

Indigenous Conflict Resolution and Peace-Building among the Nabdam of Ghana

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Abstract

Harmonious living is an essential ingredient for the progress of every society. This requires that conflicts which are a natural part of human life are amicably resolved when they arise. Largely, people have the options of resorting to the statutory courts system or indigenous approaches which are rooted in the customs and traditions of societies for the resolution of conflicts. This study examined the indigenous conflict resolution, peace-building and human rights among the Nabdam of Ghana using the descriptive design within the qualitative research paradigm. It involved thirty persons from the area consisting chiefs, elders, and individuals who have employed the approach in resolving their disputes. The instruments of interview, focused-group discussion, and observation were deployed to gather data for the respondents. It emerged from the study that the Nabdam indigenous approach to conflicts resolution has four stages which are structured and followed to achieve peace-building and the recognition of human rights of persons involved in the process. It was therefore considered important for the indigenous approach to be strengthened and promoted by the government of Ghana in all societies in the country so as to achieve peace-building. It also emerged from the study that the Nabdam indigenous conflict resolution approach has no formal place for the involvement of women in its administration even though they were found to be effective in managing disputes especially those involving women. It was therefore concluded that women should be formally involved in the application of the approach.

Keywords: Conflict Resolution, Indigenous, Peace-building, Human Rights, Chiefs

Introduction

Conflicts are inevitable in human life. Many African societies are faced with different forms of conflict, including ethnic, land, chieftaincy, marital and inter-personal conflicts. Practically, a huge portion of the populations in most African countries have no means of getting to urban cities to access statutory courts to resolve their

conflicts. Even if they can get to the cities, few are able to afford financial expenses for legal services much needed to access the formal justice system.

But conflicts must be resolved in order to prevent them from escalating into violent actions or distractions and thereby ensure the peaceful, harmonious and stable existence of the society. To this end, apart from the formal government courts, different societies have developed and used different customary mechanisms to resolve conflicts based on their traditions and customs.

In Ghana like in many African societies, customary conflict resolution mechanisms have been developed and employed for a very long time. Again, in Ghana like other African states, formal government courts have been shaped along western model and, therefore, alien to African societies. Due to this, only small numbers of conflicts are taken to and dealt with by formal government structures (Alula & Getachew, 2008). Hence, the customary conflict resolution mechanisms in Africa have played and still play a significant role in resolving conflicts of various degree and thereby maintain the peace of the society.

Different ethnic groups in Ghana have established and used various customary institutions of conflict resolution mechanisms which are unique to their own culture (Gebre, 2011; Alula & Getachew 2008). Studies into traditional ways of conflict resolution in the country have identified that family heads, chiefs, council of elders, and religious leaders/institutions are employing Mediation, Negotiation and Arbitration to deal with conflict (Mensah-Bonsu, 2012; Okrah, 2003). These traditional mechanisms are not only used to deal with conflict among themselves but also with other people living in the country.

Among the Nabdam of Ghana, the use of chiefs and their councils of elders to resolve conflicts is very prominent. Like other African traditional conflict resolution models, the Nabdam indigenous approach (i.e. using chiefs with councils of elders) is a well-structured system which focuses on reconciliation, maintenance, restoration and improvement of social relationships of disputants (Naude, 2010; Murithi, 2009; Mensah, 2005; Okrah, 2003; Ndumbe III, 2001; Choudree, 1999). The strength of the approach lies in its deep rootedness in the customs and traditions of the people and also the peoples' understanding that it often restores balance (Awedoba, 2009; Choudree, 1999). It is also believed to be influenced by the gods/ancestors of the land (Awedoba, 2009). It is also noted for providing a cheap and unintimidating environment to disputing parties for processing their conflicts (Marfo, 2014; Awedoba, 2009).

The legitimacy of the traditional approach to conflict resolution is not only sourced to its credibility among the communities that practice it, but also to the 1992 Ghana Constitution which guarantees the institution of chieftaincy, together with its traditional councils as established by customary law and usage (Article 270), and the Chieftaincy Act, 2008 (Act 759) that empowers the chief with his elders to arbitrate on disputes (Section 30). At the same time, in the Nabdam area of Ghana, there are a few, poorly resourced, and expensive law courts for justice delivery, which have a

reputation of “justice-buying”, power influence, and manipulations (Oquaye, 2013). This reinforces or strengthens the relevance of the traditional approach to resolving conflicts in the Nabdam area.

Statement of the problem

Due to limited resources, individual differences and preferences as well as aspirations, human beings are often in conflict. Conflicts threaten and affect the needed peace in society. The resolution of conflicts is therefore paramount. The process of resolving conflicts is highly crucial for effective outcomes. This is because when persons under conflict resolution processes feel their dignity and rights are compromised, that feeling has a very high potential for affecting the outcomes.

Like any modern society, the state-owned court system in the Nabdam area is manned by professionals who are trained, employed and paid by the state to resolve conflicts of people using the law. Few people in the Nabdam area employ the courts to resolve their conflicts which I presume is due to geographical and financial inaccessibility as well as the fear of “justice-buying”, power influence, and manipulations (Anas, 2017). The traditional approach (i.e. using chiefs with their councils of elders) to conflict resolution is widely used in the area.

