

Chapter 3: Indigenous Conflict Resolution in Africa: The Case of Ghana and Botswana

Kwaku Osei-Hwedie and Morena J. Rankopo
University of Botswana

Introduction

Traditional conflict resolution processes are part of a well-structured, time-proven social system geared towards reconciliation, maintenance and improvement of social relationships. The methods, processes and regulations are deeply rooted in the customs and traditions of peoples of Africa. The importance and utility of the processes lie in the fact that they strive “to restore a balance, to settle conflict and eliminate disputes” (Choudree, 1999:1). Traditional processes are relatively informal and thus, less intimidating. Those who use them are also more at ease in a familiar environment. The role of chiefs, elders, family heads, and others is not only to resolve conflicts but also to anticipate and stop/or intercept conflicts. Group relationships and rights are as important as individual ones as emphasis is on restoring relationships and reconciling groups (Choudree, 1999).

Botswana and Ghana have been selected primarily because of their comparable social development progress, political stability, and respect for indigenous knowledge and institutions (Fosu, 2009; Naude, 2010; Robinson, 2009). Further, the two countries have interesting contrasts. Ghana is a small country (238,533km sq.) with a large population (23.8 million – 2009 estimates)(World Factbook, 2010) while Botswana is a large country (581,730 km sq.) with a small population (2 million – 2010 estimate)(World Factbook, 2011). Both were former British colonies with Ghana gaining independence in 1957 and Botswana in 1966 (Naude, 2010). The two countries have established traditional and religious systems of leadership which continue to shape the behaviour of individuals and families in the contemporary era (Economic

Commission for Africa, 2007). Most importantly, the leadership systems are based on the specific socio-cultural contexts of these nations.

This study adopts a qualitative approach which allows for the use of selected cases to explore a social phenomenon of interest based on the researcher's curiosity (Yin, 1994). A case study is intended to describe, understand and explain a research phenomenon. However, unlike quantitative research, the findings of a case study are not generalized to the rest of the population. Therefore, the question of representative sampling does not arise (Stake, 1995; Yin, 1994). Thus, the number of participants in a study does not matter for a case study to be considered acceptable, provided the study has met its objective of describing the phenomenon being studied (Tellis, 1997).

This chapter discusses the indigenous conception of conflict resolution; the actors; and the institutional context of conflict resolution at the grassroots level. The emphasis is on traditional structures for conflict resolution in Ghana and Botswana. In the case of Ghana, reference is made to the Akans, found mainly in the Ashanti, Brong Ahafo, Central, Eastern and Western regions of the country. They include mainly the Akim, Akwapim, Asante, Brong, Fante, and Kwahu. They form about 45 percent of the Ghanaian population (Okrah, 2003). A qualitative study involving four traditional chiefs, two queen mothers, two clan heads and two heads of households were conducted in Ghana while four chiefs, two traditional healers and two heads of household were interviewed in Botswana all from the Tswana speaking stock. The Tswana constitute about 79 percent of Botswana's population (World Factbook, 2011). These respondents were asked to describe indigenous processes of conflict resolution in their respective communities. The findings were synthesized and presented systematically to reflect their views. In the case of Botswana, the focus is on the Tswana speaking ethnic groups as they share many commonalities including language, customs and traditional religions. Together, they are the dominant ethnic groups which were recognized by the colonial government and endorsed by the national government at independence. To a large extent, the country's local government districts were based on the boundaries of these groups (Schapera, 1970; Vaughan, 2003).

1. The Indigenous Concept of Conflict Resolution

Traditional conflict resolution mechanism is a social capital, defined as the “capability of social norms and customs to hold members of a group together by effectively setting and facilitating the terms of their relationship... sustainability facilitates collective action for achieving mutually beneficial ends” (Fred-Mensah, 2005:1). Over the years, there have developed inter group conflict over land; increasing reliance on formal contracts to regulate relationships and create understanding; and shifts in methods of conflict resolution in that mediation seems to have given way to more confrontational statutory approaches based on formal court procedures (Fred-Mensah, 2005). Despite these, traditional methods still prevail, especially at the grassroots level.

