

KILLING, VIEWED FROM A CONFLICT RESOLUTION PERSPECTIVE: A 'JUST PUNISHMENT' USING THE SHONA PEOPLE'S LENSES ----- *Obediah Dodo, Enock Chikohora, Alois Muzenje, Gloria Dodo, Mitchell Zihanzu*

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Abstract

This article looked at how the Shona people have culturally used physical fighting and killing as an effective way of resolving conflicts in society. The study was guided by a concept that looks at 'just punishment' for offences and conflicts encountered. The study analysed archival material and literature on killings in Zimbabwe, identifying incidents that were deliberately meant to permanently end conflicts in society. Content analysis was employed to interpret data. The study established that while murder and elimination have never been justifiable at law as a resolution of conflicts, Shona societies have employed the approach since time immemorial. The same approach has been embraced in the contemporary justice system.

Introduction

Zimbabwe is inhabited by largely two nations; the Shona and Ndebele that are clearly identifiable through their distinct languages and cultural practices. The Shona, the larger of the two nations is made up of the Karanga, Korekore, Manyika, Zezuru and Ndaou though other

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scholars argue that the Ndaus are not originally a sub-ethnic group of the Shona. All the Shona sub-ethnic groups had a distinguishable way of resolving their social, political and economic conflicts that were defined and regulated by their respective cultural systems. This study looks at how the Shona people have traditionally and culturally seen and used physical fighting and ultimately killing as an effective way of resolving conflicts in society. This is an unusual means of addressing conflicts which may not have been ordinarily talked about but which this study intends to unravel probably as one of the few recorded studies on the subject.

The study was conducted from an Afrocentric paradigm which looks at the aspects of African identity from the viewpoint of African people (Asante 1987:78). Asante contends that *Afrocentricity* can have an important effect on the manner African researchers see their identity, precisely considering the African people as 'centred, oriented, located, and grounded'. *Afrocentricity* is therefore a philosophical and hypothetical viewpoint that when used in research can create the critical core of the idea (Mkabela 2005:178-89).

Background

From a sociological stand-point from which the study derives, it is unquestionable that crime is a social construction which is established by society on a consensus basis. What it means is that society defines what crime is and what not crime is. Therefore, the description of killings in society as either murder or not is dependent on what the entire society thinks. This argument brings the issue about how various societies define parameters for different punishments for respective offences.

Killing is the most heinous of crimes which most societies condemn and would want revisited. However, the practice has been for years used in the most unusual manner as a conflict resolution means. From the kings right down to the lowest member of the society, killings have been recorded for various reasons; revenge, criminal, ritual and self-defence amongst others. The most unusual reason of them all is seeking to end a conflict and in a permanent way. Unfortunately, this subject has not been adequately researched and documented. Probably this is one of the few studies on the subject matter from an African conflict resolution stand-point.

Culturally, elders in society and parents in families in particular have always intervened in sibling conflicts by either restraining them from engaging in physical fights or simply punishing the party they would have judged to be wrong. In most instances though, the younger of the conflicting parties would be punished as a way of instilling discipline and respect. Some scholars (Leach 1986:51 and Dodo 2015a:38) contend that fighting and killing were some of the most effective, sustainable and efficient means of resolving conflicts arguing that in the history of the Ndebele nation, Lobengula killed his brother called Hlangabeza in-order to permanently address a conflict. Similarly, according to Leach (1986:51), assassination was another way which was used to kill Tshaka the Zulu by his brother as a way of challenging his dictatorship. In spite of all the justifications, this form of criminal and social justice has equally received its share of criticism from some quarters in society (Fieser 2008:48), which argue from various religious perspectives. This criticism was formalised and magnified by an Italian political philosopher

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Cesare Beccaria (1738-1794) through his book called *On Crimes and Punishments* (1764). The book drew attention to injustices in the criminal court systems arguing that the whole idea of criminal punishment required serious review, and that society had to move away from extreme techniques that psychologically impacted on both the accused and the generality of the population. Beccaria however had some exceptions with violent criminals who extremely disturb society through their behaviours (Fieser 2008:48).