With modernization and religious proliferation and also following persistent criticisms (by especially the Charismatic, Protestants and Pentecostals) against traditional practices in the Nabdam area, one would have expected that the traditional socio-cultural chieftaincy institution would demise in power, authority and functions. One would also think that the institution would lose its appreciation by the people and as a result, people would resort to the court system to resolve their conflicts. To the contrary, that is not the case. Majority of the Nabdam people still employ the chiefs with their councils of elders to manage their disputes. However, there is little scholarly knowledge on how the Nabdam traditional approach (using chiefs and councils of elders) effectively resolves disputes for peace-building. There is also little scholarly knowledge on structural and procedural aspects of the model. Again, little is known about the prospect of the traditional approach to conflict resolution in an era of modernization. This work, therefore, provides empirical or researched information on the Nabdam traditional approach to conflict resolution and its usage in the resolution of conflicts and peace-building.

Objectives of the study

The objectives of the study were to:

1. Explore the structural and procedural aspects of the Nabdam traditional conflict resolution approach and peace-building.
2. Examine the role of women in the use of the Nabdam indigenous model to conflict resolution and peace-building.
3. Determine the prospects of the Nabdam traditional conflicts resolution and peace-building approach in the era of religious proliferation and modernity.

Research questions

The research was guided by the following research questions:

1. What are the structural and procedural aspects of the Nabdam indigenous conflict resolution and peace-building approach?
2. What roles do women play in the use of the Nabdam indigenous model to conflict resolution and peace-building?
3. What are the prospects of the Nabdam indigenous model of conflict resolution and peace-building in an era of religious proliferation and modernity?

Theoretical Foundations and Literature Review

Most African societies, if not all, lived communally and were organized along clan, village, tribal and ethnic lines before colonialism. One's belonging to a community was of great relevance, if not downright necessary. Values, norms and beliefs in the society and the threat of excommunication from the society provided chiefs and elders with legitimacy and empowered to sanction through which they ensured their decisions were complied with. Subsequently, social theories have been developed that try to explain why chiefs and elders were able to resolve disputes in such contexts. The Social Capital, Social Solidarity, and Optimal Psychology theories underpin this study.

(a)The Social Capital Theory

The social capital theory provides explanation to the formation of communal societies and the attendant social ties that bind the people together. Putnam and Alone, in theorizing social capital, posits that social networks, bonds, reciprocal duties and trust, bind people together and enable them to coexist (Putnam & Alone, 2000). These social ties have secured the existence and effective functioning of the society over time. Putnam and Alone catalogued two types of social capital: bonding social capital that fastens ties of individual members of a group; and bridging social capital that allows inter linkages with other social groups (Putnam & Alone, 2000).The social capital theory is, hence, effective in explaining the restorative nature of dispute resolution by chiefs and elders in African societies. In most of Africa, chiefs and elders mainly aim at restoring the social ties or social capital that had been broken by the wrong doing. The theory explains that without strong social ties, members in communities would not be able to exist and function effectively. Social capital theory explains that for fear of threat of excommunication from the society, and therefore exclusion from social ties, people refrain from engaging in wrong doing.

(b)Social Solidarity Theory

Durkheim (1933) in his book, the Division of Labour, provides explanation of society in terms of social order and social facts. According to Durkheim, individuals in a society are social actors who are restrained by social facts to stay in society. Social facts exist only if the society can derive benefits from them. Extrapolating this theory to dispute resolution by chiefs and elders, resolving dispute is seen as a social fact

from which society derives some benefit. Chiefs and elders resolve disputes due to their long experience, wisdom and the respect they are accorded in society.

The social solidarity theory, being a functionalist theory, explains the resilience of dispute resolution by chiefs and elders even in modern societies that have embraced western legal systems. Where a community cannot access formal justice systems due to costs and other externalities, chiefs and elders resolve disputes when they occur. Therefore, the existence of chiefs and elders is a social fact in the society providing a dispute resolution utility occasioned by the absence or low penetration of western legal systems.

(c) Optimal psychology theory

Optimal psychology theory uses culture to explain how people view reality, live and resolve disputes (Myers, 1992). It is argued that there is optimal psychology in dispute resolution, when people use their cultures to resolve disputes. As a result, dispute resolution and other real life conditions are sub-optimal when done through a foreign culture. Foreign imposed justice systems such as courts are thus sub-optimal in the African context due to varying cultural context. For instance, while African traditional societies to a large extent are grouped communally, western societies are individualistic. This results in a cultural-conflict if western ideals are applied in dispute resolution. Moreover, while dispute resolution in African societies aimed at repairing social ties and restoring harmony; foreign imposed justice systems are mainly retributive with a winner-loser ideology. This theory is important in understanding the resilience of traditional dispute resolution in modernized and westernized African societies.

The indigenous concept of conflict resolution

Indigenous conflict resolution in African societies exists at different levels right from the family through to the clan and to the community levels. These approaches mainly involve using indigenous institutions, knowledge, and ideas to deal with conflicts. Also referred to as traditional conflict resolution mechanism, indigenous conflict resolution mechanism is 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 (Zuure, Beson, & Achanson, 2020), and sustainably facilitates collective action for achieving mutually beneficial ends” (Fred-Mensah, 2005:35). It is a process through which stakeholders take conscious effort to work towards the management of a conflict. The main focus of indigenous conflict resolution mechanism in Africa is on re-establishing the flow of harmonious relationship within individuals, families and communities. Traditional conflict resolution is reconciliatory in nature which is often characterized with symbolic gestures and associated rituals including the exchange of gifts, and slaughtering of animals such as chickens, goats, sheep, and cows (Ndumbe III, 2001). Mbiti (1991) indicates that traditional conflict resolution focuses on creating and restoring the impaired relationship with God, the spirits, ancestors, family and neighbours as the case might be.