Conflict resolution comprises a complex network of forces surrounding the parties in the conflict. It is a healing process in which all stakeholders contribute positive energy. The task is to re-establish the energy flow within individuals, families and communities so as to re-build social harmony. In this context, reconciliation often requires symbolic gestures and associated rituals including exchange of gifts, and slaughter of animals (chickens, goats, sheep, cows) (Ndumbe III, 2001).

Conflicts may be managed so that they do not escalate and lead to crisis. Conflict management is different from peacebuilding which seeks to prevent conflicts from developing in the first place by engaging all stakeholders in processes that facilitate peaceful coexistence. Conflict resolution deals with settlement of conflicts that may already exist. The spiritual dimension of conflict resolution refers to creating and restoring impaired relationship with God, the spirits, ancestors, family and neighbours as the case might be (Kealotswe, n.d.; Mbiti, 1991). This is critical in restoring other relationships at the physical level. In this context, rituals play an important role in the reconciliation process. They help to link people to the past, present and future.

Conflicts must be understood in their social context, involving “values and beliefs, fears and suspicions, interests and needs, attitudes and actions, relationships

and networks...” (Brock–Utne, 2001: 6). Thus, the root causes of conflicts must be explored to emphasize shared understandings of the past and present. Brock–Utne (2001:9) notes that: “The immediate objective of such conflict resolution is to mend the broken or damaged relationship, rectify wrongs, and restore justice”. Another aim is to ensure the full integration of parties into their societies again, and to adopt the mood of co-operation. The objective of conflict resolution, therefore, is to move away “from accusations and counter accusations, to settle hurt feelings and to reach a compromise that may help improve future relationship”. The effectiveness of the process and sustainability of the outcomes, generally, are attributed to such factors as simplicity, participatory nature, adaptable flexibility, complete relevance, and comprehensiveness (Brock–Utne, 2001).

Roles of the key players may change from time to time as the situation demands since there is no standard model. Thus, the approach is flexible and dynamic and the whole process and content are influenced by the social context. The social situation of those involved is also important. Thus, the social surroundings, feedback into or influence the process. The approach also seeks to build consensus. Often, this requires tact and patience. When agreement is reached, it is shared with all parties including the general community. This social perspective on conflict transformation has general advantages including the “shared understanding of the conflict.” It also encourages harmony through active participation in the process by all parties (Brock–Utne, 2001:13). According to Okrah (2003), traditional societies resolved conflicts through internal and external social controls. The internal social controls use processes of deterrence such as personal shame and fear of supernatural powers. External controls rely on sanctions associated with actions taken by others in relation to behaviors that may be approved or disapproved.

Indigenous conflict resolution mechanisms focus on the principles of empathy, sharing and cooperation in dealing with common problems which underline the essence of humanity (ubuntu) (Murithi, 2006). Cultural approaches to resolving and managing disputes play a vital role in promoting peace and social order in communities. Cultural values and attitudes provide the basis for interaction and the

norms by which individuals and communities live. These also promote sharing and equitable distribution of resources, thus promoting a climate for peace. African cultural principles relate to the very essence of existence and being human and how all humans are inextricably related. Therefore, peacemaking is underscored by the principles of reciprocity, inclusivity and a sense of shared destiny between people. It provides a value system for giving and receiving forgiveness. This is because society places greater emphasis on communal life. Therefore, creating and sustaining positive mutual relations, are shared tasks involving everyone. It is believed that people are linked to each other including disputants as perpetrators or victims (Murithi, 2006).

Conflict is a situation whereby individuals, groups, or countries are involved in disagreement over an issue. A conflict, as a state of disagreement may lead to crisis or violence (Peters, 2006). Peters (2006) notes that conflict, at all levels, may arise due to the desire for political, economic and social advantages, greed, ego-related problems, injustice, inequitable distribution of resources and plain mischief. Edossa, Awulachew, Namara, Babel and DasGupta (2007) and Grimble and Wellard (1997) indicate that conflicts may be categorized with respect to whether they occur at the micro-micro, micro-mezzo, mezzo-macro or micro-macro levels (among individuals, individuals and groups, groups and communities, and between community groups and government); or within private or civil society organizations.

