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A Study on the Effect of the Law-abiding Levels of Korean Citizens on Awareness of Safety for Social Disasters

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1. Purpose

Korea has continuously suffered from large-scale disasters from previous disasters such as the collapse of Sungsoo Bridge in 1994, the Sampoong Department Store collapse in 1995, the Sealand Youth Training Center fire in Hwaseong-si, Gyeonggi-do in 1999 and the Daegu subway fire in 2003 to disasters in the recent 3 years such as the Mauna Ocean Resort collapse in 2014, the care hospital fire in Jangseong, Jeollanam-do in 2014, Sewol ferry disaster in 2014 and MERS situation in 2015. As these large-scale disasters have continuously occurred without improvement for last 20 years, national anxiety about safety has been gradually growing.

According to ‘The Social Survey 2014’ announced by Statistics Korea, 46.0% of Korean citizens recognize that social safety is “more dangerous” compared to awareness 5 years earlier and 21.0% of them consider “man-made disaster”, namely “social disaster”, as the most anxious factor that threatens our social safety, which is 3 times higher than a figure in 2012. In addition, 42.9% of them answered “it will not change” for our social safety in 5 years and 27.1% answered “it will be endangered”, which indicate the majority have negative awareness of social safety.

According to Article 3, Subparagraph 1 of Framework Act on the Management of Disasters and Safety, “disaster” is defined as something that can or may damage a life, body and property of people and the country, and in particular, “social disaster¹” is defined as damage over a certain scale caused by fires, collapse, explosion, car accidents, CBR accidents, environmental pollution accidents, etc., which is defined by the Presidential decree and paralysis of national infrastructures such as energy, communications, finance, medical treatment, water supply, etc. The difference of social disaster from natural disaster is as follows : firstly, people cannot feel it or easily miss it, despite its greatly real hazards; secondly, people are indifferent to damage caused by disasters that are not directly related to themselves and their family; thirdly, depending on time and technology and industrial development, frequency and damage scales are different; fourthly, it can be mostly eliminated by hard efforts and thorough management by people; fifthly, its occurrence process is unpredicted and shocking, but for even same types of damage caused by disasters, types, scales and ranges of influence are different; lastly, whatever it is intentional or negligent, it is responsible for compensation for damage to others(Ministry of Public Safety and Security, 2013).

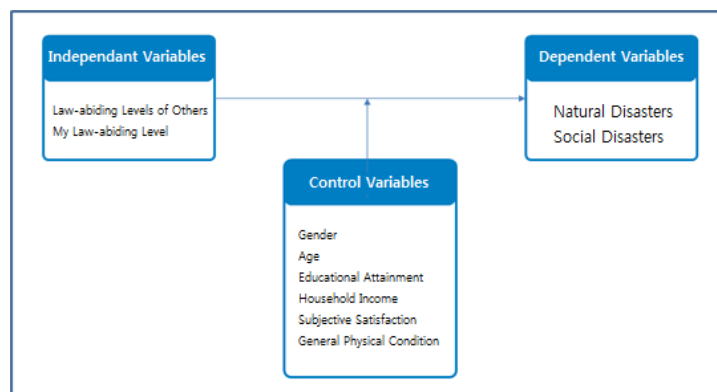
Before rapid industrialization, most of disasters were natural disasters that people could control, but recently, due to technology development, losses of humanity and the rise of brutality, social disasters caused by accidents or mistakes occur. It is common that social disasters are decided by people’s capacity. Therefore, social disasters are divided into two - ‘nonintentional disaster’ and ‘intentional disaster’(Kim, H. (2015)). The purpose of this study is to find out the effect of the law-

¹ Due to revision of National Government Organization Act in 2013, classification of disasters, which were classified into three - natural disasters, man-made disasters and social disasters, has been changed to two - natural disasters and social disasters and the social disasters include man-made disasters.

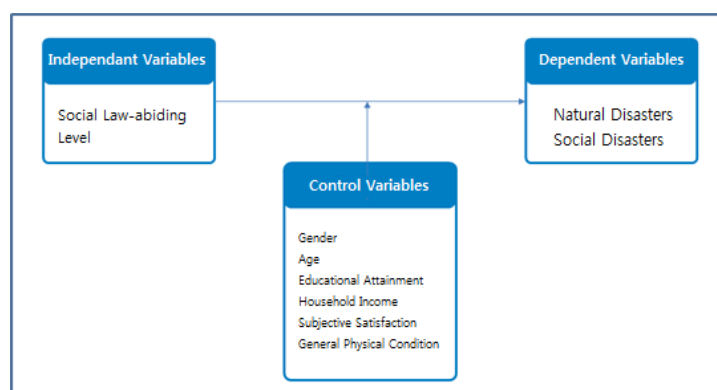
abiding levels of Korean citizens on awareness of safety for social disasters. In addition, this study is to suggest implications of this effect for content and direction of disaster management policies.

2. Study Method

This study used ‘Awareness of Social Safety’, ‘The Law-abiding Levels of Others’ and ‘One’s Law-abiding Level’ in the ‘Safety’ part of ‘The Social Survey 2014’ published by Statistics Korea in 2014 and data was analyzed by SPSS 22.0 as follows: firstly, reliability was analyzed to check internal consistency of law-abiding levels of others, one’s law-abiding level and standards of natural disasters and social disasters, which are variables used in this study; secondly, frequency and descriptive statistic were analyzed to check general features of subjects and results of major variables; thirdly, correlation was analyzed to analyze the effect of independent variables and a control variables on dependent variables; lastly, multiple regression analysis was implemented to find out the effect of the law-abiding levels on awareness of social disasters, which is the subject of this study.



[Figure 1] Model 1



[Figure 2] Model 2

3. Major Result

The general features of the subjects who participated in this study are as following [Table 1]:

[Table 1] General Features of the Subjects

| Variable | Classification | Frequency | Variable | Classification | Frequency |
|---|---------------------------|----------------|--|------------------------------------|----------------|
| Gender (n=27,532) | Male | 48.2% (13,266) | Subjective Satisfaction (n=23,926) | Very dissatisfied | 11.9% (2,836) |
| | Female | 51.8% (14,266) | | Dissatisfied | 29.6% (7,081) |
| Age (n=19,007) | 20's | 17.2% (2,165) | | Neither satisfied nor dissatisfied | 43.7% (10,452) |
| | 30's | 20.6% (3,917) | | Satisfied | 11.8% (2,829) |
| | 40's | 24.5% (4,654) | | Very satisfied | 3.0% (728) |
| | 50's | 23.1% (4,386) | Household Income (n=11,000) | below 100 | 32.3% (2,342) |
| | 60's | 14.7% (2,785) | | 100-200 | 21.9% (2,406) |
| Educational Attainment (n=23,926) | No Education | 2.9% (690) | | 200-300 | 20.2% (2,222) |
| | Elementary School | 9.4% (2,246) | | 300-400 | 14.1% (1,552) |
| | Middle School | 12.4% (2,971) | | 400-500 | 9.9% (1,086) |
| | High School | 33.8% (8,083) | | 500-600 | 5.3% (587) |
| | Bachelor's Degree | 37.2% (8,902) | | 600-700 | 2.7% (302) |
| | Master's Degree or higher | 4.3% (1,034) | | over 700 | 4.6% (503) |
| Marital Status (n=23,926) | Single | 28.2% (6,753) | General Physical Condition (n=23,926) | Very unhealthy | 10.5% (2,523) |
| | Married | 60.2% (14,395) | | unhealthy | 37.2% (8,909) |
| | Separation by death | 7.4% (1,778) | | Neither healthy nor unhealthy | 36.5% (8,741) |
| | Divorced | 4.2% (1,000) | | Healthy | 13.4% (3,203) |
| | | | | Very healthy | 2.3% (550) |

This study is to find out the effect of the law-abiding levels of Korean citizens on awareness of social disasters and regression analysis was implemented with the law-abiding levels of others, one's law-abiding level and social law-abiding level(multiplication one's law-abiding level by the law-abiding level of others). Influence of the law-abiding levels of others and one's law-abiding level is found out as an individual variable in Model 1 and influence of the law-abiding levels of others and one's law-abiding level as social law-abiding level in Model 2.

First of all, as a result of analysis of awareness of safety for natural disasters in Model 1, the higher the law-abiding levels of others are, the safer people feel for hazards caused by natural disasters such as typhoons and earthquakes and the higher one's law-abiding level is, the safer people feel for hazards caused by natural disasters. Regarding social law-abiding levels in Model 2, the higher the law-abiding levels are, the safer people feel for natural disasters like the individual one.

Men's anxiety about natural disasters is higher than women's and the older the subjects are, the safer people feel for natural disasters. The higher their educational attainments are, the safer they feel for natural disasters; the higher household incomes are, the more anxious people feel for natural disasters, but it is not significant. Regarding subjective satisfaction of general lives, the higher satisfaction is, the more anxious people feel for natural disasters and the better physical conditions are, the more anxious people feel for natural disasters.

[Table 2] Natural Disasters

| Classification | Model 1 | | | Classification | Model 2 | | |
|------------------------------|-----------|----------|--------|----------------------------|-----------|----------|--------|
| | B | β | t | | B | β | t |
| Law-abiding levels of others | .119 | .124*** | 12.820 | Social law-abiding level | .023 | .122*** | 12.794 |
| One's law-abiding level | .029 | .024* | 2.384 | | | | |
| Gender(Male=0) | -.066 | -.034** | -3.387 | Gender(Male=0) | -.071 | -.036*** | -3.659 |
| Age | .002 | .041** | 3.395 | Age | .002 | .034** | 2.871 |
| Educational attainment | .002 | .004 | .337 | Educational attainment | .000 | .000 | -.020 |
| Household income | -.005 | -.012 | -1.050 | Household income | -.006 | -.013 | -1.119 |
| Subjective satisfaction | -.054 | -.060*** | -5.635 | Subjective satisfaction | -.055 | -.061*** | -5.665 |
| General physical condition | -.047 | -.052*** | -4.582 | General physical condition | -.047 | -.051*** | -4.573 |
| Adj. R ² | .029 | | | Adj. R ² | .027 | | |
| F | 42.410*** | | | F | 44.143*** | | |

*p<.05, **p<.01, ***p<.001, Analysis Data: The Social Survey 2014

As a result of analysis of awareness of safety for buildings and facilities in Model 1, the higher the law-abiding levels of others are, the safer people feel for hazards such as collapse and explosion of buildings and facilities and the higher one's law-abiding level is, the safer people feel for hazards such as collapse and explosion of buildings and facilities. As a result of analysis of social law-abiding levels in Model 2, like Model 1, the higher the law-abiding levels are, the safer people feel for hazards such as collapse and explosion of buildings and facilities.

Men's anxiety about hazards of buildings and facilities is higher than women's and the older the subjects are, the safer people feel for hazards of buildings and facilities. The higher their educational attainments are, the safer people feel for hazards of buildings and facilities, but it is not significant. The higher household incomes are, the more anxious people feel for hazards of buildings and facilities; the higher subjective satisfaction of general lives is, the more anxious people feel for buildings and facilities; and the better physical conditions are, the more anxious people feel for buildings and facilities.

[Table 3] Building and Facility Collapse

| Classification | Model 1 | | | Classification | Model 2 | | |
|------------------------------|-----------|----------|--------|----------------------------|-----------|----------|--------|
| | B | β | t | | B | β | t |
| Law-abiding levels of others | .122 | .126*** | 13.026 | Social law-abiding level | .022 | .117*** | 12.290 |
| One's law-abiding level | .013 | .010 | 1.058 | | | | |
| Gender(Male=0) | -.090 | -.045*** | -4.567 | Gender(Male=0) | -.097 | -.049*** | -4.939 |
| Age | .004 | .075*** | 6.282 | Age | .004 | .066*** | 5.582 |
| Educational attainment | -.002 | -.004 | -.352 | Educational attainment | -.006 | -.011 | -.841 |
| Household income | -.013 | -.028* | -2.494 | Household income | -.013 | -.029* | -2.587 |
| Subjective satisfaction | -.073 | -.080*** | -7.453 | Subjective satisfaction | -.073 | -.080*** | -7.447 |
| General physical condition | -.044 | -.048*** | -4.264 | General physical condition | -.044 | -.047*** | -4.229 |
| Adj. R ² | .034 | | | Adj. R ² | .032 | | |
| F | 49.425*** | | | F | 51.336*** | | |

*p<.05, **p<.01, ***p<.001, Analysis Data: The Social Survey 2014

As a result of analysis of awareness of safety for car accidents in Model 1, the higher the law-abiding levels of others are, the safer people feel for hazards of car accidents, but the higher one's law-abiding level is, the more anxious people feel for hazards of car accidents. As a result of analysis of social law-abiding levels in Model 2, the higher the law-abiding levels are, the safer people feel for hazards of car accidents.

Men's anxiety about hazards of car accidents is higher than women's and the older the subjects are, the safer people feel for hazards of car accidents. The higher their educational attainments are, the safer people feel for hazards of car accidents, but it is not significant. The higher household incomes are, the more anxious people feel for hazards of car accidents; the higher subjective satisfaction of general lives is, the more anxious people feel for hazards of car accidents; and the better general physical conditions are, the more anxious people feel for hazards of car accidents.

[Table 4] Car Accidents

| Classification | Model 1 | | | Classification | Model 2 | | |
|------------------------------|-----------|----------|--------|----------------------------|-----------|----------|--------|
| | B | β | t | | B | β | t |
| Law-abiding levels of others | .149 | .163*** | 16.889 | Social law-abiding level | .025 | .137*** | 14.492 |
| One's law-abiding level | -.012 | -.010 | -1.012 | | | | |
| Gender(Male=0) | -.071 | -.038*** | -3.835 | Gender(Male=0) | -.083 | -.044*** | -4.465 |
| Age | .003 | .051*** | 4.322 | Age | .002 | .035** | 3.007 |
| Educational attainment | -.001 | -.002 | -.151 | Educational attainment | -.007 | -.013 | -.998 |
| Household income | -.020 | -.047*** | -4.261 | Household income | -.021 | -.049*** | -4.416 |
| Subjective satisfaction | -.050 | -.058*** | -5.418 | Subjective satisfaction | -.049 | -.057*** | -5.362 |
| General physical condition | -.066 | -.075*** | -6.717 | General physical condition | -.065 | -.074*** | -6.623 |
| Adj. R ² | .041 | | | Adj. R ² | .034 | | |
| F | 60.336*** | | | F | 56.841*** | | |

*p<.05, **p<.01, ***p<.001, Analysis Data: The Social Survey 2014

As a result of analysis of awareness of safety for fires(including forest fires) in Model 1, the higher the law-abiding levels of others are, the safer people feel for hazards of fires and the higher one's law-abiding level is, the safer people feel for hazards of fires, but it is not significant. As a result of analysis of internal consistency of the law-abiding levels of others and one's law-abiding level in Model 2, the higher the law-abiding levels are, the safer people feel for hazards of fires.

Men's anxiety about hazards of fires is higher than women's, but it is not significant. In Model 1, the older the subjects are, the safer people feel for hazards of fires, but this result is not significant in Model 2. In addition, the higher their educational attainments are, the safer people feel for hazards of fires and the higher household incomes are, the more anxious people feel for hazards of fires, but it is not significant. The higher subjective satisfaction of general lives is, the more anxious people feel for hazards of fires and the better general physical conditions are, the more anxious people feel for hazards of fires.

[Table 5] Fires

| Classification | Model 1 | | | Classification | Model 2 | | |
|------------------------------|-----------|----------|--------|----------------------------|-----------|----------|--------|
| | B | β | t | | B | β | t |
| Law-abiding levels of others | .128 | .147*** | 15.211 | Social law-abiding level | .022 | .130*** | 13.649 |
| One's law-abiding level | .003 | .003 | .297 | | | | |
| Gender(Male=0) | -.033 | -.018 | -1.840 | Gender(Male=0) | -.041 | -.023* | -2.324 |
| Age | .001 | .024* | 1.987 | Age | .001 | .011 | .968 |
| Educational attainment | .011 | .022 | 1.704 | Educational attainment | .007 | .013 | 1.057 |
| Household income | -.002 | -.005 | -.474 | Household income | -.003 | -.007 | -.603 |
| Subjective satisfaction | -.056 | -.068*** | -6.364 | Subjective satisfaction | -.056 | -.068*** | -6.349 |
| General physical condition | -.046 | -.055*** | -4.939 | General physical condition | -.046 | -.055*** | -4.888 |
| Adj. R ² | .036 | | | Adj. R ² | .031 | | |
| F | 53.071*** | | | F | 51.997*** | | |

*p<.05, **p<.01, ***p<.001, Analysis Data: The Social Survey 2014

As a result of analysis of awareness of safety for emerging infectious diseases(emerging virus, avian influenza, etc.) in Model 1, the higher the law-abiding levels of others are, the safer people feel for hazards of emerging infectious diseases and the higher one's law-abiding level is, the safer people feel for hazards of emerging infectious diseases. As a result of analysis of social law-abiding levels in Model 2, like individual one, the higher the law-abiding levels are, the safer people feel for hazards of emerging infectious diseases.

Men's anxiety about hazards of emerging infectious diseases is higher than women's and the older the subjects are, the safer people feel for hazards of emerging infectious diseases are, but it is not significant. The higher their educational attainments are, the safer people feel for hazards of emerging infectious diseases and the higher household incomes are, the more anxious people feel for hazards of emerging infectious diseases. The higher subjective satisfaction of general lives is, the more anxious people feel for hazards of emerging infectious diseases and the better general physical conditions are, the more anxious people feel for hazards of emerging infectious diseases.

[Table 6] Emerging Infectious Disease

| Classification | Model 1 | | | Classification | Model 2 | | |
|------------------------------|-----------|----------|--------|----------------------------|-----------|----------|--------|
| | B | β | t | | B | β | t |
| Law-abiding levels of others | .085 | .091*** | 9.363 | Social law-abiding level | .018 | .096*** | 10.044 |
| One's law-abiding level | .034 | .028** | 2.851 | | | | |
| Gender(Male=0) | -.042 | -.022* | -2.201 | Gender(Male=0) | -.044 | -.023* | -2.328 |
| Age | .001 | .021 | 1.725 | Age | .001 | .018 | 1.492 |
| Educational attainment | .027 | .050*** | 3.924 | Educational attainment | .026 | .048*** | 3.783 |
| Household income | -.011 | -.026* | -2.306 | Household income | -.011 | -.026* | -2.335 |
| Subjective satisfaction | -.037 | -.042*** | -3.894 | Subjective satisfaction | -.037 | -.042*** | -3.936 |
| General physical condition | -.028 | -.031** | -2.785 | General physical condition | -.028 | -.032** | -2.793 |
| Adj. R ² | .018 | | | Adj. R ² | .017 | | |
| F | 26.321*** | | | F | 28.255*** | | |

*p<.05, **p<.01, ***p<.001, Analysis Data: The Social Survey 2014

4. Conclusion

This study is to find out the effect of the law-abiding levels of others and one's law-abiding level as factors of psychological anxiety about safety for disasters on awareness of social disasters. The conclusion of this study is as follows:

Firstly, the higher people's social law-abiding levels in every disaster area are, the safer people feel for disasters; however, regarding law-abiding levels of others and individuals separately, excluding 'natural disasters' and 'emerging infectious diseases', the higher law-abiding levels of others are, the safer people feel.

Since Sewol ferry disaster and MERS situation, national reliability of Korean government has dropped to lowest level, which indicates that general reliability of our society is very low. However, it has an implication that Korea can be developed to a much safer country in a reliable society, so it should increase its social reliability.

Secondly, central government and local governments have various efforts to eliminate fears of animal infectious diseases including foot-and-mouth disease and avian influenza that occur every year such as master plans, manual publication, preparations for safety regulations, etc. and continuous fires; however, a study by Lee, D. & Min, Y. in 2015 indicates that safety consciousness of citizens to obey these manuals is also important. Therefore, national efforts to increase safety consciousness and law-abiding levels are necessary.

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Changing lenses: Indonesian experience on restorative justice for children

John Izaac Minotty Pattiwael, S.H.

It is the nature of a human being as an individual to relate with other human, and within that relation, conflict is unavoidable. Conflict has also been viewed as an integral part of the human social function itself, where most conflict often lead to legal consequences, adult or children alike. When dealing with children in conflict with the law, we must use a special lenses, where the spirit is to hinder children in conflict with the law to be subjected to judicial proceedings that in the end will resulted an incarceration. Corporal punishment is certainly not an option, because the principle of best interest of the children shall be the paramount objective. Moreover, the UN CRC article 40 (3b) states that whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected. Indonesia as state party to the UN CRC, has legislated a new child criminal justice system (Law No. 11/2012), which governs the restorative justice principle. However in this relatively new law, the implementation of restorative justice principle, required: Firstly, massive mind-set transformation among Indonesian law enforcement actors and stakeholders, to tear down the “thick wall” of bureaucracy which has been proven to be a barrier and certainly not in favour with the principle of best interest of the children. Secondly, Indonesian society that has been exposed to retributive justice for so long, must also wholeheartedly implement the restorative justice practice (pursuant to article 5 (1) of Law No. 11/2012) for the best interest of children, by diverting child related cases to be solved outside the criminal offence proceedings. Focusing on these themes, the presentation will explore and extrapolate as to how the Indonesian stakeholders cope with the alarming situation and the possibilities ahead.

➤ Preface

Dietrich Bonhoeffer, a German Theologian once said (circa 1940), “The test of the morality of a society is what it does for its children”. It is a very strong message from an era where the world was at war and humanity in its lowest point. However the message still resonates even until today, where the world is at “war” yet again with itself. All sorts of conflicts have put humanity that binds all human in this world in a constant test. This kind of “war” put all human at risk to lose their dignity in life as God’s image, especially children. The society has been shaped in a way where retaliation has transcended over traditional values that promote amicable settlement. Furthermore, this condition also affects the justice system for a very long time where punitive and harsh punishment has been viewed as a tool to give deterrent effect toward perpetrator and to give satisfaction toward the society. Cesare Beccaria’s *On Crime and Punishment*, first published in 1764, posited: “people decide their behavior on the basis of expectations about the pain and pleasure that will result from their choices. Law should administer rational and limited dose of pain, therefore, taking into account the amount of pain needed to outweigh the pleasure to be derived from the offense. The pain that is administered, however should be proportionate to the wrong that has been done.”¹

The tie that binds society together in unity through traditional values has been broken due to the “modern” justice system that emphasized the use of punitive system, thus made the society drifted away from each other. The said “modern” justice system has taken away the traditional values within the society and replaced by the role of law enforcement agencies (i.e. Police Department, Public Prosecutor Office, Lawyer and Court) acting as the representative of the public interest. Jerold S. Auerbach on “*Justice Without Law?*” stated: “*Law is our national religion; lawyers constitute our priesthood: the courtroom is our cathedral, where contemporary passion plays are enacted.*”² This highly “rigid & legalistic” justice system also being implemented toward children in conflict with the law, where children must endure the legal process. It is a very alarming situation indeed, where actually children in conflict with the law is the victim of the society, family, and ironically the justice system itself, which shaped them in such way that we cannot put blame on children for their disobedient and rebellious character. Jane Fortin wrote a similar thought: “*Children has a right to be children and not adults*”³

Furthermore, a harsh and rigid justice system toward children in conflict with the law has proven that it is not in favor with the principle: for the best interest of children. We must bear in mind: *there can be no justice so long as laws are absolute.*⁴

➤ Restorative Justice

The practice of Restorative Justice has actually been implemented within traditional society in simple forms to resolve problems within the society. Tony Marshall (British Home Office 1996) through the “Marshall Definition” defined Restorative Justice as a “*process whereby all parties with a stake in particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implication for the future*”⁵. Furthermore, the concept of

¹ Howard Zehr, *Changing Lenses Restorative Justice for Our Times*, 25th Anniversary Edition (Harrisonburg, Virginia: Herald Press, 2015), 121.

² Ibid., 124.

³ Jane Fortin (2003). *Children’s Rights and the Developing Law* (p.6). UK: Lexis Nexis

⁴ Quote taken from sci-fi Movie Star Trek : The Next Generation, ep. Justice

⁵ John Braithwaite, *Restorative Justice and Responsive Regulation*, (New York: Oxford University Press, 2002), 11.

Restorative Justice itself need to be identified through its conceptions that contain three vital substance in order for Restorative Justice to be implemented and accepted:⁶

THE ENCOUNTER CONCEPTION:

“Why encounters are thought to be better than ‘courtroom’ responses to crime?”

- *People who are most directly affected by a discussion and decision have a right to be meaningfully involved in the discussion and the decision-making process.*
- *A number of beneficial results can emerge from this encounter process : rehabilitation (changing offenders’ attitude makes them less likely to commit new crimes), deterrence (it’s difficult for offenders to meet with their victims, and to do so in the presence of family and friends) and reinforcement of norms (the process & the people involved underscore the importance of the norm that the offender has violated)*
- *It offers victims avenues for receiving restitution, gives them the opportunity to be involved in decisions in the aftermath of the crime, can contribute to reduced fear and increased sense of safety, and may help them understand offender’s circumstances that led to commission of the crime.*

THE REPARATIVE CONCEPTION:

- *One of the chief ways in which victims are harmed by crime is that they lose their sense of personal power. Hence, for the harm of crime to be repaired, this sense of personal power needs to be returned to them. However, when the case is then dealt with by conventional criminal justice processes, in which victims are largely neglected & expected to play a passive role while professionals make all the key decisions, the victims sense of personal power is further damaged than repaired. For repair to take place, victims ‘need a sense of control or involvement in the resolution of their own cases’.*
- *Van Ness & Strong identify 3 alternative principles for restorative system might be constructed :*

First, justice requires that we work to heal victims, offenders & communities that have been injured by crime. Second, victims, offenders & communities should have the opportunity for active involvement in the justice process as early and as fully as possible. Third, we must rethink the relative roles & responsibilities of govt. & community: in promoting justice, govt. is responsible for preserving a just order, and community for establishing a just peace.

THE TRANSFORMATIVE CONCEPTION:

- *The ultimate goal of the restorative justice movement should be to transform the way in which we understand ourselves and relate to others in our everyday lives. The arguments appears to be :*

⁶ Gerry Johnstone and Daniel W. Van Ness (Editor), *Handbook of Restorative Justice*, 2nd edition (London and New York: : Routledge, 2011), 9-11.

1. *In the absence of such transformation, any efforts to change specific practices, such as our social responses to crime, are unlikely to succeed & can even have effects quite different from those intended*
 2. *Even if such changes do succeed, they can make only a peripheral contribution to the goal of achieving a just society – achieving that goal requires much deeper & more far-reaching transformation.*
- *To live a lifestyle of restorative justice, we must abolish the self (as it is conventionally understood in contemporary society) and instead understand ourselves as inextricably connected to, and identifiable with other beings and the 'external' world.*

➤ Restorative Justice: International Instruments

There has been several conventions, guidelines and other International instruments that recognize the urgency to implement Restorative Justice Practices in child-related cases. These international instruments also guaranteed the right to legal counsel/legal aid for children in conflict with the law, also the obligation for police and prosecutor to implement Restorative Justice to the maximum extent. The spirit of Restorative Justice is to hinder children in conflict with the law to be subjected to judicial proceedings that in the end will result to incarceration/imprisonment. Corporal punishment is certainly not an option, because the principle of best interest of the children shall be the paramount objective. Here are several international instruments that govern Restorative Justice Practice particularly for children in conflict with the law:

| International Instruments on Restorative Justice | Text |
|---|--|
| UN Convention on the Rights of the Child 1989 (Art. 40.3 (b)) | Whenever appropriate & desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights & legal safeguards are fully respected |
| UN Standard Minimum Rules for Non-custodial Measures 1990 (Tokyo Rules) Rule 2.5 | Consideration shall be given to dealing with offenders in the community as far as possible resort to formal proceedings or trial by a court, in accordance with legal safeguards and the rule of law |
| Guidelines for Action on Children in the Criminal Justice System (Recommended by ECOSOC Resolution 1997/30 of 21 st July 1997) (No. II.B.15) | A review of existing procedures should be undertaken and, where possible, diversion or other alternative initiatives to the classical criminal justice system should be developed to avoid recourse to the criminal justice systems for young persons accused of an offense. ...whenever appropriate, mechanism for the informal resolution of disputes in cases involving a child offender should be utilized, including mediation and restorative justice practices, particularly processes involving victims. |
| Guidance Note of the Secretary-General : UN Approach to Justice for Children 2008 (No. 8) | Provisions should be made for restorative justice, diversion mechanisms and alternatives to deprivation of liberty. For the same reason, programming on justice for children needs to |

| | |
|--|--|
| | build on informal & traditional justice systems as long as they respect basic human rights principles and standards, such as gender equality |
|--|--|

| <u>International Instruments on Restorative for Children : Right to Legal Aid/Legal Counsel</u> | <u>Text</u> |
|---|--|
| UN Standard Minimum Rules for the Administration of Juvenile Justice 1985 (Beijing Rules) (Art. 15.1) | Throughout the proceedings the juvenile shall have the right to be represented by a legal adviser or to apply for free legal aid where there is provision for such aid in the country |
| UN Rules for the Protection of Juveniles Deprived of their Liberty 1990 (Part III. Par. 18.a) | Juveniles should have the right of legal counsel & be enabled to apply for free legal aid, where such aid is available, and to communicate regularly with their legal advisers. Privacy & confidentiality shall be ensured for such communication |
| Guidance Note of the Secretary-General : UN Approach to Justice for Children 2008 (No. 6) | Basic procedural safeguards as set forth in relevant national & international norms & standards shall be guaranteed at all stages of proceedings in state and non-state systems, as well as in international justice. This includes, for example, the right to privacy, the right to legal aid & other types of assistance & the right to challenge decisions with a higher judicial authority |
| Committee on the Rights of the Child (General Comment No. 10/2007) – Children’s Rights in Juvenile Justice (Part IV.B par.27) | The child must be given the opportunity to seek legal or other appropriate assistance on the appropriateness & desirability of the diversion offered by the competent authorities, and on the possibility of review of the measure |
| Committee on the Rights of the Child (General Comment No. 12/2009) – Right of Child to be Heard (Part 3 par.59) | In case of diversion, including mediation, a child must have the opportunity to give free & voluntary consent & must be given the opportunity to obtain legal & other advice & assistance in determining the appropriateness & desirability of the diversion proposed |
| Lima Declaration on Restorative Juvenile Justice 2009 | <p>Basic Rights of the Child and the Principles of Juvenile Justice :</p> <p>In their efforts to achieve these goals States shall take into account the relevant provisions of international instruments, such as the rule that retro-active justice is prohibited, and shall in particular ensure the implementation of the following rights of the child:</p> <p>the right to legal or other appropriate assistance;</p> |

| <u>International Instruments on Restorative for Children : Role of Police & Prosecutor</u> | <u>Text</u> |
|---|--|
| UN Standard Minimum Rules for the Administration of Juvenile Justice 1985 (Beijing Rules) (Art. 11.2) | The police, the prosecution or other agencies dealing with juvenile cases shall be empowered to dispose of such cases, at their discretion, without recourse to formal hearings, in accordance with the criteria laid down for that purpose in the respective legal system and also in accordance with the principles contain in these Rules |
| UN Standard Minimum Rules for Non-custodial Measures 1990 (Tokyo Rules) Rule 5.1 | Where appropriate & compatible with the legal system, the police, the prosecution service or other agencies dealing with criminal cases should be empowered to discharge the offender if they consider that it is not necessary to proceed with the case for the protection of the society, crime prevention or the promotion of respect for the law and the rights of victims |
| UN Guidelines for the Prevention of Juvenile Delinquency 1990 (The Riyadh Guidelines) (Part VI.58) | Law enforcement and other relevant personnel, of both sexes, should be trained to respond to the special needs of young persons & should be familiar with & use, to the maximum extent possible, programs & referral possibilities for the diversion of young persons from the justice system |
| UN Guidelines on the Role of Prosecutors 1990 (Art. 18) | In accordance with national law, prosecutors shall give due consideration to waving prosecution, discontinuing proceedings conditionally or unconditionally, or diverting criminal cases from the formal justice system, with full respect for the rights of suspect(s) and the victim(s). For this purpose, States should fully explore the possibility of adopting diversion schemes not only to alleviate excessive court loads, but also to avoid the stigmatization of pre-trial detention, indictment and conviction, as well as the possible adverse effect of imprisonment |
| Committee on the Rights of the Child (General Comment No. 10/2007) – Children’s Rights in Juvenile Justice (Part IV.E par.68) | The decision to initiate a formal criminal law procedure does not necessarily mean that this procedure must be completed with a formal court sentence for a child....in most states the office of public prosecutor – should continuously explore the possibilities of alternatives to a court conviction |

➤ Tearing Down the Thick Wall of “Bureaucracy” & Mindset Transformation⁷

How effective is a good piece of legislation be implemented by unprepared and highly bureaucratic stakeholders? The immediate answer is of course: “not effective”! However if we reverse the condition: How effective is a bad piece of legislation be implemented by stakeholders that wholeheartedly try their best to implement that piece of legislation? The answer probably going to be, “there’s still hope”

“If due process values are to be preserved in the bureaucratic state of the late 20th century, it may be essential that officials possess passion, the passion that puts them in touch with the dreams and disappointments of those with whom they deal, the passion that understands the pulse of life beneath the official version of events.” – William J. Brennan (US Supreme Court Justice)

Learning from William J. Brennan’s thought, we can surmise that in order to guarantee the due process in a highly bureaucratic environment, law enforcement officers need to have passion to get in touch with the children with whom they’re dealing.

No matter how good and effective a legislation is, as long the stakeholders build a thick wall of bureaucracy with a “spice” of sectoral egocentrism, the “victim” shall always be children. Sectoral egocentrism in Indonesian context is when a Law and government regulations have been promulgated, stakeholders particularly Law enforcement officers (Police, Prosecutor, and Judge) still need their own internal regulation to implement the law.

Despite of the bureaucracy boundaries, there has been series of efforts conducted by various law enforcement agencies to disseminate, accommodate, and unify the spirit to implement the new Law. The fact that the Indonesian Child Criminal Justice System (Law No. 11/2012) has just came into force on 2014, does indicate various challenge in the implementation especially for the law enforcement agencies. Some of the challenges are as follows:

- Law Enforcement Officer shortage (Police & Prosecutor)
- Urgency to train Law Enforcement Officer upon handling child cases in a unified & integrated manner (Advocate-Police-Prosecutor-Judge)
- Urgency to have a unified technical & guidelines instruction upon handling child cases especially toward Police, Prosecutor, and the Court
- Urgency of mindset change in terms of inter-department and inter-bureaucracy cooperation. It aims to release the departments from bureaucracy boundaries with the spirit and good faith to put an effort of coordination so that the Indonesian's Juvenile Justice System can be implemented perfectly due to the necessity of inter-department and NGOs cooperation.

The World Congress on Juvenile Justice 2015 in its final declaration noted:⁸ *“Close cooperation between juvenile justice sectors, different services in charge of law enforcement and the social welfare, education & health sectors is essential in order to promote the use and application of alternative measure to deprivation of liberty.”*

⁷ John Izaac Minotty Pattiwael, *Non-Incarceration Principle : an Indonesian View to Ennoble the Dignity of Child and Youth Rights*, 8th ACSO (Australia Community Support Organization) International Criminal Justice Conference, Melbourne: 2015

⁸ World Congress on Juvenile Justice (Geneva: 2015), <http://www.news.admin.ch/NSBSubscriber/message/attachments/38170.pdf> (accessed on November 15th 2016)

➤ Indonesian Style of Restorative Justice : Customary Practice on Maluku Province

The Maluku society (Moluccan) is one out of many cultural society in Indonesia that still exist. As the eastern region province, Maluku has been known for its deep and strong traditional values. The cultural concept of *ale rasa, beta rasa* (loosely translated as, I can feel what you feel) has been proven to be a “glue” that bind Moluccan people for generations. Dr. John Ruhlessin (former Head of Synod the Protestant Church in Molucca) in his book titled *Pluralisme Berwajah Humanis* states: “*Ale Rasa Beta Rasa has given a motivation, substance and form toward the human attitude, and has also given motivation, substance and form toward the inter-individual human relation, intergroup, inter-village, inter-sub ethnic, interfaith/religious believe, that originated from the sense of shared destiny, solidarity, brotherhood, and helping one another*”

The concept of Restorative Justice is implemented in a very simple fashion in this traditional values that still being practiced until now. Through *Adat* villages, the concept of *ale rasa, beta rasa* is being implemented by the villagers to resolve problems within the respective *Adat* village. One example of an *Adat* Village is the village of Makariki, situated on Ceram Island. Generally each village has a governing structure consists of:⁹

- *Ibu/Bapa Raja* : Village Leader (acting also as government representative)
- *Saniri Negeri* : Representative of the village clans
- *Kapala Soa* : Head of each village clan
- *Tuan Tanah* : Appointed villager to perform several village custom.

Ibu Raja or Bapa Raja will act as patrons to the community to ensure the implementation of *Adat Law* of the village. All problems arise within the community (private or public) will be brought to *Ibu Raja or Bapa Raja* to be solved. The mediation process shall be taken at the *Baileu* (community center), in which that *Ibu Raja or Bapa Raja* shall act as mediator in which all parties within the respective village have the utmost respect and trust. Thus it is also the role of *Ibu Raja or Bapa Raja* to emphasize the importance of the traditional concept *Ale Rasa, Beta Rasa*. Though nowadays, dispute concerning specifically on land ownership rarely can be resolved through this channel, in which most of the cases ended up at the district courthouse. It's also a significant sign that the concept *Ale Rasa, Beta Rasa* has been eroded from the daily life of the villagers.

Furthermore, the Special Representative of the Secretary General of the United Nations on Violence against Children has incorporated the report on Restorative Justice for children practice in Makariki Village in this following :¹⁰ Within the village of Makariki, with respect to the offences committed by children & young people, the village leaders have an agreement with the local police to set aside all formal legal action, such as investigation or arrest, until *Adat* or customary law has been implemented. Only if no equitable solution is found under *Adat Law* is the case handed to the police.

The village leaders summon the perpetrator and the victim of the offence, together with their parents, clan members & the villagers to a hearing at the baileu. There will be an intense

⁹ John Izaac Minotty Pattiwael, *Discussion Material : Implementing Restorative Justice for Children in Informal (Customary) Justice System*, Expert Consultation meeting on Restorative Justice for Children, Bali : 2013

¹⁰ UN SRSG, *Promoting Restorative Justice for Children* (New York 2013),

http://srsg.violenceagainstchildren.org/sites/default/files/publications_final/srsgvac_restorative_justice_for_children_report.pdf
(accessed November 14th 2016)

discussion on the matters at hand, reparation, compensation, and solution between the parties in conflict. If all parties agree to the arrangement, the village leaders will declare the matter resolved and the case closed

➤ Closure

Dealing with child-related case is a matter of perspective, a matter of how we use the correct lenses to see further on finding the most suitable and equitable solution toward children in conflict with the law. It is not the lenses of the police, not the lenses of the prosecutor, not the lenses of the judge, not the lenses of the lawyers, it is the lenses of the child itself.

Let us change our lenses and begin to see through the eyes of the child. Embrace all those restorative values (through customary/traditional practices or through national legislation), not for the interest of the State or the public or the society, but solely for the best interest of the children.

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4. Member of the Advisory Board to Salvation Army Indonesia Territory (2015-present)
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7. Expert contributor on the publication : “Promoting Restorative Justice for Children” (pg.25 box 15), reported to the General Assembly of the United Nations by Special Representative of the Secretary General of the United Nations on Violence against Children (New York, 2013)
8. Republic of Indonesia representative to the World Congress on Juvenile Justice, held by the Government of Swiss Confederation & Terre des Hommes Foundation (Geneva, 2015)
9. Speaker at the 8th Australia Community Support Organization (ACSO) International Criminal Justice Conference. Title of Presentation : Non-incarceration principle : Indonesian view to ennoble the dignity of children & youth rights, (Melbourne, 2015)
10. Member & Spokesperson of the Republic of Indonesia Delegation on the 12th Indonesia-Norway Human Rights Dialogue (Working Group : Child Rights-Restorative Justice-Child in Prison), (Jakarta, 2016)

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Conflict among the Communities and their co-existence issues in western part of Assam, India

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Abstract

The state of Assam and district Kokrajhar in particular is populated by various communities such as Bodos, Rajbongshis, Adivashis, Muslims, Bengalis, Assomiyas, Rabhas, Garos etc. that has been experiencing conflict for quite some time (Goswami 2001). The conflict has erupted in the western part of Assam for several times during the last 20 years leading to displacement of lakhs of population from their habitats making the people impoverished. The conflict which took place between the Bodos and the Adivashis during 1990s led to the displacement of more than three lakh people from their original habitats in the western part of Assam forcing them to stay in the relief camp for more than a decade. Thereafter, another major conflict broke out between the Bodos and the immigrant Muslims in the first half of the second decade of the 21st century in western Assam in which more than four lakh people were displaced from their habitats (The Sentinel, 2012). The people who got displaced were designated as internally displaced persons (IDPs). Such recurrence of conflict in the region has led to the feeling of hatred among the communities living in this part of the country which is clearly manifested with the formation of Boro and Oboro (non-Boro) organizations. The situation is so volatile even today that conflict might erupt at any time. Many conflicts occurred in the past and these conflicts led to the formation of various organizations be it militant or democratic in the name of protecting individual communities. It has become desirable today for all the communities to sit together and sort out the differences and work for bringing permanent peace in the region through reconciliation.

