Islamic *ummah*.

Notes:

1 Gowing (1980) argued that such differences should not be emphasized as to lose sight of the things they have in common, which justify their being included together under the general name " Moro" or " Muslim Filipino".

2 As a matter of fact, the author had attended an Inter Faith Youth Exchange Camp at the Shariff Kabungsuan Province in which the organizer of the said activity was the Moro Islamic Liberation Front (MILF), financed by an Australia-based philanthropic institution.

3 The name of the group is derived from the Arabic "abu" (meaning, "father of") and "sayyaf" (meaning, "Swordsmith"). Since its inception in the early 1990s, the group has carried out bombings, assassinations, kidnappings, and extortion in their fight for an independent Islamic state in western Mindanao and the Sulu Archipelago with the stated goal of creating a pan-Islamic superstate across southeast Asia, spanning from east to west; the island of Mindanao, the Sulu Archipelago, the island of Borneo (Malaysia, Indonesia), the South China Sea, and the Malay Peninsula (Peninsular Malaysia, Thailand and Myanmar). The U.S. Department of State has branded the group a terrorist entity by adding it to the list of Foreign Terrorist Organizations (Asiaweek, 1999).

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Romania: Traditional Conflict Resolution Mechanisms Used by the Roma Communities

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Abstract. *Even though there have been numerous studies on the quality of life of the Romani (Roma) communities, their role in society, marginalization or poverty, at this time, there are few studies that show how these communities understand and regard conflict and the methods (especially the traditional ones) that they use to solve these problems. Previous research has provided evidence to show that Romani people have developed their own indigenous system of justice, rather than relying on official agents of social control to deal with disputes in their communities. Through the use of the ethnographic approach, using participatory observation and the interview as methods of data collection, the present study aims to present how Roma people use and impose justice in their communities through a better understanding of their moral codes.*

Keywords*: Romani, Roma people, traditional conflict resolution, Stabor, Divan, shame, Gorger, Romanipen.*

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Introduction

Indigenous community justice and the traditional ways of conflict resolution saw a resurgence in interest over the recent years. Even so, very little is known of the role of justice among the Roma people and their traditional ways of conflict resolution (at least this is the case in Romania) which this research will aim to redress. In our opinion, the most important reason for this lack of knowledge in our country is the fact that, due to their way of living, the Roma people (especially the ones who preserved their nomadic lifestyle) have been regarded with both curiosity and suspicion. Curiosity be-

cause they are a closed community with reluctance towards the wider society (*Gadjo* in Romani language – term used by the Roma people to name the non-Gypsies) and suspicion because they are often labeled as deviant and *"outlaws"* (somehow the meaning of the word *Gypsy* comes from its connotations of illegality and irregularity) through discourse in the media, by the police and by politicians (Richardson, 2006).

Despite the number of negative headlines and perception of the majority of society, evidence suggests that Roma communities are far from lawless and abide by a strict moral code, one that ironically, may at times lead them into conflict with the majority community (Morris, 2001). Such evidence has emerged from a number of in-depth studies aimed at understanding the lifestyle and culture of this group and how this may impact their attitudes towards crime and deviance (James, 2005, 2006, 2007; Bancroft, 2005; Vanderbeck, 2005; Dawson, 2000; Gmelch, 1986; Okely, 1983).

Alongside this, and most important for the aim of this article, previous research has provided evidence that Romani have developed their own system of justice, instead of relying on official agents of social control to deal with disputes in their communities. There is some evidence to suggest that they adopt similar strategies to small-scale tribal communities (Okely, 2005; Weyrauch, 2001).

The purpose of this article will be to explore the varying methods used by Roma communities when managing transgressions from the moral codes established among them. This will be undertaken within the context of a review of literature on how various communities have dealt with transgressions among their members.