Usually, conflicts are the result of problems created by people. However, in the current global age, a period of greater cooperation and inter-dependence at all levels of society, a peaceful and sustainable conflict resolution process is very critical (Okrah, 2003). The goals of conflict resolution may be classified as preventive or corrective. Preventive goal deals with convincing individuals and groups “to choose to negotiate rather than resort to rancor in all matters of disagreement; thereby increasing the level of peaceful existence...” Corrective goal, however, focuses on measures to resolve existing conflicts “with less violence and more understanding of human nature” (Okrah, 2003:1).

Generally, conflict resolution is a community process involving the identification of the root cause of the problem, and bringing all parties involved to

address the underlying issues. This usually ends with the guilty accepting wrong doing, leading to reconciliation which may include compensation or just forgiveness (Brock-Utne, 2001; Murthi, 2006). The process of conflict resolution has to do with how indigenous structures and systems ensure action in bringing peace at the individual and community level relationships. In this respect conflict resolution procedures are generated from general cultural life and daily experiences of living. In this context, indigenous “refer[s] to the structures and the units of organization in a community and encompasses also the norms, values, beliefs and cosmovision that guide social interaction” (Kendie and Guri, 2006:333).

2. Cultural Processes of Conflict Resolution in Ghana

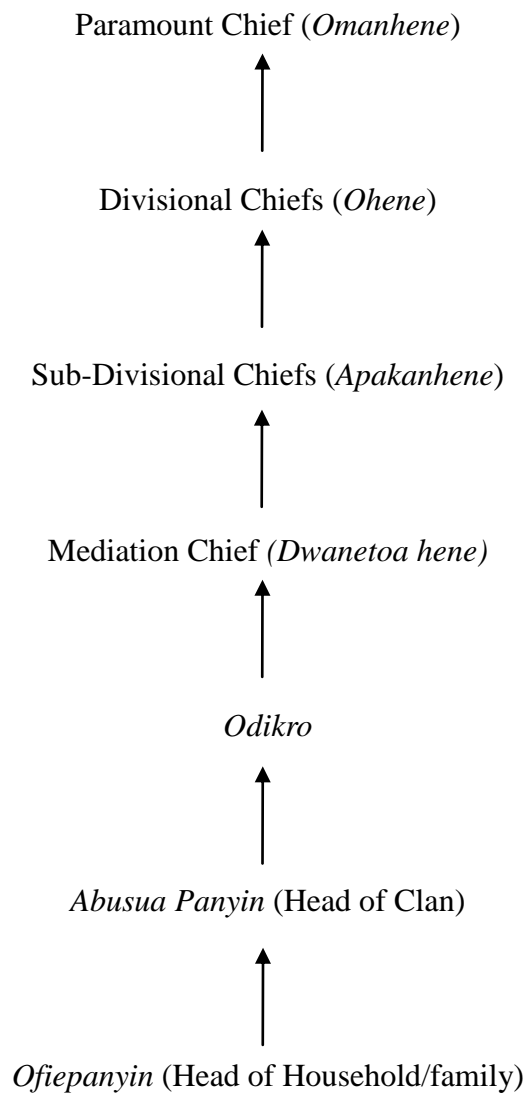
Traditional conflict resolution is a structured political, judicial and arbitration mechanism. Traditional leaders play a vital role in local and grassroots communities in relation to socio-economic development and the administration of justice in the modern political system. This is part of the cultural heritage of the people. The institution of traditional leadership plays critical roles in promoting and sustaining social cohesion, peace and order in societies. Traditional institutions play two important roles: a proactive role to promote social cohesion, peace, harmony, co-existence; and a reactive role in resolving disputes which have already occurred (Department of Justice and Constitutional Development, 2008:30).

Actors

There are many actors involved in the conflict resolution process. At the state level (regions/towns) the chieftaincy (chief) is the key institution for conflict resolution. Among the Akans, the leader of the traditional state is the paramount chief (*omanhene*) followed by the divisional chiefs (*ohene*), and the head of villages (*odikro* - literally meaning the owner of the village). Villages consist of a number of family groups or clans/lineages. Each family group or clan is headed by an elder of the family (*abusua*

panyin). This is distinct from the head of household (*ofiepanyin*) (Figure 1).

