

The efficacy of Traditional Courts in Conflict Transformation in Zimbabwe: A case of Musana Communal Area in Bindura District

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ABSTRACT

The study explored the efficacy of the traditional courts in conflicts transformation in Musana communal area, Bindura District. Galtung's conflict transformation perspective and Lederach's peace building approach guided the study. Basing on ubuntu philosophy in the understanding of ontological and epistemological issues surrounding the reality of traditional courts, the study was qualitative in which a case study design was used. Unobtrusive observation in the Chief Musana Community Court, followed by focus group discussions and in-depth interviews were carried out from a sample of [N=68] participants with the use of thematic guiding notes. Findings indicated the roles of traditional courts that involved arbitration, negotiation, conciliation; mediation and reconciliation were effectively employed and found to be powerful in facilitating compensation, reparation and forgiveness between parties in conflict. The study discovered that such reliance is due to the extensive application of indigenous customary law based on ubuntu, and methods of conflict transformation and reconciliation in the adjudication of conflicts during the court process. In order to yield maximum fruits in conflict transformation, the traditional courts personnel should acquire relevant training, especially in statutes governing their institutions in order to rejuvenate their dexterity that was established to be incapacitating the institution.

INTRODUCTION

Zimbabwe, like any other country in Africa and beyond, has been a bleeding nation as a result of socio-economic and political conflicts since pre-colonial antiquity [1]. These were arguably, brutish episodes of conflicts affecting Zimbabwean societies where majority of rural folk of the population resides. Since then, most rural communities were turned into theatres of social, economic and political conflicts [2]. Yet traditional courts system was placed at the heart in resolving, settling, managing and transforming conflicts through traditional conflict transformation approach that was [and still] deeply embedded in the people's cosmology and culture in post conflict reconstruction.

Prior colonization, the institution of the traditional courts operated independently in the administration of justice and this gave them power to adjudicate conflicts/disputes in the interests of the communities that sought [still seeking] the prevailing of peace across all levels [3]. Soon after colonization in 1890, the colonial government replaced the traditional and cultural powers of traditional courts with judicial, administrative and political modern institutions to take charge over the blacks. In terms of Section 89 of the Lancaster House Constitution of 1979, the Roman-Dutch law was introduced by the colonial administrators in 1891 brought about exploitative schemes that influenced the administration of African customary law enforced by the Traditional Chiefs' Courts and African Appeals Courts.

Following the above juxtaposition of both the Roman-Dutch legislative and African customary laws disempowered traditional courts before the respective chiefdoms as they were only allowed to try petty conflicts/disputes among their subjects while murder, thefts, fights and witchcraft, among other serious conflicts were referred to the colonial authorities. Again, the role of traditional chiefs was reduced to that of mere administrative officers [4]. Confusion in the traditional courts also mounted about which law to use then since the colonial administrators considered some customs as *contra bonos mores*, which is, repugnant to good morals in terms of colonial ideologies and was banned by the whites to pave way for racial discrimination against black majority. Yet customs through ubuntu were practiced in the society that govern the relationships between the indigenous people, and aid in the adjudication process of conflicts in the traditional justice system provided that such customs were not in variance with any legislation in force then/against principles of natural justice [5]. Hence, customs, because of their reasonableness, long standing, certain and uniformly observed, were accepted as binding by the society and thus became the legal bedrock of the traditional courts.

During post-colonial Zimbabwe, the ruling party, Zimbabwe African National Unity-Patriotic Front government that replaced the colonial regime upon independence returned executive judicial powers of traditional chiefs as their respective traditional courts were allowed to settle serious conflicts [6]. However, the birth of the Movement for Democratic Change posed great challenge to the ruling party during post 2000 era which co-opted traditional chiefs in their struggle against the opposition in mobilizing support in order to stop it from making inroads in the rural areas and this politicized the institution of traditional courts as some traditional chiefs openly claim to be supporters of the Zimbabwe African National Unity-Patriotic Front. Some traditional chiefs disassociate themselves from opposition politics. In a statement when he was distancing himself from opposition National People's Party (NPP), Chief Chiwara of Gutu said that he will remain a member of Zanu-PF "until death".

Such politicization of chieftaincy contradicts the principles of traditional justice system that inhibit traditional chiefs from being politically neutral. In terms of section 281(2)(a)-(c) of the Constitution of Zimbabwe Amendment (No. 20) Act of 2013 explicitly states that, 'the traditional chiefs must not, 'be members of any political party or in any way participate in partisan politics, act in a partisan manner and further the interests of any political party or cause' [7]. Thus, the institution of traditional courts suffered severe threats as opposition parties disrespect the role of traditional chiefs in traditional courts, alleged to have assuming political agendas not necessarily in the interest of traditional justice, but rather become nothing less than political commissars. Hence, a crucial question arises, are traditional courts still relevant in transforming conflicts in the society?

