Traditional Mechanisms of Conflict Management: A Comparative Assessment of Afghanistan, Guatemala, Nigeria and Rwanda

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Introduction

For the past fifty years or so, some scholars and certain international organizations, have paid closer attention to the way on how conflicts can or should be managed, but regretfully international efforts in some cases have not been as effective as desired. Because there always have been certain factors within a conflict which are extremely difficult to change in order to increase the possibilities of transforming the conflicts. Nevertheless, it is generally believed that incorporating traditional mechanisms to conflict management processes would probably increase the probabilities of success. In many cases traditional mechanisms have more legitimacy than internationally recognised modern methods like mediation, conciliation and arbitration etc. It may be due to the fact that traditional mechanisms are deeply rooted in the culture of the society and the society either is unaware or unwilling to adopt the modern methods.

Thus in conflict situations one is generally confronted with the perplexing aspects of the issue of culture. How much does culture matter? What aspects of culture matter most? If our aim is to create processes which would assist parties to communicate and solve the problem effectively then their behaviours and the assumptions underlying the culture need to be identified and interpreted. In

conflicts concerning military and paramilitary groups, government officials and identifiable community groups, it is important to understand how the actors construct the conflict situations, the meaning these parties attach to the symbols, actions and events. Finally, how they evaluate options for managing the conflict and also what values they attach to certain settlement options before them. Another question that needs to be tackled is that in a situation of conflict, how do the actors can be persuaded to confront the situation? Generally communication patterns adopted by the outsiders often obstruct attempts at addressing the conflict. How the problem of communication needs to be addressed in a country which is a silent witness to severe forms of frequent violence.

The next problem a researcher may face is the understanding of inter-cultural environment in a country or region where more than one type of cultures is found amongst the inhabitants. How one can dissect traditional mechanisms to gain better insights about the patterns of communication and problem solving? The paramount task is to devise appropriate strategies in order to facilitate effective intercultural negotiations and resolve the conflicts based on our understanding of cultural differences.

Within this given framework of cultural variables and significant variations among cultures, the researcher has the responsibility of developing certain minimum common understanding, general hypotheses and conclusions, in order to fully understand how a particular group from any one culture might behave in negotiations or conflicts?

It is commonly believed that the conflicts in the post-Cold War era have been mostly intra-state rather than inter-state. As such these conflicts are better addressed within the traditional socio-political boundaries of any given state. These conflict management practices are considered 'traditional' as they have been practiced for an extended period and have also evolved within the society rather than being the product of external importation.

In the case studies the state-building processes have been and continue to be largely guided by the traditions or cultural factors found within the same society. Hence it is assumed that any

attempt at conflict management/resolution guided by the traditional factors would be the most appropriate and effective one too. Furthermore it is a fact that the persistence of violent conflicts in the multi-ethnic societies indicate that the modern international methods of conflict resolution are inadequate in facing these challenges.

Significance of the Study

The cases picked up for analysis are of enormous significance for understanding the causes of conflicts prevailing in this part of the world and to differentiate the requisite conflict resolution mechanisms from that of the modern day democratic societies of the West. It is fact the worldwide changes that culminated with the end of the Cold War have led to a re-evaluation of the idea of democracy and rule of law in traditional societies. Effective governance and rule of law remain a distance dream in all of such societies, much to the surprise of many concerned observers. Further the widespread impunity in legal systems reflects the ongoing incapacity of judicial systems whose ineffectiveness in serving as a means of peaceful resolution of conflicts has often been the cause for the outbreak of various conflicts among the societies. This study as it is aimed at addressing the underlined structural causes of conflicts will help us in re-ordering the rules of the game by which future conflicts could be prevented. The study of the applicability of the existing traditional mechanisms as a means of conflict resolution would take us a long way in the creation of new, more democratic and participatory institutions in the process of conflict management/resolution.

The objective of this study is to examine the traditional conflict management practices as are found in Afghanistan, Guatemala, Nigeria and Rwanda and to discuss their characteristics in the context of both internal and external comparison. Further, attempts have also been made to understand the subject in order to observe the suitability of the approaches and methods in the selected cases.

The study utilises the inductive reasoning method based on content analysis techniques, looking for characteristic behaviours in one case and then compare them with patterns of behaviours

observed elsewhere in conflict situations. Second, an attempt has been made to determine what is new and needs to be recognized as different. The cases shall not be seen as typical, representative or by no means portraying universal traits. The cases are examples within specific countries. This research paper does not aim to be exhaustive, but an analysis of how traditional mechanisms can play a role in specific scenarios.

Afghanistan

Afghanistan is a mosaic of multi-ethnic multi-lingual nomadic tribal society. There are 23 ethnic groups, 32 languages are being spoken and these 23 ethnic groups are further divided into 63 tribes. Pashtun are the major ethnic group with 38 percent of the total 26.8 million populations. The Tajiks comprise 25%, Hazara 19%, Uzbek 6% and other minor ethnic groups 12 percent of the population.[1]

The relationship between all ethnic and linguistic groups is based on two traditional identities: ethnic and national identity. An ethnic group - a tribe - shares a common ancestor, leader and territory. Afghans both with tribal identity and non-tribal identity interact on the basis of national identity as Afghans. The tribal chiefs come together traditionally whenever there is a national crisis. They recruited their tribal forces, led them in a unified effort against the invaders. This traditional methodology had helped Afghan Khans or tribal chiefs to establish Afghanistan as a state in 1747, by electing Ahmed Shah Abdali through a *Loya Jirga* - Grand Council.[2]

The emergence of the Kingdom of Afghanistan was a result of a direct association of *Loya Jirga* of tribal heads under King Amanullah (1919-1929) who enjoyed legitimacy based on support of populace and religious elites-mullahs.[3] With the dawn of Islam in Afghanistan the system of *jirga* very well fitted into the

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1. *CIA, The World Factfile Afghanistan*, p. 3, http://www.cia.gov./cia/publications/ factbook/geos/af.html.

2. Nassi Javed, *Afghanistan: A Nation of Minorities* (London: The Minority Rights Group, Brixton, 1991), p. 9.

3. Louis Dupree, *Afghanistan in the 1970s* (New York: Praeger Publishes, 1974), p. 14.

principle of consultation – *Shura* - in Islam. As stated in Holy Qur'an: "Those who harken to their Lord, and establish regular prayers; who conduct their affairs by mutual consultations; who spent out what we bestow on them for sustenance."**4**

Religion - Islam - always remained the cementing force amongst the tribes. Nationalism based on religion brought various ethno-tribal heads and religious elites-mullahs, together in a unified effort against any external threat or aggression as long as the threat persisted.

