

EFFICACY OF TRADITIONAL SYSTEM IN CONFLICT RESOLUTION: A CASE STUDY OF DISTRICT BATAGRAM, NWFP, PAKISTAN

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Abstract:

This paper attempts at understanding and analysing the process and procedure of conflict resolution among the Swatis of district Batagram, NWFP, Pakistan. The society under study is an egalitarian and the egalitarian ethos play a pivotal role in shaping the system of conflict resolution. For the present research different anthropological methods were used for data collection including participant observations, study of life-history, maintaining daily diary, study of genealogy, and socio-economic survey. Different cases of conflict were selected and analysed. The empirical data reveal that the traditional system of conflict resolution was more effective and durable. The roots of its efficacy were found in the autonomy as it is perceived by the conflicting parties. Moreover, the traditional system also ensures the active participation of rival parties in the overall process of conflict resolution which reflects their empowerment in decision-making and equality of the members in the society.

Introduction:

Conflict occurs in all human societies for which every society has its own ingrained system of conflict resolution. Most of the societies are characterised by multiple systems of conflict resolution (see Evans-Pritchard 1940; Barth 1956; Lindholm 1996; Cohn 1965; Ahmad 1972; Ahmed 1980; Chaudhary 1999; Rouland 1994; Aubert 1963, 1966, 1967, 1969a, 1969b, and 1969c), Gulliver 1969; Starr 1969; Metzger 1960; and Yngvesson 1970). Generally all societies are plural in composition and this pluralism reflects in their legal systems (Honigsmann 1997: 903-904). In the broader field of conflict resolution different anthropologists have found numerous legal systems, even within a given society, which are exercised for the resolution of conflicts. For example Evans-Pritchard (1940), Barth (1956), Lindholm (1996), Cohn (1965), Ahmad (1972), Ahmed (1980), Chaudhary (1999), Rouland (1994), Aubert (1963; 1966; 1967; 1969a; 1969b; and 1969c), Gulliver (1969), Starr (1969), Metzger (1960), and Yngvesson (1970) have studied different small-scale societies and have delineated several systems of conflict resolution. Anthropologists have classified these methods of conflict resolution into a number of categories i.e. avoiding conflicts, accepting other party's claim, coercion, bilateral negotiation, mediation, arbitration, and adjudication (see Levinson and Ember 1996). In anthropological literature all such legal systems are broadly divided into formal and informal legal systems. Formal legal system is characterized by adjudication, which is controlled by the modern state. In adjudication the authority, often relies on the rules and regulations that govern similar cases and the nature of evidence and arguments and then pass on a judgment. Typically, one party wins and other party loses (Levinson and Ember 1996: 244).

Formal legal system is a characteristic feature of modern states. In most of the states, law is developed by a legislative body, interpreted by judiciary and implemented by the executive organ of that state. However, state is not the only source of making obligatory norms because there are other sites functions to generate norms, which exert social control (see Moore 2001). Hence, besides state regulated institutions there are also informal institutions for conflict resolution, prevalent across the world in different shapes such as *Jirgah* in Afghanistan (Dupree 1980) and moot in Kpelle of Liberia (Gibbs 1997). Conflicts resolved by informal institutions are more permanent and lasting. For example, "in a courtroom hearing, the solution is, by and large, one which is imposed by the

adjudicator. In the moot the solution is more consensual. It is, therefore, more likely to be accepted by both parties and hence more durable” (Gibbs 1997: 304). The function of informal institutions is characterized by mediation. A number of anthropologists (Gibbs 1963; Gulliver 1979; Nader 1969; Witty 1980) have discussed mediation in contrast to adjudication or some of them (Collier 1973; Koch 1974; Nader and Todd 1978) have discussed it in contrast to dyadic process i.e. negotiation, coercion, avoidance. However, for the researcher mediation “is a triadic mode of dispute settlement” (Greenhouse 1985: 90).

