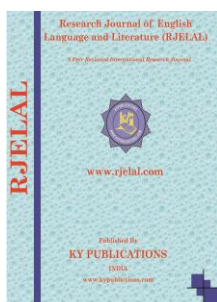**RESEARCH ARTICLE**

INTERNATIONAL STANDARD SERIAL NUMBER INDIA

2395-2636 (Print):2321-3108 (online)

AFRICAN COMMUNITIES DISPUTE SETTLEMENT'S METHODS BEFORE THE ADVENT OF COLONIZATION

FATHERRAHMAN MOHAMED YOUSIF MOHAMED
English Department, Postgraduate College,
Sudan University of Science and Technology, Sudan

ABSTRACT

First of all, I would like to state here that this paper is not an attempt to beautify the image of Africa and the African tribal communities before the advent of the European invaders. In fact it is an attempt to draw a real picture of the African societies glorious past which utilized great ideas for settling conflicts that might arise between individuals and communities. These methods as we will see later in this paper are currently employed by modern societies to solve the 21st century's problems. Though the white man has introduced new conflict management mechanisms, conflicts in Africa have only exacerbated and evolved. In fact conflicts engulfed the whole continent like bush fire.

Keywords: Conflict, resolution, Africa, communities

1. Introduction

This paper has come to fill out the gaps that I wanted to tackle in my PhD thesis on this issue but due to some limitations I could do that. As I said elsewhere in this paper, African Communities across the continent, had set for themselves and established mechanisms for conflict settlement and management. As we can see later, these mechanisms are, up to this moment, still operational and effective in some parts of Africa. Though my focus in this paper will mostly be on the West African tribes of Nigeria, especially the Egbo, I can refer to the Judiya system by which problems are solved in many rural areas in the Sudan. This practice is also existent in several parts of Africa.

2. Discussion

It is a well known fact that before the advent of slave trade and colonialism, African societies had well-established mechanisms for conflict management, peace-making; peace education, peace building, conflict monitoring and conflict prevention. These institutions and methods were effective and highly respected and their decisions binding on all the parties concerned. The methods are relatively informal and thus, less frightening. Those who use them are also more at ease in a familiar environment. The role of the chiefs, elders, family heads, and others is not only to resolve conflicts but also to anticipate and stop conflicts from happening. Africans were also very conscious of the fact that conflict can occur when two or more parties pursue incompatible interests or goals through actions that the parties try to undo or damage each other. The parties could be individuals, groups or villages or towns; and the parties' interests can differ over access to resources, the control of political or traditional power, their identity and values or ideology. We doubt if the foregoing assumptions or facts about conflicts differ from that held by those from the West (the Europeans and Americans). What is peculiar to the Africans, however, is the place of the family in the conflict management process.

Among all human societies, the Africans inclusive, the family has been the oldest social institution. The

FATHERRAHMAN MOHAMED YOUSIF MOHAMED

KY Publications
www.kypublications.com

identity of an individual is linked to that of his or her family and these families are formed by the acceptance of marriage alliances. Within the family, in most traditional and modern African societies, there was (is) a strict hierarchy of authority, according to which the males ruled and held responsibility for the females[1]. Brothers ruled their sisters and sons, even their mothers when they came of age or succeeded to the inheritance. Women, in most cases, did not enjoy any ultimate authority or responsibility for the household. The husband (or in matrilineal, the mother's brother) was the head of the family and it was clear that this headship was not a joint headship. When a woman is the head of a family or social group in a ruling family or where she was permitted to become a chief, it was largely a question of political-religious symbolism (as in the case of the Reagent), in which – by a legal fiction a woman was treated as a man. The same was the case in the custom of marriage by which, in order to start a family, a woman was accorded the legal status of father towards the children of a wife who had been impregnated by a concubine. This custom was known among the Nuer of Southern Sudan, among the Simbiti of Tanzania, and is recorded as occurring in the Yagba District of Kwara State in Nigeria[2]