Islam strengthened the principle of neighbourhood with the notion of brotherhood and the idea of *jihad* and *shahadat* created a fearless belief of the protection of righteousness in one's life. *Jihad* means holy struggle against wrongness and *shahadat* means to be witness of such struggle in which a Muslim will sacrifice its property and life for human dignity and truthfulness. From the very beginning three principles constituted the foundation of Afghan society: honour, hospitality and revenge. These three principles stayed strongly functional within the boundaries of Islamic religion in Afghanistan.

The development of Afghanistan as an independent and modern state was realized with the establishment of national military, bureaucracy and judiciary in the 19th century but the tribal chiefs and important non-official elders did not submit to the interests of the government. They always remained concerned with the welfare of their own tribesmen. The government's activities remained limited only to urban areas and its survival and effectiveness always remained dependent on its good relations with the tribal heads. Because of the self-sufficient nature of the rural communities (food and shelter), the government officials could interfere only with the consent of the people. Often the role of the government in the daily affairs of the rural communities was marginal. Many villages not only produced their food without outside help but also managed their administrative affairs such as marriage, divorce, conflict over land and business. When there was any issue that the local leaders or tribal heads were not able to

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4.   *Al- Quran, Surah* 42, *ayah* 38; and *Surah* 3, *ayah* 159.

resolve, then the government was allowed to intervene. In many cases the government was not able to conduct an inquiry without the help and cooperation of local leaders. Dealing with crimes like murder, robbery etc., the mayor has to send an unarmed soldier to the local tribal head in the village. He may or may not cooperate with the police to arrest the suspect, but the local leader was obliged to inform the community through *jirga* meeting.[5]

Support of religious leaders to the establishment was vital and their role in legitimizing the government was obligatory. They never seized government but government could never remained effective without receiving the seal of approval from them— mullahs. King Amanullah (1919-1929) enjoyed the support of religious leaders on his decision to declare war against the British but when he tried to enforce social reforms: unveiling women, sending women abroad for higher education, abolition of prayers system and suspension of allowances to ulema he lost the support of religious leaders and was forced to leave Afghanistan in 1929 through *Loya Jirga*.[6]

Thus in Afghanistan *Loya Jirga* was convened for centuries to choose kings, adopt constitutions, and declare national war or *jihad* against external invasion. It was composed of tribal heads and elders sent to Kabul by local *shura* (village-level councils). This quasi-democratic process has been representative of all major ethnic and religious groups. Similar was the tradition to settle all other disputes between families and tribes by the family heads or tribal heads by convening local *Jirga*. Women have been absent from *Jirga* but male elders always come to *Jirga* after consultation within families where women exercise powerful influence, though they may not be publicly visible.[7]

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5. Rosanna Klass, *Afghanistan: The Great Game Revisited* (New York: Freedom House, 1987), p. 205.

6. Ghulam Muhammad Ghober, *Afghanistan dar Massir Tarik* (Kabul: Matbaáh Daulati, 1978), p. 468.

7. Arnold Anthony and Rosanna Klass, "Afghanistan's Communist Party: The Fragmented PDA," in *Afghanistan: The Great Game Revisited* (New York: Freedom House, 1987), p. 135.

In Afghanistan the disputes within families and tribes were being settled by the convening of local *jirga* under the family and tribal heads. At national level tribal heads are authorised to participate in national *Loya Jirga* or Grand Assembly to take all types of decisions of national importance and foreign policy, especially declaration of war or *jihad* against any foreign aggression. The central government was mostly composed of confederation of tribes. Each and every tribe under a tribal head and his *shura* run parallel government within the tribe. Central government only could intervene in the villages on the invitation or permission of the tribal head. Since 1973 successive governments, including under Soviet control, tried to transform the Afghan society on socialist democratic system but have failed. The attempts further disrupted the balance between the ethnic groups and religious sects and promoted anarchy and civil war in Afghanistan. Because of abject poverty, illiteracy and lack of administrative infrastructure the western-style democracy will not be successful. There is a pressing need to revive the old *jirga* system of administration in Afghanistan and by convening of national *Loya Jirga* decision about future political setup be finalised in Afghanistan.

It is worthwhile to emphasise that tribal form of social and political structure has been very appropriate to the geographic nature for mountainous Afghanistan. The social codes, honour, revenge and hospitality played a significant role in their internal life, as well as external affairs of Afghanistan. Internally these principles increased communal hospitality and responsibility among the members of the community and involved them in a process one for all and all for one. The membership rights of the community were respected fully by other members, and individual security of the members was protected.

Externally, these three principles have a great effect on intertribal and communal relations. If a tribe or community acted negatively towards another, under the principle of revenge, this principle negatively reacted to. Because of principle of revenge, there have been many hostile confrontations between Afghan families and tribes. However, in a situation of internal self-sufficiency the experience of workable mechanism, honour, revenge

and hospitality have been much more constructive than destructive in relationships between the Afghan tribes and communities. Each tribe has specific cultural and political rights that are respected by other tribes. The *Loya Jirga* has brought tribes closer and this fostered economic exchange, cultural tolerance, intermarriages and political co-operation.

Afghanistan as a state witnessed almost three centuries of wars and conflict both internal and external. Afghanistan witnessed an era of peace from 1933 to 1973 under King Zahir Shah. He knew well the traditional nature of the Afghan society where the "autonomous structures of local authority have long existed parallel to the state".[8] He, therefore, ruled through the political framework of a constitutional monarchy which interfered least in the people's way of life and local autonomy. In July 1973 King Zahir Shah was overthrown by Daoud Khan (his cousin) who became President and declared Afghanistan a republic.[9]

On 24 April 1978, President Daoud, along with many of his immediate family members and supporters were killed in a bloody military coup led by Nur Mohammad Taraki who was installed as President with Moscow's backing. The Soviet Union perceived Afghanistan vital for its future role in South-West Asia and attempted to preserve it as a dependent socialist state.[10] Taraki was head of the radical Khalq faction of the Communist-oriented People's Democratic Party of Afghanistan (PDPA). In September 1979, Taraki was also killed in a coup led by Prime Minister Hafizullah Amin. Amin's regime, marked by persecution of political opponents, also proved short lived. Following the full-scale invasion of Afghanistan by 80,000 Soviet troops on 27 December 1979, Amin too was executed.[11] Babrak Karmal, leader of the moderate, pro-Soviet Parcham wing of the PDPA, was installed as President by the Soviet backing. Karmal on 3 January

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8.   Rasul B. Rais, *War Without Winners: Afghanistan's Uncertain Future After the Cold War* (Karachi, Oxford University Press, 1994), p. 3.

9.   Economist Intelligence Unit, Pakistan-*Afghanistan, Country Profile,* 1993, p. 49.

10. Riaz M. Khan*, Untying The Afghan Knot: Negotiating Soviet Withdrawal* (Durham and London: Duke University Press, 1991), p. 79.