Brock-Utne (2001:12) espouses that conflicts must be understood in their social context, involving “values and beliefs, fears and suspicions, interests and needs, attitudes and actions, relationships and networks...”. It is therefore essential to deal with the root causes of conflicts so as to enable shared understandings of the past and present. The focus of conflict resolution especially from the indigenous perspective is as noted by Brock-Utne (2001:12), “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. As aptly put by Brock-Utne (2001), the overall objective of traditional conflict resolution is to avoid accusations and counter-accusations, settle hurt feelings, and reach a compromise with a greater focus on helping improve the future relationship of the parties involved.

The key players in traditional conflicts resolution depend on the level at which it is being handled. Some conflicts can be processed at the family level with family heads or at the community level with the chief and elders. The roles played by the key actors may change from time to time as the situation demands. This is because there is no standard model with indigenous conflicts resolution processes. Thus, the traditional conflicts resolution approach is flexible and dynamic and the whole process and content are influenced by the social context.

Generally, traditional conflict resolution involves the identification of the root cause of the problem and engaging all parties concerned to address the underlying issues. This usually ends with the guilty party(ies) acknowledging and accepting wrongdoing, which potentially leads to reconciliation. Usually, the process ends with either a compensation or just forgiveness (Brock- Utne, 2001; Murthi, 2006). The process of traditional conflict resolution has to do with how indigenous structures and systems bring about actions intended to ensure 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.

Traditional conflicts resolution in Ghana

Traditional conflict resolution in Ghana is a structured political, judicial and arbitration mechanism hence, 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 and conflicts processing (Oquaye, 2013). This is part of the cultural heritage of the people of Ghana. Traditional leadership plays critical roles in promoting and sustaining social cohesion, peace and order in societies

There are many actors involved in the traditional conflict resolution process. These include family and clan heads, chiefs with their elders and queens. Other actors may be drawn from across all sections of society including clans, youth, women, singing and self-help groups/associations. Also, of significance are the traditional priests, herbalists and soothsayers. This study focused on chiefs and elders. They operate based on consultation, open discussion, consensus building and coalitions which. The composition of the traditional authority also demonstrates the Ghanaian

traditional notion of participatory democracy (Okrah, 2003). The traditional process of conflict resolution in Ghana especially the Nabdam is based on the notion that whatever decision is arrived at should improve the relationship between the parties and that the judgment should be wise and practical (Okrah, 2003).

The setting or venue for traditional resolution of conflicts is very crucial. A neutral ground is often selected for traditional conflict processing event due to the value of conciliation embedded in the traditional approach (Esia-Donkoh, 2012). This informs why cases are often processed at the chief's palace (Best, 2006; Kirby, 2006). When land boundary is the basis for the conflict, then the boundary in contention could be used as the venue. Under such instances, the earth goddess, as well as the ancestors, is invoked as they are regarded as the real owners of land (Best, 2006).

Esia-Donkoh (2012) contends that there are cultural and spiritual connotations to the choice of neutral grounds for the traditional processing of conflicts. It shows that the communal interest of the people is supreme; hence, the interest of the community must be placed above individuals' interest. Also, the choice of neutral grounds indicates there is a dependence on the spirit beings to witness and assist in the resolution process so as to achieve harmony. Thirdly, the choice of some neutral grounds like the palace and shrine symbolizes the support and heritage of the entire community (Esia-Donkoh, 2012). Generally, a traditional conflict resolution process has three stages which include the pre-resolution, resolution, and post resolution (Manuh, 1988; Esia-Donkoh, 2012).

The traditional conflicts resolution process in Ghana involves the use of social, spiritual, and material tools (Awedoba, 2010; Kendie, 2010; Sarpong, 2009). The spiritual tools involve the performance of rituals such as sacrifices, libation, incantations, and prayers supposed to engage the ancestors in the disputing process. The social tools include the use of proverbs, marriage ties, historical experiences, joke relationships etc. Some of the material tools used included the use of local foods, drinks, and fines.

Research Methodology

The descriptive study design of qualitative research paradigm was used for this study. This design was appropriate in presenting accurate picture of the specific details of the Nabdam indigenous conflict resolution mechanism and peace-building. Again, the design was effective in the asking the "how" and "who" questions of the approach (Neuman, 2007). As a result, I was able to present the accurate detailed description of the phenomenon of Nabdam conflict resolution and peace-building.

A sample of thirty (30) persons consisting five (5) chiefs, ten (10) elders, and fifteen (15) disputants who had come before chiefs for settlement of their disputes were involved in the study. These people were considered to be well placed to provide right and relevant responses or answers to my interview questions since the chiefs and elders were the people who manned the application of the traditional approach

to conflicts resolution in the area, and the disputants had personal experiences when it came to employing the approach to resolve conflicts.

