

The BaTonga traditional Dispute resolution in Tonga communities: Lessons from Lusulu community

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Abstract

The article explores traditional perceptions of dispute resolution practices and strategies in resolving conflicts amongst the BaTonga communities in Binga which is in the north-western part of Zimbabwe. The paper follows a realization that the BaTonga community has an interesting dispute resolution mechanism which is predicated on the idea of African finding solutions to their problems in Africa's wisdom. The study on Zimbabwe endogenous conflict resolution mechanisms has received scant attention. The nature of disputes within the BaTonga community emanate mainly from resources competition characterized by competition over grazing lands during summer season, water scarcity, community boundary conflicts on farm lands, conflicts over, migration, power disputes arising from succession disputes, gender violence cases, promiscuity, common crimes like murder, theft inter alia. The study observes that BaTonga people have unique mechanisms of solving conflicts predicated upon the values of community integration and oneness. Conflicts resolution in BaTonga community values the wisdom and long lived expertise of the respected elderly people. The study is qualitative in nature supported by key informant interviews such as traditional chiefs and elders and deploys in a broad sense of ubuntu philosophy as a theoretical framework. The methodological section of this paper was drawn from Lusulu area under Chief Sinamamgonde. The paper unpacks how BaTonga dispute resolution mechanisms protect women and help in strengthening family-community relations. It is observed that community is determined to use its endogenous methods of resolution despite the fact that this has been under threat and assault from globalization and modernization which to some extent has contributed to them losing faith in their dispute resolutions mechanism.

Key words: dispute resolution, Resource scarcity, BaTonga, Ubuntu philosophy

Introduction

The study is carried out in Lusulu area found within the Binga district which is in the North-western part of Zimbabwe. Lusulu is found between the astronomical grades of 18°6'35.3" and 27° 49'56"E. The area has a remarkably favorite climate conditions in terms of rainfall patterns and good fertile soils which favors high crop yields. According to ZIMVAC report (2014), Lusulu is ranked as being a section that belongs to regions three when the whole of other Binga districts falls under region five in terms of rainfall patterns. In as much as the area receives favorable rainfall it has challenges of water scarcity as a result of lack of big rivers to hold water for bigger periods and lack of dams built within the area. Therefore community members rely on boreholes and wells as the source of their water.

Furthermore, the research on the minority group's forms of dispute resolution in Zimbabwe has received scant attention resulting in the shortage of literature on endogenous conflict resolution approaches from the Zimbabwean perspective. Studies on endogenous conflict resolution have been carried at continental level a whole lot literature exists. It is observed that most of these forms of traditional dispute resolution have a main goal of cementing community relations. Quite a number of African countries have resorted to their traditional methods of conflicts resolutions to solve conflicts affecting their communities and to deal with post war situations as a strategy to promote community integration and prevents their communities in degenerating into violent conflicts again. Therefore, methods such as Gacaca in Rwanda, Mato Oputi in Uganda, Judiya in south Sudan, courts systems in Kenya, Gadaa in Ethiopia amongst others have proven how length these forms of dispute resolution can be in resolving conflicts in a manner which leads to community integration. The study is mindful of how the modern forms of dispute resolution have been employed in a way that undermines the effective role of traditional forms of dispute resolution. Boerge (2006), posit that traditional approaches are

conquered and usurped in the process as they are translated into the language of western peace and conflict studies and hence adjusted into the ways that make them fit that language. What has been observed is that the modern forms of resolution focus more on the punishment of the offender. While the western traditional system is based on punishment; the African traditional system is more concerned with re integration of the offender into the community (Utne, 2001). Therefore the paper sets out to explore how BaTonga adopt their endogenous dispute resolution mechanisms in order to promote community integration.

Furthermore, there is a link in the nature and sources of conflict around African communities and the nature in which these are resolved. Most of these conflicts include, clash over scarcity of resources such as water and land for farming, misallocation of resources, pastoral conflicts, conflicts over borderlines amongst others and these are mostly visible in the horn of Africa (Muchie and Bayeh, 2005). These are visible within the BaTonga community in Binga. In the same vein, a plethora of similar strategies have been employed to resolve these cases. Traditional conflict resolutions are practices of attending to conflicts using mechanisms that are traditionally embedded in the cultures and lives of the local people (Dodo, 2015: xii). For this reason the study unpacks how BaTonga in Binga have utilized their traditional forms of dispute resolution as opposed in using modern forms of dispute resolution.