The juxtaposition of Roman-Dutch principles and the African customary law has obfuscated the traditional jurisprudential system and traditional courts have been skeptic about which law to use then [8]. Moreover, the rise of appealed civil cases from Traditional Chief Musana's Court to the Bindura Magistrate Civil Court have risen from 7 cases in 2013, to 9 cases in 2014, 11 cases in 2015 and finally to 15 cases in 2016 and this also threatens the competency of the traditional court system. Hence, following all these controversies, conflicts and complexities raises a question which this study sought to untangle, 'are traditional courts still relevant in contemporary Zimbabwean rural folk?'

Even prior colonial era in Zimbabwe, the institution of traditional courts, unlike modern state structures, derived its legitimacy from tradition, culture, customs and *ubutnu* that promoted peace, democracy, human rights and cohesion. The institution comprised of traditional family courts (*dare repamusha*), traditional village courts (*dare rekwasabhuku*) and traditional chief's court (*dare rekwamambo*). The traditional family courts resolve intra and inter-family conflicts such as disputes between parents and their children and between their family and outsiders; and bring justice to disputing parties without community involvement [9]. The traditional village court tries inter-families' conflicts and smaller crimes such as thefts, fights and malicious damage to crops by livestock. It is presided over by the kraal head/headmen. Of concern to this study, is the traditional chief's court, the highest traditional court in communities and is presided over by the traditional chief/sub-chief. Thus, this study focuses on the latter type of court because it transcends the limitations of both family and village courts to involve the larger community. The Constitution of Zimbabwe empowers the traditional courts 'to resolve disputes in their communities in accordance with customary law.

The Constitution empowers the traditional chief and his/her traditional court to settle conflicts/disputes in a manner that would transform them to sustainable peace. In terms of section 282 (1) (2) provides that, the purpose of the traditional courts is to resolve dispute amongst people in their communities in accordance with customary law. The traditional courts also confer authority to resolve land disputes over the communal land/other areas they have jurisdiction and over persons within those communal lands for which they have been appointed, (Section 282 (2) of the Constitution). In terms of section 286(1) (b) - (c) of the Constitution, the provincial assemblies of are mandated to maintain the integrity and status of traditional courts [10]. This signifies the fact that the provincial assemblies of chiefs can cause the restructure of the traditional institution whenever there is realization of gross irregularities in the name of justice. The provincial assemblies of chiefs also define and enforce cultural traditions.

LITERATURE REVIEW

The conflict transformation theory which provides rich theoretical perspectives on how to deal with conflicts/disputes. Conflicts/disputes originate from structural contradictions and manifest into attitudes and behavior that militate the relationships of parties involved. The approach and traced how asymmetric relationships caused conflicts/disputes can be transformed, through adjudication, negotiation and mediation, among other methods that influence the conduct of the traditional courts today.

The need for justice in traditional courts is deeply embedded in conflict transformation theory as it seeks to transform the root causes of conflict [political, economic, cultural, ideological and psychological]. This is because traditional courts system seek to ensure that perpetrators of gross violation of human rights such as those responsible for actions of assaults, political violence, torturing, rape, theft/destruction of property/property deprivation/destruction, witchcraft and land seizure, among other conflicts, against others are held accountable for their deeds through sufficient political, social and economic transformation of such conflicts to ensure that victims regain their sense of human dignity. The theory assumes that the consequences, disputes/conflicts can be modified/transformed so that relationships and social structures improve as a result of the conflict rather than being harmed by it so as ensure peace-building between parties who were previously adversaries.

A holistic approach to peace building based on justice, the building of right relationships and social structures that allow expression of divergent social thinking whilst encouraging group cohesion. Approaches that take a human needs approach are likely to be more effective than those processes that stress negotiation, which is often depended on compromise. Contemporary conflict thus demands innovation, the development of ideas and practices that go beyond the negotiation of substantive interests and issues. This innovation, I believe, pushes us to probe into the realm of the subjective-generationally accumulated perceptions and deep-rooted hatred and fear."

The roles of traditional courts in conflict transformation

Various scholars have articulated several roles played by traditional courts in conflict transformation. In traditional court system, traditional chief play important judicial roles in resolving disputes/conflicts in communal and resettlement areas since pre-colonial era. The Constitution empowers traditional chiefs to utilize the customary law during court process that assigns judicial powers to traditional courts in civil related conflicts/disputes and limited powers over criminal related conflicts/disputes of low intensity such as theft, assault, disorderly conduct and witchcraft. While serious criminal cases, such as murder and rape are referred to the police for investigation who will further refer them to the criminal court for prosecution. The mediation role of traditional courts in conflict transformation. It is a voluntary process in which the parties retain control over the outcome/solution of the conflict/dispute. Since the traditional courts have decision-making authority, they sometimes resolve

conflicts/disputes with negative inducements, that is, mediation with muscle. Whatever the mediation role the traditional courts may take, but the thrust is to create the enabling environment for the parties to carry out dialogue sessions. Normally, the traditional courts guide rather than direct the process, by helping the two sides to listen to each other, communicate more clearly, reach a common understanding of the conflict/dispute and come up with their own solutions to pending conflict/dispute leading to its transformation without brewing discontent.