The Nabdam District in the Upper East Region was 'handpicked' (O'Leary, 2005) for the study partly because of the widespread use of the indigenous approach to resolve conflicts in the area and also due to the almost non-existing literature on the use of the approach to conflict resolution and peace-building. The sample population of 30 was drawn from five traditional areas within the Nabdam District namely Kongo, Nangodi, Sekoti, Zanlerigu and Peligu. The five chiefs and ten elders were selected through convenience sampling method. I depended on the chiefs and elders to refer me to the 15 people in the community who had used the approach to resolve their disputants. I traced to the houses of these persons and fortunately, all the disputants I approached obliged or accepted to be part of the study.

Semi-structured interview, focused-group discussion, and observation were employed for the collection of data for the study. All the chiefs, five elders, and fifteen disputants were engaged in one-on-one face-to-face interview on the structural and procedural aspects of the approach, role of women in the use of the approach, and the prospects of the approach into the future. The other five elders (one each from a palace) were engaged in a focused group discussion the procedural aspects of the approach, roles of women in the use of the approach, and the prospects of the approach into the future. I also observed three live processing of cases at three chief palaces. The use of these instruments allowed for the triangulation of the results. These allowed for the collaboration or rejection of the data gathered.

Findings and Discussion

The section presents the findings obtained and discussions. It covers the structural and procedural aspects of the approach, the role of women with the approach, and the prospect of the approach into the future in line with the research objectives and questions.

The Structural and Procedural Aspects of the Nabdam Indigenous Conflict Resolution and Peace-building

The first research question was set to elicit information on the structural and procedural aspects of the Nabdam indigenous approach to conflicts resolution and peace-building from the chiefs, elders and the disputants who have had experience of the approach. The structural and procedural aspects of the approach were deemed very important since, in many instances/events, the process is as important as the end result. This is also because many scholars have indicated that African indigenous conflict resolution approaches are well-structured and time-proven social systems (Naude, 2010; Fred-Mensah, 2005; Choudree, 1999). Again, in the formal judiciary system, the substantive aspect is distinguished from the procedural aspect of the law. Mondak (1991) writes that substantive law refers to the body of rules that determine the rights and obligations of individuals and collective bodies while the procedural law is the body of legal rules that govern the process for

determining the rights of parties. To this end, a number of sub-themes were developed to ascertain this.

Initiating a case in the Nabdam chief's palace

This section sought to understand how anyone who needs to have his or her case reported at the palace for settlement goes about it. All the chiefs gave a similar procedure though some had slight differences. The chiefs were asked to take me through how a case is reported at their palaces.

An Elder gave the following response:

A case cannot be reported directly to me the chief, and so, is first reported to an elder. The elder then comes to inform me in private about the request of the person. After the elder reports the case to me, I will ask the elder to come with the complainant to the palace for the case to be reported to the chief officially. When the elder and the complainant appear at the palace, the complainant is given the opportunity to make a report of his or her case with either an amount of money or animal or a combination as a filing fee (Field data, 2019).

Another Divisional Chief also said:

Anyone desiring for his or her case to be processed at the palace has to first report the case to any of my elders. The said elder will determine whether the case merits to be heard in court or not. If the elder decides that the case should not get to the chief, the rest of the other elders are called in to handle it without the involvement of the chief. If the case must get to the chief, the elder makes a formal report to the chief on behalf of the complainant. The chief then asks the elder to come with the complainant to register the case. The complaint registers his or her case at the palace with a filing fee which could be an amount of money or animal(s). It is the complainant who decides on how much or what animal(s) or even a combination to file a case with (Field data, 2019).

A Paramount Chief on his part said:

Cases for processing at the Paramount Chief's level are referred from Divisional Chiefs. Even if an aggrieved person comes to me first, I will refer him or her back to the Divisional chief. So cases that Divisional Chiefs are unable to handle are referred here. The Divisional Chief involved brings the disputants. The Divisional Chief concerned comes with the disputants, greets and indicates whether he was unable to resolve the case satisfactorily or he considered the case beyond his capacity. The filing fee at the Divisional Chief's level is brought to register the case here (Field data, 2019).

It can be seen that, with the Nabdam indigenous conflicts resolution process, no one goes directly to the chief to report a case for processing. According to a Divisional Chief in an interview session, this was put in place by the forefathers to show respect to the chief. The good thing is that the person desiring his or her case to be heard has a number of elders at his or his convenience to approach and start the process of reporting the case. I support the practice of allowing cases to be reported to any of the elders because that will enhance quick access to reporting, hearing and resolution of cases since the elders stay in various part of the communities. I also contend that the thinking behind not allowing persons to report their cases directly to the chief is very appropriate as that practically shows respect to the authority of

the chief and hence, places him in the capacity to deal with issues in a manner that will ensure peace and harmony.

Cases get to the Paramount Chief's palace for resolution through a referral from a Divisional Chief. A Paramount Chief insisted that all cases for consideration at the Paramount Chief's place must be brought from the palace of a Divisional Chief, else, he refers the disputants back to the Divisional Chief. The insistence that cases to the Paramount Chief's palace must go through Divisional Chiefs is important in ensuring structures of authority are followed and that the Divisional Chiefs are not undermined.

Generally, cases are reported to any of the elders in the palace to be forwarded to the chief. Sometimes, the elder can decide whether the case should get to the chief or not. On a decision not to let a case get to the chief, the elders by themselves can settle the case. This is similar to the Akans' as noted by Manuh (1988) that the elder who receives the case from the complainant determines the merit of the case to be heard by the chief. The complainant determines the filing fee which has traditionally been animal(s) but in modern times can be money. There is, therefore, no imposition and this takes away financial inaccessibility to justice from the process. This also makes people to be so certain or sure that they have cases before they appear at the chief's palace to make reports since losers forfeit whatever they used to file their case.