It has been seen that the recent conflict which erupted in the Kokrajhar district of the BTAD is not the first time in the region. There is no doubt that the influx of population from neighbouring countries and districts has been a major factor in this perennial conflict in the BTAD areas. The pressure on land in the bordering district of Kokrajhar and the republic of Bangladesh is very high, which might have been compelling the people to come and encroach on the belts and blocks created for the protection of down trodden people of Assam. Conflict erupts frequently on longstanding issues which have led to conflict in the Bodoland areas and rendered many homeless and displaced. In this write up, an attempt has been made to highlight the causes of recurrence of Conflict and measures thereupon for co-existence among the communities in the region.

Key words: Conflict, Displacement, IDPs, Reconciliation, Boro, Oboro, Protected class,

Introduction

The western part of Assam is populated by various communities such as Bodos, Assomiyas, Bengalis, Rajbongshis, Santals, Rabhas, Garos, Muslims etc. with an approximate population of 8,86,999 (2011) that has been experiencing ethnic conflict for quite some time (Goswami 2001). The conflict between the communities in the western part of Assam is the major issue that is in focus today. The conflict which took place between the Bodos and the Adivashis in the 1990s led to the displacement of more than three lakh people from their original habitats in the western part of the Bodoland Territorial Area District (BTAD), Assam forcing them to stay in the temporary relief camp for more than a decade. Thereafter, another major conflict broke out between the Bodos and the immigrant Muslims in the first half of the second decade of the 21st century in which more than 4 lakh people got displaced from their habitats. The displaced people stayed in the temporary relief camps, government institutions and other buildings. There were about 279 relief camps in Kokrajhar, Chirang and Dhubri district of Assam respectively with more than 4 lakhs inmates (The Sentinel, 2012). Although, the inhabitants of these relief camps have returned to their villages, many of them are still found to be taking shelter near the villages of their habitats. Although, the government has initiated the rehabilitation process by providing Gratuitous Relief to the affected families, some of them are still found to have been faced with acute shortage of food, drinking water, sanitation, medicine supply issues to mention a few. They are also encountering deep psychological problems and have a deep sense of insecurity even while staying in the camp site near their villages. This has manifested in their behavior of unwillingness to return back to their places of original residence due to an embedded sense of security deficit. Such recurrence of conflict in the region has led to the feeling of hatred among the communities living in this part of the country which is clearly manifested with the formation of Boro and Oboro (Non-Boro) organizations. The situation is so volatile even today that the conflict might erupt at any time. Many conflicts occurred in the past and these conflicts led to the formation of various organizations, be it militant or democratic in the name of protecting individual communities. Today many of these organizations have failed to fulfill the objectives of their organizations and few of them have diverted from their main ideology. It has become desirable today for all the communities to sit together and sort out the differences and work for bringing permanent peace in the region through reconciliation. This article also presents briefly certain causes of conflict among the communities and highlights the issues of co-existence in the region, and also a set of recommendations that could bring lasting peace in the area.

It is to be noted that the displaced people of the recent conflict has not been given the status of refugee by the UNO as the guideline set out by the United Nations for getting the status of refugee says that to get the status of refugee one has to cross the internationally recognized border. However, the displaced people of the recent conflict had not crossed the international border and they were within the territory of the state. Hence, the status of refugee could not be accorded to the displaced in the present context. Thus, the displaced people of the recent conflict remained deprived of the facilities received by the refugees globally.

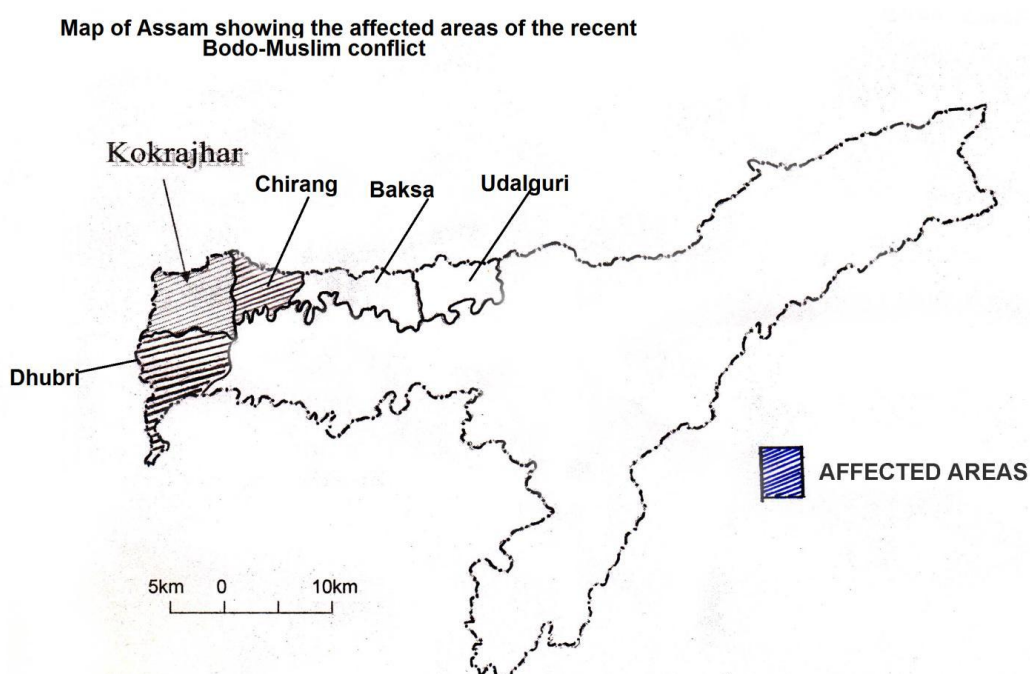
After the recent conflict between the Bodos and the Muslims, the government of Assam and the Bodoland Territorial Council (BTC) started rehabilitating the displacees in the places from where they had been displaced. The leaders representing the affected communities had to find out ways and means for the rehabilitation by themselves as the government of India does not have any mechanism to deal with such situation as they consider it to be only law and order problem. But there were some obstacles as both the parties involved in the process of rehabilitation could not come to unanimous decision in regards to the guideline of the rehabilitation of the displacees. Both the parties had several rounds of discussion and came

out with the decision that the displaced people having land pattas would be rehabilitated in the first phase. The process of rehabilitation started as per the decision of the Group of Ministers (GoM) and the BTC authorities but it did not last long and again the conflict erupted between the two communities which led to the killing of 15 persons within a week (Sentinel, 2012) and the administration was forced to impose indefinite curfew in the entire Kokrajhar district as a measure to control the situation from further deterioration.

Background

The western part of Assam, India where the conflict has originated is considered as the heartland of Bodoland and is the largest district of the BTAD (Bodoland Territorial Area District). The BTAD was created on 10th February 2003 with an area of approximately 8821 Sq. km, within the state of Assam, after an amendment of the sixth schedule of the Indian constitution consequent to the long struggle by the Bodos. Prior to the creation of the BTAD, an arrangement in the identity of Bodoland Autonomous Council (BAC) was in existence since 20th February 1993 on the northern banks of the mighty Brahmaputra. The creation of BAC was found inadequate in fulfilling the hopes and aspirations of the Bodos. The student wing of the Bodos, The All Bodo Students Union (ABSU) which spearheaded the movement for separate state, rejected the BAC in its Lunghin Session held in Karbi Anglong in Assam. Thereafter, the Bodos continued to struggle to attain their main objective. Finally, the Memorandum of Settlement (MoS) was signed between the Centre, State and the Bodo leaders in the year 2003 with four districts namely Kokrajhar, Chirang, Baksa and Udalguri as the area of the BTAD.

Before becoming a full-fledged district, the headquarter of the BTAD Kokrajhar was a small town with a railway station that connected it with rest of the country. Under the administration of Bimola Prasad Chaliha, three subdivisions were created in 1957 under undivided Goalpara district; one of which was Kokrajhar (Barooah 1979). It was one of the sub-divisions of the undivided Goalpara district for a long time and was declared a district in 1983 with two sub-divisions namely Kokrajhar and Gossaigaon subdivision respectively. Another sub-division named Parbatjhora was added to Kokrajhar district with the creation of the BTAD.



Ethnic conflict around the world has been an unabated phenomena and the western part of Assam is no stranger to this. The longstanding conflict in the Bodoland areas has left many displaced and homeless which is a major disturbing factor. There have been many allegations and counter allegations from individuals, political parties, NGOs alike about the genesis of conflict between the Muslims and the Bodos. There is no doubt that the influx of population from neighbouring countries and districts being a major factor in this perennial conflict in the BTAD areas. Apart from this, there are also many upcoming as well as emerging causes that are fuelling and aggravating the present situation. The influx of immigrants into the region is not a recent origin. It all started centuries ago and continues even today. When Kokrajahr was a part of undivided Goalpara district, the immigrants came to Goalpara district from Mymensingh, Pabna, Bogra and Rongpur district of Bangladesh and settled on char lands. This had begun as early as 1901-11 (Barooah, 1979). The ingress continued through the porous border even after independence of India. The immigrants who entered Goalpara gradually in turn migrated to other districts of Assam during 1951 and the density of population in Goalpara district in 1961 increased many folds compared to that of 1951 which clearly substantiated reports and factual position on ground with regard to immigration from across the border. Historically, Goalpara district has been identified as the main gateway for the influx of population into Assam (Barooah 1979).

The conflict which is experienced today in the tribal areas between the Immigrant Muslims and the Tribal communities is not a recent one as has been mentioned before. There have been many such conflicts in the past. The earlier conflicts had occurred due to lack of understanding of the land laws by immigrants in the belts and blocks, which brought them into conflict with the locals from time to time. It is also a well known fact that the creation of tribal belts and blocks has a direct relationship with the large scale immigration of people from eastern Bengal especially from the Mymensingh area (Bordoloi, 1999). The conflict which erupted in 1950s in the district of undivided Goalpara compelled about 1, 50,000 Muslim immigrants to return or find alternate places. During the same period, many tribals too emigrated from Goalpara to Kamrup and Nowgong district for economic reasons (Barooah 1979). This had reduced the population in the district.

The western part of Assam experienced another conflict between the Adivasis and the immigrant Muslims during the 1980s just after the creation of Santal Colony Tribal block in the year 1977. The Santal Colony Tribal block has as many as 43 villages with 57,930 bighas of land in the western part of Assam created by the Assam government, vide notification No. RSD.9/77/11 dated 24.08.77, to protect the lands of the Santals and the tribals from the land-hungry immigrants. The conflict during 1980 forced the immigrants to leave the colony and settled outside the border of the colony. But gradually again the Santal colony tribal block has been encroached upon by the illegible persons after the Santal-Bodo conflict of 1996. Though many Bodos lived in the colony prior to 1996 conflict but not a single Bodo family is found to be seen today after the conflict. A research analyst based in Guwahati, Shri Nilim Dutta alleged, in his article titled "Don't Blame the Immigrants" alleged the Bodos as the main perpetrators of the conflict among the communities. Shri Dutta subsequently also raised the question on the Santal-Bodo conflict which had erupted in the 1990s which displaced more than 3 lakh people from their habitats and was of the opinion that many Adivasi families are still found to be living in the relief camps. Shri Dutta, may be, did not appreciate the understanding on the rehabilitation factors and measures that had failed so miserably for the people. Not only Adivasis, there are even many Bodo and Immigrant Muslim families who got displaced in the earlier conflicts that had erupted in the 90s. There are about 113 Bodo

families with original patta lands, who were displaced from the Santal Colony Tribal Block during the Santal-Bodo conflict, could not be rehabilitated till date. The immigrant families who were displaced from the north of Bongaigaon more than 20 years ago and about 100 families of the 2012 conflict are still found to be living under perilous and uncertain conditions along the national highway near Rakhaldubi and Bhodiaguri respectively. The families who are found living in the temporary relief camps, be it Adivasis, Bodos or immigrant Muslims, have all been identified by the government officials as encroachers on forest lands. The government provided assistance to these families from time to time but they could not be rehabilitated. However, the families who had “patta” lands and got displaced from their habitats have been fully rehabilitated in their respective villages by the government in a phased manner except the 113 Bodo families of the Santal colony tribal block. A few displaced Adivashi families identified as encroachers again settled inside the forest areas and the authorities evicted them recently, which also propelled lot of protests from organizations.

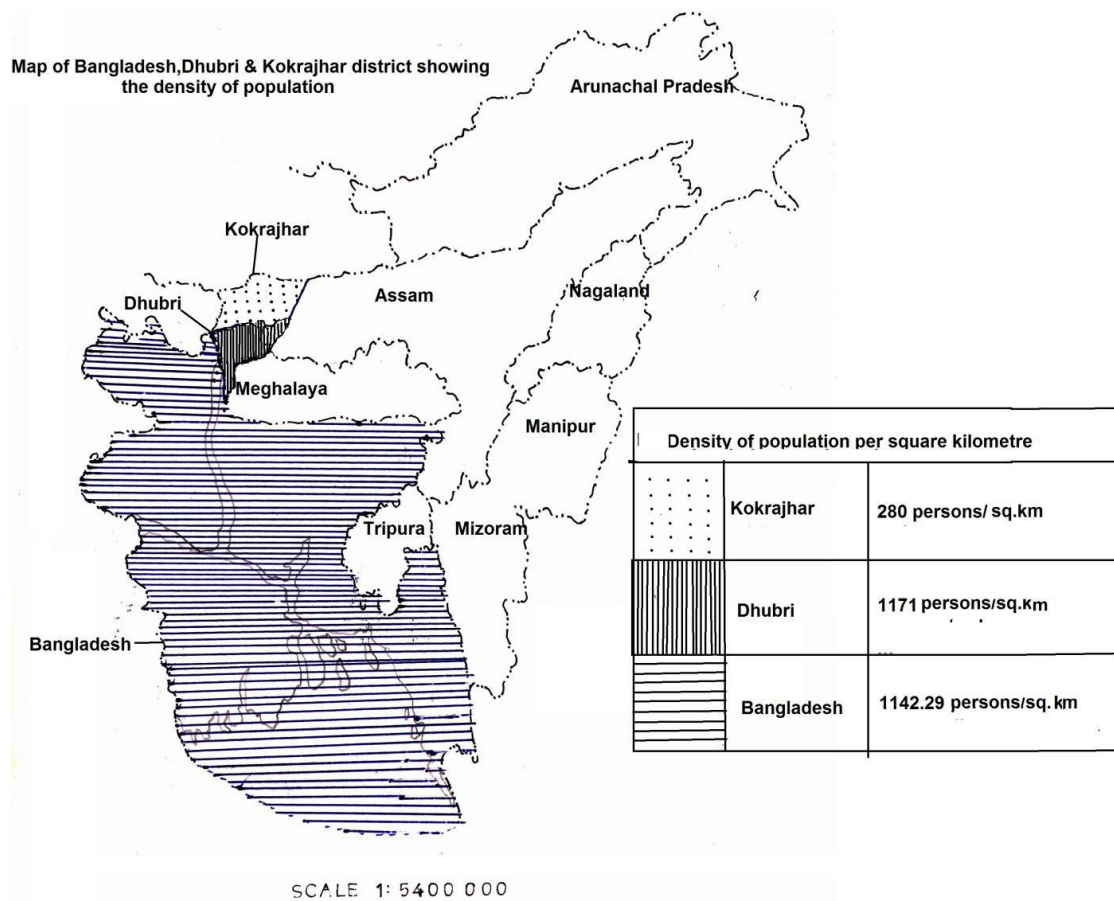
Although Shri Dutta has advocated that the immigrants are not responsible but the fact remains that almost all the conflicts in the area are around land harnessing by them without rightful authority or claim to it. The Congress ministry in Assam headed by Late Gopinath Bordoloi did realize the pathetic situation of the tribals and initiated steps for creation of tribal belts and blocks for tribals and backward classes by amending the Assam Land and Revenue Regulation Act 1886 by adding chapter X in 1947. This had a direct relationship with the large scale immigration. After the recent conflict between the Bodos and the Muslims in the western part of Assam, it has come to light that the lands belonging to the protected classes of people have been encroached upon by the ineligible people in the belts and blocks. The state government has totally failed to check the illegal transfer of land in belts and blocks. The district authorities have been instructed to send quarterly report in regards to illegal encroachment and transfer of land to the higher authorities but the letters have found place in the dustbin.

When the conflict between the immigrant Muslims and the tribal communities occurred in Udalguri district in 2008, more than 55 people lost their lives. The reoccurrence of conflict between the immigrants and the tribal communities in Assam reveals the animosities between the two communities over the years with the immigrants settling in areas previously dominated by tribal communities. Presently this makes the two sides struggle for the same political and geographical space. The failure of the administration to protect the tribal belts and blocks resulted in vast tracts of land being illegally transferred to the immigrants and non-notified classes, which led to the displacement of tribal people to forest areas. The alienation of tribal people from their land is believed to be one of the causes of various tribal movements in Assam. Shri Tarun Gogoi, the then Hon^{ble} Chief Minister of Assam had mentioned that the land grabbing may be one of the reasons for the clashes (Frontline 2008).

The All Assam Students Union (AASU) also had to launch the Assam movement for deporting the foreigners from Assam. The six years long agitation came to an end with the signing of Assam accord in 1985 but the major clauses of the accord pertaining to identification and deportation of foreigners have not been implemented even after 30 years of Assam accord. The inadequacy of the successive governments both in the center and the state respectively has aggravated the situation. After a long silence, when the Assam government headed by Shri Tarun Gogoi initiated the pilot project of the National Register of Citizens (NRC) in Barpeta in the year 2010, the All Assam Minority Students Union (AAMSU) took out a demonstration as part of agitation within 24 hours of the tripartite meeting held to review the implementation of the Assam accord, on July 21st 2010, against the NRC process.

During the day long agitation launched by the All Assam Minority Students Union (AAMSU) in protest against the NRC update, 4 people were killed, 50 injured including 20 police personnel (The Sentinel 2010). One good sign is that the state government has initiated the process of NRC again but the progress is very slow, which is forcing the people to doubt the sincerity of the government.

It is important to mention here that many new villages belonging to minority community have sprung up in the Kokrajhar district during last 10-15 years, which is proof enough and clearly provides statistical evidence to the continual inflow of people be it from the neighbouring district or from across the border. The settlements have not only been in the belt and block areas but also encroached on the *khaslands* meant for animal grazing. As there is no fencing, no patrolling, no guard along the Indo-Bangla border specially in the southern part of western Assam, there is every possibility of crossing of people from across the border. It is a known fact that the pressure of population on land in Bangladesh is very high and taking advantage of the porous border, people definitely would like to come to the areas where the pressure of population on land is less. The density of population in Bangladesh is 1142.29 persons per sq.km. (World Bank Report 2012) which is much higher than the district of Kokrajhar, Chirang and other districts of western Assam. The district Dhubri has a boundary with Bangladesh and if we have a glance at the population density data of Dhubri, it is more or less equal compared to its counterpart Bangladesh, which is about 1171 persons per sq.km. (2011), the state of West Bengal is also no exception to this as the pressure on land is very high with 1030 persons per sq.km (Census 2011) and again if one advances northward towards Kokrajhar, the density of population further decreases to 280 persons per sq.km (2011). Hence, data reveals that the population density is much lower in the areas where conflict broke out compared to the district of Dhubri, neighbouring state of Bengal and the republic of Bangladesh. Therefore, there is a high tendency of people coming to Kokrajhar and other districts of Assam where the pressure of population on land is low. As there is scarcity of land in Bangladesh, people will certainly try to cross over to the areas where there is availability of land as economic migrants and if no measure is initiated right now, it will be too difficult to manage the situation in the future and more conflicts would take place.



The Muslim population is found to be increasing rapidly as their growth is not only dependent on natural growth but on overall growth. On the other hand, the increase of indigenous people is totally dependent on natural growth only. Therefore, there is every possibility that the minority population would surpass the native one day and be a dominant community of the region. This is one of the threats that the indigenous population is facing today. The following Data of Gossaigaon sub-division under Kokrajhar district clearly reveals the population scenario. The figures are approximate and are on the basis of data collected from Circle officers. Muslims are at the first place and form 35% of total population and all of them are in the revenue areas. There are no Muslim families to the North of Sapkata outpost and none in the forest areas.

The indigenous people of the district are apprehensive of their threat seeing the rapid increase of minority voters in the last three decades in the two constituencies of western Assam such as 28 Gossaigaon LAC and 29 West Kokrajhar LAC. The 28 Gossaigaon LAC has 1,62,916 voters with 41,647 Bodo voters, 47,323 Adivasi voters, 36,593 Muslim voters, 13,755 Rajbongshi voters, 9,067 Bengali voters, 4,380 Rabha voters and 10,151 other voters respectively. In the 29 West Kokrajhar LAC Muslims happened to be the majority with 46,430 voters followed by Bodos with 40,075 voters and Adivasis with 13,483 voters respectively. (SDO Civil, Gossaigaon, 2012).

The flow of illegal migration of people to the state of Assam continued from Bangladesh and the statement issued by the then Chief Minister of Assam Bimola Prasad Chaliha on July 27, 1965 distinctly reveals the gravity of the situation. He stated that “the problem of Pakistani infiltration has always been engaging the attention of the government as well as the people of our country. The size of this problem became increasingly known after the 1961 Census.

According to the Registrar General of India, there were in the Eastern States of India over 10 lakh of Muslims who could have come only from Pakistan during 1951-1961 decade...the State Government is determined to ensure that all infiltrators illegally staying in Assam are expelled and for that purpose whatever steps become necessary will be taken” (Sentinel 2012). If one retrospect the old official records, it becomes clear that Assam had been turned into a paradise for the illegal migrants much before 1965. The census reports of 1961 say, more than 2.20 lakh illegal infiltrators entered Assam from East Pakistan. Out of this, the government of Assam deported 1.78 lakh infiltrators on the pressure from the central government. But the initiative taken by the state government had been vehemently opposed by Pakistan for deporting their citizens and threatened to take up the matter with the international communities and the threat led to the setting up of four Foreigners Tribunals (FTs) by the Government of India in 1964, which was later on increased to 10 (Sentinel 2012). The illegal migration of people continued even today from across the border as the fencing along the border has not been completed till today. The Governor of Assam Mr J.B.Patnaik after having visited the border said that the fencing along the Indo-Bangla border will be completed by 2015 (Pratidin 2012). And after having visited the Assam-Bangladesh Border recently in the Western sector, the governor made a statement that there is no fencing in the border. The statement made by the then Governor of Assam also failed to complete the fencing along the border. The retired editor of the Sentinel Mr. D.N. Bezbarooah is of the opinion that the state government of Assam is not interested in completing the fencing along the Indo-Bangladesh border as it has to depend on the votes of illegal migrants. He questions, if the fencing on a rugged topography along the Indo-Pak border could be completed, why not the border along the Indo-Bangal? (Sentinel 2013)

Another significant issue of the region is the movement for separate state by the Bodos. It may be noted here that tribals were the first natives of Assam and they have been sharing their homeland with Aryans and other Mongoloid communities such as Ahoms, Chutias etc. It is not possible to isolate them from the composite Assamese society and culture (Phukan 2005). When this group of people realized that they have been deprived in many respects such as political, economic, social etc. they started articulating their grievances in the form of political movement. During the course of the movement, many lost their precious lives and thousands got displaced from their habitats. Bodos have been struggling to achieve the goal of separate state since 1967 but failed to achieve the objective till date. There are many ethnic militant groups in the area, who have shown their willingness to talk to the government to solve their problems but the government is not taking the issues seriously which might derail the peace process. The government should try to understand the problem from below and not from above and solve the problem once for all. To ensure the success of peace process, it is important to see that the government does not discriminate between the groups representing the communities. The government should invite all the groups active in the region. Inviting one and leaving the others will only have negative impact on the peace process (Srikanth 2005). After the announcement for the creation of Telangana by the UPA government there has been large scale violence and agitations launched by various groups demanding for separate states in Assam.

The government of India should be thanked for taking initiative to bring the organizations into negotiating table for addressing the grievances. The formal approval for the creation of Telangana by the cabinet on 3rd October 2013 paved the way for the bifurcation of Andhra Pradesh and led to the creation of 29th state of the nation. Now the time has come for the centre to ponder over the issue of separate state demanded by others. Solving the problem of one and neglecting the others will only add fuel to the ongoing movements in Assam. I think,

this is the right time to address the issue of the Bodos as almost all the struggling groups have come forward to solve their issues through peaceful means.

Off late, another problem being faced by the region is the demand for ScheduledTribe (ST) status by the communities currently designated as Other Backward Class (OBC).The bandh call given by the ST status demand committee affected the entire region adversely as the Central government has failed to come up with a decision on the issue. The tribes who are designated as STs (14% of Assam's population) are vehemently opposing the move of the central government to grant ST status to these communities who are fighting for it. There is fear in the minds of the existing STs that once the six communities are accorded ST, they will be deprived from all the benefits being enjoyed by them currently. There is also an apprehension in the minds of the existing STs that once the six communities are granted ST stutus, they will be simply wiped out in elected bodies as well as from education and jobs. In the year 1996, a community called Rajbongshi was accorded ST status for six months and during that time most of the seats in the Engineering (17 out of 21 seats), Medical (33 out of 42 MBBS seats)B.Sc (35 out of 45 seats) and other services which are reserved for ST were cornered by the community. (The Indian Express, 2016).

As the region has been witnessing violence since a pretty long time, a radical civil forum has to be formed involving the communities in conflict and come out openly against the ethnic organizations/groups, when they in the name of protecting their ethnic communities, involve in inhuman acts such as killing of innocents, destruction of private properties, extortions, kidnappings etc. The militant groups need to be reminded that since they claim as the representative of the ethnic communities, it is their responsibility to avoid deciding for the people and learn to listen what their people really want.

The conflict ridden communities lived in peace and harmony and there was good understanding among the communities even after the 1950 conflict between the Muslims and the indigenous people. Many conflicts occurred in the past and these conflicts led to the formation of various organizations be it militant or democratic in the name of protecting individual communities. Today many of these organizations have failed to fulfill the objectives of their organizations and few of them have diverted from their main ideology. Time has come today for all the communities to sit together and sort out the differences and work for bringing permanent peace in the region through reconciliation.

The reconciliation among the conflict ridden groups will be possible only when the leaders discontinue making harsh comments on opposite groups. Because the conflict between the Bodos and the Muslims geared up due to provocative statements issued by the leaders from time to time. As it is better for the communities to accept the past however painful it be, learn to forgive and forget, it is essential to stress on the narratives of reconciliation over the narratives of conflict and hatred. By organizing seminars, Workshops, public meetings, sports, cultural activities, the conflict ridden groups must also be educated to honour the laws pertaining to land and other resources as most of the conflicts in the region is due to lack of understanding of the laws. The groups in conflict must know how to honour the boundaries. As we know that boundaries are meant to be honoured. Before the occurrence of the recent conflict between the Bodos and the Muslims, the protected classes of people did not think at all about the tribal belts and blocks. The conflict which erupted opened the eyes of the indigenous people of the region about the belts and blocks. Therefore, reconciliation will depend on the honour of boundaries of the defined border. And reconciliation is must for peace, progress and development of a region. As mentioned above that the population of a

particular community is increasing rapidly due to reasons well known to everyone and in such situation to talk about co-existence will be absurd. Co-existence will be possible only among the balanced groups of people.

The following set of recommendations may have to be considered for ending the conflict permanently in the area:

1. As the conflict in the area centres around land and other resources, the tribal belt and block created for the protection of the tribal communities and other notified classes by the government of Assam must be protected.
2. The National Register of Citizens (NRC) which is in process must be completed with immediate effect so that the foreigners issue in the state may be solved once and for all. It is observed that the suspicion of the indigenous people on the Muslims will be removed only when the NRC is updated by taking 1971 as the base year.
3. The porous border between Bangladesh and Assam must be sealed and the double line of defence along the border be strengthened. Fencing along the border should be completed without further delay.
4. The territory between the communities must be well defined and the police outposts be provided in the border till the time certain misgivings and consequent animosities are under controllable limits or ideally completely removed.
5. To remove the feelings of hatred and animosities, seminars, workshops and other cultural activities be organized from time to time between the communities to create an atmosphere of bon-homie, brotherhood and deeper sense of harmonious community co-existence.
6. For effectively ending the problem, the areas of resettlement should be ensured as completely secure. There should be complete absence of hostilities and safe access for humanitarian workers in the resettled areas.
7. If the affected villages are located in the sensitive areas then it would be preferable not to rehabilitate the displaced people in their villages directly. Rather, a temporary or a transit facility may be created near the villages with effective police protection so that the affected villagers may be able to conduct at least limited agrarian activity for their subsistence by making use of their own land.
8. The government of India should adopt a mechanism of formal structure of assistance to deal with this group of people so that equal opportunities, financial assistance and protection can be provided similar to the status of refugees who tend to be provided with an equal level of assistance and opportunity world over.
9. The state government should make special arrangement for land to rehabilitate the encroachers on belts and blocks and forests land to avoid further recurrence of conflict. The government should take immediate steps in this regards before allowing the encroachers to reoccupy the unauthorized lands in the name of going back home.

10. There are various militant organizations in the region some of them are currently under ceasefire with the government of India and the governments of Assam respectively. To bring permanent peace in the area, the government should expedite the peace process with the organizations and solve the problems once for all. And the groups which have not come forward for discussion should be invited and hold talks so as to bring lasting peace in the region. This initiative will go a long way towards conflict resolution and confidence building.

11. A formalized civil forum should be formed with eminent personalities from local areas involving all the communities in conflict with the responsibility of first response through peaceful and negotiable means before the act of enforcement is put in to action. Education of the masses on various ethnic and reconciliatory issues would be the prime responsibility of this forum.

12. Finally, a meaningful and well thought out research has to be carried out before according ST status to the communities who are demanding for it so as to avoid conflict and feeling of animosities among the communities within the region. It is always good to address the conflict before it is turned to a crisis.

Conclusion:

The state of Assam, home to various communities, has been experiencing conflict for the last few decades. Due to reoccurrence of conflict, lakhs of people have been displaced from their habitats over a period of time, which needs immediate and positive responses from the governments for ending the conflict permanently. It has been seen that the recent conflict which erupted in the Kokrajhar district of the BTAD is not the first time in the region. There is no doubt that the influx of population from neighbouring countries and districts has been a major factor in this perennial conflict in the BTAD areas. The pressure on land in the bordering district of Kokrajhar and the republic of Bangladesh is very high, which might have been compelling the people to come and encroach on the belts and blocks created for the protection of down trodden people of Assam. Conflict erupts frequently on longstanding issues which have led to conflict in the Bodoland areas and rendered many homeless and displaced. The rehabilitation programme would do well to look beyond the immediate humanitarian assistance and focus on the issues of preventing further recurrence of similar conflict. To exterminate hostilities from the minds of people of various communities trying to find a resolve easy access of humanitarian workers in the resettled areas and effective government implementation of reconciliatory and protective measures will be paramount.

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CONFLICT, DIALOGUE & PEACE PROCESS: A CASE STUDY OF NORTH EAST INDIA

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Abstract

Tussle between the people of North Eastern part of India and the Indian government began post-Independence. Indian government's strategy 'one size fits all' did not go hand in hand in the case of Northeast. People's resentments further lead to conflict which Indian government tried to solve through military policy and sending armed forces. But the process failed because of resistance from the people of Northeast which lead to uprising of different militant groups. The government of India then initiated peace process by initiating ceasefire and inviting the leaders of different groups for solution. This resulted in minor success, but, as because all the problems could not be addressed, so the issue of conflict and militancy stayed. Government of India continued with its strategy of inviting leaders for talks. Recent years saw a change in political environment and foreign policies and those neighbouring countries which were considered safe haven for militant leaders agreed to support India. Most of the neighbouring countries started the flush out process resulting Indian government to have upper hand on the process of peace talks. Gradually, people started disbelieving any peace dialogue because of lengthening the process which is perceived as lack of government's political will in solving the issues.

This paper explores the growth of conflict in different states of Northeast India and the result of the mediation and peace process. The paper will also try to focus on the issues and challenges that the peace process underwent because in case of certain states its more than two decades of starting the process and the solutions are yet to be identified.

Key words: Conflict, Foreign Policy, Militancy, Peace Process

DESECURITIZATION THROUGH PEACEBUILDING: THE CASE STUDY OF SOUTHERN THAILAND

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Abstract

This paper applies the Copenhagen School, particularly the desecuritization theory to the conflict in Southern Thailand. It aims to analyse the potential of desecuritizing process from the current joint learning process of the peace-building effort in the conflicting area. Desecuritization is Waever's concept used to reverse the process of securitization. However, desecuritization is considered undertheorized and the current strategies of desecuritization have some shortcomings.

It is argued in this paper that the current strategies of desecuritization cannot be applied to solve the issues caused by ethnicity differences. The paper also suggests an alternative to approach desecuritization: peace-building effort. The case study of the Insider Peacebuilders Platform is conducted as an example of how desecuritization can be achieved via peace-building effort in Southern Thailand.

Keywords: desecuritization, securitization, ethnic conflict, peace-building, joint learning process

Introduction

In recent years, Southeast Asia has been rising as an emerging area with impressive development. However, behind the images of prosperity, the area is covered with many national and international conflicts such as the South China Sea/East Sea Dispute, the insurgences in Aceh – Indonesia, and in Mindanao – Philippines, to name a few. Among these, the insurgency in Southern Thailand is the most silent. Even though it has been occurring for more than a decade, the conflict in the Deep South of Thailand is the least well-known in the kingdom. While this paper is being finished, it is estimated that over 6,500 people being killed in the 3 southernmost provinces of Thailand of Yala, Pattani, and Narathiwat (Channel News Asia, 2016)

With outnumber of Malay-Muslims in the area, the conflict in the South, as mentioned above, is an ethnic-related conflict. A clash between the Malay-Muslim militants and Thai security force, the attacks on civilian, and the killing of imam and Buddhist monks, all of these deepen the conflict in the area (McCargo 2007, 2012). This paper is aimed to seek for solution for the ongoing conflict in the South via the desecuritization theory.

This paper will apply the theory of securitization to the case of the conflict in Southern Thailand with the particular focus on the potential of peace-building to approach desecuritization – a very under-employed concept. Securitization and desecuritization have been developed throughout a number of scholars associated with the Copenhagen Peace Research Institute (COPRI). Securitization is the concept developed by Bary Buzan and Ole Waever (Muitimer, 2010; Emmers 2010). Securitization can be understood as a process in which the issue is constructed as an existential threat, and desecuritization is used to reverse securitization. However, the concept of desecuritization is criticized as undertheorized. Thus, this paper attempts to develop a notion of desecuritization under the context of the conflict in Southern Thailand.

Securitization, Desecuritization and Peace Practices

Securitization

The concept of *securitization* has been developed by the Copenhagen School, especially through the work of Barry Buzan and Ole Waever (Muitimer, 2010; Emmers, 2010). Waever had first developed the concept of securitization in 1995 in his work *Securitization and Desecuritization*. Later, in 1998, he and his colleagues, Buzan and de Wilde made a step further in refining the theory with the book titled *Security: A New Framework for Analysis*.

Buzan, Waever, and de Wilde define securitizing actors as ‘actors who securitize issues by declaring something, a referent object, existentially threatened’. Moreover, securitizing actors can be varied in a wide range from political leaders to lobbyists (Buzan et al. 1998). Also according to them, referent objects are ‘things that are seen to be existentially threatened and that have a legitimate claim to survival’ (Buzan et al. 1998). Then, securitization can be seen as a process of securitizing referent objects by securitizing actors through series of speech act.

There are two stages of the process of securitization. The securitization carried by a securitizing actor is successful when the actor succeeds in convincing the audience of the speech act that there is an existing threat to security (Emmers, 2010; Buzan et al., 1998). The

CS argues that an issue becomes ‘an existing threat’ through an act of securitization. First, the securitizing actors articulate the issue from its non-politicized to politicized and then to the securitized zone. In some cases, the actors try to resort to an extraordinary means to cope with the issue, uncovering the silence of the issue, bringing it to the public with a more extreme name, ‘a threat to security’. A part from it, securitization can be seen as an enhanced version of politicization (Emmers, 2010).

However, to apply the measures to tackle with the existential threat to security, the securitizing actors need to convince their audience which includes a wide range from public opinion to politicians or military officers (Emmers, 2010). How can the securitizing actors persuade the audience? Speech act. According to Emmers (2010), speech act is ‘the discursive representation of a certain issue as an existential threat to security’. A successful speech act should be conducted in a perfect language of security. First, it must be ‘internal, linguistic-grammatical’ in order to ‘follow the rules of the act’. Second, it must be ‘external, contextual, and social’ in order to ‘hold a position from which the act can be made’ (Buzan et al., 1998).

Besides, securitization can be abused to adopt and to implement extraordinary measures to scope with the issue. In other words, securitization is a mean to legitimize the use of force, the mobility and allocation of resources. Securitizing actors, for example state, can use speech act to impose martial law, detain their opposite or any issue which is labelled as a threat to security (Buzan et al., 1998; Emmers, 2010).

The theory of securitization also connects security with politics as well as presents the nature of how state responses to a crisis especially when it comes an internal or intrastate conflict. As intrastate conflicts are often claimed as a threat to national security and require the state to go beyond the normal rules. In other words, state can resort to securitization to legitimize its abnormal regulations (Buzan, 1991; Waever, 1993).

According to the CS, to take an issue out of the securitized spectrum, it is essential to desecuritize the issue, bringing them back to the atmosphere of non-politicized. Thus, the theory of desecuritization can serve as a mean of conflict reconciliation.

Desecuritization

In contrast to securitization, desecuritization is described as ‘the shifting of issues out of emergency mode and into the normal bargaining process of the political sphere’ (Buzan et al. 1998). Indeed, desecuritization is a reverse of securitization. Although being first conceptualized by Waever in his work *Securitization and Desecuritization* (1995), desecuritization, the concept of desecuritization is considered as being ‘under-theorized’ (Aradau 2004, Roe 2005). The main challenge of the theory of desecuritization lies in how to shift a securitized issue from something that is ‘security’ to something, which, as introduced by Waever, is ‘asecurity’.

Waever’s approach to the strategy of desecuritization includes three actions: first, not mentioning an issue as a threat, managing a securitization so as not to escalate the issue, and last shifting back the securitized issue to the normal politics (Waever 1995). Among which, the last one, in many literature, has been associated with the definition of desecuritization.

However, there are some controversies lying inside the strategy of desecuritization suggested by Waever. This leads to the essence to scrutinize the strategy before applying them into the real life issue. Firstly, if we do not speak an issue as a threat to security at all, it means that the issue is not securitized, and not been through the speech act. Logically, there is no securitization of the issue, then why do we have to desecuritize something that has not been securitized. Then, discussing about the second strategy, managing securitization, it faces the question of how to manage securitization. How can the management of securitization be measured? Will the management will desecuritize the issue or escalate or spiral the securitization? Moving to the third strategy, it is questionable that how to move the issue out of thesecuritized atmosphere. It comes again the question of how desecuritization can be achieved.

This inspires many scholars to find out the alternatives of the strategy of desecuritization introduced by Waever. One of the examples of deconstructivist strategies is Huysman's approach to solve the securitization of migration. According to Huysman (1995), insecurity is a product of social construction and desecuritization is based how to tell the story. He suggests that instead of looking the issue from the outside, one should recount it from the inside looking out. From this understanding of desecuritization, Huysman comes to the 'political aesthetic of everydayness'. By 'political aesthetic of everydayness', Huysman mentions the normalisation and association of the issue with a broader economic, social, and political practices.

Another approach to the theory is through management which is suggested by Paul Roe. According to him, where ethnic conflict occurs, it may result in societal security dilemma – one of the sectors of security introduced by the CS. His argument is based on that 'securitization cannot be transformed', which reflects Waever's thought on the self-reproducing character of securitization. If the identity of minority groups 'cannot always be transformed, then perhaps they can be sometimes 'managed' instead' (Roe 2005). Management is about to mitigate not to assimilate, to ameliorate not to transcend the minority groups. Thus the management strategy is aimed to move the situation from the conditions of insecurity, seeking to harmonize the relations between minorities and majorities.

However, all of the approaches mentioned above fall into the most common critiques in the study of International Relations. They are Euro-centric. Most of the approaches are conditioned under the situation in Europe. Another shortcoming of the current strategies is that it is only conducted successfully in a 'more liberal democratic forms' (Roe 2005), or 'a federal state structure' (Kymlicka 2001), which is hard to exist in the Global South where most of the ongoing conflicts happen. Such limits may be the obstacle to apply desecuritization as the strategy of conflict resolutions globally, but it does not mean to downgrade the potential of desecuritization. Instead, it requires other alternatives to bridge the gaps existing in the current works and researches.

Desecuritization through peacebuilding

Starting from the observation that the theories of desecuritization share the common themes with some theories of peace studies in term of being influence by the constructivism, I would like to concentrate on the peace practices as an approach to desecuritization. This idea is based on the similarities that both desecuritization and peace studies' purposes is finding resolutions for the ongoing conflicts. Both believe that society is something constructed and able to change.

