

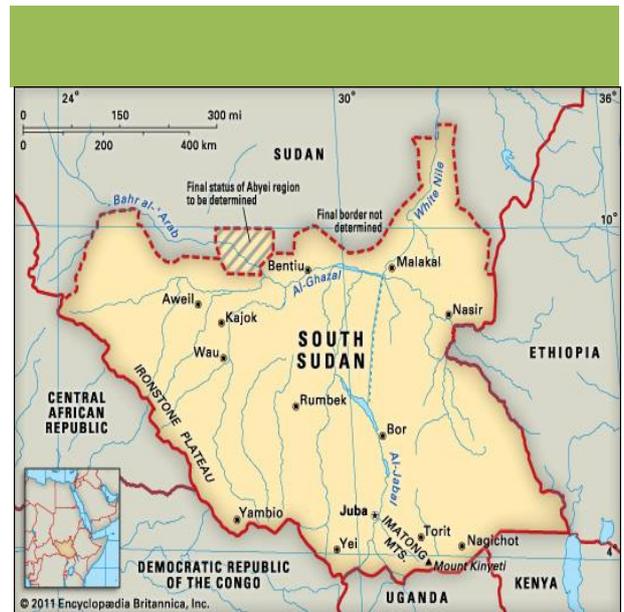
A THEORETICAL FRAMEWORK FOR
TRADITIONAL CONFLICT RESOLUTION
MECHANISMS IN SOUTH SUDAN

DIALOGUE AND RESEARCH INITIATIVE (DRI)

For more information, contact DRI:
Email: dialoguerinitiative@gmail.com

*Copyright © 2015, All rights reserved, Dialogue and Research
Initiative (DRI)*

November 2015



About the Dialogue and Research Initiative (DRI):

The Dialogue and Research Initiative (DRI), is a national Civil Society Organization (CSO) that promotes peace-building, governance reforms, transitional justice, human rights and accountability. DRI is a member of South Sudanese NGO forum, working with the communities affected by conflict; promoting human security through civilian protection, access to justice, rule of law and democracy in South Sudan.

Aims and Objectives of the Research:

The objective of this exercise is to document key traditional reconciliation mechanisms and or assess the relevance of the role of traditional reconciliation processes in relations to the current IGAD-Plus led peace agreement.

It also seeks to identify some of the existing conflict resolution mechanisms and how different approaches intersect other traditional conflict resolution mechanisms for greater effect, and to aid decision-making and transitional justice processes.

It seeks to identify relevant community reconciliation processes that can contribute to new research initiatives on reconciliation and policy maker's strategies on transitional justice, peace building, and governance reform process in South Sudan.

The overarching purpose of this

TABLE OF CONTENT

Declaration.....	3
List of Acronyms.....	4
Executive Summary.....	5
Background and History.....	5
Theoretical Framework for Structural Justices System.....	7
Theoretical Framework for Peace.....	7
Theoretical Framework for Structural Reforms.....	8
Limits of Structural Reforms.....	10
Theories and Processes of TCRM.....	10
Aims and Objectives of TCRM.....	12
Approach to TCRM.....	13
Examples of the Past TCRM in South Sudan.....	15
Problems and Limitations of TCRM.....	17
References.....	19

This study was made possible through financial support from the United Nations Development Program (UNDP)

LIST OF ACRONYMS

CSO - Civil Society Organization

DRI - Dialogue and Research Initiative

GBV - Gender Based Violence

IDPs - Internally Displaced Persons

IGAD - Inter-Governmental Authority for Development

LGA - Local Government Acts

NGO - Non-Government Organization

NSCC - New Sudan Council of Churches

PoCs - Protection of Civilians Sites

SSHRC - South Sudan Human Rights Commission

SSDF - South Sudan Defense Force

TCRM - Traditional Conflict Resolution Mechanisms

UNHRC - United Nations Human Rights Commission

UNMISS - United Nations Mission in South Sudan

EXECUTIVE SUMMARY

The theoretical narratives presented in this paper, highlight to the readers, realities and challenges facing peace builders, and they illustrate that no single approach can offer a sustainable solution to conflict and structural reforms in South Sudan. Therefore sustainable peace building efforts must rely on approaches that foster inclusion and participation among multiple South Sudanese ethnic communities.

Ethnic affiliation currently represents entrenched sources of identity among South Sudanese societies. Rather than attempting to dilute or subsume these identities under a 'state-centric' peace framework alone, local stakeholders in South Sudan's peace process must work towards an all-inclusive approach.

Fundamental to this will be finding ways to coordinate traditional conflict resolution mechanisms and other non-state actors in a way that they function within the political boundaries of the country. Peace builders must identify both the strengths and weaknesses of traditional South Sudan's social structures, while promoting government institutions that compensate for their weaknesses.

Peace builders must approach conflict in South Sudan with both short-term and long-term strategies. In the short-term, priority must be given to the establishment of a viable state, and the establishment of the rule of law. This should be done through inclusive mechanisms, applicable to both local non-state actors and civil society groups.

In the long-term, peace builders must encourage inclusive state institutions that foster the growth of a national South Sudan identity. Connecting local social structures to national institutions would provide a starting point for achieving such inclusion.

State institutions that establish both vertical and horizontal relationships, vertically between local, regional, and national actors and horizontally between ethnic and conflicting identities, will provide the framework necessary for the emergence of sustainable national goals and identity.