The structured nature of initiating a case at the palace of a chief in the Nabdam area serves to limit the numbers of cases to be reported there. This was made clear at a Focused-Group Discussion with elders where they explained that the structured nature of reporting a case at the palace was meant to make people intending to initiate a case get to meet and interact with respected persons whose words of advice and actions can provide comfort and reduce if not take away the pains in them and subsequently reduce the possibility of going through the process.

The process of initiating a case in the traditional courts in the Nabdam area is similar to the account by Manuh (1988) of the Akan. The slight difference is the elders having the power not to admit cases they did not consider good enough to reach the chief in the case of the Akan. With the Nabdam, any case considered not good enough to be heard by the chief is handled by the elders but not refused total admission.

Hearing a case in the chief's palace in the Nabdam area

Next was on how hearing of cases was conducted after the cases were duly reported. The process through which the case is heard is very important to the acceptance of the outcome by the disputants. This is especially crucial with the Nabdam indigenous approach since its overarching focus is to maintain relationships and foster social harmony. The responses from all the chiefs to this all-important aspect of the process depicted a similar pattern. For example, a Divisional Chief explained how a hearing on cases was done in his palace as follows:

On the day of the hearing, when the chief with his elders is seated, each of the disputants takes turns to greet the chief and announce their presence with kola as kola is the traditionally required item to greet a chief in the Nabdam area. After the

greeting, everyone is reminded of the presence of the gods and ancestors of the land to witness and take part in the process. By this, everyone is called to be honest and truthful. Therefore, people often speak the truth for fear of being dealt with by the gods and ancestors if they told lies. Everybody fears the spirits. After the chief has reminded every one of the presence of the gods and ancestors, the elder who received the case and reported to the chief is asked to call the case for consideration. When he is through calling the case, the complainant is usually called upon first to take a seat on the floor and present his or her complaint. He or she has all the time required to give an adequate presentation of the case and as he or she is making the presentation, no one interrupts him or her; everyone listens attentively. If he or she has evidence to support his or her case, he or she is expected to use them during the presentation in a manner that will help make his or her side of the story better. After the presentation by the complainant, the defendant takes his or her turn to sit on the floor and present his or her side of the case. Similarly, no one interrupts and the defendant also has all the time required to adequately present his or her case. If the defendant also has evidence, he or she is expected to present them during his or her presentation in a manner that will help him or her (Field data, 2019).

A Disputant on his part narrated how hearings are conducted as follows:

On the date of hearing, the disputants with or without people accompanying them appear. After normal greeting exchanges, we get down to the case. The complainant is first given the opportunity to state his or her case. He is free to express himself or herself in the manner he or she feels comfortable in. As the complainant makes a presentation, all persons are to listen calmly. When the complainant is done, the defendant is given the floor to present his or her side of the case as everyone listens (Field data, 2019).

The explanations given above show the indigenous approach has a pattern it follows in hearing cases. My observations of three live disputes processing in three palaces corroborate the descriptions of how cases are heard with the Nabdam approach as presented by the chiefs captured above. My observation saw the elder in charge of the palace “kpaana” would always call the traditional court to order and ask the elder who led the complainant to report the case to call the case for hearing. The approach satisfies the law of natural justice which requires every person accused be given a fair hearing before judgment is passed. This finding makes the Nabdam traditional conflicts resolution approach a potential means to ensuring peacebuilding. The manner in which cases are heard with the Nabdam approach to conflicts resolution is akin to the accounts of the Akan’s given by Manuh (1988) and Esia-Donkoh (2012); and Ewe’s by Togbe Satsi III (2017).

Concluding on a case in a Nabdam traditional court

When the panel of chiefs and elders of the traditional court sit and take the disputants through the process of hearing the case, allowing for cross-examinations and appearance of witnesses, the next thing as expected is that the case is brought to a close. One important thing with the Nabdam traditional conflicts resolution process is that most of the time, the disputants usually get to concede fault when they are taken through the process. The focus of the approach is conciliation; hence, the approach usually engages the disputant to get a result that will foster cordial relationship among disputants after the process. Nonetheless, there are instances where none of the disputants accepts fault after they have been taken through the

process. When that happens, the elders share their just and honest opinions to reach conclusions on cases. One Divisional Chief indicated how cases are concluded as follows:

At the end of the presentations by the complainant and defendant, cross-examination, presentations by witness(es), questions by the elders and chief, the disputants always get to know who is right and who is wrong. The disputants would usually ask for an excuse to go and meet with the people who accompanied them to the palace and take decisions. Upon return, one of the parties is expected to concede and it usually does happen. In the event that none of the disputants accepts to be at fault, the elders' views (without the chief) are taken in private and the decision announced by the linguist. The chief is not part of taking the final decision so as to isolate him from being seen as bias, especially by the losing party and associates. This way the chief remains neutral. In few instances, however, the opinion of the chief is sort but in a tactical manner (Field data, 2019).

