

Conference Session 3.1: Conflict Resolution – Pre-Conflict Pre-Religious Conflict Resolution: The Gambian Experience Dr. Omar Jah

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Introduction

Since time immemorial conflict and war have been part of human history and experience. That notwithstanding, it is important to note that peace and harmony are the origin of life and the divine norm of existence¹; conflict and war are mere accident² reflecting the earthy aspect of mankind. *Qabeel* is reported to have been the first man to contravene the divine law and killed his brother³. In his encounter with Adam and Eve, *Iblis, the satan* tactfully and falsely promised them “the tree of immortality and everlasting kingdom”⁴. Most of human conflicts are motivated by this false promise. So, as time unfolded, and human carnal soul became fully fed with secular materialistic promises the abnormal became the norm and peace became scarce

Prior to the coming of the Prophet Muhammad (pbuh) in the 6th century, the peace teachings of the two major Abrahamic religions: Judaism and Christianity, which shared nearly everything, became largely diluted⁵. The incident of what the Holy Qur’an calls Companions of the Ditch (Ashaab al-Ukhdud, 85: 4), and the attitude of Abrahah, (105: 1), the Ethiopian King, towards the Ka’abah in Mecca shortly before the birth of the Prophet is an indication of the economic and land acquisition ambition behind what would have been the worst invasion in human history.

Arabs were not an exception to the general rule. The Pre-Islamic identity was that of ignorance *jahiliyyah*, reflected in a culture of tribalism, absence of guided rationalism, absence of responsible central authority and the dominance of a materialistic concept of God. This resulted in an environment conducive to conflict and war. So like everywhere else in the old world, the **Arab tribal might was always right** so much so that it led to what I may term a PEACEOPHOBIC tribal mindset⁶.

¹ In the Holy Qur’an, *Surah Al-Rahman*, 55: 7, Allah says:” **and He has raised up the heaven and has set a balance that you may not transgress in the balance but weigh things equitably and skimp not in the balance”**

² By accident, I am not referring to its obvious general meaning of coincidence but its technical meaning in the science of logic: quiddity and accident:

³ In the Holy Qur’an, in *Surah Al-Ma’idah*, 5: 30 Allah say: **At last, his evil soul drove him to the murder of his brother and he killed him whereby he himself became one of the losers”**

⁴ The Holy Qur’an, *Taha*, 20: 120

⁵ I believe that the failure of Christianization process of the West three decades after the demise of Prophet Jesus Christ (pbuh) has largely diluted these peace teachings. If one analyses the response from the kings and emperors to the letters of the Prophet Muhammad (pbuh) inviting them to Islam one can see the difference between Eastern and Western Christianity towards Islam at a time.

⁶ The two Qur’anic *Surahs: Al-Fil*, Elephant, and *Quraysh* can only be understood if they are read against the background of the peace and security in Mecca against the general absence of peace and security in the pre-Islamic world. By the same token, there are certain strange sociological phenomena such as bombing places of peace like Churches, Mosques and like caricaturing a demised peaceful soul like that of the Prophet Muhammad (pbuh), which can only be interpreted within the framework of the symptoms of PEACEOPHOBIA

This was replaced with an Islamic identity formed by the Prophet in two phases: in Mecca and Medina based on *Iqra'*, read epistemology⁷ and through: a) the inculcation of a *tawheed* mindset and b) exercise of '*izzah*, Islam of dignified PEACE in a gradual and systemic educational motion producing a tolerant multi-cultural religion and a well-guided rationalism creating irresistible civilization, which embodied all human virtues. During these two faces and even before he started his mission, the Prophet laid down a philosophy and different methods of conflict resolution.

However, for centuries, this identity has been eroding, facing crises after crises.

Globalism as a reality and globalization as a process though it has many advantages, it has contributed in deepening these crises. In the 21st century- albeit all pretexts and excuses - most of the conflicts are engineered by the false promise stated earlier.

One of the biggest problems of this century is extremism. Extremism begets extremism and secular materialistic extremism has been the dominant force for centuries and that has yielded a reactive form of religious extremism producing a situation that is gradually diluting the rational nature of Islam and its peace teachings. Today any innocent observer, ignorant of ISLAM, would only see islamism of intolerance and violence rather than ISLAM, the system of universal peace.

The War on Terror as has been conducted since 9 /11 by the **modern Western tribal might** is another form of reactive extremism. The war has done more harm than good both onto those who have been waging it and to those on whom it has been waged. It has created more conflicts and tensions than resolving them. The Malian case is a living example. Rather than the War on Terror it could have been better to launch a war of peace and dialogue.

Like other parts of the world, Africa has had its lion share of the world conflicts. Some studies have been conducted about the nature of African conflict in general and African religious conflict in particular⁸. Although the case of Somalia may undermine any systemic African religious-based conflict theory or methodology⁹ Nigeria and Sudan can serve as a sample for religious-based conflict in Africa. Perpetuation and escalation of the state of war and conflict is due to a range of reasons. Central to these reasons is the weakness of the philosophy and means of conflict resolution. The History of wars and conflicts has shown some world-shared values and methods such as negotiation, mediation, diplomacy and creative peace-building¹⁰ used in resolving them. Equally, some studies have shown some shared African and Islamic values in conflict resolution. This paper examines the philosophy and methods of conflict resolution with reference to the Gambian experience pertaining to pre-religious Conflict resolution.

⁷ Islam is a religion of *IQRA'* (read), which makes continuous research, innovation and knowledge production a divine duty. The Islamic epistemology is traceable in the following verses: *al-Naḥl* (16): 78, **Allāh brought you out of your mother's wombs knowing nothing at all and then gave you hearing and sight thinking hearts=** faculties to acquire knowledge, *al-Baqarah* (2): 31, **Allāh taught Ādam the names of everything** ."; *Al-Isrā'* (17): 85, **You have been given but little knowledge**"; *Ṭā-Hā* (20): 114, **My Lord increase me in knowledge**; *Al-Najm* (53): 28;"...**though they have no sure knowledge therein. They follow nothing but mere conjecture and conjecture avails nothing at all against the truth**'; and *Yūnus* (10): 37, **So after the truth, what is there but error.**

⁸ See Tjaart Barnard, *The Role of Religion in African conflict: the Case of Nigeria and Sudan*,

www.academia.edu/715044/the_role_of_religion_in_African_conflict_the_case_of_nigeria_and_sudan

⁹ Even though the people of Somalia share the same religious values, the Somali conflict can be quoted as one if not the worst example in Africa.