This overall process will require moving beyond ideological conceptions of nationhood, such as 'one people, one nation', and towards the practical ways in which identities can work collaboratively. With inclusive policies, the existence of multiple actors, voices and identities can be used to strengthen the process of national cohesion.

Background and History

A newly independent state, South Sudan, is at a very early stage of state building and nation building. There are a myriad of historical and current unresolved grievances and ethnic tensions, limiting the prospect of an inclusive political settlement as well as community engagements.

With over 50¹ ethnic groups, with different identities and cultures, managing intra and inter-ethnic tensions will remain an on-going challenge for the Government and the people of South Sudan for many years to come.

Recent history shows that South Sudan has a high inclination to violent conflict, as demonstrated by the politically driven ethnic clashes, which was highlighted by the 15 December 2013 crisis.

To date, the two parties to the conflict have continued to engage in military clashes and political rhetoric. Although much of the country has remained relatively conflict-free since the December 2013 crisis; however, fighting has persisted in Jonglei, Unity, and Upper Nile States, with devastating effect.

State-centric and traditionally based mechanisms for resolving disputes and conflicts in a non-violent manner are weak and severely strained. Combined with a lack of basic service provision, weak or absent state institutions, corruption, and failing local economies, high levels of conflict, often over access to scarce resources are not uncommon.

Inter and intra-communal conflicts are endemic and widespread (including perennial cattle raiding and land disputes), further exploited through local community mobilizations by political, military and smaller militia group leaders. These conflicts are exacerbated by easy access to small arms.²

According to the United Nations' Human Right Commissioner (UNHRC), South Sudan made improvements in human rights, in particular ratification of a number of key international human rights instruments.³ However, the recent conflict has resulted in major setbacks in the areas of human rights protection and respect for fundamental rights such as right to life and freedom of expression.

The South Sudan Human Rights Commission (SSHRC) recently reported that the conflict and fighting by government and opposition forces has resulted in gross violations of the right to life, of not only combatants, but also of innocent and defenseless civilians, especially women and children.

A culture of impunity is widespread and increasing in the absence of political and institutional commitment to hold those responsible to account. Gender Based Violence (GBV) is prevalent in South Sudan and the recent crisis has made the situation worse. Mainly women and children have experienced violence in the form of rape, sexual assault, physical abuse, and forced marriages.

The South Sudan Health Survey (2010) estimates that one in every five women has experienced GBV. It also notes a high tolerance of such abuse with 79% of respondents expressing that a man is justified to beat his wife. Such a belief inevitably means that

¹ Figures cited for ethnic groups in South Sudan range from 50 and above. Natsios, A. S. and Abramowitz, M. (2011).

² Reaching for the Gun: Arms Flow and Holdings in South Sudan. Human Security Issues Brief Series, Small Arms Survey (2012).

³ South Sudan has ratified the following human rights instruments: the International Covenant on Civil and Political Rights, the African Charter on Democracy, Elections and Governance, the Convention on the Elimination of All Forms of Discrimination against Women, and the African Charter on the Rights and Welfare of the Child.

most cases of abuses against women go unreported. GBV is under-reported in all contexts, both in emergency and non-emergency situations.

South Sudan is faced with a rapidly worsening humanitarian crisis. Nearly five million people are now in need of basic humanitarian aid, and there are an estimated 1.5 million Internally Displaced Persons (IDPs), including over 100,000 who have taken refuge in eight UNMISS bases in areas designated as “Protection of Civilian” (PoC) sites.

The main purpose of this concept paper therefore, is to probe and provide a theoretical framework on traditional conflict resolution mechanisms (TCRM), serving as alternative to ‘community cohesion and conflict management’, where formal justice mechanisms is currently constrained by weak governance system, both at the national and state levels.

This paper proposes a theoretical framework, based on John Paul Lederach’s theory of vertical and horizontal integration, where local stakeholders and peace building organizations may approach the issue of conflict resolution process, using this framework, as it relates to future peace in South Sudan.

Rather than promoting a ‘state-centric’ mechanism that subverts traditional social structures and religious identities, peace builders must support the construction of viable states and non-state actors that incorporate various identities into a complimentary and stable system of relationships and governance. Only within the framework of such functional strategies can ‘community cohesion and conflict management’, be fully realized.

This theoretical framework also discusses the merits and demerits of the traditional conflict resolution mechanisms through which peace and justice to the local communities are facilitated.

The paper further seeks to explore *which* extent, *how* and *what* degree of success people engage with the available formal justice system in their local areas. We begin by exploring the necessary ingredients as a way of conceptualizing the national framework for justice and peace in South Sudan.

Theoretical Framework for Structural Justices System

Broadly speaking, social and political institutions in South Sudan set the context for individual and group behaviours and are meant to provide the resources individuals need to survive. Consequently, how South Sudanese act and live is currently shaped, in large part, by the social and/or political structures in which they find themselves.

Therefore, social justice is, in part, a matter of ensuring that these structures and institutions do in fact satisfy basic human needs. However, in most cases, these social institutions are characterized by both exploitation, and what Professor Mairi Blackings of the University of Juba termed, “the politics of entitlement, ethnicity and loyalty”; the by-product of which is unequal access to public resources.

These structural measures often create a system of ‘in-group’ and ‘out-group’, in which individuals become trapped in a particular social context. Subsequently, structural violence often results from power inequality, poverty, and the denial of basic human rights.