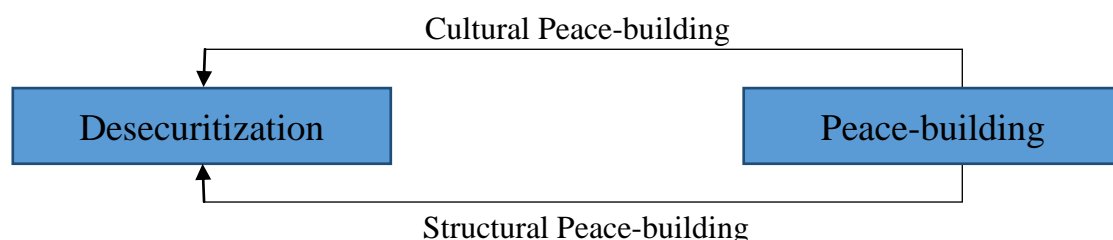
Peace-building can be understood of desecuritization which seeks to downgrade the securitized issues as ‘an existential threat’. The aims of peace-building are to address the deep roots of conflicts and to transform the violent conflicts towards a non-violent one or to lessen the level of violence occurring through the processes of social and political changes (Ramsbotham et al. 2007). In this vein, peace-building can naturally link to desecuritization. One of the key areas which can be effective in encouraging mutual understanding and cooperation between conflicting parties is through cultural and structural peace-building. The term of cultural peace-building is developed under the spectrum of negative and positive peace of Johann Galtung (1996). According to Galtung, there are two types of peace: negative peace and positive peace. The former refers to the provoking of direct violence, and the latter is defined as ‘the overcoming of structural and cultural violence’. Based on this understanding, Galtung comes to his classification of peace-building which comprises structural and cultural peace-building.

By mentioning structural peace-building, it is essential to drive the focuses on the social conditions that nurture violent conflicts (Galtung 1996). It requires an intense scrutiny on the systematic roots of the conflict. A comprehensive analyse of the conflict is important to address the structural causes as well as to introduce initiatives needed to change the social structure. Structural peace-building is aimed at promoting nonviolent measures that reduce violence and give space for changing structure that meet the basic needs of the populace of the conflict’s area.

There is no better way to understand people’s needs than through communication which is a part of what is called ‘cultural peace-building’. According to Galtung (1996), communications play an important role to transform the conflict towards peace. Without communications, there are no chances for conflicting parties solving their issues by peaceful means. Galtung’s theory, to some extent, shares the common themes with John Paul Lederach’s framework for cultural peace-building. Lederach (2010) suggest that the cultural dimension of peace-building should be built on enhancing relationships between parties. Since ‘people need opportunity and space to express to and with one another’ about themselves.

From these perspectives, I come up with a framework to approach desecuritization through peace-building’s activities (figure 2.1)

Figure 2.1 Desecuritization through Peace-building



As shown in figure 2.1, desecuritization can be achieved by peace-building effort which includes two dimensions: structural and cultural peace-building effort. In term of structural peace-building, it relates to role of conflict analysis to determine the roots causing the conflict regarding the social structure. Once the causes of conflicts are addressed, it opens a chance for parties building a mutual understanding and trust between each other which is the

innermost core to transform the conflict (Lederach 2010). Cultural peace-building is meant to pay attention to open communication and increase sympathy to each other's perceptions considering the cultural aspects and identities of parties' involvement.

According to Gatlung (1996), the final goal of structural peace-building is to alter the relatively permanent enmity among collectivities in the society into a new intergroup relation where the structure is no longer vertical, but horizontal.

Moreover, building a network is of great vitality towards desecuritization. As networking is considered as creating an alternatives of collectivities outside the oppressive structure of the conflict. It is essential to build a link with individuals and groups because a networking increases the chances to spread the tolerance and sympathy.

Turning to cultural peace-building, as mentioned above, cultural peace-building deals with enhancing communication and relationships among parties (Gatlung 1996, Lederach 2010).

Desecuritizing the conflict in Southern Thailand

Given the situation of Thailand, a developing country, it provides a relative perfect conditions of ethnic conflict, which can be named but not least like the formation of nation-building process, the diverse of ethnicities and the political division existing there. The relations between state and ethnicity is well summed up by Ashutosh Varshney that ethnic groups may organize and operate themselves without states, but to build up a nation, state aims to bring all the ethnicities and statehood together under the same roof (Montesano and Jory, 2014). The conflict in Southern Thailand is a great example of what is mentioned above. The conflict can be best describe as an ethno-political legitimacy conflict (Satha-Anand 2009, Abuza 2009; McCargo 2007, 2012; Barter 2011; Jitpiromsi and Engvall 2013). In addition, the conflict has been self-reproducing the high level of securitization (Ropers and Anuvatudom 2013).

The securitization of the conflict in Southern Thailand

The conflict in the South of Thailand mainly occurs in the 3 border provinces: Pattani, Yala, and Narathiwat and some parts of Shongkla province. It is emanated from historical event. Back to the mid-15th century, Patani was used to refer the Malay Sultanate which included the area of current South Thailand and North Malay. Patani was once a port for trading between China and other kingdoms at that time and it was related to the Islamist *ulama* network in Southeast Asia. At that time, Patani was a tributary of Siam kingdom, which later became nowadays Thailand. As the reaction to the assimilation from Bangkok, there have been many protests, uprisings from the Malay Muslims against the Thai government. Especially after WW II, during 1960s – 1980s, many bomb attacks had been conducted by different groups such as PULO (Patani United Liberation Organization), BIPP (Barisan Islam Pembebasan Patani), and BRN (Barisan Revolusi Nasional) (Aphornsuvan 2009).

The conflict marked a decrease of violence during the next two decades when the government of the Prime Minister Prem Tinsulanond changed the polity in southern Thailand. By establishing the Southern Border Provinces Administrative Centre (SBPAC) and using a policy known as 'Tai rom yen', the Thai government calmed the local tensions throughout the mixture of both development projects and public relations (McCargo 2007).

In 2004, under the government of the Prime Minister Thaksin Shinawatra, the violence in southern Thailand was escalated by both of the parties – the Thai government and the militant groups in the three Deep South provinces of Narathiwat, Pattani, and Yala. In January, the resurgence began with the attack to an army base in Narathiwat, which saw the deaths of four soldiers and an amount of weapons seized. Later in that year, it was reported that 113 men died in another attack on April 28th to eleven security posts in the three provinces. Noticeably, in one of the insurgencies, there were 32 armed men killed in a bloody gunfire at the historic Kru-Ze mosque. In October, the conflict marked another stage of escalation by the Tak Bai incident, in which more than a thousand men from a peaceful protest outside a police station in Tak Bai were piled into trucks, resulting in the deaths of 78 men suffocated on the way to an army camp. Though these accidents reflected the instability and high level of violence in the Deep South, it seems there is still a long way to reconcile the conflict; because, according to McCargo, (2007) ‘underlying the resurgence in violence was a complex combination of factors, which have not yet been understood.’

However, without considering other aspects, the Thaksin government had linked the conflict with bandit groups and applied martial law in the area. This can be considered as the speech act to securitize the issue by labelling it as national security’s threat.

At the same time, the conflict is securitized by the militant groups as they see the process of Thai nationalism building (Thainess) as a threat to their identity. The Thai identity was based on the shibboleth ‘Nation, Religion, and King’, which was part of the process of assimilation. This nationality building was composed by the sharing of common language, religion and the royalty to the King (Dosch 2006). However, the major population of the South is the Malay Muslims who speak another different language: Malay, and practice another different religion: Islam. In the early years of the nation-state building, the Thai government tried to create a modern centralised capitalist state, and this led to the conflict between the periphery and the centre, the Deep South and the central Bangkok. As ethnic identification lies a possibility of counter discourse where the minorities are resistant to the control and the confinement by the modern state (Laungaramsri 2003)

It can be seen that both parties had attempted to securitized the conflict accordingly to their own perspectives. Based on such observation, it is recommended that desecuritization can be used as the resolution.

The desecuritization of the conflict in Southern Thailand

As mentioned earlier in this paper, the approach towards the desecuritization can be achieved through peacebuilding which comprised of structural and cultural peace-building.

One of the causes forming the conflict is the differences of identity among people in Southern Thailand. The fear towards each other prevents the Chinese, Malay-Muslim, and Thai from further comprehensive understanding. Then, it is even harder to build trust among them. Without trust and empathy, it is almost impossible for peace to exist. However, the prejudice existing along the history of the conflict obstructs the people there to have confidence in their neighbours. Not only the Thai-Buddhists are afraid of the Malay-Muslims, but also the same feeling towards their neighbours can be found among the Malay-Muslims (Sirisakdamkoeng 2012). That is why creating a safe environment to nurture the understanding about each other’s culture is of great importance in the context of the peace process in Southern Thailand.

In term of structural peace-building, as long as the misunderstanding of the conflict exists, it is difficult to promote any social changes that might result in a more peaceful society. It is essential to transform the aware of each other in both parties.

One of the most vital changes essential for conflict reconciliation is changing the current social structure in the conflicting area. Normally social structure is often described as hierarchical, heterogeneous, and unequal (Parson 2005, Blau 1977). In this sense, a social violence happens when this structure is not able to meet the demands of the collectivities (Gatlung 1996). In the case of Southern Thailand, the social structure can be described through the spectrum with the 2 polar respectively represent the Thai Government and the Malay-Muslims militants; and the social violence happened when each party was not satisfied with the other's reply on their demands. The purpose of structural peace-building is to change the 'mental processes and/ or behaviours of aggressive person' and to restructure intergroup relations in the social system.

According to Gatlung (1996), the final goal of structural peace-building is to alter the relatively permanent enmity among collectivities in the society into a new intergroup relation where the structure is no longer vertical, but horizontal.

Moreover, building a network is of great vitality towards desecuritization. As networking is considered as creating an alternatives of collectivities outside the oppressive structure of the conflict. It is essential to build a link with individuals and groups because a networking increases the chances to spread the tolerance and sympathy.

Turning to cultural peace-building, as mentioned above, cultural peace-building deals with enhancing communication and relationships among parties (Gatlung 1996, Lederach 2010). Given the context of the conflict in Southern Thailand, one of the driven reasons of the conflict is related to identity. Differences in language, religion and ethnicity is the characteristics of an identity related conflict, and all of these features can be found in the conflict in Southern Thailand.

Thus, the goal of cultural peace-building in the conflict in Southern Thailand should focus on strengthening the awareness of each other's identity and their role in the conflict. At the end of the day, as long as trust can be gradually built, and empathy can be increased by open communication, peace is possible. Any formal negotiation should start from better understanding about each other (Maiese 2013), and better understanding can only be gained from learning each other's culture, the core value of their identity.

The case of Insider Peacebuilder Platform

The case study of Insider Peacebuilder Platform will be used to examine and exemplify whether desecuritization of the conflict in Southern Thailand can be achieved via peace-building effort. In 2011, the Insider Peacebuilder Platform was established by the Thai Parliament and the Berghof Foundation with the participation of one civil society organization, a think tank and other academic institutions including: the Center for the Study of Conflict and Cultural Diversity (CSCD) at the Patani Campus, Institute of Peace Studies (IPS) at the Hat Yai campus which are under the Prince of Songkla University (PSU), the Center for Peace and Conflict Studies (CPCS) at the Chulalongkorn University, the Institute of Human Rights and Peace Studies (IHRP) at the Mahidol University, the Peace Information

Center (PIC) at the Thammasat University, the Office of Peace and Governance of the King Prajhipok's Institute in Bangkok - a think tank sponsored by the Thai National Assembly (Berghof Foundation, www.berghof-foundation.org), and several civil society organizations such as Deep South Watch. (Berghof Foundation).

There are 3 main activities carried by the IPP: issuing policy papers, organizing joint learning workshops, and planning the building of Peace Resource Centre. In this paper, due to the fact that the Peace Resource Centre is under planning, the analysis will focus on the other two activities: policy paper publishing, and the joint learning workshops. These activities will be analysed under the framework of cultural and structural peace-building effort.

As one of the regular activities of IPP, policy papers are the products of the research team under the Berghof Foundation. Since its establishment, IPP have issued two public policy papers regarding the resolution for the conflict in Southern Thailand. The first publication of IPP is titled 'Peace Processes as Joint Learning Processes of Stakeholders and Insider Peacebuilder: A Case Study on Southern Thailand'. This paper represents the potential of joint learning process and insider peacebuilders to reconcile the conflict among the parties involving. This paper was published in 2013. The second policy paper, 'How can the peace process be taken forward?' called for the restart of the peace dialogue between the Thai government and the separatism movement in the Southern Thailand. The paper was published in 2014.

Another regular activity of IPP is organizing workshops. IPP have been so far organizing 8 workshops. These workshops are the great examples of the effort of joint learning process. The workshops were held at the Prince of Songkla University, Pattani Campus. During the workshops, participants from different background would join together in some activities which are aimed to promote the mutual understanding regarding the context of the conflicts among themselves. Participants of this activity are varied in terms of religion (Buddhists, Muslims), ethnicity (Chinese, Muslim and Thai), and profession (teachers, activists, officials, etc.).

Normally there would be 5 activities following each workshop. The activities themselves are used as a conflict analysis tools. Firstly, the participants would be asked to practice mind mapping. They will have to explain the relationships of actors related to the conflicts in Southern Thailand through mapping. The next activity is aimed to position the driving reasons that put the parties into the conflicting situations as well as to identify their interests, needs, and fears. Then, in the third activity, the moderators would ask the participants to list down the drivers of the conflict and express the complexity among the actors throughout diagrams. Fourthly, the participants will participate in an activity called narratives of the conflict. They will form a group based on their ethnic and together they will visualize the narratives of the conflicts from different perspectives. The last activity is also the last step of the assessment of the conflict. In this stage, participants will identify factors that contribute to peace-building in Southern Thailand and at the same time indicate the challenges that the peace process is facing (Ropers and Anuvatudom 2013).

The nation building process of Thai government which enclosed the assimilation of Thai language and Buddhism resulted in the fear of losing identity among the Malay-Muslims. At the same time, suffering from the attacks from the Malay-Muslim militants, the Thai-Buddhists may form the hesitation and concerns about the 'aggressiveness' of the Malay-Muslims in general. Such attitude is very stereotyped and this situation is unable to nurture

the amity among them (Ropers 2013). To some certain extent, the IPP can be considered being successful in bringing the different adversaries closer to peaceful solution for the conflict in term of both structural and cultural peace-building.

In term of structural peace-building, it can be said that the IPP has been trying to address the deeply rooted causes of the conflict, a very general insight of the conflict. In this sense, IPP, in an indirect way, has encouraged the structural peace-building effort. After joining the workshop, the participants, in their feedback, had acquired more knowledge regarding the conflict. The workshops enhanced their understanding about the nature of the conflict, the differences between parties, their positions and their interests (Ropers and Anuvatudom 2013). In this sense, the IPP has, to some extent, succeeded in structural peace-building.

Back to the activities of IPP, participants comprised of a wide range of ethnicities living in the area. Throughout the workshop, those who have been stereotyped as enemies found out that it is possible for them to live together, to join together in activities. Thus, it can be seen that the workshops of IPP had been successful in changing the participants' mental processes, the corner stone in changing social structure.

The IPP also helps to create a network of insider peace-builders in the area. The participants of the IPP's workshops are very diverse. They come from different organizations including many civil societies, as well as the army. They can spread the knowledge gained from the workshops among their colleagues. By doing this the network of peace-builders can be widened. In addition, by issuing policy paper, the IPP also contributes to promote the change of social structure. Its latest paper recommended the increase in people's participation in suppressing the violence. Particularly, the paper called for the open political space for all people in the area (Berghof Foundation, 2014)

Therefore, even though there are no clear sign of a significant change of social structures in the current situation of the conflict in Southern Thailand, the IPP's activities can be said to contribute to the structural peace-building as the platform had created an environment for people from different groups in the area to think of changing their behaviour and attitude towards each other.

Thus, it also strengthens the awareness of each other's identity and their role in the conflict – the goal of cultural peace building. As seen from the workshop, each unit shared a very unique history and each was shown through their narrations. Through the joint learning, they shared their experience at the same time learnt new perspectives.

Conclusion

Given the context of structural and cultural peace-building it is possible for desecuritization to be achieved.

Firstly, cultural and structural peace-building is a process of restoring normality. In this vein, it shares the same purpose of desecuritization: normalizing the politicized or securitized issue. Additionally, different issues require different strategies to accomplish desecuritization. In the case of such ethnic related conflict in Southern Thailand, it is difficult to apply Huysman's deconstructivist approach as deconstructivism or integration approaches deconstruct identity, the core to be protected.

Secondly, joint learning process reflects the advantages of inclusivity approach to desecuritization which, in my opinion, is more suitable in the case of the conflict in Southern Thailand than the other approach. Inclusivity is understood as an intention to include people even those who might be marginalized or excluded (Does 2012). In term of inclusivity, it brings all of the multi-actors of the conflict together (Thai-Buddhists, Chinese, Malay-Muslims, army officials, civil societies, activists, etc.) without asking them to integrate themselves to fit in. Thus, they can preserve their own distinct identities, can tell their own stories without hesitation. Throughout inclusivity or inclusiveness, they can raise their voices up and feel that they are not excluded. They are insiders, not outsiders and this can help enrich their responsibility for the conflict.

Finally, in the context of the conflict in Southern Thailand, the area is divided enough for self-identifying groups can see each other as a threat to security, inclusivity can optimize the resources, especially the local foster to nurture a multi-actor or multi-party peace process which is essential for a sustainable peace (Does, 2012)

There should be a united network among civil societies in the South so that the initiates of joint learning process can be multiplied not only individually but also collectively. It should be implemented to organizations to organizations, local communities to communities, and institutions to institutions. It is also important to build a connection to both government and the militant groups as the purpose of joint learning process and inclusivity is bringing all parties together to build trust and understanding

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*Documenting War Memories of WWII Survivors in Western Visayas
and Palawan: A Collaborative Oral History Project*

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Abstract – This study is part of an oral history project that aims to document the stories of World War II survivors in the Philippines particularly in Western Visayas and Palawan. It is a collaborative endeavor between the researcher and his G7 students at Philippine Science High School-Western Visayas Campus conducted in SY 2012-2013. Using the oral history methodology, the students interviewed more than 40 informants who lived through World War II in the Philippines. The interviews were transformed into stories by the students and these provided them the opportunity to learn how a historian works, with the goal of understanding history through this process.

Key Words: *Oral history, Oral history project, World War II, interview*

Background and Significance of the Study

The Japanese Occupation of the Philippines is often considered one of the difficult periods in the lives of many Filipinos. For those who have survived those years, the memories of war have remained a haunting backdrop of a life spent in hiding and constantly “evacuating” to the safest place possible. They have lived to tell the tales about the war – their lost childhood or adolescence spent in the mountains and “foxholes”, constantly fearing that, anytime, the enemies would come. The older ones would tell stories of bravery, when they volunteered as defenders of their communities and their country against the invaders. Being a history teacher, this researcher believes it is his responsibility to document these stories and preserve them for the generations to come. Most of the informants are in their twilight years; thus, it is imperative that their memories of the past are preserved for the future generations.

In gathering the stories from the informants, the researcher employed the oral history methodology in collaboration with his students, with the goal of teaching them the procedures of historical research by becoming historians themselves. Oral history provided students the opportunity to learn and appreciate history by immersing themselves into the work of a historian. In the process, history becomes alive to students as they actively engaged in retrieving stories from informants who experienced World War II in the Philippines. The activities conducted through the oral history project complemented the lessons discussed inside the classroom, thereby giving the students a more personal approach to the topic, that is by being close to the very persons as sources of historical data discussed in class. Moreover, the stories shared by their informants presented the students’ varied perspectives on the war in the Philippines, enabling them to think critically about this event.

Review of Related Literature

Oral history as a form of historical inquiry and later applied to classroom instruction has gone a long way since the time its methodologies have been institutionalized in a systematic manner (Cerbo 2012). The influence of Western scholars (see Douglass 1980; Askew 2004; Ritchie 2003) on its development (see Thompson 2000), particularly in framing its epistemological stance and corresponding theoretical perspectives, strengthened the role of oral history as an alternative approach in the study of history. Situating oral history within constructivism as its epistemological foundation implies an active mechanism in the conception of learning demonstrated by manipulative and highly-engaging activities in the curricular setting (see Colby 2007; Yilmaz 2006). Accordingly, knowledge is socially constructed through the interaction of an individual with his world and meaning is interpreted as the process of making sense of this world. Influenced by Deweyan and Vygotskian perspectives towards learning, constructivism finds its manifestations in Social Development Theory (Turuk 2008; Riddle 1999), Situated Learning Theory (Johnston 2008) and Activity Theory (or CHAT - Cultural, Historical Activity Theory) (see Wise 2008; Karpatschhof 2000; Engestrom in Vare 2008) forwarded in the literature of this study. These theories further cemented the claim that learning has strong social dimensions with the support of mentors and peers as the learner immerses himself/herself in the “community of practice.” Teaching students to become historians through oral history reflects this goal, allowing opportunities for participation in the world of practitioners of the craft. Mediation through language, signs, and symbols is facilitated in the process of interviewing, resulting in the collaborative interpretation of experience and meaning making.

Human memory is the veritable source of history, in particular, oral history. Its nature and peculiarities, however, generate controversies (see Grele 2007; Ritchie 2003; Thomson 2006) regarding the quality of data derived from oral history methodology. Narratives or stories drawn from memories became the basis for analyzing human experiences in an effort to establish the truth in experience. Analysis of narrative requires empirical procedures to achieve this goal which remains controversial due to the inherent nature of oral history interviewing and the creator of the story. Through the years, proponents continued improving the practice of oral history coming from contributions of other fields of social science like anthropology, sociology, (Reissman 2000; Creswell 1998) among others. As such, the steps in conducting oral history have evolved into various interpretations, though its essential component remains. Central to the process is the interview (Cerbo 2012), making it as a reference point – before and after the interview – of all the procedures being reviewed in this chapter. In view thereof, organizations like Oral History Associations (2000) or American Historical Association (in Ritchie 2003) issued recommendations in the conduct of oral history as standard operating procedures (SOP) to maintain quality and fulfill legal and ethical requirements.

Studies on oral history worldwide are abundant and diverse in themes and orientations. Anchoring on critical research paradigm (Thomson 2006), oral history projects tackle political, social, economic, health, environmental, and many more, but focusing on a common objective: “giving voice to the voiceless” (Passerini in Thomson 2006). From a feminist perspective, oral history is highly critical of gender marginalization, thus the approach has been praised for its emancipatory and liberatory ends in shaping the individual and collective identity. Extending these themes to the classroom, oral history has been embraced as a pedagogical tool in social studies from the elementary, high school, and most prodigiously in the university level (see Cavallini 1979; Fonsino 1979; Miller 2009; Edwards 2006; Ritchie 2003; Busby & Hubbard 2007, etc). Oral history as a pedagogical tool has found its place within the constructivist family among the different models of teaching that showed promising benefits derived from the utilization of the model in classroom instruction. Aside from gains in content knowledge, students viewed the process as highly-interactive, reversing their perceptions that the study of history is boring and uninteresting.

Closer at home, the status, prospects, and trends of oral history in the country are still in their developing stage (Cerbo 2012). Though its popularity is gaining support from a handful of Filipino historians (see Florendo 2003; Tan 1977; Mojares 1982, 1990; Foronda 1991), production of oral history projects is still limited. Similarly, a scarcity in the number of publications frustrates any local researcher, hence, limiting his/her understanding about oral history as contextualized in the Philippine setting. Thus, it cannot be helped though, wanting to lessen dependency on Western dominated perspectives on the scholarship of oral history, a researcher inevitably has to yield on available and readily accessible materials mostly written by foreign authors. And finally, searching for related studies on the use of oral history in the classroom setting has become a big challenge as there may be few or none at all available at the moment.

Methodology

The methodological framework of this research study was guided by the methods and procedures of the qualitative research tradition. This study was inspired by the studies of Yilmaz (2006), and Handa (2009) that combines participatory action research and ethnography drawn from Erikson’s (2011) approach, “collaborative action ethnography.” Drawing parallelism from their works, a collaborative oral history research design (Rouverol 2003) was used in the conduct of this study. Collaborative oral history can be viewed as a

hybrid of participatory action research and oral history methodology. Integrated within the oral history method is ethnography; hence, other writers refer to collaborative oral history as “reciprocal ethnography” (Rouverol 2003).

Following the oral history methodology, the project was divided into three parts: pre-interview, interview and post-interview.

A. Pre-Interview Phase

The pre-interview phase involved the necessary preparations of resources needed such as training the students on the process of interviewing. Simultaneous with the lesson on World War II in the Philippines as part of the content of the G7 curriculum in Social Science for PSHS System, this topic was discussed in class to provide the students substantive understanding of the topic which they needed in the formulation of their interview schedule. Workshops were done in class to teach the students on the fundamentals of oral history interviewing procedure, techniques and ethical considerations involved in the process of gathering information. Simulation activities on conducting interviews in the classroom were also done for the students to experience the process. Once the necessary preparations were met, students were asked to find a partner within their batchmates belonging to the same place of residence (e.g. same province). Each pair was tasked to find an informant in their community who lived during World War II in the Philippines. Their informants were screened by their teacher on certain requirements such as age, health, memory condition, among others. Then, the student-researchers set the schedules for their interview and prepare the necessary documents observing the protocols involved in the data gathering process. Ninety (90) G7 students were involved as student-researchers in this study.

B. Interview Phase

Student-researchers conducted their interviews during the weekend breaks in a month or two. Regular consultations with their Social Science teacher regarding the status of their interviews were done to monitor their progress on the project. Copies of their videos were evaluated to check the technical aspect and the amount of information gathered in their interviews. Student-researchers decided when to end their interviews depending on the content and quality of the data gathered during this phase of the project.

C. Post-Interview Phase

The videos and other relevant materials gathered from the interviews were evaluated by the student-researchers in consultation with their Social Science teacher. Some of them produced transcripts of their interviews while others reviewed their videos noting the details of the stories gathered from their informants. Workshops in class were conducted to teach the students on how to transform the interview data into a narrative. Soon after, students produced the narratives about the experiences of their informants regarding the life they had during World War II. These stories were submitted to their Social Science teacher for comments, then revised and polished for their final output. Before they submitted their final output, the stories were given to their informants for their comments and verification of the narratives. Their comments were necessary to authenticate the experiences of the informants in the narratives written by the students and as a form of negotiation between the source of the story (informant) and the creator/author of the story (student-researcher) in the production of a historical resource material. The final output submitted by the students to their Social Science teacher in the oral history project underwent several stages of revisions until both party agreed on the content and meaning of the story.

Informants of the Study

The informants involved in the oral history project consisted of forty-two (42) individuals interviewed by the students. More than half (23/42) of the total informants were female and the rest were male. The oldest informant at the time they were interviewed was 96 years old and the youngest was 75 years old. Fifty percent (21/42) of the informants fall within the age bracket of 80-89 years old, thirty-three percent (14/42) were in their 90's and the remaining seventeen percent (7/42) were in their 70's. During the war period (1941-1945), more than half (25/42) of the informants were in their late teenage to early adulthood stage and the remaining forty percent were in their childhood years. Six (6) of the those in the early adulthood joined the guerilla force and were enlisted as veterans. A lone female informant from this group became a part of the medical corps in their province. In terms of residence, four informants stayed in Palawan and the remaining number were all residents of Western Visayas. Of the six provinces composing Western Visayas, twenty nine (29) informants were all residents of Iloilo, Antique had five (5), followed by Negros Occidental (4), Aklan (2), Guimaras (2), and Capiz (1), respectively.

Findings

The stories gathered by the students through the oral history project covered a wide array of human experiences that reflected the best and the worst in human nature during the tragic days of World War II in the Philippines. From the fragile understanding of the children about the war, one gets a glimpse of the strong manifestation of fear present in their narratives. The constant running and hiding, moving away from one place to another, sounds of gunshot and explosions, eyewitness accounts of executions during the “penetration campaigns” and the subsequent “Juez de Cuchillo” caused trauma among the informants even after the war. In most of the stories from those children during the war years, their limited understanding of the events led them to ask their parents why they were constantly “running away”? At a very young age, most of them suffered the unbearable reality in life, that is, death, having heard stories about a friend, a relative or a neighbor who was shot, killed or tortured by the Japanese. Worse, a few of them witnessed these realities, when at some point, were captured, interrogated, imprisoned, abused and by a stroke of luck, saved from death. But despite the difficulties war brought them, at some points, children would always be children. Even during those times of crisis, they would play hide and seek in the forest, swim in the rivers, climb trees and compete with each other and devise a way to alert themselves in the face of danger. Children as they were, they would often find a way to amuse themselves in various situations that sometimes put their lives at risk. In some places where it was relatively peaceful, a few informants shared their story of friendship with some Japanese soldiers and civilians. This experience allowed them to see a different side of the Japanese expressing their respect for the people and their culture.

Just like the children, informants who were at their teenage years expressed fear and uncertainty they faced during the war. With most of them already in high school, they were at least anticipating anytime soon in 1941 that war would break out in the Pacific. Most of their stories showed how their schooling was disrupted and the constant “evacuation” process made their lives miserable, especially those of the female informants. Their stories revealed the difficulties they endured, the restrictions imposed upon them and their struggles to help their family survive the war. Together with their other siblings, they did what they could to help the family survived hunger, illnesses, safety and protection of each member.

Interestingly, there were stories shared by few informants about their “love interests” that happened during the war years. Despite the restrictions imposed by the Japanese authorities, dances were held in some places that were relatively peaceful. It was during these occasions that some informants shared the beginning of their love stories. A few mentioned about their Japanese admirers who became their suitors while others met their future husband/wife in one of these parties or dances in the community organized by Japanese officials and their Filipino friends.

War for the young adults meant service for the community and country. Stories from this group of informants aged 18 and above at the start of the war revealed a thorough understanding of the war. Their sense of responsibility guided their decisions and actions as reflected from their stories. Those who chose to join the military service were either active members of the USAFFE or ROTC, and the rest volunteered during the early months of the war in their local defense groups. And when the formal defense groups disbanded its operation, they were integrated in the guerilla forces. Few were engaged in combat operation while others served in the support groups such as the intelligence, supply and medical corps. Those who were involved in the combat operation expressed excitement at the thought of going into a war while those in the support group showed their extreme vigilance in performing their duties. The remaining informants shared their stories as civilians who were constantly running away, hiding from the enemies and finding ways to survive. Some were employed at a Japanese store or a factory which some used to help gather information for the guerillas. A few were asked by the Japanese authorities to resume their teaching career and taught Nihonggo to Filipino students. In some areas where there was relative peace, some resumed their business operations and interacted with Japanese officials and soldiers. Some of them developed friendship ties with few Japanese that changed their views about them. Those who stayed in the mountains and other evacuation areas narrated their day-to-day existence while confronting the dangers posed by the enemies.

Stories of Survival

The experiences of informants during the war manifested the strength of every Filipino when faced with adversities. Given the limitations in resources, the stories documented how they survived and rose up defying these limitations. Whether a young child, a teenager or a young adult during the war, their stories were full of experiences that provided meaningful opportunities to learn by the present generation.

Foremost among the skills that the informants showed in surviving the difficulties were their creativity and resourcefulness. When faced with hunger in the evacuation centers, they foraged the forest for available food such as wild rootcrops, fruits, bamboo shoots, mushrooms and a lot more. They dug foxholes and pits as their “air-raid shelters” and covered well with mud or shrubberies to camouflage their presence. They improvised things to produce oil, soap, shampoo and other necessities from available resources at hand. When they ran out of clothes, they used sackcloth. Some of them developed a system of planting and harvesting rice and other products not being caught by the enemies. Some already anticipated the impending war and prepared in advance their places of evacuation far from the sites of the encounters, fully stocked with provisions to last a month or two. They engaged in barter and sold goods when the circumstances allowed them. Some developed a system to warn the community such as the “tultugan” using bamboo to signal the impending arrival of the Japanese soldiers. Others used codes using banana stalks and sharpened bamboo tools to write messages in communicating with their comrades in the field. When faced with danger, they relied on their creative ability to transform an ordinary street scene into something realistic like a funeral or a wedding scene to convince the Japanese authorities. A

few women informants shared that they were made to look ugly by their parents by wearing old and tattered clothes to spare them from sexual advances of Japanese soldiers. A few soldier/guerilla informants used the hit-and-run (ambush) technique to kill their enemies and rarely used their guns to save their bullets for a more important and life threatening situation. Wilfredo, 82 years old, expressed it well in his story saying:

“Hide, all I did was to hide. Whenever there was a need to do it, we had to devise varied ways and strategies in hiding, though at times, one could never be sure that it’s the best one. It did not matter where entrances and exits were. It was indeed a matter of life and death. Windows would sometimes be like doors when we were in panic, once the instinct of survival was at work. Surges of adrenaline would propel us to move faster than the wind.”

The choice of evacuation centers was crucial for the survival of the informants during the war. Most of them chose the barrio or nearby towns where mountains were located. These places were far from the headquarters or garrisons of the Japanese and encounters between them and the guerillas rarely happened. Aside from the cliffs, the caves, bamboo thickets and forested areas that these mountains could offer, most of the Japanese had a limited knowledge of its geography and terrain especially those areas far from the cities. In evacuating to these areas, informants expressed how they practiced extreme caution and vigilance. They moved at night time and rest during the day time. They were also cautious about their neighbours. Most of the informants feared not only the Japanese soldiers but also their compatriots who acted as spies to Japanese authorities.

Some of the informants shared that in some instances their place was no longer dangerous as there were few Japanese, if not, none at all, living in their communities. Or at a certain time, clashes were no longer happening and a sense of normalcy somehow returned to these places. Some informants shared that they returned to their homes and found themselves safe even with some Japanese officers around. They started interacting with them and became friends resulting to a peaceful relationship in the community. Some, with their crude knowledge of Nihonggo, went along well with the Japanese. These dynamics of an improved relationship with the Japanese were viewed by some as a factor for their survival during the war. Some stories reflected that a knowledge of Nihonggo or having a Japanese as a friend, an acquaintance or an employer saved some informants during a crucial moment in their life during that time.

The sense of community spirit or *bayanihan* was highlighted as an exceptional value of the Filipinos evident during the war. Despite stories of Filipino collaborators, the informants shared how unity and cooperation helped them survive the war. There were stories of communal sharing of resources like a pig being slaughtered, shared by the whole community at the evacuation center. The locals also provided food and lodging to the evacuees on their way to their destinations. One informant described it clearly as the “time for unity and selflessness.” Evacuees also travelled in groups and developed a system of securing the safety of everyone settling in the mountains. Creative means of early warning system was put in place to warn the succeeding groups about the direction of the enemy and the safe route to take on their journey. Sometimes, a group was willing to sacrifice their lives to save a member who was caught and about to be killed by a Japanese.

To avoid boredom while in the evacuation area and hiding, some informants shared that they devised ways to entertain the children. At night time, their mother would tell stories about mythical creatures like tikbalang, aswang, etc. and about the Japanese people. They were also allowed to play as long as they had to be alert and vigilant. In times of momentary

peace, a community dance would be organized in the barrio. With the singing and the dancing, some informants expressed a feeling of temporary relief from the uncertainties they faced during that time and felt like “human beings again.”

Finally, the informants viewed that prayer helped them a lot to survive the war. Most of them turned to prayer when they felt they were losing hope. Their religiosity was further strengthened by viewing their experience as a test of their faith. The epilogues of their stories contained hymns and praises to express their gratitude to the Almighty for surviving the war.

Students as Historians

The interviews conducted by the students using the oral history methodology allowed the students to become “active learners” instead of passive ones. Through the oral history project, they gained an understanding of what it is to become a historian by going through the process of historical research and subsequently, developed historical cognition and historical empathy. Elizabeth described her experience working with the project where she

“...learned the challenges and hardships our interviewee faced during the Japanese occupation but I was amazed, not only by our interviewee’s bravery but also of all of the Filipinos especially those who survived. I also enjoyed the experience of being a junior historian because I learned a lot from it and also learned a lot more from our country’s history.”

From the reflections of students, they showed an adequate understanding of the nature of history, its contents and its processes, while acquiring skills both academic and non-academic. These were all important to facilitate the students’ cognitive framework in analyzing several issues in the study of history paving the way for perspective taking. Luis puts it well in his comments saying,

“Learning the inner workings of the local guerilla forces, the backstabbing and betrayal, the elaborate details of the battles, it was like a whole new world beyond the curriculum and the classroom. It was also exhilarating. I mean the stories about the war aren’t all that nice; struggles, hardships, abuse, loss and suffering as well as tales of love, hope, sacrifices and family. There are a lot of wonderful stories that are yet to be told from the tragedies in the past. I am overly glad that I was able to share one.”

Taking into account the topic of World War II in the Philippines as the content for analyzing the different perspectives in history, students explored, navigated, and evaluated their notions of history. By interviewing their informants, they established connections with the past with someone who actually lived and survived the war. Students were offered with another perspective of how the period was versus the information contained in their traditional Philippine history textbooks. Using oral history, they had the chance to make “discoveries” other than those prescribed in official texts, and from multiple sources they gained new perspectives about the period. Raffy described his experience with the project as “fulfilling” because,

“I think it was a really fun way to learn about the country’s history and it made me see and know more about the lesson compared to what I learn from books because our information came from people who really experienced these things. It was definitely new to me but it was a great experience.”

Oral history emphasized the role of giving voice “to the ordinary, marginalized and underrepresented sectors of the society” in historical sources. Thus, the stories they gathered

brought “new official historical facts,” and they became authors of “oral evidences” (Theesen, et al. 2006). As Kyle commented in his journal, “*We managed to give voices to the great stories during the World War II that will most probably never be heard if it wasn’t for us.*” With the publication of their stories in a book, *War Memories* (2013), it broke the notion that only historians could write history and historical research was only done by professional historians.

Conclusion

This study yielded two important outputs. The first one consisted of the compilation of narratives representing the students’ product in their effort to document the stories of survivors who experienced the period of World War II in their places. These narratives were subsequently compiled and published in a book entitled *War Memories* in 2013. This book becomes a valuable historical document adding to the innumerable sources about World War II in the Philippines especially in Western Visayas and Palawan. Furthermore, through this oral history project, students experienced what it was to become a historian that contributed to their adequate understanding of content and process of history. This project made the students achieve a sense of accomplishment by becoming authors of a historical source and gained multiple perspectives about this significant part of Philippine history.

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FACTORS AFFECTING DIPLOMATIC METHODS OF BOUNDARY DISPUTE SETTLEMENTS: A CASE STUDY OF THE MALAWI/TANZANIA LAKE BOUNDRY DISPUTE

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ABSTRACT

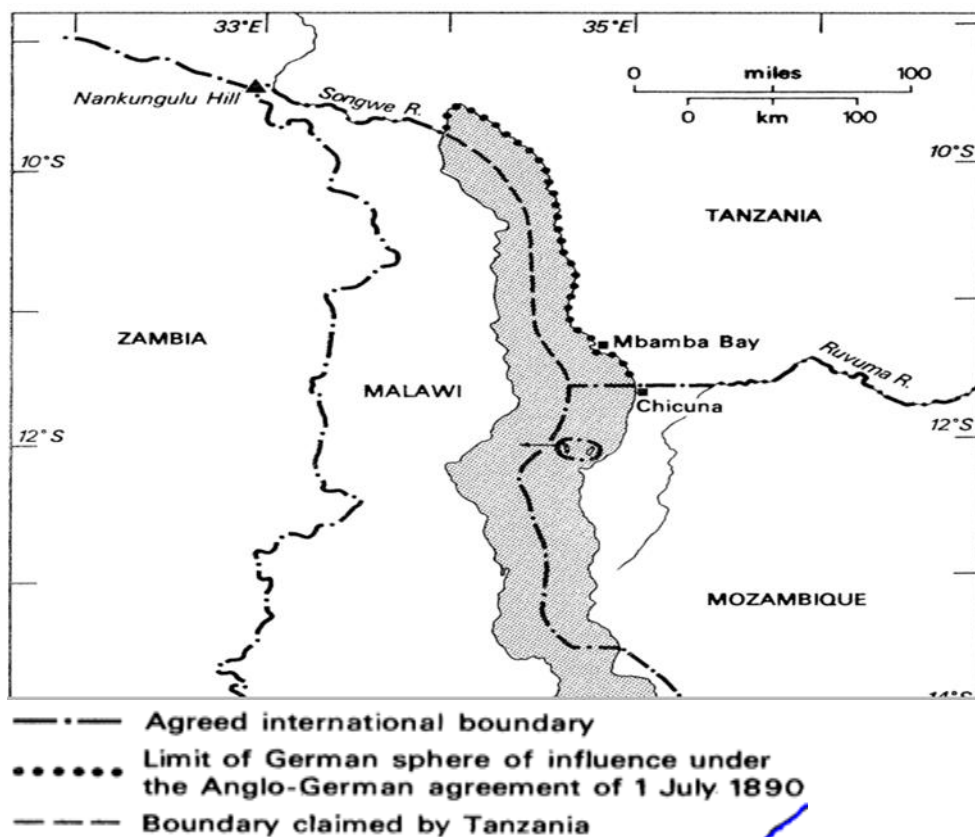
The main purpose of the study is to critically analyse the mediation process that Malawi and Tanzania are pursuing as a mechanism for settling the Malawi/Tanzania Lake Boundary Dispute. Through identification of factors which have affected progress towards the resolution of the dispute by mediation, the research aims to contribute to the knowledge of the various mechanisms of peaceful settlement of international disputes. This is a descriptive research conducted through qualitative analysis of secondary and primary data. The primary data was collected through in-depth face to face interviews of key officials involved in the mediation process. The study finds that the parties' approach to the mediation process, the mandate of the Mediation Team in the resolution of the dispute, domestic politics and policies, the nature of the dispute which involves interpretation of a legal instrument and Customary International Law as well as the competence and time factor on the part of the mediators have affected the process to the point of being a failure and inappropriate to resolve this dispute. As such the research recommends that the parties should opt for judicial/legal mechanism for the resolution of this dispute. Parties can choose to go for arbitration or the International Court of Justice.