Families constituted the various communities in Africa. Each community in Yorubaland, for instance, was divided into quarters. Each of the quarters is overseen by an important chief appointed by the Oba (elder) and these quarters' chiefs represent their people on the council meeting. In addition to the quarter chiefs, there are some traditional chiefs such as the Balogun (Warlord) and the Otun and Osi Balogun (right and left wing assistants to the Warlord). Each quarter is broken into compounds whose heads are referred to as Baale (father of the house). The Baale is usually the oldest male member of the extended family; he is accorded much respect because of his wisdom, age and experience[3] . The Baale settles disputes within his households, represents his family on the council of the quarters chiefs. The African village or settlement usually represented a convergence of loyalties that made for a strong sense of community. Very often, family ties criss-crossed the village, added to which were the loyalties of chiefdom and ethnic group, as well as those of professional associations.

Families and neighbours come together for work and recreation, as well as to resolve disputes among each other. The neighbourhood court played an invaluable role in this case, most especially in reconciling disputants, in settling quarrels and in imposing sanctions[4]. A structure like the modern ten house-group system of Tanzania is an interesting canalization and development of African neighbourhood traditions. The small, roving band of huntergatherers, typified by the Pigmies of Zaire and the Hadza of Tanzania, was, perhaps, the most egalitarian of traditional African societies. Isolated, continually on the move, with the minimum of structure, the band of hunters had a continually fluctuating membership. Loyalties were short term and there was no need to elaborate on mechanisms of reconciliation.

The beginning of slave trade, and later colonialism, however, truncated the indigenous mechanisms for peace in Africa with the obscurity of the place of the Kings and traditional chiefs. Colonialism, most importantly, portrayed everything that is African to be incapable of serving any useful purpose. The result of all these is that African indigenous peace institutions were destroyed, or where they could not be destroyed, became weakened to a state of ineffectiveness. Courts were created by the colonialists to adjudicate cases based on their legal system while the police force was also raised up to take cases that used to be taken before

[1] Ademowo A.J & Adekunle, D. 2013. 'Law in Traditional Yoruba Philosophy: A Critical Appraisal' *Caribbean Journal of Philosophy,* Volume 2, No. 1
[2] Ademowo, A.J. & Noah Balogun.2014. Proverbs and Conflict Management in Africa: A Study of Selected Yoruba Proverbs and Proverbial Expressions *International Journal of Literature, Language and Linguistics*, Vol. 1, No. 1, 1(1)

[3] Agbu, O & Bolarinwa, J. 2006. *Introduction to Peace Studies*. Abuja: National Open University of Nigeria
[4] Ajayi, A.T & Buhari, L.O. 'Methods of Conflict Resolution in African Traditional Society'. *African Research Review: An International Multidisciplinary Journal*, Ethiopia Vol. 8 (2), Serial No. 33, April, 2014:138-157

FATHERRAHMAN MOHAMED YOUSIF MOHAMED

the African indigenous peace institutions for amicable settlement. In most cases, these disputes were not properly resolved because the administration of justice in Africa was, mostly, aimed at resolving conflicts rather than pronouncing judgments. Emphasis was placed on reconciliation and restoration of social harmony than on punishment of the conflicting parties. The administration of justice was also made an open affair where all adults freely participated. There were no in-camera trials as court sessions as the processes were held in the open with the parties in conflict being freely cross-examined. Truth was the object of the delivery of justice. There were also respected (and aged) men or women, often called 'Agba' (elder) or group of elders[5]. The proverbial and symbolic communicative resources at the disposal of the mediator are other canons of indigenous conflict management because conflict resolution and harmonization of thoughts require expertise in the people's oral tradition, good reputation, experience and a measure of objectivity on the part of the reconcilers[6]. For example, as an illustration, some of the proverbs often used by the elder in the process of conflict management among the Yorubas, include, among others, the following translated ones:

- It is a shameful act to either adjudicate or arbitrate on a case on the basis of the statement of only one party. Why should the verdict be given when the other disputant is denied?)
- Our being in conflict does not warrant wishing each other's death.
- Unnecessary annoyance begets avoidable violent.
- There is no permanent hostility in friendship; only that there is limitation in affective association.
- No associates without dispute, no disputants without the possibility of reconciliation.

- Avoid every slightest violent confrontation to prevent slightest culpability.