Again, the by-product of the structural measures means that basic human needs go unmet, and citizens suffer from inadequate access to resources and exclusion from institutional patterns of decision-making. In fact, to the vulnerable members of the communities, justice and peace means access to basic services such as security, health, and education among others.

The unjust structural forces and ethnic divisions in South Sudan also contribute to

discrimination, lack of service provision, and inadequate employment opportunities. It is unlikely that processes within the prevailing system can be effective in dealing with the injustices and inequality that arise out of its failure.

In fact, these processes are designed to support and perpetuate the existing culture of impunity that tend to alienate people; and conflicts that stem from some of these unmet human needs may be tamed by the existing system but are unlikely to be resolved satisfactorily.

Theoretical Framework for Peace

Social structural reform is an integral part of transitioning from a culture of war to that of peace, as well as addressing the injustices that may have fueled conflict in the first place. The peace building process must involve a deliberate and systemic reform that helps create and sustain a new social reality of the South Sudanese people.

Therefore, an integral part of minimizing violent conflict from recurring is to transform those structures and dynamics that govern social and political relations, as well as equitable access to basic resources.

These sorts of systemic reforms typically involve policy or institutional adjustments, as well as the creation of new institutions, where necessary, to meet basic political and socio-economic realities of the country.

Social structural reforms must aim to profoundly amend some of the conflict's underlying causes and conditions and restructure the system of social relationships that have broken down due to the long civil war in the country. Social structural reform is also crucial in preventing further protracted conflict.

John Burton comments that removing conflict's underlying causes and creating conditions under which it does not recur, will achieve prevention of future conflict. Therefore, addressing injustice before it provokes conflict often requires far-reaching changes in the existing structures and institutions of the society.

John Paul Lederach's theory of vertical and horizontal integration provides a helpful model for peace builders seeking to encourage inclusive forms of state building and nationalism.

Lederach defines vertical and horizontal integration as "the development of working relationships that cut across the levels of society vertically, linking community work with higher levels, both within each community and beyond the community, and that cut across the lines of identity that mark the central divisions of the society".

Recognizing that conflicts in South Sudan are typically drawn around group identity lines, Lederach contends that any efforts to promote long-term reconciliation should focus on the restoration and rebuilding of relationships.

While the ultimate goal of vertical and horizontal integration is to permanently redefine conflicting relationships, sustainable peace building requires both a vision of change and practical immediate actions.

Theoretical Framework for Structural Reforms

Today, there is much conflict within South Sudan, characterized by a general breakdown of government, as well as ethnic strife. Bad governance is a form of injustice that must be corrected. Thus, one very broad type of social structural change is state reform and radical change of peoples' attitudes across the country.

State reform must involve more than just reorganization of the administrative system or the system of resource allocation. These social structural changes should contribute to

the establishment of participatory nation-building processes by fostering democratic development, nonviolent and just dispute resolution mechanisms, the participation of the rural population, and respect for the rule of law.

In most cases, parties to the conflict are chiefly concerned with replacing or altering existing legal and political frameworks. And yet, reform of government institutions typically involves measures aimed at democratization and increased political participation. This kind of state reform has the potential to mitigate and heal the effects of violent intra and inter-communal conflicts, as well as prevent future conflicts.

One type of structural reform is the strengthening of civil society. Civil society means various sectors, including the business community, trade unions, youth groups, women's groups, churches, NGOs, and human rights activists.

Regrettably, here is South Sudan, citizens are alienated from the institutions and practices of governance, and yet public institutions alone are unable to solve the prevailing social problems that have so far polarized various communities.

Unfortunately, community relationships and civic life either do not exist or have disintegrated in post-conflict South Sudan. When civil society is absent or inactive, it is indicative of an oppressive regime.

Many peace-building practitioners hope that strengthening community and civil society is one way to address persistent social problems such as destructive injustice, poverty, structural violence, and environmental degradation.

Generally speaking, strong civil society can promote dialogue and reconciliation, foster good governance, and build peace across cultures. It can also foster the values of caring, tolerance, and cooperation, and encourage public discourse and broad participation in the construction of public policies.

These measures strive to foster public participation and create institutions of governance that can become vehicles, not just for making and enacting policy decisions, but also for fostering a strong sense of citizenship. Such measures include forums for meaningful public engagement, real opportunities for community members to communicate with public officials, and other forms of inclusive governance processes.

Strengthening institutions might also include judicial reforms, electoral reforms and security reforms amongst others. These institutions should carry out just and transparent procedures and promote open and participatory community engagements.

Another general way to reform and redistribute power is through constitutional reforms. This can involve a process of national dialogue, allowing competing perspectives and claims to be voiced and incorporated.

It can also be part of national education with respect to concepts of governance, the concerns of different groups, the development of civil society and citizen responsibility, and norms of human rights and tolerance in the country.

Constitutional reform can help political systems and the institutions within them to evolve in response to demands that reflect human needs. In the South African case, for example, systemic change came in the form of major constitutional reforms and reallocations of power.

The abandonment of apartheid is a prime example of major social structural reform. In addition, states can intervene to promote a more equitable distribution of income, correct financial-market inequities, and prevent monopolistic control over markets.

They can implement policies to advance land and agrarian reform, promote trade and industry, and increase inclusive economic growth. Restructuring the economic system in these ways can help the country to address immediate socio-economic issues while also creating a way forward for broader societal change.