¹⁰ En.wikipedia.org/wiki/conflict_resolution

1.0-An Insight Into War And Conflict Resolution In Public International Law

Conflict resolution is conceptualized as the methods and processes involved in facilitating the peaceful ending of conflict. Often, committed group members attempt to resolve group conflicts by actively communicating information about their conflicting motives or ideologies to the rest of the group (e.g., intentions; reasons for holding certain beliefs), and by engaging in collective negotiation. Ultimately, a wide range of methods and procedures for addressing conflict exist, including but not limited to, negotiation, mediation, diplomacy and creative peace-building¹¹

The term conflict resolution may also be used interchangeably with dispute resolution, where arbitration and litigation processes are critically involved. Furthermore, the concept of conflict resolution can be thought to encompass the use of nonviolent resistance measures by conflicted parties in an attempt to promote effective resolution¹²

Alistair McMillan explains that [conflict resolution consists of] The methods and process of negotiation, arbitration, and institution building which promote the peaceful ending of social conflict or war¹³

There are a number of sources that can inform us about the history of war and conflict resolution. However, due to space and time constraint I will only consult some very important sources that provide us with the true legal history data like the rules of the League of Nations and the Charter of the United Nations. Before 1928, war of aggression was still legal in Western public international law. The League of Nations failed its general mandate of preventing a second world war, and later collapsed after 27 years due mainly to the defects in the legality of a war of aggression and weaknesses in the methods of conflict resolution. In 1928, war was outlawed by the General Treaty for the Renunciation of war¹⁴ and in 1945 the Charter of the United Nations prohibited the use or even the threat of force in international relations. The preamble of the Charter provides: *We the people of the United Nations to save succeeding generations from the scourge of war, which twice in our life time has brought untold sorrow to mankind. Determine to respect human dignity and worth...*

The Charter describes the two World Wars as causing untold sorrow to mankind as it singles out disrespect for human right as the direct cause for the wars. Unlike the League of Nations, the United Nations has so far been successful in preventing a third world war through, *inter alia*, mastery of a philosophy many arts of conflict resolution techniques.¹⁵ Having outlawed the use of force, the only means opened to states is to settle their dispute with peaceful means. And in the event of actual aggression or threat of aggression by one state against the other the Security Council, if it is satisfied that that situation poses a threat to world peace and security, is entitled to apply Chapter 7 of the Charter by resorting to sanction and then to force to settle the dispute. However, I am of the opinion that the UN's philosophy and means of conflict resolution still suffers from three main weaknesses:

¹¹ Ibid.

¹² See Ibid.

¹³ Almondsasdiamonds-wordpress.com/2012/10/31/understanding-conflict-resolution-i-thedefinition/

¹⁴ John Dugard, *International Law: A South African Perspective*, 3rd ed.(Claremont: Juta & Co Ltd, nd.) p. 502

¹⁵ Means such as dialogue, mediation, conciliation and judicial settlement of disputes such as arbitration

- 1- There is no obligation in general international law to settle dispute, and procedures for settlement by formal and legal means rest on the consent of the parties¹⁶
- 2- There seems to be selective use of force in the implementation of Chapter 7 of the UN Charter in the event of threat for international peace and security
- 3- Continuation of arms race, especially nuclear arm race, is another weakness; the North Korea's latest nuclear test in February 2013 is an example. The difficulty in this case lies in the unfair double-standard exercised by nuclear powers, which keep stocking the weapon and yet asking others not to have it.

Given these and other weaknesses in the present system, let us remember that at the time of the Second World War, atomic bomb was the most sophisticated weapon. Today in 2013, the power of a nuclear bomb is trice than the power of atomic bomb. The nature of armed conflict is changing. As Weston and others point out: Often the 'new wars' of the new century are between asymmetrical parties-for example between technologically advanced armies and guerilla forces¹⁷

Today drones are the latest technology on warfare. The American drones have been killing people in Afghanistan, Pakistan and Yemen in the name of the war on Terror, something they call pre-emptive attack as part of the Neo- Conservatives' pre-emptive defense, which is being popularized by the present American regime. Given the fact that many other countries have secured the drone technology, by this action the USA is setting a dangerous precedent in the 21st century and all of us should help change the course towards peace before it is too late.

2.0-Religious Conflicts In Africa

In a general sense, in an article entitled: Africa's Forever Wars, Why the continent's conflicts never end, Gefferey Gettleman describes the continent as follows:

This is the story across much of Africa, where nearly half of the continent's 53 countries are home to an active conflict or a recently ended one. Quiet places such as Tanzania are the lonely exceptions; even user-friendly, tourist-filled Kenya blew up in 2008. Add together the casualties in just the dozen countries that I cover, and you have a death toll of tens of thousands of civilians each year. More than 5 million have died in Congo alone since 1998, the International Rescue Committee has estimated¹⁸.

In a religious sense, the world is dominated geographically by the three major Abrahamic religions: Judaism, Christianity and Islam. Africa is not an exception. However, by its neo-colonial nature, Africa is prone to conflicts; and its vulnerability is mainly due to the following chronological reasons: first, existence of explosive artificial time bomb boundaries, second, failing states because of the absence of an African worldview combined with economic uncertainties, third, the persistence of the culture of tribalism, and fourth, diversity of religions mainly Christianity, Islam and African religions. In his work: Religion and Conflict in Africa with Special focus on East Africa, Bjorn Moller Diis 2006.6 Report, provides:

¹⁶ Ian Brownlie, *Principles of Public International Law*, 3 ed. (London: Oxford University Press, 1979) p.705

¹⁷ Burns H. Weston et al. *International Law and World Order*, (the USA: Thomson West, 2006) p.259

¹⁸ www.foreignpolicy.com/articles/2010/02/22/africa_forever_wars

*Most observers agree that Africans are generally much more religious than the Europeans, perhaps even than Americans- both in the sense of believing in “an invisible world” and of actually practicing religion.*¹⁹ He added:

*Religious elements have been present in many of Africa’s conflicts ever since pre-colonial times, just as European colonialism in the late 19th and early 20th centuries gave rise to resistance movements that were partly inspired by religion– either by traditional religions or Islam. Since independence, religions has also played a role in various armed conflicts, e.g. in West Africa*²⁰.