In traditional and cultural African societies, death and killing are sacred and unusual aspects of life whose occurrence signifies important and memorable moments of life. With the diversity in conflicts and social deviance, over time, various people have come up with systems and means through which conflicts and cases of instability of varying magnitude have been attended to. Some of these means and systems have been crude and unusual given the manner of execution and the respective outcomes. In instances where some family members have persecuted others, it may be decided that the problem members be eliminated through varying means like the use of medicine or clandestine murder. Such approaches have also been considered in national politics in various countries especially Zimbabwe where perceived enemies and opponents are also eliminated from the playing field.

Methodology

This desk analysis followed an intensive analysis and perusal of archival material and literature on the subject matter. Material dating from 1890 up to 2015 was perused with some in the National Archives of Zimbabwe and in its original form clarifying some ambiguities and obscurities. The analysis of data was conducted using both Latent and Manifest Content Analysis approach which allowed the categorization of material chronologically and according to relevance and themes. While the scope of the study was on the Shona people, some material on other communities was consulted for reference and clarification sake.

Theoretical Explanation

David Barash and Charles Webel expound several of the theories usually employed to elucidate why humans fight and kill. They argue that most of the explanations for fighting are anchored on assumptions about human nature: that naturally people are violent and belligerent creatures and that human race is basically horrible and aggressive (Barash and Webel 2008:111). However, with respect to this study, it has to be noted that the killings as argued by Waters (2007:50) are calculated to bring peace and stability on the ground rather than plain killing. Therefore, the study adopts an approach which argues for an appropriate endogenous conflict resolution system to end conflicts, killing included if it is sustainable, just and effective.

Hypothesis

An accused must be punished only to the magnitude essential to drive away the conflict. If the available options are deemed insufficient, then other conflict resolution mechanisms could be adopted. In short, the degree of punishment must be relative to the gravity of the potential

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conflicts to be instigated by the accused; thus, proportionality requires that a person who causes conflicts that are more fatal receives a more severe penalty than one whose conflicts are less destructive. The study advocates for a just punishment approach.

Analysis Findings

Killing in Society

Killing of a person is socially and morally bad. However, it is the motive behind a killing that the act becomes criminal and bad. From a criminal and justice perspective, murder is never justifiable at law in as far as the resolution of conflict as an end is concerned. However, from an endogenous conflict resolution stand-point, the practice has been common and effective in most societies including the Shona albeit not removing the criminal aspect of it. Some societies have developed ways of responding to killings, such as ignoring, classifying the death unintentional, celebrating, and gossiping about it, sending an accused to prison, punishing the offender, or killing the guilty party. These responses mirror the status differences of the killer and victim, attributed motivations, and the capability of a society to reprimand injustices (Sambanis 2001: 259-81).

Killing is only defined either as murder or not through a process specific to time and place (Comaroff and Comaroff 2004:513-45), judged and evaluated by society at large. This is interesting given the fact that from a sociological standpoint, people have seen killings of people either through the media or in real life. In most of their experiences, they get shocked before they sympathise with the victim. In some cases, it is only after some time and after learning of the circumstances around the killing that they appreciate the rationale behind the act. It is both an old act and biblically practiced. The act of killing especially within the Shona people has been to some extent, regulated by the beliefs and fears of the taboo system (Dodo 2015b:54)

According to Waters (2007:50), every society has a procedure through which killings are defined as legal justifiable homicide, illegal unjustified homicide, or just plain killing. The procedure differs with both, technical or legal capability to apportion blame and the ability of a specific society to react in a way it describes crucial and fitting. This reaction to killing according to Comaroff and Comaroff (2004:513-45) and Waters (2007:50) is the way in which a kill is recognised as a murder, and not as self-defence, execution, unintended or act of war. From a sociological perspective, this reaction to killing provides a new perspective into how people see broader matters of societal standing, blamelessness and culpability, and the nature of offence or accusations.