Many argue that reckoning with past abuses and injustices must focus on the victims. Nevertheless, restitution to victims often forms part of post-conflict reconstruction, but can also be crucial, well beyond the reconstruction stage. Some social structural changes aim at compensation for past political and economic injustices.

Compensation programs can restore land to those displaced by war, provide monetary compensation to dislocated victims and pensions for survivors of those killed, grant educational benefits to minority groups, and provide funds for minority cultural activities.

Carrying out these sorts of substantial measures, is often an important part of reconciliation, and helps the victims of past injustices to come to terms of their losses and move on with their lives.

Limits of Structural Reforms

Unfortunately, social structural changes such as power-politics and institutional reforms often have limited success in breaking cycles of violence. Large-scale social structural reform is limited, in part, because national and global elite often seek out the most acceptable and efficient means of managing serious social conflict rather than resolving it.

Rather than dealing with the total situation in all its complexities, management and containment of symptoms is the most common response. In some cases, this is because the deep-rooted reforms required are regarded as politically unacceptable or too costly to pursue. Reforms may seem too costly even when the long-term costs of merely managing social problems in the future will turn out to be even higher.

In most cases, the elite tends to initiate changes at the level of more local or peripheral social structures while leaving more central structures intact. Authorities are typically in favour of system and role preservation because they have a vested interest in the status quo.

Thus, structures that support the norms and behaviours of the dominant 'in groups' will tend to be preserved. Reforms that are regarded as a threat to the immediate interests of the 'in-group' who determine economic and social priorities are unlikely to be enacted.

Thus, some political and economic structures will turn out to be extremely difficult to alter. In war-torn societies ravaged by conflict, such as South Sudan, social structural reform will be insufficient to satisfy human needs. When economic and political institutions have been utterly destroyed, they require reconstruction rather than alteration.

Furthermore, whether structures need to be fully reconstructed or simply reformed, this is highly costly. In many cases, countries will have to rely on outside humanitarian aid and development assistance in order to create economic and political institutions capable of satisfying human needs.

In addition, any efforts aimed at structural reform must be accompanied by efforts to heal relationships and help individuals deal with psychological trauma. Survivors of war must be rehabilitated psychologically and spiritually, and develop shared meanings so that relationships can be transformed.

Social structural reform alone cannot adequately address injustice, put an end to violent conflict and contribute to peace building unless human dimension receives significant attention as well. This ‘human dimension’ (*ubuntu*) currently exists and is alive at the grassroots communities, and facilitated through community engagements.

Theories and Processes of TCRM

Generally speaking, the concept of traditional conflict resolution mechanism (TCRM) is a community process involving the identification of the root causes of the problems, and causing all parties involved, to address the underlying issues.

This process usually concludes with the guilty accepting wrongdoing, leading to reconciliation, which may be consummated by means of compensation or just choosing the path of forgiveness (Brock-Utne, 2001; Murithi, 2006).

The process of traditional conflict resolution has to do with how local structures and systems is employed to bring about peace at the individual and community level relationships. In this respect, traditional conflict resolution procedures and mandates are generated from general cultural life and daily experiences of the people.

In this context, “tradition refers to the structures and the units of organizations in a community and encompasses also the norms, values, and beliefs that guide social interaction” (Kendie and Guri, 2006:333).

Therefore, traditional conflict resolution processes are part of a well-structured, time-proven social system, focusing towards reconciliation, maintenance and improvement of social relationships. The methods, processes and regulations are deeply rooted in the customs and traditions of the African people in general, and South Sudanese in particular.

Barnes (2006) emphasizes that peace building processes and initiatives must be embedded in local communities. In the same disposition, Lederach (1997) emphasizes that conflict resolution mechanisms should have space for diverse actors, from the state to civil society and ultimately to local community members who are faced daily with the impact of conflict.

According to Dr. Wassara (2007), Associate Professor, University of Juba, “Traditional conflict resolution is still very relevant in Southern Sudan because there is a vacuum in the system of justice and the rule of law, especially in the rural areas. It is logical to maintain an existing system that has survived for centuries while building alternatives such as functional judiciary that would gradually address weaknesses in the traditional system”.

He went on to suggest that conditions for the improvement of the traditional system of conflict resolution would depend on key factors such as “codification of customary law”, and “linking traditional systems with ‘modern’ system of local governance”.

Adviser to the Governor of Central Equatoria State on Conflict Mitigation and Stabilization, referred to such ‘vacuum in the system of justice and the rule of law’, as “a big gap” that prevails between the traditional leadership and the judiciary.

According to her, such gaps express themselves in lack of knowledge, language limitation (translation), referral as a way of scaling up rural cases and the limitation of comprehension of what is contained in the Local Government Act (LGA). “Our chiefs need to be enlightened”, she said.

She and her team recommend that the improvement of the traditional system of conflict resolution mechanisms lie on the training of local chiefs so they can understand their proper roles as prescribed in the Local Government Act, and not abuse their positions.

Meanwhile, the codification of the customary law as a way of improving the traditional system of conflict resolution is likely to raise additional concern, as it would compromise the essence or the core process of flexibility, negotiation and compromises that exclusively belong to the domain of the traditional conflict resolution mechanisms.

Lederach, (1997) advocates for grassroots peace building instead of state-centric peace building, therefore, his conception of the peace building pyramid model, which categorizes actors in peace building into top, middle and grassroots ranks.

At the top level there are government institutions, political elites and the military leaders who are not only powerful but also have the mandate to engage in peace building from their constituencies.