Literature review

The methods used by small-scale tribal communities can vary from informal resolutions to formal community justice (Bohannan, 1957; Leach, 1954). These methods can range from the informal strategy of avoidance in dealing with deviants, whereby deviants are ignored for a specific period of time (Leach, 1954), to ostracism and exile for deviant transgressions (Colson, 1974), to blood feuds used as a means to seek reparation for a deviant act (Lee, 1979). At the more formal end of informal community justice, evidence has shown how tribal communities operate a court system which takes precedence over state sanctions (Gibbs, 1963; Bohannan, 1957; Coser, 1956; Leach, 1954). Evidence suggests that Roma operate similar systems to those mentioned above, using both indigenous practices (shaming, avoidance, ostracization or blood-feuds) and the more "formal" court known as *Stabor* (the gypsy court or gypsy judgement).

In recent years, we can observe an increased debate around the obligations of the state and a recognition that governance is no longer the exclusive responsibility of the state. Governance is conducted from varying sites and at differing levels within and between nation states (Edwards & Hughes, 2005). Alongside this, many groups within a nation

state actively resist state governance in favor of less formal locally administered justice, and, as such, communities have developed their own agendas in the delivery of justice. Stenson (2005) argues that this form of justice can be understood through the notion of "*governance from below"* which he refers to as "*folk bio-politics"* (Stenson, 2005). Many communities are thus able to develop informal systems of community justice based upon *folk modes* of expertise that are more able to understand the needs of their community and enables them to provide justice with little recourse to official agents of social control. "Governance from below" enables marginalized groups to reclaim power in decision-making processes pertaining to justice. Through the use of this, members are able to understand the specific needs of their community, enabling them to develop appropriate sanctions for wrongdoers. As such, many communities have little recourse to official agents of social control. There are however varying modes of justice delivered among community members. Despite this, the overarching principles of community justice are the "swift" and "visible" delivery of justice, with shame being at the heart of all forms of justice. Through this, communities are able to deliver justice that is underpinned by the ideology of restorative justice.

Evidence would suggest that many communities have adopted alternative means to ensure the delivery of justice replacing the forms of justice offered by the state (Okely, 2005;Weyrauch, 2001, Caffery & Mundy, 1997; Gibbs, 1963; Bohannan, 1957; Coser, 1956; Leach, 1954; Chereji & Pop, 2014). If we turn to the work of many early and influential anthropological studies that focus on small-scale tribal communities, the complexity of indigenous community justice becomes more apparent. Pfohl (1981) asserts that in small-scale societies *"rituals of primary ordering*" have been adopted, enabling such communities to prevent deviation from norms, thus securing a shared sense of belonging and identity (p. 75). This sense of shared belonging suggests that, within these small-scale communities, the focus is on the reconciliation of the offender back into their social group (Raybeck, 1988). There are varying means to deal with transgressions. These differ in terms of formality, including moot courts, fighting and blood feuds, gossip and avoidance (Raybeck 1988; Pfohl, 1981; Gibbs, 1963; Bohannan, 1957; Coser, 1956; Leach, 1954). Evidence would suggest that similar methods have been employed by the Roma communities (Okely, 2005; Weyrauch, 2001; Caffery& Mundy, 1997; Acton, Caffery, & Mundy,1997).

According to the early anthropological studies regarding the traditional ways of conflict resolution, their purpose is to seek an amicable resolution to a transgression from the rules and law (Gibbs, 1963;Coser, 1956, Bohannan, 1957; Leach, 1954), an important feature being the restoration of the offender back into the community, with no hard feelings from the rest of the group (Scott, 1976). Another important aspect is the fact that this "folkish" way of dealing conflicts has a much greater influence over community members than the legal system of the state in which the community lives. For

example, offenders punished by the state legal system would also be punished by their community on their return.