It is obvious from the above discussion that most of the human societies are legally plural. Legal pluralism is generally defined as a situation in which two or more legal systems coexist in the same social field (Pospisil 1981; Griffiths 1986a; Moore 1986a). In the same tradition legal pluralism has been reflected for Indo-Pakistan in the literature of conflict resolution with the division between formal courts and informal traditional system. In India, the dichotomy between formal and informal law has continuously received criticism from administrators, nationalists, and students (see Cohn 1959; Rudolph & Rudolph 1965; Moore 1985) in which they marked the British style law as unsuitable for India. It is because “in Indian conditions the whole elaborate machinery of English law, which Englishman tended to think so perfect, simply didn’t work and has been completely perverted” (Moon 1945: 22). English law in India was mainly criticized for boosting a flood of wasteful litigation that encouraged perjury, corruption and exacerbated disputes by eroding traditional consensual method of dispute resolution. It is also termed as obscure and full of artificial technicalities (see Shore 1837; Dickinson 1853). In Pakistan, formal courts administer justice through officially designated judges who are not necessarily aware of the cultural values of the members of disputing parties. Judges use a formal law, which is neutral to the cultural values of the people. Therefore, a case of dispute is not only analyzed in isolation from the disputants but also out of the cultural context. Therefore, besides formal law traditional system which is found more conform to the cultural values is also exercised for conflict resolution. In the society under study both formal and informal systems of conflict resolution work together but traditional system is comparatively more effective and durable. Nevertheless, the advocates of formal court system present it as a real system of justice. According to them informal traditional system is redundant. For example Law Reform Commission of Pakistan (1967-70: 102) has turned the informal traditional system as primitive and has strongly disagreed to allow laymen, not familiar with modern law, to administer justice. However, in Federally Administered Tribal Area (hereafter FATA) of Pakistan- that runs under the Frontier Crimes Regulations (hereafter FCR) (see Ayub AN) allow the practice of *Jirgah* rules nullified by the Law Reform Commission of Pakistan. In Provincially Administered Tribal Area (hereafter PATA) of Pakistan, most of the conflicts are resolved by the local *Jirgah*.

Hence, it is not only in FATA and PATA but also in different settled areas of Pakistan traditional system is exercised for conflict resolution. For example, *Jirgah* as an informal institution for conflict resolution prevails in Pakistan in general and Batagram in particular incorporates the essential ingredients of mediation. *Jirgah* normally develops consensus between the rivals to resolve the conflict. Mediators have no authority of lawmaking and cannot impose their decisions but they reconcile in the light of traditions. In the society under study the authority of resolving dispute is the autonomy of the disputants because mediators cannot interfere to resolve the conflict without the authorization of disputing parties.

In the cultural framework the norm, which is greatly respected during conflict resolution, is the local perception of egalitarianism. According to court system conflicts are resolved by adjudication in which one party clearly “wins” and other party “loses”. The person who loses in the court always feels unhappy and downtrodden. The person who wins the case feels triumphant because he gains. A formal court cannot satisfy two sides, it can only satisfy one side. Hence, the emphatic declaration of the formal court in favor of one party as a winner and the other party as a loser is against the spirit of

social equality. Therefore, mostly the court decision is neglected and the disputing parties particularly the loser resort to the use of force once again. However, making the *rogha* (consensual resolution of conflict) which results into consensual decision satisfies all parties—there is no loser, and no gainer. No happy and unhappy—all are satisfied at the end.