Negotiation

Traditional courts play a role of negotiation, a method that can be utilized to settle conflicts/disputes between conflictants/disputants in which in which they seek to transform their conflicts/disputes through a structured process about issues in which their opinions differ. The traditional court, community members in gallery and parties involved and their representatives pre-establish some procedures which govern the conduct of their deliberations during the negotiation process in order to ensure effective communication among them since communication plays a pivotal role in the whole process. The central aspect of negotiation is to reach an agreement through joint decision making between parties.

Adjudication/arbitration

In addition, adjudication/arbitration is another role of the traditional courts in conflict transformation. It involves bringing all the disputants in the conflict to the traditional courts where they usually meet in chambers in which the parties to the conflict/dispute have consented to the traditional court's jurisdiction. The traditional chief, exercising impartiality, act as adjudicator/arbitrator, and when the parties are unable to reach an agreement, the adjudicator/arbitrator comes in to determine the issue at stake. In this case, the traditional chief is empowered for determination where he/she is required to make a decision wholly in favor of either party's final position.

Reconciliation

Reconciliation is another significant role of the traditional court in conflict transformation. It buttresses the adjudication/arbitration whereby the traditional chiefs, an authority figure in the traditional courts system, are empowered to make judgments between conflicting parties involved. The holistic approach is used in the traditional court whereby the parties in conflict/dispute, traditional chief council, and the community members are allowed to participate in arriving at a solution to the conflict/dispute. The purpose is not to render judgment in law but to reconcile the conflicting parties and its norms.

Conciliation

Traditional courts also play a role of conciliation as a third-party conflict transformation strategy that help the conflictants/disputants identify the cause of their differences and the importance of various issues at stake. Acting with this role, traditional courts neither impose nor recommend the transformation of conflicts/disputes, but rather parties are left to agree on a transformation to the conflict/dispute. The major thrust of the traditional court here is to reduce tension between parties in a conflict/dispute.

As observed above, the roles of traditional courts are important in conflict transformation because they are administered in accordance to the root causes of the conflicts/disputes. Some roles such as mediation, negotiation, reconciliation and facilitation are voluntary where parties have some control while others such as arbitration and adjudication are involuntary where parties are often than not, outside the influence of the outcome. The traditional courts here, in most cases, hand down outcomes/judgments which the parties have to accept either in principle/practice. With the aid of customary law, traditional courts play a reconciliatory function.

Tradition justice mechanisms play a critical role in fostering justice in the community by encouraging the perpetrator to pay compensation/restitution to the victim (this in many instances is a symbolic gesture that seeks to reinforce the genuine remorse of the perpetrator). In Uganda, for instance, the clan of the killer was required to pay blood money to the victim's clan as form of compensation. In this way, traditional justice mechanisms provide some sort of guarantees of non-repetition as possible complementary forms of redress. This role can be effectively carried out if the previous role is carried out satisfactorily. The compensation would be paid at the suggestion of the Council of Elders who assist the traditional leader to authenticate the payment of the compensation.

Methodological Prima

The approach followed in this study is qualitative descriptive research methodology as it enabled the narration and interpretation of nature/extent of conflicts in Musana communal area and the role played by the traditional Chief Musana's court so as to examine its efficacy in conflict transformation. This approach was appropriate to this study as it enabled to establish the nature and even the extent of the conflicts through studying the context/setting in which people talk and also the voices of the participants as emotions can be observed through peeped voices to show anger which cannot be heard in quantitative descriptive research methodology. A total of 71 participants took part in the study as presented below (Table 1).

Table 1. List of sample participants, sampling techniques and data collection tools.

Category of participants	Sampling technique	Number interviewed/observed	Data collection tools
Traditional Chief Musana Court panel, conflictants (under trial) and audiences	Purposive	33	Unobtrusive
Traditional Chief Musana	Purposive	1	In-depth interview 1
Traditional Chief Musana's Court Council	Purposive	4	Focus group discussion 1
Conflictants/disputants (adjudicated)	Stratified random	30	Focus group discussion 2
Magistrate of Civil Court	Purposive	1	In-depth interview 2
District Administrator	Purposive	1	In-depth interview 3
Chairperson of Assembly of Chiefs Mashonaland Central	Purposive	1	In-depth interview 4
Total		71	

Domestic and gender based violence

The study established that domestic and gender based violence, in its various forms, was the most prevalent conflict in rural areas and it cuts across age, race, religion and class. It was noted that women are regarded as inferior due to patriarchy and suffer psychological and physical abuse. During focus group discussion 2, one of the participants said that, "I remember one day in the middle of the night hearing women crying as a result of physical and mental abuse from her husband". Similar to this quotation, the study noted that women were beaten up by their husbands, mostly for refusing to have in contrast to the conjugal rights of their husbands. This conflict was discovered to have caused injuries and trauma to women as furious men retaliated to which they indicated to be women's barbaric behavior unexpected from married couples.