There are some states that are amongst the highest-volume killers. According to Cooper (1994: 1516-45) and Waters (2007:50), it is a reflection of an assertion that state power is an essential element in the creation of social order. In such states, the leadership usually kills using the deadly power of the state to uphold their political power against perceived threats. The forms of killing by states in such instances include wars, exterminations, executions, and massacres and these may be conducted in a bureaucratized system (Adedeji 1999:211, Collier and Binswanger

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1999:210). The rationale behind such acts is to eliminate causes of conflicts and instability in a more permanent way. Similar killings have been experienced in the Congo Free State from 1890 to 1910 where about 10 million people were killed as part of the industrial policy of Belgium's King Leopold II, Zimbabwe between 1982 and 1987, Rwanda in 1994 (Dodo 2010:145) and Burundi in 2015.

Besides killing, the subject could also be looked at as punishment. Punishment is the willful infliction of anguish on a wrongdoer for a violation such as a legal or moral offense. Punishment seeks to achieve incapacitation, reintegration, reprisal and prevention (Fieser 2008:48). It has to be realized that elimination as a form of punishment or justice system is different from revenge, which is about doing something from bitterness as a retaliatory measure to what would have been done. It is believed that punishing an offender, allows an opening to vent anger and some sense of contentment and closure from a tribulation. The difference between revenge and punishment is objectivity. Revenge emanates from a person's wish for reprisal, whereas punishment considers more abstractly what justice demands in a particular situation.

Modern Day Responsibility to Intervene

The question that comes in the mind is, '*are the western states drone-directed massacres allowed and within the boundaries of the law?*' The media is awash with reports of incidents where some states and regional coalitions attack, kill and intervene in some domestic conflicts and eventually kill more people than what the actual conflict would have killed.

With the modern day obligations to intervene in conflict situations for the purpose of protecting the vulnerable, including the possibility of physical action, it becomes vital that dependable, sound and enforceable principles to guide be developed. The principles developed and the intentions of the parties to intervene should be meant to ensure that physical intervention is carried out with appropriate concern to lessen the institutional reputation damage and human costs and ensure total elimination of the sources of conflict while increasing the projections for long-lasting and sustainable peace (ICISS 2001:1-22).

Constitutionalism implies existence of human freedoms and rights that also mean responsibilities, and the primary responsibility for the protection of other people lies with the people themselves. This now brings in the responsibility to react to circumstances of gripping human need with suitable actions, which may consist of forced actions like sanctions and physical interference. To allow physical involvement for human security purposes is an exceptional and amazing approach, which must follow a potentially grave and permanent damage occurring to human beings, or imminently expected to take place, leading to large scale loss of life (Campbell 1992:614-28).

It must also be ensured that the basic objective of physical intervention, whatever other reasons intervening parties may have, should be to stop or prevent human misery and pain (Campbell 1992: 614-28). Such a noble initiative may only be achieved through multi-

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stakeholder approach which allows parties to restrain each other in cases of excesses. Physical intervention can only be defensible when all non-physical alternatives for the deterrence or nonviolent determination of the crisis have been tried, with sound justification for trusting that lighter actions would not have succeeded. In this regard, political support for intervention for human security purposes has to be mobilised, and as for anything else, a great deal is placed on the leadership of strategic persons and institutions. There must be some initiative by someone, somewhere who ensures that all the relevant political support to allow appropriate physical intervention is mobilised and rightly applied for the safety of the people. Political leaders (Comaroff and Comaroff 2004:513-45) are critical in this respect especially complimented by background aspects like influence and size, geography, and the nature and culture of the intervening institutions.

Elimination of Problem Parties

In the traditional African societies, there have been systems naturally built to deal with social problems and which were sustained by cultural laws and fears administered from taboo systems. Just like the modern social structures where there are various skills and jobs for respective individuals, in the olden days, there were equally similar structures. There were individuals skilled to either eliminate problem villagers or simply weaken them by way of traditional concoctions (*mushonga*) and magical powers (*mapipi*). Such individuals fell in the categories of witches (*varoyi*), witch-doctors, traditional healers (*n'anga*) or spirit mediums (*masvikiro*).