The middle-level actors include non-governmental organizations, other civil society actors and local leaders who are capable of influencing both top leadership and grassroots actors.

At the bottom level of the pyramid are grassroots actors and members of local communities who, not only experience the day-to-day impact of conflict, but also are better positioned to resolve such conflict, because they are aware of their environment and the immediate needs of the community.

Paul Lederach emphasizes that it is usually the grassroots actors who are effective in conflict resolutions because of their intimate interaction with conflict and disputing parties. Using this line of thinking, one could conceive that grassroots actors in traditional conflict resolution actively play prominent roles in resolving conflicts at the local level.

To affirm the suitability of the TCRM, it is interesting to note why people prefer a traditional institution to state courts, of course, if such a choice is possible and viable. Zeleke (2010: 63- 64) states:

Apart from the lack of capacity under which it suffers, the state legal system can also be criticized for a high degree of preferential treatment due to corruption, so that justice is provided only to a few. Furthermore, the ideology of the state legal system is drawn mainly from the western legal philosophy, which is highly influenced by an individualistic orientation and does not fit the strong social orientation on the ground where it is being implemented... The strong social tie existing in the community makes the significance of reconciliation, the key role of traditional institutions, indispensable.

According to Zeleke (2010:71), there are sufficient reasons why people prefer the traditional conflict resolution process, because it focuses on reconciliation and re-establishing social harmony.

As mentioned already, the process of TCRM is well embedded in the culture of the society, and it allows flexibility in its procedures where needed. It can also be trusted, while the efficacy and trustworthiness of the current formal legal systems are under suspicion throughout the country.

Undoubtedly, there are cases of more serious offences, in which, at least, formal court procedures are essential. However, even if the formal Western type of legal procedure were well established, it may be surely not perfect.

Aims and Objectives of TCRM

The importance and efficacy of the process of the traditional conflict resolution mechanism lies in the fact that it strives “to restore a balance, to settle conflict and eliminate disputes” (Choudree, 1999:1).

These processes are relatively informal and flexible in nature and therefore, less intimidating, and those who use them and are affected by these cases are also more at ease due to the familiarity of the environment. The roles of chiefs, elders, family heads, and others are not only to resolve conflicts but also to anticipate and mitigate/or intercept such conflicts before hatching.

Group relationships are as important as individual, and therefore the emphasis of traditional conflict resolution have always been to restoring relationships and reconciling divided groups (Choudree, 1999).

In other words, traditional conflict resolution mechanism is a social capital, defined as the “capability of social norms and customs to hold members of a group together by effectively setting and facilitating the terms of their relationship... sustainability facilitates collective action for achieving mutually beneficial ends” (Fred-Mensah, 2005:1).

According to Huyse (2008), cooperation between conflict parties in the future has to be guaranteed. Traditional conflict resolution process is therefore, geared towards the future. Consequently, the issue at stake is not punishment of perpetrators for wrongs done in the past, but restitution and reconciliation.

In this context, reconciliation is necessary for the restoration of social harmony of the community in general and of social relationships between conflict parties in particular.

Therefore, the purpose of the traditional conflict resolution mechanism (TCRM) is “not to punish, an action which would be viewed as harming the group a second time. This is why traditional approaches in general follow the line of restorative justice instead of (western-style) punitive justice.

Restorative justice has to be understood “as a compensation for loss, not as a retribution for offense” (Zartman 2000b, 222). The ultimate aim of traditional conflict transformation is the restoration of relationships and community harmony.

Indeed, the traditional conflict resolution process comprises a complex network of forces surrounding the parties in the conflict. In this context, reconciliation often requires symbolic gestures and associated rituals, which often include exchanging of gifts, and slaughter of animals such as cows, goats, sheep or chickens (Ndumbe III, 2001).

Meanwhile, the spiritual dimension of the traditional conflict resolution refers to creating and restoring impaired relationship with God, the spirits, ancestors, families and neighbors (Kealotswe, Mbiti, 1991). This process is equally critical in restoring other relationships at the social levels. In this context, rituals play an important role in the reconciliation process, as they help to link people to the past, present and the future.

More importantly structural violence must be understood in their social context, such as “values and beliefs, fears and suspicions, interests and needs, attitudes and actions, relationships and networks...” (Brock-Utne, 2001: 6). Thus, the root causes of conflicts must be explored to emphasize shared understandings of the people’s past and the present.

Brock-Utne (2001:9) notes that: “The immediate objective of such conflict resolution is to mend the broken or damaged relationship, rectify wrongs, and restore justice”. Another aim of the traditional conflict resolution mechanism is to ensure the full integration of parties into their societies again.

Stated differently, the objective of the traditional conflict resolution is to move away “from accusations and counter accusations, to settle hurt feelings and to reach a compromise that may help improve future relationship”.

The efficacy of the process and sustainability of the outcomes, generally, are attributed to such factors as humility, participatory nature, adaptable flexibility, complete relevance, and comprehensiveness (Brock-Utne, 2001).

Approach to TCRM

The approach to the traditional conflict resolution is flexible and dynamic and the entire process and content are influenced by the local social context. Thus, the social environment influences the process.

The approach also seeks to build consensus, and this requires tact and patience from the mediators. When agreement is reached, it is shared with all parties including the general community.

This social perspective on conflict resolution has general advantages including the “shared understanding of the conflict.” It also encourages ownership and harmony through active participation in the process by all parties (Brock-Utne, 2001:13).