3. Methods of African Traditional Conflict Resolution:

The methods of performing conflict resolution in the traditional African societies, though with variations across the ethnic groups, are: mediation, adjudication, reconciliation, arbitration, and negotiation.

The above sometimes also includes employing extra-judicial devices like gods, curse or charms to persuade or convince the disputants about the implication or otherwise of their behaviour.

3.1 Mediation: Mediation is an old method of conflict management surrounded by secrecy. It involves non-coercive intervention of the mediators(s), called third party either to reduce or "… go beyond or bring conflict to peaceful settlement. Mediators are sought from within the communities or societies of the parties concerned. Elders are respected as trustworthy mediators all over Africa, because of their accumulated experiences and wisdom".[7] The concept of agba (elders) in Yoruba conflict management system, for example, is a Yoruba socio-political model for conflict resolution, and it is the third-party that is responsible for effective conflict resolution in indigenous Yoruba societies. *agba* (elders) were usually relied upon as arbitrators and agents of conflict resolution in view of certain qualities possessed by this category of human beings.

> "Agba (elders) are respected individuals identified by age and other qualities, which mark them out in their families, communities, nations, regions and the world. To be identified as an agba (elder), s/he must be fearless person (alakikanju); s/he must

[5] Albert, I.O.2001. *Introduction to Third Party Intervention in Community Conflict*. Ibadan: John Archers Publishers Ltd.
[6] Ayo B. 2002. *Public Administration and the Conduct of Community Affairs Among the Yoruba in Nigeria*. California: ICS Press

[7] Bamikole, L.O. 2008. "Agba (Elder) as Arbitrator: A Yoruba Socio-Political Model for Conflict Resolution", paper presented at The Afolabi Olabimtan Memorial Biennial International Conference held at College of Humanities, Tai Solarin University of Education, Ijebu-Ode, 22nd-25th September, 2008.

FATHERRAHMAN MOHAMED YOUSIF MOHAMED

be knowledgeable and wise but must be someone who gives room for criticisms (ologbon, oloye, afimo ti elomiran se); s/he must be tolerant (alamumora); s/he must be upright in all ways (olotito, olododo); s/he must not be selfish.[8]

3.2 Adjudication: Adjudication involves bringing all disputants in the conflict to a meeting usually in the chambers or compounds of family heads, quarter heads and palace court as the case maybe. Dialogue was linked with the ad judicatory processes in traditional[9].

3.3 Reconciliation: This was the most significant aspect of conflict resolution. It is the end product of adjudication. After the disputants have been persuaded to end the dispute, peace was restored. This restoration of peace and harmony was always anchored on the principle of give a little and get a little. This idea buttresses the idea of the disputing parties to give concessions. A feast was usually organized to confirm the readiness of the conflicting parties towards reaching points of compromise.[10]

3.4 Arbitration: Arbitration is the least used conflict resolution method in traditional Africa. The reconciliation function is practiced by an authority figure that mediates between conflicting parties but is empowered to make binding judgments. The purpose is not to render a judgment in law but to reconcile the conflicting parties and its norms. The relationship between the authority and the community is cushioned by community representatives who advise authority[11]

3.5 Negotiation: Negotiation, "the secret is to harmonize the interests of the parties concerned". Thus, even when the conflict involves a member against his or her society, there is an emphasis on recuperation and reinsertion of errant member back into its place in society. The recovery of a dissident member can just as well be seen as the restoration of the harmony and integrity of the community, as the assertion of value consensus and social cohesion, so that the management of the conflict favours the concerns of both parties[12]. In traditional Yoruba society, for example, peace was negotiated. Apology for wrongs done to individuals and the entire community was a feature of negotiation. Such apology was channeled through the elders, compound heads and chiefs of high calibre in the society. It is done on the representative level or quasi-representation.

4. Institutions of Peace and Conflict Resolution in African Societies

Africans place great emphasis on peaceful resolution of disputes so as to restore social harmony to the conflicting parties, and families, while the principles of equity and justice entrenched, in their customs and traditions are maintained. Among many African societies, it was strongly upheld that disputes should be settled amicable by persuasion rather than the resort of force or coercion[13]. This system did not condone killings and violence in resolving conflict.