Methodology

Research process only begins when our curiosity is aroused. A simple observation may serve as a stimulus to begin a research process. In the present study the differential performance of formal court and informal traditional systems of conflict resolution attracted me for research. However, this is not a comparative study between formal and informal legal systems of dispute settlement because it was found out during the pilot survey that the traditional mechanism was relatively more effective in conflict resolution and hence was taken as the major focus of this study. Understanding conflict resolution requires first hand information through qualitative data, hence, the overall methodology was inductive because various cases of land related disputes were analyzed in detail and consequently generalized for the whole tribe. Data was collected by participant observations. From different lineage groups relevant cases were taken for detail analysis. It is because the case study method has a longstanding and intimate relationship with legal anthropology (Chaudhary 1999) which aims to uncover in-depth information and that was possible by adopting intensive case study method. Moreover, case study method is highly lauded in this respect in the field of research (see Black and Champion 1976; Burgess 1988; Creswell 1994) because it is a microscopic study looking at the phenomenon from very close (Hakim 1989). Case study method is very flexible and thereby allows the use of diverse data collection methods e.g. interview, questionnaire, observation and statistical techniques (Punch 1998) which could be effectively used to uncover any related dimension connected with the issue (Black and Champion 1976). Additionally, the focus of case study may be a single individual, a nation or empire (Mitchell 1983 and Giddings 1924). Gulliver (1969a) has flatly stated the very importance of case study method. Hoebel (1942) emphasized to reach generalization from particular by the study of specific cases in detail. The purpose of case study is “to reveal the properties of the class to which the instance being studied belongs” (Guba and Lincoln 1981: 371). Hence, in the light of its importance in the field of understanding law of the society a case study method was applied and cases were studied in detail.

Detail of different cases was collected by participation in the daily activities of the population under study because participant observation is honored as a method of studying a phenomenon in a natural setting (Patton 1990). In participant observation the researcher does not rely on the willingness of the observed persons to report events. Participant observation is the central element of ethnographic approach. Hence, I extensively traveled in the district and spent considerable amount of time with the members of different sub-tribes of *Swatis*. During participation, I attended a number of public meetings discussing and resolving various conflicts. To understand the nature of conflict in minute detail, I made individual as well as focus group interviews. Those interviews helped me to cross check the information about the case. This was the main reason of participant observations to explore the real cultural strategies, which are adopted for conflict resolution. For example, according to Mair (1972: 28) participant observation is one of the distinguishing features in anthropological research in order to collect primary data for analysis. According to Marshall and Rossman (1990: 35) “Participant observation is a special form of observation and demands first hand involvement in the social world chosen for study”.

Interview method was selected due to its intrinsic potential for providing in-depth information relating to the issue (Jovchelovitch and Bauer 2000) because interview method is very flexible and empowers the respondents to respond openly to the questions (Brenner 1981). Hence, interview gives a chance to the researcher to know the local perception about the issue from interviewee. In-depth interview is often described as conversation with a purpose (Kahn and Cannel 1951: 73).

Therefore, it is a useful way to get large amount of data quickly. Hence, in relation to its very nature of flexibility and depth, it was preferred to adopt for the current research. Another reason for favoring this technique was the fact that most of the ordinary members of the community were illiterate and unable to fill in the questionnaire by themselves. Therefore, to collect the relevant information with high level of confidence the only type of interview, which was suitable, was the open ended in-depth interview. Unstructured interviews were adopted for their innumerable merits including that they are flexible (Cohen and Manion 1989).

To get access to the real world of information, the researcher employed both individual and group interviews. The purpose of individual interviews was to provide an opportunity of expression to those respondents who were either scared of expressing themselves openly in the presence of others or felt hesitation. Cronin (2001) also holds that individual interviews produce more in-depth information because it gives the respondents the opportunity to express their emotions and feelings without any fear of others. The need of individual interviews was realized due to the sensitive nature of conflicts going on between the members of the community. Individual as well as focus group interviews were also administered with *Jirgah* members (see Krueger 1988; Stewart and Shamdasani 1990). During focus group interview the leaders of the disputing parties provided most of the information, however, they were assisted by other members as well. The reason behind focus group interview was to crosscheck individual responses noted in the individual interviews.

The study of life histories of local leaders was also important because there was a direct relationship between leaders and conflict resolution; hence, life history was a deliberate attempt to define the growth of a person in a cultural milieu and to give the reader an insider's view of a culture (Edgerton and Langness 1974). The study of genealogy was uniquely important for the current research because during coercive self-help the people resort to support the member closer in terms of genealogy. Hence, favor and opposition is determined on the basis that who is related to whom and in what way (Hicks and Gwynne 1996: 76). Key informants method was also used for its characteristic features relevant to data collection since "they may be 'key' because they have specialized knowledge, or just because they know more than the others or while not especially knowledgeable themselves, they may be politically powerful and thus able to help the ethnographer obtain information from those who might otherwise be reluctant to share it. Or they may be popular characters at the center of social activities or networks of gossip and hence in constant touch with others (Hicks and Gwynne 1996: 74).