In fact, the participants acknowledge that women are the most abused population in this form of conflict, whereby women bring to the fore gender-based-violence. Such prevalence was cited to have been caused by the dominance of a patriarchal system that consider women as less important than men, thereby open to vulnerability. From the traditional court records analysis of a conflict held by the Traditional Chief Musana Court on 23rd of April 2016 where the wife claimed that her husband harassed and assaulted her and children whilst drunk, it was noted that women and children indeed suffered the most brunt. Similar sentiments were also figured out in unobtrusive observation in which the wife claimed that a male adult neighbor scolded using vulgar words saying, "You are an idiot person" and implicated her to be a prostitute. This was said to have instigated marital conflict to the extent that her husband was threatening divorce basing on the contention that she was a prostitute.

Divorce conflicts

It was noted that gender based and domestic violence threatened the institution of marriage as it made relationship between couples to become sour. Thus, divorce conflicts were said to be on the increase in rural communities. During unobtrusive observation, it was discovered that lack of family care, family harassment, beatings and torture were cited to be the major drivers of divorce and the conflicts were noted to be lodged mostly by the wives rather than husbands.

Land disputes

The study unveiled that land disputes were common in the rural communities and farming areas within Musana Chieftaincy. In the latter, it was noted that the Land Reform Programme in Zimbabwe was cited to have left overlapping boundaries and double allocation of land was discovered to have been triggering the eruption of disputes most neighboring farmers squeeze for the extension of their plots encroaching to each other's and as the rival farmers struggle for the ownership of the same piece of land respectively. While in the former, boundary/land disputes were noted to be common between villagers/even between village headmen as they contest against each other in respect of boundaries/land. In a land dispute within village heads, it was observed that the perpetrator (a village headman) allocated his villagers into the victim's (another village headman) claiming to be his area. The victim took the dispute to the Traditional Chief Musana Court. The court stopped the allocated families who were constructing their houses pending the decision of the court as narrated below.

Livestock/property disputes

The findings of the study divulged that livestock/property disputes are common and more prevalent in communal areas, especially in the death of a spouse, it was noted that the surviving spouse would be disadvantaged by the in-laws of the former. It was highlighted that widows suffer the bluntest as they face harassment from in-laws. They were even forced to vacate their homes, fields and livestock. This was cited to have been a trigger of disputes as widows fight their own way out from the harassment through engaging the services of the traditional courts.

One of the participants in focus group number 2 who became a widow in 2014 shortly after the death of her husband, said that, "I was involved in a dispute when I resisted to be chased away from my home and blocked my in-laws from taking over my property, livestock and tilling my fields. I was fearful and my heart was threatened". As mentioned above, the study exposed the fact that the greediness of the in-laws causes disputes as the widowed try to beshield their inheritance.

The study also noted that livestock disputes erupted when people injure others' livestock/when livestock graze/damage others' agricultural crops/produce. During discussion with focus group number 2, one of the participants who was involved in such disputes some time ago said that,

I struck my neighbor's ox with an axe on the thighs after I have found it grazing my vegetables in the garden and it later died. He then took the matter to Chief Musana Community Court where it was resolved that I must replace his ox, which was fair.

From the above quotation, the study noted that vegetable garden was regarded as valuable asset equivalent to ox in the community bearing in mind the effort employed to erect the structure and cultivate the crops. However, vegetable garden was not considered as a sign of wealth in the society as compared to ox. That is why the participant said that he felt that he was very aggrieved and decided to protect his wealth through the traditional court.

Lobola/dowry (roora) disputes

The study disclosed that lobola/dowry disputes arise in the community when men marry their wives and fail to pay roora and anger their wives and in-laws. It was discovered that roora/lobola is very important according to Shona customary law as it was noted to be a symbol of love and affection when men marry beloved. It was said to be more important when the girls would not be pregnant/married before. Lower income was indicated to be the pressing factor than makes most men failing to pay bride price for their wives. During court session held on 26th of August 2017, the study observed that the general economic challenges facing the community made in-laws to claim lobola/roora from bridegrooms as ever before. It was noted that hatred would be more between the bridegroom and in-laws when lobola/roora would be claimed to a bride who would have been died. One of the participants in focus group discussion 2 said that,

I was very angry when my former father-in-law claimed roora (US\$200-roora, US\$500-rusambo and 6 beasts-danga), from me for my wife who died a year ago yet I have a new family to look after. During her lifetime, I had no children with her. I wonder, this roora is what for?