As presented above, all these folk means of conflict resolution can be included in what is now knows as restorative justice. Restorative justice has become a widely used concept, so much that Braithwaite (2002) refers to this system of justice as a global social movement. Marshall (1996) proffers a number of key principles that represent restorative justice. These include (a) the acceptance of and the need for personal involvement, that is, by those harmed and the offender(s), (b) the problem should be seen in a social context, (c) punishment should be forward looking and preventative and, finally, (4) practices should be flexible (p. 28). The development of restorative justice has often been credited to the work of Braithwaite (Blagg, 2008); nonetheless, as Walgrave (2008) concedes, the principles of this form of justice can be traced back to many primitive societies. The use of restorative justice has been well documented among many indigenous populations, such as Navajo peacemaker circles, in which all parties meet with a peacemaker who allows both groups to come to an amicable resolution (Coker, 2006). Similarly, the use of family conferencing in New Zealand has its roots in restorative justice (Van-Ness, Morris, & Maxwell, 2001). Aboriginal ceremonies based on traditional tribal law focus upon the notion of cosmology, yet within this system there may be fighting, physical payback, cursing, and sorcery. Regardless, offenders are shamed, but are also reunited with their community once the punishment has been dealt (Blagg, 2008). Hawaiian islanders have use their own practice, very resembling with the ones above, named *ho'oponopono*. Literally, this practice means "setting things right" and involves a family coming together to discuss interpersonal conflicts under the guidance of a leader. Also, the Abkhazian people have long practiced mediation to resolve disputes within their group and among the tribes in the surrounding areas. The mediation process was guided by an elder who used shame as the main approach to resolve the conflict and reintegrate the parties in the community.

Methodology

Through the ethnographic approach, using participatory observation and the interview as data collection methods, this study aims to outline how the Roma people use and enforce justice in their community through a better understanding of their moral codes.

The research is based primarily on ethnographic methods supported by three research questions:

a. How do the Roma communities in Romania manage their conflicts?
b. What rules and / or customs use the Roma in response to conflict and transgression from the moral codes?
c. When and how are these methods used?

The methodology chosen for studying these communities leads us towards an ethnomethodological approach, as thought by sociologist Harold Garfinkel. He claims that the social is a process, a result of the permanent activity of the members of society that have a common sense and a practical knowledge deposit that they use in order to communicate, to make decisions, to reason, in a natural and regularly way, in the most ordinary activities of everyday life. Starting from this premise, ethnomethodology applies to everyday acts in order to identify among them the procedures and interactions involved in building social acts. The central idea is that the means by which members produce and steer their daily affairs are the same as those that they use to justify these daily events. Moreover, the term ethnography literally means "writing culture" and is based on the study of a culture (a group) in its natural environment. Deriving from anthropology, ethnography has retained some of its key principles, especially that research should seek to discover the views and experiences of a group sharing the same interests through a longitudinal study of mixed methods (emphasis is placed on complementarity, mutual validation of data tools and sources, effective and comprehensive coverage of the studied topics) involving observation as a determining factor data collection. The design of the research has been done to ensure that the methods used will enable a rich source of qualitative data, in order to take into account the needs and vulnerabilities specific to Roma communities. As mentioned earlier, we have adopted a multimodal strategy, incorporating a number of qualitative methods such as interviews, participatory observation and life stories.

Instruments

Participatory observation is an essential method for adapting other working methods to the specific conditions encountered in the community. The first information, which is obtained through observation, is essential to the success of the case study. At this stage, the researcher can decide the importance of interviewing some categories of respondents, how to approach them and the subject, what kind of additional information should be obtained, reordering and restructuring the themes in the interview guides. Furthermore, the observation method provides a significant amount of useful information to achieve the purpose of the study. There are many contextual elements that define the studied group which can be captured by the observation method in a short amount of time.

The semi-direct or semi-structured interview is between standardized and non-directive discussions. The interviewer has a series of questions or themes, but he or she only uses them to focus the discussion on the topics studied, so the interviewer is encouraged to express his or herself freely, approaching the themes in the desired order. Through the semi-structured interview, human subjectivity can be investigated in an interactive way, which is not accessible through other methods, except when discussing future

intentions. In addition to this first advantage, the interview makes it possible to collect otherwise very challenging and expensive data, such as records on human behaviors.

Participants

For the purposes of this study, I have chosen a small Roma community near Târgu Cărbunești (Gorj county, Romania), more precisely a *căldărari* Roma branch. The reason why I have chosen this group is the fact that they are known and perceived by the other branches and by the wider society to be the last branch that respects the majority (if not all) of Roma traditions, including the traditional ways of conflict resolution. From a total of 47 members, I had the opportunity to interview 12 of them, 5 women and 7 men, aged between 18 and 67 years old. Besides them, I interviewed one *krisinitor* (Roma judge; he can conduct any "Roma court"). All of the interviews were conducted after the observation stage. During this stage, I had the opportunity to discover and familiarize with the moral codes used by this community and to identify the members to be interviewed. These observations took place in various locations frequented by Roma, such as camps, residences, and fairs. This process took place throughout the entire data collection stage and should not be seen as a distinct phase of research.