But as we said earlier, the Abrahamic religions, if they are properly interpreted, share more in common than in difference. Long before his birth, and since his childhood, the mission of the young Muhammad was prophesied in the Biblical literature and jealously guarded by Eastern Christian monks²¹. And upon the beginning of his mission, during his early days in Mecca having suffered persecution meted on him by his own brothers, the Prophet migrated to Abyssinia, and the attitude of the Negus, a Christian African King, is also very revealing of the commonality of the three religions.

In response, the Prophet had always shown strong sympathy to the Jews and Christians. The fasting of the Day of Ashura and his utter sorrow because of the defeat of the Roman Empire by the Persians is a proof to this sympathy.²² This attitude finds sanction in basic Qur’anic principles, such as:

Say: “People of the book! Come to a common term between us and you: that we shall serve none but Allah²³ ...”, and “If they incline to peace, incline you as well to it and trust in Allah²⁴”

However, as we said earlier, the real motives behind wars of aggression and conflicts remain the false promises perpetuated by the Devil. So, religion may sometimes be the reason for conflict but it is certainly often misused as a pretext for conflicts. During the American invasion of Iraq, the former American president, George W. Bush said: *Behind all of life and all of history, there is a dedication and purpose set by the hand of the just and faithful God*”. And In the meantime, *Sadam Husain* was saying to his forces: *fight as God has ordered you to do*”²⁵

You realize that both men seems to have been siding with God or leaning on some form of gods in their decisions to engage in a devastating war that could have been avoided, the war could have been resolved before it started. The sad thing is that both the leaders belonged to one or the other of Abrahamic religions, misusing it to pursue the phantom of “the tree of immortality and everlasting kingdom.

In his work cited earlier, Tjaart, has outlined three factors that generally lead to religious war: a) when followers of one religion bend on imposing their religion on others, and of

¹⁹ www.isn.ethz.ch/Digital-Library/publications/Detail/?id=20975, pdf. P. 10

²⁰ Ibid. p.6

²¹ See the encounter between Abu Talib and Buhayrah and the encounter between the mother of the faithful, Khadijah and Waraqah b. Nawfal

²² In the first, upon his migration to medina, he found the Jews fasting this day to show respect for Moses the Prophet joined them saying: We are closer to Moses or as he said; and in the second, the Qur’an was revealed to that effect: **Alif. Laam mim the Romans have been defeated in the neighboring land;** 30: 1

²³ The Holy Qur’an, *Ali Imran*, 3: 64

²⁴ The Holy Qur’an, *Al-anfal*, 8: 61

²⁵ Wooldridge M. “Can Religion be blamed for war”, BBC news 24 February, 2004, quoted in Tjaart Barnard, note 7, p.16

course this is diametrically against the Qur'anic principle: *there is no compulsion in Religion*²⁶, and the principle : *whosoever, wills let him believe, and whosoever wills let him disbelieve*²⁷, b) when an elite uses religion as a smoke screen to mobilize people for war to enrich themselves, and c) when religion is misinterpreted²⁸

It is realized that none of these factors can be truly blamed on religion, and this strongly supports the thesis on the real motivations behind religious wars. The recent history of a number of worst African conflicts, such as the cases of Somalia, Sierra Leon, Burundi, Ivory Coast, Nigeria and Mali, shows that religion is more of a tool used by the elite to mobilize people to war than a genuine trigger of conflict.²⁹

This diagnosis is important. It is aimed at re-thinking the true role of religion in the African conflicts against the global media disinformation propaganda which projects religion especially Islam as the main culprit of the world conflicts to further tarnish its image. If one analyses the casualties of war throughout history, one can detect the falsity of this hypothesis.

The following statistics has been quoted from a study entitled: Body Count, A Quantitative Review of Political Violence across World Civilizations, conducted by Naveed S. Sheikh:

*Our findings show that, using the entire data set for the period 0-2008, politically and religiously motivated violence has cost between 449.38 million and 708.61 million lives. The **Christian** civilization's share of this is the largest with between 119.32 million and 236.56 million victims (median 177.94 million). In second place is the **Antitheist** civilization which has contributed with a median figure of 125.29 million deaths. The **Sinic** civilization is third with 107.92 million deaths (median). Fourth is the **Buddhist** civilization with ca. 87.95 million deaths. Fifth is the **Primal-Indigenous** civilization with 45.56 million deaths. Sixth is the **Islamic** civilization with 31.94 million deaths. Finally, seventh and last, is the **Indic** civilization with just under 2.39 million deaths³⁰.*

Although these findings carry a lot of value for the purpose of this paper, its analysis is more civilizational than purely religious, which makes it difficult to detect and to quantify the role of religion in such conflicts, nonetheless it tells us that the real motives for wars during the period studied is not always religion and also that the share of Islamic civilization is less than what the present media is projecting.

3.0-Prophetic Model Of Conflict Resolution

However, 10 centuries before the 16th century Public international law of Hugo Grotius, the Prophet Muhammad laid down the Islamic philosophy and well-developed methods

²⁶ The Holy Qur'an, 2: 256

²⁷ 18: 29

²⁸ Note 7, p. 16.

²⁹ The war in Somalia is a strange phenomenon. Apart from the external forces, that I do not want be apologetic about, all of the disputant factions in Somalia belong to Islam and in fact to the same school of thought; and the conflict does not seem to have tribal ingredients, the Sierra Leon war, brutal as it was, was more political in my opinion than religious or tribal, the Burundian war was tribal, between two major tribes of the Tutsis and Hutus, the Ivorian war was more political than religious, the Nigerian unrest is heavily religious with some tribal and political elements, and the Malian war in my humble opinion is more tribal than religious.