Historical Background

Despite contradictory views about the origin of Swatis one thing is quite clear from the available literature that Swatis is multi-ethnic population (see Hazara Gazetteer 1883 and Ridgeway 1983). In the early seventeenth century the Swatis were pushed towards the present Districts of Batagram and Mansehra. Here they fought against the Turks and conquered the area. The conquered land was divided among the groups who had participated in that war. Participation in the war of conquest stitched up the participants into a unified population known as Swatis. Hence, the term Swatis is not referring to a particular tribe on the bases of shared genealogy but it is known as a tribe because of the participation of the members in the aforesaid war. All the participants were awarded a piece of land. However, genealogy plays an important role in the process of fusion and fission below the sub-tribe level. During my fieldwork, I found out that Swatis claim to be socially equal because their ancestors have equally participated in the war and consequently they have inherited a piece of land. Currently, in the study areas, there are two pre-requisites for the determination of social equality i.e. connection to one of the Swatis sub-tribes and having the status of *dotary*. *Dotary* is a tribe man having inherited piece of land which was awarded to his forefathers as conqueror. It was reported that some of the people participated in the war and were not ethnically connected with Swati tribe were also awarded piece of land and were incorporated in Swati tribe. Moreover, the memberships

of some of the actual Swatis were terminated on the pretext of their non-participation in the war. However, the artisan groups and tenants who were basically non-Swatis were accommodated and placed in the lower strata.

Swatis residing in district Batagram is one of the pre-dominant groups in terms of land-ownership as well as numerical strength. In social life they do believe in equality but economically they are unequal. Nevertheless, the perception of social equality is deeply rooted in economic equality and that is very closely associated with landownership which was and is still play pivotal role in peoples' subsistence economy. Moreover, the perception of social equality is also embedded in coercive power because evaluation of an individual is perceived in relation to his lineage which act as a corporate group, hence, social equality emanates from the overall power of physical force one can apply at the time of need. Additionally Swatis are socially equal because every one of them can normally avenge if he is offended. This ability of taking revenge is reflected in a proverb which translates that a members may becomes economically poor but is still a potential threat to take revenge with the help of his lineage. There is another proverb, which means that 'an *aziz* (co-equal) may leave the village but cannot accept submission in the face of his opponent *aziz*'. Although egalitarian societies are widely discussed by anthropologists (Woodburn 1982; Begler 1978), but the role of social egalitarianism in exclusive has not been taken as a major factor in the process and procedure of conflict resolution. Therefore, to understand the role of social egalitarianism in conflict resolution is a major research problem to be stated as below.

Theoretical Framework

In the literature of social sciences the phenomenon of conflict in human societies has been discussed in different perspectives e.g. conflict theorists believe in the disintegration of society because according to them there is conflict of interest in all organizations and at all time and society is subject to social change. Hence, conflict theorists portray society as insatiable and dissension, since, conflict is a perpetual characteristic of every human society (Farganis 1996). However, structural-functionalists view society as functionally integrated system that holds in equilibrium thus social world is portrayed as stable and harmonious. According to structural functionalism society is made up of different parts, however, those parts are interdependent on each other and work together for the benefits of the whole social system. After disequilibrium in one part of society a natural tendency in other parts restore equilibrium of the society. Furthermore, value consensus and social control are the key mechanisms that allow society to maintain its order and coherence (Carlie 2003). Fortes (1940) has also explained the inherent tendency of a social system towards the state of equilibrium after disturbance. Therefore, for structural-functionalists a key concept is equilibrium which is the tendency of a system to return after disturbance to its previous state (Gluckman 1977). However, a number of anthropologists (Leach 1977; Swartz; Turner; and Tuden 1966; Tuden 1969) have criticized equilibrium model that it represents society as static and ignore the dynamic aspect of society. Gluckman (1968) however, has justified his stand that none of the social system is inherently in the process of changes at all times because the elements of social structure maintain equilibrium for a 'particular structural duration' and might change after some time as a result of certain internal or external forces. Gluckman further explains that there might be certain disturbances in the overall social structure but the institutions orient themselves in a way that cause a new balance and insuring a perfect equilibrium and stability for another structural duration. Under the notion of social equilibrium feud is also explained as a process, which keeps order in the society because of crosscutting alliances in the society, which results into the reunification of disputing parties instead of severing their relationships. Nader (1972) has also highlighted feud as a balance maintaining institution because "the feud as an institution has often been described by ethnographers as an important mechanism of social control in societies which lack formal governmental institutions and officers" (ibid: 17-18). However, a number of anthropologists like Siegel and Beals