Traditional conflict resolution mechanism focuses on the principles of empathy, sharing and cooperation in dealing with common problems, which underline the essence of humanity (*ubuntu*) (Murithi, 2006). Cultural approaches to resolving and managing disputes play a vital role in promoting peace and social order in local communities.

Cultural values and attitudes, on the other hand, provide the basis for interaction and the norms by which individuals and communities live. These also promote a culture of sharing and equitable distribution of resources, thus promoting a climate for peace and reconciliation.

Most African cultural principles relate to the very essence of existence and being human and how all humans are inextricably related, and it is on these values and premise that the traditional conflict resolution concepts are anchored.

Reconciliation processes within the traditional communities are underscored by the principles of reciprocity, inclusivity and a sense of shared destiny between and amongst people. It provides a value system for giving and receiving forgiveness. This is because society places greater emphasis on communal life.

Creating and sustaining positive, harmonious, and mutual relations are shared responsibilities involving everyone in a particular community. It is believed that people are linked to each other including disputants as perpetrators or victims (Murithi, 2006).

According to Juliana Bol (2014)⁴:

Grassroots conflict resolution and mediation must be independent of negotiations happening in Addis Ababa and the political climate in general. This is especially true because while the actors are politically instigated, not

⁴ Juliana Bol is a public health specialist, holding a Masters in Public Health from Columbia University, New York. Her key focus area is Population and Family health concentrating on Forced Migration and Health. She lives and works in Juba, South Sudan and can be reached at: mawazo@gmail.com

all of them are politically motivated. Community members will ultimately be responsible for engaging with those currently on the battlefields, in monitoring any agreements and involvement of these same political and military actors has the potential to derail the process.

As for the historical and cultural mistrust and stereotyping that has since characterized South Sudanese culture, this will require a long-term process of reconciliation, and an arduous, and long drawn process of changing the mindset of every South Sudanese. Such processes do not have to rely on the 'top-bottom' process alone, but fundamentally, it must be anchored on the 'bottom up' process.

The discourses above demonstrate the relevance of cultural processes, institutions, and values in conflict resolution and peace building at the grassroots levels.

It is evident that most individuals, families and communities still prefer traditional conflict resolution mechanisms and processes because they are based on cultural concepts, values, and procedures that are understood and accepted by local people.

Why? Because people are familiar with their cultural dictates and therefore it is easier to come to grips with responsibilities that emanate from them. It is in this context that the 'customary courts' with allowance for negotiation and substantially informal procedures, which are less intimidating, and understood by the local people, work extremely well.

When conflict resolution and peace-building mechanisms are based on principles prized and valued by a community, and are contextualized to capture their collective knowledge and experiences, they yield positive results.

It is in this context that the principles of social cohesion, harmony, transparency, participation, peaceful co-existence, respect, tolerance and humility, among others, are emphasized as core issues in traditional conflict resolution mechanisms.

One would have wished that some of these concepts and processes could be borrowed or adopted to meet current challenges in the process of healing and reconciliation in South Sudan. Nevertheless, below are some examples of such processes that worked in the past.

Examples of the Past TCRM in South Sudan

In many areas, residents have achieved agreements to end fighting through local peace conferences. Spiritual leaders are often seen as ideal, neutral intermediaries who have allegiance that transcend both clan and ethnic loyalties.

They do not settle disputes themselves, or sit in judgment, but their role is to encourage rivals to make compromises in order to arrive at peaceful resolutions of the conflicts. Delegations of renowned clergy and women will often participate in all major peace initiatives between clans or disputing parties.

John Paul Lederach identifies peace-building principles that are critical to the success of such interventions, especially those that are presided over by clan elders, as they are locally rooted. For example:

- a) **Wunlit Conference:** In June 1998, under the facilitation of the New Sudan Council of Churches (NSCC), thirty-five Dinka and Nuer border chiefs and church leaders on both the west and east sides of the Nile River met in Lokichogio, Kenya. They considered ways to bring peace and reconciliation to their peoples. They met for nine days to share the stories of the pain and suffering they had inflicted on one another for

seven years.

The successful Wunlit peace and reconciliation conference held in Wunlit, Bahr el Ghazal, on February 27-March 8, 1999, manifested an idea whose time had come. Taban Deng, the then Riek Machar's Governor of Unity State, of the breakaway South Sudan Defense Force (SSDF) had this to say about the reconciliation conference:

The original thinking about Wunlit was that it was useless for Nuer and Dinka to go on killing each other. This was not a conspiracy against the government of Sudan, but we decided there would be no more Nuer/Dinka fighting. Khartoum claimed this was a conspiracy against the government organized by American churches... The government of Sudan thought that it could use the Nuer to destroy the SPLA. But we have to take care of what is in the interest of the whole south. For that we are termed separatists, Garang loyalists [by the government].

The Wunlit Conference sought to make peace between neighbours, regardless of whether the top leaders were able or even wanted to reconcile. The movement was responding to the impasse at the top of southern leadership that had permitted the Dinka-Nuer border war to drag on and on, with increasing casualties, such as abductions, loss of cattle, abandoned and destroyed villages, and displacement.