Traditional conflict resolution methods used by the Roma community in Romania

Before any presentation of the findings of this study regarding the ways used by the Roma community in Romania to resolve the conflicts between its members, we must have a short discussion about their source. We saw at the beginning of this article that, like any other small community, the Roma people have a very strict moral code that governs the life of its members. For the Roma people, this is *Romanipen*. *Romanipen* is the set of values or codes that Roma have to follow to be a true Roma, as they called themselves. These values are based on four principles (or elements): honor, good fortune, family (actually understood as belonging to the whole community) and cleanliness/purity.

Honor (*Pativ* in Romani language) is a concept that introduces the basic values of the Roma community, values that must be respected with sanctity (respect, religious belief, shame). Honor is taught to children at a very young age. For example, if a child has a bad behavior, his family (especially the grandfather) will tell him "don't do that anymore, it's shameful". If the child asks why, the response will be "Because God sees you" and the child will stop his or her bad behavior. As we will also see in mechanisms of conflict resolution, the foundation of the *Romanipen* and its supreme value is (avoiding) shame.

Good fortune (*Baxt* in Romani language) represents the luck that a Roma person will have if he or she respects the moral code. More exactly, the *baxt* is a reward for respecting the *Romanipen*. Also, it is the first thing the Roma people will say to the other members, as a salute – *Have good fortune*.

Phralipen is the sentiment of brotherhood and it refers to the fact that the whole community is in fact a big family. For this reason, the level of interaction and interdependence in a Roma community is very high. In the same regard, they respect all the other members (especially the elder ones). For a Roma person, a member of the community is a member of his or her family and they will protect that person in any given moment.

The last principle of *Romanipen* is the dichotomy between pure (*uxo*) and impure (*maxrime*). The whole life philosophy of the traditional Roma culture is based on this dichotomy, *uxo* meaning the respect for harmony and universal order. This dichotomy is based on the human body. The upper side of the body is considered pure and the lower one impure. From this, the Roma people established clear rules for hygiene, interaction between a man and a woman and interaction with the wider society.

Roma are often labeled as deviant. According to Richardson (2006), media discourse, police and politicians' actions make them socially so. However, while the Roma may sometimes appear to be deviants, *Romanipen* is strictly respected within the community. Compliance with this code is necessary for Roma as it enables them to gain status and good reputation within the community. According to the interviews conducted in the study, without a good reputation, a person would not be able to have a good and easy life inside the camp/town (he or she would have difficulties in selling products and founding a family). This is illustrated by the following fragment that refers to an incident where the person who violated the moral code has been ostracized by the other members of the community:

> *"... he is stained ... surely he won't be able to marry his children, let him say that his boys are okay but if he goes to ask for a bride, the doors are closed because of what he did ..."*(personal communication, June 21, 2017).

Once a person's reputation has been lost, that person is seen as a *gagiu*, the term used for non-Roma people, and it is hard for them to be re-accepted in the community.

Kris (*Stabor*) – the Romani court

Anthropological studies have been influential in understanding the use of community courts employed by many small-scale communities (Scott, 1976; Gibbs, 1963; Bohannan, 1957). Drawing on Gibbs' (1963) study on the Kpelle tribe found in Liberia, Scott (1976) provides a useful definition of community courts and their proceedings, which he sees as informal assemblies set up to resolve disputes. Referring to these courts as "moots", Scott (1976) writes:

> *As a rule, the moot is convened as soon as the parties to the dispute can arrange to come together ... a mediator is agreed by both parties ... during these proceedings, the parties to the dispute are encouraged to express their complaints ... no one may leave the moot feeling embittered ...* (pp. 610-611).