Methodology

The study uses qualitative methodology based on a largely descriptive design and relies on primary data. The qualitative paradigm is appropriate because it provides a detailed description of relations within the BaTonga community. Primary data was collected and gathered through observation and in depth interviews. A total of 12 respondents were interviewed and amongst them included traditional leaders in the form of village heads, elders including women, and other gatekeepers. The study collected data under chief Sinamagonde in Lusulu area. The knowledge of the chiefs and other community elders was important since their wisdom and experience is the one that informs the dispute resolution process, while academics provided a deep background of the BaTonga Culture and their relations based on their knowledge and analysis. The study adopted a purposive sampling technique drawing key respondents as discussed earlier on. Since the researcher was Ndebele, he used other Tonga people who could also articulate fluently both in Ndebele and English as there were some who could not articulate their views well in both Ndebele and English. The help received from the interpreter helped me to yield more data as interviews were undertaken in the locally understood Tonga language.

Theoretical Framework

It has been noticed in past and recent history that African traditional methods of solving disputes are informed by love, care and kindness. This resonates with the BaTonga traditional dispute resolution mechanism as it is highly grounded on the same idea of love and care. In this regard, the paper employs Ubuntu philosophy as a main theoretical framework to help unpack how the BaTonga uses their traditional mechanisms in solving conflicts within their society. Using Ubuntu philosophy to explain traditional dispute resolution process and strategies within the within the BaTonga, one gleans that the philosophy is carefully chosen and befitting to be used as it deploys in it the major ideals of philanthropism and collective responsibility. Ubuntu is an endogenous perspective of South African peoples that connotes a collective responsibility among human beings to distribute naturally and spiritually the life force for common benefit (McCandles, 2007). Endogenous dispute resolution to be effective and successful they need a broad sense of collectivism and togetherness amongst actors involved.

The *ubuntu* philosophy is used on a daily basis to settle disputes and conflicts at different levels on the continent and is therefore central to the idea of reconciliation (Nabudere, 2005). Ubuntu philosophy is a philosophy of reconciliation and cements crumbling society together. From this dimension the BaTonga dispute resolution adopts an inclusivist approach to contradictions (McCandles et al, 2007). The conflict resolution is inclusive in the sense that when the BaTonga solve conflict there is full respect and participation and goal to cement the society together. The nature of conflicts in African societies have post repercussions which can degenerate into the crumbling of the community if it's not handled properly, as a result solving disputes informed by Ubuntu philosophy is crucial as it helps to provides African communities with a sense of self identity, self-respect and achievement, (Nabudere, 2005). The success and importance of Ubuntu philosophy has been highly applicable and its results remarkably tested in recent African situations that were characterized by high contradictions. For example the South African Truth and Reconciliation Commission (TRC) was highly informed by this philosophy, on the same note one does well to recall the words of Arch Bishop Desmond Tutu cited in Manda (2009) when saying that Africans have this thing called *Ubuntu* the essence of being human, It embraces hospitality, caring about others, willing to go the extra mile for the sake of others". Using the Ubuntu

philosophy, the study explores how BaTonga people solve conflicts using their endogenous processes and strategies.

The nature and sources of conflicts in Binga communities

Just like other communities in Zimbabwe and Africa at large, the BaTonga communities are faced with challenges of different kinds of conflicts each with its own dynamics and dimension requiring a unique approach to resolving it. Using primary data obtained during the field work, the study argues that BaTonga Community in Lusulu area experiences a multifaceted nature of conflicts. Using participant observation and views from key respondents, the study observes that conflicts arise over scarcity of resources in the area. The community is characterized by competition over water resources for human consumption and daily use as well as for livestock during the dry season, competition for grazing lands and farm land. The problems of resources scarcity in the community over mainly access to fertile farm land, grazing lands and water scarcity has posed challenges of community disintegration hence the community try by all means possible to adopt strategies that cement their society together using the community's own tested conflict resolution mechanisms.