For more information on the Wunlit Conference, please follow the link: (http://www.sudantribune.com/spip.php?iframe&page=imprimable&id_article=50554)

- b) **Fangak Conference:** Started in the 1940s and was held in Western Upper Nile and amongst all major sections of the Nuer. Subsequent meetings were held every 5 years to review and modify customary law, with the last meeting convened in 1971
- c) **1994 Ikotos Conference:** Convened amongst the Lotuko, Didinga, Boya and Toposa communities to address inter-communal conflict, which had escalated after the 1991 SPLA split. It was facilitated by the Catholic Diocese of Torit and involved approximately 7,000 participants. The conference resolved the issue of escalating dowry prices (reducing these from 30 to 10 cows), established compensation for wrongful deaths at 22 cows, and banned travelling outside one's village while armed.
- d) **1994 Akobo Lou-Jikany Lou peace Conference:** This conference was held to address intra-tribal fighting between the Jikany and Lou Nuer. It was facilitated by the Presbyterian Church of Sudan and chaired by Nuer from Western Upper Nile, who also acted as judges in the civil court. It included 500 official delegates and about 1500 observers.

Uniquely, women (maan naaths), played a particularly effective witnessing role at the Conference, acting as an informal 'truth commission.' As *maan naaths* (mothers of the nation), the Nuer women would shout down any man whose testimony contained falsehoods. The shame of the women's shouts drove a number of men to revise their testimony to avoid the embarrassment of being tainted as liars.

- e) **1998 Lokichoggio Dinka-Nuer Chiefs Meeting:** The Lokichoggio peace workshop, organized by the New Sudan Council of Churches (NSCC) in June, brought together for the first time in 7 years, 8 Dinka and Nuer chiefs from the east and west banks of the Nile, address 8 years of internecine violence between the Dinka (of Bahr el Ghazal) and Nuer (of Western Upper Nile). The Lokichoggio peace accord led to an agreement to end hostilities, and to hold a series of meetings amongst communities to discuss modalities for peace. This led to the Wunlit Conference.

As demonstrated above, traditional conflict resolution mechanisms (TCRM) can address some of the adjoining factors that help fuel conflict at the local level, such as access to land disputes or grazing problems, fight over resources, and can provide appropriate solutions. While local peace processes are not likely to stop a large conflict, they can help prevent small disputes from escalating into larger conflicts.

Traditional conflict resolution mechanisms (TCRM) are generally more sensitive to local needs and are immersed in the culture of the violence-afflicted community. Their decision-making processes are rooted in conflict's context, and are able to address some of the immediate causes of the conflicts

Implementing such local approaches don't require sophisticated formal structures or expensive campaigns; instead, it provides a low-cost, empowering means of resolving conflicts within a relatively short timeframe. In many societies, elders have traditional jurisdiction in facilitation, arbitration, and monitoring outcomes.

Local conflict mediators typically possess moral status, seniority, neutrality and respect of the community, because they are acceptable to all parties and demonstrate leadership capacity. Subsequently, resolutions are generally accepted and respected by all concerned parties.

Local mediators often bring important social influence but may lack the power and the means to enforce the resolutions adopted. Advice is only accepted when both parties agree to it, and both parties must feel their concerns were properly addressed. In the same way, traditional power to prevent the occurrence of violence is limited.

Some traditional conflict mitigation efforts may be weakened by age, gender bias, or 'political correctness'. For example, in cases where there are no women elders, some women may believe that male elders are biased against women and this is often reflected in their decisions.

The evidence of this is that traditional authorities generally are not progressive elements of social change. Indeed, local conflict resolution's potential effectiveness is diminished where traditional authority is eroded or compromised and armed authority, or 'political correctness' has increased, because these trends run counter to traditional values and ways of social organizations.

Conflict is inherent in society; so are mechanisms for dealing with it. Regrettably, the decline of traditional authority and its role in conflict mediation has contributed to the development of large-scale conflicts here in South Sudan. In other cases, parties to broader conflicts have subverted traditional mediation mechanisms or included them in the conflict, without critical reflections for doing so.

Problems and Limitations of TCRM

Although various communities share the aims and objectives of the traditional conflict resolution mechanism, their applications differ from one ethnic group to another. In some ethnic communities, for example, the application of the principles tends to create more problems than solving them.

Dr. Wassara (2007) describes an example of the Dinka culture of "taking a girl for compensation is an inhuman act, which reduces a human being to the status of property", while in other cultures, this could be viewed as the best alternative mechanism for resolving community conflict.

In his view, traditional conflict resolution, especially in South Sudan, is constrained by many factors such as:

- a) The absence of codification, where each ethnic group applies traditional justice in the context of its local community. Whether this is in effect a problem or limitation remains debatable. As argued earlier, however, the condition to codify the traditional conflict resolution mechanisms is likely to undermine the process of flexibility, negotiations and compromises, which gives the TCRM its unique expression.
- b) Competition over traditional authority is likely to lead to and aggravate communal conflicts in many parts of post conflict South Sudan. There are many sources of authority that are imposed by the war and the various warlords.

It is worth noting that what Dr. Wassara refers to as “many sources of authority” is in fact, a by-product of the imposition or successive erosion on the traditional authority system and the institutional and structural rivalries between ‘state-centric’ and local authorities. This also includes the prevailing politicization and militarization of the roles of the chiefs.

According to Dr. Wassara, “Other traditional chiefs were compelled to undergo military training to ensure the execution of orders from the side of the war they belonged to. The key result was militarization of the society, which resulted in the use of force to settle disputes and the breakdown of law and order at the grassroots level of the society in Southern Sudan”.