Incest conflicts

The participants indicated that incest conflict occur when the relatives of the perpetrator rise against him/her after he/she had activity with a person of opposite gender within a degree of relationship that include parent, grandparent, child, grandchild, brother, sister, half-brother, half-sister, uncle, aunt, nephew/niece. It was noted that women and girls were at the mercy of men and boys to women, though the former was more prevalent than the latter. Father/stepfather versus daughter and uncle versus female cousin were cited to be the most common and prevalent. The study discovered that the relatives of the female victims create hatred and calamity with the perpetrators and often lodge reports to the traditional courts. The victims themselves, after learnt the consequences associated with their immoral behavior with the perpetrators, would turn against the former and fueled tension with the latter. In Shona, incest was reported as makunakuna. The study captured the incest between uncle and cousin in which their parents were brother and sister. The perpetrator had relations with the victim on countable occasions which angered the parents of the victim who then lodged the matter to the traditional court.

Infidelity/adultery disputes

The study disclosed that infidelity/adultery is ubiquitous in rural communities whereby married couples indulge in extra-marital affairs/cheat each other in violation of couples stated/assumed contract concerning emotional and exclusivity. It was said that the cheated partner regarded this violation as a trigger of jealous and rivalry. The study found out that men were more likely to engage in extramarital affair if they were unsatisfied with their wives. On the other side, unsatisfied emotions were found to be the main driver of extramarital affairs to married women with other men. Being less religious and having more opportunities to meet more potential partners were cited to be more likely to cause one/both of the couples to be involved in an extramarital affair.

It was noted that infidelity/adultery severely damage most marriages and can even lead to divorce. Such disputes affect the welfare of children and the whole family. It hurt children and parent-child relationships. This indicated to the study that marriage was no longer uncritically perceived as a monogamous lifelong relationship and some participants emphasized that getting married seems to be a more dubious enterprise. Thus, this study was completely convinced that infidelity/adultery was caused by unfaithfulness and that it was the most painful experience that can be inflicted in marriage.

During court records analysis, one of the plaintiff was quoted verbatim that

I caught the perpetrator, a leader of Johanne Masowe Vadzidzi vaJeso sect in Musana whom I stays together in the same village having affair with my wife and made me furious.

Similarly, during focus group discussion 2, one of the participants said that,

On the date I cannot remember, but sometime during the year 2014, I saw the defendant having extra-marital affairs with my wife. I first saw a message from the defendant in my wife's cell phone advising her to meet at a certain place. I then followed the duo and found them having affairs. I was very angry and wish to kill them.

The study noted that discovering such infidelity activity was grievous to the cheated husband/wife and that it instigates violence which can even lead to death of a person, in most cases, the perpetrator.

Witchcraft conflicts

The study acknowledged the existence of witches and witchcraft as a source of conflict in rural communities, although witchcraft was believed to be mythical in nature and was said to be on a high prevalence. The study noted that the traditional courts received numerous witchcraft conflicts from the community, whereby anti-social conducts of persons against others occurred. When one realized that he/she has been bewitched by another instigated conflict. An individual/group became aggrieved when another/others caused illness/other misfortunes to him (her)/them. It was noted that the conflict would be grievous when it has come to the attention of the family members that their relative has been bewitched with medicine and killed. During unobtrusive observation, one of the plaintiff narrated a mysterious fascinating story against the defendant that,

At some point in time, I was seized by some supernatural powers. I saw this witch forcing me to swallow charm which look like small roots of a tree, telling me that I am going to kill you. Thereafter, I suffered from a strange malady which manifested itself in convulsions, inhuman screams and other extraordinary behavior.

As observed above, the study revealed that witchcraft was connected with supernatural powers which a person uses to bewitch another, usually using medicine whilst the other party would be unconscious. But the bewitched party, after the ordeal, realizes that he/she has been bewitched and that was when conflict erupts. The study also noted another witchcraft conflict of interest from the Traditional Chief Musana Court records in which the victim claimed that the perpetrator, her neighbor, indicated her to be a witch while at a memorial service. The perpetrator alleged the victim to have killed her son with witchcraft medicine. The defendant admitted to the allegations and apologized to the victim. The decision of the court is explained below.

Maintenance claim disputes

The participants noted that maintenance claim is one of the controversial disputes to most men in Zimbabwe. The Maintenance law protects children. When the parents divorced/separated, the father maltreated and neglect his children in the hands of the mother in terms of basic nutrition, clothing, shelter, health care, education and social services, among others. Yet both parents have a duty to maintain their children although custody is vested naturally by mothers. It was observed that if the mother claimed money from their former husbands for maintenance of their children until they turn 18 years/become self-supporting, disputes arose from the latter who wanted to escape responsibility from their children.