Furthermore, there is a challenge of community boundary and conflict resulting from issues of spatiality. One of the respondents argued that, Lusulu Area is bequeathed by challenges of unclearly defined borderlines over farm land, grazing lands, homestead and boundaries (Respondent). This challenge has seen other community members crossing perceived borderlines to other community member's space. The challenges of lack of space result in other members forcing themselves to other people space demanding a portion of farm land, grazing land and space to build their homesteads. Key to note is the strategic location of Lusulu area which receives favorable rainfalls, good fertile resulting in high crop yields. This has attracted inward migration as people come to Lusulu in search of good climatic conditions in Lusulu community. The challenges of migration are arguably the most glaring factor that results in population explosions which in turn exerts pressure on the available community resources posing problems of resource scarcity that has escalated conflicts in the community. Due to favorable condition, the community has received BaTonga People migrating from deep Zambezi valley where they lived as fisher men and Shona people migrating from Gokwe who come in search of fertile soils for cotton crop production. Due to shortage of space these migrants have forcibly situated themselves in places reserved as grazing lands and game parks for the community. Upon forcibly situating in this area, the area assumed new name as *Makalanguzu* (which means live in the area by force). Migrants have set up new homesteads in these areas in the process creating a conflict between the Lusulu dwellers over their own reserved grazing lands and gam parks. Ever since they began living in these areas, animals have migrated to deep *chizarira* game park and only few wild animals are seen like hares, and antelopes. This was a community area which harbored a plethora of small and big wild animals. This entails the extent of the new kind of conflict between the people and wild animals as they lacked a space to live in.

BaTonga Dispute resolution mechanisms

Research findings and observations revealed that BaTonga community is largely maternal, but just like other African communities the male figure head is much revered and respected although women especially grandmothers and aunts maybe consulted from time to time with regards to counseling and healing of post traumatic disorders. Also the BaTonga are viewed as one of the most dedicated groups to its forms of traditional dispute resolution despite the fact that they are becoming educated and exposed to the western and modern forms of resolutions. Therefore conflicts are resolved using these mechanisms despite their complexity. One Village Head estimated that at least three quarters of the Tonga still employ their traditional resolution approaches in resolving disputes because of realization that the western forms led to disintegration of families, community and continued conflicts.

Mediation is another key mechanism employed by the BaTonga. Adjabena (2007). Posit that mediation is generally understood as an opportunity for parties in dispute to voluntarily select and invite a neutral third party to help or assist in communicating and exploring viable options to conclusively resolve their dispute amicably. This form of mediation is referred to as *Busingeda/ Busitombo*. Following this process the mediator does not judge or give a final ruling but he or she is there to facilitate smooth flow of communications between disputing parties and the parties remain in control of the outcome. The nature of conflict involves the disputes at family level, the mediator is usually chosen from a distant relative known as *Basizilongo* whom the disputing parties perceive as neutral. The mediation helps both parties to achieve a win-win situation which will then inform the relationship building amongst disputing parties. The facilitation makes sure that the victims do not lose much at

the same time the offender does not gain much at the expense of the victim. In proceeding with the argument, it has been observed that the BaTonga have a unique traditional mediation process which takes an advisory form that aims at restoring relationships and serving the disintegration of families, society and above all this is characteristic of Ubuntu philosophy which is informed by love, unity, harmony and good relationship and not disintegration. As a result the mediation is there to maintain the spirit of communitarianism and collectivism.

The BaTonga uses traditional courts as one of the key mechanism in resolving conflicts. This concept is known as *Inkuta* in BaTonga language. One of the village heads posited that the chiefs or village heads supersedes disputes that have failed in family level and sometimes believed to be disturbing community peace. cases that have been solved through this systems include conflicts over grazing lands and when another family livestock eat the crops of another community member and the that person requires compensation for the loss of their crops, borderlines in terms of farm boundaries and homestead boundaries, theft amongst others. (Adjabena, 2007) concurs with the above idea by arguing that when family fails, the clan head is called to help, the last resort is normally the chief who gives a final and a binding determination. During *inkuta* process the family members of disputing parties are silent only elders or the chief's elderly council plays a mediating role. Ijeomaononogbu (2012); postulates that elders are seen as the custodian of justice in the dispute resolution process. Elders are important because they are believed to know all through their wisdom and lived experience. Boerge (2006:9) alludes that "elders are highly esteemed for their knowledge of customs, myths and the history of the community, their rich experience in conflict regulation, their skills in setting signs of reconciliation and their skills of oratory empowers them to negotiate a resolution to the conflict that is more acceptable to both parties. In solving the disputes the court will ask the source of the problem from both parties and this will be followed by a systematic interrogation based on wisdom and experience. Therefore the quoting of wise words during the mediation process helped to make traditional dispute resolution successful this is usually through the quotation of Tonga proverbs because these appeal to the senses and emotions which lead to forgiveness.