11. *Ibid.*

1980 presented his 'new phase' policy.[12] He introduced social and economic reforms. Education for all, including adults, was declared compulsory and girls were given right to get married without consent of their parents, which was totally against the Afghan traditions.[13] The radical Muslims started agitation against government policies. The government meted out repression against the resistance movement with the help of Soviet troops. Many Afghans fled to Pakistan (3.5 million) and Iran (1.0 million) as refugees. In May 1986, Karmal was replaced, as party leader, by Dr. Najibullah who had been Chief of the Khad, the secret Afghan police.[14] Najibullah ousted Karmal from the presidency in 1986.

With Islam as the binding factor the resistance movement rapidly assumed the characteristics of a holy war of national liberation, "the *Jihad*". The Afghan resistance movement developed along two mutually complimentary lines: the political parties in exile and 'resistance of the interior'. The majority of the Mujahideen were led by local commanders who maintained pragmatic and extremely flexible ties with the Sunni and mainly Pushtun refugees in and around Peshawar, Pakistan.

Although the conflict in Afghanistan has deep social and political roots, the Soviet invasion and occupation changed its dynamics tremendously. For much of Afghanistan's history, the Pashtun produced the Afghan monarchs and dominated the military and the bureaucracy. Among Afghanistan's other main ethnic groups, the Tajiks participated more in running the country than the two other significant ethnic groups: the Uzbeks and the Shi'a Hazaras. The Hazaras in particular were disenfranchised and impoverished. The struggle against the Soviets changed the balance of power among ethnic groups and increased ethnic tensions. Moscow used ethnicity to gain support for its occupation by offering concessions to minority groups in return for their support or neutrality in the war. Moscow also encouraged the growth of ethnically-based rural militias that would protect their areas from the anti-Soviet resistance groups. One important

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12. Mark Urban, *War in Afghanistan* (London: MacMillan Press, 1988) pp. 51-53.

13. *Ibid.*

14. Mark Urban, p. 196.

example of ethnic militias was the Uzbek militia. The militia was used in non-Uzbek regions, which further strained relations among minorities. Non-Pashtun ethnic groups increasingly chafed under Pashtun domination.

Resistance politics and the policies of the militias also had a major impact on the balance of power among the ethnic groups. First, groups such as Tajiks and Uzbeks, which traditionally did not have access to arms, and were largely excluded from the key posts in the Afghan armed forces, acquired arms and gained military experience. Second, the Pashtun were divided into many groups. Six of the seven parties in the Pakistan-based "Afghan Interim Government" were Pashtun. Active in the opposition to the Soviets, these parties and various groups received support from the United States, Pakistan, Saudi Arabia, UAE, Iran and neighbouring Central Asian States.

Under the Geneva Accords signed in April 1988, the Soviet Union withdrew all its troops by February 15, 1989.[15] The withdrawal of the Soviet troops exposed the underlying divisions among the Mujahideen political groups based in Peshawar (Pakistan) and commanders in the field, between fundamentalist and "moderate" parties, between Sunni and Shiite Muslims, and between the Pushtun and the non-Pushtun. Between 1989 and 1994 many interim governments were established through all modern methods of settlement but infighting among Afghanis continued. In late 1994 the Afghan refugee students—Taliban, emerged in Southern Afghanistan. They established 20-member *Shura* under Mullah Omar and established control over 90 per cent of Afghanistan, by 1996. But the Taliban government was not recognized by the international community because of their radical Islamic policies. The September 11 episode brought a new chapter in Afghanistan's history. The Taliban were overthrown, mostly killed by US-led International Coalition against Terrorism and some were arrested.

All types of modern methods of conflict resolution have had failed since the withdrawal of the Soviet troops from Afghanistan.

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15. Riaz M. Khan, pp. 243-281.

At last it was realised that the convening of *Loya Jirga* is the only pragmatic alternative that would legitimise formation of national, broad-based government in Afghanistan and end years of war and militancy. The participation of former King Zahir Shah in *Loya Jirga* certainly helped the reconciliation process and direct Afghanistan towards building peace and reconstruction.

The point which I want to emphasize is that in an old traditional tribal society like Afghanistan no mechanism of conflict resolution can succeed until and unless it evolves through the customs, traditions, societal values and ideology of the society. For the last 23 years all efforts by the international community under modern methods of conflict resolution - international mediation, conciliation etc., - have failed badly in Afghanistan. Last year (December 2001) the Bonn arrangement was made after realizing the tribal nature of Afghan society. An interim government, for six months, under Hamid Karazai was installed. During this period *Loya Jirga* was convened to decide about the future political setup in Afghanistan. But the proposed setup was to have a broad-based government through a western-style democratic process of elections, which would not reduce the danger that regional warlords may use intimidation and violence to keep candidates representing local minorities and opposing political groups, from participating in important regional meetings or travelling to provincial election sites. According to Human Rights Watch reports the Pashtun armed groups in the southern Afghanistan are singling out minority Farsiwan and Hazara civilians on roads leading to Kandahar for questioning, searches, and bribe-solicitation. Ethnically targeted attacks in northern Afghanistan have led to the displacement of thousands of Pashtun civilians since November 2001. This displacement, and continuing security concerns for those Pashtun who remain in their home villages and districts, could prevent many northern Pashtun communities from being represented in the government.[16]

Moreover, Regional warlords effectively control *shura* in some parts of the country. In western Afghanistan the Herat-based

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16. Afghanistan's Loya Jirga Process, *Human Rights Watch*, April 15, 2002, p. 4.
    http://www.hrw.org/press/2002/04/qna-loyajirga.htm

commander Ismail Khan has reported making sure that local *shura* are dominated by like-minded Farsi-speaking representatives, to the exclusion of his political opponents and members of regional ethnic minorities. Although, the present setup has succeeded in convening imposed *Loya Jirga* and the *Jirga* has reached an agreement on future political setup but as the process followed was not in line with the traditional mechanisms of convening *Loya Jirga* durable peace in Afghanistan is still a distant goal.

Guatemala

A series of variables are proposed which define how conflict resolution was undertaken by indigenous Guatemalan people in the Mayan Kiche region, using indigenous and national law in the period from 1500-1990. Important relationships between variables are also sketched-based on the available evidence. The discussion starts with a general analysis of customary and indigenous law, including legal norms, jurisdictional levels, and the administration of justice. The following section proposes several typologies of conflicts involving indigenous people that can be used as tools to understand how indigenous people addressed conflicts. All this information is then used to analyze indigenous use of Guatemalan law. The variables that affected indigenous people's choices to use the legal system are examined. Finally, the conclusions evaluate the implications of the evidence and analysis presented in this study for questions of dominance, resistance, and hegemony.