As we can see from this definition, the purpose of the court is to seek an amicable resolution to a transgression, much like any other method inside the restorative justice movement, an important facet of the court being the restoration of the offender back into the community. What is evident from previous anthropological research is that a court or moot has greater influence over community members than the prevailing legal system of the state in which the community live. Indeed, Bohannan (1957) claimed that members of the Tiv failed to recognize the official state court of Nigeria. Similarly, Leach (1954) noted that the Kachin did not take the sanctions of the state courts seriously. Offenders punished by the state legal system would also be punished by their community on their return.

The use of informal community courts is not exclusive to tribal communities. Amongst Roma, these courts are referred to as Kris (*Stabor* in Romanian) and it would appear that this system has clear parallels to the ones outlined above: *The Kris is basically a meeting of group members in which a specific conflict relating to inter-group relations, mainly between families, is discussed and some resolution of the dispute is reached* (Caffery & Mundy, 1997, p. 254).

Failure to comply with Roma customary values, of its community members, inevitably leads to the emergence of conflicts. Judgment occurs exclusively among members of the community. It is not possible to judge conflicts between members of the community and those from outside. In conclusion, the presence of non-Roma and of the authorities is not allowed. Conflicts are solved internally, through the Kris (*Stabor*), which has the role to reconcile parties and to solve conflicts arising from non-compliance of Roma traditions: disrespect for the pure-impure rules, stealing a girl, disrespect shown to an older person, adultery, insisting to look at a woman, uncovering the head by a woman, to name just a few. Under this system, the whole community is involved in the decision making and conflict resolution processes, because the responsibility of carrying out any sanctions belongs to the whole group.

The Kris is presided by one judge (known as *krisinitor*) or more, who has the role of a facilitator (similar to a mediator) more than the one of a judge. The *krisinitor* must be a person who knows the Roma's customs, practices, customs and traditions very well, be impartial, be a wise person, with a rich life experience, wealthy and enjoy the respect of the community. For the trial to take place, the judge (*krisinitor)* is paid by the person requesting the trial. If he/she is winning, the opposite party may have to repay and take care of the expense themselves. Judgment lasts three days: on the first day, the plaintiff and his witnesses are heard. The next day, the defendant is heard and on the third day the verdict is given. In the absence of evidence, vows may be requested - the vow on the life of a child is considered the most convincing one. In order to give the verdict, deliberations are needed, the jury retreating to a protected place in order not to be heard. The decision is not to punish but to compensate the harm, the aim being

reconciliation and restoration of harmony in the community. This way of solving conflicts is one of the few common practices to traditional Roma, reflecting also the cult for elderly people, old age corresponding to wisdom and life experience.

If the community is not satisfied with the given verdict, if the community claims to know otherwise, or if the verdict arrives very late, an old woman can discredit the judgment by "raising her laps to her head". In this way, the judgment is annulled and the one who has requested the trial is obliged to leave the community or resume the trial with another judge. The same thing happens to the one who refuses to pay their debts as a result of the judgment. The goods remaining in the community – the house, the car, the furniture – belong to the one who won at trial.

In the past, during the period of nomadism, the judgment was made either by elders or by an old man and his wife remaining without a family in the camp, or, in the absence of the two situations, waiting until they met another *satra* (Roma group or family) and then gave the case to be judged. However, until that happened no one was allowed to open that case or talk about it. Everything was going on as if nothing had happened.

Another dimension of the Kris that needs to be explored here relates to the role of gender. In terms of gender, it was acknowledged that women played a pivotal role in ensuring that the family unit remains free from impurity. Yet, throughout the Kris, women play a minor role. It is not possible for women to bring a case directly to be judged. If they are in a dispute or have been the victim of an offence, it is the responsibility of the male members of her family to request this. Moreover, only in recent years women have been allowed to attend a Kris but are expected to just be silent observers.

Fighting

Fighting represents an important sanction among Roma, it is a system that is used when an individual or group have deviated from the moral codes of their community (Acton et al.,1997). For the Roma people, the fighting system is as important as the penal system is to the wider society and has more legitimacy among them. The reason for this is the fact that, for them, the ability to defend one's honor and that of their kin is incredibly important and the failure to do so is considered shameful (here we can draw a parallel between the concept of honor developed by the Roma people and duels, with swords or pistols, in order to defend one's honor, mostly in the 18th and 19th century).