³⁰ 005-Body-count-violence-civilizations-1.pdf-AdobeReader

of conflict resolution. We can quote extensively from his sunnah to explain that in a general sense. However, due to time constraint and in order to narrow down our discussion, let me confine myself to two examples of pre-conflict resolution: a) Black Stone positioning on the Ka'ba and b) the Pact of Hudaibiyyah

a)-The dispute over the positioning of the Black Stone irrupted during the construction of the Ka'bah five years before the mission of the Prophet started³¹. The tribal pride would not allow the honor of lifting the stone and positioning it in its rightful place to be handled by one tribe without the other. The disagreement irrupted amongst the tribes and the dispute continued for five nights; and nearly escalated to a war around the *Haram*, (vicinity of the Ka'bah). Fortunately, a wise man amongst them, Abu Umayyah b. al-Mugheerah al-Makhzumi suggested a resolution to them i.e. to resort to an arbitration of whosoever enters the Mosque first at that moment. He happened to be Muhammad who was then known as Al-Ameen, the trust worthy. They all therefore agreed that he was the right person to arbitrate. Muhammad created a mechanism by which justice was served to all tribes. He asked them to place the stone on a piece of cloth and each of the disputing tribes held a part and they all lifted it together to its position and he finally positioned it³².

b)-Another significant incident of pre-conflict resolution is the Pact of Hudaibiyyah. Terms of this Pact is indicative of political maturity and a love for peace. It laid down well refined techniques of negotiation and dialogue This Pact was concluded six years after the migration³³. Years after migration to Medina, when everybody was longing to see Mecca again, Mecca, out of which they were compelled to leave. The Prophet had a dream that he and his Companions entered the *Haram* and he decided to go and perform Umrah hoping that the dream would come true. The news went around that the Muslims are going to perform Umrah that year. A large number totaling 1400 men and women joined the Prophet with a lot of excitement and enthusiasm. However, though his dream would come true but it would not be that year. The Quraysh after hearing the news decided to deny them access under the military leadership of Khalid b. Walid before his reversion. In this incident also a peacephobic minority group did also involve and they nearly succeeded in provoking a war³⁴. Because of the nature of the paper, we cannot bring all the facts of this incident. But from the facts of these two examples we can draw the following pre-conflict resolution techniques:

(1)-Changing rout to avoid clash with the enemy (2)-sending a strategic emissary Sayyidina Othman to convey peace intention (3)- gauging the psychology of the other party's emissary, (4)-expressing optimism in reaching positive results, (5)-compromising very basic rights by cancelling the trip as well as by accepting to delete his world title "the Prophet of Allah" from the text of the pact, and (6)-drawing a long term peace strategy out of the negotiation.

³¹ Safiyyu al-Rahman Mubaarak, *Al-Raheeq al-Makhtum*, (Damam: Dar a-Dhakha'ir, 1994) p.70

³² Ibid. p.71

³³ Ibid. p. 378

³⁴ See the peacephobic intruders to the camp of the Prophet; their intention was to provoke war rather than reconciliation. They were luckily arrested and later released by the Prophet to avoid escalation. Ibid. p.383, also see, Ramadan al-Buti, *Fiqh a-Seerah*, 7th ed, (Damascus: np, 1977) p. 246

The above stated techniques have found philosophical and doctrinal basis in the Farewell Pilgrimage. The Prophet stood before 124000 pilgrims coming from all corners of the world in Arafah and declared:

O' you people: listen to my words, I indeed do not know, I may not meet you forever after this year in this place³⁵.

1-Verily your blood and your money are sanctified the sanctity of this day... lo!

Everything of the Jahiliyyah, pre-Islamic identity, is placed under my foot

2-The pre-Islamic forms of usury are laid down and the first form of usury that I lay down is the usury of Abbas b. Abdul Muttallib, which is totally abandoned.

3-Fear Allah in women, they are married to you with the trust of Allah; you have consummated their chastity with a word of Allah.... I have left with you something you will never go astray if you hold onto it, the book of Allah ...

4-O' you people there will be no prophet after me and there will be no ummah after you, lo! Worship your Lord, pray your five, fast your month, pay the zakah of you wealth wholeheartedly, visit the House of your Lord, obey your leaders and enter the paradise of your Lord³⁶

This farewell message laid down three basic fundamentals for attainment of world peace and security: a) sacredness of human blood, by outlawing war of aggression as well as forbidding pre-emptive arm conflict b) economic peace and stability by forbidding usury, bank interest, c) moral and spiritual inner peace by confirming the obligation of the five pillars of Islam.

Today, a similar philosophy of winning the peace rather than the war and by employing pre-conflict tools is being adopted by postmodern strategists. In an article, entitled: Pre-conflict Management Tools: weaning the Peace, published in 2005, Aeron B. Frank tells us:

In April 2003, the Center for Technology and National Security Policy (CTNSP) at National Defense University (NDU) launched a research project designed to give the U.S. government new tools for preventing the outbreak of violent conflict. The Pre-Conflict Management Tools (PCMT) project is the culmination of several years of working with Regional Combatant Commanders (RCCs) on identifying gaps between military capabilities and strategic requirements. RCCs repeatedly noted that they had numerous means for employing military force, but little capability for preventing the outbreak of violent conflict. Their message served as a constant reminder of the difference between winning the war and winning the peace and of the tensions between near-term and long-term outcomes and stability³⁷.

The RCC demand for tools to prevent the outbreak of a conflict was a clear sign for the need to identify, confront, and reverse destabilizing trends, behaviors, and conditions before they fester and grow, i.e., the need for preventive defense. PCMT conflict prevention efforts focus on discovering, arresting, and reversing processes that lead to large-scale political and social violence. Conflict prevention requires that sufficient warning be given to policy-makers, and that they devote the necessary time and resources to act on it³⁸.