KEY WORDS: Boundary Dispute, political and nationalist sentiments, judicial/legal resolution

INTRODUCTION

The Republic of Malawi and the United Republic of Tanzania, both member states of the United Nations, share an international boundary which is defined by a lake, known as Malawi/Niassar/Nyasa. The Heligoland Treaty describes where the border lies, which is Eastern shore of the lake (Article 1(2) of the Agreement). Tanzania disputes this state of affairs and claims that the border lies on the median line of the lake. Malawi however argues that article I (2) of the 1890 Treaty is very clear and unambiguous that the boundary line between Malawi and Tanzania runs along the Tanzanian shoreline of the Lake, as shown in Figure 1 below.

Figure 1: Map of Lake Malawi



Source: The Journal of Modern African Studies, Vol. 11, No. 4 (Dec., 1973), p. 623.

Despite that in 1964, the Organisation of the African Unity (OAU) adopted a resolution (AHG/Res.161(I) Border Disputes Among African States) which affirms for all of Africa the sanctity of the boundaries that existed at the point of independence and rejects the re-opening of colonial era boundary treaties and arrangements, Tanzania claims that this does not preclude member states from negotiating their borders. Since the late 1960s the boundary dispute has been the cause of strained relationship between the parties. Che-Mponda (1972: 190) cites as the climax of the conflict an incident “in 1968 when Dr. Banda, the President of Malawi, warned of gun patrol boats to be put on the disputed part of the lake, upon which Tanzania ordered the Fourth Battalion of its defence forces to move into the southwest territorial corridor and around the lake” and calls it militarism.

The United Nations Charter and the United Nations system envisage that intrastate and interstate disputes should be peacefully settled. According to the United Nations Handbook (1992), the Charter in its Chapter 1 provides that the Organisation and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with, among others, the principle that all members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice are not endangered (Article 2, Para. 3). Among the various peaceful dispute settlement mechanisms are negotiation, mediation, adjudication and arbitration. Negotiation and mediation can be classified as diplomatic ways of settling disputes, while adjudication and arbitration are done through legal briefs in courts settings (United Nations Handbook 1992). The mechanism to be employed is determined by the issue or subject matter of the dispute and the stage of the dispute. Each has its advantages and disadvantages and also challenges.

The two countries are currently undergoing a mediation process to resolve this dispute (Minutes of the Council of Ministers Meeting of 17 November 2012: Malawi Government 2012). The mediators were requested to complete the work within three months, between January to March 2013. However, in 2016, three years after the start date, the dispute remains unresolved. This is so despite the States parties to the dispute having made their submissions to the mediation team clearly stating their positions on the matter. It is therefore vital to conduct a critical analysis of the mediation process as an approach used in this dispute and identify the factors which have affected progress towards the definitive resolution of the dispute. Another important objective is to determine whether or not mediation is an appropriate mechanism to definitively resolve this dispute.

THE SUBJECT MATTER OF THE DISPUTE

The subject matter of the dispute stems from the difference of opinion between the two countries as to where the boundary lies on the lake. Tanzania claims that the boundary line is the median line, or at the centre of the lake (The comprehensive legal submission of Tanzania to the mediation team). Tanzania relies on the Customary International Law for its position. On the other hand, Malawi, relying on the Anglo-German Treaty, claims that Malawi owns the whole lake (The comprehensive legal submission of Malawi to the mediation team). These claims and counterclaims have been going on since the late 1960s. “The lake boundary was publicly disputed from May 1967 to September 1968 and has remained unresolved ever since. The fall out between Malawi and Tanzania is due to contrasting attitudes and policies towards white minority regimes to the South, president Banda’s suspicion that Tanzania was aiding and abetting the attempt by certain prominent Malawi exiles to subvert his regime, and the lake boundary dispute, all being interrelated” (Mayall 1973: 611).

The lake is believed to contain oil and natural gas which if exploited would contribute to the economic development of the two countries. The people of the two countries also rely on the fish stocks for their livelihood as well as the fresh water for household purposes. It is therefore in the interest of the two countries to resolve the dispute so that the economic activities can be carried out unimpeded. Malawi has been undertaking exploration exercises on the lake to determine the existence of the oil while on the other hand Tanzania has expressed its intention to operate steamer ships on the lake which have been affected by the dispute.

In that regard, by agreement of the two parties, the dispute was referred to the Southern African Development Community (SADC) Forum of Former Heads of State and Government

in December, 2012 for mediation. According to the terms of reference the Forum was to complete its work in three months from January to March 2013. The Forum, however, to date has not made its determination which is to resolve and establish the position of the boundary between the two countries.

PEACEFUL SETTLEMENT OF DISPUTES AND THE UNITED NATIONS

The period of World War II (1939 to 1945) witnessed the advocacy for international institutions as a hope for lasting international peace and security. “The leaders of the victors of World War II – Britain’s Prime Minister Winston Churchill, the United States’ president Franklin Roosevelt, and the Soviet Union’s premier Joseph Stalin – planned during the war for a post war order. Indeed the Atlantic Charter of August 14, 1941, called for collaboration on economic issues and prepared for a permanent system of security. These plans were consolidated in 1943 and 1944 and came to fruition in the United Nations in 1945” (Mingst and Arrenguin-Toft 2011: 43). The United Nations was therefore established on 10 October 1945 on the entry into force of the United Nations Charter following the ratification by the majority of the founding members. The assurance of peace and international security form the central tasks of the world organisation, the United Nations. Article 1(1) of the UN Charter mandates the United Nations to maintain international peace and security. One way to achieve this mandate, the United Nations has to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to breach of the peace (Article 1(1) of the UN Charter). “Article 2 (4) of the UN Charter requires states to refrain from the threat or use of force against the territorial integrity or political independence of any other state. In other words, war is no longer to be a necessarily legitimate way of continuing politics by other means” (Haines 2008: 92).

Among the many causes of strife worldwide are border disputes. Africa has not been spared of these disputes since the African states inherited the borders from their colonial masters on their independence (Boyd 1979). Among them is the Malawi-Tanzania Lake boundary dispute which has been in existence since the 1960s and up to the present day it has not been resolved. The states referred the dispute to the Southern African Development Community (SADC) Forum of Former Heads of State and Government for mediation, as a peaceful way of settling it (Minutes of the Council of Ministers Meeting of 17 November 2012: Malawi Government 2012).

The UN Charter represents a recognition that disputes among states will not be eradicated. In that regard the Charter under Article 33(1) provides for mechanisms for pacific settlement of disputes. It provides that the parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice. It has been said in this regard that states are not under an obligation to settle their disputes under public international law. As Shaw (2003) succinctly put is “...states are not obliged to resolve their differences at all, and this applies in the case of serious legal conflicts as well as peripheral political disagreements. All the methods available to settle disputes are operative only upon consent of the particular states” (916). The obligation though, as Jan (2016) argues, is that “when they decide to settle their dispute, ... they must do it, in good faith, through ADR including mediation and not through the use of armed force” (5). In other words, states have an obligation to settle their disputes by peaceful means.

The mechanisms for pacific settlement of disputes under Article 33(1) can be characterized into two types: diplomatic and adjudication or judicial means. “The former involves an attempt to resolve differences by either contending parties themselves or with the aid of other entities by the use of discussion and fact-finding methods. Adjudication procedures involve the determination by a disinterested third party of the legal and factual issues involved, either by arbitration or by the decision of judicial organs” (Shaw 2003: 914). The diplomatic mechanisms include negotiation, enquiry, mediation and conciliation while arbitration and judicial settlement constitute judicial or legal mechanisms. It is important to note that there is no obligation for states to resort to a specific mechanism. States may choose between diplomatic and adjudication or judicial means. As the Permanent Court of International Justice put it in the *Status of Eastern Carelia Case*, “states are not obliged to attempt to settle their disputes first through negotiation, then through enquiry, mediation and conciliation and only if those means do not work resort to binding means of dispute settlement. States may choose a dispute settlement mechanism that they prefer” (27).

From a theoretical perspective, there are three general approaches to dispute: a power-based approach, a rights-based approach, and an interest-based approach. The power-based approach is characteristic of the realist perception of international relations in which disputes are settled through the power contest, the most extreme case being war. It is normally associated with an outcome of zero sum since it is determined by relative power.

Unlike the realist perspective which is associated with power politics and win-lose outcome, the Liberalist tradition has gained more influence in international dispute resolution. Complemented by the Game Theory, it can ensure a win-win settlement on the one hand, but also a win-lose result depending on whether or not the mechanism for settlement applied is diplomatic or adjudication. The employment of diplomatic procedures such as mediation aims to encourage the contending parties to a settlement which unlike in arbitration and adjudication, may result in reaching satisfactory terms which often times entails compromise (Shaw 2003). This is similar to interest-based approach since the disputing parties attempt to reconcile their divergent positions through the discovery of mutually acceptable solutions. On the other hand, adjudication mechanisms for dispute settlement follow the rights-based approach. The rights-based approach involves determining who is right according to a standard which, in the multilateral context, is typically defined by international law or regulation. Although it is within the Liberalist perspective of institutionalism, the result of litigation is win-lose in Game Theory terms which may cause distaste for this mechanism of international dispute settlement.

Political factors condition the way a state proceeds in a dispute. According to Shaw (2003) “the role of political influences and considerations in the inter-state disputes is obviously a vital one, and many settlements can only be properly understood within the wider international political context” (917). As such, the state would be less willing to submit the matter to binding third party settlement if it perceives the dispute to be affecting vital interests, for example, than if it were a more technical issue. Despite having a number of considerations when deciding which procedure should be preferred such as whether or not we are dealing with an already existing dispute, the nature of the dispute i.e. whether it is political or legal, whether parties disagree on questions of fact, or of law, or of both, whether the dispute is mainly of a technical nature, general relations between the parties, and whether the dispute involves vital interest of a state, States have often times attached more importance on the probable outcome of the mechanism, whether win or lose, which is characteristic of judicial mechanisms and hence opted for other means that may ameliorate that probable

outcome. This may lead to stalemate instead of being settled by a court resulting in an unnecessary prolongation of international tension.

MEDIATION AS A PEACEFUL DISPUTE SETTLEMENT MECHANISM

The term mediation is defined as “a confidential facilitated negotiation, substantially controlled by the parties, procedurally controlled by neutral third parties but with no authority to impose an outcome” (Redfern & Hunter 1991: 31). The United Nations (1992) also defines mediation as a method of peaceful settlement of an international dispute where a third party intervenes to reconcile the claims of the contending parties and to advance his own proposals aimed at a mutually acceptable compromise solution. In other words, “it is a process in which the parties to a dispute, with the assistance of a neutral third party, identify the disputed issues, consider alternatives and try to reach an agreement” (United Nations 1992: 130). It may be aimed at achieving a provisional solution or to arrange a permanent solution, thus addressing a basic dispute. “All this depends, however, on whether or not the dispute itself is one which is perceived by the parties as amenable to a political settlement, or one which involves legal claims and counter-claims, which can only be unraveled and solved through other peaceful means of settlement” (United Nations Handbook 1992: 128).

Mediation comprises a number of “elements which are the presence of the parties, willingness of the parties to act in good faith, an impartial third party facilitator, an appropriate site and confidentiality” (Jan 2008: 8). Unlike arbitration and judicial settlement, the advantages of mediation are that it gives the parties an opportunity to express their views, to compromise, and to find, provided they acted in good faith, a satisfactory solution – a peaceful solution that is acceptable to both parties (Jan 2008). As such it helps to avert serious armed conflict in addition to being cheaper, quicker and safer. “All this depends, however, on whether or not the dispute itself is one which is perceived by the parties as amenable to a political settlement, or one which involves legal claims and counter-claims, which can only be unraveled and solved through other peaceful means of settlement” (United Nations Handbook 1992: 130).

Mediation technique has a number of components. Depending on the nature of the dispute, they include the communication function, clarification of issues, drafting of proposals, search for areas of agreement between parties, elaboration of provisional arrangements to circumvent or minimize issues on which the parties remain divided as well as alternate solutions, with primary goal of an early fundamental resolution of a dispute. In that regard, the mediator has to demonstrate to the parties to a dispute that he understands their respective positions, is not biased against any of them and has the necessary skills to perform the function of mediator in the particular dispute.

It should be pointed out that there is a strong indication that Article 33(1) of the UN Charter only lists the various mechanisms for the peaceful settlement of international dispute without rating them one subject to the other. It has been said that “states are not under an obligation to settle their disputes under public international law, but if they decide to settle, the obligation is that they must do it peacefully in good faith, and not through the use of armed force” (Jan 2008: 5). Further, there is no obligation to resort to a specific one but rather they may choose between diplomatic and judicial means. The diplomatic mechanisms include the giving of information and consultation as a means to prevent disputes, and negotiations, good offices, mediation, inquiry and conciliation to settle disputes. The attaining disadvantage is that all diplomatic means lack the binding effect to any conclusions, while at the same time having

the possibility to take into consideration all the relevant circumstances. Courts and arbitral tribunals on the other hand have in principle to solve the dispute only on the basis of law and their conclusions are binding on the parties, and more adversarial than the diplomatic mechanisms.

States are not obliged to attempt to settle their disputes first through negotiation, then through enquiry, mediation and conciliation and only if those means do not work resort to binding means of dispute settlement (Status of Eastern Carelia Case, PCIJ: 27). The crux of the foregoing is that Malawi and Tanzania ought to have examined the various mechanisms of peaceful settlement of disputes as provided for under Article 33(1) of the UN Charter in relations to the whether the dispute between them is a legal issue which may require adjudication or arbitration, or, on the other hand the issue is diplomatic, and could be solved by political mechanisms.

JUDICIAL OR LEGAL SETTLEMENT MECHANISMS

The judicial settlement mechanisms include arbitration and international court. They have similarities and differences in their set up and operation. Both arbitration and proceedings in a court of law lead to a decision that is binding upon the parties. Submission of a dispute to either procedure is voluntary, unless there exists a prior commitment. As Shaw (2003: 916) clearly puts it “all the methods available to settle disputes are operative only upon the consent of the particular States.” Further, in international law, the jurisdiction of both courts of law and of arbitrators depends on the consent of both parties. For an international tribunal to have jurisdiction, the states in dispute must have consented to conferring jurisdiction on the tribunal to hear the dispute” (Aust 2002: 436).

International arbitration entails creation of an ad hoc tribunal, parties must agree to refer their dispute to arbitration, and must agree to rules of procedure. On the other hand, the composition of the court, its procedure, and the law to be applied by it are determined by its Statute which applies to all cases brought before the court. In case of the International Court of Justice, Article 38 of the Statute of the Court enumerates the sources of law to be applied. In the case of arbitration, the compromise (arbitration agreement) by the parties to the dispute determines those factors. Although both procedures are in principle intended to solve disputes on the basis of law, arbitrators are sometimes authorized by the parties to take into consideration other elements, hence arbitration is characterized as quasi-judicial process (Akehurst 1987).

PROSPECTS OF SUCCESS ON THE LAKE BOUNDARY DISPUTE

History has shown that most of dispute resolution involved negotiation, mediation or arbitration. “Many disputes are settled quickly and informally; others take many years to resolve; some are never resolved; and with some it is better to manage them than attempt a resolution” (Aust 2002: 22). Akehurst (1987) attributes this state of affairs to reluctance by states to bring cases before international courts due to, among others, fear of losing face when a decision goes against it and also problem of judicial unpredictability. The foregoing notwithstanding, the Malawi-Tanzania Lake boundary dispute has been analysed and examined for the likelihood of success of each of the disputants and suggestions of solutions put forward.

The disputant states have shown a lot of restraint towards each other. Despite the dispute being protracted as a result of inaction and poor leadership, rather than colonial legacy, the two states elected mediation as a mode of settling the dispute between them. As Msafiri (2011) demonstrates, partial sum games produce the best path for resolving this border dispute through communication and cooperation. On the other hand, Ulaya (2015: X) ‘advocates for the review of border principles governing African frontiers to fix common errors inherited with colonial boundaries without actually restructuring the boundaries but with a view of limiting application of *uti possidetis* principle.’ The foregoing entails that as states ponder to settle their disputes by peaceful means, they have to bear in mind that compromises are characteristic of diplomatic mechanisms. Through the application of Game Theory and encouraging communication and cooperation, the diplomatic mechanisms result in win-win solution to a dispute.

In contrast with the above are the judicial or legal mechanisms: arbitration and court of law, which are in principle intended to solve disputes on the basis of law. According to Yoon (2014) the prospect of success will be in favour of Malawi if the current third-party mediation fails and disputants decide to submit the case to the International Court of Justice. This is because the Heligoland Agreement, 1890 will likely prevail thereby upholding Malawi’s position on the lake border on the principle of *uti possidetis* (Yoon 2014). This position is also in line with the opinion of Judge Rosalyn Higgins who applied the sphere of influence argument. She served as the President of the International Court of Justice from 2006 to 2009 when she retired. Prior to her election to the ICJ, she provided an opinion to Mobil Oil Corporation in 1988 who wished to explore the Lake for oil and gas and thus had an interest in any Tanzanian territorial claim. In her opinion she concluded in favour of Malawi saying that while the boundary between Malawi and Tanzania is Lake Nyasa [Malawi and] is a complicated issue, and not without its difficulties, the legal claims of Malawi to all of Lake Nyasa, and the submerged lands there under, is considerably the better claim.

The foregoing notwithstanding, the disputants agreed to submit the dispute for mediation, with the key elements instructing negotiation, and acknowledgement of the real-politic of the power differentials at play, and the non-legal instruments the respective parties wield to affect negotiations. “The preferences of one mechanism over another are often determined by the state’s confidence in its legal position and its capacity to achieve a favourable outcome via alternative means” (Mahony and Others 2014: 8). It is therefore important to look at the underlying advantages and disadvantages of mediation as opposed to other mechanisms. The factors that are hindering the resolution of this dispute in the ongoing mediation process need to be explored by examining the process of mediation so far and determine which of the mechanisms is appropriate in the circumstances.

RESEARCH METHOD

This study mainly relies on secondary data collection method, since there is a lot of data already in existence. The secondary sources which include academic works such as books, articles and reports provide the theoretical framework of international dispute settlements.

The study also employs primary data collection methods by drawing from speeches, remarks and opinions by officials, diplomats and professors and scholars and other documents from the Ministry of Foreign Affairs and International Cooperation of Malawi. Further, in order to gain greater understanding of the subject matter, in-depth face to face interviews were also conducted as complementary data collection strategy. The focus is on critical analysis of the

mediation process and identifying factors that are affecting the definitive resolution of this dispute by way of mediation.

Using an interview guide, the participants were engaged in in-depth face to face interviews mainly focusing on their expert comments on the mediation process. The participants were selected from the Ministry of Justice and Constitutional Affairs, Ministry of Foreign Affairs and International Cooperation and Ministry of Lands, Housing and Urban Development. Most of them were members of the Core Team of Experts for Malawi while others were senior technocrats and advisors to the Government, including on the Malawi/Tanzania Lake Boundary dispute.

FINDINGS

CRITICAL ANALYSIS OF THE MEDIATION PROCESS

The findings of the critical analysis of the mediation process are that it is a failure. Since the dispute was referred for mediation in January 2013, there has been no progress towards its resolution. The mediators seem to acknowledge that the determination of the Lake boundary involves interpretation of a Treaty between Germany and Britain, and the matter cannot be resolved by them on that basis. Instead they proposed to explore how the natural resources in the Lake could be exploited to the benefit of both countries. The approach both Malawi and Tanzania have taken is that they have not accepted this idea and they advocate that the boundary issue must be resolved upfront before the issue of how the natural resources in the Lake could be exploited for the benefit of both countries (Report of the Meeting of the Parties and the Mediation Team, Maputo, 2014). The Parties therefore appear to have stuck to their positions over the four years that the mediation has been pursued and no possibility for a mutually acceptable compromise solution.

FACTORS AFFECTING THE MEDIATION PROCESS

A number of factors came out from the interviews that were conducted as part of the data collection exercise. These include the parties' approach to the mediation process, the mandate of the mediators, the type of issue that is the subject matter of the dispute, domestic politics and policies of both countries and the competence of the mediators on the subject matter.

❖ The Parties' Approach to the Mediation Process

The marked characteristic that sets diplomatic methods of international dispute settlement is the reconciliatory function of the process. For instance, mediation has been described as "a method of peaceful settlement of international dispute where a third party intervenes to reconcile the claims of the parties and to advance his own proposals aimed at a mutually acceptable compromise solution" (UN Handbook, New York, 1992: 40). In contrast, the judicial mechanism is the adversarial manner of approach to the dispute.

Most of the participants were of the view that no compromise solution can be mutually acceptable in this dispute until a determination of where the boundary lies is done. This is reflective of the approach which both contending parties have used in the mediation process. As some participants put it, "both parties are stuck to the positions". Despite the mediators proposing for sharing of the resources that may be found on the Lake without determining the issue of the boundary, both parties are on record as having demanded the Mediation Team to

first of all determine in favour of one or the other about the boundary after which the negotiations on the sharing of the resources can be done (Report of the Meeting of the Parties and the Mediation Team, Maputo, 2014). As one participant put it “compromise should not be made before the boundary is determined, as this will leave the issue hanging and liable to resurface”.

The foregoing is akin to adversarial approach which is normally used in adjudication mechanisms such as arbitration and the courts that apply legal reasoning to the issues arising in the dispute. This may not necessarily be obtaining in mediation as the mediators may not as a matter of requirement, be legal professionals. The parties may have foreseen this and they suggested to the Forum to incorporate eminent jurists for expert guidance (Minutes of the Meeting of Council of Ministers, 2012: 4). This however runs counter to the reconciliatory nature of the mediation process, hence narrowing the path which the mediators may take by making proposals which may turn out as mutually acceptable compromise.

❖ **The Mandate of the Mediation Team in the Resolution of the Dispute**

The mandate of the mediation team is found in the submissions by the two contending parties to the mediators. In a nutshell, the contending parties requested the mediation Team to determine where the boundary lies, either along the Tanzanian shoreline of the Lake (Opening Statement by Malawi, 31 January 2013), or that the median line is the boundary on the basis of Customary International Law (Submission by Tanzania of 25 January 2015).

The foregoing mandate confines the Mediation Team to legal interpretation of issues before it rather than exploring other innovative ways of dealing with the dispute. This is buttressed by the fact that when the Mediation Team put forward a proposal to the contending parties, they rejected it outright. The Mediation Team floated the proposal which was to the effect that the two parties should consider first of all cooperating on the use of the Lake and its resources, for the benefit of the people of the two countries. In the view of the Mediation Team, the parties would realize that the utilization of the resources in the Lake will facilitate the resolution of the dispute between them (Report of the Meeting of the Parties and the Mediation Team, Maputo, 2014). Both parties rejected this proposal opting for the Mediation Team to first of all resolve and establish the position of the boundary between the two countries. That once the position is established, the parties will then consider how they can exploit and share the resources found in the Lake.

The failure of the parties to alter or change their initial positions is one of the challenging factors, according to a number of expert informants. This, essentially, means that either the Mediation Team should declare that it has failed in its mandate and not to float more proposals for the parties’ consideration, or determine one way or the other, where the boundary lies. The mediation however should be a platform for a third party to reconcile the claims of the contending parties and advance his own proposals aimed at a mutually acceptable compromise, which is not permissible by the parties in this process. According to one participant, “it may not be possible to achieve a compromise solution, obviously because the parties were and are still stuck to their positions”.

❖ **Domestic Politics and Policies in the Contending Parties’ Constituencies**

Some participants identified domestic politics and policies in the two countries as one of the factors affecting the resolution of this dispute by mediation. They cited the Malawi President’s utterances in 2014 which were to the effect that “Lake Malawi ownership is non-

negotiable” as also quoted on online daily news, Nyasatimes, 20/11/2014. On the other hand Tanzanian authorities release new maps which show the disputed part of the Lake as part of its territory in addition to its plans to buy ships and sail them on the Lake as reported by a daily news, Ooksnews, 01/10/2012, with another incident as recent as September 8, 2016 where Malawi reportedly protested over Tanzania’s new map propaganda claiming part of the Lake (Nyasatimes).

These domestic political utterances and deliberate policies entrench the parties’ non-flexibility and hence making it difficult to resolve and reconcile the parties in the dispute. This hence negatively affects the mediation mechanism and thereby showing no progress to the resolution of the dispute. What happens at the domestic level puts in doubt the possibility of the parties coming to the mediation process in good faith and to seek a mutually acceptable compromise solution through mediation.

❖ **Nature of the Dispute and the Competence of the Mediators**

This is another factor which many expert participants have identified as having affected the resolution of the dispute by mediation. The submissions of the contending parties to the Mediation Team raise a number of issues for determination. These include the interpretation of the treaty that describes the boundary, the interpretation of the OAU Resolution 6(1) in respect of the *uti possidetis* doctrine and the interpretation of Customary International Law position of the median line border on water bodies (Submissions of Malawi and Tanzania, 31 January 2013 and 25 January 2013, respectively).

Most of the participants were of the view that the determination of the Lake boundary dispute requires legal reasoning. This may impact on the competence of the mediators who are former Heads of State and Government. The parties thought through this and suggested that the Mediation Team incorporates eminent jurists for expert guidance (Minutes of the Meeting of Council of Ministers, 2012). As one participant said “mediation is not arbitration so it may be difficult for the Mediation Team to come up with a decision on the position of a boundary knowing the fact that a boundary position has already been described in the Anglo-German Treaty”.

This suggestion was meant to ameliorate the legal and other competence difficulties that the Mediation Team may encounter. That though does not appear to have helped since four years from the commencement of the mediation process, the Mediation Team is shy to determine the dispute. As some participants put it, “the parties should have been more cautious in the selection of the Mediation Team, having in mind their competences and the nature of the dispute to be resolved”.

❖ **Time Factor on the Part of the Mediators**

Some expert participants also identified insufficient time on the part of the Mediation Team dedicated to the dispute resolution as a factor that has also impacted the progress. The mediators are high profile former Presidents in the Southern African Development Community (SADC) Region and therefore with very busy schedules on the calendars. The difficulty, among others, borders on finding convenient time for all the three mediators to meet and deliberate on the dispute.

The availability of mediators and their ability to meet within schedule is very crucial in any mediation process. In the Lake boundary dispute, since 2012, it was only on 20 and 21

March, 2014 that the Mediation Team convened a meeting in Maputo, Mozambique where Malawi and Tanzania were for the first time brought together before the panel to make oral arguments on the dispute (Report of the Meeting of the Parties and the Mediation Team, 2014). Despite the Mediation Team informing the delegations that they will look at the proposals of the contending parties that the dispute regarding the position of the boundary should be resolved first before issues of resources found in the Lake, this dispute still stands unresolved and no further deliberations have taken place since then.

The foregoing has led some participants to identify “delays by the mediators in concluding the mediation process as due to lack of time on the part of the mediators to dedicate to this dispute as they have busy schedules on their calendars and hence hindering the dispute resolution”. In that regard, to avoid open ended mediations which just frustrates the parties some informants suggest that “mediators should have clear terms of references and deadlines within which to deliver the results”.

WHETHER MEDIATION IS APPROPRIATE MECHANISM FOR RESOLVING THE DISPUTE

Having the foregoing list of factors affecting the mediation process in the resolution of the Lake boundary dispute, the issue arises whether or not mediation is an appropriate mechanism for resolving this dispute. Most informants have opined that the judicial mechanism, though expensive, is appropriately suitable in this dispute.

As one participant put it succinctly, “the Lake boundary dispute is a legal issue about interpretation of a legal instrument, which requires a judgment based on treaties and evidence which mediation cannot”. Other cited reasons include “certainty and no arbitrariness, and the results are binding and not dependent on one’s good will to comply with them”. “The judicial mechanism will also bring this issue to an end rather than keeping it forever unresolved”.

Despite having a number of considerations when deciding which procedure should be preferred such as whether or not we are dealing with an already existing dispute, the nature of the dispute i.e. whether it is political or legal, whether parties disagree on questions of fact, or of law, or of both, general relations between the parties and whether the dispute involves vital interests of a state, states have attached more importance on the probable outcome of the judicial mechanism and hence opted for other mechanisms that may ameliorate that probable outcome. This may lead to stalemate instead of being settled by a court resulting in an unnecessary prolongation of international tension.

According to Yoon (2014) and Judge Rosalyn Higgins (1988), the prospect of success when judicial or legal mechanisms are to be chosen, will be in favour of Malawi. This explains why some informants/participants claim that “Tanzania opted for mediation while Malawi’s proposal was to have the dispute settled by adjudication”. Accordingly, mediation proposal was accepted after considering issues such as regional politics and the advantage of starting the process from a low level mechanism. Most of the informants/participants are of the view that “mediation is a failure in terms of resolving the dispute since over four years have passed since the resolution process started without tangible results. However, the mediation process has succeeded, indirectly, in calming tempers among citizens of the two nations: tempers are not as high as they were in 2012/2013, because the matter is under mediation and people are waiting for the mediators to complete their work”.

CONCLUSION AND RECOMMENDATIONS

The Malawi/Tanzania Lake boundary dispute has been in existence since the 1960s following the independence of the two contending states. It gained significance in 2012 following Malawi's issuance of oil exploration licenses in the Lake. The issue for the contending parties is the position of the boundary on the Lake. Malawi argues that the whole northern part of the Lake is part of its territory in line with Article 1(2) of the Heligoland Treaty of 1890. Tanzania on the other hand argues that it owns part of the Lake based on Customary International Law which says that the median line is the boundary and Article VI of the Heligoland Treaty.

The United Nations system is mandated to maintain international peace and security. International Law, while not imposing an obligation on States to settle their disputes, the United Nations Charter imposes an obligation on the States Parties, when then they choose to settle their disputes, to do so through peaceful means. These include both diplomatic and judicial mechanism of peaceful settlement of dispute. Amongst the various mechanisms is mediation which Malawi and Tanzania opted for in 2012 as a method for resolving their dispute. The Mediation Team, comprising three former Heads of State and Government from the SADC region commenced its work in 2013, but the dispute todate remains unresolved. The study finds that the mediation process is a failure. Since its commencement four years have passed, but the contending parties are stuck to their positions. The only success it has achieved is in calming the tempers among the citizens of the two nations which escalated in 2012.

The study also finds that a number of factors have affected the mediation process, hence its failure to resolve the dispute. These include the parties' approach to the mediation process, the mandate of the Mediation Team in the resolution of the dispute, domestic politics and policies in the contending parties' constituencies, the nature of the dispute and the competence of the mediators, and time factor on the part of the mediators. The prolongation of the dispute leads to escalation of tensions and conflicts which is a threat to international peace and security. The study further finds that mediation is not the appropriate mechanism to resolve the Malawi/Tanzania Lake boundary dispute. The Lake boundary dispute raises legal issues about interpretation of treaties and Customary International Law since the parties disagree on questions of law. The choice of the mechanism should have been thought through critically if the parties seriously intended to resolve the dispute. Rather than being driven by prospects of success, the desire should be to settle the dispute peacefully once and for all to avoid any threat to international peace and security.

Having found the mediation process a failure in this dispute, the study makes some recommendations on the way forward. To begin with, the contending parties need to recognize that the process is not taking them anywhere since it has failed to resolve the dispute. The nature or substance of the dispute is important. Where the dispute involves interpretation of a legal instrument the issue should ideally be submitted for determination by a judicial forum. The biggest challenge is perhaps the inability of the Mediators to concede and advise the parties that the matter cannot be resolved without an interpretation of the Heligoland Treaty of 1890, between Germany and Britain, and the matter should therefore be referred to the International Court of Justice.

The wayforward must be grounded on the failure of the mediation to resolve the dispute. In that regard, the Mediation Team should declare its failure to resolve the dispute. This will

enable the parties to discuss and agree on another mechanism. In the process the Mediation Team can lend its weight in persuading the parties to submit the dispute for adjudication.

This study therefore recommends that parties should opt for judicial/legal mechanism for the resolution of this dispute since the diplomatic mechanism, mediation in particular, has failed to resolve this dispute.

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International Preventive and Reactive Failure in the Former Yugoslavia

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Abstract

The major aim of the research is to provide an alternative explanation, apart from ethnic and religious reasons, for the international community's failure in Yugoslavia. The explanation attempts to contextualise the most important preventive and reactive policies adopted by the international community from June 1991 to December 1995. It is particularly relevant to investigate whether the global intervention in the Balkans was efficient, to relate international methods used during each phase of the conflict to subsequent behaviour: were international actors' conducts coherent with their own issued policies?

This research was conducted through the examination of secondary data and analysed by using a descriptive method. The research results reveal that no single international mediator was able to end the war in the Eastern part of the Old Continent, exposing a relevant lack of a common and long-lasting international strategy. Diplomatic tools utilized by several international organizations have been instead overridden by individual governments' interests, who had an influence over the international decision making system, creating even more obstacles throughout the path of reconstruction and stability of the region.

Keywords: International Community, Yugoslavia, Preventive Policies, Reactive Policies, Secession.

Introduction

Although it has been 25 years since the first declaration of independence of Slovenia and Croatia, the Western Balkans continue to be seen as an important missing piece of the domination puzzle in the Eastern part of Europe. Five years of war resulted in 250,000 deaths and 2.7 million refugees (Karns and Mingst, 2010:347), going through secessionist movements, ethnic cleansing, and internal intrigues of power, leading the most damaged Balkans state (Bosnia-Herzegovina) to still have nowadays the most problematic shape of governance in the world.

Besides being the most brutal scenario at the end of the 20th century, the crisis in the Former Yugoslavia was also regarded as the greatest failure of the international community, in terms of collaboration among international organizations such as the European Union (EU), the United Nations (UN), and the North Atlantic Treaty Organization (NATO), which involved the largest and costly peacekeeping efforts ever made: the United Nations Protection Force. Why was it so difficult for the global community to solve the Yugoslav crisis?

Regional and International Actors

Several international policies were adopted during 1991-1995 to tackle the Balkans issue. Starting with the regional level, it is possible to affirm that the first actor involved in the Yugoslav crisis was the European Community (EC), a regional institution that was facing multiple internal issues, especially since the end of the 1980s when the Soviet political framework was about to implode, and the Berlin Wall collapsed.

After a first European attempt to address the Western Balkans crisis, the United Nation Security Council and the American Government gave their whole support to the initial reactive policy adopted by Brussels: the arms embargo. From this moment the Yugoslav conflict was an escalation in the number of actors that tried to address it by using both preventive and reactive strategies, without achieving any significant success.

If the first stage was characterized by the collaboration between the EC and the UN, from 1993 when the Clinton administration took a seat in the White House, the situation in the Western part of Europe changed almost radically. Even though the internal conflict in Bosnia-Herzegovina was fought between Bosnian Muslims, widely supported by Bosnian Croats, and the Serbs minority guided by the government of Pale that created the so-called Republic of Srpska, an important support during the last two years was also delivered by the U.S. government.

American interest during the first year of the Yugoslav crisis was not very consistent, due to Washington's internal politics, strictly focused on monitoring Russian nuclear weapon expansion. From 1993, however, American foreign policy became more European-oriented, especially in regard to finding a final solution to the Balkan crisis, which was affecting Brussels-Washington relationship, as well as to avoid the fact that the EC was starting to be seen as a possible new leader of the global governance.

From its first involvement the U.S. always had a defined strategy to scale down the Yugoslav crisis and impose itself as new guarantor of peace in Europe. More specifically, Washington's plan to defeat Pale's government produced its effects when the UN Security Council authorized the international use of force against the Serbs, by collaborating with the last international institution involved in the Yugoslav crisis: NATO.

Pressures from the Clinton administration were increasing day by day, especially after the isolation and incessant battle the capital of Bosnia-Herzegovina had been facing since April 1992 until February 1996. The battle included the siege of Sarajevo as the longest siege that had ever happened. NATO was born as "the most highly organized regional security organization in the world" (Karns and Mingst, 2010:155). It was aimed to provide international security guarantees, and projected for specific parts of the world, which did not include Balkan states. American wishes became reality, which were also supported by the fact that the U.S. is the major contributor of the UN, when in 1995 NATO airplanes bombed and destroyed Bosnian Serbs infrastructure,

representing its the first out-of-area operation.

The Beginning of the End

From an international perspective of the situation through which Yugoslavia was going since the 1970s, several aspects should have been interpreted as signs of a possible Yugoslav collapse. The first symptom of a predictable Yugoslav breakup was already evident when the new Slav constitution was amended in 1974. Instead of providing “a political and economic framework for the survival of Yugoslavia” and balancing “two goals: state unity and fair representation for diverse national groups (...) by enhancing the role of the military as the guardian of socialism (...) and guarantying equal representation (of the Yugoslav republics)” (Bunce, 1995:710), the new constitution further aggravated the already economic and social discrepancy among the six member states, by further decentralizing the country and thereby providing a further impetus to its breakup. However, besides the amendment of the new federal constitution, which was considered a weak and controversial legal document that permitted Slovenia and Croatia’s secession 17 years after its creation, there was also Milošević’s idea of using the constitution with the main objective to create more favourable benefits for Serbia. In particular, his desire to create the Great Serbia was already clear in 1989 when he was invited to Kosovo to be mediator between Serbian and Albanian populations, who were perpetually in dispute, and he asserted that “no one should will ever bit you again” (Meier, 1995:38), referring to and indirectly inciting Serbian people to no further tolerate being tyrannized by Albanian community in Kosovo.

Despite evident signals that something was about to implode and the end of the socialist ideology was inevitable, the global community was not perceptive enough to predict a possible Yugoslav dissolution. The EC intervened when the crisis in the Western Balkans was already started and diplomatic solutions were not so efficient as Brussels thought, believing that the Yugoslav conflict was an issue easily and quickly resolvable because it was not directly concerning European interests.

Objectives

With my main purpose of gaining a better understanding of the international community’s failure in using preventive and reactive measures to solve the Yugoslav crisis, I have defined two objectives for this study, as follows:

- To study the most relevant international preventive and reactive policies adopted by the international community during almost five years of Western Balkans conflict.
- To investigate the efficiency of preventive and reactive policies issued by the global community in the territory of the Former Yugoslavia from 1991 to 1995.

Method

The principal method of data collection used by this study consists in studying secondary sources, in order to analyse data and finally achieve the two research objectives.

Several international preventive and reactive policies, both diplomatic and coercive in nature, were adopted during almost five years of the Yugoslav conflict. However, in this research the focus is on only the most significant ones that guided the international community towards the end of the crisis:

- Economic and military sanctions and their international background, such as resolutions 713 and 757, issued by the UN Security Council.
- Diplomatic activities in the form of international meetings and agreements, such as Brioni Conference, and Dayton Agreement, and all international plans adopted to find a solution to

the internal conflict and fragmentation of Bosnia-Herzegovina, such as the Carrington-Cutileiro Agreement, the Vance-Owen Plan, and the Owen-Stoltenberg Strategy.

- Juridical problematic regarding the international recognition of new Balkan states, widely supervised by the Badinter Commission.

Results

The maintenance of peace in Europe is an objective shared by several international actors. As far as the Western Balkans crisis is concerned, there were distinct organizations operating in the Peninsula during the 1990s. Apart from the EC that was involved from the beginning to the end of the war, also other actors were part of the global strategy to address the Yugoslav issue but only in certain specific phases. Chronologically speaking, there were the humanitarian activities engaged by the UN in Bosnia-Herzegovina and Croatia from February 1992 to December 1995, with a contingent of 37,915 troops, 684 military observers, and 6,632 civilians (Karnst and Mingst, 2010:331). January 1993 was the turn of the U.S. with its change of strategy due to the new administration guided by Bill Clinton, who is widely recognised to be a great supporter of Muslim communities, especially with a view to keeping Bosnia-Herzegovina as a multi-ethnic and unified nation, in order to demonstrate American successful policy in the Balkans (Sremac, 1996:201).