(1960) do not treat conflict in a framework of structure and function because they are interested in the causes and not in the function of conflict. Hence, for them conflict is a result of cultural change. On the other side Gluckman (1955) and Turner (1957) interpret social conflict as eufunctional for the maintenance of social systems. Theoretical position of Gluckman (1955) and Turner (1957) is that conflicts within and between smaller social units promote the solidarity of larger social units, therefore, they concentrate on conflict as an aspect of stable social systems. Hence, anthropological literature generally supports the hypothesis that external conflict results in internal cohesion (Lewis 1961; Murphy 1957; Eyde 1967; Young 1965). A number of anthropologists not only confirm the above hypothesis but also argue to obtain cohesion in a conflict-ridden society normally leads to external conflict via aggression (Vayda 1968).

It is obvious from the above discussion that conflict is inevitable in every human society. It has been differently explained by different theorists e.g. for conflict theorists conflict essentially promotes disagreement in every society which advance social change. On the other hand structural functionalist view social system as stable of which conflict is an aspect and result in bringing cohesion and harmony in the society. Nonetheless, the purpose of this paper is not to address conflict in itself but to explain the cultural dynamics which regulate the process of conflict resolution.

Anthropological literature is full of discussion about the methods of conflict resolution e.g. adjudication and mediation. The difference between the two is precisely in the intended result of the successful application of the methods. Such differences have been noted in anthropological comparisons of conflict resolution techniques in many societies (Gulliver 1979; Lowy 1973; Nader 1969). For example, Kirsch (1971) has suggested that adjudication look to the past focusing on legal precedents and the maintenance of a system previously established, while mediation looks to the future, concentrating on the future co-existence of peaceful society. Felstiner (1975) related adjudication with coercive power and the application of norms. Mediation, on the other hand, deals with an intimate knowledge of the society in question. The difference in the goals of adjudication and mediation are illustrated that resort to court does not solve problem because need for mediation persists as reconciliation of the disputants is important for the solidarity of the group (Ayoub 1965). Hence, it is the inability of juristic model in social reconstruction to resolve conflict permanently (Breugh; Klimoski; Shapiro 1980). In societies where mediation is used for conflict resolution the final settlement of a conflict is held ceremoniously e.g. Gulliver (1973) pointed out the significance of the ceremony of reconciliation, which involved drinking beer together with the former disputants.

It is evident from the above discussion that different methods of conflict resolution are exercised in different human societies but in this paper mediation in particular is explained which is precisely regulated by cultural dynamics.

Cultural Dynamics as a Regulating Force of Conflict Resolution

Most of the anthropological studies are focused to understand patterns of leadership and political systems of Pukhtuns. For example, Barth (1959) has used theory of game to explain the process of fusion and fission among Yusuzai of Swat. Lindholm (1980) has presented an acephalous segmentary lineage model in which he has characterized three kinds of leadership among the Yusufzai of Swat. Ahmed (1980), has studied Muhmand Pukhtuns scattered on both sides of the Durand Line between Pakistan and Afghanistan, has applied structural-functionalist approach emphasizing that equilibrium between the segments is achieved by balance opposition between them. He explains, "I would like to postulate that Mohmands in the ideal-type model conform to the description of a tribal society in equilibrium" (Ahmed 1980: 24).

A number of anthropologists have studied *Pukhtuns*' societies but none of them has specifically addressed the issue of conflict resolution. Nonetheless, Barth (1965) has admitted the importance of asserting social equality by mediators during conflict resolution. Ahmed (1980) has depicted that one of the functions of *Pukhtunwali* (Pukhtoon's code of conduct) is to ensure equality among all members.