Besides defending one's honor, the fighting system is a way to gain respect and status inside the community. More specifically, those who are great fighters are shown great respect by the whole community. However, these fights are often very intense and brutal. Yet, as Acton *et al.* (1997) recognized, the system of fighting employed by the Roma do not result in a continuous cycle of violence. The reason why things do not escalate is the fact that there are strict rules of fairness of the fights. One of these rules is the fact

that weapons are not allowed, the fights happen barehanded. By doing this, the Roma preserve the fairness of the process and avoid deadly episodes. Another important rule is the fact that no one is allowed to interfere between the fighters in order to help them gain an advantage. Also, every fight has referees. The Roma fighting system involves also some rituals. One important ritual requires stripping to the waist and placing a silk bandana around the waist. This ritual is very important because it preserves the fairness of the fight.Often, the Roma men have these bandanas around their necks. By moving them onto their waists, no one can grab the other party by their neck neckerchief. All of them represent important rules and rituals but the most important one, as far as I could observe, is the fact that, due to the *Romanipen*, these fights are organized away from the children and women. Nobody is allowed to fight near a woman or a child; they must be protected and, at the end of the day, fighting is considered a "big boys" affair.

What is remarkable is the fact that, through their understanding of the rules and of the moral code, a continuous cycle of violence is avoided. Adherence to the rites and rituals is paramount as it is embedded within the moral code. Failure to do so will render an individual and their family unit impure, which will have repercussions on all aspects of their lives. For example, several members of the community observed for this study told me that nowadays the younger generation tend to use weapons (mostly bats and knives) and this is a very wrong thing to do because they become somewhat isolated from the rest of the community because they are seen as transgressing the old rules of fighting.

Gossip

Gossip, often in conjunction with labelling, is another technique used by the Roma community to informally resolve transgressions from the moral code (Okely, 2005; Bohannan, 1957). It appears that the role of gossip is fundamental in consolidating important values because it promotes social cohesion, with all members acting to avoid becoming the "target" (Gluckman, 1955). One of the most basic examples of gossiping and labeling for the Roma people are the non-Romas who are labeled as *Gagii* (*Gadjo* or *Godje*). Indeed, by using this word, the Roma people are able to distinguish between members and non-members. Language is also used within the community to mark out those who have broken the rules of this society. The Roma apply the term *"læav"* to those who transgress the moral boundaries held by members of the community (the term translates into "shame"). Anyone who is labeled in this way knows, along with the rest of the community, that they have brought shame onto the reputation of their families and of the community at large. As processes, labeling and gossip are basically, stories construed against a wrongdoer; rumors are then circulated from trailers, to camps and to visitors, with children playing a crucial role in passing on these rumors (Okely, 2005). Rumors continue until the offender recognizes their fault in public. Once this has happened, the rumors are stopped and the offender is accepted back into the community. During our research in the small community from Gorj county, gossip and

labeling were recognized by the participants as being some of the basic forms of conflict resolution in their community. Even if to some of us labeling or gossip are considered "childish", to the Roma people it is a very important deterrent for bad behavior. As we can see from the following extract from an interview with a member of the community, the reason behind this is the interdependence between the members of the community and the notion of shame:

> *... it is a very close community, right, and once you've had this shame brought on your head then everyone is pointing fingers towards you and comments your actions and then you lose your respect ... Losing your respect means that you'll have a hard time finding a wife for your sons, for example ...* (personal communication, 2017, June 21).

> *... her daughter left the village with a white boy...it's a very big shame to do this in our community ... gypsy daughters must marry only gypsy boys ... she will be judged and kicked out of our village because she brought shame upon us... everyone is calling her this and that ... she doesn't have any future here ... this is her punishment* (personal communication, 2017, June 21).

If we look carefully to these two fragments, we can understand that gossip is an important form of community justice that reinforces community values. On the other hand, gossip is also a form of shameful punishment, so members will avoid becoming a subject of gossip and of the shame that this brings on an individual and their family.

Avoidance

Another important sanction employed by many communities that is worth some attention here is avoidance. Avoidance and banishment allows the Roma to deal with those who fail to abide by the moral codes of their community.