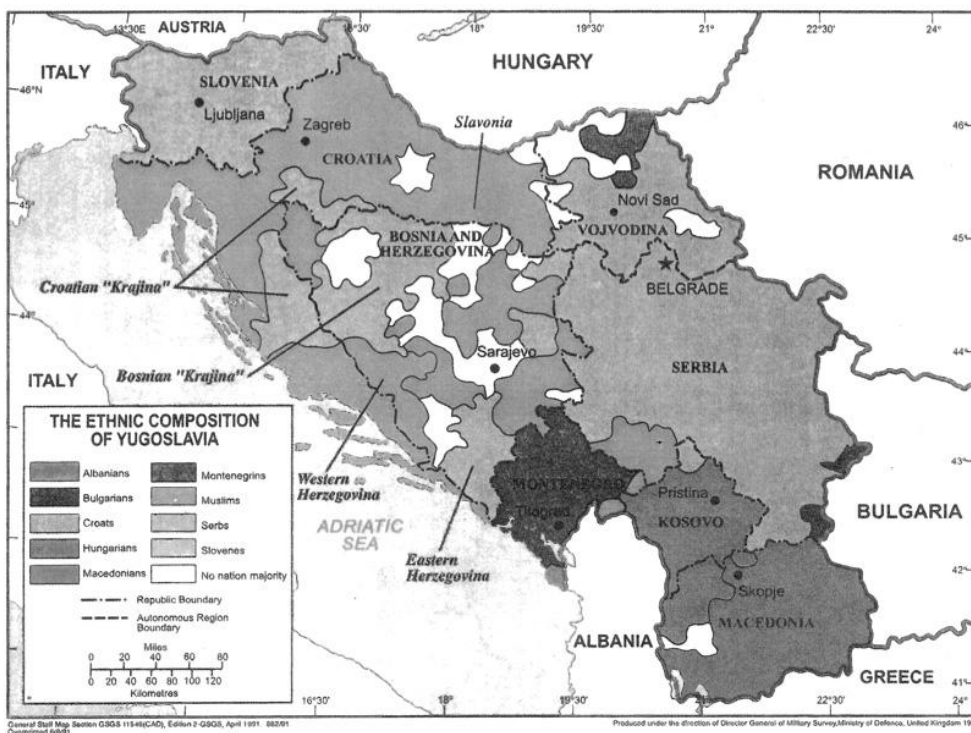


Figure 1 – Ethnic composition of Yugoslavia

Source: Great Britain, House of Commons, Foreign Affairs Committee. *Central and Eastern Europe: problems of the post – communist era*. Vol. 2, HMSO, 1992:43.

Finally, there was the use of force, applied through NATO intervention in 1995, which was considered the final piece of an international reactive strategy to end the conflict that had been lasting for too long. This led to the end of the conflict and the signature of Dayton agreement. Despite its conclusive bombing over Sarajevo, NATO was also supporting peacekeeping operations by the UN since November 1992, when under the United Nations Security Council resolution

number 713, NATO joined the Western European Union in setting up the Sharp Guard Operation (Figà Salamanca, 1996), to further ensure the application of economic and military sanctions imposed on the Socialist Federal of Yugoslavia.

Economic and Military Embargo

After a first period considered successful by Brussels, highlighted by the Brioni meeting, which was only able to impose preventive and reactive short-lasting solutions, such as the broken cease-fire, European politicians decided that an international intervention to tackle the Yugoslav conflict was necessary. However, European policies alone were not strong enough to stop Yugoslav leaders to pursue their own strategies; for this reason an external reactive reinforcement was set up when the UN Security Council issued its resolution number 713. This policy performed the first global intervention in the Yugoslav conflict, by involving the UN and all its member states.

By adopting resolution number 713 the global community committed one of its first coercive measures; the arms embargo was considered as a detriment to Croatia, due to the fact that the Serb-controlled Yugoslav People's Army was supporting Belgrade with its conquest plan directed to Croatia, leaving the Central government of Zagreb without financial support it needed for its engagement in a costly conflict. This approach significantly demonstrates that the international community did not set up any relevant prepared strategy to adopt and to impose over Balkans states, but its strategy was implemented on daily decisions. The EC and the UN in particular, never identified a major responsibility for the crisis, treating all the six Western Balkans members equally.

At the beginning of November 1991, besides military embargo, applied economic sanctions were also applied directly disciplined by the EC and Washington. During a regional meeting in Rome, the EC leaders decided to suspend the economic aid to Yugoslavia, as well as the PHARE pre-access program and the textile agreement (Trbovich, 2008); trade agreements that the EC had with the Socialist Republic of Yugoslavia since the 1970s.

However, after a first decision to impose economic sanctions indiscriminately, the international community changed its strategy and during the following years global sanctions in the economic sphere were applied only against Serbia and Montenegro, recognised as responsible for the crisis, in order to further marginalise their political and economic situation. These particular punishments directed to Serbia and Montenegro, which in 1992 formed the so-called Federal Republic of Yugoslavia (FRY), were highly desired by the U.S. government, whose main aim was to help Bosnian-Muslim people to fight and beat Serbs.

In contrast with Europe, since the beginning of the war, and even before, Washington's perspective and strategy were very clear. In an internal report written by the American Secret Service, the imminent dissolution of the Socialist Federal Republic of Yugoslavia (SFRY) had already been predicted; demonstrating that the Yugoslav implosion had already been calculated by a foreign government. Furthermore, Washington declared its deep inclination towards secessionist movements and the creation of new independent Balkans states, by asserting that American financial aids directed to Yugoslavia would cease to be supplied with the promise to be restored if the six Balkans republics would hold independent elections in six months from the day of their independence declaration (Pugh, 2001).

Global decision to impose an economic embargo can be described as one of the first international reactive failures for several reasons. The first one involves the fact that this type of policy was an advantage to Belgrade in pursuing its plan to recreate the old empire that Serbia had centuries ago. Furthermore, as Zarkovic (1994) asserted, the economic embargo had catastrophic impacts on the Western Balkans region.

According to his point of view, the dramatic situation in Yugoslavia might have been avoided by supporting a new political figure appearing on the Serb parliamentary elections scene at the beginning of the 1990s: Milan Panic, a billionaire Yugoslav man grown up in the United States, who was displaying himself on the Yugoslav political arena by supporting liberal ideologies

(Zarkovic, 1994). In November 1992, when Serbia's internal fragmentation was strongly increasing, Panic ran his campaign to be the new candidate president of Serbia in contraposition to Milošević. At this point of the story Zarkovic accused the international community of not taking into consideration Panic's campaign, due to the fact that he asked the EC to reduce sanctions against Serbia and support his candidature as a symbol of change in Yugoslavia. On the contrary Brussels intensified its economic punishments against Serbia provoking the response of Serb population who voted Milošević, allowing him to win the elections with 53,2% of votes, against 32,1% conquered by Panic (Bideleux, 2007:248).

A second important aspect reflects the relevance of numbers concerning the aftermath of the economic embargo. From 1992 to 1995 the Yugoslav GDP suffered a significant reduction. If we refer to numbers we can see that from 1991 Yugoslavia's inflation "gathered momentum, hitting 50% per month by February 1992. The beginning of 1993 saw inflation raging at 200% per month. By June and July of 1993, the monthly inflation rate had doubled 400% per month. August and October 1993 saw monthly inflation on the order of 2000%. November 1993 posted monthly inflation of 20,000%" (Allen, 2009:227). Balkans people were living in a devastating humanitarian situation, where a very high percentage of the population was surviving in pathological condition of poverty, where most of the families did not have money to buy basic medicines.

International Recognition Process

The collective reaction of the global community towards the first stage of the Yugoslav crisis followed quite a standard path: no one wanted to recognize the new republics of Slovenia, Croatia, Macedonia, and Bosnia-Herzegovina, implicitly approving Serbia's operations. The decision to maintain Yugoslavia's integrity was mainly guided by the fact that after the end of the Cold War, in the Old Continent governments that were facing internal secessionist movements, such as France and Spain, were afraid to see a further disintegration of their internal politics, especially as far as Corsica Island and Cataluña were concerned.

From another perspective there was Germany, a nation that always had interests in the Western part of Europe, especially because Bonn, like the Balkan states, went through the same self-determination process after the end of the Cold War. Germany was a clear example of the existence of a non-integrity feeling in the EC. This affirmation can be seen in two different aspects: the first one represents the fact that despite the arms embargo imposed by the international community, Germany in July 1991 sent several military aids to Croatia (Bethlehem and Weller, 1997), demonstrating that its internal politics was more relevant than a common European strategy. Furthermore, on 23 December 1991 Germany officially recognized Croatia and Slovenia as new independent states, without waiting Badinter Committee's decision scheduled for middle of January.

As far as the other members of the SFRY concern, Bosnia-Herzegovina was internationally recognized as independent in April 1992; Macedonia's recognition process was obstructed by Greece, which did not allow Skopje to adopt the name Republic of Macedonia due to territorial dispute. Only in 1993 Macedonia became member of the UN under the name Former Yugoslav Republic of Macedonia. Finally there is the FRY, composed by the remaining states of Serbia and Montenegro.

In contrast to Macedonia (where even though there were an international dispute with the government of Athens, the nation was declared sovereign only in 1993), for the remaining piece of the SFRY the situation was totally different. Serbia and Montenegro considered themselves as the legitimate successors of the SFRY, and their leader Milošević did not want to apply for membership of international organizations, due to the fact that the union between Serbia and Montenegro should have been automatically considered "entitled to positions in international organizations previously occupied by the SFRY" (Ramet, 2005:57). However, Serbia and Montenegro were excluded from the UN system, and with resolution number 777 it was demanded that they apply for the UN membership as newborn state.

The international community was accused several times of differently treating each of the former Yugoslav states, as well as using different standards and not following the same procedure, especially during the recognition process starting with the Badinter committee.

In addition the EC did not respect its own decisions. As established by one of the most relevant European tools issued during the first stage of the Yugoslav crisis, new Balkan states had to accept Western guidelines in order to become fully recognised as independent and sovereign states.

However Croatia was declared independent even though its constitution did not properly protect minority's rights, and it did not fully engaged with the Montevideo Convention on the Rights and Duties of States (1933), which denoted the most important criteria (territory, population, political authority) that an entity has to possess in order to be recognized as a state. The particular case of Croatian secession was linked to the fact that Croatia did not fully respect Montevideo principles especially in regard of being in charge of its national territory, which was already invaded by Serb troops, leading Zagreb to not having a full control on its own boundaries.

Nevertheless, Germany did not respect the European norms laid down by the Badinter Committee, demonstrating the weak level of authority of the EC even within its own member states which were clearly not willing to respect Brussels' directives.

Outside European borders, in Washington, the Bush Administration did not recognize Croatia, Slovenia, and Bosnia-Herzegovina until 7 April 1992. This American strategy highlights two aspects; the first one is the fact that even though Slovenia and Croatia were recognized at an international level in January 1992, the White House decided to not accept them as countries sovereign for four months, counterpoising its strategy to the one used by the EC and its member states, where two out of six former Yugoslav states were recognized as secessionist nations on 15 January 1992 by the Badinter Committee. Instead, Bosnia-Herzegovina was considered an independent state by the U.S. already 20 days before its internal referendum **was** announced for the secession from the SFRY. This particular strategy clearly denoted the willingness of the Americans to sustain Muslims people living in Bosnia-Herzegovina who were fighting for their own independence, against the Serb minority that boycotted the national referendum set up by Sarajevo's government. This aspect is one of the case that demonstrates the fact that the international diplomatic arena was clearly fragmented and in some cases opposite, especially regarding the fact that the most important organizations, as well as great powers, did not work closely together to end the Yugoslav crisis, instead they pursued multilateral policies that created even more confusion in a situation that was already very delicate.

Multilateral Solutions and the Final Dayton Agreement

From June 1991 to April 1994, international policies adopted by the global society were inefficient and most of the time not even respected by the international community itself. Policies that the Europeans and the UN Security Council were shaping can be considered highly ambiguous, especially in terms of lacking a clearly defined framework for international collaboration without permitting single governments' interests to prevail. However, from the creation of the international alliance among U.S., France, United Kingdom, Germany, Italy, and Russia, namely Contact Group, the global strategy became more unilateral and consequently more efficient.

Before the existence of the Contact Group, each international actor involved in the Yugoslav crisis was following different approaches to reach a final solution for the Balkan state where the conflict was fought: Bosnia-Herzegovina. Since 1992 Bosnia-Herzegovina was the focal point of the international community's strategy and policies, starting with the Carrington-Cutileiro Agreement, the Vance-Owen Plan, and the Owen-Stoltenberg. Strategies reflected global failures in finding a common solution that could be defined as satisfactory to everyone, ending with the final involvement of the Clinton Administration from 1993 and peace agreement signed first in Ohio and then in Paris, in December 1995.

The Carrington-Cutileiro Agreement was classified as one of the several multilateral solutions proposed by the European and especially by the UN, that were still considering the Yugoslav war as

an ethnic conflict, and for this reason they devised an international plan whose main scope was to divide Bosnia-Herzegovina into several homogeneous ethnic regions, which were accused to be the reflection of Bosnian national parties' wills (Iuso, Pepe, Simoncelli, 2002). Yugoslav leaders of all three fractions signed this global solution to Bosnia-Herzegovina, but when Washington's interests in avoiding the spill over of the Bosnian conflict to Turkey (an important piece of American foreign policy) prevailed, and it was promised to Sarajevo that the U.S. would recognize Bosnia-Herzegovina as an independent state, the leader of Bosnian Muslims decided to withdraw his signature and the Carrington-Cutileiro plan failed. This unexpected action was interpreted by Brussels as an attempt of Washington to sabotage European strategies.

The second attempt put in place to create a unified Bosnia-Herzegovina was made in January 1993 when one delegate of the UN, Cyrus Vance, and one European representative, Lord David Owen, were named to be mediators of one of the last international plans that purposed to turn Bosnia-Herzegovina into a federal state composed by 10 autonomous cantons based on ethnic criteria. This situation further worsened the already weak internal alliance between Bosnian Muslims and Bosnian Croats, due to the fact that both fronts wanted to have the higher percentage of territory. The last attempt was made by the Owen-Stoltenberg plan, whose target was to divide Bosnia-Herzegovina into three areas that would reflect the major ethnic groups of the country, with 53% of the territories would be controlled by Serbs, 30% by Muslims, and the remaining 17% by Croats (Haskin, 2006). As well as the other previous two plans, the Owen-Stoltenberg did not reach the consensus of the three Yugoslav leaders and it miserably failed.

In this international framework of incessant failure it was clear that a different global approach, especially in regards to what was happening in Bosnia-Herzegovina, was highly recommended. In fact, it is possible to consider the creation of the Contact Group as an essential switch for the establishment of the Bosnia-Herzegovina Federation, also called Croat-Muslim Federation.

The division of Bosnia-Herzegovina ended in December 1995 when the Dayton Agreement was signed, and the government of Pale was excluded from the negotiation. This global strategy was adopted to avoid Republic of Srpska's continuous rejections of international plans, pursued in order to conquer as much Bosnian territories as possible. The final agreement that decreed the end of the Yugoslav conflict institutionalized cantons that are "largely based on the pre-war areas with a Croat (three cantons) and Bosnian (five cantons) majority" (Bieber, 2006:63), and only two out of ten cantons were multi-ethnic.

One of the most relevant fact that highlights the international failure of the Dayton Agreement in particular, was revealed in December 2003 by the former Prime Minister of Poland, Tadeusz Mazowiecki, who wrote a document to assert the failure of Bosnia-Herzegovina as a federative state, by quoting Dayton failure in creating a new Balkan state without setting up any supportive instruments to enhance its internal economic and political development.

As Stefano Bianchini (professor at the Faculty of Political Science at the University of Bologna - Italy) said, Dayton meetings divided Bosnia-Herzegovina into two different entities based on nationality criteria not permitting Bosnians Croats to have their own state, but blending them with Bosnian Muslims into the Republic of Bosnia-Herzegovina (Divertito, Leone, 2004). This unsolved issue became a problem in 1999 when the international community had to set up a third independent area within Bosnia-Herzegovina's boundaries due to internal tensions: Brčko (Divertito, Leone, 2004). The creation of a further sovereign region besides the Republic of Srpska and the Republic of Bosnia-Herzegovina was the confirmation that Dayton did not accomplish what was really needed in the Western Balkans after the conflict.

The rushed decision imposed by the international community to create a model of state where three different ethnicities could live peacefully together under the same constitution revealed its weakness very soon and still nowadays Bosnia-Herzegovina can be considered even more fragmented than before the beginning of the conflict in June 1991.

| Preventive / Reactive Policy(ies) issued | International Organization(s) involved | Yugoslav State(s) affected |
|---|--|---|
| Military and Economic Embargo | <ol style="list-style-type: none"> 1. European Community (1991/ 1991) 2. United Nations - Resolution 713/757 (1991/1992) 3. U.S. (1991/1991) | <p>Military: all six members of the Socialist Federal Republic of Yugoslavia</p> <p>Economic: six members (8 November 1991), only Serbia and Montenegro (from December 1991)</p> |
| International Recognition | <ol style="list-style-type: none"> 1. European Community (January 1992) 2. United Nations (January 1992) 3. U.S. (April 1992) | <ol style="list-style-type: none"> 1. Slovenia (January 1992) 2. Croatia (January 1992) 3. Bosnia – Herzegovina (April 1992) 4. Former Yugoslav Republic of Macedonia (April 1993) 5. Serbia and Montenegro (January 2003) |
| Multilateral Solutions and Dayton Agreement | <ol style="list-style-type: none"> 1. Carrington – Cutileiro (1992): European Community, United Nations 2. Vance – Owen (1993): European Union, United Nations 3. Owen – Stoltenberg (1993): European Union, United Nations 4. Dayton (1995): European Union, United Nations, U.S. | <ol style="list-style-type: none"> 1. Carrington – Cutileiro: Croatia, Federation of Bosnia – Herzegovina, Serbia, Republic of Srpska 2. Vance – Owen: Croatia, Federation of Bosnia – Herzegovina, Republic of Srpska 3. Owen – Stoltenberg: Croatia, Federation of Bosnia – Herzegovina, Republic of Srpska 4. Dayton: Croatia, Bosnia – Herzegovina (only Federation of Bosnia - Herzegovina participated at Dayton meeting), Serbia |

Figure 2 – Most significant preventive and reactive policies issued by the international community

Conclusion

First signs of the Yugoslav system collapse were already visible to an external actor in the 1970s when the new Balkans constitution was adopted and the worldwide crisis of communist parties was inevitable. Moreover, the ascent of Slobodan Milošević and his nationalist ideology on the Serbian political scene was a clear symptom that the internal situation of the SFRY was becoming even more fragmented and worthy of attentions from a European eye, especially after what Brussels went through with Germany and Russia after the end of the cold war.

The international preventive and reactive policies adopted by the international community can be considered very weak, principally due to the fact that since the beginning of the Yugoslav crisis the will of the global society was to contain the war instead of solve it. After the end of the Cold War the Old Continent was facing several structural changes that led the EC to be very unprepared in front of a crisis coming from a federal state of which Brussels did nothing much about (Burg,

Steven, Shoup, 2000). Internal political reforms and the feeling that the Balkans powder keg was not a European concern led the Europeans to inexpertly manage the first preventive and reactive policies by issuing arms and economic embargos that exacerbated a situation already becoming catastrophic.

Each internal and external actor involved in the Yugoslav crisis ended up without reaching any satisfactory goal. The international community was not able to address the crisis in a diplomatic way. Nor did it accomplish a strong collaboration with other international actors until the creation of the Contact Group in April 1994, when finally the international strategy became unilateral and a military intervention was proposed.

The final international meeting that brought three out of four Yugoslav leaders to the same diplomatic table was considered by the global community as a positive achievement in terms of ending the armed conflict in the Balkan Peninsula. However, Dayton's role of a long-lasting solution especially as far as Bosnia-Herzegovina is concerned, can be described as a failure: 21 years after its signature it has not accomplished all three minority groups' expectations, leading to an inexistence of self-determination rights. It has also put Sarajevo in a situation where the government of an artificial state needs 5\$ billion of international funds (Bose, 2002) to sustain its already collapsed internal economy.

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Multiculturalism: Conflicts and Reconciliation in Modern India

Indrajeet Singh

The Indian democracy started sky rocketing right from the word go in 1947. The box of democracy was opened with great lyricism giving right to vote to citizenry mostly not literate, economically well off, and equal in social status. The process of democracy promised equality, liberty and justice to all the people living in India, regardless of caste, class and religion. In India, unlike Europe, democratic process preceded industrialization. The way in which democracy was rolling out in India stunned the whole world giving space to various kinds of interpretations about Indian democracy, both negative and positive. Democratic process was unfolding before the undulating hopes, aspirations and expectations of the masses who had been praying to the god to improve their material conditions for centuries. It was metamorphosis of old house into something new and exciting. The Indian democracy was going to be built into a long road leading to a landscape of promises and betrayals. It was a road on which all people – the rich and the poor; men and women; bete noire and disabled will make journey to improve their destiny under the equal ground rules gifted by the process of modernity. At the time of independence, Jawaharlal Nehru, father of modern India, declared tryst with destiny and according to him India was awaking to freedom when the whole world was sleeping.¹ But at times, this declaration seems to be full of contradictions. Was India really awaking or it had been spending sleepless nights with its painful stories for years? Now people had arrived at a historical moment where they could expect some kind of panacea to give them some sweet sleep and relaxation which they had been waiting for centuries. It had to be done through building up a nation state out of different kinds of diversities and complexities existing in the societal structure. The structure of Indian society was unequal and highly hierarchical with unacceptable Tendencies. So Indians had to shake off cast inequalities, poverty, food shortages and famine stricken society. At the time of independence, Indians were not limited to spiritual domain to reach

the goals of happiness but they had an option of western materialism life style. As a result, many people who called themselves modern and became concerned with mundane issues and broke off with spiritual world which despite many moral sermons failed to eliminate poverty and bring about social equalities. These modern people pushed the ideas of M.K. Gandhi into the glorious history of national movement who was more interested in traditions of India rather than modernity.² And ultimately, these proponents of modernity embraced John Locke, Bentham and some of them took to the idea of communism promoted by Karl Marx who some how did not fit in Indian society probably because the most of the Indians did not see him fit to bring about any drastic revolution to turn Indian society up side down. So, liberal democrats won the battle to establish the ideas of liberalism in the most traditional society of India. Though it is important to notice that these liberals have never been able to win the game completely against traditionalists to extenuate the foot prints of Indian customs and traditions. The battle between traditionalist and modernists is still on and it is not expected that it will get over in the near future. Rudolph and Rudolph make a very interesting observation while writing a book on India, according to them, “modernity assumes that local ties and parochial perspectives give way to universal commitments and cosmopolitan attitudes; that the truths of utility, calculation, and science take precedence over those of the emotions, the sacred, and the non-rational; that the individual rather than the group be the primary unit of society”.³

This paper aims at understanding the political and social processes regarding Indian citizens' role and their place in society as individuals, and cultural creatures as a collective identity in Indian society.

I will also try to understand the most important question whether India needs to declare the country as constitutionally multicultural to reconcile different conflicts or the Indian citizens should adopt the concept of pure liberal democratic universal values to give full autonomy to the individuals to realize their potential by eradicating the conservative hurdle in the becoming full citizen having all modern rights to exercise his or her rational capacity and feel free to take best decisions for himself or herself...

The paper will also cover the rise of regional parties and coalitional politics which has provided an opportunity to those people who were neglected earlier to energize their cultural practices and to increase political participation.

Philosophers of liberal tradition have always maintained that in a liberal democratic society, politics has the capacities to resolve different kinds of conflicts between people who play an important role as key players not only in markets but also shape the structure of society with the help of their world view. But one must remember that these groups have different views about their objective and subjective thinking. In addition to this, we can not ignore the fact that these groups belong to sub-cultural and sub-national groups and present a difficult challenge for liberal tradition of structuring the state which respects individual capacity of reason and rationality. The state also gives sufficient autonomy and individual existence to lead life in their own style. It raises very pertinent question whether citizens are only bound by the legal structures of the state, or they have other traditional obligations to perform deriving from the communities and their culture in which they are born.

Though liberal democratic state and society are governed by the principles of enlightened values like modernity, rationality, individual reason and autonomy but it is not free from the difficulties which are linked with various kinds of cultures. As a result, the liberal state sometimes, willingly or unwillingly allow various groups to practice their cultures and traditions. It is interesting to note that though liberalism does not give much room to group rights believing that individuals make good in their own capacities. But it is also interesting to take into account that cultures make a comeback like waves of the sea and pose a difficult challenge to liberal exponents. In the modern time, we notice that cultural rights and customs make space for themselves. The cultural values enter in the life of individual surreptitiously

or directly. Their entry is so secret that government authority fails to understand their arrival. So, what happens when such processes take place in the social and political domains. In the first place, cultural processes enter at the social level and then these processes conflict with the political processes leading to emergence of conflicts. Sometimes, these conflicts take place due to the battle between rational and irrational values, but at times, disputes come into existence due to infighting between different groups due to ego clash, superiority complex and most importantly due to economic and political interests between the groups involved. So, in the modern time, the liberal state cannot escape from the conflicts emerging from such social and political processes. So, in contemporary times, the liberal state is jostling with cultural values to adapt itself to multiculturalism. On the other hand, many groups representing their culture specially elites have been trying to pushback rational values, or in other words, universal values at one time, out of genuine concern, and out of selfish interest at the other. We have noticed such processes have taken place in countries like Canada and Australia. Though the journey made by the liberalism is long one and the concept of multiculturalism is not long enough but the battle between the two is very interesting and many intellectuals are very keen on understanding this curious clashes and adjustments between the two. So, the concept of multiculturalism has gained currency and acceptance in the modern world.

The Indian Case

In modern democratic societies, the main challenge emphasizes the need to supplement the focus on common rights with greater attention to cultural pluralism and group-differentiated rights.

It is easy to govern a society which consists of a group which shares common traditions, culture, values and language. But when society is multi-lingual, multi-cultural, multi-ethnic and multi-national, it poses difficulties in the formation of nation building and disciplining the various conflicts existing in society.

If we take a look at Indian society, we find that the country falls under the above-mentioned category. The Indian state and political community have faced unavoidable difficulties regarding nation formation in the past. India is such a society in which various kinds of – groups with different culture, traditions, and values have been in existence for a long time. It is a multi-religious, multi-lingual and multi-ethnic society. It is noticeable that there are many groups in Indian society which still feel that they are not adequately represented and their cultural rights are not protected in the process of nation building. When the Indian framed their constitution, the makers of the constitution kindled hopes and aspirations in the hearts and minds of Indian citizens. The Indian constitution is founded upon liberal democratic values which focus upon the centrality of the individual. But it was very difficult to introduce such a constitution into a society which is governed by cultural and personal rules and values. Though constitution makers tried to strike a balance between rights of individuals in chapter 3 by giving fundamental rights and in the same chapter, the framers of the constitution provide individuals with group rights. This contradiction has led to petty conflict time to time but at times, this process has led to big conflicts, specially when it comes to centre state relations. The Indian state has found it difficult to resolve ethnic conflicts, for example, in the Punjab and Assam in 1980. The country still faces the problem in the Kashmir valley. Party like Shiv Sena still believes in the theory of 'the sons of the soil'.

“Constitutions are inert. They do not work, they are worked”.⁴ It is true that the political structure cannot change the constitution continuously. But at the same time, it is important to

understand that if politicians resist changes, society goes stealthily through reflexive process and the state fails to smell the coffee. The same happened in India after 1990, when Indian society transformed itself, though the role of political processes cannot be denied in transforming social and political structure. It is interesting to note that Indian politicians must have got surprised at the changes which took place after 1990. It seemed as if the desired changes slipped through their fingers and they went the other way against the wishes of the Indian leaders. The most important change was the emergence of regional political parties and coalitional politics. This process gave space to regional hopes, aspirations and cultural values and it helped the Central Government to resolve the conflict between Central Government and various regional forces. Which had been struggling to find a place at the centre for a long time.

The decade of 1990s witnessed a major transformation in the political and social realm of Indian society . Indian state changed its strategy. It took steps towards more liberal state. Now India is a market oriented society. Market system is more open in comparison to earlier time. New social groups making their present felt. This is a harbinger of future political and social base in Indian society. It is an index which shows that future trajectories will be different from the past which were not open ended. In the past, common people had to perform their action with certain strictures. A particular elite group people had untrammelled powers. So the elite class misappropriated the rights of common citizens. This elite group demarcated the boundaries of rights of underclass people. Though Indian state was regarded as democratic but the application of the idea of democracy was limited in scope. But the limitation could not stop the citizens from following the process of democracy and social change, as a result, consciousness of Indian people never enjoined them to give up the axioms of democracy. With the passage of time, democracy has been taking deep roots in

Indian society and this process still continues. Some people regard Indian democracy tenuous and find it unsatisfactory. Many people speculated after the disintegration of Soviet Union that India might well disintegrate in the future to come but nothing of that sort happened. Crises came into existence and blew over with the time. It has been possible because India is a plural society and the state has been able to calibrate various interests existing in society. The crisis of governability which Indian has faced in the past is basically political in nature. “Detailed investigation of local, regional, and national politics leads to the proposition that the roots of Indian's growing problems of governability are more political than socioeconomic that is. They are located mainly in Indian's political structure. A highly interventionist state dealing with a poor economy has become an object of intense politic competition. The spread of egalitarian political values and the opportunities provided by democracy have, in turn, helped to transform what was once a heterogeneous social structure into many groups of mobilized activists. But at the same time, we must remember that the Failure of leaders to make timely concessions has only intensified political demands and activity.”⁵ If we see over all picture of Indian democracy, we find that Indian democracy has been successful despite low-income economy, widespread poverty and illiteracy, and immense ethnic diversity.⁶

In such a system, political parties play an important role in the life of citizens. Political parties work as an agency between citizens and the state. They operate as the protector of democratic norms. Major transformation has taken place in the party system in the recent years. Parties are indispensable for a democratic state. They perform various functions. Modern political party basically perform three critical functions: nominating candidates for public offices; formulating and setting the agenda for public; and mobilizing support for candidates and policies in an election.⁷ Political parties are central to Indian political life.

Their role in political mobilization, governance, the formulation and implementation of economic and social policy, ethnic conflict, separatist movements, and the working of democracy has long been the focus of analysis.⁸ In 1950 and 1960 party system was not competitive. Citizens had choice between the Congress and certain regional political parties. Electoral participation of citizens increased in 1970s and 1980s. The period of 1990s witnessed upsurge in participation of people. More and more participation on the behalf of citizens has led the emergence of coalition politics. Social cleavages have played an important role in creating coalitional politics in India. All these developments raise questions like what are the conditions under which parties and party system change? How has the party managed to cope with social change? How do we understand the contemporary party systems and its impact on democracy?⁹ Under such circumstances, the coalition politics has come to stay and becoming a reality. All Governments which have been formed after 1996 are formed under the principles of coalitional politics. So, question arises that the principles and rules of coalition formation have established themselves in a proper way? It is very difficult to prognosticate that how much time political community will take to understand rules of the game.

There is another question which arises here, is coalition politics going into right direction?

It is sure that in India, civil society and political community can not afford to eschew the politics of coalition but one fact can not be avoided that multi-party system which is the foundation stone of coalition politics has to go a long way yet. The recent history of India poses many questions: “What impact would the process of economic liberalisation have on the functioning of the polity and on the development of a country which has entered the 21st century with the world's largest population of the poor and the illiterate?

- | Will the political changes that have taken place lead to a greater integration of minorities and tribals within the national mainstream?
- | Will future governments be better able to reflect the aspirations of different regional and ethnic groups?
- | Will the redrawing of the internal political map of India be more than a cartographic exercise and heighten fissiparous tendencies?
- | And, will the aggravation of contradictions in the world's second- most populated country and arguably the most heterogeneous nation-state bring about its disintegration, as some have claimed from time to time?"¹⁰

National Minorities and the Concept of Multiculturalism

Nation state is the key word for political scientists in today's world. The nation state is a state where citizens, generally speaking, share similarities in culture, history, traditions and compact geography. One can make sense out of it only in the context of European nations. But when we hold political discussions about the state emerging in the Asian continent or in African countries for that matter, we find that the nation state has emerged under absolutely different conditions. In European countries, the nation state is the product of industrialization, science and technology. But in continents like Asia and Africa, its evolution is the result of freedom struggles launched by various kinds of groups which belonged to different cultures, values, traditions and more importantly they were from different geographical units and there was no concept of citizenship, civil society and classes, specially in the Indian context. So, when we have a look at the landscape of Indian society, the Indian citizens find that their society consists of multi-cultural, multi-lingual and multi-religious groups. So, multiplicity and difference are the key concepts and Indian civil society and political community must recognize such differences in our society because that is the beautiful heritage of our history.

Philosophers of liberal tradition have always maintained that in a liberal democratic society, politics helps resolve all kinds of differences and people become key players in a market society. But one must remember that different sub-cultural and sub-national groups present a difficult challenge for liberal market state from time to time.

In a liberal democratic society cultural rights make space automatically and they exist independently. The moment any government tries to check such tendencies, it stops being a genuine democratic state and it becomes an authoritarian regime. So, here becomes important the concept of multi-culturalism. Though concept of multi-culturalism does not have a long history but it has a very strong link with political philosophy.

In the 1950s and 1960s, philosophical tools of interpretations of various aspects of politics were pushed into the background and a more scientific approach which was based on facts and empirical observation became the watchword among political scientists. But this trend did not continue for long, though it may have its own advantages in the realm of political science. The decade of 1970s witnessed a shift in the field of political theory. Political philosophers started expressing dissatisfaction towards empirical methods of studying politics and they revived traditional methods, which were value oriented, to study the field of politics. As a result, concepts like liberty, justice and equality again took the driving seat.¹¹ Though the liberal school of thought occupied a very important place in the history of political theory, it was challenged in the decade of 1980s by some new theories like communitarianism and multi-culturalism.

In modern democratic societies, the traditional model of citizenship has faced challenges on two grounds: (a) citizenship was not all about getting certain political, civil and social rights

but it is also oriented towards duties and obligations, civic virtues and active political participation on the behalf of citizens.¹² (b) The second challenge emphasizes the need to supplement the focus on common rights with greater attention to cultural pluralism and group-differentiated rights.

This second challenge reflects a broad-ranging movement not only in political philosophy, but also in real-world politics. This movement has been discussed under various labels: the 'politics of difference', 'identity politics', 'multiculturalism', 'the politics of recognition'. While each term carries slightly different connotations, the underlying idea is similar".¹³ It is easy to govern a society which consists of a group which shares common traditions, culture, values and language. But when society is multi-lingual, multi-cultural, multi-ethnic and multi-national, it poses difficulties in the formation of nation building.

If we take a look at Indian society, we find that our country falls under the above-mentioned category. The Indian state and political community have faced unavoidable difficulties regarding nation formation in the past. India is such a society in which various kinds of groups with different culture, traditions, and values have been in existence for a long time. It is a multi-religious, multi-lingual and multi-ethnic society. It is noticeable that, no matter how much progress the Indian nation has made, there are many groups in Indian society which still feel that they are not adequately represented and that their cultural rights are not protected in the process of nation building. It is unfortunate that many national minorities still feel marginalized and isolated. These groups, as we know, have presented a challenge to Indian nation state time to time to gain the status of 'differentiated citizenship rights'. It is not their socio-economic status which presents a problem but it is socio-cultural identity

which compels them to protest against the decisions taken by the national elites in the name of national unity and nation building.

So, in such a diverse society, multiculturalism can be a key to establishing a society in which various kinds of groups with different kinds of traditions, culture and identity can live in peace and harmony. It becomes possible by establishing a social order which is free from bias, prejudice and by giving differentiated citizenship rights to diverse cultural groups existing within the larger state.

Here arises another question: will multiculturalism erode autonomy and rights of individuals within a particular group given by Indian liberal democratic state? The answer is definitely no. Here we have to make a distinction between two types of multiculturalism. Will Kymlicka talks about backward looking or conservative and forward looking multiculturalism. The conservative form of multiculturalism is used by traditionalists to stop progressive change from taking place within the group. According to Will Kymlicka: this is ‘old-fashioned cultural conservatism dressed up in the new language of multiculturalism’.¹⁴ But this is not the only form of multiculturalism. We also witness progressive multiculturalist forces which take to liberal values to pose challenge to, what Will Kymlicka calls, ‘practices of exclusion and stigmatization that prevent members of minority groups from fully enjoying their liberal rights and fair shares of resources’.¹⁵ He further maintains that ‘multiculturalism is the enemy of cultural conservatism and both reflects and embraces the openness, pluralism, and autonomy that modernization and globalization entail’.¹⁶

The second category of multiculturalism suits Indian society. It is progressive in nature and serves two purposes. In the first place, it protects the rights and identity of any given group,

and in the second place, it also gives protection to individuals' autonomy, dignity, liberty and liberal rights by posing challenge to conservative traditions like Sati: a cultural practice according to which widows were burnt on the pyre of her husband. This practice was declared as illegal by the British Government in 1829. In addition to this, female child infanticide is still prevalent in many parts of India and the oppression of women in various forms can still be witnessed in the name of culture. So, there is much likelihood in the future that Indian society, instead of cultural conservatism, will witness the liberal form of multiculturalism which fits within the framework of liberal intellectual tradition.

It is well known fact that India is a such a society in which the state has to adjust various interests. For a such a society, it becomes absolutely essential that coalition politics takes a proper shape because the process of coalition politics mirrors different cultures and values. Though we should also remember that the coalition politics is not free from difficulties and the present coalition politics suffers from many pitfalls. It gives birth to opportunism and horse trading. It creates conditions in which even a small political parties make governments unstable. But we have to keep in mind that society like India which consists of multi-cultural and multi-ethnic groups requires coalition politics which helps those social groups to come forward which in limbo earlier. Need of the our is we should fix the rools and principles of coalition politics. It should be remembered that there should be pre-poll alliance so that citizens do not get confused. Apart from it, India should promote Democracy to make coalition politics a genuine effort rather than fulfilling narrow selfish interests.

It is difficult to decode the idea of India because many people have encoded the idea of India in a very complex way and people have got promiscuous idea of India. Some people look at India in terms of culture, and other search the idea of India in terms of territory. But in my opinion the idea of India lies in the process of bringing in some universal values by pushing

away parochial tendencies like ethnicity, religion and caste loyalties etc. universal values like genuine capitalism with human face, human capital, social capital and cultural capital should replace primordial loyalties. Apart from this, people should follow the basic tenets of enlightenment: rationality and utility of reason and science should be given priority over narrow tendencies like religion and caste identities. identities of different caste and communities should not be activated for fulfilling vested interests.

If we have to make India a true democratic society in which the interests of all the different communities are protected, it becomes absolutely important that we should follow the principles of liberal democracy which basically focus upon liberty, equality, individual existence, equal citizenship and reconciliation of class conflicts through negotiation and dialogue rather than bringing back caste for fulfilling political purposes which divide society into different artificial compartments thereby halting society from progressing from reaching the goal of material progress. Fukuyama talks of two motors of history: one material development and another non-material forces. In India the wagon of material forces is on its road in a very small way because a few people getting the benefits and the rest of the people have failed to develop their individual capacities and potentialities. Most of the politicians and intellectuals have invented sophisticated community tags ignoring their individual existence. The second motor of history which Fukuyama talks about is non –material domain wherein prestige, recognition and dignity etc. are important. This second process has not taken place in Indian society. A few people have got reservation in Government sector for getting employment and political domain which is the spin off affirmative action. This process has improved economic conditions of only a few people belonging to scheduled caste, scheduled tribes, other backward classes and woman category but the process of reservation has failed to bring about true recognition and prestige to these social categories. For Fukuyama this second motor is more important for reaching the destination of true liberal democracy from which India is far away yet.

In my opinion, if Indian citizens adopt the culture of civic community and follow the civic virtues, there is no need to declare India as multicultural society constitutionally. But at the same time if Indian nation is skewed to majority culture and fails to give adequate respect to small community, these small communities can push the Indian state to declare India as multicultural society at some point in the future.

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Policy for Civilization Protection toward Refugee's Status in ASEAN in order to Implementing ASEAN Political Security Community

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Abstract

Recognition of refugee status based on convention 1951 and protocols 1967 provide benefits for refugee, it defines to give guarantee to non-refoulement and special rights for refugee. Recognition of refugee status in group implies great current migration for seeking protection to neighbor countries. Several refugee cases proof refugee giving threat to the local society instead of security and harmony, for instance refugee migration in European Union nowadays threaten their local instead. Based on this background, it is important to create preventive action to fight similar case especially in ASEAN Region. ASEAN, as intergovernmental organization which willing to improve life value within their States Member in Economic, Political Security, and Socio-Culture in order to bring welfare into reality, own human rights institution called as ASEAN Intergovernmental Commission on Human Rights (AICHR) which committed to giving Human Rights Protection and Fundamental freedom where reflected in ASEAN Human Rights Declaration. Specific criteria is needed and expected to think out a regulation for refugee status and protection toward refugee and civil society in ASEAN Region. This kind of criteria will become a control and filter against refugee which will come into ASEAN Region then strengthen Politic Security Pillar. Incremental Theory is important in this research as it is provide a basis to modify a policy. Recommendation will be provided as the result of this research which able to be implemented as a policy for protecting ASEAN civilization.

Key words: Policy, Refugee, Protection for ASEAN civilization, ASEAN Politic Security Community, Incremental Theory.

Introduction

Convention 1951 is a basis of legal international refugees and define refugee as a person who because of fears are unfounded about mistreatment caused by race, religion, nationality, membership of particular social group and particular party, being out of nationality and do not want protection from there state. Based on Article 1 of the Convention, as amended by the 1967 Protocol, defines a refugee as this:

"A person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.."

Several groups have built upon the 1951 Convention to create a more objective definition. While their terms differ from those of the 1951 Convention, the Convention has significantly shaped the new, more objective definitions. They include the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa by the Organization of African Unity (now African Union) and the 1984 Cartagena Declaration, while nonbinding, also sets out regional standards for refugees in Central America, Mexico and Panama.