Community members chose authorities on criteria such as, i) who they had respect for, ii) who they had ritual kinship and other relations with, iii) who they thought would decide in their favour and had sufficient coercive power, and iv) their legal culture, including the habit of going from one authority to another in search of a solution.[17]

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17. While there has been considerable variety across time and space in terms of conflict resolution, in general virtually all communities have had three jurisdictional levels, and two kinds of authorities: those that work as a permanent justice operators and those that are not permanent. These two categories and levels are mentioned in this article for analytical purposes, however in the communities these distinctions are not made. People rush to the authorities depending of the necessities of the parts involved in a conflict. See Mayen,1999 Indigenous Authorities.

Law in the Kiche region is understood as a set of precepts governing behaviour, a set of mechanisms for resolving conflicts, and a set of prescriptions for conflict resolution including sanctions. It has two sources: indigenous law (unwritten) and State law. Customary rules and customary legal mechanisms are an integral part of the moral precepts of the Mayan Kiche society. Their internalized nature makes them part of the sense of right and wrong of the members of a social group. As a result customary law tends to have considerable legitimacy though; of course, there is always room for disagreement about particular legal outcomes. The fact that customary law is by its nature flexible and amenable to change tends to ensure its continual legitimacy unless efforts are made artificially to stop it from changing.

At the local level in the Mayan Kiche region, the two legal spheres - indigenous and state - have each had their own dynamics since the Conquest (1525) but have also constantly affected each other. Indigenous law had a high degree of legitimacy in the region during the whole period under consideration. Despite changes in customary law, and most especially, despite all the outside influences, indigenous people and other peasants in Guatemala have consistently viewed customary law and community legal mechanisms as something distinct from the legal system of the dominant culture. There are two sources of this legitimacy. The first has to do with customary norms. The legitimacy of customary law comes from the internalization of its norms by its practitioners and it should be noted, from the moral source of these norms. So, as long as indigenous community members share common values, customary law remains legitimate. In some communities, of course, such values started to breakdown, and this also affected the legitimacy of customary law[18].

The second source of the legitimacy of customary law comes from the trust that community members have administered justice

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18. In one sense the armed conflict and counter-insurgency in Guatemala can be understood as a violent integration of indigenous communities into an authoritarian and militarised national order. The effect of repression and random violence had a particularly destructive effect on indigenous institutions and forms of conflict resolution. New forms of authority were imposed such as civil patrols and military commissioners.

in the community. It means they trust in the process.. Unlike the Guatemalan legal system, which, as we shall see below, was exceedingly corrupt and often unfair, community legal mechanisms were seen as being fair. As everywhere, there were always cases when the end result was questioned or the impartiality of a particular authority was in doubt, but in general community justice was perceived as highly legitimate.

The mechanisms of conflict resolution in indigenous communities follow more or less standard procedures and are focused on the process. Customary rules are based on principles of reciprocity, equilibrium, and duality. Before any kind of meeting takes place between the parties involved and the person or persons chosen to deal with the case, the matter is discussed with everyone involved. In the case of personal conflicts between community members, this will include their respective kin groups. In the case of conflicts which affect the whole community a wider consultation will take place. It is only after this consultation takes place that there is a formal meeting between those involved and the person(s) asked to deal with the dispute (Pela Jampa 1991a; Sanchez-Parga 1986:154).

In the case of conflicts between community members, the goal of conflict resolution is to find a compromise or reconcile the parties involved rather than to seek than to seek equity or just distribution (Sanchez-Parga 1986:154). When a conflict exists, peasants say that something is "broken" (malogrado) and requires repair. The solution to the problem must "fix" what is "broken" and reinstate harmony or equilibrium (Pela Jampa 1991a:39). Equilibrium is a very important element in Mayan political thought and the re-establishment of equilibrium is the goal and ideal in the resolution of all conflicts within the community. Mayans recognize several types of ties expressed in kinship terminology, including blood links, marriage alliances, affinity groups, ritual kinship [compadrazgo], and other reciprocal relationships. This negotiation and revision of relationships is always a potential source of conflicts. The reciprocal relationships established themselves have their competitive edge and are a source of rivalries (Mayer 1974a; Stern 1982:9). However, at same time as the Mayan kinship structure is a source of conflict, the interdependencies it creates

and the constant need to form alliances also create strong incentives for rapid resolutions to conflicts. The need for community consensus building and the norm of widespread participation in communal decisions are additional incentives. Various mechanisms that limit the consolidation of long-lasting power blocs and prevent winner-take-all situations also help hold conflict within bounds (Sanchez-Parga 1986, 1989). Finally, community ideology that sets up the community as a unit separate (and against) the rest of society whose interests in the last instance always overcome individual or group interests serve to keep conflict from destroying communities.

The role of mediators in a conflict is a matter that concerns the whole community, so it is the resolution. The nature of the fault is also important to determine who resolves a particular conflict.[19] Community authorities or others asked to resolve conflicts usually act more as mediators than as judges who impose solutions. In those cases in which kinsmen and neighbours are the disputants, social pressure may influence the form of resolution. Overtly the nature of this pressure is simply discussion and argument, in which everyone who cares to is allowed to voice his views fully.... [The authority] is frequently involved in this kind of proceeding, also airing his opinions, solutions or "reasonable man" arguments. However, underneath the discussion and the attempt to reach consensus among the parties, there seems to be a threat that if voluntary compromise is not attained relationships of the parties may be disrupted or damaged. As kinsmen, especially, are aware of the degree of their interdependency, the threat of a break in

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19. At independence all communities had 'traditional' types of authorities and in most cases, they persisted well into the 20th century, sometimes along side other types of authorities. The traditional authority structure is made up of a set of hierarchically arranged offices called cargos that community males, take on, usually for a year at a time, starting with the lowest cargo. Unlike lower cargos, the upper level cargos go to the most esteemed community members and are generally elected in community assemblies by consensus. A community may have more than one set of traditional authorities if it is divided into segments. Each cargo is specialized in duties and several different cargos may include conflict resolution. For example, in communities where traditional authorities are strong those who occupy cargos specialized in irrigation and livestock are authorized to resolve conflicts in those areas (DESCO 1977b:173; Revilla & Price 1992:145).

normal peaceful relations is a factor to be carefully weighed against the value of "winning" a particular dispute. (1972:234)

The main objective of this mechanism and the mediator's role is to get into the source of the problem. It does not pretend to solve the adjoining social conflict, it is not conflict management, but what it is looking for is to expose the nature of the conflict with the cooperation of the parties, and find the way of preventing similar processes and to restore the order as well.