It was noted that the disputes escalated when the children were born out of wedlock/if a married man impregnates his girlfriend and was sued for maintenance. Customarily, the father had no duty at all to maintain such children yet, in modern days, maintenance has extended beyond formally recognized marriages to those who have created a relationship by reproduction. The study quoted one of the participant saying that,

I am not liable for maintenance for this child because I am not married to the mother of the child, after all we do not stay together. The mother of the child is a prostitute as she engaged with many people of opposite gender and I cannot accept her maintenance claim.

The study explicitly showed that the participant was a victim to the claim. He was bitter with the claim and dishonored responsibility to maintain the child. The question of paternity lubricated the dispute.

Credit disputes

The study noted credit disputes to be more prevalent due to the fact of the current liquidity crunch facing the country. These disputes were said to erupt when the debtor/borrower failed to return the money he/she owed to the creditor/lender. These weaken confidence in financial relationships between parties involved. In focus group discussion 2, one participant said that,

The defendant, my former friend, lent me \$1 200-00 sometime ago which he used to pay his son's university tuition fees at the University of Zimbabwe in Harare. I had agreed with him that he will return the money after three months. When the payback period went by, I approached the defendant at his rural home in Bangamusewe village, Chief Musana, Bindura and asked him to return my money. He refused and chased me away. I was very furious since I wanted to use it. That's when I wound up our friendship and lodged a claim against him at the Chief Musana Community Court.

As observed above, the study noted that credit disputes fueled hatred and discomfort to the aggrieved parties as friendship ties were broken up. The element of trust was actually eroded. It was noted that tension grew as the aggrieved party were no longer be in a position to assist the defendant/even another person anymore because of nefariousness condition created deep inside the heart of the lender which is dangerous, not only to the victim himself but also to others as it has a greater propensity to instigate further non-financial-related conflicts/disputes like violence.

Disputes over grazing lands

The research study exhibited that rural households experienced small-scale grazing lands disputes with relatives, neighbors/landlords and were noted to be increasingly becoming a source of disputes in the rural communities,

mostly between families and villages in pieces of land on which animals graze, usually where ownership is not so clear. Widows were found to be at risk in the struggle when the titles were still registered under the names of their deceased husbands, despite the fact that access to land had traditionally been characterized as relatively egalitarian. The grazing lands disputes were said to be significantly impacts on their livestock production as their stocks lack adequate pastures.

It has been shown that community land disputes, if not properly managed, managed can erupt into large scale civil strife and political movement.

Political conflicts

The findings of the study proclaimed that the rural communities were also affected by incidences of politically motivated conflicts. Their prevalence was cited to be none for the period under study since the political climate in the country was said to be calm. The participants highlighted that when the country would be on election campaign period, the political conflicts in rural areas would increase and vice versa. The participants further said that there were supporters of two political parties, the dominant/major ruling party ZANU-PF and the minor opposition MDC-T, however, the parties' membership was not established since it was beyond the parameters of this study. However, the participants were not willing to discussion further issues of political conflicts due to fear of victimization.

DISCUSSION

Nature and extent of major conflicts in Musana communal area

The study clearly revealed that domestic and gender based violence, divorce conflicts, land disputes, livestock/property disputes, lobola/dowry (roora) disputes, incest conflicts, infidelity/adultery disputes, witchcraft conflicts, maintenance claims, credit disputes, disputes over grazing lands/boundaries and political conflicts were the major conflicts/disputes haunting Musana communal area. This contention was, however noted by more than three quarters (83%), a larger group of participants.

The larger group of participants further indicated with remorse that the conflicts/disputes such as infidelity/adultery, domestic and gender based violence, witchcraft and land disputes were occurring on higher prevalence. The findings of infidelity/adultery and domestic and gender based violence conflicts resonate with the notion American Friends Service Committee (AFSC, 2013) who said that Infidelity in the household causes conflicts between married couples, especially when one of the either couple have extra-marital affair with unofficial partner like small houses in the case of men.

While on the other side the remaining conflicts/disputes were said to on lower prevalence. This was due to the fact that some conflicts/disputes, such as political conflicts are seasonal. By the time of the research, it was noted, however, that the Traditional Chief Musana hardly received such conflicts from the community because the political terrain was said to be calm, and expected them before, during and after 2018 harmonized elections [11]. Similar sentiments arguing that political conflicts in rural areas mostly erupt when the country is in elections. The 2008 disputed harmonized elections were noted to have sparked electoral violence in Musana Communal Area and across the country though it was beyond the jurisdiction of the study.