In human rights protection for refugees in ASEAN as can be interpretation and can we see in the declaration of human right ASEAN article 3

"Every person has the right of recognition everywhere as a person before the law, every person is entitled without discrimination to equal protection of the law"

In the framework of the promotion and protection of human rights, ASEAN has set up human rights commission between ASEAN government (ASEAN Intergovernmental commission on human right/ AICHR) at the KTT 15th in Cha-Am Hua Hin, Thailand, 23rd October 2009. AICHR is a constitutive intergovernmental agency and be a part in ASEAN organizational structure in the integral. AICHR is a human rights agency that is through and protection of human rights in ASEAN. (Kemenlu, 2015). AICHR has an obligation to cooperate with other relevant ASEAN bodies with human rights in older to perform the coordination and work together in ASEAN, but in Declaration of ASEAN and AICHR has not been set up particular and specific about the definition of who is refugee in ASEAN.

The construction of the ASEAN political and security pillar may not be important than the construction of the economic pillar of the ASEAN, but the challenges regarding security toward ASEAN should continue to developed such as resolution of the country's territorial boundaries, maritime delimitation between ASEAN countries. This problem gives impact to the status of refugees and to the protection of citizens against refugees in ASEAN. In 2015, among 244 million international migrants worldwide, 104 million (43 per cent), were born di Asia (Afairs, 2016). The increase of asylum seeker, conflict in Sri Lanka and human rights situation in Myanmar, crisis Iraq humanitarian in far-east Asia which increase the number of refugee in Asia region and especially to ASEAN, this case will insist a conflict toward security to a nation if there's no law which regulate specifically toward this case. In case Rohingya refugees is diverse in its specific areas of destination in ASEAN as Malaysia, Thailand, Burma, Indonesia in this paper possible implications and protection citizen for refugee.

Therefore in this research will be explain about refugee in ASEAN then policy modification toward legal protection in ASEAN so that able to accommodate about defining refugee which need protection toward ASEAN citizen when refugee come to ASEAN shouldn't to threaten from every nation in ASEAN.

ASEAN Community

The role of ASEAN as regional institution is essential, as one of ASEAN mission is to creating peace around South East Asia. The adoption of the ASEAN Charter at the 13th ASEAN Summit in Singapore in November 2007 represented a landmark for ASEAN. The Charter provides the institutional framework for ASEAN to meet the challenges of a rapidly changing global environment as well as the realization of an ASEAN Community in 2015. The ASEAN Community comprises three pillars, namely, ASEAN Economic Community, ASEAN Socio-Cultural Community, and ASEAN Political-Security Community. Each pillar provides its own Blueprint which contains action plan and contribution to realizing ASEAN Community.

Based on ASEAN Charter, South East Asia Countries agree and commit to build and preserve peace among ASEAN then ASEAN Community born after this. ASEAN Political-Security Community seems to be the backbone of ASEAN Community as instrument to implement safety within ASEAN. Through creating security among ASEAN, benefits in other sectors such as economics growth, assurance welfare, life expectancy will be increase, etc. thus, ASEAN throughout political security community able to provide guarantee to civic society.

ASEAN Political-Security Community

ASEAN Political-Security Community known as the basic support which will drag up the South East economics. For this reason, ASEAN Political-Security Community should be a filter for everything which wants to intrude ASEAN Region for instance the refugee. Finding that regulation regarding to refugee has not been regulated in ASEAN Political Security Community. This thing is important to be considered as in several cases, refugees who come to regional area exactly threaten local society and making disturbance of civil society's security. Unbalance situation promote gab for regional institution such as ASEAN to be intruded with bas content for local society.

ASEAN Political-Security Community expected to be a control system has to strictly in enforce regulation for refugee and also considering their human rights status. ASEAN principles being used as basis to decide worthiness of refugee which stays in ASEAN region and grant asylum. This thing is important in term of ASEAN as community institution for neighborhood country which honor and respect each other. ASEAN Political-Security Community as Control System can be a solution for racial problem and implement justice and security in regional through decide and declare rules-regulation, status refugee, and giving protection for refugee and for local society. Those things will be achieved and expected as recommendation for ASEAN.

The Rejection of Refugees in ASEAN

As we have explained previously that the definition about refugee's status we can find the definition of refugee in the 1951 Convention is the main legal basis of the legal International.

And the definition of Refugee contained in it became the primary basis of determining refugee status. Until 1 September 2016, from 146 countries have become participants of signing of two Conventions it. In order to determine whether a person or group to qualify as a Refugee or not, each country is obliged to use the eligibility criteria in accordance with the 1951 Convention. (Pengungsi, 2005). The legal basis was not directly can be received ASEAN. But In some ASEAN Countries we can see that there are some Countries refuse of refugees, In case Rohingya refugees is diverse in its specific areas of destination in ASEAN as Malaysia, Thailand, Burma, Indonesia, in some Countries in ASEAN as Thailand, Malaysia and Indonesia thus do prevention of refugees who will come in the those state sovereignty. A third of the Country very clearly reject the arrival of refugees in his Country of ASEAN, until this day ASEAN didn't have announced an official policy about prevention of refugee arrivals in ASEAN State.

An example is the Thai government launched massive raids after the mass Grave containing 33 found bodies of ethnic Rohingya and Bangladesh from Myanmar in area this of the border country to Malaysia. (mins, 2015) . Indeed the Government of Thai issued a statement about an arrival of refugees in this Government. "What do you expect us to do?" Asked Malaysian Deputy Home Minister Wan Junaidi Jafaar, "We Have been very nice to the people who broken into our border. We have treated them humanely, but they cannot be flooding our shores like this. We have to send the right message." He said that they are not welcome here. Thai prime Minister Gen. Prayuth Chan-ochan meanwhile said his country couldn't afford to host the refugees "If we rake them all in, then anyone who wants to come will come freely, where will the budget come from?" (Yahoo, 2015).

UNHCR estimate in last three months in this year of about 25.000 ethics Rohingya and Bangladesh estimated to be victims of human smugglers who send their damaged boat heading to Malaysia." The total of people doubling on appeal the same quarter in 2014" (Affairs, 2016). The rejection of refugee at several countries are in fact, the problem not just about the budget to be given for the Refugee but also on the security of Country. When a country doesn't have an extensive territorial then the arrival of the refugees will bring up new problems for these countries. With increasing population it will be automatically affect the growing number of the population in a country, that problem could be a threat to the territory of a country that doesn't have a large territory.

The Acceptance Refugee in ASEAN

ASEAN agreements for refugee to come in ASEAN Region show the urgency to determine their status as refugee. Once ASEAN declare to accept their status as Refugee according to United State statements, meaning at that time the rules applied for refugee which enter ASEAN region. Several refugee case which accepted by nation in ASEAN, when Rohingya refugee allowed to stay in Aceh, Indonesia. Tri Nuke Pujiastuti said that, "We (Indonesia) in crisis condition about refugee and asylum seeker. In short of time, their numbers which enter to Indonesia extremely high, beside the number which quit form this country extremely low." On the other hand, there are more than 10,000 refugee or asylum seeker from Afghanistan, Syrian, Iraq and Iran which still stayed in several places in Indonesia, because there's no other country willing to accept them (Affan, 2015). Refugee only allowed staying within one year, after that time ends, Indonesia expect there's other country which will grant asylum for Rohingya refugee such as Australia or other neighbor country.

The Philippines has signaled it is ready to take in thousands of migrants who are stranded on Asia's seas, the first country to offer shelter after its south-east Asian neighbors blocked them from entering. Manila, a signatory to the United Nation's refugee convention, said it would help as it denied a local report claiming that the Philippines planned to push back boats carrying some 8,000 people fleeing persecution in Burma and poverty in Bangladesh. (Yi, 2015) As mentioned, ASEAN have to take a role as control system toward this case, this thing will helps in conflict resolution of Rohingya refugee.

The Incremental Model

The notion that decision makers make incremental course corrections from the status quo has dominated thinking about policy change since the late 1950s. While the concept is general, it has been applied with particular success in the study of public budgets. The incremental model as a descriptive model of policy choice has been subject to withering fire on theoretical, methodological, and empirical grounds, all profound criticisms that it did not survive. The incrementalists based their approach to budget behavior on models of decision making featuring "considerations of limited rationality in the face of complexity and uncertainty". In that framework, outputs are governed by standard operating procedures, and these SOPs are incremental in nature.

Participants have been expected to use incremental decision rules for three reasons. The first involves the relative ease of reversing mistakes following incremental changes. The second concerns the desire of participants to establish stable expectations in a complex and uncertain environment. The third concerns the nature of overlapping, conflicting, and interacting institutions in American politics, which push participants toward compromise. Since we do not know exactly how incremental adjustments are made at any one point in time, we commonly assume that the adjustment is random. The central limit theorem is a strong buttress for assuming that changes from the status quo are drawn from a normal distribution. Hence we can write (Padgett 1980):

$$P_t = P_{t-1} + \varepsilon_t$$

or

$$P_t - P_{t-1} = \varepsilon_t$$

Policy today (P_t) is policy yesterday (P_{t-1}) plus or minus a random component.

This implies directly that any period-to-period policy change is simply a random component. If we sum up all these changes or first differences, then the resulting frequency distribution would be approximately normal. The reason is because of our standard assumptions about the error term of the model and the central limit theorem. If we add up all these error terms, each of which is drawn from an unknown distribution with finite variance, then the sum of these terms will be a normal distribution. Considerable debate, much of it based on misunderstandings, has characterized the notion of incrementalism. Much of the debate has centered on "how large" a policy change would need to be to qualify as "non incremental." Any particular policy change in the eye of one beholder can be trivial; in the eye of another, it can be huge. In the absence of an agreed-upon standard, the question of policy change versus continued policy stability is unanswerable. That argument is needless in the distributional

perspective, where any change is judged relative to the overall pattern of policy stability and change. If incrementalism holds, then the distribution of policy changes across time must be normally distributed. If it is not so distributed, incrementalism cannot be the right model for the decision process (Jones, 2014).

Modification to ASEAN Regulation about Refugee

As we already explain above, regulation related to refugee in ASEAN can be interpreted as declaration of human right ASEAN article 3:

“Every person has the right of recognition everywhere as a person before the law, every person is entitled without discrimination to equal protection of the law”

This regulation neither regulate specifically nor define who is refugee, but we can see in article 3, every person has the right of recognition everywhere as a person before the law including the refugee. In other regulation, interpretation about refugee already stipulated at 1951 Convention which said, “

In the International Covenant on Civil and Political Rights article 2 chapter 1, article 7, article 9 chapter 1, and article 12 chapter 1 and 2, contain regulation which able to applied for international society, Due process of law which a form of principle from nation and applied as source of national law so that no one international subject can be allowed, if there's no other law regulated. This chapter also regulate that every nation have to honored and guarantee the rights in ICCPR without any status differentiation, including nationality status.

According to article 14 chapter 1 universal declaration of human rights 1948, everyone has the right to seek and to enjoy in other countries asylum from persecution. Everyone who seek asylum, have rights not to rejected when he come to a country with unusual way. This principle known as “non-refoulement” principle. This principle also regulated in Geneva Convention 1951 article 33 chapter 1. This principle claimed as part of international customary law, meaning non-member states from Geneva Convention, must be honored non-refoulement principle.

In this case, there only several of ASEAN country already ratify convention 1951, but non-refoulement not only bind for nation which already ratify protocol 1951, because this principle is *jus cogens* for international law, the principles that form the norms of international law that cannot be set aside, or peremptory norm. whereas, for an ASEAN country who reject the refugee such as Indonesia, Thailand, and Malaysia whose reject Rohingya to their country with many reasons, seems against to this principle. These things happen because not being regulated implicitly regarding refugee in ASEAN policies. In the other side, exceptional application for non-refoulement principle base on article 32 chapter 2 convention 1951:

“The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.”

In the Practical, for nation which already mention above, they are rejecting refugee because it is not regulated in the article 32. This is a case which can't be solved if there's no policy modification in ASEAN.

Pray for relief

Exception toward refugee's rejection coming to certain country stipulate in article 32 chapter 2 convention 1951 as security within this country as the main reason, but we also have to consider refugee status which their nationality has not claimed yet become the beginning case of this refugee. This is why they are seeking safety on other country. States act which not grant a nationality to a person or a certain group which already exist before in these country before they are independence should be responsibility of these home country because their constitution did not grant nationality to this group. Regarding to *Article 2 (Responsibility of States for Internationally Wrongful Acts 2001) Elements of an internationally wrongful act of a State There is an internationally wrongful act of a State when conduct consisting of an action or omission:*

- a. *is attributable to the State under international law; and*
- b. *constitutes a breach of an international obligation of the State*

Protection for Citizen toward Implementing ASEAN Political – Security Community

ASEAN as a regional community pictured as a coordination institution which contain different entity and able to interact one and another. Within Political Security Regional context, ASEAN playing an important role, thus ASEAN become center of regional movement and declaring posture from ASEAN Country toward cases.

In regard of implementing protection for citizen toward potential threat from incoming refugee to ASEAN region, The ASEAN Blueprint already mentions their action as following:

“i. Develop capacity building programs to complement the existing CLMV countries' efforts in the areas of rule of law and judiciary systems and legal infrastructure, promotion and protection of human rights, political and social development, effective and efficient civil services, and good governance in the public and private sectors. ii. Promote capacity building for CLMV countries in the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).”

Therefore ASEAN Political Security Pillar should take importance role which able to create protection to ASEAN citizen. This protection used for preserve ASEAN citizen from any thread coming from refugee for instance a territory thread for citizen from a nation which has not broader areal, other thread will be impact on national welfare. That's why a strong commitment from ASEAN along with UNHCR to be a facilitator and mediator for every ASEAN country that has willingness and availability to intercept permanently also granting asylum toward refugee in ASEAN country. In other word refugee who comes to ASEAN they allowed to give prior notice and ask ASEAN to be facilitator for refugee so that no more rejection toward refugee which will come to a nation and for give protection toward citizen in ASEAN. Modification in ASEAN policy for resettlement refugee in certain places outreach from citizen and not to discriminate their rights such as rights to life, rights to be health,

rights to be educated, rights to obtain place to live and other rights which stipulated in 1951 convention.

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Role Of Religious And Traditional Leaders in Preventing Violent Extremism: A Case of Boko Haram Terrorist Fighters In Nigeria

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Abstract

The Problem

Going by the spate of violent extremism and terrorism in some African countries; especially in Nigeria where valuables worth millions of dollars and about 30,000 lives lost due to the Boko Haram scourge; and the alarming devastations of villages and towns in the Northeastern parts need much to be desired. Many have been displaced out of their homes and communities; government and various stakeholders, until recent, have found it extremely difficult to face the conflict head-long. Religious sites and Public Properties vandalized even seat of government were captured by insurgents making good their promise to take over the region of leadership and proclaimed them as Islamic States. Women and girls have been used as captives and slaves to carry-out their nefarious and horrendous act such as domestic servants, sex object and suicide bombers. A recent study on the Boko Haram card out by my organization, the Strength in Diversity Development Centre, Nigeria and its International partners such as the Network for Religious and Traditional Peacemakers, the Finn Church Aid (FCA) and KAICIID shows that, apart from Religious being major motivation, revenge, neglect, poverty, peer and family pressure also constitute the main reason why people join the insurgent extremist group.

The Solution

This paper present finding and recommendations of a research study carried out on some ex-insurgents/extremist and defector of Boko Haram in the Northeastern part of Nigeria.

The study was carried out to find out about the motivations agitations, initiations and source of funding of the Boko Haram extremist group. The study also strives to bring into the public fore, the very important role of women and girls in the Boko Haram operation as against the public perception of just only lasting solutions to how religious groups and leadership could be used as peace agents to influence their various groups, faith organizations and communities to engage warring youths and extremist to effectively manage the menace and tame similar occurrence in the Northeast and other parts of the country.

The Outcome

The outcome of this paper will be of dare interest of those peace builders on the working on the reconciliation, rehabilitation and reintegration of Violent Extremist Offender (VEO's), Foreign Terrorist Fighters (FTFs); government and other stakeholders both local and international; especially the discussions on the outcome of the study to appropriating channel their efforts towards engendering peace and true reconciliation among the people and the offenders. Furthermore, it would actually enhance further researches and studies into other vital areas of concern in this regards.

INTRODUCTION

Nigeria, in recent times have experienced one of the worst and most devastating conflict in its history due to a 7 year insurgency in the Northeastern part of the country. Furthermore, taking a cursory look at the scourge viz-a-viz various reports on violent extremism currently ravaging the world, many have come to the conclusion that religion has played a very critical role in motivating violent extremism in the quest to establish a religious states as against secularism.

Similarly, many accusing fingers have been pointed at Islam, as a major factor, and consequently projected and perceived as a violent religion due to wrong interpretations and misconceptions of its scriptural texts and as well misrepresentation of its religious ideologies and values by some very few adherents; quoting some texts to give justifications and support to their nefarious act.

Furthermore, the above study, “uncovering the root causes of Boko Haram insurgency in the Northeast- Nigeria” conducted on both peacemakers in Nigeria and ex-Boko Haram members last year. Unlike the peacemakers perception that religion is the main driving force behind joining the terrorist group, a significant number of the ex-Boko Haram Members responded that they joined due to other reasons and not mainly for religious purpose. The study is based on the interview of a total of 119 former Boko Haram members and 60 Peace builders representing civil society organizations in Nigeria.

Key findings

1. **Venues of recruitment:** While the typical assumption among the citizen of Nigeria is that the primary source of introduction of Boko Haram is through Madrassas, the reality is somewhat different. Boko Haram ex-fighters reported overwhelmingly (60%) that their first introduction was through people close to them – friends, immediate family and family. Very little evidence of individual ‘firebrand’ Imams preaching on the side Boko Haram was found.
2. **Circumstances Surrounding Interviewed Boko Harram Members:** Citizens, including Boko Haram member, supported military actions in the fight against Boko Haram. This result was most likely influenced by the fact that (1) the fighters interviewed were in constant fear of revenge from Boko Haram, (2) of the women interviewed man had possibly been abducted and claims of being forced to join were evident even amongst the men, (3) life in the Boko Haram camps was described as fraught with fear and danger, and (4) those who had voluntarily joined claimed to have been disillusioned. Former Boko Haram member also expressed fear of being victimized by communities.
3. **Role of Women:** The former Boko Haram members estimated that a total of 500 to 1000 women are part of Boko Haram. Even though common perception assume that women are mostly engaged in domestic work, the research found that the women worked as inter alia foot soldier, recruiters, as well as in handing explosive.
4. **Trust in the Government:** 72% of peace builders and 48% of former members of Boko Haram voted in the last election. The study showed that the level of participation in the political process was allied to the level of trust invested in President Muhammadu Buhari. Trust in the State seemed to be embodied in the President as a figure rather than an organ of the State. 58% of peace builders and 38% of former Boko Haram fighters trusted religious leaders.

METHODOLOGY

The research was carried out with the use of structured questionnaire with multiple choice and open-ended question enabling the statistical and quantitative analysis of data. The survey consisted of 119 interviews with former Boko Haram members representing the lower echelon or foot soldiers within the organization, and 60 respondents representing peace builders included representative from Civil Societies working in community outreach and dialogue, human right, humanitarian assistance, skills development, women and youth outreach, and religious researched institutions. Out of the Boko Haram sample 63 were women and the remaining 56 male. Amongst the 60 peace builders' respondents, 36 respondents were male and 24 female. A citizen survey including 1607 respondent from five cities in North Eastern Nigeria. The peace builders represented civil society organizations based in area affected by Boko Haram.

The study was conducted in partnership with Finn Church Aid, Network for Religious Peacemakers, Vibrant Research and KAICIID Dialogue Centre.

PERSON BACKGROUND

Being victim of violent themselves, Boko Haram respondents recalled high levels of trauma as a result of ongoing insecurity, displacement and dissolution of families, and grievous personal losses. When speaking of their experience in Boko Haram, most respondents expressed that they suffered high level of fear and deprivation. Many expressed that the feeling of constant fear of their lives – either from Boko Haram or from military had continued even after leaving the organization.

Gender roles

45% of former Boko Haram fighters estimated that Boko Haram has between 500 and 100 female members. According to Boko Haram respondents the organizations consist approximately 5,000 to 10,000 members. The research showed that Boko Haram includes women as leaders, explosive experts, intelligence and recruiters. This knowledge is exceptional in comparison to other extremist groups.

The majority both male (44.64%) and female (39.68%) Boko Haram respondents said that they served as foot soldiers while in the organization. Male respondent surpassed their female counterparts as leader (10.71% to 3.17%) and trainers (10.71% to 1.59%) whereas more women served as recruiters (19.05% to 12.05%), providing intelligence (12.7% to 10.71%) and as explosive experts (4.76% to 3.57%). Within the sample, women surpassed their male counterparts as recruiters (twelve female versus seven male respondents) and intelligence operative (eight female versus six male respondents).

Family status

5.99% of ordinary citizens and 38% of peace builders indicated that membership or vulnerability to radicalization to Boko Haram had nothing to do with a person's family status and history. However, only 1.68% of Boko Haram respondent supported this opinion. Altogether 47.67% of the Boko Haram respondent's grew up with one parent or without parents. 70.59% of the former Boko Haram members were single at the time of the interviews.

MOTIVES FOR JOINING

Religious motives

Peace builders in particular considered religion to be most prominent reasons (82%) in explaining why individual were attracted to the ideology Boko Haram presents. In contrast to the perceptions, only 9.24% Boko Haram respondent identified religion as a reason for joining the group. The same perception was echoed by the citizen survey, as 54.14% of the respondents stated that religion had little or no influence on the decision on joining Boko Haram.

Christians were more likely than Muslims to cite religion as motive for joining. The peace builders' interview felt that the incorrect of Islam was a key factor.

When comparing the relationship between religion and Boko Haram in the light of different gender groups, the study found that male Boko Haram respondent religion to have a strong influence (50%). In comparison, 36.51% of former Boko Haram respondent held similar views. 7.14% of male and 17.46% of female Boko Haram respondents regarded religion as the only influence.

The fact that recruiters managed to sell Boko Haram as an organization Islam and the killing of fellow Nigerian as justified, provided reason for concern. At the same time, this should be viewed in the context of decades of inter-communal conflict based on religious and ethnic affiliation.

Economic Motives

The research noted that poverty, the lack of employment opportunities added with the lack of education were key factors creating frustration. The combination of reasons contribution to people's decision to join Boko Haram.

Especially peace builders referred to a combination of economic reason – after religion and political reason – in explaining why Boko Haram attracts recruits. According to the answers given by the peace builders, poverty is the largest (26%) contributor for the interest to seek the membership of Boko Haram. Poverty was followed by the lack of education (20%) and employment offered (16%).

Despite these perceptions, 15.13% of Boko Haram respondents indicated that they joined the organization as a result of poverty, whereas 5.88% of former members referred to the employment opportunities the group presented. A further 5.88% of Boko Haram respondent referred to the feeling of being frustrated with life as contributing to their vulnerability to the organization.

Even though a clear connection between economic motives was not found, the statistics revealed that the employment and education status of respondent did affect the motives to join the organization. Before joining the organization the majority (51%) of Boko Haram respondent were employed. The majority (56%) of the respondents had not finished secondary school, and 10% had not received any form of education. In comparison to their male counterparts, the majority of female respondents were better educate.

To highlight the comparison between peace builders and Boko Haram members, it is interesting to note majority of peace builders were employed (88%) at the time they decided to become peace builders.

The need to belong

According to respondents of the citizen survey, 23.02% felt the need to be respected, and 16.43% felt that the need to belong were the key reason behind individuals joining Boko Haram. According to the peace builders, religious and political reason surpassed the need to belong, which was equal to poverty and monetary benefits.

However, according to the Boko Haram respondents 23.52% joined Boko Haram to be respected, while a further 16.81% joined due to a need to belong. Belonging as a factor influence a person's decision to join a violent extremist organization was also assessed in asking Boko Haram respondent if family and peer pressure played a role in their decision to join the organization. Although only 0.84% of Boko Haram respondents identified pressure from the family or peers as a reason for join Boko Haram, especially peace builders regarded it having a more prominent role (22%).

Revenge

When researching the role government's response to the threat presented by violent extremist organizations might have played in the radicalization process, a clear difference between geographical locations was noted. Respondents in the Northern cities, where Boko Haram is known to be more active were more likely to believe that military action has increased the likelihood of someone joining Boko Haram (36.91%) than respondent in Abuja and Lagos (20%).

Additionally, 40.32% of Muslim respondent versus 30.15% of Christian respondent believed that military actions had no influence on people's decision to join Boko Haram. Only 12% of peace builders identified a linkage between military action and joining Boko Haram.

57% of former Boko Haram fighters identified revenge as having a strong or being the only influence for joining. In an open ended question, former Boko Haram fighters indicated that the military is brutal, 'merciless', and 'pitiless'

Revenge directed at the state, and particularly the security force had a strong influence, as 50% of male Boko Haram respondent referred to revenge as having a strong influence on joining the organization. A further 12.5% referred revenge as the only factor influencing a person's decision to join the organization. Female Boko Haram respondent provided the most reserved answer with 38.1% being of the opinion that revenge had a strong influence. An additional 14.29% referred to revenge as the only influence facilitating radicalization. Placing revenge in context of the role military action can play in the radicalization process, 42.86% of male Boko Haram respondent and 30.16% of female Boko Haram respondents considered that military action can make recruitment 'more likely'

Political motives

Political reason were identified as the fifth most prominent reason why individual might decide to join Boko Haram. Although only 2.52% of Boko Haram respondent recalled political reasons motivating their decision to join Boko Haram, 6.72% of the same sample identified political reason as contributing the radicalization process.

One of the more surprising results was the degree to which Boko Haram respondents participated in the political process, namely voting. Although peace builders were the most politically active, with 72% participating in the political process, followed by 70.63% of

individual participating in the citizen survey, 47.9% of Boko Haram respondent participated in elections.

The largest percentage (45.16%) of the Boko Haram sample said that the reason for not voting was that they did not have time to register. The Boko Haram respondents also presented the largest sample expressing a lack of trust toward politician. In spite of this, the sample's overall trust in the political process was beyond the norm when compared to the opinion of ordinary citizens.

Recruitment

Religious institutions, especially madrassas or religious schools are perceived to be the venue where the most individuals are being radicalized and recruited. These perceptions could be noted in particular with the respondents participating in the citizen survey (21.84%) followed by Boko Haram members themselves (19.33%). Despite of this perception only 12.61% of Boko Haram member (12.5% of male and 2.7% of female) were in reality recruited at madrasa. However, mosques were identified by Boko Haram respondents as the venue where most of them were recruited (14.29%). It is important not that more men (16.07%) than women (12.7%) were recruited at a mosque.

The study emphasized the importance of personal interactions in the recruitment process. To start with, the study found that neighbors served as the second most important avenue of recruitment, especially amongst female Boko Haram member. 22% of female Boko Haram member were introduced to the organization by neighbours, compared to 13% of their male counterparts. Neighbors were followed by the family, which was found to introduce 11.76% (12.5% male and 11.11% female) of respondents to the organization.

22% of peace builder identified online active as playing the most important role in the recruitment process. None of the Boko Haram were introduced to the organization by neighbors, compared to 13% of their male counterparts. Neighbor were followed by the family, which was found to introduce 11.76% (12.5% male and 11.11% female) of respondent to the organization.

22% of peace builder online activities as playing the most important role in the recruitment process. None of the Boko Haram respondent interview were recruited online. 8.96% of ordinary citizen and 5.88% of Boko Haram member were convinced that radicalization occur online.

In addition to where recruitment took place, it is equally important to stand still with Boko Haram respondent where recruited. Female Boko Haram members were far more likely to be introduced by forced [17%] than males [5%]. Furthermore, male Boko Haram members were more likely to report it as a personal decision [11%] than females [2%].

Consequently, the personal journey of peace builder into peacebuilding appeared to have been strongly influence by the personal exposure to violence, mediation or outreach in the example set by former religious and community leaders. The difference these two opposing sides was that most peace to help pass on a message of peace of their peers and the broader community.

In respect to the above, it is of high importance, to seek a lasting solution that would engender peace through proper religious literacy and proactive counter-terrorism and extremism regimes rather than military actions, hence, preparing religious and traditional

leaders and institutions to actively involved in the process of true reintegration, reconciliation and rehabilitation of violent extremist (BHT) in Nigeria and around the world.

Engaging Religious Leaders as Actors in Conflict Transformation – Adapting The Tradition - & Faith-Oriented Insider Mediator (TFIMS) Model In Nigeria

The TFIMS model recognizes the fact that in certain conflict contexts religious and traditional peacemakers exhibit remarkable potential as mediators, and that they may have specific mediation support needs that, if met, could further enhance their contribution to peacemaking. However, the following enumerate further the observation made on the slight difference in the concept and context of TFIMS:

- Tradition and religion are complex phenomena that shape each other and are often inseparable, as is indicated by formulations such as ‘religious tradition’ and traditional religion’.
- The terms tradition, custom, culture and indigeneity are often used interchangeably and in conjunction with one another, as in formulations as cultural tradition and indigenous culture. For our purpose, tradition can simply mean longstanding value, customs and practices that come manifested in conflicts.
- Faith and spirituality can exist without being rooted in religions; faith-based and spiritual actors may not necessarily draw (one particular) religion. We therefore have used ‘faith’ as a broader term that encompasses, but is not limited to, religion.
- Certain actors can be classified as both traditional and religious. We do not see this as problematic, since what matters for our conceptualization is how they use (or not) element from tradition and faith in their peace mediation effort.
- TFIMS may draw from non-religious (secular) and non-traditional thought and practice, as well as from religious (theological) and traditional elements of multiple faiths, cultures and traditional. Some actors may also draw from traditional and religion without wishing to be identified as faith-based or traditional actors, while some faith-based actors may be have inherited legitimacy without having had theological knowledge or training.
- TFIMS are significant not just in conflict context with religious and traditional dimension

As a basic conceptual framework, we therefore propose that TFIMS:

- Can be identified as those whose social position and function (i.e. who they are) is explicit defined by traditional and religion and/or whose inspirations, motivation, strategies and methodologies (i.e. their reason for doing what they do and how they do it) are implicitly shaped by tradition and religion.
- Are ‘insiders’ insofar as they belong to the communities concerned, but are also respected and trusted by other communities since they are seen as ‘fair’ mediators and do not privilege one conflict party over another. Their level of insidership’ may vary in space and time.
- Facilitate dialogical processes that create and nurture space for conflict transformation.
- Enjoy the moral legitimacy and respect required to influence the opinion and perceptions of conflict stakeholders – whether or not tradition and religion play a part of the conflict itself.

- May either be authoritative mediator at top-levels or social network mediators at the intermediate or grassroots levels (befitting categorization by Christopher Moore in the mediation process: practical strategies for resolving conflict, 4th ed., 2014)

The role of authoritative mediators tends to be prescriptive and doctrinaire. These mediators usually have close relations with state-level and international actors, and often have a political stake in the conflict. In some cases, they have potential to exert significant influence on policy, while in other mediation efforts fail to trick down to the grassroots level and may exclude certain societal groups. Such authoritative mediators include:

- **Religious authorities and elites:** individuals who represent religious institution (bishop, sheikhs, muftis, abbots, monks, rabbis) or spiritual leader with visibility and followers at a national level.
- **Traditional authorizes and elites:** individuals who represent traditional, indigenous or customary system of authority or authoritative institution or who preside over village-level or tribal association and network of indigenous civil societies (village chief, tribal judges, senior headmen). In certain context, they may, but need not be, religious authority figures (e.g. sheikhs and monks). In many societies, elders unofficially assume such roles.

Social network mediators focus on people and relationship and tend to take a dialogical approach. They are often more flexible and active than the authoritative mediators described above; they have access to a wider network, their work is broader in scope, and they can influence and mobilize followers, more easily than elites. They engage in multi-track diplomacy and are often able to influence policymaking at the macro-political level by initiating and facilitating track 1.5 processes. Such mediators include:

- **Med-level religious actors:** abbots and monks attached to Buddhist monasteries, bishop, priest and pastors from the Christian Church, Imams, Monks and Nuns.
- **Faith-based organization (FBOs):** NGOs, CSOs and CBOs with implicit or explicit association with a single faith or with multiple faith (e.g. interfaith organization). They may be local and independent organization or local bodies within international FBOs/network, and may or may not be connected to religious institutions.
- **Traditional and faith-oriented community & civil society actors:** individual and organization (NGOs, CSOs and CBOs) that are not expressly tradition or faith-based but that engage with tradition and religion and actively engage with all of the above actors to collaborate with support or empower them. This category contain a wide range of actors, including women's groups, artists, educations, political and entrepreneurs. These mediator tend to take a more 'moderate' and conflict-sensitive traditional/religious approach. One example of such a mediator is the late Kenyan, Dekha Ibrahim Abdi, whose peace mediation efforts combined traditional, religious and secular approaches in a unique manner.

The concept of a TFIM is not to be seen a static, since the dynamic nature of conflict mean that TFIMs roles, form of engagement, and relationships with conflict stakeholders are in constant flux. They therefore need to constantly monitor their influence and legitimacy. Furthermore, depending on the conflict context, a TFIM may have to walk a fine insider/outsider line, so that they are enough of an insider to be subjectively interested in the process (to empathize with the interest and emotion surrounding the conflict), and enough o an outside to remain objective (to consider the need of the conflict system in a holistic

manner). There are interesting examples of regional insiders - those who, on account of their religious or ethnic identity may become legitimate mediators in a context or context other than their own (e.g. elder across African context or certain monks in Southeast Asia). Committed TFIMs are usually able to remain dynamic by positioning themselves within a collective that maintains informal network involving a variety of actors (often regionally)

What do TFIMs do, and how do they do it?

Depending on the different phases and levels of the conflict they engage with, TFIMs take on various proactive and reactive role in peace mediation, which can best be described as dialogical processes that create and nurture space and possibilities for conflict transformation. The essential characteristics of TFIMs in contrast with other peace builders are (a) that they have a specific set of (traditional, religious and other) resources that may give them the upper hand in certain context and situations and (b) that TFIMs are usually involved at multiple stages in the spectrum or cycle of peace mediation activities. TFIMs:

Engender peaceful coexistence

- Sensitize communities about the other and build bridges
- Heal, reconcile and rebuild relationship
- Facilitate intra and inter faith dialogue and diapraxis

In Southern Thailand, TFIMs provide training for official on how to apply nonviolent tactics with demonstrators, peaceful third party intervention and the relations between conflict and religion. Aspect of the nonviolent training run by faith based CSOs have been taken up by the border police and incorporated into the police training curriculum. The recommendation made by TFIMs to incorporate healing measure and compensation schemes for victims at the national policy level were also acted upon.

Respond to violence with short- term and long -term schemes

- De-escalate violent conflict and limit retaliatory violence
- Help to develop alternative to violence
- Address so-called extremism

During the communal riot in Myanmar in 2012, TFIMs played an active role staging community dialogue that aimed to reduce violence, while also providing shelter to victims in church and monasteries.

Facilitate peace process in protracted armed conflict

- Facilitate intra and inter group dialogue to encourage armed actors to reach ceasefire agreement and find political solutions
- Act as representatives for civilian/community interest with armed actors
- Negotiate release of hostage and prisoners.

In Columbia, the Catholic Church has used “dialogue pastorals” to mediate between communities and armed groups in order to negotiate access to food, improve security conditions, and prevent the recruitment of minors.

Also, in Nigeria, religious leaders (Imams and Pastors) have been used as agents and actors to mediate the Southern Kaduna religious and communal clashes in recent times

and this have become a model for other nations. Check the Imam and Pastor Film Documentary on “vengeance and Forgiveness”.

Mobilize nonviolent action for social change

- Empower communities through dialogue and debates on issues of justice and human rights.
- Develop social and human capacities for sustainable change, e.g. training new TFIMs.

In Kenya, pastors and sheikhs in Nairobi and Garissa serve as catalysts for communities in gaining critical mass in demanding their rights from the country/central government.

In Nigeria, the Strength in Diversity Development Centre, through its religious forum recruited about 10,000 observers to observe the 2015 General elections in Nigeria conducting social media trainings for youths and setting up an Election Situation Room in Lagos to monitor and observe the elections- creating the “ Interfaith Nonviolent Election Social Media Portal” and the “Nigerians on Twitter-NOT”

Recommendations

- **Engage and recognize the potential contribution and added-value of religious actors.** Religious institutions are trusted entities in Nigeria and hence the potential to positively contribute to peace and security in Nigeria. Religious and community leader should be engaged to help address and prevent the radicalization.
- Create inclusive spaces for dialogue between all the relevant actors middlemen so-called extremists, armed group handlers, state actors, etc. deliberate on how to engage and collaborate with unfamiliar or difficult actors, instead of pondering whether to engage. Paradigm shifts take place when we exposed to encounter and situations that are unfamiliar to us not only by accident, but also through strategically planned intervention. Play an active part in evolving and maintaining collaborative support framework in the conflict you are part of.
- Identify, in collaboration with the relevant actors, the parameters of the traditional (patriarchal) or religious context (if any) that prohibit or limits mediator roles for women and young people. Then establish and communicate, via a conflict-sensitive approach, the possible advantages of women and young mediators, using inspiring stories from similar context. If a congenial atmosphere can be generated, encourage the training of future RTLs, especially women and youth RTLs
- Work intensively on intra group mediation in order to sensitize group for inter group mediation (e.g. intra-faith mediation as a basis for inter-faith mediation)
- Allow space for creative thinking. While mediation is an established tool, it can always accommodate and benefit from creative approaches, which may involve some trial and error and which constitute learning exercises in their own right. Experiment with the arts (e.g. storytelling, theatre, photography) and technology (e.g. social media) to extend the available space for dialogue.
- Nuance the prevent discourses of countering/preventing violent extremism to be able to reflect on potentially conflict-insensitive formulation/language and policies that make engagement with certain actors more difficult (e.g. proscribing and listing of extremist and terrorist). Strive for transformational approaches that unpack the complexity of violent extremism and address its root cause, thereby promoting an culture of tolerance.

RTLs and Civil Society of Actors

- Proactively engage with and create opportunities for collaborative peace mediation with other RTLs, other state and non-state (peacebuilding) actors.
- Use your moral influence to address the so-called violent extremism, but also help others gain a sense of the root causes of extremism and ensure that mechanisms are in place to address these root causes. Utilize mass media to achieve greater impact in sensing the communities concerned.
- Stay grounded: your context need your most (there have been cases in which the crucial work of RTLs, in course of gaining much-deserved international attention, gradually got detached from the national context).

RTLs and State Actors

- Recognize the unofficial peace mediation efforts of RTLs and support them with the logistical and human resources that they require. Establish/strengthen the legal foundation that underpin and secure the mediation efforts of RTLs, e.g. by enforcing the rule of law and making security arrangement that ensure safe and secure conditions for mediation processes.
- Avoid imposing top-down structure and process, which are rarely sustainable, even if they seem to be worthwhile solutions. Be aware of the pitfalls of formalization and institutionalization; informal structure and networking processes are often more effective and better complement the states peacebuilding effort.

International, Supranational RTLs and Intergovernmental Actors, INGO, Donors and Development Agencies.

- Systemically include tradition and faith as cross-cutting elements in programme/project planning (just as gender issues or do no harm approaches are usually mainstreamed in development work). Support the revival and transformation of indigenous/traditional mediation mechanisms.
- Avoid undermining the existing effort RTLs. Understand their cultural specificities and capacities for addressing conflict, and draw on their knowledge and experience in order to engage concurrent activities in a collaborative manner rather than prescribing solutions. Suggest and offer according to the context and re-involved. Avoid projectisation and NGOisation, which by and large tend to render local effort unsustainable.
- Depending on what is most useful in the local context, support networks/platforms as well as individual initiative, since both can be worthwhile.
- Provide assistance in the reconciliation, rehabilitation and reintegration of former Boko Haram member. Building on the fear former fighters had of Boko Haram itself, successful reintegration of Boko Haram fighters could act as a bulwark against boko haram. Thus reintegration should be priority. For reintegration to be successful at the local community level, it is vital to consider the involvement of strong local communities and institutions as he involvement of local communities also increase the community's resilience and identity. Proper protection and care for ex-boko haram who are already in custody is critical for future reintegration program.

Conclusion

In respect to the above, it is of high importance, to seek a lasting solution that would engender peace through proper religious literacy and proactive counter-terrorism and extremism regimes rather than military actions, hence, preparing religious and traditional leaders and institutions to actively involved in the process of true reintegration, reconciliation and rehabilitation of violent extremist (BHT) in Nigeria and around the world.

The Strength in Diversity Development Centre (SDDC) in Nigeria is currently working on a 5-year clean-up project of the Northeast-Nigeria through its Reconciliation, Rehabilitation and Reintegration of ex-Boko Haram Members and Victims and hereby seek for local and international collaboration in this regard.

Thank you.

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The Disaster Management Systems in Northeast Asian Nations

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Abstract

This study was aimed at exploring the current disaster management systems and the paradigms of disaster management in the three Northeast Asian nations, China, Korea, and Japan, and to suggest implications to developing advanced systems through a comparative method.