There are two spheres of conflicts within communities: family conflicts and conflicts that may or may not have their origin in family conflicts but that affect the community as a whole. These two spheres affect how conflicts are classified, the jurisdictional levels where they are addressed, and the way conflicts are handled and resolved. Family conflicts can be said to affect the honour of the family while those that do not originate in the family affect the collective image the community has of itself. In the Kiche community, conflicts that were perceived to affect the community as a whole included: a) damages inflicted on community property such as communal land or buildings that belonged to the whole community; b) interfamily conflicts which threatened to envelope the community as a whole, and "immoral acts" (e.g. adultery, or rape) that could bring the punishment of the gods on the community.

The achievement of the ideological ideal of equilibrium is encouraged through social sanctions. In addition to mediation, sanctions are also sometimes imposed. The purpose of punishments is also to re-establish equilibrium and reintegrate the offending person as a community member in good standing (Albo 1976:83). Punishments are also used as preventive and educational measures. Types of punishments range from fines (a very common measure) to harsh punishments like the ostracism from the community or the transfer of the case to the state law, which is considered as a very offensive punishment.

When community members turned to Guatemalan authorities to officialise an agreement, ask for a restraining order, or because of their coercive power, they were recognizing the power of these authorities. At the same time they were also cognizant of the

symbolic and ritual aspects of the legal system. This point deserves more detailed discussion since it also pertains to other ways in which indigenous people used the law. In legal culture Guatemalans attach considerable importance to written documents and to the officialisation of transactions and judgments. Not surprisingly, indigenous people, whose culture tends toward a much more intense use of symbols and rituals, also gave considerable importance to the ritual aspects of both indigenous and Guatemalan legal proceedings and attached symbolic importance to any resulting documents and pronouncements. The recognition and investiture of symbolic and ritual meaning to legal proceedings was closely linked to perceptions of the power inherent in these proceedings, of the power of those connected with the administration of justice, and of the power of any documents generated.

The community as well is regulated by a set of rules. These rules are only evident in their application by particular individuals at particular times. At the same time as customary rules structure conflict resolution and help maintain law and order, since they are not codified or formulated in abstract terms they always retain considerable flexibility when applied to particular circumstances. Customary rules also respond to the particular needs and interests of a social group. When these change, customary rules also tend to change (Ambia 1989:69) though the way they change is influenced by the nature of the previous rules as well as by changes in the environment. In this prospective is interesting the Maya Kiche Woman case, who during the armed conflict in Guatemala, was forced by the circumstances to take a space on the sphere of decision making and leadership in the communities and to help in solving conflicts. Mayan Kiche traditional mechanisms are having actually a gradually substantial change, as a result of women's empowerment and their active role on the community reconstruction and development activities.

The changes that affect customary law in Mayan Kiche region can come from many different realms: culture, demography, economics, ecology, or politics. They can come from within the social group or be a result of contact with other groups. But there is always a permanent issue: the individual person is always

controlled by the elites that "know him better", such as the elders, or the priests. The elites with power like the mayors, the civil patrols or military commissioners, or elites guided by a well-defined ideology. On all these cases, elites have been more interested on the control issue than on the empowerment of the individual persons as members of the community.

So it is necessary to formulate an open question: is this traditional mechanism is the right way to run processes of positive social control based on violent and non-violent conflicts relationships in Guatemalan society? If it is recognised as a dynamic process then it will be necessary to recreate a mechanism conservative in the way that preserve all those aspects of society, promote human needs, social harmony and stability through the recognition, dignity and development.

Nigeria: Igbos Case

The ubiquity of social strife and conflicts is one of the paradoxes of our early existence. These conflicts and strife have become a recurring social order in human history. According to Hobbes, cited in Chikwendu (1997), ´it is the war of everyone against everyone`. Historically, great conflicts have occurred around the world and Nigeria is no exception. Examples of conflicts in the Nigerian society are numerous such as the Egba uprising of 1918, Aba women riots of 1929, Tiv riots of 1960, Nigerian civil war of 1967 to 1970, Maitasine religious riots of 1982 and 1984, Zangokataf riots of 1992, and sharia uprisings of this new millennium. Despite the ethnic lines often dividing belligerents, some of the most intense fighting of recent times have been between people of the same ethnic group, such as the ethnic Youruba communities of Ife and Modakeke and the Igbo communities of Aguleri and Umuleri in Eastern Nigeria, in which more than 300 people were reported killed and thousands displaced. ´Thirty-one prominent communal conflict areas have developed in Nigeria over the past ten years' identified by Sam Jhejirika of Strategic Empowerment and Mediation Agency, a Nigerian Non-governmental Organization.

The traditional Igbo society, like most other human societies, experiences conflicts as a part of its social life and they occur

between spouses, kinsmen, business proprietors and apprentices, business partners, village/clans and subordinates, etc. The most common cause of conflicts in the society has been identified as rivalry over distribution of resources, which may manifest itself as disputes over land, money, titles, chieftaincy, etc. These conflicts between social groups breed hatred, quarrels, wars, loss of lives and property, displacement of families, increased refugee problems, retardation of investment and development. In order to bring lasting solution to conflicts in the traditional Igbo society, villages have applied conflict resolution mechanisms based on their culture and traditions.

The socio-political structure of the traditional Igbo society places much emphasis on the unity and solidarity of the community. Here, conflicts tend to pit a deviant member or members against a part or all of the body politic, against or under the normative structure of the community. Conflict resolution within the community therefore, seeks, not so much to punish but to reconcile disputants or reintegrate an offending member or group of members back into the community. In so doing, it is believed that the societal order and harmony which is believed to have been disrupted by the conflict, is restored. In other words, conflict resolution in the traditional Igbo society seeks to reconcile various divergent interests between disputants in order to maintain the much desired societal harmony.

The procedure for traditional conflict resolution in the Igbo communities takes into consideration the nature of the conflict, whether it was within or between communities.

Within the community, conflicts that arise between members of the same family or members of different families are resolved by the elders of the family(ies). Decisions are reached only after having heard both parties.

Land disputes are usually passionate issues for the parties involved. This results from the fact that land is a scarce resource and is also very highly regarded. Uwazie (2001) observed that, *ala* (land) forms the central core of Igbo consciousness. In fact, the totality of Igbo life-culture and customs-revolves around it. The people worship it, and their food and water comes from it. Famine

or low agricultural productivity and illness come from human offences against the gods of ala, and they usually attract heavy penalties and sacrifices. In disputes of this nature, the oath taking known as Igbandu, under which the parties entered into a pact not to hurt or kill each other, was used to maintain peace between the parties and preserve the society.