³⁵ Ibid. pp 516-517

³⁶ Ibid.

³⁷ www.ndu.edu/CTNSP/docUploaded/DTP11_PCMT.pdf. P. 1

³⁸ Ibid. p.7

4.0-Pre- Religious Conflict Resolution In The Gambia

In the forgoing pages we have attempted to discuss both the conventional and Islamic philosophies and methods of conflict resolution. This is because the Gambian experience is heavily influenced by both the systems. However, being an African state, the Gambian experience has as well been influenced by the African philosophy and methods of conflict resolution. The African ways of settling disputes have some variations due the variations in African sociological collectivism and legal reasoning.

It is interesting to note that prior to the coming of the colonial powers, which brought with them philosophy of individualism there was an indigenous African system of dispute settlement rooted in the African sociology of collective responsibility and African legal reasoning. In his book: *The Nature of African Customary Law*, T.O. Elias, say:

*Whereas African law strives consciously to reconcile a dispute in a law suit, Western law often tends to limit itself to the bare resolution of the conflict by stopping at the mere apportionment of blame as between the disputants: judgement by agreement intended to restore and preserve the social balance and not judgement by decree intended to enforce the legal rights of one party to the complete and permanent exclusion of the other, whatever the effect on the social equilibrium may be*³⁹

And in his epoch- making BBC documentary: *the Africans: A Triple Heritage*, Ali Mazrui, points out:

*Before European colonization there was African indigenous justice system in which the protection of the innocent was the main focus rather than punishment of the guilty: victim- focus rather than villain-focus. There was a decisive shift from focus on the victim of a crime to focus on the suspect or culprit. African justice system also shifted from emphasis on shame to emphasis on guilt*⁴⁰

The writer concludes by stressing:

*It is on this indigenous African system of dispute settlement i.e. arbitration, conciliation and reconciliation that a Nigerian student wrote his Ph.D dissertation in an American University that the Americans have adopted, renamed and popularized as Alternative Dispute Resolution (ADR) when it is in fact (ADR) African Dispute Resolution*⁴¹

Having consulted the former chairman of the ADRS Office in Banjul, Dr Low, to know more about the above-stated dissertation and its author, I was told that the writer is the renowned ADR mediator and scholar of conflict resolution, Professor Ernest E. Uwazie and the dissertation was titled: *Disputing Modes and Strategies Among the Igbos of Eastern Nigeria: Perspective on legal pluralism* presented at Arizona State University, and published by UMI Press, Ann Arbor, Michigan in 1991. However, I still cannot fully authenticate the validity of the general claim.

Traditional [African] conflict resolution mechanism is a social capital, defined as the “capability of social norms and customs to hold members of a group together by effectively setting and facilitating the terms of their relationship... sustainability

³⁹ Quoted in an unpublished keynote article, entitled: *Law and Lawyers in a Changing Society* delivered at the First Call to Bar Ceremony, 18 January 2013, by Fafa Mbye, Barrister and Solicitor of the Supreme Court of the Gambia and a former Minister of Justice, p.16

⁴⁰ Ibid. p 14

⁴¹ Ibid. p 18

facilitates collective action for achieving mutually beneficial ends⁴². Over the years, there have developed inter group conflict over land; increasing reliance on formal contracts to regulate relationships and create understanding; and shifts in methods of conflict resolution in that mediation seems to have given way to more confrontational statutory approaches based on formal court procedures (Fred-Mensah, 2005). Despite these, traditional methods still prevail, especially at the grassroots level⁴³.

Conflict resolution comprises a complex network of forces surrounding the parties in the conflict. It is a healing process in which all stakeholders contribute positive energy. The task is to re-establish the energy flow within individuals, families and communities so as to re-build social harmony. In this context, reconciliation often requires symbolic gestures and associated rituals including exchange of gifts, and slaughter of animals (chickens, goats, sheep, cows) Conflicts may be managed so that they do not escalate and lead to crisis⁴⁴.

Traditional leaders also play a vital role in local and grassroots communities in relation to socio-economic development and the administration of justice in the modern political system. This is part of the cultural heritage of the people. The institution of traditional leadership plays critical roles in promoting and sustaining social cohesion, peace and order in societies. Traditional institutions play two important roles: a proactive role to promote social cohesion, peace, harmony, co-existence; and a reactive role in resolving disputes which have already occurred (Department of Justice and Constitutional Development, 2008:30). 43

4.1-The Gambia's Peace Philosophy And Organs



⁴² .Fred-Mensah, Benk. (2005) “Nugormesese: An indigenous basis of social capital in a West African Community”. *IK Notes*, No. 86, November. World Bank. <http://www.worldbank.org/afr/ik/default.htm>. Accessed 14th July 2010.

⁴³ Ibid

⁴⁴ Ndumbe III, Kuma (2001) *The spiritual dimensions of resolution mechanisms in African countries*. University of Oslo, Unit for comparative and International Education, Institute for Educational Research, Accessed 23/02/01.

The Gambia is a country in West Africa. It is surrounded by Senegal, apart from a short strip of Atlantic coastline at its western end. It is the smallest country on mainland Africa with 11,259 kl.

Capital: Banjul

Currency: Gambian dalasi

President: Yahya A. J.J. Jammeh

Official language: English Language

Points of interest: River Gambia, Kiang West National Park, Abuko Nature Reserve, MacCarthy Island

Government: Dominant-party system, Republic, Presidential system

The Gambia is a small country in terms of geographical area but pivotal in terms of peace production, it is unknown in terms of economic role but it is a role model in interfaith co-existence. The Gambia is a religious country, a heavily dominantly Muslim country.

According to 2009 estimates, Muslims represent 90% of the Gambian population of 1,705,000, and Christians represents 8% numbering 136,400. Article 25 of the Gambian Constitution protects freedom of belief and practice of faith.