Central to the above, the offender pays compensation known as *luliyo lwankuta* which is paid in form of livestock. Compensation is a way of showing that the offender is sorry and the community accepts them back to the society (Muchie and Bayeh, 2015). The notion of Ubuntu sheds light on the importance of peacemaking through principles of shared destiny between people; it provides a value system for giving and receiving forgiveness. Therefore compensation provides a rational for sacrificing or letting go of the desire to take revenge for past wrongs. Something to observe is that compensation is not punishment given to the offender but restitution as a way of reconciling the perpetrator back into the society.

The BaTonga also performs ritual ceremony as a way of dispute resolution. The occurrence of disputes such as clash amongst families members, domestic violence cases within the family or community is perceived as misfortune that require the consultation of ancestors or a sign that the gods or ancestors are angry thus, there is need to perform an appeasing ceremony. The BaTonga performs an appeasing ceremony known as *kupiila* where they appeal to the ancestors by the drinking of beer. The ceremony is conducted at both family and community level. The informant asserted that beer is usually put in a clay pot known as *inongo* and they drink it using *lufulo* (gourd). At the family level the grand father is the one who oversees the ceremony. The drinking of beer is a symbolic agreement between the families in an effort to restore peace through forgiveness and forget. After the drinking of beer and consultation of ancestors the offender becomes accepted back to the community or family. As a result the ceremony is a tool for relationship building. The consultation of the ancestors makes the agreement to be legally binding because whatever their ancestors says is believed to be true and cannot be challenged by any human personality, also their strong devotion to their ancestors makes the performance and consultation of ancestors to be a successful traditional dispute resolution within the BaTonga. Others referred to it as a ceremony of purification and healing at the same time solving the disputes and often times carried out by customary healers and this is performed at a community level.

In addition, negotiation is another method that informs the BaTonga dispute resolution process. The parties in dispute will dispute until middle ground is reached where proposals are made based on parties in compromise on issues in dispute. They term negotiation is known as *kwambulilana kuti mumvwanane* (*negotiation so that we come to an agreement*), this means that they will argue without a third party until they came out with a resolution which they perceive supporting both parties gains. One of the informants emphasized that BaTonga tradition emphasized that negotiations between the disputing parties should come first, especially if the cases involved the husband and wife, clash over spatiality problems before being taken either to extended family level or community level where there will be the services of the local chief or head of community.

The family extended system plays a central role in cases related to domestic violence. Domestic violence cases especially wife battering and substance abuse within the BaTonga has been resolved through the extended family system. The most consulted or those who inform the dispute resolution are the head of the family, the uncles and aunties and in some cases grandmothers. For that reason gender violence such as wife battering and other domestic violence acts are usually solved through this system. The head of the family usually is the one who makes the final ruling in such a resolution whilst the uncles and aunties are believed to be the ones closest and usually responsible for counselling post traumatic disorders. At the end of the dispute resolution if the men truly committed this violent act, men's family pays and the man would be compensated if the claims are found false.

Conclusion

Disputes within the BaTonga are viewed as a virus that can infect the whole community if not properly handled as a result it is the duty of the community to stop it before it contaminates the whole society. The BaTonga traditional forms of dispute resolution have been the most trusted in resolving conflicts of different nature within the BaTonga in Binga because they believe that the endogenous mechanism preserves the 'community order'. Furthermore the BaTonga believe in a sense of shared destiny therefore whenever disputes arise they search for consensus based forms dispute resolution that are informed by a sense of collective responsibility, self-respect and shared destiny. The lack of BaTonga support to the modern and western forms of dispute resolution regardless of globalization is premised on the idea that western and modern approaches are more punitive which then leads to continued conflict and disintegration of families and distortion of community peace.

Recommendation

The paper recommends further research and exploration into minority groups' methods of conflict resolution. This recommendation is made as these minority groups have interesting dispute resolutions mechanisms that can be harnessed by the state in nation building and cementing relationships which is pivotal conflict management and transformation. The study further recommends that state, provincial and district bodies should put in place measures to educate people about the usefulness of utilizing their endogenous dispute resolution before looking for other forms of solutions that may end up tearing family and community relationships apart leading to disintegration

Declaration Conflict of interest

I declare that as the author of this manuscript I have no conflict of interest

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