A Paramount Chief in a similar version espoused the following:

At the end of the presentations and questioning, the disputing parties with their respective family members and friends move out for some time to confer and take decisions on what has transpired. When they return, the accused is expected to accept guilt or eject the case made against him or her. If the accused accepts fault, that becomes the end of the case but if he or she does not accept fault, the complainant is required to say whether after what has been said, he or she still thinks he or she has been wronged. If neither the defendant nor the complainant concedes fault, the elders move into private to express their views on the case and a decision is taken. In some instances when the disputants do not concede fault, the case is adjourned to another date for them to sleep over it, think and reflect on it, and also seek wisdom from the gods and ancestors so as to be able to deliver just judgment (Field data, 2019).

From the above, it can be seen that the process is opened and plain and often produces fair results as disputants often get to understand the aspects of their cases better and proceed to conclude their cases by themselves. This certainly ensures harmony and cordial relationship among disputants after the settlement process. By this, the process can be described as mediation where the chiefs and elders act as neutral third parties to assist the disputants to resolve their disputes.

The practice of disputants conceding after the hearing indicates that the process is well structured to bring out the truth. This is a positive thing about the Nabdam indigenous approach to conflicts resolution. This also makes the Nabdam indigenous approach unique as I have not read or heard about a similar thing from anywhere. The Nabdam indigenous approach is different from the accounts of Manuh (1986) and Esia-Donkor (2013) who indicate that among the Akan of Ghana, it is the elders who take the decision of who is wrong and who is right; and Togbe Satsi III (2017) who indicates, it is the chief and elders who take the decision among the Ewe.

Sanctions with the Nabdam indigenous conflict resolution approach

Sanctions with traditional approaches are not meant to punish since the focus of these approaches is to maintain a harmonious relationship between parties. Sanctions are therefore meant to appease victims. The principal sanction to the party at fault with the Nabdam indigenous approach to conflicts resolution is the

forfeiture of the filing fee. Additional charges in the forms of a fine of money or animal(s) can be imposed on the guilty party depending on the gravity of the offence. One Divisional Chief offered the following response to the question on the forms of sanctions delivered by chiefs and elders with the Nabdam indigenous approach:

I don't know if we should call it sanction. What happens is that the guilty person forfeits his or her filing fee which is either money or animal(s) or both, while the winner takes his or her's back. In some cases, however, the chief can issue additional sanctions such as a fine of money, fowl, goat, cow, or a combination. This will only happen if the magnitude of the case is grave. The sanction is to serve as deterrence to the guilty person and other people so that they would relate well with others in society. Where an additional charge is given in addition to the filing fee, the loser can in private go to the chief to negotiate for reduction. No torturous and humiliating actions such as beating are given. As a chief, I am a father to everyone and must care for all. If I allow for such things, others will certainly abuse it which can lead to harm or death and I will be held responsible. Therefore, our sanctions end with the filing fee, fine of money, animal(s) or a combination (Field data, 2019).

An elder corroborated the view expressed by the Divisional Chief as follows:

When a case is brought here and a determination of who is at fault is made, the guilty party forfeits his or her filing fee. This is to deter them and other people from misbehaving in the future and also to comfort the victor. There may also be a fine of money depending on the nature of the case (Field data, 2019).

The sanctions with the Nabdam indigenous approach to conflicts resolution serve to check on people deciding to report cases to the traditional courts for processing. As indicated earlier, filing a case comes with a filing fee in the forms of animal(s), money or both and if losing a case would result in the forfeiture of these items you have used to file, people will critically analyse issues before reporting them at the palace. One important thing about the sanctions with the Nabdam indigenous approach is the winner does not take any part of the loser's forfeited things away. It is used to refresh the panel who sat on the case, and for the royal service. The sanction system employed by the Nabdam indigenous approach promotes peace-building.

The role of women in the Nabdam indigenous conflict resolution and peace-building

The next parts examined the role of main actors with the Nabdam indigenous conflict resolution with a view to understanding the role of women in the application of the approach.

Major actors in Nabdam traditional conflicts resolution

Generally, conflict resolution is a process involving the identification of the root cause of the problem and bringing all parties involved to address the underlying issues. This requires the people to make this happen to be technically proficient and generally accepted, hence, the actors in the conflicts resolution process is very significant. The chiefs and elders indicated that the actors are those along the traditional authority structure in the area. The Nabdam traditional authority

structure stretches from the family head, through clan head, sub-divisional chief, and divisional chief to the paramount chief.

It was made clear that women have official role in the application of the indigenous mechanism in the area. Only chiefs with their elders (all male) are the main persons involved in resolving conflicts using the indigenous approach. They pointed out that all the chiefs have some regular elders with whom they worked. These elders as mentioned by a Divisional Chief included: “Kanbongnaab” (responsible for external relations), “Kpanna” (in charge of the palace), “Bihenaab” (in charge of the youth), “Aduu” (linguist), and “Yidaan” (usually the eldest son of the chief). The following captures his view:

I don't sit on cases alone, no way!!! I have elders – kpanna, kanbongnaab, aduu, bihenaab, and yidaan that I usually invite to sit in court to handle cases. These are my able men with great wisdom who make things happen here with most of the people if not all that come here leave satisfied (Field data, 2019).