Figure 1: Process of Conflict Resolution among the Akans in Ghana



Source: Kendie and Guri (2006)

From the paramount chief to the *odikro* level there is a queen mother who is also critical in conflict resolution at the family, through community to the state level. At the clan and household levels there is also a female head (*obaa panyin*). Chiefs at all levels have a council of elders which helps in governance as part of the formal structure of chieftaincy. Other actors may be drawn from across all sections of society

including clan, traditional, youth, women, singing, and self help groups/associations. Also, of significance are the traditional priests/spirit mediums, herbalists and soothsayers.

Process

Conflict resolution can be processed through either the courts, (western judiciary model) or the indigenous system through the customary process. When there is a dispute, the elders discuss the issue to find a solution. If they fail, then the issue is passed on until it reaches the chief. It must be noted that the indigenous and the western models of conflict resolution co-exist and compete for allegiance and control (Kendie and Guri, 2006). What is evident is that at the community level, there is a well established traditional leadership and consultative structures and processes through which disputes are settled.

The traditional court, the main seat of authority, among the Akans, consists of the chief, his elders, the queen mother and the linguist. The elders represent all the people in the division. The Akans believe in democratic rule based on consultation, open discussion, consensus building and coalitions. The composition of the traditional authority also demonstrates the Akan notion of participatory democracy (Okrah, 2003). Some conflicts may be resolved before getting into the stage of arbitration or reaching the chief's court. The traditional process of conflict resolution is based on the notion that whatever decision is arrived at should improve the relationship between the parties and that the judgement should be wise and practical (Okrah, 2003).

Conflicts may be solved directly by the chief, his elders or actors selected by any of the parties. The process, according to Okrah (2003) includes the following:

Arbitration – This is where the parties formally present their cases at the chief's courts for determination. This includes conflicts over land, and other property. All land cases are referred to the chief's court since the chief is the custodian of the land and its boundaries. All cases that are reported to the chief but not withdrawn for mediation go through the formal process of conflict resolution at the chief's court.

Mediation – There are several ways of mediation:

Dwanetoo - literally meaning running to a mediator to intervene on your behalf. Mediation is regarded as very important to the extent that there is a chief for mediation (*dwanetoo hene*). In this case the mediator goes to the complainant and pleads on behalf of the wrong doer. “It is a conflict abating process that implies the avoidance of conflict” (Okrah, 2003: 2). In this respect, one party may admit guilt and plead for mitigation. The mediator would plead on behalf of the offender. In another instance, one may plead through a mediator for the use of, for example, land or other property, thus avoiding a situation that may potentially lead to conflict. Where mediation is used, the mediators are sought within the community of the parties. Mediators are people with status, recognition, integrity and experience in the community. The elders and mediators may use pressure, persuasion, recommendations, suggestions, and relevant norms, and rules to arrive at a solution (Brock–Utne, 2001). A conflict in the making or which has just started can be stopped before it escalates by a peace loving third party who offers to intervene as a mediator. A case that is pending hearing at the chief’s court can be withdrawn for “settlement at home.” The chief may in his own accord refer the case to the elders or clan heads for resolution. Alternatively, a third party may plead to withdraw the case for settlement at home. The mediators accept responsibility to settle the dispute outside the traditional court and to report back to the chief.

3. Spiritual Dimensions of Conflict Resolution in Ghana

Conflicts that have spiritual dimensions involve incantations, curses, witchcraft and oath-taking, among others, are brought before the traditional and spiritual leaders including the fetish priests, custodians of deities, herbalists and soothsayers. For example, one party may invoke a curse by using the name of a river or a deity to harm another person for perceived wrong doing. Once the afflicted party realizes through divination that they have been cursed, the accused is requested to reverse or remove that curse by performing the necessary rituals at the appropriate fetish/shrine and going

through the necessary cultural processes.