The study was conducted by following these steps. First, the study describes the definition of disaster management system and its paradigm through literature review to restructure analytic framework for disaster management systems and their paradigms. Second, the study focuses on the three factors of current disaster management systems in China, Korea, and Japan including organizational structure, management process, members and their roles. Last, the disaster management paradigms in China, Japan and Korea can be found out by comparative analysis of 3 attributes of an analytic frame of the disaster management paradigm (main agent of response, approach method, object of attention and response format) and recommendations can be discussed for the improved systems.

The result of this study indicates China and Korea have the disaster management systems based on the paradigm characterized by top-down approach, partnership with public corporations, proactive responses, hazard, and vulnerability centered method. On the other hand, Japan has the disaster management system based on the relatively future-oriented paradigm characterized by bottom-up approach, network including the community and private sector, precautionary responses, revitalization centered method. For this reason, China and Korea need to try paradigm shift for improving disaster management systems.

Keywords: Disaster management system, Disaster Management Paradigm, Northeast Asian Nations

Introduction

People traditionally recognized that disasters result from the power of nature. However, the characteristics of current disasters are somehow different from the old days. It means disasters are caused by not only the power of nature but also man-made hazard as the social environment have been changed. These days, some factors such as climate changes, industrialized and urbanized environment, poor disaster management systems, and careless attitude of human may exacerbate the impact of disaster events. Disasters are not just accidental happenings like the old days with their complexity and seriousness. For this reason, traditional ways of disaster management which are focused on post-disaster responses need changes to the way of disaster management with new paradigm for more effective systems.

According to EM-DAT, 152 large-scale disasters occurred in Asia during 2015; it accounts for 43% of the all disasters that occurred all over the world during the same period of time; and 55.6% of the death rates from disasters in the world were in Asia (UNISDR, 2016). China, Korea, and Japan, the three East Asian countries, are especially disaster-prone region where serious disasters have frequently occurred and they cause many deaths, casualties, economic loss and social costs (Chu, 2014). For example, a number of huge disasters including Sichuan earthquake in China, the great east earthquake in Japan, and Seweol ferry accident in Korea posed threats to human life. During those disasters, each government was blamed for their incompetence to handle such risks properly and people raised their voices to improve the disaster management system. Also, the three countries have 91 nuclear power plants as of 2013, which occupy approximately 20% of the entire nuclear power plants in the world (KAIF, 2016), and they are quite dangerous and obsolete with potential risk of disasters (Chu, 2014). The impact of disasters is widespread throughout China, Korea, and Japan because they are adjacent to each other, thus the three countries need establish cooperative disaster management system. Even though functional cooperation for disaster management in three countries were negotiated by EAS (East Asia Summit), founded in 2004 and ASEAN Summit, actual cooperation has not been made due to competition with the world powers and comparative studies on disaster management systems among these countries have not been active (Lee, 2013; Chu, 2014).

Based on this background, this study was conducted to explore the current paradigms of disaster management in the three Northeast Asian nations and to suggest implications to developing advanced systems through a comparative method.

Background and Research Framework

1. The Components of the Organizations in the Disaster Management Systems

The definition of disaster management system is the system which is composed of administrative organizations to reduce possibilities of disasters through careful prevention, and manage risk and impact of disasters during emergency situations. The system coordinates disaster related organizations to work together for the purpose of protecting properties and lives of people (Nam, 2009; Kim et al., 2014). The well-established system is one of the key to successful disaster management, so it is required to learn how the disaster management system runs from other advanced and to share useful information about disaster management with other countries.

Morton (1991) explained that the key elements of successful system are 'the organizational structure', 'the management process', and 'members/roles' which determine culture of the whole system (as cited in Sung, 2011). The organizational structure stands for relationship between stakeholders which makes

them cooperate and control each other. Management process are the function and decision-making process in the system. The members of the organizations and their responsibilities indicate management skills, knowledge, roles, and etc. (Jung, 1998, p.243). In this study, the three factors-the organizational structure, management process, members and their responsibilities- were used as an analytic framework to compare disaster management system in China, Korea, and Japan.

2. Paradigm of disaster management

The disaster has been enlarged, complicated and diversified, but in comparison to the past, governmental roles have been minimized and disaster management only by a leading role of the government has a limit to effectively prevent hazards from occurrence of complicated, diversified disasters that have various and unexpected variables (Lee, et al., 2016). The environmental changes have caused changes of paradigms in disaster management and there are many previous studies on this subject. Kwon, et al. (2008) indicated that we need a new view with features including a bottom-up approach, autonomy, an reduction-centered method, a community-centered method, etc., suggesting features of the existing view that is divided into 8 attributes and features of new views.

| Attributes | Old | New |
|----------------------------|--|--|
| Approach method | Top-down approach | Bottom-up approach |
| Fundamental feature | rigidity | Flexibility and autonomy |
| Focused management stages | Recovery-centered | Mitigation and preparedness - centered |
| The main agent of recovery | Government-centered | Community-centered |
| The goal of recovery | Reconstruction to the pre-disaster condition | Disasters are opportunity for social integrity and development |
| The means of recovery | Technology and regulation -centered | Capacity in the community |
| Residents(Affected people) | People in need during relief | The main group or partner of disaster management |

<Table 1> Old and new paradigms of disaster management (as cited in Kwon, 2008, p.114)

Lee(2012) suggested that a paradigm-shift in disaster management has been happening from response and restoration to prevention and preparation; a central government to local governments and communities; from orders, direction, control and supervision to cooperation, support, coordination and association. In addition, Jeong, et al. (2009) defined a disaster paradigm-shift as a 3-stage paradigm – past – present – future – by classifying 6 attributes – objection of attention, response format, main agent of response, approach method, management method and management goal as the following <Table 2>.

| Attributes | Past | Present | Future |
|------------------------|---------|---------------|--------------------------------|
| Objection of attention | Hazards | Vulnerability | Resilience & Adaptive capacity |

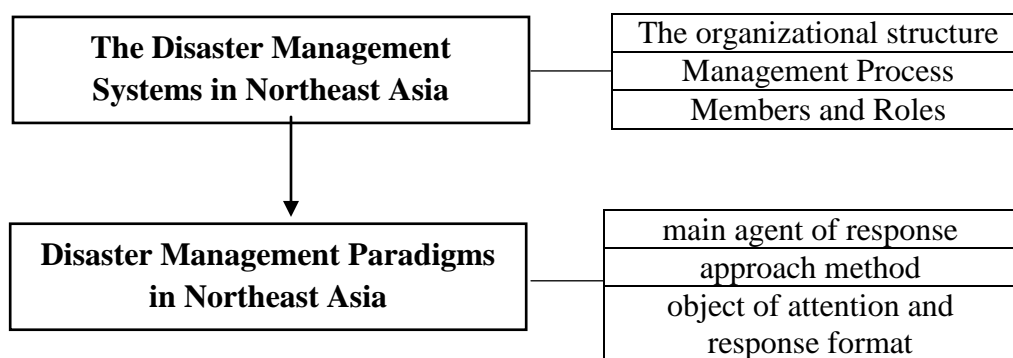
| | | | |
|----------------------------|----------------------------|-----------------------------|-------------------------------------|
| Response format | Reactive | Proactive | proactive & precautionary |
| The main agent of response | Single Agency | Partnership | Networks & Communities |
| Approach method | Science driven | Multi-disciplinary | Social learning |
| Management method | Response management | Risk management | Integrated developmental Management |
| Management goal | Management for communities | Management with communities | Management by communities |

<Table 2> A 3-stage of Paradigm Shift (as cited in Jeong, et al. 2009)

The study is to find out the present conditions of paradigms in disaster management in the countries with a result of comparative analysis, using 3 attributes of a disaster management paradigm (main agent of response, approach method, object of attention and response format), reorganized from the classification of the paradigm in the previous studies on the disaster management systems in East Asian countries (China, Japan and Korea), mentioned above.

3. The analytical framework

This study describes the definition of disaster management system and its paradigm. The framework explaining disaster management systems and their paradigms can be restructured based on literature reviews. The research focuses primarily on the three factors of current disaster management systems including the organizational structure, management process, members and their roles in China, Korea, and Japan as an analytic framework. The structural aspects of system, procedures for managing disasters, members and their assigned responsibilities should be concerned to compare three factors between 3 countries. According to this comparison, the disaster management paradigms in China, Japan and Korea can be found out by comparative analysis of 3 attributes of an analytic frame of the disaster management paradigm (main agent of response, approach method, object of attention and response format) and recommendations can be discussed for improved systems.



<Figure 1> The outline of the study

Results

1. Comparative analysis of disaster management system

1) The Organizational Structure

(1) China

The legal foundation of Chinese disaster management system is “National Master Plans for Responding to Public Emergencies” issued in 2006 (Lee & Choi, 2011). This national plans are applicable to public emergencies including natural disasters, accidents, public health problems, and social security events. The Standing Committee of the State Council and National Emergency Management Organization are in charge of the Chinese disaster management system under the Minister of the State Council. In case of disaster occurrence, the General Office of the State Council has the General Office of the State Council for Emergency Management that manages disasters (Lee & Choi, 2011, p.124). At the level of central government, the State Council, the main governmental office for disaster management, established The National Committee for Disaster Reduction. The Committee comprises 35 ministries and administrations, such as the ministry of Civil Affair of China, under the State Council with its chairs at the level of vice-premier. The Committee is also supported by an 18-member expert group, which provides advisory services to assist in decision-making and the general office for disaster reduction.

According to the nature of the events, their severity and controllability, and the areas affected by them, these events are classified into four response categories under the Plan (Standing Committee of the National People's Congress, 2007): (a) level I for the *most severe* situation, where the response is organized directly by the central Government, together with the affected provincial and local governments; (b) level II for *very severe* events, where the relevant provincial governments are primarily responsible for organizing responses, with the assistance of the central Government; (c) level III for *severe* events; and (d) level IV for *general* public emergencies, where events could be dealt with mainly by local governments, with the assistance of relevant central Government departments.

(2) Korea

According to Article 34, Paragraph 6 of The Constitution of the Republic of Korea and Article 22 of Framework Act on the Management of Disasters and Safety, Korea has established plans for disasters with the Basic Safety Management Plan and an organizational system has been composed (Ministry of Public Safety and Security, 2015).

The organizational system for disaster management, specified in Framework Act on the Management of Disasters and Safety, is divided into two parts – a central government and local governments. A representative organization of the central government is the Ministry of Public Safety and Security, established on Nov. 19th, 2014 to serve a management role in disaster safety. The Ministry of Public Safety and Security manages and coordinates central administrative agencies concerned by command of the Prime Minister, regarding safety and disasters and has the Central Fire Headquarters and Maritime Guard & Safety Headquarters. Safety inspectors, the central disaster & safety situation room, the Office of Planning & Coordination, the Office of Safety Policy, the Office of Disaster Management and the Office of Special Disasters were established under the Minister of Public Safety & Security for the disaster preparation system. In addition, there are the Central Disaster Management Council, composed of the chairmen of central administrative agencies or agencies concerned as its members of the council for deliberation of important policies on disaster and safety management and the Basic Safety Management Plan, and the Central Disaster and Safety Countermeasures Headquarters, composed of 20 organizations including the Ministry of Public Safety & Security, the Ministry of

Strategy & Finance, etc. for management of response to and recovery of large-scale disasters. The Minister of Public Safety & Security serves a role as a chairman of the Central Disaster & Safety Countermeasures Headquarters. At prefectural level, city(Si) and provincial(Do) Disaster & Safety management councils and city(Si)·county(Gun)·borough(Gu) Disaster & Safety management councils deliberate matters on regional safety and city(Si) and provincial(Do) and city(Si)·county(Gun)·borough(Gu) disaster & safety countermeasures headquarters respond to disasters(Ministry of Public Safety and Security, 2015).

(3) Japan

A Japanese organizational system for disaster management is composed in accordance with Framework Act on the Countermeasures for Disasters. Japan where various natural disasters occur very frequently has been trying to minimize disasters by continuously improving a capacity for response to disasters such as promotion of policies on conservation of national land, weather forecast improvement and establishment of means of delivery of information on disasters(Jeong, 2013). As the disaster has become an important policy for the Cabinet when central departments were reorganized in 2001 with awareness that efficient management is necessary with efforts by a central government, local governments, public institutions, private corporations and local residents, the Cabinet was founded(Park, 2011).

The Cabinet appoints the Prime Minister and an officer of the division of policy management(disaster prevention) assists the Minister. After the large-scale earthquake in 2011 in East Japan, a recovery administration was temporarily established for 10 years to serve a management role in recovery of damages areas. In addition, according to Framework Act on the Countermeasures for Disasters, the Central Disaster Management Council was founded to put disaster countermeasures together and deliberate important matters on disaster prevention. The designated government organizations to serve a role in preventing disasters by the Prime Minister are 24 government institutions including the Cabinet, the Fire and Disaster Management Agency and the National Police Agency and the designated public corporations related to disaster prevention are composed of 66 organizations including Bank of Japan, Japanese Red Cross Society and NHK(Cabinet, 2015). The prefectural disaster management council and the municipal disaster management council were established, composed of chairmen or appointed employees of the local governments, the designated local government organizations, the police, the Fire and Disaster Management Agency, the designated public corporations, etc. in the prefectures and municipalities of Japan and various types of disaster countermeasures are implemented by plans by these agencies such as plans for local disaster prevention. In the Japanese Basic Disaster Management Plan, prevention activities of the governments, public corporations and local residents and organizational activities are specified and an organizational structure for disaster management includes activities at municipal level.

2) The Management Process

(1) China

According to National Master Plans for Responding to Public Emergencies, the Chinese disaster management process is composed of 4 stages – prediction and alarm, first aid, recovery and restoration and information announcement (State Council of the PRC, 2006). First of all, China detects, reports and handles disasters early by analyzing risk at the stage of prediction and alarm. Each region and department should prepare for prediction mechanism for all types of possible disasters. After disaster occurrence, they alert by means of radio, broadcasting, newspapers, an alarm, etc. Each region and department should report severe disasters within 4 hours from occurrence. At the stage of first aid,

provincial governments or the State Council in damaged areas control states of emergency by implementing relevant emergency countermeasures by disaster type. The Command Authority for Public Emergency related to the State Council or the team of the State Council uniformly commands and supervises response to activities of the regions and departments. At the next stage of recovery and restoration, secondary disasters are prevented and restoration projects are proceeded systematically in damaged areas by a variety of recovery measures after disasters. Researches on causes, characteristics, effects, responsibility, experiences, implications, recovery, etc. are implemented and evaluated, so that the government can immediately announce accurate, objective information on unexpected accidents at the last stage of information announcement.

(2) Korea

According to Framework Act on the Management of Disasters and Safety, for safety of people and the country, Korean disaster management is divided into 4 stages – prevention, preparation, response and recovery, and the disaster management process has been built up under the supervision of the Ministry of Public Safety & Security. In addition, the Basic Safety Management Plan is defined in accordance with Article 22 of Framework Act on the Management of Disasters and Safety and it is defined by law that each central government, province(Do), city(Si), county(Gun) and borough(Gu) shall establish the Basic Safety Management Plan. Accordingly, detailed process is defined with divided stages of disaster management – prevention, preparation, response and recovery and the Ministry of Public Safety & Security, appointed as a major central government agency that is responsible for every stage of disaster management, serves a role as a main agent in the 4-stage disaster management. The stage 1 of prevention in the disaster management system process includes management of disaster prevention facilities, disaster and safety education, disaster and safety inspection, evaluation of disaster management system, researches on actual conditions of disaster management. At the stage 2 of preparation for disasters, disasters are prepared by reservoir of disaster management resources, financial operation on a basis of the national disaster management, making and operation of manuals of crisis management, establishment and operation of disaster and safety communications network, training in preparation for disasters, etc. The stage 3 of response to disasters includes disaster proclamation, first aid, disaster alarm, orders for mobilization and evacuation, forced evacuation measures and emergency rescue. Lately, the restoration stage includes plans for researches on damage, plans for disaster recovery, management of disaster recovery projects, proclamation of special disaster areas and support and restoration by financial compensation procedures.

(3) Japan

Japanese disaster management process follow four phases, prevention-emergency response-recovery and reconstruction-revitalization (Ko, 2012). For prevention of disasters, the pre-disaster risk reduction policy such as formulating and implementing at the municipal level of community disaster prevention plan, making a risk reduction map etc. in accordance with Framework Act on the Countermeasures for Disasters. When the disaster happens, the information about disaster has to be quickly collected and shared by the national and local governments, and secure communications to carry out effective emergency activities such as emergency rescue and medical operations (Cabinet, 2015). The national government collects disaster information at the Cabinet Information Collection Center 24 hours a day. Based on such information, local governments set up a disaster management headquarters and related organizations establish their own operations mechanism. When a large-scale disaster strikes, an emergency team composed of the director generals of the respective ministries and agencies gathers immediately at the Crisis Management Center in the Prime Minister's Official Residence to grasp and analyze the disaster situation, and report the results to the Prime Minister. Disaster Management

meetings at the ministerial or high-ranking senior official level are held Cabinet, 2015). The government may establish the Headquarters for Major Disaster Management (headed by the Minister of State for Disaster Management) or the Extreme Disaster Management Headquarters (headed by the Prime Minister) depending on the level of damage, to establish the policies for the disaster countermeasures, and to coordinate various emergency measures to be taken by various organizations. If quick and swift actions are needed to be taken with overall coordination of emergency activities on site, the local government may establish the onsite headquarters for disaster management. Further, Japan has a unique system which focuses on the concept of ‘revitalization’ having disaster victims have a better life than before not only reconstructing disaster-affected areas (as cited in Ko, 2012). Proper actions should be done to reduce chaos and deal with psychological problems in affected areas.

3) The members / Roles

(1) China

According to National Master Plans for Responding to Public Emergencies, in case of occurrence of unexpected disasters, the disaster response system is composed of a command authority, executive office, local corporations and teams of expert advisers (State Council of the PRC, 2005).

First of all, the State Council, which is the chief administrative command authority, serves a role in managerial direction for disaster emergency management. Under the State Council, the Standing Committee of the State Council and the Command Authority of Public Emergencies implement disaster emergency management. The General Office of the State Council for Emergency Management, established in General Office of State Council, collects data and coordinates roles of departments, serving a role as an executive office. Serving a role as a service agency, departments concerned with disasters under the State Council implement emergency management for disasters they are in charge of on its own. Each department plans for countermeasures for emergency and implements the plans for unexpected public accidents they are in charge of.

Each provincial government is an administrative command authority for emergency management activities of unexpected accidents and takes responsibility for response to unexpected public accidents in the administrative districts.

Lastly, the team of expert advisers is composed of experts depending on actual situations based on expert database by type, built up by the State Council and each emergency management agencies. The team can suggest policies on emergency management and participate in first aid activities in unexpected public accidents, if necessary.

(2) Korea

Members of the Korean disaster management system are divided into four parts – the Ministry of Public Safety & Security, established directly under the Prime Minister as the main agent, the Disaster Management Council, the Disaster & Safety Countermeasures Headquarters and responsible agencies for disaster management.

The Ministry of Public Safety & Security, which is a central government organization that manages disaster & safety to prepare for responding and resolving systems for integrated, immediate disaster safety by establishing a control tower for disaster safety, is responsible for establishment, operation, management and coordination of general policies on safety and disasters, tasks of civil defense in preparation for emergency, maritime guard, safety and pollution prevention, maritime incident investigation, etc.(Lee, 2016).

The Disaster Management Council, which is the Central Disaster Management Council at national level and the Disaster Management Councils belonging to governors and mayors at prefectural level, is

composed of the provincial(Do) and city(Si) disaster management councils and the city(Si), county(Gun) and borough(Gu) disaster management councils belonging to county governors and chiefs of boroughs(Gu). According to Article 9 of Framework Act on the Management of Disasters and Safety, the Central Disaster Management Council, whose chairman is the Prime Minister, discusses matters on mid-term business plans for disaster and safety management, opinions on investment priority, requests for budgets, coordination of disaster and safety management including plan, inspection, examination, education, training, evaluation and safety standard, planned and implemented by the chairmen of central administrative agencies, disaster proclamation and proclamation of special disaster areas. The Disaster Management Council at prefectural level discusses disaster and safety management policies in relevant regions, promotion of safety management tasks, cooperation between agencies concerned with disaster management, etc.

The Disaster & Safety Countermeasures Headquarters is composed of the provincial(Do) and city(Si) disaster & safety countermeasures headquarters belonging to governors and mayors and city(Si), county(Gun)-borough(Gu) disaster & safety countermeasures headquarters belonging to mayors, county governors and chiefs of borough to manage and coordinate matters on disaster management and take necessary measures in the districts at prefectural level, with the Central Disaster & Safety Countermeasures Headquarters of the Ministry of Public Safety & Security, in accordance with Article 14 of Framework Act on the Management of Disasters and Safety. The Disaster and Safety Countermeasures Headquarters implements functions such as request for necessary measures to chairmen of responsible agencies for disaster management to manage and coordinate matters on prevention, preparation, response, recovery, etc. of large-scale disasters and manage disaster situations. The Chief of the Central Disaster & Safety Countermeasures Headquarters can ask the chiefs of responsible agencies for disaster management for sending a group of people for disaster management, administrative and financial measures, sending their employees and other necessary supports.

Lastly, the responsible agencies for disaster management mean central government organizations, local governments, local government organizations, public corporations, public groups, etc. and according to Article 11 of Framework Act on the Management of Disasters and Safety, the chiefs of responsible agencies for disaster management shall plan for safety management related to their duty and cooperate disaster and safety management in their administrative districts.

(3) Japan

The members and roles of the Japanese disaster management system can be divided into two parts – central government and local government. The Cabinet in the central government leads planning for and making policies by helping the Prime Minister; assists integrated coordination; and unifies policies of administrative departments for response to disasters. The officer of the division of policy management (disaster prevention) in the Cabinet assists the Minister of State for Special Missions; and plans for and coordinates basic policies on association with each department related to response to disasters in the Cabinet and for the basic plans for response to large-scale disasters. The Central Disaster Management Council is an affiliate, established in the Cabinet to put all national countermeasures for disaster prevention together and plan for them, in accordance with Framework Act on the Countermeasures for Disasters. The main roles of the Central Disaster Management Council are as follows: firstly, this Council plans for the Basic Disaster Management Plan and promotes to implement it; secondly, it deliberates important matters on disaster management and sets forth its opinions as per requests for advice of the Prime Minister and Minister of State for Special Missions for disaster reduction the Minister of State for Special Missions for Disaster Reduction; thirdly, it also proclaims a state of disaster emergency and information on emergency measures; fourthly, it puts basic

policies on disaster management together and coordinates them; lastly, this Council is an implementing agency that establishes an expert committee for researches on expertise, etc.

The designated administrative organizations, which are 24 national institutes including the Cabinet, the Fire and Disaster Management Agency, the National Police Agency, etc., plan for disaster prevention and mutually cooperate with other organizations to respond to disasters in case of national disaster occurrence. The designated public corporations, composed of 66 corporations including Bank of Japan, Japanese Red Cross Society, NHK, etc. shall plan for disaster prevention, implement the plans and cooperate with the country, prefectures and municipalities for harmonized planning for disaster prevention and implementing the plans.

Countermeasures for disasters of the local governments are taken firstly, focused on the municipalities and the municipalities protect lives and properties of local residents by planning for disaster prevention and establishing and operating organizations for disaster prevention including fire-related organizations, fire-related group, etc. (Wi, et al., 2009). The prefectures plan for disaster prevention; coordinate the plans; request for implementation of emergency measures; and assist and coordinate disaster prevention of municipalities.

2. Comparative Analysis of Disaster Management Paradigm

In this study, the disaster management paradigms in China, Japan and Korea can be found out by comparative analysis of 3 attributes of an analytic frame of the disaster management paradigm (main agent of response, approach method, object of attention and response format) with the disaster management agencies in three countries in East Asia, including China, Japan and Korea.

China has partnership with government agencies such as China National Commission for Disaster Reduction under the State Council as a main agent and adopts a top-down approach with them. Emergency Response Law of China defines preventive activities such as finding out vulnerability to disasters by evaluation of disaster risk (Standing Committee of the National People's Congress, 2007).

Similarly as China, Korea also responds to disasters with partnerships mostly with public corporations such as the Central disaster & Safety Countermeasures Headquarters and the Central Disaster Management Council under the Ministry of Public Safety and Security and adopts a top-down approach for decision-making and delivery by the government. Additionally, Framework Act on the Management of Disasters and Safety defines preventive responses to disasters by measures for risks.

Japan deliberates and implements various kinds of matters on disasters with the Central Disaster Management Council under the Cabinet and has network-based cooperation as a main agent for response to disasters including 24 government agencies, 66 corporations, local residents and private corporations. In contrast to China and Korea, it adopts a bottom-up approach that the local governments and communities lead the first responses to disaster management and takes preventive measures in advance, interested in restoration and adaptability of communities as strong advance countermeasures for reduction of disasters and recovery policies.

| Attributes | China | Korea | Japan |
|------------------------|--|--|---|
| Main agent of response | The National Committee for Disaster Reduction composed of 35 ministries and administrations, the | The Central Disaster & Safety Countermeasures Headquarters composed of 20 ministries and | the Central Disaster Management Council under the Cabinet, The prefectural disaster |

| | | | |
|---|---|---|--|
| | <p>Standing Committee of the State Council, and National Emergency Management Organization under the State Council.</p> <p>(Partnership mostly with public corporations)</p> | <p>administrations under the Ministry of Public Safety and Security, the Central Disaster Management Council, composed of the chairmen of central administrative agencies or agencies concerned as its members of the council.</p> <p>(Partnership mostly with public corporations)</p> | <p>management council and the municipal disaster management council,</p> <p>The designated government organizations, the designated public corporations, residents and enterprises</p> <p>(Network)</p> |
| Approach method | <p>According to 「National Master Plans for Responding to Public Emergencies」, the main agent and members for disaster management are mainly central government and public corporations. During large-scale disaster, the central government controls and makes a decision.</p> <p>(top-down approach from the main government)</p> | <p>According to 「Framework Act on the Management of Disasters and Safety」, the main agent and members for disaster management are mainly central government and public corporations. During large-scale disaster, the central government controls and makes a decision.</p> <p>(top-down approach from the main government)</p> | <p>According to 「Framework Act on the Countermeasures for Disasters」, the prefectural and municipal government, community have leading roles to respond disasters, while central government supports them.</p> <p>(bottom-up approach from community)</p> |
| Object of attention and response format | <p>「Emergency Response Law of China」defines that preventive activities such as finding out vulnerability to disasters by evaluation of disaster risk are needed.</p> <p>(Hazards & Vulnerability, proactive)</p> | <p>「Framework Act on the Management of Disasters and Safety」defines that preventive activities such as finding out vulnerability to disasters by evaluation of disaster risk are needed.</p> <p>(Hazards & Vulnerability, proactive)</p> | <p>「Framework Act on the Countermeasures for Disasters」mentions that strict pre-disaster risk management plans are mentioned through careful mitigation and preparedness. Revitalization also takes into consideration with community-based disaster management.</p> <p>(Resilience & Adaptive capacity, proactive &precautionary)</p> |

<Table3> disaster management paradigm of Northeast Asian nations

Conclusion and Discussion

The disaster management environments have changed such as climate changes, urbanization, etc. and large-scale complex disasters that severely damage people have been occurring all over the world. Accordingly, efforts to adopt more effective disaster management methods have been continuing all over the world from an existing method of response to risks at the time of occurrence. In particular, Asia, the vulnerable area to disasters such as earthquake, typhoon, tsunami, etc., needs to prevent disaster risks and prepare for disaster management systems for restoration and recovery after disasters. China, Japan and Korea in East Asia can influence each other due to their geographical nearness, so their systematic disaster management systems are necessary. For this, comparative studies on recent conditions of disaster management systems in the three countries and their paradigms, which are a basis of systems, should be checked out.

In this study, paradigms, which are foundations of disaster management systems in each country, have been checked out by comparative analysis of their organizational structures, management processes, members and roles of the three countries, mentioned above. China and Korea have tried a paradigm-shift from an existing one that they reactively respond to hazards to a method to prevent disasters by discovering vulnerability to hazards and cooperate to manage disasters with many cooperation institutes after experiencing large-scale disasters such as Sewol ferry disaster, Sichuan earthquake, etc. Japan has been an area with frequent earthquakes from ancient times, so it realized importance of disaster management early and has tried to establish systematic plans. However, it felt the need of a more future-oriented paradigm that is focused on restoration and recovery of communities to overcome a great aftereffect of the 2011 great East Japan earthquake, so it has tried political changes such as establishment of the Reconstruction Agency.

This study is to suggest the following implications based on the result of the study:

First, a paradigm-shift of a main agent of response of disasters is necessary. China and Korea have partnerships with their governments and public corporations as main agents of response of disaster management, while Japan more efficiently manages disasters by adopting a method by communities based on networks including local residents and private corporations. To establish cooperative networks, it is necessary that a main agent of response of disaster management is not limited to public corporations, but each organization takes responsible for its own disaster management by clear role definition.

Second, a paradigm-shift of an approach method of disaster management is necessary. Since China and Korea still adopt a top-down approach, led by their government agencies, so they need to shift it to a bottom-up approach that their communities and local governments lead management like Japan for faster and more effective response to disasters. For this, organizations that can organize communities to manage disasters and professional are necessary and the local governments should strength their capabilities for response to disasters.

Third, a paradigm-shift of an object of attention and response format of disasters is necessary. China and Korea need to shift their method that is focused on preventive response and risk of disasters to a method that is focused on advance response to disasters with measures and restoration after disasters, which are effective like Japan. They need systems and resources that they can constantly get involved in dangerous areas and damaged areas based on communities.

Lastly, internationally cooperative systems of disaster management should be activated beyond development of the disaster management systems in each country. China, Japan and Korea had already acknowledged interaction of disasters, so they had efforts to cooperate disaster management by East

Asia Summit(EAS) and ASEAN Summit. In this study, it is expected that activating this opportunity constantly makes exchanges for more advanced disaster management systems and the three countries serve a leading role in disaster management in Asia.

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The Effect of Social Service on Resilience of the Disaster Vulnerable

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I. Introduction

Depending on national response capacity, damage to and resilience of vulnerable groups to disasters such as senior citizens, children and people with disabilities are very different and in particular, a probability of the secondary damage to senior citizens increases due to their difficulties of physical features.

In addition, they have difficulty in keeping their daily lives after experiencing disasters compared to other adult groups, so they should prepare for disasters by resilience, which is capacity to respond to and adapt to unexpected changes such as disasters. Resilience increases quality of life and decreases depression and suicide ideation(Park, J. et al.(2014); Choi, S. (2015)) and use of in-home services of senior citizens increases quality of life, life satisfaction and social support(Son, H. & Jeong, O. (1999); Park, Y. et al.(2011); Nam, S. (2016)). Until now, there has been no study to measure resilience of senior citizens who have experienced disasters and in particular, to analyze the relation between in-home services and resilience. Therefore, this study is to prepare detailed plans for disaster recovery by analysis of the relation between social services that vulnerable senior citizens to natural disasters use in their daily lives and their resilience.

II. Theoretical Background

1. Definition of Disaster

Disaster is defined as a large-scale accident that occurs suddenly; collapses ordinary functions; is not able to be recovered without external aid(Kim, Y. (2011) retrieved from The United Nations Office for Disaster Risk Reduction) and according to Article 3 of Frame Act on the Management of Disasters and Safety, it is defined as something that can or may damage to people's lives, bodies and properties and the country and it is divided into two kinds – natural disasters and social disasters. In particular, natural disasters make victims due to aftereffects of environmental damage and can lead to man-made disasters beyond the limit of ordinary response capacities, which makes classification of the definitions of disasters uncertain. Natural disasters and man-made disasters gradually become “correlated” or “interdependent”; circulate; and finally result in severe destroy in human life(Dominelli. (2012)).

2. Vulnerability to Disasters of Vulnerable Groups

Disasters damage to all people in disaster areas, but they more greatly damage to socially vulnerable groups such as senior citizens, children and people with disabilities. Vulnerable groups to disasters are defined as those who have difficulty in keeping economically safe environment or fast evacuation and initial reaction on their own or are vulnerable to disasters caused by environmental factors(Shim, K. et al. (2010). In addition, vulnerable groups are referred to as those who lack energy, money, information and cultural capacity and old and disabled for responding to unordinary situations including disasters(Choi, S. et al. (2015). In other words, vulnerable groups to disasters can be defined as groups of people who economically, physically, environmentally and informatively lack preparation for disasters and responding capacity out of local residents who encounter disasters.

3. Resilience of Vulnerable Groups

Resilience is defined as very abstract and complex concepts by many scholars as following <Table 1>.

| Scholar | Definition |
|----------------|--|
| Rutter(1985) | Mental immunity to stress and difficulty |
| Polk(1997) | Capacity that changes difficulty to matured experience. |
| Anthony(1987) | Capacity that someone overcomes difficulty he/she encounters, adapt to the environment and mentally grows. |
| Kim, J.(2009) | Power that someone takes hardships and difficulties he/she encounters as a chance to leap. |
| Kwon, S.(2010) | A dynamic process to respond to negative environments and a capacity that someone continuously changes between adaption and maladaptation. |

<Table 1> Definitions of Resilience

It is common that resilience is not an initial character structure or gifted capacity of an individual, but it is developable and changeable by dynamic interaction between individuals and environment(Kang, N. & Kim, J. (2012)) and it has been standing out as a major concept in social welfare for disasters with vulnerability(Seong, J. & Yang, M. (2016), Retrieved from Trotter (2000)).

Resilience focused on capacities of disaster recovery(Seong, J. & Yang, M., 2016) is an important factor for senior citizens who have experienced disasters to improve their response capacities and prevent maladaptation.

4. Use of Social Services of Vulnerable Groups

In this study, social services are in-home services to care of senior citizens that vulnerable senior citizens to disasters use and include various services for senior citizens who are a recipient of basic living security benefits, use the services and need immediate support for other natural disasters out of people who are eligible for receiving long-term medical expenses and cannot be graded due to severe difficulty. The services are as following <Table 2>:

| | | |
|--|--|---|
| Preventive service (direct service) | Daily life support | Meal delivery & side dish service, beauty service, holiday service, birthday service, kimchi-making service |
| | Emotional support | Home visit, hospital visit, an event on parents' day, an event on the day of older persons, calling |
| | Support for improvement of living conditions | disinfection service |
| | Support for leisure activities | picnic, picnic in small groups, cultural experience service |
| | Development of resources of communities | Eating-out service, support for heating costs, support for sponsored goods, sisterhood service |
| | Health support | Healthy food support service |
| | Counseling support | |
| Establishment of social safety network | Connected-support | Caring service for senior citizens who live alone, bath service, long-term care insurance for senior citizens |
| | Educational | Fall prevention, dementia prevention, suicide |

| | | |
|---|-------------------|--|
| (indirect service) | support | prevention |
| | Community network | Meetings about cases at hub institutes |
| Immediate support project (Emergent service) | Immediate support | Emergency support service, vehicle service |

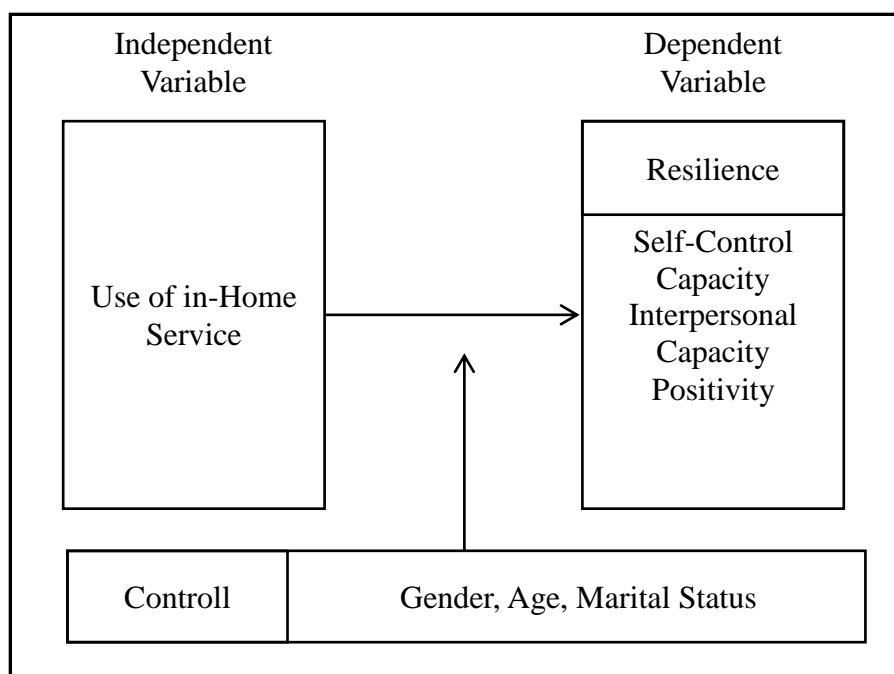
<Table 2> In-home Service Programs for Senior Citizens

The process to provide in-home services increases social support and stability of senior citizens and result in influencing resilience.

III. Study Method

1. Study Model

The purpose of this study is to research and analyze the effects of use of in-home services for senior citizens who have experienced disasters on resilience and the study model is as follow:



<Figure 1> Study Model

2. Study Subject and Study Method

In this study, 300 subjects will be selected by random sampling out of senior citizens aged over 65 who are provided with in-home services at 46 in-home welfare service centers in Busan-si and surveyed with self-administered questionnaires. In this study, the period of services is from September 2014 to September 2015..

3. Study Tool

1) Independent variables

In-home service programs at in-home service centers will be analyzed by elementary statistics and use of services of senior citizens who use each program will be surveyed and analyzed.

2) Dependent variables

This study uses Korean resilience quotient-53(KRQ-53), revised and supplemented by Kim, J. in 2011 from 56 questions about resilience by Reivich & Shatte(2002).

The questionnaires are total 53 questions including 18 questions about self-control capacity to suggest emotional control capacity, impulse control capacity and cause analysis capacity, 18 questions about interpersonal capacity to measure communication capacity, capacity for sympathy and self-expanding capacity and 17 questions about positivity including self-optimism, life satisfaction and appreciation.

3) Control variables

Six variables – gender, age, marital status, educational attainment, income and disability grading - are set and composed as control variables out of various sociodemographic characteristics.

Age, income and disability grading are continuous variables and gender(male=1, female=0), marital status(married=1, others=0) and educational attainment(high school or higher=1, middle school or lower=0) are dummy variables. Others of marital status include single, divorced, separation by death and others.

4. Analysis Method

In this study, statistics will be analyzed by SPSS 21.0 and descriptive analysis, correlation analysis and regression analysis will be implemented to find out the effect of use of in-home services of senior citizens aged over 65, who are the subjects, on resilience.

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THE POETICS OF PEACE: UNDERSTANDING RECONCILIATION THROUGH THE SENSE MAKING OF THE ARTIST

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Abstract

The article is inspired by the need for research methods that would discover knowledge on how communities maintain peace after being exposed to slavery, colonization, socio-economic neglect and political marginalization and even violent conflict over a long time. The question (that articulates the research problem for this article) is: What is the value of poetics to discover knowledge on how to make and maintain peace in a community? The purpose of the paper is therefore to evaluate poetics as source of knowledge that contributes to existing body of knowledge and finding of practical solutions related to peace building in a community. The author found that knowledge can be discovered from various forms of poetics through sensuous participation and intellectual interpretation and applied to the process of reconciliation in a community. These findings are supported by research that was done with the San people of South Africa. The discussion contains an explanation of the research done, a conceptual framework of philosophy and theories that elucidates the concepts of poetics, the aesthetic domain and its relevance to peace and reconciliation. Finally an evaluation of aesthetic forms and processes used by San communities to accomplish peace is offered as examples.

Key Words: poetics, aesthetic domain, reconciliation, peace building, storytelling, art, music, dance forms, song, poetry, San, South Africa

Introduction

The article is inspired by the need to discover knowledge in the aesthetic domain of the African episteme, in this case knowledge on how some African communities achieve peaceful reconciliation after being exposed to slavery, colonization, socio-economic neglect, political marginalization and even violent conflict. This need exists because there is no common language in Africa and, because of this, the people from Africa is limited to articulating their knowledge in languages that were brought by colonization such as English and French. However, the 'language' of music, song, dances, and the many art forms, became a way of disseminating worldviews to an observant audience. For scholarly observers the challenge is to access knowledge hidden in an aesthetic domain.

Against this background the question is: How can knowledge from the aesthetic knowledge domain in Africa be accessed and applied for reconciliation in Africa? The purpose of the paper is therefore to determine a methodology to access knowledge in the aesthetic knowledge domain in Africa and apply, together with other knowledge claims, to find practical solutions for communities in conflict. The analysis will focus on African communities, the building blocks for reconciliation in Africa society.

The authors argues that if the creation, processes and products of poetics (storytelling, art, music, dance forms, song, and poetry) of relatively peaceful communities is discovered, analysed, and understood it reveals how relationships are reconciled across socially constructed divisions in communities. It was found that knowledge obtained from the aesthetic domain, can contribute to peace strategies in communities and even replace dominant and hegemonic narratives from knowledge systems outside the community. This argument is supported by a literature study, field research done with the San people of Southern Africa during 2016 as well as transdisciplinary critical and complementary reflection with research participants.