This study is focused to understand and explore the process and procedure of conflict resolution among *Swatis* within the framework of *Pukhtu or Pukhtunwali*. *Swatis*' society is segmentary and composed of territorial groups where the segments at various level of tribal structure maintain equilibrium by complementary opposition. Opposition between the segments exists in order to maintain social equality or egalitarianism. Social equality is the defining quality of *Pukhtu (Pukhtuwali)*. It is because of the fact that *Pukhtu* generates from the sense of competition, which is aimed at to attain social equality. Hence, after a conflict the institution of egalitarian ethos functions as a redressive mechanism to restore the situation to previous condition. *Pukhtu or Pukhtunwali* is a code of life based on competition for the achievement of every thing that is culturally defined as good. *Pukhtu* which is divided into various hierarchical categories regulates each level in the context of a given situation. Various hierarchical levels are based on the composition of genealogical relationships in ascending order are *Plarwali* (parenthood), *Rorwali* (support), *Tarboorwali* (opposition), *Tabarwali* (cooperation), and *Azizwali* (equality) (See Taieb, 2003). According to *Pukhtu* cohesion is determined on the bases of genealogical connections, hence, closer members make more cohesive group than distant ones. The question here is to explain that how *Azizwali* plays a role in conflict resolution. When there is no conflict the society is at equilibrium and the members are in the process to maintain their social position because the norm of social equality which emphasize revenge prevent the members to fall in dispute. However, action against the norm of equality may disturb the status-quo. Hence, those actions which are culturally against the spirit of egalitarianism are the causes of conflict in *Swati* society. Since, any offensive action against the norms of equality results in physical aggression because it damages the glory of offended party. When the use of physical force reaches the balance at both sides, the leaders normally starts to mediate or prepare the disputing parties for accepting mediation or arbitration. Practicing *Pukhtu* is clearly reflected in *Pukhtu* language that translate 'it is easy to speak *Pukhtu* but difficult to practice it. In the light of *Pukhtu* it is a prerogative for *Swatis* to compete for the maintenance of their social position. Hence, doing *Pukhtu* generates *Azizwali*. In this case *Pukhtu* is a continuous struggle between *Azizan* for the maintenance of their social position. The competition to win is explicit in every walk of life including conflict because conflict is also resolved in a way so as to restore the image of offended party. Doing *Pukhtu* is a means to an end and the end is the safety of social equality. Though there are various levels of *Pukhtu*, however, *Azizwali* is the crux in conformity to which other levels are implemented. The importance of social equality is clearly reflected in *Swatis* social structure, and has a significant role in conflict resolution.

In this connection I have studied various orderly institutions that function to bring peace back after a conflict. Beside orderly means feud has also been studied as an institution, which not only create cohesion among members in the face of external threat but also maintain check and balance and bring peace in the larger context. The present study does not specifically deals with the function of conflict but conflict functions to create temporary cohesion among closer relatives against distant ones which again break down to competitive relationships when the external conflict is over. Conflict is only one of the cultural strategies used to maintain the glory of rival parties but it is the cultural dynamics by which the purpose of conflict is explained towards the advantage of disputing parties by asserting that none of the party is superior to other hence the final resort should be the peaceful resolution of conflict. In the society under study all peace maintaining and peace restoring institutions are regulated by cultural perception of egalitarianism. Hence, all peace-building efforts are made to satisfy the sense of social equality of disputing members/parties. It is because of the fact

that conflict resolution in itself is not important until it is linked with social equality to provide a traditionally safe passage to the disputants and thereby saving their faces in the society. Therefore, the focus of the present study is on the cultural dynamic both as a cause and means of conflict resolution. Since my argument is about social equality as a primary concern for an individual as well as for a society as a whole. Therefore, the overall process and procedure of conflict resolution is determined by egalitarianism.