It is also common to invoke an oath during conflicts. A litigant may swear an oath to support his/her claim. When that happens, it is expected that the other party, if innocent will also swear an oath against that claim. In that case, the contending parties having sworn the oath have to go to the paramount chief, fetish or river, etc to perform the necessary rituals and settle the dispute. However, failure to respond to an oath is perceived to be admission of guilt until reversed by the custodian of the oath (eg. chief/fetish priest) (Kendie and Guri, 2006).

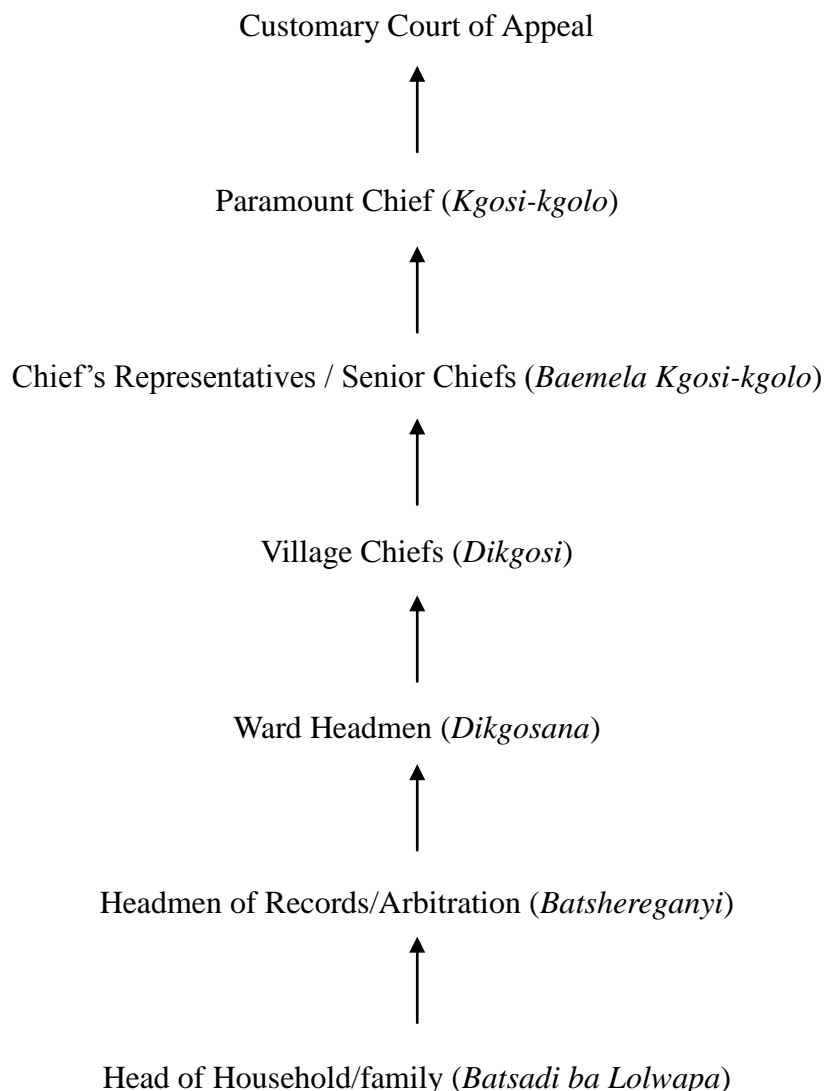
4. Cultural Processes of Conflict Resolution in Botswana

Tswana culture is built on consultation (*therisanyo*) and resolution of conflicts through open discussions between the parties, hence the adage, *ntwakgolo ke ya molomo* (literally, great battles are fought verbally)(Ngcongco, 1989). However, Botswana has a dual legal system based on state law while the other reflects the cultural norms and values of the local people referred to as customary law (Molokomme, 1995; Otlhogile, 1992). These two systems run parallel. Once a matter is presented to the courts the chiefs do not have authority to withdraw it to settle at their own courts. However, cases presented before the customary courts can be transferred to the magistrate's court if one party chooses. The discussion focuses on customary processes of conflict resolution based on the norms, practices and traditions of the Tswana societies.