There are two forms of avoidance as a sanction. Firstly, a sanction can be temporary, ranging from a couple of days to a couple of years, where transgressors are ostracized by their community for a specific period of time. During this time, the transgressor can remain in the community but nobody is interacting with him or he can be kicked out from the community for a specific amount of time. A harsher form of this sanction can see the wrongdoers permanently ostracized from their group. As in the case of most of the small-scale communities around the world, avoidance is not specific only to the Roma. Leach's (1954) study of the Kachin tribe in Burma showed how this community adopts the informal strategy of avoidance to deal with deviants, whereby deviants are ignored for a specific period of time. Similarly, the Chechens developed a range of sanctions such as avoidance, ostracism and exile for deviant transgressions.

In the case of the Roma in Romania, our study found that avoidance can take a number of forms, and more importantly, this mechanism has an important role in resolving

conflict. On a basic level, avoidance can take the role of non-speaking relationships. Usually, this form of avoidance will be between members of different family units and requires that the whole family do not speak to anyone with whom they are in conflict. In more extreme cases, a family may be required to leave the village, either temporarily or permanently. In such cases, the conflict is never fully resolved as family members avoid attending any event which may involve the family with whom they are in conflict. By doing this, the sanction will continue until the deviant individual(s) amend their behavior. However, any form of apology would require recognizing the guilt and can have serious repercussions on an individual's reputation. In this sense, avoidance differs from the other mechanisms previously discussed. Indeed, within the tribunal and fighting systems, as long as both parties acknowledge and respect the rules and regulations, a truce is generally declared and the problem is resolved. Yet, with gossip and avoidance, disputes can be ongoing, often resulting in feuds.

During our research, we found a lot of interesting things regarding the system of avoidance but two of them must be mention here. During our observation and interviewing stage, we saw that when meeting a new member for the first time, members do not salute each other first but ask who each other's family is: "Whose family do you belong to?" or "Whose are you?". When we asked about the meaning of this, the reason they gave us was so that they could see if it was a family that they needed to avoid because of some ongoing dispute. Avoidance is so powerful that, if two families are in feud for generations, they will not attend even the most important events in the community – births, marriages, and funerals. No member of a family can interact with one from the other family.

The second one is the relationship between avoidance and the four pillars of *Romanipen*, especially the fourth one – *maxrime*. When a person is ostracizes, it become *maxrime*, impure. By interacting with a *maxrime* person, a member of the community can become impure as well. Also, regarding the other three pillars, if you avoid an impure person, you respect your family and the community who punished the wrongdoer. By doing this, you have honor (the first pillar) which leads to having luck (the second pillar).

Conclusion

In understanding the system of justice practiced by Roma communities, the principles of restorative justice are applied, demonstrating the importance of shame within this system. In the case of Roma, the problem with shame is that if someone gains a poor reputation, that shame not only reflects on the individual but will also have bearing on their family and through the third pillar of *Romanipen*, to the whole community. Once a reputation has been lost, the person will be seen as a *"Godje"* a Gypsy term for a non-Gypsy and it is hard for them to be accepted back. It is for this reason that the Roma abide by the strict moral code. As we mentioned in the case of *Romanipen*, shame is

taught to children from early days because, being a small and closed community, the group is reliant on every member. At the end of the day, by respecting *Romanipen* and being afraid of shame, the community continues to function well. On the other hand, losing members due to shameful actions weakens the community and causes a lot of problems for the ones who are ostracized. As we can see, that would be a lose-lose situation that nobody wants.

Even so, maybe due to human nature, because of their socio-economic status or due to pure coincidence, sometimes Roma people transgress from their moral code. In such situations, the Roma developed their own system of justice comprising of swift and efficient ways of conflict resolution, based on the notion of shame. The methods adopted by the Roma are somewhat diverse and can range from fighting, gossip and avoidance to their specific community court – the Kris (*Staborul*). From our study and those of others before us, it seems that the likelihood of a person deviating from the code twice in a lifetime is very low, meaning that these methods function very well. Even if a harsh punishment can lead to a weaken community, the Roma told us that a community with "sick" members is weaker than one with less members who are "pure". One the other hand, evidence shows that Roma use the principles of restorative justice and built this justice system to reintegrate the wrongdoers back into the community.

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