All activities are explained in the framework of egalitarian ethos and likewise agricultural land as a cause of conflict is also evaluated against the standards of social equality. Land is only become a cause of conflict when intervention is directed towards the application of threat or use of force to undermine the position of the opposition party. Ownership of land is culturally defined because social-equality forces the disputing parties to defend the ownership in the first instance by show of force, which works as a balancing mechanism between disputing parties to accept peaceful mediation or arbitration to avoid casualties on both sides. In peaceful mechanism of conflict resolution the major strategy is to restore glory of the offended members. Retaining of social equality is well reflected in a *Pukhtu* proverb "who today is disgraced, tomorrow will be lost" (Ahmed, 1976: 46). Moreover, social equality is maintained otherwise the affected member would not be able to participate in public meetings because of the fear of reminder by the people, particularly *azizan* upon the lapse from standards of *Pukhtu*. He is also not preferred for marriage alliances. These are the important functions that stimulate a person to sustain social position.

Encroaching upon the land of a neighbor is a serious crime which is against the norms of equality because the act is perceived to reflect the superiority and inferiority of the intruder and intruded parties respectively. Likewise a man is traditionally supposed to defend the honor of his family failing which he would be labeled as a man without honor, which is a derogatory term indicating social inferiority of that man. The members are expected to successfully defend their possessions; hence, intrusion against land is strongly retaliated in order to keep social equality intact. Hence offence against the social equality of a *Swati* creates conflict. Encroaching upon land is an offence against the glory of offended party, therefore, vengeance ensues.

In the same tradition it is more important in the society under study to restore the glory of offended party publicly to resolve a conflict permanently. For this reason, after a successful application of the procedure of mediation through traditional means, the event of conflict resolution at the final is ceremoniously celebrated so as to publicize the restoration of the image of social equality of the offended party.

In *Swati* society almost all people live in joint families. It is a common observation that in joint families all members contribute to the maintenance of the whole family even if some of the members are dormant. It does not mean that at family level there is a complete harmony but there are minor disputes and jealousies between brothers, between mother-in-law and her daughters-in-law, between brothers' sisters and brothers' wives, and between brothers' wives etc. However, the effects of those minor disputes and jealousies are delimited by cultural traditions to the maintenance of patrilineal family. Any disagreement between brothers is resolved by the interference of father and mother by asserting equality that there is no difference among them as they are the children of one father and have the same blood; therefore, they need to be united because their fight will make them weaker. Likewise, in case of dispute outside the lineage, a number of joint families combine to defend lineage members; lineages combine to defend the whole tribe. Complementary opposition ensures solidarity, cohesion, and integrity at various level of tribal structure. It is evident that members of the society at various levels contribute to the maintenance of family, lineage and tribal structure. At every level, social equality is asserted that all members are same and one, therefore, must be united to defend their interests against exogenous threats. Similarly, all institutions

contribute and serve to make the whole society functioning because all institutions are integrated; therefore, they are in the state of equilibrium. Conflict may create disturbance to the state of equilibrium. However, those disturbances are removed by traditional means and system is restored to the position of equilibrium again.

It is clear that structure of the society is composed of institutions, like parts of the system, which function to run the society smoothly. But, equilibrium of a society does not mean that society is stagnant but innovations are slowly and gradually absorbed towards the achievement of new equilibrium.

In this regard *Swati* society has no exception and conflicts do occur on the basis of *zan, zar, and zamin*, between families, lineages, and sub-tribes. Conflict creates disturbance in the social structure, therefore, balancing mechanism assert pressure to restore it to the previous form. Egalitarianism plays an important role in removing the disturbance to bring peace in the society because it is a major crux of *Swati* society, which regulates order in social relationships as well as the process and procedure of conflict resolution. Moreover, custom exacerbates conflict but conflicting custom on the other hand pacify the conflicting situation. This dual role of customary allegiances is also noted by Gluckman (1955: 1) that: "It is customarily binding on a man to retaliate if another man offends. However, under the notion of social equality the offended man does not consider himself as weaker or inferior but retaliate in equal proportion. As a result of balance opposition the intruder is finally brought to accept mediation of neutral third party. Therefore, conflict does not result in total disintegration but by traditional means the disturbing situation is finally restored and redressed to the state of equilibrium.