Actors

The actors in conflict resolution include the paramount chief (*kgosi-kgolo*) even though the ConsTitution abolished the term paramount chief in 2000 (Gazette, 2011); a chief's representative/senior tribal authority (*moemela kgosi-kgolo*); headmen (*dikgosana*); headmen of records (*batshereganyi*) and household leaders (*batsadi ba lolwapa*).

Figure 2: Process of Conflict Resolution among the Tswana of Botswana



Process

The lowest level of conflict resolution is the household (*lolwapa*). However, disputes that are not resolved at this level may go to the *kgotlana* comprising of elders from the extended clan families. This is the lowest level of the customary courts and emphasizes mediation processes. The next level, the *kgotla* (customary court) is the beginning of the formal process with court-like procedures. The court hears both civil and criminal cases. Despite this, the *dikgotla* (customary courts), though more

formalized are arbitration authorities that use well known traditional values and procedures to deal with conflicts. Both dikgotla and dikgotlana work with traditional associations such as the village development committees. Both men and women may participate in the deliberations. The relatives of the parties involved are free to attend and participate in the deliberations. Any aggrieved party who is not satisfied with the outcome at any of the levels may appeal all the way to the Customary Court of Appeal, the highest cultural institution in conflict resolution. At every level, there is a council of elders (*bo-ralekgotla*) who help the traditional leaders to make appropriate rulings on cases.

The conflict resolution institutions and the related processes are briefly described below:

Lolwapa (household): Several families comprise their own household ward (*Kgotla ya lolwapa*) where distant relatives are involved in dispute resolution. The idea is to bring in relatives who are familiar with customs of the specific extended families to help resolve the issue. The focus here is on arbitration. Usually, nuclear family issues are addressed by the paternal uncles, aunts and siblings. In extreme cases, the maternal uncles, aunts and their children may be brought in. If there is no agreement between the parties then the issue is referred to the next higher level.

Kgosana (headman): Large villages are usually divided into several wards (*dikgotla*) under a ward headman. This is the final level of arbitration which refers cases to the main village *Kgotla* for formal dispute resolution.

Kgosi (chief): This is the highest level of dispute resolution at the village level. The proceedings are formalized and paid public officials used to guide them. Both civil and criminal cases are heard at this level. When any party is dissatisfied with the decision at this level, the matter may be referred to a senior chief resident in another village but within the same tribal region.

Kgosi-kgolo (paramount chief): All cases within a given tribal region are referred to the *kgosi-kgolo* who sits at the tribe's headquarters. This is the highest level of conflict resolution within a region. However, decisions of this chief may still be appealed to the Customary Court of Appeal.

Customary Court of Appeal: This level was created by government after realizing that some cases could not be satisfactorily resolved within tribal boundaries. The President of this court is appointed by the government. The court employs traditional leaders from various ethnic groups. This body is equivalent to the High Court in terms of making final determination and setting precedents on Tswana customary law.

In the process of conflict resolution, *dikgotla* (customary courts) seek to not only adjudicate or mediate on conflict issues but are also oriented towards reconciliation and the maintenance or improvement of social relationships (Choudree, 1999).

5. Spiritual Dimension of Conflict Resolution in Botswana

Traditional healers, diviners, herbalists (*dingaka tsa setso*) and spiritual healers/seers (*baporofiti/balebi*) also play an important role in conflict resolution at the individual, family and community levels. They are a medium between the living, the ancestors and God (Fako, 1979). Traditional/spiritual healers may use herbs, animal sacrifices and water to perform rituals aimed at resolving a conflict between the living, and between the living and their ancestral spirits. Traditional healing may be a strictly private family affair or an open community function depending on the issues involved (Amanze, 1998; Kealotswe, n.d). Conflicts arising from witchcraft are usually resolved between the traditional healers and the affected parties. A person may choose to revenge the evil that has been done (*go busolosa*) or just strengthen/protect themselves (*go ithatafatsa/itshireletsa*) against similar attacks in future. According to tradition, *dikgosi* (chiefs) could consult traditional healers to seek their views on critical issues including various kinds of conflict in the community (Schapera, 1970).