This attribute of chiefs and elders serving as major actors in indigenous conflicts resolution in the Nabdam area is similar to the practice in other parts of Ghana and Africa as contains in works on African traditional conflicts resolution (eg. Marfo,(2014); Awedoba (2010); Kendie and Guri (2006); Zartma (2005); Okrah (2003); and Lanek (1999). Again, it corroborates Nwosile (2005) when he wrote that the actors in African traditional conflicts resolution are elders, clan chiefs, prominent leaders, acceptable and respected persons (eg. great hunters).

However, unlike the Akan where all levels of traditional authority have corresponding female actors (Manuh, 1988; Esia-Donkoh, 2012), and the Ewe of Volta Region (Togbe Satsi III, 2017), the Nabdam traditional structure has no such role for a female. When the chiefs were asked about the role of women in traditional conflicts resolution in the area, all the five chiefs responded that women have no role to play in the process. The structure of the Nabdam traditional authority without women is akin to the traditional authority of the Ga in the Greater Accra Region. The chiefs, however, indicated that in recent times, following calls from the National House of Chiefs, they are trying to work with women leaders in the communities known as “mangaazien”. The “mangaazien” are not queen; they are just women who lead in the organization of other women in the communities due to their own leadership attributes, hence, they hold no traditional authority. Notwithstanding, one Divisional Chief had this to say about the role and involvement of women in traditional conflicts resolution process in the area:

Even though women traditionally have no place in traditional authority and in resolving conflicts, I have been working with the “magaazien” especially on cases that involve women. I recognise that women are the source of nature, full of wisdom and ideas. I equally recognise that even we men came from women and so women are very important. I, therefore, have been inviting the “mangaazie” to come and sit in to process some cases. I also sometimes, refer women to her to assist them to resolve their cases after which she reports back to me (Field data, 2019).

The absence of an official role for women in the conflicts resolution process in the Nabdam area may be attributed to the patriarchal nature of the society. Patriarchy, in its wider definition, means the manifestation and institutionalization of male dominance over women and children in the family and the extension of male dominance over women in society in general (Jagger & Rosenberg, 1984). It implies that men hold power in all the important institutions of society” and that “women are deprived of access to such power Walby (1990:104). Summarily, the main actors in the Nabdam disputes resolution include the chiefs and their councils of elders. This finding of males as the major actors with the Nabdam traditional conflict resolution process corroborates the view of Elechi (2004) when he wrote that adult males dominate the process of conflict resolution in Africa.

Prospects of the Nabdam indigenous conflicts resolution approach

This part examined the prospects of the Nabdam indigenous conflict resolution model, especially with religious proliferation and modernity in the area. Results from the interview sessions with the chiefs, elders and disputants pointed to a great prospect for the model into the future notwithstanding the increasing rates of modernity and religious proliferation. The chiefs, elders and disputants pointed out similar points to explain their position. These points included cost, proximity, accessibility, legal provision, speedy processing of cases, trust for the model and the influence of culture and tradition on the model. A Divisional Chief expressed strong conviction on the prospect of the Nabdam traditional model in the following words:

There is a great prospect for the Nabdam traditional conflicts resolution approach using the chiefs and elders because it is based on the culture and tradition of our people and no matter what, we will continue to have our culture and tradition. People’s culture and tradition cannot just be done away like that. Also, chiefs will continue to be leaders of various communities in our area and as leaders, they will be expected to perform certain functions as leaders in all societies do, and one such important function will be to assist their followers to resolve their disputes in an amicable manner and in a way so as to foster unity. The approach also has prospect because it costs less to use it to process conflicts especially in our part of the country where many of our people are poor. Again, the traditional approach is accessible to our people. Let me also add that the approach has prospects because it is backed by law (the 1992 Republican Constitution and the Chieftaincy Act) and we work with the Local Government Ministry (Field data, 2019).

A Paramount Chief on his part indicated the following:

Our traditional approach to conflict resolution may be challenged by modernity and religious proliferations but it has prospects into the future due to some advantages it has. In the first place, chiefs are considered to be transparent in our society and as a result, the approach enjoys trust from the people. What is therefore important is that the chiefs must endeavor to live to the confidence put on them by the people as being transparent. Also, our approach to conflict resolution is relatively cheap. When employing our approach, there is no cost in hiring the services of lawyers and in disputants transporting themselves and witnesses since they live with their chiefs in their communities. Finally, the approach has prospect because it takes a relatively short time to process disputes and the sanctions given under the approach are a

minimal and foster relationship which you will not have with the modern court's system in our country (Field data, 2019).

A disputant corroborated the views as expressed chiefs above as he was positive on the prospects of the Nabdam indigenous approach to conflict resolution into the future in the face of modernity and religious proliferation. In his view:

As long as we continue to recognize tradition, and continue to have chiefs enskinned with the authority to resolve disputes, people will continue to employ the approach. Also, the more we continue to hear the reports of rops in the form of bribery and misuse of power leading to miscarriage of justice from the modern courts system, people will develop even more trust and confidence with the traditional approach which is believed to be transparent and fair because the gods and ancestors of the area are always part of the process. The practical reality of police and courts referring cases to chiefs to process gives credibility to the traditional approach and as a result, it will still be a major option for disputes processing in the Nabdam area. More so, the relatively cheap cost of processing cases with the traditional approach and the advantage of proximity for the people will continue to largely influence the people to depend on the approach (Field data, 2019).