---

[8] Fayemi, Ademola. 2009. "Agba (elder) as arbitrator: A Yoruba socio political model for conflict resolution" - A review of Lawrence O.Bamikole. *Journal of Law and Conflict Resolution* Vol. 1(3), pp. 060-067, August

[9] Isike, C & Uzodike, U.O. 2014. 'Towards an indigenous model of conflict resolution: Reinventing women's roles as traditional peacebuilders in neo-colonial' *Africa Journal of conflict resolution*, Vol.3

[10] Nwolise, O.B. (ed).2005. *Traditional Models of Bargaining and Conflict Resolution in Africa: Perspective on Peace and Conflict in Africa*. Ibadan: John Archers Ltd.

[11] Nwoye, M.A. 2006. 'Role of women in peace building and conflict resolution in african traditional societies: a selective review'. http://www.afrikaworld.net/afrel/ Accessed on 24th May, 2014

[12] Oguntomisin, G.O.2004. *The processes of peacekeeping and Peace -Making in Pre-Colonial Nigeria*. Ibadan: John Archers

[13] Olaoba, O.B. 2005. "Ancestral Focus and the process of conflict resolution in Traditional African societies": Albert, A. O. (ed.) *In Perspectives on Peace and Conflict in Africa in Essays in Honour of General (Dr) Abdul Salam A, Abubakar*, Ibadan: John Archers Ltd.

Among the Arusha people of Tanzania, there was instituted the Golib Festival, which was a period for the prohibition of all feuds and hostilities between and within families, clans and villages as the emphasis was laid on abundant food, harmony, fertility, and the common interest of all the people in the community. The Gikuyu elders of Kenya had it impressed on them that their primary responsibility to their people was the prevention of conflict between members of their community and the prevention of violent and deadly conflicts that would involve the use of supernatural powers, open hostilities bloodshed, and destruction of property. In the communities of many African countries, the concept of "African Palaver" is widely used to settle conflicts. However various communities in Africa call it various names. Here in Sudan is known as Judiyya and among the Kpelle people of Liberia, it is called "House of Palaver" or "moot". Here, it is an ad hoc committee or council made up of the kinsmen and neighbours of the parties to a conflict. Every claim from both parties to the conflict was investigated with honesty, transparency and at the end of it all, judgment was delivered and all parties involved shared a drink[14].

In Chad, especially among the Toubou society, the assembly in which conflicts are resolved was called "Cofono". This is a gathering in which not only the traditional rulers were involved but customary council members from the surroundings, all interested men (both young and old), as well as women groups of all ages[15]. This is because when there is an outbreak of violent conflict, the whole clan was involved. So often a hot and exciting debate about the pros and cons of the conflict, a verdict would be given which was binding on the parties to the conflict.

In the Beti society located in the capital region of Cameroon, the concept is known as "adzo" which means "to say or "to talk". It means the act of talking things over or the use of dialogue for the settlement of conflict. It usually involves the entire community. All those who feel concerned are invited to participate in the search for an amicable settlement of the conflict. It involves three stages: the first stage is the stage for persuading parties to a conflict to bring their case to the "*Palaver*." The second stage has to do with the *speech or hearing* stage where parties to the conflict confront each other. It is also the stage when the elders will be given the opportunity to hear the full history of the conflict, known as the fear and concerns of the parties and the fundamental issues involved in the conflict. The last stage is one in which the elders, after hearing the facts of the conflict from both sides, retire to a secluded place to take a *decision* and come back later to drop their verdict. The guilty party is made to compensate the other party in a proportional manner that is made to be symbol, rather than as punishment[16].

The Palaver system is also used in Mali as a conflict management technique. In Mali society, conflicts are resolved by those that are regarded as the "keepers of the word of authority". These people render justice in the name of their ancestors. When any conflict is brought before them, they first listen to the parties, call witnesses and from there, go to question session where questions are asked, beginning from the eldest of these local judges, to clarify issues and get the true picture about the conflict. After this, they go into their own proceedings to arrive at a verdict which when given is without appeal and the guilty submits himself to the decision taken[17]. It must be noted, however that the use of "Palaver" is the emphasis on the restoration of harmony within the community rather than the emphasis on who is right or wrong.