Since independence the Constitution has been silent on religiosity of the state and the writer believes that this is one of the secrets behind the continuous religious tolerance. However, in the present Constitution some attempts were made to secularize the state through a proposed amendment of section (1), which, in the opinion of the writer, was a very dangerous step, but which fortunately failed to materialize⁴⁵

The Gambia's peace philosophy is shaped by the understanding that peace is indivisible. Conflict anywhere means conflict everywhere. And since independence, there has been a conscious and collective fight against hate and religious intolerance in the country. And because of the strong belief in the indivisibility of peace, since independence, the leadership has been promoting the culture of peace and conflict resolution outside the Gambia particularly in West African sub-region⁴⁶. The Gambian unflinching support and contribution in the UN and regional of peace-keeping missions and President Jammeh's mediation efforts in many conflicts within the sub-region (Mauritania, Guinea Bissau, Liberia, Sierra Leon and beyond like Eritrea and East Timor is reflective of Gambia's natural position towards peace and conflict resolution.

In his work quoted earlier, Gefferey Gettleman in depicting the unstable African continent describes Tanzania as: "Quiet places such as Tanzania are the lonely exceptions". Of course given the Dar al-Salam US Embassy bombing in August 7, 1998, the Gambia may be a lonelier example in terms of peace. The Gambia, as far as I know,

⁴⁵ For more information about this, see my unpublished article: "Is the Gambia a Secular State?" and also consult Justice Hassan Jallow's 2001 Supreme Court Judgement in the Case Kemesseng Jammeh V. the Attorney General. Yet the term "secular" is still misleadingly found in Section(1) of many versions of the present Constitution

⁴⁶ The Gambia has contributed over 200 troops per year to African Union from 2005 to 2007, contributed to an ECOWAS mission in 2003, sending over 150 troops and also contributed over 100 troops to UN missions in 2003 and 2004 (over 100 troops each year), and over 200 troops from 2008 to 2010. See, en.wikipedia.org/wiki/yahya_jammeh

has never witnessed a religious conflict. The Gambia is a role model for natural inter-faith tolerance. This is because even exemplary countries like Malaysia have to enact some tough laws such as Internal Security Act to keep the inter-faith sensitivities in check. Unlike those countries the Gambian Muslim majority have naturally been tolerant to the Christian minority. So, the country has never enacted such laws because the inter-religious cohesion has never been seriously challenged.

However, as we said earlier Africa is generally vulnerable to conflicts and even though religion hardly serve as true trigger of war, due to the very often misuse of religion, interdependency of states in this global age and the contagious nature of regional conflicts, the Gambia had to adopt a proactive attitude in managing potential religious sensitivities in order to mitigate surprises. The steps taken to this effect are referred to as pre-religious conflict resolution. This is discussed based on two grounds: a)

Organizational Structure and B) Special methods used.

To mitigate potential tension, the Gambia has utilized two main organizational structures: Religious and Traditional, and has used different methods reflecting conventional, Islamic as well as African mechanisms of conflict resolution. In the second Republic, the Government has especially wisely used the religious structures by empowering and by closely monitoring the two Councils. Even though there have not yet been a need for legal interfaith intervention, the Government has always expressly frowned at any potential religious sentiments. The organizational structures are as follows:

1-Religious structures such as the Gambia Supreme Islamic Council and the Gambia Christian Council, Imams and Bishops.

2- Traditional structures such as village heads, Chiefs and paramount chiefs

In addition to these structures, the current government has established other peace structures such as Jammeh Foundation for Peace

4.1-An Insight Into The Peace Activities Of The Structures

*-The Gambia Supreme Islamic Council⁴⁷(GSIC)

Since its inception, in 1992, the Gambia Supreme Islamic Council has been engaging in pre-conflict resolution. However, the data received from the Council is very limited and inadequate; it can neither be sufficient to draw an accurate indicator for a long term trend of the Council's intervention in resolving conflicts nor is it adequate to make a valid scientific judgment regarding the effectiveness of the methods used. However, the sample seems to suggest that compared with old days when the occurrence of religious tension was remote⁴⁸, in the recent years, the occurrence of tension is at the rate of once per year within the Greater Banjul area.

It also suggests that the vulnerability to religious conflict is higher in the urban areas like the Greater Banjul where churches and Mosques are relatively closed to each other than the rural areas, where the majority are Muslims and where one hardly finds a Church.

It finally suggests that proximity between Churches and Mosques is the determining factor to potential religious tensions.

⁴⁷The Gambia Supreme Islamic Council was informally established in in 1992 and was formerly re-structured and re-enforced in 1994 after the coming of the Second Republic. Its present headquarters along the MDI Road was allocated to them by the government and built in 2003 funded by Qatar

⁴⁸ This probability emanates from the fact that all structures seem to lack any written or oral reference or data of religious tension prior to 2008

In 2010 a complaint was brought to the Council by the Muslim community of Bartes Serrekunda complaining against the new church that was established near the Mosque and complaining about the velocity of the speakers of the Church and the Mosque during their services and prayers. This created some tension and the Mosque committee took some steps to resolve the tension but failed and misunderstanding mounted between the two religions, which resulted in the intervention of the Supreme Islamic Council. After a long investigation and discussion with parties concerned including the Christian Council, it was realized that the mosque had been there since 1981 and the Church was built in 2005.

As a result, the following steps were taken by Supreme Islamic Council to resolve it amicably.

- A. To reduce the velocity of the speakers immediately.
- B. To move the Church from its place within three months
- C. To maintain the religious tolerance that exists in Country.
- D. To avoid establishing a church again very near to a Mosque.

Also in June 2011 a similar complaint was brought to the Council by the Muslim community of Lamin Sanchaba along the Brikama Highway where an apartment owned by one Emanuael sanyang a native of Kombo Lamin West Coast Region, was rented by Winners Chappell Church in order to conduct their daily services and the distance was about ten (10) meters away from the Mosque.