To kill people using traditional poisonous concoctions, there were also traditional medicine makers (*n'anga*) who doubled as makers of poisonous concoctions and some witches who had the skill to kill at night and using invisible approaches. Witches and traditional healers played a fundamental part in either the rise to power of kings or the elimination of individuals (Niehaus 1998: 93-118). The use of poisonous concoctions and magical powers to eliminate individuals is a common primordial practice that continues today (Meel 2009:61-64). What makes the practice powerful is that it is a taboo topic, which is rarely discussed and is difficult to accuse anyone of having the powers or concoctions to eliminate. The fact that the practice is rarely talked about has a profound psychological effect on generating anxiety that affects the people who normally believe in the efficiency of magical powers and traditional concoctions (Ashforth 1998: 505-32 and Mchunu 2015:58-84).

Witchcraft could be found in various forms: physical, ideological and spiritual and all of them could lead to death or demise of some individual or initiative. Physical witchcraft involved the application of poisonous concoctions in either food or drinks. This practice was a premeditated initiative. Ideological witchcraft involved the manipulation of another's mental position or the way one sees the world. In this process, development or growth is either retarded or stopped out-rightly. With spiritual witchcraft, the individual identified as a witch may not be aware that he/she is involved in the practice as the activities are conducted at night and in a trance. The individual has no control over the processes. Therefore, because all the three

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approaches usually resulted in either death or some other social challenges, witches were a social out-cast who often got eliminated from the society. The elimination of witches could take various forms; physical and formal execution during the day or concealed execution at night. While the former approach was done in full view and knowledge of the communities, the latter was conducted after the alleged witch had been apprehended in action at night. The people who often apprehended witches were specialized medicine people who would then nail on the head or in arm-pits of the witches before they let them away. Because the positions that were nailed were concealed and that the witch did not want to expose their trade, they would then gradually die in pain and silence. The cause of death would only be noticed during the embalmment of the corpse. In Zimbabwe, there is a place in Gokwe district called Gandavaroyi (*where witches are resettled*) where all identified witches were officially resettled to die of hunger.

What is evident is that these witchcraft approaches were only used against fellow members of African descent and never against the European settlers who apparently provoked more conflicts. Especially the magical powers seemed to be ineffective against the Whiteman. In the olden days, witchcraft was a serious issue which allegedly caused misfortunes, death and other social ills. However, with globalisation and education, the subject has become an innocuous belief, which is now taken as a fallacy or some mythical and folklore practice.

Some of the people who were deliberately killed in society included murderers and rapists. While the olden Shona justice system was effective, individuals who were categorised as unrepentant deviants and criminals were treated differently. It must be appreciated that because of lack of sophisticated technology that could produce steel for the construction of strong prisons, there were instances when the traditional courts agreed to permanently eliminate such individuals for the safety and order of the society. In some societies, there were some individuals who were hopeless and their activities so atrocious that justice demanded their elimination. Death sentence has been in practice throughout the world since time immemorial (Fieser 2008:48). Then, some roaming ethnic groups, that did not have permanent holding amenities to lock up irredeemable offenders, faced challenges of offenders who capitalized on their freedom to do more damage and commit more crimes. There were also small bush settlements that lacked financial means to erect lock up facilities and have protecting guards. It was in such environments that offenders had to be punished with extreme ruthlessness if the societies were to stay alive (Fieser 2008:48). However, in recent times, the practice throughout the world has been to bring to an end the death penalty in light of the availability of maximum security prisons for detaining the most irredeemable offenders. Of the 195 countries, 90 no longer allow death penalty (Fieser 2008:48).

Thieves were also in some areas considered retrogressive so much so that they were often killed as a way of restoring order in society. Theft in the olden societies was viewed from two perspectives: a once-off circumstantial incident and hereditary problem. In the former, criminals were allowed to reform through various societal programmes that were in place and where necessary, retribute for effective reintegration back into the society. In the latter, it was considered that the problem of criminality had deepened its roots and had ravaged social

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development. Therefore, because of the nature of the problem and its history, there was need for the society to eliminate such deviant elements for the purpose of peace, order and development. The forms of elimination in respect to this category, varied: formal which was sanctioned by local leadership and informal which was instantly meted out by angry citizens.