Among the Oromo people of East Africa, there was the "Gada" system. Institutions were set up to prevent violent conflicts but where there is an outbreak of violence, they were quickly checked before escalation. Conflicts were resolved through the establishment of truth, a just and honourable verdict given for the restoration of social harmony in the community. In Nigeria, the indigenous institutions for peace include: family, elders (within

---

14 Shorter A.1977. 'Concepts of Social Justice in Traditional Africa', *Pro Dialogo Bulletin*, 12 (1977), pp. 32-51 www.afrikaworld.net/afrel/atr-socjustice.htm, Accessed on 24th May, 2014
15 *Ibid*

16 *Ibid*
17 *Ibid*

FATHERRAHMAN MOHAMED YOUSIF MOHAMED

a lineage), clan, females born in a family or village, council of elders, village or town assembly, king-in-council, masquerade system, age grades, hunters association, oracles and deities etc. All these serve as institutions for the maintenance of peace and the resolution of conflict[18].

5. Traditional Approaches to Conflict Prevention, Management, and Resolution in Africa:

The following were some of the ways through which conflicts were prevented, managed and resolved in Africa before the coming of the colonialists:

5.1 Socialization: The indigenous African see human existence as unified, interlinked, and integrated in a web. In most communities of the South of Africa, there existed the concept "Ubuntu" which means "collective personhood" or "member of the human family" This concept is contained in the Nguni proverb that states, "I am because we are". From childhood, people were taught to live in harmony with others and avoid a situation of trying to win at all cost in the case of conflict and dispute settlement.

Indigenous Africans impart in their offspring that quarrel and fight with others are to be seen as quarrel between blood relations.

5.2 Inclusion of Myths: The use of proverbs, idioms, folktales and songs to describe the nature of the world and how to live in it was another way of preventing, managing and resolving conflicts in Africa. The need to live harmoniously with others and avoid violent conflict because of the dangers inherent in it was one of the reasons for inculcating these myths through the use of proverbs, idioms etc. on the children at tender age.

5.3 Use of Traditional Institutions in Conflict Monitoring: The institutions of family, council of elders, clan, female born of a village etc. were used in the task of conflict monitoring and prevention. Each family head is employed and mobilized to prevent conflict through peace education, conflict monitoring and mediation and reconciliation.

5.4 Ritual Treaties and Blood Covenant: Rituals treaties and blood covenant were used to remove fear, and engender trust, bind families and villages together to avoid war. Such treaties and covenants involve powerful deities, which makes it not easy to violate as violation would bring dire consequences[19].

5.5 Institution and Celebration of Festivals: There were instituted celebrations of festivals during which the virtues of peace, harmonious living, honesty etc. were extolled in songs. Rituals and scarifies were performed to the village deities and ancestors foe peace, protection, good works, fertility etc.

5.6 Use of Sanctions: Sanctions were imposed on families and individuals who were seen to have contradicted the customs and traditions of the people in order to deter others from engaging in behaviours that would engender conflict. Sanctions were meted on such misbehaviour as stealing, wilful murder, incest, abuse of elders, willful damage to property, lying, bearing false witness, poisoning, rape etc. Such sanctions included those that were imposed by the deities such as accidents, sickness, death, famine, poverty, misery, barrenness and loss of children etc. to the ones imposed by the society in such as exile, ostracism, fines, compensation, restitution, rendering apology etc.

5.7 Use of Marriage: Marriage is one of the means to the prevention, management and resolution of conflict before slave trader, colonialism and religion changed the societal life of the indigenous Africans. Marriages reduced inter-group wars as children who possessed mixed blood were used to prevent, manage and resolve conflict. Most of those marriages were not just intra-tribal but inter-tribal and most times involve the royalty.

5.8 Oath Taking: One of the approaches used in the pre-colonial days to prevent, manage and resolve conflict was oath taking. This was a practice to establish truth and guilt and discourage dishonest attitude and evil actions in society[20]. Most times this was done at the shrine of a very powerful deity over

---

[18] *Ibid*

[19] Sofola J.A. 1973. *African Culture and the African Personality: What makes an African Person African*. Ibadan: African Resources Publishers Co
[20] *Ibid*

FATHERRAHMAN MOHAMED YOUSIF MOHAMED

something that could be an avenue for contacting such deity. People are always warned before taking oath on the consequence of doing so on falsehood in order to avoid shame, or even death.