The Council immediately involved the Christian Council Secretariat and inspected the place in the same day. A meeting was held at the residence of the Paramount Chief, Alh. Demba Sanyang. All concerned parties were involved; and after a long discussion it came to notice that a six months advanced payment was made for the rent. The Council resolved it as follows:

1. To reduce the velocity of the speakers
2. To move the Church from the place after 6 month which was the ending of December 2011

*- The Gambia Christian Council⁴⁹

For a more representative sample, I equally contacted the Christian Council and have visited the Bishop's headquarters, conducted an interview with the secretary March 7, 2013 as well as discussing the matter with the Bishop Tilawa Jonson. However, Like the Paramount Chief, he and the Secretary lamented the lack of recorded data. In the absence of recorded document, the secretary narrated to me two incidents whose dates she could not remember, one as I could confirm later, was the Lamin Shanchaba June 2011 incident cited above and the other was known as the Kairaba Avenue Mosque incident, in which according to her a group of Muslim youths attacked the nearby Church, which they claimed was disturbing them during prayers. Both Councils involved and the tension was put down. When I asked her the Council's view about the factors behind the inter-faith tolerance, the answer was as follows:

- a) The Gambia's atmosphere
- b) Inter-marriage between families of two religions, citing the family of the Bishop, where some are Muslims and others are Christians

⁴⁹ The Gambia Christian Council (GCC) was founded in 1965; it is a fellowship of Churches and Christian organizations that worship one God in the trinity of the father, the son and the Holy Spirit.

c) Missionary schools as the earliest schools established upon independent in which many Muslims had to school and even learned the Bible as they learned the Qur'an

d) Many Muslim Children received Christian guardianship and sponsorship, citing the example of the current president Jammeh who was supported by the Christian Tamba family

In conclusion, the secretary stresses that the Council is of the view that the recent rise in the level of religious tension is due to the new Churches opening daily coming from none-Gambians and new versions of Islam.

The following is the 2011 sample of a pre-religious conflict documents from the (GSIC)

*-The Paramount Chieftaincy⁵⁰

On the side of the traditional structure, I interviewed the first Gambian Paramount Chief, Alhaji Demba Sanyang, on the 8th of March 2013 and during our discussion he also cited the June 2011 case. He informed me that he involved the Lamin Council of Elders in the process of looking for solution to this case. He informed me that this is the only religious tension he has ever involved in since taking the mantle of Paramount chieftaincy seven years ago. This seems to suggest that interventions by the religious structures are more often than interventions by the traditional structure at least in the reater Banjul area. He however, was quick to confirm and to lament the lack of recorded data

*-Jammeh Foundation for Peace⁵¹

As earlier stated, the Gambia's philosophy of indivisibility of peace necessitates the founding of social justice structures as well. This is because any talk of peace without justice is a waste of time and resources. So, the more one provides social justice the more one secures peace and stability and vice versa, the less social justice the less peace. The Jammeh Foundation for Peace was established by President Jammeh apparently as an attempt to secure a well-rounded social justice in the Gambia.

The mission of the foundation is to implement substantial and sustainable improvement in the quality of life for the people of the Gambia. To accomplish this, the Foundation provides program in:

a)-Education⁵²

b)-Health

c)-Agriculture⁵³

d)-Women's issues

e) -Youth Development

Methods Of Pre-Religious Conflict Resolution

As earlier stated, the Gambia's conflict resolution methods have been influenced by three main styles. My limited data confirms that four styles have been utilized in pre-religious conflict resolution in the Gambia: the conventional methods such as mediation, the Prophetic models such as asking one party to yield a fundamental right, the African methods such as exchanging gifts like cola nuts and the Sene-Gambian methods such as utilizing joking relationships. But unlike the three methods, which are well-known and are universally used, the Sene-Gambian method of joking relationship needs more elaboration here.

Generally speaking, the joking relationship can be defined as a customary belief in special joking ties between certain tribes such as the tribe of SERER V. the tribe of

⁵⁰ It is the English language designation for the highest-level political leader in a regional or local polity or country administered politically with a chief based system

⁵¹The Jammeh Foundation for Peace (JFP) is defined as an independent, non-political, charitable organization based in the Gambia, the Foundation was founded by the Gambian president, Yahya Jammeh. See [en.wikipedia.org/wiki/the_jammeh_foundation_for_peace_\(JFP\)](http://en.wikipedia.org/wiki/the_jammeh_foundation_for_peace_(JFP)).

⁵² In terms of education which is the bed rock of social justice, today the Gambia can boast of an unprecedented progress in the number of schools vertically and horizontally in all regions and up to a successful national university of the Gambia respectively.

⁵³ In terms of Agriculture, the President's own initiative and "go back to the land, to eat what you grow and grow what you eat call" has been yielding agricultural production results

FULLANI or between surnames of NDAW V. JAH for example. Many a times, potential or actual tensions are easily put off using this customarily developed African joking relationship. In some instances, a fight instigated by two individuals can potentially lead to wider conflict. But a word of “do you not know that this man is a FULNI”, can always immediately turn an angry SERER harmless and into a genuine smile and hug towards the very person he would have harmed a minute ago.

And as earlier indicated, given the fact that many so-called religious tensions in Africa are in fact largely tribal, this joking relationship method has played very important role in lessening the tribal tension in the Gambia and as a result, has contributed in interfaith harmony.

Conclusion

In the foregoing pages, we have examined the philosophies and different methods of conflict resolution and their impact on Gambian experience on the pre-religious conflict resolution based on a limited sample of armchair as well as field data. The sources have shown that the state of peace is the origin of existence and the state of conflict is an accident, state of war of aggression reflects the earthy aspect of mankind in a pursuit of an empty promise of everlasting kingdom perpetuated by a PEACEOPHOBIC minority. Prior to the coming of the Prophet Muhammad (pbuh) in the 6th century, the peace teachings of the two major Abrahamic religions: Judaism and Christianity, which shared nearly everything, became largely diluted and the two religions had many a time been misused by elites to pursue the phantom of an everlasting kingdom. Many methods have been utilized throughout history to curb war and resolve conflicts but most of these attempts always failed. Classically the League of Nations failed because rather than outlawing war of aggression it attempted to regulate it; and the failure of the United Nations is due to four major weaknesses. The present world conflicts even though they often carry religious elements are most of the time economically motivated. However, the biggest problem of the 21st century is reciprocal extremism. The War on Terror as it is being waged today with its drone invasion is nothing but a form of extremism, causing more harm to the world than good, it was better to wage a war of peace. This is because extremism begets extremism and secular materialistic extremism has been the dominant force for centuries and that has yielded a reactive form of religious extremism producing a situation that is gradually diluting the rational nature of Islam and its peace teachings. Today any innocent observer, ignorant of ISLAM, would only see islamism of intolerance and violence rather than ISLAM, the system of universal peace. The sources have shown that amongst all the continents, Africa is home to an active conflict or a recently ended one. In a religious sense, the world is dominated geographically by the three major Abrahamic religions: Judaism, Christianity and Islam. Africa is not an exception. However, by its neo-colonial nature, Africa is prone to conflicts; and its vulnerability is mainly due to the following chronological reasons: first, existence of explosive artificial time bomb boundaries, second, failing states because of the absence of an African worldview combined with economic uncertainties, third, the persistence of the culture of tribalism, and fourth, diversity of religions mainly Christianity, Islam and African religions. The recent history of a number of worst African conflicts, such as the cases of Somalia, Sierra Leon, Burundi, Ivory Coast, Nigeria and