Cases of killings

In pre-colonial societies, according to Collier (2013:1-9), there were means through which dictators were dislodged, rebels executed and ordinary social deviants disciplined. Some of these ways though crude and painful, had long been socially embraced in communities. There were also criminals whose problematic activities were attended to through execution as a way of ensuring that societies lived peacefully forever after.

Killings by kings within the Shona people were not only confined within their subjects. There were also instances when that form of intervention could be meted on foreigners and visitors as was the case with the murder of a Portuguese Jesuit missionary called Gonçalo da Silveira in 1561 by King Negomo Mapunzagutu (Parrinder 1969:77-85). After realizing that the coming of Silveira in 1560 into the kingdom of Mwenemutapa, where he converted locals into Christianity (Isichei 1995:93) was creating conflicts with the Swahili traders who lived there and had also brought in conspiracies, coup plots, succession disputes and civil wars, the king killed him.

By the 14th century political centralization that had been started by Mutota, was a strategy whereby all the state power could be entrusted into the hands of a king and a few trusted members of the royal family. The strategy allowed Mutota to conquer the Korekore and Tavara of the Dande and Chidema areas respectively. To Mutota, conquering and ensuring stability and sustainable peace meant wiping out almost the entire royal families of the defeated kingdoms. In these two defeats, it is estimated that over a thousand people were killed. Whenever parties failed to resolve conflicts through some of the available peaceful means, fighting usually became the last resort especially after the coming in of the guns with the foreign traders.

These killing practices in the traditional Shona societies were rife within the leadership circles where for governance purposes, transgressors would simply get eliminated paving way for peace and order. Such a scenario was recorded when Changamire Dombo crushed a Mutapa army after dissenting in 1684 subsequently slaying the entire leadership of the rebels (Beach 1980:128). Such killings and acts of threats were rampant especially when the kings used their armies to make sure that local headmen paid them tribute. The challenge with most of the writers is that of conservatism especially when it comes to actual facts about what transpired on the ground. What must be noted is that whenever a king punished a headman or other official within the ranks, the effects could be felt within the entire area of headmanship or clan. To ensure that the transgressor did not leave any sympathisers or accomplices on the ground, executions were conducted on hundreds of people. There was also an application of a belief that some people's behaviours were hereditary and that some hostilities ran in the entire families. Therefore, to ensure that the off-spring of an identified transgressor of conflict cause did not continue

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multiplying and spreading the seeds of hate and further conspiracies against others, the entire families were eliminated. This to some extent explains the massive migrations of some clans fleeing reprimands.

Believing that fighting and killing could resolve conflicts, local leaders resorted to the use of guns that were being availed by foreign traders to fight their rivals. Mzilikazi attacked Hwata Gwindi at Dandamira hills in 1875 before the latter invited the help of Manuel Antonio de Sousa *Guveya* to provide with guns and ammunition (BSAP 1891). When Hwata was being attacked, he knew that the conflict could be resolved permanently if he killed his opponents hence the effort to secure guns. Indeed, hundreds of people were killed. That was the same approach that was applied against the Ndebele invasion when some Shona leaders sought arms from foreign traders. In 1889, a Portuguese called Andrade availed thousands of arms to several local leaders so that they could defend themselves in times of aggression. Andrade gave thousands of guns to Chief Makoni (Bhila 1982:123) who was a sworn rival of Chief Mutasa. Almost during the same period, British South Africa Company (BSAC) gave rifles and ammunition to the same local leaders. Some of the Chiefs who benefitted from this 1890 BSAC donation (BSAP 1891) were Gomani, a tributary of Mutasa who got ten rifles and Mutasa who got fourteen rifles. Fighting eventually proved to be a very effective and efficient way of attending to the conflicts that were being imported by European settlers. This clearly shows how some of the most local lethal weapons were introduced in local conflicts and respective conflict resolution systems.