8. Conclusion

Despite all the fascinating offers of conflict management techniques in African past, the reality today is that 'we are' not 'who we were' close to a century ago. Today, African families and societies are so complex that some of the institutions and approaches are either comatose or, outrightly, dead. Even the much respected and sought-after elders (agba) are so dearth that it would be almost impossible to find an *agba* (elder) with essential qualities and requisite mien to handle conflicts within the families. The obvious way forward is an abridged conflict resolution technique that will be an amalgam of the past and the present, and which will make it (perfectly) capable of handling future conflicts with profits.

References

1. Ademowo A.J & Adekunle, D. 2013. 'Law in Traditional Yoruba Philosophy: A Critical Appraisal' *Caribbean Journal of Philosophy,* Volume 2, No. 1

2. Ademowo, A.J. & Noah Balogun.2014. Proverbs and Conflict Management in Africa: A Study of Selected Yoruba Proverbs and Proverbial Expressions *International Journal of Literature, Language and Linguistics*, Vol. 1, No. 1, 1(1)

3. Agbu, O & Bolarinwa, J. 2006. *Introduction to Peace Studies*. Abuja: National Open University of Nigeria

4. Ajayi, A.T & Buhari, L.O. 'Methods of Conflict Resolution in African Traditional Society'. *African Research Review: An International Multidisciplinary Journal*, Ethiopia Vol. 8 (2), Serial No. 33, April, 2014:138-157

5. Albert, I.O.2001. *Introduction to Third Party Intervention in Community Conflict*. Ibadan: John Archers Publishers Ltd.

6. Ayo B. 2002. *Public Administration and the Conduct of Community Affairs Among the Yoruba in Nigeria*. California: ICS Press

7. Bamikole, L.O. 2008. "Agba (Elder) as Arbitrator: A Yoruba Socio-Political Model for Conflict Resolution", paper presented at The Afolabi Olabimtan Memorial Biennial International Conference held at College of Humanities, Tai Solarin University of Education, Ijebu-Ode, 22nd-25th September, 2008.

8. Fayemi, Ademola. 2009. "Agba (elder) as arbitrator: A Yoruba socio political model for conflict resolution" - A review of Lawrence O.Bamikole. *Journal of Law and Conflict Resolution* Vol. 1(3), pp. 060-067, August 2008

9. Isike, C & Uzodike, U.O. 2014. 'Towards an indigenous model of conflict resolution: Reinventing women's roles as traditional peacebuilders in neo-colonial' *Africa Journal of conflict resolution*, Vol.3

10. Nwolise, O.B. (ed).2005. *Traditional Models of Bargaining and Conflict Resolution in Africa: Perspective on Peace and Conflict in Africa*. Ibadan: John Archers Ltd.

11. Nwoye, M.A. 2006. 'Role of women in peace building and conflict resolution in african traditional societies: a selective review'. http://www.afrikaworld.net/afrel/   Accessed on 24th May, 2014

12. Oguntomisin, G.O.2004. *The processes of peacekeeping and Peace -Making in Pre-Colonial Nigeria*. Ibadan: John Archers,

13. Olaoba, O.B. 2005. "Ancestral Focus and the process of conflict resolution in Traditional African societies": Albert, A. O. (ed.) *In Perspectives on Peace and Conflict in Africa in Essays in Honour of General (Dr) Abdul Salam A, Abubakar*, Ibadan: John Archers Ltd.

14. Shorter A.1977. 'Concepts of Social Justice in Traditional Africa', *Pro Dialogo Bulletin*, 12 (1977), pp. 32-51 www.afrikaworld.net/afrel/atr-socjustice.htm, Accessed on 24th May, 2014

15. Sofola J.A. 1973. *African Culture and the African Personality: What makes an African Person African*. Ibadan: African Resources Publishers Co

FATHERRAHMAN MOHAMED YOUSIF MOHAMED