In decision making the elders do not place much emphasis on fault finding but in reconciling disputants and ensuring that the predisposing factors or propelling factors for conflict were eliminated, if possible. Punishment is meted out where appropriate or left to the gods in which case, a cleansing ritual is performed by the elders in order to reintegrate the offender(s) into the community and restoration of harmony is so essential that the offender(s) is excommunicated where he fails to submit.

Value consensus and social cohesion are the essential elements of conflict resolution among the Igbos. Consensus is however, not always guaranteed as mediations were sometimes rejected by any of the parties of a conflict, because they were either dissatisfied or the decision was not based on a correct interpretation of customs. At such time higher consultations were made through a higher authority.

The highest authority is the Eze in council which consists of the traditional ruler and his councillors who are usually, mostly titled men. Here, decisions are made by the Eze, who must have the support of the majority of his councillors. The elders who have no title are not part of the decision making at this level. However, their opinions have strong persuasive effects due to their age, experience, and wisdom.

Intercommunity conflicts are resolved through negotiations between delegations of elders from the disputing communities. Negotiations are ended when the parties agree and issues are joined or where there is a dead-lock in which case, the conflict could assume a higher intensity and degenerate into a violent communal clash.

The key to the effectiveness of traditional conflict resolution among the Igbos is the identity factor which has led the urbanized

Igbos to form conflict resolution associations which functions according to the Igbo customs. The highest authority here still remains the Eze in council. The legitimacy and authority of these associations is derived from their recognition by the members and their willingness to subordinate themselves to them.

Effective as the traditional conflict resolution among the Igbos may be, its efficacy is limited by such factors as:

a. The intensity of the conflict - a conflict that has degenerated into violent conflict is less likely to respond to traditional conflict resolution until there is a hurting stalemate between the disputants.

b. Type of conflict - a localized conflict among the Igbos will respond to the Igbo traditional conflict resolution unlike an interethnic conflict within the Nigerian multiethnic environment.

c. Legitimacy - the present recognition accorded the traditional conflict resolution mechanism by some members of society is based on selfish motives as they would sooner cease to recognize the traditional mechanism where it would not suit them. This is a consequence of the effects of colonialism, which greatly compromised the value system of the Igbos.

The importance of the traditional conflict mechanism cannot be undermined by its limitations because a majority of the Igbo populace highly recognise and respect the traditional institutions. Despite the fact that the authority of these traditional institutions for conflict resolution has been diminished by the state system, mediation of the traditional rulers and elders is still very much respected and used, even by the government (in communal conflicts). It is therefore recommended that the state should formally legitimize and integrate the traditional conflict mechanism into the state system. It is believed that a collaborative effort of the two systems will enhance conflict management, resolution, and possibly conflict prevention, at least, at grassroots levels.

Rwanda

Before colonialism in 1895, Rwanda's political structure was a monarchy regime and was mainly ruled by Tutsis. Hutus and

Tutsis were socio-economic categories and not ethnic groups, Rwandan society revolved around feudal obligations between farmers (mostly Hutus) and cattle owners (mostly Tutsis). There was some social mobility between two groups (a Hutu might become a Tutsi if he managed to get many cows or a Tutsi who is not left with any cow as the king or other chiefs decided to give away the cows to the king as a fine for his criminal acts, become a Hutu).

In the early 1900s, Belgian colonialists introduced ethnicity in Rwanda basing it on the already existing economic categories. The two ethnic groups created are artificial because they lack criteria of ethnic groups; members of those two ethnic groups called Hutu and Tutsi speak the same language, they have the same culture, live side by side and have intermarried for generations. There are not even clear physical differences.

Belgian colonialists after introducing ethnicity in Rwanda by issuing identity cards to Rwandans inculcated in the minds of Rwandans that Tutsis were born to rule over Hutus. Further they centralized political control through Tutsi elites and ruled indirectly through them. Also they systematically excluded Hutus from access to education and jobs in the government.

In the years prior to Rwandan independence Belgium abruptly shifted to supporting Hutu dominance in Rwanda. Consequently, in 1959 Hutu majority rebelled against the monarchy regime and ethnic violence erupted. Hundreds of Tutsis who were occupying the key positions in the administration were killed and their houses were burnt. As a result of these massacres, many Tutsis fled from Rwanda and they exiled in neighbouring countries namely Uganda, Democratic Republic of Congo, Tanzania and Burundi. While outside Rwanda, those refugees organized militarily and attacked Rwanda in 1963, 1966 and 1973. Each attack was followed by the killings of thousands of civilian Tutsis as a reprisal measure and many Tutsis continued to flee from Rwanda to settle in the above mentioned neighbouring countries. Those massacres periodically perpetrated against Tutsi minority by the Hutu-led political structure since 1959 forced many Tutsis to flee the country. The government in place did not punish perpetrators of those mass

killings rather, it encouraged them. Those Rwandan Tutsis living in neighbouring countries were denied repatriation to Rwanda. In October 1990, the Rwandan Patriotic Front (RPF) made up mostly by Tutsis in exile attacked Rwanda. In the face of RPF infiltration, the Hutu-led regime at that time headed by President Habyarimana started to kill Tutsis in 1990 through 1993 in order to preserve power. In 1994 those killings culminated in genocide perpetrated against Tutsis and crimes against humanity perpetrated against government opponents (moderate Hutu). In the 1994 Rwandan genocide[20], between half a million and a million people out of a population of 7.5 million were killed during four months (April-July), in addition thousands of people were raped and tortured.[21]

Those massive atrocities were concerted, planed and systematic. The government using radio broadcasts orchestrated a campaign of incitement to ethnic hatred and violence and it distributed arms to the militias and civilian population.[22]

In July 1994 the RPF (Rwandan Patriotic Front) managed to seize control and to stop genocide, hence the new government known as "the Government for Unity and Peace" had to respond to allegations of the genocide and crimes against humanity[23]

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20. Genocide is the most serious of all human rights violations in that it involves the attempted or actual destruction of an entire national, racial, ethnic or religious group, by either killing or causing serious bodily or mental harm to members of the group. Genocide also includes deliberately imposing living conditions calculated to bring about the group's physical destruction, see article 11 of the Convention on the Prevention and Punishment of genocide adopted on 9th December 1948 in 78 UNTS 277. See also an address by Mary Robinson, (U.N High Commissioner for Human Rights) on Genocide War Crime and Crimes against Humanity on November 4, 1999 at Fordham University School of Law in Fordham Int'l L.J N0. 23 (1999) at 275.

21. The special Rapporteur of the UN Commission on Human Rights stated that some reliable sources estimate that close to one million of people were killed. See report on the situation on Human Rights in Rwanda submitted by M.R Degni Segui, Special Rapporteur of the Commission on Human Rights, under paragraph 20 of Commission Resolution E/CN.4/1995/7 (1994) at 9.