The discussion contains a conceptual framework of philosophy and theories that elucidates the concepts of poetics, the aesthetic domain and its relevance to peace and reconciliation. The research methodology will be explained with specific reference to research done with San communities. Finally, an evaluation of the applicability of knowledge from the aesthetic domain to accomplish peace in Africa, is offered.

Conceptual framework

Reconciliation

The concept 'reconciliation' is found in all traditions of thought. The Indian culture has a hermeneutical approach to reconciliation, meaning dialogue with the self, interpretive skills through self-purification, abstinence, fasting, meditation and pilgrimage. In the Buddhist tradition mind-set, heart, soul, subjectivity and objectivity is fused into one whole and all phenomena are interconnected and interdependent, as a condition of 'Enlightenment' (Komesaroff 2008, 1). The Western perspective is articulated by Habermas (2003, 35-38) who asserts that conflicts are the consequence of distorted communication, misunderstandings, a lack of comprehension, insincerity and deception. Reconciliation is a process of communication 'across difficult, unpredictable, ambiguous and fragile barriers'. To overcoming these barriers a 'fusion of horizons' is required where assumptions are shared,

subjectivities are integrated, and communication structures are free from coercion and distortion.

The concept reconciliation is broader than just conflict resolution. Reconciliation includes the values of peace, justice, fairness, healing and forgiveness, transcending many disciplines such as social, cultural, and legal aspirations including human rights, the quest for social justice and co-existence. Furthermore, reconciliation seeks the revival of cultural identity, trust building, and rising above personal animosities. Moreover, reconciliation encompasses understanding and responding to relationships within and between communities as well as cultural, religious and other sensitivities that impedes social dialogue. 'At its core, reconciliation is concerned with bringing diverse voices into conversation and balances the perspectives they present'. (Komesaroff 2008: 10). Reconciliation refers to a set of 'deep' processes designed to transform relationships of hate and distrust into relationships of trust. In this process, former enemies acknowledge mutual humanity, empathize with each other's suffering, addressing and redressing past injustices, express remorse, forgive and offer reparations. Reconciliation reflects a shift from blaming each other to taking responsibility for own actions and the communities they belong to. (Cohen 1997).

Reconciliation the African way refers to the traditional African concept described as the spirit of *Ubuntu* (in Nguni languages), *Botho* (in Sesotho), *Kparakpor* (in the Yoruba language) and *Ujaama* (in Swahili) which holds that the self-interest of one cannot be divorced from other people in the community. (Velthuisen 2016). Desmond Tutu summarises it very well by saying 'Reconciliation is about the healing of breaches, redressing imbalances, the restoration of broken relationships, rehabilitation of victim and perpetrator' (Tutu 2000, 54-55).

In the aftermath of violent conflict, it is unlikely that negotiators or administrators will invest in or place artistic and cultural renewal on top of the agenda for reconstruction. However, Longe & Brecke (2003, 28) conclude that, in the case of reconciliation following civil wars, an evolutionarily, emotionally driven pattern, without rational purpose transforms aggression into empathy and desire for revenge into desire for affiliation. Bateson (1972, 147) points out the contrast between goal-driven, conscious decision-making needed for the survival of individuals, and the knowledge required for the survival of the group that resides in the non-conscious realms of the human mind. This wisdom can be tapped through processes such as ritual and art.

From these assertions, I infer that reconciliation is first of all personal reconciliation, meaning that the victim, perpetrator and affected person first needs to find remorse and inner peace as a result of self-knowledge, and then take personal responsibility for the reconciliation process. A personal commitment to the process of reconciliation means that the person, as individual or collectively, assumes responsibility for dialogue aimed at the restoration of peaceful relations characterised by relinquished animosities, recognition of mutual humanity, trust, forgiveness and healing. In this process of reconciliation, it is inevitable that social justice, social equilibrium and cultural identity are restored. Reconciliation and restoration is not a rational process, it evolves from emotions that are deeply imbedded in a sub-conscious realm of the human mind that needs to be accessed through ritual and art.

The aesthetic knowledge domain

Velthuisen (2014) advises that the researcher should recognise that people in conflict might have varied experiences of reality. These realities need to be accessed, collated, integrated and synthesised for new knowledge to emerge, recognising the normative-spiritual realm that informs the epistemology and cosmology of Africa.

For epistemological, psychological, logical and metaphysical questions to be answered, eighteenth century philosophers such as Edmund Burke and David Hume explained aesthetic concepts empirically, by connecting them with individual experiences (physical and psychological) of objects and events, finding objectivity in personal reactions. Immanuel Kant maintained that aesthetic concepts are essentially subjective (rooted in personal feelings) but conceded that it contains objectivity because personal feelings are general responses to aesthetic objects and events. Emanating from the philosophy of Burke, during the twentieth century, the human faculty of taste (the ability to discern between what is beautiful and ugly) established an epistemological or logical uniqueness for aesthetic concepts. Although there are no aesthetic rules, aesthetic concepts play a significant role in discussion and disputation, being context-dependent, constructed out of social customs. For example, the term ‘harmony’ may not have the same meaning in different cultures. (Eaton 2016).

Edmund Burke in his work *Sublime* explains that the ‘sublime and beautiful’ do not come from objects but from objects as they are experienced: The same object can be described as ‘fearful’ or ‘sublime’ depending upon the situation of the viewer (Furniss 1993). Burke asserted that aesthetic concepts depend on ‘psychophysical machinery’ to experience the world, which means that two counterintuitive aesthetic forces need to reconcile: the belief that aesthetic concepts are subjective (‘beauty is in the eye of the beholder’) and the view that aesthetic concepts are objective (the sunset or mountains are beautiful). Aesthetic properties to describe and evaluate aesthetic objects and events are artistic.

Cynthia Cohen (1997), a leading proponent of the aesthetic domain, stated:

‘I believe that folklore and the arts--and the crafting of the processes involved in their creation and appreciation--can be especially useful in bringing people together across all kinds of socially constructed barriers, including differences created by political conflicts, misunderstandings exacerbated by dynamics of oppression, and even enmity reproduced by violence’.

In her later work Cohen (2005, 51-54) found that aesthetic judgments on aesthetic forms are authentic judgments with truth-values from which inferences can be made, serious questions can be asked, issues debated, confirming or refuting features of an object or event, with several people investigating the form or event. In this kind of investigation, ‘Supervenience’, meaning a stable set of foundational properties and dependant properties of an object or event is not required. Aesthetic experiences are sensory and cognitive. Furthermore, aesthetic forms can help former enemies to reconcile through customary expressions, visual art, music, film, poetry, drama, oral history and museum exhibitions in support of communities to develop more ‘complex and nuanced’ understandings of their own narratives. Such an understanding can address injustices by visualizing and giving substance to more equitable relationships and institutions. Policy-makers working on rebuilding communities after violence and long-standing oppression should recognise that arts and cultural work are important resources for

coexistence and reconciliation. They warrant investment to educate create opportunities for artists, cultural workers, related administrators and educators.

The aesthetic experience is defined by Cohen & Yalen (2005, 1-5) as ‘a profound and pleasurable transaction between a human being and certain cultural and artistic forms’. Pleasure arises from the arrangement between the organization of the elements of the art form and the preferences of the perceiver. The aesthetic domain is demarcated by the aesthetic experience that emerges from painting on a canvas, reading a novel, embroidering a scarf, watching a dance performance, participating in a drumming ceremony, interface with folk expressions and rituals, or assuming the role of creator, composer, audience, participant, or performer (among others). The aesthetic experience is a powerful resource of learning or reconciliation. An integrated stimulation of the sensory and cognitive faculties of a person when engaging with artistic and cultural forms delimited in a space or time context, can mediate the tensions between order and chaos, tradition and innovation, the individual and the collective as people begin to acknowledge harms, tell truths, mourn losses, and imagine a new future. Aesthetic experiences can also take place in the transaction between a human being and a natural form, where both form and perceiver are regarding each other. In this case, the perceiver experience special qualities of presence, such as sensitive receptivity, strong focus, and meditation that are critical for reconciliation. Learning for reconciliation must be felt and take place in body, spirit and mind, capacities that could have been damaged by the trauma of violence. It requires a restoration of the capacity to learn from aesthetic experiences about complex phenomena such as reconciliation. Rational processes alone cannot transform relationships.

According to Eaton (2016) concepts are determined by language shaped by interests and attitudes that are culturally specific. For instance, African art cannot be described in English without making it English art (and vice versa). Even a concept such as rhythm does not migrate from Europe to Africa without significant alteration. Aesthetic concepts are culturally determined, and understanding any particular concept will demand fluency in the culture where it functions. There is no universal concept. Gender, class, religion, economic or political status often affects the formation and application of aesthetic concepts. Aesthetic concepts are learned in contexts of the performer, creator, audience, critic, tourist, and so forth. Roles are culture-bound and in some communities, it does not even exist. Aesthetic responses may seem ‘natural’ (appreciating the sunset), but many responses are subject to social prescription and exclusion.

Knowledge requires not only cross-disciplinary interrogations of knowledge claims about the real world. In a trans-dimensional world, knowledge perspectives are subjected to empirical observation, analytical procedure and application of normative wisdom, or what can be called, holistic knowledge. (Velthuisen 2015a, 94)

The propositions above show that the aesthetic domain lies within an epistemology where people who seeks self-reflection can experience and learn about the complexity of the reconciliation process by objectively responding to artful expressions. Learning from the aesthetic domain is essential for complementary reflection on how to address disconnections and work towards peaceful co-existence in a community. For effective learning to take place, the response to art forms needs to be a quality response, meaning that a ‘whole person’ response is required in the sense that the learner observes and participate with an in-depth

understanding of the cultural norms that inform the artistic impression, ignoring the notion to apply universal rules.

Poetics

In his classic work *Poetics*, as translated by Butcher (1992, 7), Aristotle philosophises that there are persons who, by conscious art or mere habit, imitate and represent various objects through the medium of colour, form and voice, producing rhythm, language or harmony. Later years, exponents such as Brady (1991, 12) stated that the point of poetics is not only to keep interpretation of subject matter grounded in self-awareness and self-conscious participation, but also to prevent premature closure on thinking and to encourage creativity in research and findings that reaches for many voices, interaction and intellectual harmony.

In his later work Brady (2003, 3-4) proposes a movement away from positivist paradigms to 'artful-science' through fieldwork, the intellectual challenges of post-modernism, increasing innovations and praxis in qualitative methods, an increasing awareness of self-development through the study of phenomenology, linguistics, and poetry as well as the embedded role of the observer in cross-cultural research for the purpose of constructive dialogue. A new paradigm requires 'self-conscious knowledge about ordinary realities' in a 'semiotic world' that requires the study of signs and symbols and their use or interpretation together with positivist research. 'No science is an island and no discipline is unconnected to the study of being human'. 'Privileged observation' has merits, but there is no monopoly on truth, irrespective of discipline. Language renders meaning unlimited and responsible social science should reject dogmatic empiricism.

Stoller (2012) proposes the use of sensuous scholarship that links analytical and sensible approaches which is only possible with the rejection of mind/body duality and acceptance of interconnectedness. Low (2012, 271) asserts that the senses are of social nature, that furthers our comprehension of selfhood, culture, and social relations. Therefore, sensory scholarship in the fields of sociology, anthropology, history and geography (among others) proliferated into a model that prescribes that both semiotics (meaning making) and phenomenological ventures (the structures of consciousness as experienced from the vantage point of a person) to represent a 'sensory-interpretation model'. A cultural system and hierarchy of the senses emerges beyond the hegemony of vision, where the sensorial experiences such as the 'feeling in the body' can be sensorial relevant

According to Low (2011) researching the senses entails both the bodily experiences of the researcher and the researched. Researching the senses involves analysis of sensory orders, disorders, and contour of how social actors make sense of and fashion their sensual selves and deploy sensual practices through somatic work (alternative medicine approaches, experiential movement disciplines, and dance techniques). This sense making takes place in association with memory during the everyday subjective social life of social actors, as a vehicle to establish self-continuity over time.

The Nobel prize winner M.J. Coetzee (2002, 248) states that, when watching films on Africa, the African personality seems to be 'the brainchild' of the social scientist who only depicts the hardship of the African. 'The camera never explores or inquires about the unique personal identity of the African, as if their souls are unimportant'. In some cases even the background music are European and not African. Coetzee further states that 'part of the experience of

being colonized is having images of yourself made up by outsider stuffed down your throat”. (2004,355).

This concern expressed by Coetzee is despite the encouragement by the African philosopher W.E.B. Du Bois (1969, 16) that African people should use their poetry, storytelling, song and music to uproot and destroy stereotypes about them in a creative way and reconstruct discourses towards self- elevation to a critical point when a person becomes ‘I’ and ‘We’, a human being beyond just racial identity. Henry (2006, 4) calls it the ‘loving reconstruction of African consciousness’ through poetics, moving beyond European philosophical approaches.

The late South African political activist Steve Biko (2004, 46-47) reminds us of the enthusiasm of Africans to communicate with each other through song and rhythm. In the African culture music describes all emotional states. Burdens and pleasures are shared through music, and games are played with music. Music, intrinsic to African communication, is never played for individuals, but for groups, making everybody understanding the same thing from a common experience. Music dress and other and other art forms is part of a culture of defiance, self-assertion, group pride, solidarity and substantial togetherness. (2004:50)

Robtel Neajai Pailey (2016), a young African scholar, asserted that knowledge about Africa is not only found in history, politics and developmental processes. It is about appreciating Africa ‘aesthetically’, through the study of drama, fiction, visual art, and dance forms, produced and taught by Africans as an affirmation that Africans produce unique knowledge about their continent.

These scholars make out a convincing argument that, to access the wealth of African knowledge, knowledge from an aesthetical knowledge domain needs to be accessed as expressed through poetics that represents the African identity and creative reconstruction of unity. Creative discourses and appreciation of the knowledge articulated through aesthetics such as poetics and music by both the researcher and research subject are required to access the knowledge about conflict and reconciliation that resides in an aesthetic knowledge domain.

Knowledge embedded in poetics can therefore be accessed through the self-awareness and self-conscious bodily participation of all research participants, sensing what the sometimes many voices try to articulate. A knowledge dimension can be accessed through intellectual interpretation of what is experienced by the senses, by critically reflecting together on the meaning of what is experienced, as well as seeking synthesis of sensory feeling. The result of this sensory-interpretation of poetics opens the access of better understanding of issues that are difficult to articulate in popular language and to analyse from a positivist perspective. If this new understanding is applied, it would probability create new pathways to reconciliation.

Researching the aesthetic domain of African Knowledge Systems

The transdisciplinary approach to research

According to Max-Neef (2004, 15) ‘trans-disciplinarity’ is not a new discipline but a way of seeing the world as systemic and more holistic. Expanding on this assertion, Nissani (1995, 121) explains that all research takes place along a continuum, ranging from the two

imaginary poles where pure disciplinary work is at the one pole and a grand synthesis of all human knowledge at the other pole.

Nicolescu (2005, 7) asserts that trans-disciplinary methodology establishes links between persons, facts, images, representations, fields of knowledge and action to discover the 'Eros of learning'. During our entire lifetime we continuously question the integration of beings and phenomena. In the natural world trans-disciplinarity articulates among different realities. It appears as if a flow of information is transmitted in a coherent manner from one reality to another in our physical universe.

Nabudere (2006) affirms that to understand the views of people requires an epistemology that recognises orality as a valid source of knowledge. Orality can only be interpreted with multi- and interdisciplinary approaches to unravel the complexity of revelations, which is not possible within a single discipline.

Following the perspectives of Nissani (1995), Max-Neeff (2004) Nicolescu (2005), and others, it can be inferred that the trans-disciplinary approach is essential for reconciliation. In the space among disciplines there is knowledge, (normative, scientific, analytic and aesthetic) that may reveal new perspectives on the causes of conflict and how to find peace. Trans-disciplinarity opens new perspectives on how to deal with problems in a real world that moves beyond the constraints of disciplinary boundaries. Trans-disciplinary sense-making enables the researcher to do away with dichotomised and divisionary thinking while creating better societies. A trans-disciplinary approach is therefore required to research the aesthetic domain. Research into justice and reconciliation is not possible within the limitations of conventional disciplines such as political science, law and anthropology. Thorough investigation requires borrowing research methods from any discipline to discover lived experiences.

Collecting data from poetics

Heidegger (1927/1962) reminds us that it is human for individuals to interpret by discovering meaning in social contexts. Understanding of conditions in which phenomena such as conflict take place, is a stepping-stone towards full understanding. All a person need is a secure vantage point as foothold. Heidegger explains self-reflection as a consciousness of the study and position of people in the world, including the essence of their belief system, as well as the importance of cultural and historical context. Furthermore, the hermeneutic cycle described by Heidegger explains the crossing of boundaries in listening to messages, interpreting it, and passing it on to others. Broadening the classical understanding of hermeneutics, Heidegger asserts that text and the people who produce them are expressions of the author's experience and fundamental to understanding. When other people are exposed to these experiences through discovery, it assists the understanding of the other people. I believe that the process of interpretation followed during the research provided such vantage point.

However, it is the fusion of horizons, described by Gadamer (1976, 98-99) as the mediation between the immediate horizon of the interpreter and a new emerging horizon, which is the main achievement of complementary reflection. It is especially how the different historical horizons of researchers and the lived experience of the community finds each other and brings some understanding of violent conflict as a phenomenon.

Senghor (1962, 2) explains the epistemological differences between the African and the European, acknowledging the conceptual variation in reasoning. In the European tradition, reasoning is 'mechanical and atomistic, functioning as an instrument of manipulation, dissecting the object to expose its hidden essence. In the African traditional model, reason takes place to cultivate and sustain an affective, living, reciprocal, relationship of energy and influence exchange. In this relationship there is no barrier between subject and object. According to Senghor, the African keeps his senses open, ready to receive any impulse, and even the very waves of nature, without screen ... between subject and object'.

It is in this understanding of a dichotomy and tension between European epistemology and African tradition that Du Bois (1969, 16) described self-reflection as 'first sight', where people see themselves through their own eyes in relation to the whole life world, uprooting stereotypes about skin colour and reconstructing the self and the world with creative discourses and symbols. Du Bois contrasts it with 'second sight', meaning seeing oneself through the eyes of others. Schutz (1962, 59) identified a view of the world from the 'first order construct' of the people studied and the 'second order structure of the researcher', connecting a common sense world with scientific theory.

Laverty (2003, 6) describes interpretation as the construct of variations through intuition, imaginative variation, and synthesis. Laverty (2003, 17) suggests that it is important for the researcher to start the research from personal self-reflection about his or her position in relation to other people involved in the research. The researcher should then reflect to ensure an understanding of the world as lived by the people to be researched. Skovdal & Abebe, (2012) insists that if a researcher adopting trans-disciplinarity, it is vital to be reflective about one's own selfhood, social 'positionality' and prejudices. It is important to integrate these characteristics of self by being reflexive. These are characteristics of ethical qualitative research.

Henry (2006, 3) explains such self-reflection as the development of comparative cultural perspectives. From the perspective of African phenomenology, Henry (2006, 21) points out the importance of descriptions of phenomena as the product of self-reflection, actively constituting the consciousness of African people. In this process, egos are displaced through 'de-centring techniques' practiced in specific cultures and epistemic practices and from inside any discipline, producing knowledge in a trans-disciplinary way. According to Cox (2015, 8), interpretation takes place after suspending judgement. The essence of meaning is discovered through comparative studies and bracketing away unexamined assumptions about the world, allowing phenomena to speak for itself.

This process of reasoning is recognised by a contemporary African scholar Odora Hoppers (2004, 1) as a system of meaning, in other words a relationship between variables and the meaning attached to it that reflect essential interrelatedness and interdependence of all phenomena. Such a knowledge system of interpretation involves the 'co-evolution' of spiritual, natural and human worlds. In many African contexts, it infers to a relationship with nature, 'human agency' and human solidarity, which implies 'I am human because I belong'.

According to Low (2012, 276-279) sensory data is articulated through not only through language as a medium but also by way of other avenues, such as brief reflections on the own sensorial of the researcher while conducting sensual research. Apart from the usual methodology such as narrative interviews, participant observation, and visual methods, sensory research requires innovative sensorial strategies on the part of field researchers. The

senses in social life and social interaction may be tapped into for data, implying that the researcher is not neutral but a participating observer, embroiled in the process as an embodied researcher, collaborating together with the respondent who equally takes on an embodied position in sensuous research. For instance, by getting respondents to use a digital camera and conducting a 'home-tour' with the author, audio-visual media evokes physical experiences together with sensorial experiences where all the senses simultaneously perceive images/metaphors. The involvement of the body of the field worker together with these sensory exposures, translates into sensuous portraits of social life. Non-textual outlets for translating the senses may also be found in ethno-drama, other performance and audio technologies towards presenting sensual ethnography. Inquiry into domains such as sociology of the body, emotions, and visual sociology provides insight and contributes to theory, method, and epistemology in the social sciences and beyond, broadening the field of sensory studies within and between cultures.

Literature on the collection of data from poetics on reconciliation reveals a few very important aspects. The departure point is self-reflection of the researcher involved. An awareness of the specific cultural context of the artist/creator/poet and differences to the context the researcher is used to is required. Furthermore, the vantage point of the researchers is situated so that the poetics can be observed beyond the obvious (the dance is exiting) or esoteric speculation (the dance has a message in it) to where feeling can be applied (the dance makes me feel sad). If the motive and context of the artist/creator/poet can be identified together with the sensory feeling of the research participant it may result in some clear indicators of the meaning of the form of poetics. If these observations are shared with the creator, this mutual learning experience contributes to what is required for successful reconciliation.

Participating in rituals as methods of data collection

In contemplating ritual as vital for restoration of balance Auslander (2003, 127) asserts that:

“The flat view of ritual must go. So also must the notion, beloved until recently by functionalist anthropologists, that ritual could be best understood as a set of mechanism for promoting a gross group solidarity, ‘as a sort all-purpose social glue’ as Robin Horton characterized this position: its symbols are not merely reflections or expressions of components of social structure. Ritual, in its full performative flow, is not only many-levelled, laminated but also capable, under conditions of social change, of creative modifications on all or any of its levels.”

The ritual is therefore not a representation of what already exists. Ritual is, in most cases, a creative performance that works to envision the life world of individuals and communities. In ritualistic time-spaces the participants are creating and recreating their past, present and futures. Therefore, there is great potential for healing and reconciliation in ritual. Furthermore, what we do need to acknowledge, and what will be supported in the later parts of this paper with reference to a particular San dance group, is that ritual is a difficult place to access from a structural functional vantage point. For example if leaders were to prioritise ritual as part of large-scale reparations after a loss of humanity, leaders would need to be trustworthy. Not just anyone is welcomed into the intimate and delicate space of community-based ritual. When we see ritual as creativity it enables our methods to see that ritual is a part of any creative act and thus in poetics. An appreciation for ritual opens up the worlds of

poetics and aesthetics and allows us to find the potential for reconciliation within creative acts such as dance, song and performance.

Storytelling as method of data collection

According to Berns (2016: 4):

‘Stories are both universal and individual. They are our mannerisms and our beliefs, our choice of words and our dreams for the future. Most of all, stories shape the way we interact with the world around us and how we define our role in it. We find purpose and belonging through stories – as individuals, communities, and nations.’

Turner (1980, 148) points out that the nature of the story is important when reflecting on it. In this regard he use the example of distinguishing between the Ndembu’s (of north western Zambia) *nsang’u* (chronicle) and *kaheka* (story). If the narrator/orator recalls and shares a linear tale that spans generations and is a relevant history to an entire group or community it is a chronicle. If the storyteller is expressing anecdotal, folk tales, or personal experiences with metaphor, symbolism, and ethics that is ‘told by old women to groups of children huddled near the kitchen fire during the cold season, it is a story.’

Storytelling is therefore more than just another way of telling and abstraction. It can be a deeply affective process of locating, articulating and communicating personal lived experiences. It opens the way for innovative sensorial strategies that involves sensuous, participant scholarship by immersion in the subjectivities and fictionalized realities that ‘ring true’, encoding (especially in digital format using a camera), analysis and interpretation of digital stories, knowledge production and the construction of meaningful sharing experience as well as relationship building in the context of a reconciliation process.

Examples: The San of Southern Africa

The San is part of the First People of Southern Africa, whose origins can be traced to the ‘Mitochondrial Eve’ from whom, according to Oppenheimer (2004,40) all Africans originate. The largest group of San people currently resides in a low-income village called Platfontein on the outskirts of Kimberley, the capital of the Northern Cape Province of South Africa. The San of Platfontein speak Kwedam and !Kun, which distinguishes them from other groups. The Khwedam speaking people (the Kwhe) are from the Kavango region of Namibia and the Cuando-Cubango province of Angola. Most of the !Kun were hunter-gatherers who lived in the remote savannah areas of Angola, Botswana and Namibia. During colonial rule by the Portuguese in Angola, men from both groups served as Portuguese soldiers. When Portugal withdrew from Angola in 1974, the San soldiers became part of the South African Defence Force who fought against insurgents in Angola. After the independence of Namibia in March 1990, they were settled in South Africa by the South African government. (See <http://dspace.nwu.ac.za/handle/10394/13079> for scholarly publications about the San of Platfontein).

The next largest San group is the ‡Khomani of the southern Kalahari. The group is descended from several original San groups, including the ||Ng!u who close relatives of the !Xam who lived south of the !Gariep River. They were and speakers of the ancient language. Only 23

people can still speak N|u. Most San now speak Khoekhoegowap and/or Afrikaans as primary language. Approximately 1 500 adults are spread over an area of more than 1 000 km in the Northern Cape Province. Most people live in the northern reaches of Gordonia, at Witdraai, Ashkam, Welkom, Rietfontein and surrounding villages. Others live in and around Upington and Olifantshoek.

Both these communities still suffers from the consequences of genocide before and during colonialism, soldiers fighting as surrogates for belligerents during the so called Cold War, apartheid and a current society characterised by political turmoil, socio-economic under development, poor service delivery especially concerning water and sanitation and harsh environmental conditions and problematic access to the modern criminal justice system. (See <https://dspace.nwu.ac.za/handle/10394/13079> for more readings about San communities in conflict and in the search for reconciliation.

During 2016 the young researcher from the Institute for Dispute Resolution in Africa, Kate Ferguson embarked on research into the poetics of the San to discover knowledge on dispute resolution and reconciliation. The first venture was to access knowledge on reconciliation on storytelling in digitalized form, closely observing female rite of passage performance and dancing to celebrate and create a culture of reconciliation. In her report on this experience she explains how she accessed the San poetics and how she interprets the sensuous experience. (Ferguson 2016. <http://hdl.handle.net/10500/21786>).

An evaluation of the access to and application of aesthetic knowledge for peace and reconciliation

Knowledge from the aesthetic knowledge domain by means of trans-disciplinary, participant observation of the poetics from a specific culture requires personal reconciliation, meaning that the researcher first of all goes through a process of self-reflection. The researcher needs to develop an honest awareness of how the cultural context of the creator of poetics differs from the context of the researcher, assuming that the researcher comes from another cultural context. Furthermore, the researcher has the challenge of differentiating between sensuous feeling and emotional involvement, by sensing without constriction when participating in the event, but re-establish emotional distance after the event in order to objectively evaluate and interpret what was experienced.

Once the researcher achieved this inner-reconciliation, the researcher can engage in participant scholarship following an innovative sensorial research strategy to access knowledge in the aesthetic knowledge domain. Such a strategy will be launched from a vantage point where artful expressions can be accessed. A suitable course of action for the researcher will be to respond to poetic forms such as ritual, song, dance and storytelling, as a whole person who physically embroiled themselves in the form to discover new knowledge. Such a response involves the assumption of responsibility by the researcher to enter into dialogue with the creator of the poetic form to share insights that could creatively add to the process of reconciliation.

This per-action of sensuous participation and intellectual interpretation contributes to the understanding of the cultural norms of those who are in the process of reconciliation, which would otherwise be difficult to articulate in popular language. New perspectives can therefore be discovered from various forms of poetics when the communication of the creator aims at

the creation or restoration of cultural identity, peaceful relations and connections among people towards reconciliation.

Conclusion

This paper departed from the aim to evaluate poetics as source of knowledge to find practical solutions for reconciliation and peace building in a community. The argument is forwarded that if access to the poetic forms of relatively peaceful communities is discovered, interpreted and understood it reveals how relationships are reconciled. This argument is supported by offering a conceptual framework on reconciliation, the aesthetic knowledge domain, and poetics, making it relevant to peace and reconciliation. A trans-disciplinary, participatory and engaged research methodology is discussed. Finally an evaluation of specific forms of poetics researched with the San communities of South Africa to accomplish reconciliation is offered.

It was found that new perspectives can be discovered from various forms of poetics through holistic sensuous participation and intellectual interpretation if the researcher and creator of the poetic form successfully merge their understanding of what the creator articulates. To merge insights would require a research strategy that moves the vantage point of the researcher to as intimate as possible to the artful expressions to sense meaning beyond popular language expressions. This would require inner-reconciliation by the researcher and an awareness of the cultural context of the creator of poetic form. Furthermore, it would require from the researcher to initially sense what is being articulated and then place some emotional distance to assert meaning from a neutral vantage point to ensure good scholarship. The knowledge that emergences from this mutual experience will probably, if applied to the process of reconciliation in a community is creatively, innovative and restorative.

It is proposed that all field researchers who engage in participatory research with communities develop awareness that a wealth of knowledge is embedded in the aesthetic knowledge domain. The knowledge of differing cultural contexts, the skill to engage with the many forms of poetics and a mindset that enables research beyond disciplinary boundaries, should be an important venture to develop the young researcher.

From the perspective of the community artist, it is important that the creative energy and the quest to influence positive change through all forms of artistic expression is never abandoned and not be allowed to be drowned by dominant narratives from scholarly and other interpretations that failed to dwell beyond scientism to a dimension where metaphysical knowledge can be applied to find reconciliation.

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The Promise and Potential of International Law in Engaging Business for Peace

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The transnational private sector has an unrealised peacebuilding potential. Scholars such as Nelson, Fort, Haufler and others have well-examined this assertion, and elaborated upon what transnational corporations could contribute to peacebuilding endeavours. This paper seeks to contribute to the literature by tackling the “how” question. That is, if corporate peacebuilding is our normative goal, how can it be achieved? This paper suggests that international law may be a useful tool to encourage, incentivise and compel better corporate behaviour in armed conflict situations, even corporate peacebuilding. The Law is the most effective means of regulating behaviour – be that, individual, communal or corporate behaviour. The Law provides fundamental minimum standards of behaviour, as well as the means to punish for breach of such standards. Properly conceived, Law can even reward those that go ‘above and beyond compliance’ to embrace higher standards of behaviour. In the context of corporations operating in conflict-affected areas, international law holds out the promise of integrating ‘peace metrics’ – that is standards of behaviour that promote and foster peaceful societies into the culture and constitution of modern transnational corporations. For example, human rights law and international humanitarian law (‘the laws of war’) provide such behavioural standards, and international criminal law possesses the means to punish their transgressors.

This paper highlights international legal attempts to regulate transnational corporate behaviour in conflict-affected areas in the modern era – with varying degrees of success. It critiques current efforts to achieve peace-minded corporate behaviour, such as the United Nations’ *Global Compact* and the *Guiding Principles on Business and Human Rights*, and suggests possibilities for improvements. Ultimately, the paper contends that the full potential of the private sector to contribute to peace will only be realised through the properly-calibrated, astute use of international law.

THE TRAUMA OF NORTH WAZIRISTAN'S ORPHANS OF CONFLICT

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Pakistan has become frontline state in the war against global terrorism in 2001 and has suffered a lot since then. The advent of NATO troops in Afghanistan compelled militants to shift to the areas along the Durand line. Pakistan as an ally of the USA in the war against terrorism launched a thousand and one military operations to eradicate the menace of terrorism from the Pak-Afghan Region. Pakistan launched many military operations for instance operation Rah-e-Rast in Swat, operation Rah-e-Nijat in South Waziristan and finally operation Zarb-e-Azb in North Waziristan against the militants. As a result of operation Zarb-e-Azb a large number of local people were displaced from North Waziristan to Bannu and Lucky districts of Khyber Pakhtunkhwa province of Pakistan. These IDPs suffered politically, socially, psychologically and economically. Their trauma needed desperate healing. The focus of the paper is to fathom the problems and prospects of successful rehabilitation of these IDPs. The research will be based on primary and secondary data and will be collected from books, articles, online material and field work. The information will be collected from IDPs, NGOs and government employees dealing with the problems of Internally displaced people in Khyber Pakhtunkhwa.

After the war against terrorism in 2001 Pakistan again came to the canvas. It played as a front-line state in Afghan war during 1980's. Once again the in 2001 it had to play the same role. The enemy in this war was faceless and nameless; it was a war against shadows (Goldman and Apuzzo, 2010). The effects of 2001 attacks on USA were not limited to US alone; it had made immense effects on Pakistan. Being a part of American mission the militants vastly targeted Pakistani forces and people. General Musharraf decision to join US camp against Al-Qaida and Taliban had led enormous negative effects on Pakistan. The American policy became a long term of Policy as it was continued by the governments of People's Party (PPP) and Pakistan Muslim League Nawaz (PMLN), the ultimate result of which it took lives of more than 58,500 Pakistanis (Satp.org, 2015).

FATA got attention in the war against terrorism because many militants took refuge in tribal areas of Pakistan. When Pakistan started operation Zarb- e- Ghazab against insurgents and militant groups many local people from FATA particularly North Waziristan Agency migrated to settled districts of Khyber Pakhtunkhwa province of Pakistan.

Internally displaced persons (IDPs) are the persons or a community who have to leave their territory because of a risk or threat, natural or unnatural within the state they have the nationality (UNHCR, 2011). People from the affected areas migrate to places where they feel safe and hope to be back soon to their homes. persons or a group of persons, forced or obliged to leave their homes or habitual residence, to avoid the effects of an armed conflict, violence, violation of rights or natural or manmade disasters, within the state boundaries (UNOHCHR, n.d).

But when they settle down in the host areas, they don't feel like moving back to their homes heartily. This extra liability causes sufferings to the host areas in terms of social, economic

and security. In the current situation, there is a serious challenge for the host areas while adjusting these large number of IDPs especially Bannu region where most the IDPs don't go to camps established by the security agencies rather they go to homes of relatives and friends, rented houses and hotels at Bannu, raising the rents and limiting the vacancies. Nearly 27 million of the world IDPs don't like to live in camps, they either go to their relative or friend houses or amalgamate with the host society. The basic reason why the IDPs refuse to leave the place is their easy access to facilities like health and education (Fagen, 2011).

Displacement also affects emotions of the people, either because they have lost a loved one or they have left their homes, assets, society, culture and traditions which push them towards different psychological pressures and aggressive actions, the consequences of which touch both the local as well as the displaced society (Carrillo, 2009).

The head of a medical camp at Khalifa Gul Nawaz Hospital Bannu, established for the psychotic patients of NWA, Dr. Asma assumed that some two lac out of one million of the IDPs were under different psychological pressures and diseases. Amongst them, 40 thousand were in trauma. Dr. Shahzad held that 70% of the patients had been reported with stomach and skin diseases. They believe that there is a dire need of more camps to secure their future (Betab, 2014).

The danger of Polio may also migrate with the Waziristan people as there is high rate of Polio cases registered in NWA during the last few years. According to current statistics, 50 plus polio cases have been registered in NWA so far in 2014, out of 82 local and 103 worldwide cases (FP., 2014).

National powers bear the essential obligation to avoid and react to internal displacement. However if the Government can't or unwilling to satisfy its commitments, then it must permit compassionate humanitarian organizations to access to the groups in need. IDPs need essential goods and services i.e. food, clean water, health services and shelter (UNOCHA, 2016). They require governmental and non-governmental support to observe take care and ensure needs of their families. Training, education pay producing activities, documentation which will permit them to proclaim their rights are all essential elements for IDPs to reinsure their identity and dignity. The more time people live in displacement, the more it takes them to re-manufacture their lives in peace and security, and the more helpless they will be.

IDPs have the privilege to conclude their time of relocation in the following three ways (UNOCHA, 2016).

1. To settle somewhere else in the nation;
2. To synchronize into the group where they are right now based; or
3. To return home.

IDPs have the privilege to consider choice about their own particular future and they might require help with to see through their decision. The choices on when, where and how to end their time of displacement must be intentional and did in security and poise.

Hardships test the covered up and un-tried faculties of individuals yet it transforms into sufferings when they are forced and constrained against the will. The hardships of a Safari visit into the Arabian sands that apparently would convey satisfaction to the voyager,

obviously incompatible with the agony of Internally Displaced Persons (IDPs) who may be bare footed, weighted with family things, went under shadow of uncertainty of environment and circumstances and loss of their property, respect and even life.

The Government of Pakistan is trying hard to end the operation soon and start the rehabilitation process, but the displaced community needs surety of their livelihood in their affected areas, they think, will they survive economically when they go back to their own areas (Fagen, 2011). The IDPs need better facilities relating to health, water, food and shelter to encourage them to return to their places of origin (Refugees International, 2008).

On the other side, the flow of IDPs has not only affected the areas which are near with the operation but the whole region as well. It is said that this displacement is from the “Lawless to the Lawful” area. Pakistan suffered a lot due to terrorism, thousands of people have been killed and the investment has decreased.

Most of the dislodged families from North Waziristan Agency (NWA) who are living with the host group in Bannu. Bannu area is facilitating most of the dislodged families from NWA because of its geographic location and easy access. Although the region has infrastructure to bolster its own population; the tremendous convergence of dislodged individuals from North Waziristan has brought about expanded weight on the neighbourhood base having limited capacity to absorb the IDPs influx. Significant number of the IDPs families had occupied schools and other public structures. These structures had limited fundamental facilities. Numerous families are living in one room with constrained space (Relief Web, 2014).

Individuals don't simply get dislocated; they are disowned, wrecked and destroyed physically as well as emotionally. What's more, similar to any other bloody conflict, people have paid the most elevated cost for this war; in man, material and money, about 65% of FATA's almost 7 million populace has encountered the gloom of leaving their homes. During the current IDPs movement from NWA to Bannu numerous media cameras approached towards Bannu where larger part of the NWA IDPs had taken refuge; in schools, in hujras, in leased houses. For media houses, these IDPs were just 5-7 minutes news piece; no one ever felt what it feels like to be an IDP in your own particular nation except the people who gone under the circumstances. These are the situations when the state radio and TV channels and mosque loud speaker announce that he aircrafts are arriving to bombard the homes and places you have built and used to, the time when you see at your parents and children numbed eyes. The way to an known place under the cruel weather on feet, the nights and days when you spent them in the hujras and houses of some unknown person with all your prestige honour and turban.

The process of repatriation and rehabilitation accelerated during the January and huge number of displaced people reached their area with the help of government and armed forces. According to the Inter-Services Public Relations (ISPR) a number of 108,503 families of the total IDPs families are returned homes due to successful completion of the operation in those areas.

Regarding future of the people after when the operation will end and the rehabilitation process will complete, government has already initiated different policies to bring these people towards development and modernization, to achieve this objective government has announced scholarships in higher education and free primary education for the effected

displaced peoples, similarly practical and vocational education and training is provided through different institutions and NGOs to enhance abilities of NWA people and to make them useful man power. As an initiative Pakistan government with the collaboration of two United Nations Organizations-United Nations Development Programme (UNDP) and International Labour Organization (ILO) initiated Community Resilience Project for the Displaced Families from NWA (Daily Times, 2016). On the first step two hundred men and women from NWA IDPs residing in Bannu will be taught trade skills, training and employment facilitation. In his remarks on the advancement, UNDP Country Director, Marc-Andre Franche expounded that UNDP and ILO have been mutually working for Early Recovery Frameworks in the post-emergencies circumstances in Pakistan. The two Agencies are effectively teaming up under Community Restoration (CoRe) Group and there is a past filled with two organizations cooperating for employment regaining and recovery in the nation. He said in perspective of past work of ILO and UNDP on Labor Market Information and Analysis (LMIA), Community Based Livelihood Recovery Program (CBLRP) and continuous work on right on time recuperation system for Pakistan, the present task will end up being another development which will encourage the impeded families from North-Waziristan in finding fair business opportunities.

Importance will be given on preparing greatest number of construction workers who may be required to partake in remaking of the NWA, where the vast majority of the current structures, houses, and other framework has been damaged. Aside from that, different instructional classes for women will be arranged to effectively take an interest and learn new aptitudes for expanding family earnings. The prepared men and women will be supported for occupation by the ILO's current Emergency Employment Information Centre (EEIC) in Bannu District through employment seeking, setting up new entrepreneurs and to equalize them on equal footing with the host communities. The EEIC has enlisted more than 900 men and women who seek to be utilized and encouraged more than 500 of them for various job opportunities. The undertaking is a piece of Community Restoration (CoRe) Cluster, mutually led by the Pakistani administration, UN and other national and worldwide NGOs (Daily Times, 2016).

Post-conflict rehabilitation is a time, energy and capital consuming process. The suffering of IDPs will end but the trauma is so deep that it will take long time and firm efforts. Since militants were defeated and the areas are cleared when civilian administration is restored to reconstruct the social, economic and political life of rehabilitate IDPs health, education, infrastructure facilities will be required.

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