- c) Traditional leaders and local authorities infringe on the rights not only of women, but also other vulnerable groups such as children and the girl child, due to cultural biases towards such groups.
- d) Generally speaking, there are limits in the implementation process of the traditional conflict resolution mechanisms, especially here in Southern Sudan, due to the deep-seated mutual suspicions, mistrust and the level of ethnic fragmentations in the country.

Other major weaknesses of the traditional conflict resolution mechanisms (TCRM) are the inherent lack of ‘capacity’ to terminate violence in the long term; possible contradiction of the universal standards of human rights; limited scope or sphere of applicability; perpetuation of the ‘good old’ culture, which are open to abuse.

Recommendations

International agencies and national non-government organizations (NGOs) can promote and support traditional conflict resolution mechanisms to ensure that local actors effectively participate in the conflict management processes by partnering with existing local institutions. External players such as humanitarian organizations can empower local conflict mediation groups by:

- a) **Acknowledging their relevance**, and meeting with them when visiting an area and securing their input into planning. Building on traditional structures for peace and conflict resolution, and using those structures in dealing with ongoing conflicts.
- b) **Developing a strategy** for identifying conflict resolvers and peacemakers within cultural groups in the operating area, validating and empowering existing conflict resolvers, and creating opportunities for their interaction with other communities.
- c) **Helping local partners to evaluate** some of the traditions and approaches to peacemaking that worked in the past, and thinking through how they can be helpful today.

- d) **Sponsoring forums** to develop comprehensive strategies for conflict mitigation activities in the region. Conducting workshops to focus on processes by which local groups can be empowered to help themselves in managing their conflicts.
- e) **Paying attention** to traditional customs, cultures, roles, values, and learning the community structures in areas; including the role of the elders, women, age-group leaders, and other leaders, especially non-military leaders.
- f) **Supporting or developing local venues**, such as community centres, as opposed to law courts, for conflict mitigation and mediation activities.

The role of women: Women play a unique and significant role in conflict management and resolution in some societies. A local Bishop was quoted to have said, “I facilitated 100 reconciliation conferences without success. I will not do reconciliation conference again, unless women are included”. Such a statement underscores the significance of the role of women in peace building processes.

External agencies are encouraged to recognize the importance of this role and promote the inclusion of women in negotiations through measures such as:

- Holding regional workshops to promote dialogue among women.
- Sponsoring training to develop women’s conflict resolution skills.
- Assisting women’s groups interested in developing peace education and civic education materials for use in schools and the media.
- Facilitating the evolution of regional women’s organizations as mechanisms for information sharing and coordination and to maximize participation of women in reconciliation and development processes.

References

1. Brock-Utne, Brigit (2001). "Indigenous Conflict Resolution in Africa". A draft presented to week-end seminar on Indigenous Solutions to Conflicts held at the University of Oslo, Institute of Educational Research, 23 - 24 of February 2001.
2. Choudree, R. B. G. (1999). "Traditions of Conflict Resolution in South Africa". *African Journal on Conflict Resolution*. (1).
3. Fred-Mensah, Benk. (2005). "Nugormesese: An indigenous basis of social capital in a West African Community". 1K Notes, No. 86, November. World Bank.
4. Huyse, Luc 2008. Introduction: Tradition-Based Approaches in Peacemaking, Transitional Justice and Reconciliation Policies, in: Luc Huyse and Mark Salter (eds.). *Traditional Justice and Reconciliation after Violent Conflict. Learning from African Experiences*. Stockholm: International IDEA, 1-22.
5. Kealotswe, O.N. (not dated). "Acceptance and rejection: The Traditional - Healer Prophet and his Integration of Healing Methods".
6. Kendie, S.B. & Guri, B. (2006). *Indigenous Institutions, Governance and Development: Community Mobilization and Natural Resources Management in Ghana*. Cape Coast, Ghana, Centre for Development Studies, University of Cape Coast.
7. Ledarach, J. P., (1997). *Building Peace: Sustainable Reconciliation in Divided Societies*. Washington, D.C.: United States Institute of Peace Press.
8. Lowrey, W. (1995). *Sudan Case Study: Jikany-Lou Nuer Indigenous Peace Process*.
9. Mbiti, J. (1991). *Introduction to African Religion*. Oxford, Heinemann.
10. Murithi, Timothy (2006). "Practical Peace Making Wisdom from Africa: Reflections on Ubuntu." *The Journal of Pan African Studies*, 1(4), June, pp.25-34.
11. Ndumbe III, Kuma (2001). *The spiritual dimensions of resolution mechanisms in African countries*. University of Oslo, Unit for comparative and International Education, Institute for Educational Research, Accessed 23/02/01.
12. Okrah, Kwadwo Asafo-Agyei (2003). "Toward Global Conflict Resolution. Lessons from the Akan Traditional Judicial System". *Journal of Social Studies Research*, fall http://www.findarticles.com/p/articles/mi_qa3823/is_200310/ai_nq304242. Accessed 17th August 2010.
13. Peters, I. (2006). "Conflict Management". Paper presented at a workshop on conflict Resolution Organized by Nigeria Network of Non-Governmental Organizations (NNGO) held at the Institute of Medical Research and Training, Biode Building, College of Medicine, University College Hospital (UCH), Ibadan, on Thursday, March 16th, 2006.
14. Zartman, I. William 2000b. Conclusions: Changes in the New Order and the Place for the Old, in: I. William Zartman (ed.). *Traditional Cures for Modern Conflicts. African Conflict "Medicine"*. Boulder, CO: Lynne Rienner, 219-230.