22. *Ibid*., p. 65.

23. There is no universal consensus of the elements required for constituting crimes against humanity. A common interpretation however is found in the Secretary General's Yugoslavia Tribunal Report at paragraph 48. Pursuant to paragraph 2 of Security Council Resolution 808 (1993) reprinted in 32 ILM at 1159 and in UN Doc S/1994/674 which states that "crimes against humanity" refer to inhuman acts of

committed by officials of the predecessor government and civilian population; the war and genocide had ravaged the already weak judicial system of Rwanda.

In December 1996, Rwanda began to hold domestic genocide trials under the newly passed organic law No 8/96 of August 1996 on the Organisation of Prosecutions for offences constituting the crime of genocide or crimes against humanity committed since October 1990. This law creates four categories of offences and corresponding punishments.[24]

By the end of 2000, Rwandan Courts had handed down judgements with respect to 3,343 people accused of participation in the genocide; it could take as much as an estimated of 113 years to try approximately 110,000 genocide suspects remaining in detention in Rwanda.[25]

The Rwandan government and people are concerned with the slow pace of the traditional judicial system, the latter failed to handle the immense number of genocide cases in a timely manner. In the face of that situation, The Rwandan government decided to adapt the participatory justice system of "*Gacaca*"[26] a traditional mechanism for settling village quarrels, to deal with lower level of offenders at a community level.[27] The *Gacaca* courts will have jurisdiction over the second, third and fourth categories of offences under the 1996 Rwanda Organic law on Genocide.[28] The government foresees the creation of more than 10,000 "*Gacaca*" Tribunals to help in the fight against impunity by punishing

very serious nature committed as part of widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds.

24. Rwanda Organic Law 1996 on Genocide, articles 2 and 14.

25. Leah Werchich, "Prospects for Justice in Rwanda Citizen Tribunals", *Human Rights Brief* No 3 (Spring 2001), p. 15.

26. *Rwanda Organic Law* No. 40/2000 of 26/01/2001 setting up "*Gacaca* Jurisdictions" and organizing prosecutions for offenses constituting the crime of genocide and crimes against humanity committed between October 1, 1990 and December 31/1994.

27. Country Report on Human Rights Practices, Rwanda, Introduction (2000) paragraph 1, available at www.state.gov/www/global/ human_rights/ 1999_hrp_report/ rwanda.htlm [1999 State Department Human Rights Report on Rwanda]

28. *Rwanda Organic Law on Gacaca 2001*, article 2.

genocide-related crimes, to establish the truth about what happened and to promote national reconciliation.

Understanding the modernized *Gacaca* conflict resolution mechanism requires it to be compared with the traditional *Gacaca* that has inspired it. *Gacaca* is a meeting that is convened whenever the need arises and in which members of one family, or of different families or all inhabitants of one will participate. It is also vital to analyze traditional *Gacaca* in the Rwandan cultural context that was prevailing before colonialism in order to assess what were the preconditions for its success. In Rwandan traditional society, legal, moral, religious and other mechanisms of social control were mingled. Rwandan traditional mechanisms of conflict resolution varied according to the nature of conflicts. Minor conflicts were resolved within families and serious conflicts were resolved by chiefs and by the king. Rwanda's traditional administrative system comprises 3 chiefs: the chief of the army in charge of recruiting the army and resolving conflicts between militaries, the chief of the forest for cattle herding in charge of resolving conflicts between cattle-herders, the chief of the land in charge of resolving conflicts between farmers. Those chiefs were intervening in cases where family problems might have consequences on members of families which are not involved in conflicts. The king was competent to intervene in the resolution of any conflict but he was especially intervening to put an end to a cycle of revenge. In Rwandan traditional society there existed collective responsibility of the family and the duty to revenge. The duty to revenge was carried out when reconciliation was not reached because of two main reasons: the size of one family was very big and sought to dominate the other family or one family did not accept the remedy proposed by the other family; in those cases revenge was unavoidable and was practised on any man who belonged to the family of the wrongdoer. People of that time believed that if the family did not accomplish this duty to revenge, the spirits of the victim once dead will kill members of his or her family to punish them. When the king learnt about those cases of revenge he was immediately intervening to reconcile those conflicting families. The collective responsibility was also obvious in cases of murders. Families involved in that conflict might resort to other alternatives

rather than revenge; they might for instance arrange a marriage of two members belonging to conflicting families: the family of the victim would be given a spouse to give birth to children who will compensate the person murdered. It has been recorded that in some cases, weak families unable to revenge the death of a member of their family would burry a banana tree instead of a person belonging to their enemy family to convince the spirits of the dead person that the duty to revenge was accomplished.

As explained above, traditional *Gacaca* was a family-based conflict resolution mechanism; other traditional conflict resolution mechanisms were administrative based since they were applied under the direction of traditional authorities. As far as mechanisms of resolving conflicts in the framework of traditional *Gacaca* was concerned there were generally no applicable rules or criteria to determine the number of participants in the discussions. However traditionally, unless women are party to the conflict to be solved, only male adults take part in the proceedings. These proceedings are chaired by family elders, supposedly wise old men who will seek to restore social order by leading the group discussions that, in the end, should result in an arrangement that is acceptable to all participants in the *Gacaca*. The modern distinction between judges, parties, witnesses and audience is hardly applicable: given the disruption of social order, all members of society are affected and as a consequence, parties to the conflict. The objective is, therefore, neither to determine guilt nor to apply legal regulations in a coherent and consistent manner (as one expects from state courts) but to restore harmony and social order in a given society. Generally the types of conflicts that the *Gacaca* dealt with are related to land use, land rights, cattle, marriage, inheritance rights, loans and damages to properties caused by one of the parties or animals. Most conflicts would thus be considered to be of a civil matter when brought before a court of law. However, conflicts amounting to criminal offences, generally of minor kind, such as theft but sometimes even murder may also be settled, though they will not result in a typically criminal sanction (imprisonment) but

in some sort of civil settlement.[29] *Gacaca* as a traditional family institution of resolving conflict succeeds in containing conflicts between families because of the cultural context that was prevailing at that time. There was equilibrium between rights and duties to enjoy any right at that time were subordinated to obedience of instructions and norms established by heads of families. The latter were administrating the patrimony of the whole family, connecting the members of the family to their ancestors, they were priests in their families and they were judges in charge of resolving conflicts either between members of their families or between members of their families and members of other families. They would exclude any member of their family who failed to comply with their decisions and once excluded the person could not seek protection anywhere and could not acquire any property, the compliance to their decisions was a condition for the survival of the people and this explains why *Gacaca* was successful in resolving conflicts.