The Shona people were traditionally a peace loving community who saw fighting as a last resort. There were however instances when they proved that fighting and killing was indeed an effective and efficient means through which conflicts could be addressed. In 1880, Chief Mutoko did send over 5000 soldiers under Gurupira, his son to help Chief Mutasa, a neighbour fight Manuel Antonio de Souza (Bhila 1982:123).

In the 1880s, following an aggression by Francisco Barreto, a Portuguese expeditor, the King of the Uteve kingdom fought ruthlessly as a way of permanently resolving the conflict. To weaken the opponent, hundreds of fighters were killed (Beach 1980:128). Charwe, medium of Mbuya Nehanda and a traditional leader based at Shopo in Chiweshe ordered the killing of H. M. Pollard 'Kunyaira' by Hwata in 1896 after the two had conflicted over a missing carrier which Charwe had loaned to Pollard. Because Pollard was a powerful colonial administrator, Charwe felt that continued conflicts were bound to disadvantage her status in society before she ordered the murder of Pollard, which created yet another conflict between the indigenous Shona and the European colonial administration. To address the new indigenous Shona/European conflict, Charwe had to be executed in the central plateau following a British led court ruling (BSAP 1896 and Beach 1995:1-12).

In the recent times in the history of the Shona people in Zimbabwe, there was a liberation struggle between the colonial Europeans and indigenous people between the 1960s and 1979. Within the indigenous fighters' camp, they would eliminate each other whenever there were conflicts or potential threats. Most of the elimination practices by the early groups are still being

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practiced though on a slightly lower scale and differently mainly because of the advent of globalisation and a new approach to the justice system.

Discussion

While murder has never been justifiable at law in as far as the resolution of conflict as an end is concerned as argued by Sambanis (2001: 259-81), from an endogenous conflict resolution stand-point, the practice has been common and effective in most societies. According to Comaroff and Comaroff (2004:513-45), killing an individual in some of these olden societies was only defined as bad if it did not seek to restore societal order or eliminate irredeemable deviants. This is when Waters (2007:50), brings to the fore such definitions as legal justifiable homicide, illegal unjustified homicide, or just plain killing. As a practice, killing or elimination of social deviants was done through various ways; poisoning, witchcraft, physical formal execution or clandestine execution and all the approaches served the same purpose.

There are some societies that are amongst the highest-volume killers. Such societies often require the intervention of the state to restore order. However, some of the states go beyond the expectations of the masses toward restoration of order. The forms of killing by some of the states in such instances include wars, exterminations, executions, and massacres and these may be conducted in a bureaucratized system. It has also been established that there has since time immemorial been an approach inclined towards protecting the vulnerable in society by the powerful. The responsibility to protect is traditionally aimed at stopping or preventing human misery and pain.

The study established that elimination practices sought to achieve various ends; removal of bad physical elements like criminals, witches and murders and getting rid of unsuitable genes from the society through the same process. However, there were also instances when elimination was done simply because societies did not have effective incarceration facilities. The above explanations are confirmed by the cited cases of individuals and groups of people who were executed in the history of early states' governance and struggles for existence. Some of the elimination mechanisms that were employed in the olden days were part of an effective justice system specifically reserved for the worst possible offenders. Therefore, this explains the study's call for a just punishment alluded to in the hypothesis above.

Summary

The study has established how elimination as a concept of conflict resolution has been applied in the Shona people's culture and societies. Through an analysis of a wide range of literature, it has been noted that killing of individuals or elimination as it is referred to by other scholars, has been an effective approach towards conflict resolution in most societies since time immemorial in Zimbabwe. The study which faced a serious challenge of information dearth, also

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established that this practice has not been particularly unique to the Shona, rather, almost all societies have practiced it and because of its efficiency, it is still being practiced in the contemporary justice system with over 90 states having it in their constitutions as an effective approach to conflict resolution.

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