The views from the chiefs, elders, and disputants give a significant indication that the Nabdam indigenous approach to conflict resolution will still be very much patronized. The views are rooted in practical factors. In the first place, administration of justice under the Nabdam indigenous method is quicker and cheaper than in the modern legal system where cases can take a very long time to settle. The cost of hiring a legal practitioner could also be very expensive for some people. Thus, the traditional method is easier for many people to use. A disputant from this viewpoint indicated that *“Besides the fact that they are easily accessible, traditional courts are cheap in terms of transport costs and the court's levy only minimal fees which may be payable in kind. Further, since legal practitioners are not permitted in these courts, justice is affordable”*.

It can also be noted from the responses from the chiefs, elders and disputants that the prospect of the traditional approach is in its emphasis on restitution and reconciliation by the approach. Efforts are usually made to reach an agreement that is acceptable to both the complainant and the accused. This may explain the reluctance of some members of contemporary society to go to court. The finding on the resiliency of Nabdam traditional approach to conflict resolution resonates with Myers and Shinn (2010) when they indicated that *“the Western Justice System is individualistic, retributive and emphasizes a winner-loser paradigm in resolution of disputes whereas the African justice systems focus on the restoration of social harmony and social bonds between disputants”*.

Another important factor noted for the prospects of the traditional approach is the reservations some members of the society have about the modern court's system to conflict resolution. This factor has led to the belief that 'legal justice' may be different from 'social justice'. Under the modern legal system, a thief may be discharged and acquitted on technical grounds, even if he was caught in the act. While this may seem reasonable from the legal point of view, it may be difficult for the victim to

accept the reason for this. For these reasons, some people in the Nabdam area will not bother to go to the modern court, believing that they may not get 'justice'.

On accessibility, it was indicated that traditional courts exist in almost every part of the area under a traditional leader which means that virtually every village has a court within reach of most inhabitants. People do not have to travel long distances to magistrate's courts at district headquarters. The courts are also accessible in terms of social distance. Since the presiding chief and his elders who constitute the court are not very different in terms of social status, wealth or education, disputants do not feel as intimidated by the chief's court as they would in a western-type court.

The point of familiarity with the law was another factor considered by the respondents in deciding the prospect of the Nabdam traditional approach to conflicts resolution. They contended that the Nabdam traditional court applies the customary law which consists of rules and customs of the community. One elder, therefore, concluded that:

Ordinary people understand it and relate to it much more than the largely imported common law or the statutory law applied in the regular courts. Although the Nabdam society has been changing over the decades, the people still identify with their customary law rather than other laws which baffle the learned and the ordinary people alike. The absence of lawyers in these courts has ensured that principles of customary law and practice remain structurally and conceptually simple, which in turn encourages popular participation in the exposition of the law (Field data, 2019).

This explains what Bowd (2009: 2), meant when he said "traditional courts are often favoured in rural areas because of; their relatively informal nature, their use of local languages and vernacular, and their close proximity to users". The chiefs, elders, and disputants also referred to the simplicity and informality of the traditional approach on its prospects into the future. They maintained that the Nabdam traditional approach to conflicts resolution is simple, informal, and flexible. The procedure in Nabdam traditional courts is simple, flexible and expeditious. This gives the approach a major advantage over the western-style courts which sometimes get bogged down in technicalities. The informality makes the Nabdam traditional courts user-friendly.

One thing that makes the approach familiar is the language used during proceedings. The fact that the language of the court is invariably the local language of the disputants, with no risk of distortion through interpreting, makes these courts attractive to their users and gives greater satisfaction to the participants in the process as compared to regular courts where the language used is not understood by the majority. The finding to this research question which indicates the approach to conflict resolution has prospect into the future again shows the desire of the people to maintain the natural attribute of peace and order.

Conclusion

The Nabdam indigenous approach to conflict resolution and peacebuilding has served to a large extent manage conflicts in the area. Judging from the findings discussed above, it can be conveniently concluded that the Nabdam indigenous

approach to conflict resolution and peacebuilding is a well-structured, flexible, and efficient mechanism that employs restorative and transformative principles in conflict resolution. The approach is process-oriented, rather than rule-based. Its emphasis is on the processes of achieving peaceful resolutions of disputes rather than on adherence to rules as the basis of determining disputes. The approach can be categorized into four stages namely; the initiation, processing, concluding, and consolidating stages. The approach is patronized largely for the resolution of conflict which accounts for the relatively peaceful nature of the Nabdam area.

The indigenous approach to conflict resolution reveals the patriarchy nature of the Nabdam area. Women are identified with the capacity to resolve conflict and build peace in the Nabdam area and have been used informally in the processing of conflicts especially those conflicts involving women. Notwithstanding, women have been left out in the formal traditional authority structure, hence, no formal role in conflict resolution and peace-building in the area. The absence of women in formal capacities in resolving conflict and building peace tend to reduce women to people who are unable to be creative to deal with issues and derive successful outcomes. This does not only discriminate against women in the area, but deprives people especially women of fantastic feminine perspective to conflict resolution and peace-building in the area.

Finally, the people of Nabdam are conservative especially to their traditions, customs, and culture. Notwithstanding the pervasive influence of modern religion and modernization, the people in the Nabdam area are still very much held to their custom-based approach to conflict resolution and peace-building. Together with the many advantages with the indigenous approach to conflict resolution and peace-building, this conservative nature of the people, makes them to see prospects with the indigenous approach into the future regardless massive religious proliferation and modernization in the area.

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