As mentioned earlier, genocide left the capacity of the national justice system extremely limited, therefore incapable of dealing with an estimated 125,000 persons held in detention awaiting trial for their alleged involvement in the 1994 genocide. Two years after the start of trials, in December 1996, approximately, 1,200 genocide suspects, that is less than 1 percent of all detainees, had been convicted or acquitted on the basis of national genocide legislation. The establishment of the so-called participatory justice mechanism, modelled after the traditional *Gacaca* is intended to speed up the judicial process, to add to the people's perception that justice is done and to include an element of reconciliation (public hearings and collective healing-oriented confrontations of relevant parties) and an element of reparation (i.e., alternative sentencing and community work) at the local community level. In order to achieve those goals, traditional *Gacaca* has been radically changed as this is reflected in its legal regulation. Modernised *Gacaca* Tribunals are to deal with genocidal cases and while the traditional *Gacaca* dealt with non genocidal types of conflict, they will apply

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29. Reyntjens, F., Vandeginste, S., "Traditional Approaches to Negotiation and Mediation: Examples from Africa" in Reychler, L. Paffenholz, T., (Editors), *Peace Building: A Field Guide*, (London: Lynne Reinner Publishers: 2001), p.128.

state law whereas the Traditional *Gacaca* did not seek to operate in accordance with the state law, and they will be backed by state power and involve the sentencing of the guilty to terms of imprisonment.

Trials before modernized *Gacaca* Tribunals will be held in public without recourse to rules of legal procedure. A simplified procedure is laid down in a manual produced by the department of the Supreme Court that deals with the *Gacaca*. Written judgments will be made, based primarily on oral witness testimony. There will be no formal legal representations before the Tribunals, either by state prosecutors or by trained counsel for defence or victims. The perpetrators are encouraged to speak the truth; and the forum of justice is spaced among the peoples of Rwanda who are best placed to know that truth. Justice which can only be based on truth, is done to victims and accused. Justice involves here a substantial element of clemency, as society recognizes that many of the perpetrators were misled and manipulated in various ways. Reconciliation is made possible through an open dialogue of a kind familiar to Rwandan tradition.

Conclusions

The four case-studies of individual countries spread across three continents (Asia, Africa and Latin America) demonstrate that there is a positive correlation between democratization and the termination of any type of conflict i.e. both armed and social conflicts. These conflicts in themselves have been able to generate pressures on the respective societies to devise necessary strategies for wider participation and inclusion of all sections of the society. Correlation exists between peace and their transition to more democratic societies along the periods of history. For example in Guatemala and Nigeria the political space got so enlarged that it was possible to include the rebels of the society prior to the termination of conflicts. The opportunities for participation in the decision-making processes became available to all compared with the early observed fact that they were being suppressed in a highly militarized and politicized conflictual environment. Hence the political system in the countries under study has got a more representative character.

It is generally seen that the end of such conflicts in the societies also has been marked with desire for rapid transformation in the socio-political structure targeted at delivering economic justice even though these societies are endowed with a weak state system. The political leadership of the post-conflict societies are as such faced with the task of delicate balancing act of keeping up the enthusiasm of the people on the tasks of nation-building and to minimize the sense of frustration with regard to the performance of state administration. It is also evident from the study that elite alone can not provide the requisite leadership towards the ending of any conflict in the societies, although both conflict theories and concepts of democratic transition hold that only elites can play such a role.

The civil society and various social movements hold the key to peace in the societies as their indifference can pose a serious challenge to the establishment. The Guatemala case illustrates as to how the involvement of civil society in both pre and post conflict situation can ensure a swift transition towards durable peace. But the case of Afghanistan demonstrates that how the lack of their involvement in any peace process in the present days make the establishment of peace a distant dream. The civil society can play a much more valuable role in the consolidation process of democratic governance in these societies. So it is important to lay-down an appropriate mechanism in the post conflict period to integrate the civil society with the state institutions to prevent these societies from sleeping into anarchy. It is often the power elites who have sought to influence the existence and functioning of these traditional institutions to suit their political interests that have had disastrous consequences on various levels of societies. It is generally observed that the involvement of any external actors can never substitute for the will and commitment of the parties to reach and enforce an agreement.

In the above studies the relationship of groups are based on traditional identities. In case of Afghanistan religion remained the cementing force while in case of others no such factor found visible. Customary law as traditional mechanism of conflict resolution was found not to be something fixed or immutable in case of Guatemala while in other societies it was found to be fixed.

The consultation mechanism in the traditional assembly meetings was that of a consensual in nature. There was a high degree of consensus on social cohesion and values as the core element of conflict resolution. The opinion of the elders in the society counted much in the case of solving such conflicts. The communities use negotiation as a way of breaking out vicious cycle of violent conflict. The structure of parties to negotiations seems to be representative body of all major ethnic and religious groups endowing itself with a quasi-democratic process. In case of Afghanistan it was through the holding of *Loya Jirga* - Grand Assembly - while in Rwanda the convening of *Gacaca* helped in managing of the conflict. In case of Guatemala it was use of the national legal system which played a minimal role in settling of the conflicts. In all the four societies the overall objective was to restore social harmony in the society, rather than meting of punishment to the parties at fault.

Conflict resolution does not particularly seek to change the status quo or power relationship but aimed at restoring social order and disrupted balance of power. Groups and collectivities (family, extended family and community) are important actors. The initiation and implementation of traditional mechanisms are based on social norms and customs of the society. Even negotiation and bargaining where resorted to reach a settlement, they were nonetheless based on the social norms and customs of the society.

It is observed that in all these traditional societies the behaviour and assumptions of the parties to the conflict have been oriented towards establishing a dominant pattern of one group over the other within a particular society as such their approach towards any of these underlined conflicts is based purely on capture of power and establishment of hegemony in the societies. It has been difficult for the actors to admit the impact of internecine conflicts on various levels of the society and the consequent weakening of the social structure.

In order to make them realise of the above fact that the civil society groups have had to carry out various campaigns across all level of the society and mobilise public opinion towards resolution of such conflicts. While in the beginning the communication

processes between the groups was marred by a lot of mutual suspicion, hidden enmity and disrespect towards the societal norms and values, the same process underwent radical changes along the course of conflict making the inter-groups dialogue, a more cohesive and productive.

Given the fact all these societies have undergone several changes both at the level of society and economy in the new age of globalisation, increased liberalisation and the nature of conflicts, these traditional approaches to conflict resolution are going to have limited application in the effective resolution of these conflicts. It is important that these mechanisms be supplemented by the modern methods of conflict resolution.

It is inevitable that the state must create necessary legal provisions in the constitutions so as to give due legal recognition to these age-old methods in the course of resolving all types of conflicts.