These conflicts/disputes were cited to be mostly caused by greediness, poverty, hatred and jealous among the people in the community in congruity asserts that frustration sour the people's relationships and trigger conflicts/disputes escalation [12]. The need for revenge was, however not discovered to be among these triggers of conflicts/disputes. Since the study noted that most conflictants/disputants heavily rely on traditional courts, therefore, lack of revenge as conflicts/disputes causation means that there were no conflicts/disputes recurrence discovered during the study. In this regard, it deduces the perception that traditional courts are useful in transforming conflicts/disputes.

Roles played by traditional courts in dealing with conflicts

The roles of traditional courts were noted to be useful. The participants concurred with great concern that reconciliation was pivotal in settling, resolving, managing and transforming conflicts/disputes in the rural communities as it was noted to be consensus-seeking. It was said to be fruitful as it allowed the

conflictants/disputants to share feelings, perpetrators apologize and victim forgive. This indicated the fact that healing had actually took place and ultimate restoration of relationships.

The findings of the study resonate who opined that reconciliation is one of the roles of the traditional courts in conflict transformation. Similarly, reconciliation is a critical role of the traditional courts as it enables the consolidation of peace between the wronged and the wrongdoer by breaking a cycle of violence thereby preventing renewed conflicts [13]. This means that reconciliatory role of the traditional courts focuses more relational aspects of conflicts/disputes, which is viable in dealing with conflicts/disputes effectively. Traditional courts were useful because customary law was being used in a manner that provides lasting solutions to the conflicts/disputes. Thus, through reconciliation, the Gacaca, a traditional court effectively broke the vicious circle of violence as it was noted to have been motivating the parties to say the truth as compared to the modern courts in Rwanda.

The study established that reconciliatory role provided great advantage to the traditional courts as it allowed the perpetrator to acknowledge guilty, show remorse and apologize to the victim about the damages which the perpetrator would have been caused as a result of conflict/dispute. The results of the study mirror the opinion of reconciliation is the reinforcer of genuine remorse by the perpetrator to the victim. The study also noted that reconciliation was also helpful in spiritual reconciliation with ancestors in religious conflicts such as witchcraft in resonance with the traditional courts through the traditional chief intercede the sanctification of the conflicts/disputes with the aid of rituals. This means that personal, relational, cultural and structural transformation can be possible under these circumstances.

Adjudication was discovered to be a significant role of the traditional courts in trying conflicts/disputes and passing judgements. Here, the traditional courts were said to have control over the court process. It was noted to be guided by the customary law whereby the court procedure and the passing of judgements were carried out within the limits of the law. When tracing asymmetric relationships between conflictants/disputants, adjudication provides a pivotal role to traditional courts in conflict transformation. The traditional courts play adjudication role by bringing the conflictants/disputants together and deal with issues at stake where the traditional chief acts as adjudicator/arbitrator and control of the outcome.

The study revealed that the traditional courts make extensive use of the council when inquiring about the events of the conflicts/disputes and when passing judgements. The results of the study are in congruence with the traditional chiefs consult their council machinery in evoking judgements to the wrongdoers in any conflict/dispute.

However, the study noted that the adjudication panel, that is, the traditional chief court council was male dominated as one female out of four was observed. This means that there was no gender balance which was not a health situation in this gendered contemporary world. Such male dominance in the adjudication panel is a replica to opinion who lambasted adjudication panel of Gacaca traditional courts of Rwanda as lacking gender sensitivity due to patriarchal practice. Despite this pessimism, the study ascertained that adjudication remain a useful role of the traditional courts relevant in transforming conflicts since the traditional chief with the power vested in him/her enable to select solutions suitable to the conflict/dispute according to the evidence available.

The study revealed that the traditional courts also employed mediation in transforming conflicts/disputes. The parties in conflict/dispute were said to take an active role during the court process as contrary to the adjudicatory role mentioned above. This was found to be essential because it gave parties the opportunity to discuss the root causes of their issues at stake and came up with satisfactory and logical solutions compatible to them with the aid of the community members in gallery.

Contrary, mediation with muscle which was said to have no room in the traditional courts. It was severely castigated on the pretext that it was extremely dangerous as it retarded a participatory approach since it excluded input from the parties involved in the conflict/dispute. The results of the current study are indistinguishable with the viewpoint of mediation as a significant role of the traditional courts useful in conflict transformation.

Truth-telling was used as a way to understand conflicts/disputes. This role sought for honest testimonies from both parties about the events which could have been happened. This means that traditional courts eliminated elements of fabrication and lies that affect the administration of justice as the traditional courts would end-up relying on misguided information. Truth-telling is crucial as it enable honesty, revelation, clarity, open accountability and vulnerability to take course and provides the traditional courts with the capacity to understand the reality and facts surrounding the conflicts/disputes as parties openly confess. This is very important as it empowers the traditional

courts to implement their roles effectively as it will rely on facts rather than fabrication which have greater propensity to twist the trajectory to peaceful outcomes thereby rendering the roles of the traditional courts to nullity.