Today, the role of traditional healers, especially, in helping to identify suspected ritual murderers is prohibited by law. The local media have reported on clash of values between traditional healers, community members and law enforcement agencies over the use of traditional healers in assisting the police in their investigations of criminal

activities. A well known case was that of the disappearance of a little girl, Malebogo, in 1987, in the low-income suburb of Bontleng in Gaborone. A traditional healer was imprisoned after trial for misleading the nation and inciting riots. The traditional healer had stated publicly that Malebogo had been abducted by another traditional healer in Bontleng for ritual murder purposes. The little girl was later found in another part of the city where she was believed to have been lost.

6. Ghana and Botswana's Conflict Resolution Processes

Similarities

The two traditional processes of conflict resolution from Ghana and Botswana show the importance of cultural views and processes in promoting peace at all levels of the society. Thus, the processes focus on reconciliation, stability, harmony and safety; and try to reconcile individuals and groups based on cultural norms and practices. Both systems have become part of the modern governance and administration systems. Though enshrined in the indigenous cultures, they function as regular parts of national governance and are recognized and accepted and used by the governments. In both cases there is high respect for the traditional authorities and institutions. Generally, the conflict resolution process is transparent, publicly performed, and the evidence, discussions and solutions opened to all. Due process is also emphasized including the right to appeal to the next authority.

Conflicts and their resolution at the grassroots are a public matter, and through these people learn the rules, norms, values, histories and philosophical discourses necessary for harmonious living. The young are able to learn from the elders traditional laws, language, and mannerisms, fit for public discourse. The value of dialogue in resolving differences is also espoused throughout the process. Indigenous processes of peacemaking show the importance of public participation; the utility of supporting victims to enable them to forgive; encouraging perpetrators to understand the value of acknowledging guilt and showing remorse; and using unity and interdependence as a

reference point in promoting social harmony. Both Botswana and Ghana have adopted a dual legal system which recognizes the practice of customary law. The customary processes are well understood by the people and allow them to fully participate in the conflict resolution processes. Chiefs, queen mothers, elders, family members and other community actors play a crucial role in promoting peace among conflicting parties.

Differences

Although the process of conflict resolution among the Tswana and Akans is similar, the Tswana process has unique cultural nuances. The Botswana system is different from the Ghana system in that customary courts do not deal with land disputes as their role is only advisory. The role of chiefs as custodians of communal land was reassigned to the Land Boards after independence. Historically, chiefs were custodians of tribal land. Land Boards manage land on behalf of the government in consultation with various tribal administrations (Republic of Botswana, 1968).

Regarding spiritual dimensions of conflict resolution, the major difference between Botswana and Ghana is that in Botswana witchcraft is outlawed and as such is regarded as a private matter. It is in this light that all spiritual conflicts including those related to witchcraft are not tried by the customary courts. Rather, the affected individuals and families find a traditional healer to either reverse or protect them against any curses that may have been pronounced on them by their enemies. However, in Ghana, traditional priests are allowed to hear and resolve spiritual conflicts and their decisions are respected.

7. Conclusion

The chapter has demonstrated the importance of cultural processes, institutions, and values in conflict resolution and peacebuilding among the Akans of Ghana and the Tswana of Botswana. It is evident that most individuals, families and communities still prefer indigenous conflict resolution processes in the two countries because they are based on cultural concepts, values, and procedures that are understood and accepted.

This has also made it easy for the indigenous system to be incorporated into the contemporary conflict resolution system. People are familiar with their cultural dictates and therefore it is easier to come to grips with responsibilities that emanate from them. It is in this context that the customary courts with allowance for arbitration and substantially informal procedures which are less intimidating, and understood by the local people, work extremely well. The two case studies show that when conflict resolution and peacebuilding mechanisms are based on principles cherished and internalized by a community, and are contextualized to capture their collective knowledge and experiences, they yield positive results. It is in this context that the principles of social cohesion, harmony, openness/transparency, participation, peaceful co-existence, respect, tolerance and humility, among others, are emphasized as core issues in indigenous conflict resolution among the Akans and Tswana.

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