The function of conflict, in the society under study, is its contribution to the maintenance of egalitarianism. The function of conflict could be divided into two stages i.e. pre-conflict and post-conflict. Under peaceful circumstances people do try to avoid conflict to protect them from the dreadful consequences of feud because of the notion of *azizwali* there is a strong tradition of revenge. In post-conflict period the disputing parties normally resort to the use of physical force in order to ensure their equality to one-another. Normally, when they become tired of the use of physical force the parties then symbolically express their willingness for accepting mediation. In mediation the mediators use traditional methods to resolve the conflict in such a way so as to satisfy the parties' perception of *Azizwali*. Hence, in *Swati* society blood feuds function as social institution to maintain social equality and thereby peace in the society. It is because under the notion of social equality; the balance opposition, fear of prolonged blood feud and strong notion of revenge induce the members towards peaceful settlement of dispute. Despite this realization the member proud of his perceived superiority and upper hand may offend and ridicule the social equality of his equal which result in long blood feud spread over the years but finally come to an end through peaceful means of dispute settlement.

It is obvious that under structural functionalists' vision of society, each part of society performs its function smoothly and each of them is interdependent on one another. They work well together for the benefits of the whole social system. Although disorder sometimes occurs in one part of society, the other part of society will help in bring back equilibrium. Values, consensus and social control maintain social order and coherence of a society. Therefore, this approach portrays society as stable, balanced; equilibrium and harmony (see Carlie 2003).

LEADERS AND CONFLICT RESOLUTION

The assertion of social equality forces the disputants to speak from the position of strength and thereby resort to show of force and finally exercise of physical force to deal with a conflict. This resort reflects the stronger and equal position of rivals. However, when rival parties realize the equality of power at both sides give opportunity to leaders to interfere for peaceful resolution of conflict because now the time is ripe for such intervention.

The first objective is aimed at investigating about the exercise of physical force as an integral part of the claim of asserting social equality. For example, in case any member is harmed in the first instance he would resort to the use of physical force instead of looking for peaceful mechanism to deal with the situation. It is because, if he could not powerfully retaliate, his gallantry in the society might be questioned and that is against the spirit of social equality. Offended party is considered weaker if it does not operate for physical retaliation.

Traditional leaders are acceptable as mediators because of their social status. The capability of a leader is tested at the time of show of force and organization of his followers for self-help in order to cope with a conflict within his own section. It is because of the fact that the role of a leader is not accepted as mediator if the conflict occurs between his closer blood relatives. Firstly, in such circumstances, according to the tradition, the leader is supposed to take active part, the exercise of physical force in order to support those who are relatively closer to him on genealogical tree, in. Secondly, the leader is not accepted, as a mediator because relatively distant blood relatives do not trust him as a neutral mediator. Nevertheless, the role of a leader as an effective mediator was noted in resolving conflicts between the members distantly situated on genealogical structure. Neutrality is expected from a mediator and arbitrator, therefore, members relatively closer on genealogical structure to one of the disputing parties cannot function as an effective mediator.

The religious leaders perform as mediator or arbitrator under the given situation. It is because a religious leader mediates to develop consensus of the disputing parties. He also arbitrates when the disputing parties submit their case to be decided according to the Islamic Jurisprudence. Mediation is preferred over arbitration because disputing parties are part and parcel of the mediation process which also asserts the autonomy and equality of disputing members.

CONCLUSION

This research is based on original, first hand fieldwork, follows scientific practices in anthropological investigations and contributes to the literature on dispute settlement. It addresses the issue of conflict resolution among *Swatis* in the North West Frontier Province of Pakistan. It aims to show that why it is that traditional processes and modes of conflict resolution –mobilization, shows of force, threat of continuing feuding and vendetta type revenge killings, which ultimately lead to a process of mediation, are more effective than state's courts in settling conflicts between rivals. The data is faithful to structural functional equilibrium approaches which better explain why it is ultimately a balance of force that leads to resolution as against the courts tendency to define a winner and a loser. A key motivation for both conflict and its resolution is the egalitarian ethos of the *Swatis* known as *azizwali*.

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