The study divulged that negotiation is another useful role played by the traditional courts in dealing with conflicts/disputes as it enabled the building of right relationships and social structures that allow expression of divergent social thinking whilst encouraging group cohesion [14]. It was discovered that the protracted and arduous negotiated settlement that was dominated by community members' intervention transformed the conflicts/disputes between parties to new positive relationships while the traditional court played a unifying role of giving assurance to parties across the divide, particularly the skeptics, and this went a long way to create and sustain confidence with the negotiation process in a situation whereby each part did not want to back down on the pretext that they would eventually prevail over the other. Thus, sustainable conflict settlement became easy to address through the traditional courts negotiation process and broke a vicious circle of conflicts/disputes that were found to have brought devastating effect to the people's lives and families.

This is in perpendicular who mentioned that negotiation is central to reach a solution through joint decision making between parties and community members. This regard, community involvement is essential in the negotiation process since members help to improve communication between parties, a crucial aspect in the traditional court session.

Furthermore, traditional courts were cited to have employing a compensatory role both material and financial compensation to the aggrieved parties about harms suffered in conflicts/disputes. The study divulged that the traditional courts would made the defendant to pay compensation to the victim as a way to reinstate the latter and restore relationships [15]. The results of the findings resonate compensation with money/property agreed by the victim is necessary in order to restore him/her from the damage caused by conflict/dispute. However, this initiative as a means of restoration in situation where compensation cannot be equated with the loss/damage suffered by the victim, especially where death is involved. In this way, compensation will only serve as gesture for apology to the victim by the perpetrator.

Usefulness of traditional courts in conflict transformation

It was discovered that traditional courts are useful in fostering positive relationships to individuals involved in the conflicts/disputes. The study noted that victims forgive and forgot about the transgressions caused by conflicts. This corresponds with conflict intervention transform physical well-being, self-esteem and emotional stability to forget about the past for maximum individual growth. With the aid of grassroots, the community influenced roles of the traditional courts and augmented in the passing of judgements that improved the relationships of parties in conflicts/disputes. This resonates changing relationships is the bedrock of peace that move adversaries from fearful, hostile and mistrust to confident, friendly and trust. Conflict interventions enhance mutual understanding by addressing aspects of power, emotions and interdependence. Thus, cultural and structural perfection would be possible in the similar manner.

CONCLUSION

The study conclusively holds that Musana Communal Area is experiencing conflicts/disputes, such as, domestic and gender based violence, divorce conflicts, land disputes, livestock/property disputes, lobola/dowry (roora) disputes, incest conflicts, infidelity/adultery disputes, witchcraft conflicts, maintenance claim disputes, credit disputes and disputes over grazing lands. Half of the conflicts/disputes were on higher prevalence while others were on lower prevalence. It was also unveiled that hearings, adjudication, mediation, negotiation, truth-telling, restoration, reparation, restitution, compensation, reconciliation and healing were the roles played by the traditional courts that were effectively employed in resolving, settling, managing and dealing with conflicts/disputes.

RECOMMENDATIONS

The Traditional Chief Musana Court was found to be useful in transforming conflicts as the roles played enabled the court to dig deeper in ascertaining the root causes of the conflicts/disputes between the parties with the inclusion of grassroots community in the decision-making. Despite politicization, globalization and cultural denudation, among other contradictions and complexities that persistently affect the institution, Traditional Chief Musana Court came up with judgements in non-coercive and mutually satisfying, not founded on power, that address the root

cause of the conflict aimed at transforming persons, relationships, structures and cultures between parties who were previously adversaries. In order to enhance the efficacy of the traditional courts in transforming conflicts/disputes in rural communities, this study recommends that:

- The judgements made from Civil Courts on the resolved appealed cases/conflicts should be made available to the traditional courts so that roles/methods of conflict transformation can be perfected in accordance to the anomalies arising from appeal conflicts/disputes.
- The traditional chiefs and the council should always research in the area of law so as to keep track to contemporary statutes which affect the institution of the traditional courts. This will go a long way in improving justice to judgements and this will minimize appeals.
- The traditional chiefs and traditional chiefs' council should be trained and offered some workshops involving stakeholders such as the Non-Governmental Organizations in the area of statutes governing their institutions. There should be an element of continuity in providing workshops to the said people so that they are kept abreast with modern trends of customary law and local courts.
- The traditional courts should improve their relations and work hand in glove with the police who handle criminal related conflicts/disputes.
- The traditional courts should adopt the normal trial procedure as in the modern/formal courts rather than implementing the aspects, the leading of evidence by the victim/plaintiff called examination in chief, cross examination and re-examination of conflicts/disputes in haphazard manner so as to improve procedural justice.

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