Mali, shows that religion is more of a tool used by the elites to mobilize people to war than a genuine trigger of conflict. Similar to the world situation the current internal African conflicts, even though they may carry religious elements are most of the time largely tribal.

Our discussion of the techniques of conflict resolution has shown that prior to the coming of the colonial powers, which brought with them philosophy of individualism, there was an indigenous African system of dispute settlement rooted in the African sociology of collective responsibility and African legal reasoning; and that it is highly probably that Americans have adopted African dispute resolution renamed it and popularized as Alternative Dispute Resolution (ADR). It has shown that long before modern public international law, the Prophet had already set the best examples of pre-conflict resolution techniques such as changing rout to avoid clash with the enemy, gauging the psychology of the other party's emissary, and compromising very basic rights as demonstrated in the Pact of Hdaybiyyah.

Analysis of the limited field data has suggested that the Gambia though is a small country in terms of geographical area it is a role model in terms of peace production and interfaith cohesion. Its peace philosophy stems from the strong belief in the indivisibility of peace. So, although it is a part of a continent vulnerable to internal conflict the Gambia has never experienced one.

To mitigate potential religious tension, the Gambia has utilized two main organizational structures: Religious and Traditional, and has used different methods reflecting conventional, Islamic, African as well as Gambian mechanisms of conflict resolution. In the second Republic, the Government has especially wisely used the religious structures by empowering and by closely monitoring the Islamic and Christian Councils and has put in place other social justice structures such as Jammeh Foundation for Peace as a mechanism to availing educational opportunities and women empowerment. And even though there have not yet been a need for legal interfaith intervention, the Government has always expressly frowned at any potential religious sentiments.

The data shows that the structures put in place has used conventional methods such as mediation, the Prophetic models such as appealing to one party to yield a fundamental right, the African methods such as exchanging gifts like cola nuts and the Sene-Gambian methods such as utilizing joking relationships.

The data seems to suggest that compared with old days when the occurrence of religious tension was remote, in the recent years, the occurrence of tension is at the rate of once per year within the Greater Banjul area. It also suggests that the vulnerability to religious conflict is higher in the urban areas like the Greater Banjul. It finally suggests that proximity between Churches and Mosques is the determining factor in potential religious tensions.

The study has finally exposed the inadequacy of recorded data, so the data is insufficient to make a valid scientific judgment regarding the effectiveness of the methods used in pre-religious conflict resolution.

Recommendations

Based on and in addition to the field data, the writer believes that the interfaith co-existence in the Gambia has been sustained because of the following:

First, the nature of the West African brand of sufi Islam. Unlike the generally anti-sufi form of Islam, which is less tolerant and which puts more emphasis on the minor jihad of the sword, the generally pro-sufi form of Islam puts more emphasis on the major jihad of self-control and considers the minor jihad as the last resort only to protect liberties and fundamental rights of the people to allow them choose their faiths freely.

The second reason is the geographical position of the Gambia in side Senegal. During writing this paper, I attended a public lecture by Professor Oumar Ndongo, an expert in world conflicts. The topic was: “Conflict Systems in West Africa and the Role of ECOWAS” delivered on February 28, 2013 at the University of the Gambia, Birkama Campus Auditorium. Before attending the lecture I held a strong view that the Gambia, being in side Senegal, immunizes it from conflict vulnerability. But during the lecture, the professor contended otherwise. He said that this geographical position is only positive as long as two main conditions are sustained: a) continuous peace in Senegal and b) absence of real threat to the Senegalese interest by the Gambia. Also during the lecture, he discussed conflict systems, and explained it to mean “a potential chain of conflict zone”, warning that the Malian conflict if not properly handled can spill over to the chain of that zone in countries like Niger, Mauritania and Senegal.

The third and final reason for the inter-faith harmony is the first Republic constitutional silence on the religiosity of the state. Secular extremism has always produced across the world a re-active religious extremism and the Gambia was saved from this.

So, against the context of this background, and given the recent rise in religious tension since 2010, in order to eliminate this trend, the writer concurs with the observation of the Christian Council pertaining to the new Churches and new versions of Islam creeping into the country and recommends the following, that:

- 1- The government of the Gambia should be more vigilant and watchful of the new churches. I believe that this phenomenon started with the in flocks of refugees from particularly Serra Leon combined with a large number of Nigerians in the Gambia
- 2- The Government should be more strategic in promoting a moderate and inclusive form of Islam that accepts and tolerate divergence of views and, which takes our Gambian Islamic history and culture into consideration.
- 3- The government should endeavor to sustain the Constitutional silence on the religiosity of the state, and both the Gambia Supreme Islamic and Christian councils should fight against the secularization of the state propagandas by a handful of people in and outside the Gambia.
- 4- The data for dispute resolution must be seriously recorded from henceforth for future similar studies.

To finally conclude, given the world context in general and the regional context as reflected in the Malian scenario in particular, my real fear for the future of the Gambia lies in the potential dangers of Christian and Islamic intolerant sectarianisms

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