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Kazakhstan: *Adat* – the Traditional Conflict Management Mechanism in Central Asia

Christian-Radu CHEREJI
Ciprian SANDU

Abstract: The following article is based on the three principles of the anthropology of law and portrays the experiences of the Chechens and the meaning of their cultural norms, especially in case of conflicts and conflict management, back home and inside a foreign country – Kazakhstan – and sometimes in a clash with the Sharia law and the federal/republican one. More specifically, this article will focus on *Adat* – norms of local customary law – in the traditional Chechen society. This study was developed in Karaganda (Kazakhstan) with the help of the data and information provided by the Chechen Veteran's Council in Kazakhstan and the vice-dean of the Law Faculty in Karaganda and it found out that conflicts can be addressed through the extension of existing alternative dispute resolution mechanisms.

Keywords: Adat, mediation, teip, tukkhum, Kazakhstan, customary law, legal anthropology

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People have always looked for the most effective methods of resolving conflicts, in any context or at any level they may have happened. This constant search went through several stages and generated many methods and techniques of conflict management, but also acts defined as deviant in relation to the systems of values and norms in various places and times. Obviously, in our society today, formal justice comes first, followed

by negotiation, arbitration and mediation techniques, which today have also been institutionalized. However, the complexity of conflicts in the modern and contemporary period has made them so that they are no longer enough and mankind has sought other ways to manage these situations, among them are more hybrid practices, such as private trial, the ombudsman, the med-arb procedure or the simulated court. Throughout this period of evolution, however, we have forgotten something, namely the traditional methods of conflict resolution, or the techniques used for hundreds or thousands of years by different communities around the world, which have passed the test of time and even efficiency in managing documents considered deviant by them.

Traditional practices and institutions have been revived across the globe. The successes of the particularized mechanisms of peace have developed a trend in which tradition and indigenous practices and institutions have been enthusiastically embraced and prescribed as a mechanism for preserving the peace and order of the community.

Contemporary Kazakhstan is a multiethnic and multireligious republic. Due to the massive deportation in the 40s and the two Chechens Wars in the 90s and early 2000, Kazakhstan is the home of a large Chechen population. Chechens are a unique cultural group. They share some common norms with other cultures, yet their historical narrative is locally rooted and bound in the Caucasus region (mostly to the remote areas in the mountains).

The following article is based on the three principles of the anthropology of law and portrays the experiences of the Chechens and the meaning of their cultural norms, especially in case of conflicts and conflict management, back home and inside a foreign country – Kazakhstan – and sometimes in a clash with the Sharia law and the federal/republican one. More specifically, this article will focus on *Adat* – norms of local customary law – in the traditional Chechen society. This study was developed in Karaganda (Kazakhstan) with the help of the data and information provided by the Chechen Veteran's Council in Kazakhstan and the vice-dean of the Law Faculty in Karaganda and it found out that conflicts can be addressed through the extension of existing alternative dispute resolution mechanisms.

Clan disputes and conflicts are interdependent of other violent conflicts so this form of traditional conflict resolution can be extended towards other types of conflict. The reason behind this statement is one of the many proverbs the members of the Chechen Veteran's Council gladly shared with us: knowing *Adat* and Sharia means to know about the consequences of your actions because you constantly know the punishment. In the following pages we will see how powerful this old saying is and how useful it is for proper and efficient conflict resolution.

The approach adopted in our article is that of legal anthropology. Therefore, we were guided by the specific objectives of this branch of anthropology: identifying normative

control systems, identifying how society and its members use the concept of justice to resolve conflicts and their interaction with other social control systems (Donovan, 2008). Legal anthropology looks at the law from a comparative intercultural perspective, the purpose being to identify the general principles of normative regulation of society. Specifically, this field of anthropology focuses on those social forces that create and maintain cohesive bonds in society (Donovan, 2008). In this context, legal studies have a special place due to the unique role that law plays in shaping society and culture.

Legal anthropology emerged as a distinct specialty in the 1920s, with the study of Bronislaw Malinowski, *Crime and Custom in the Savage Society* (1926). Although similar studies have been conducted before this time, Malinowski's study was a turning point for anthropology in general, given that his study was long-lasting, in the community studied and in its mother language. Malinovsky's work was continued by Schapera and his study of the laws and customs of present-day Botswana. Within legal anthropology, Schapera's study is important because it describes both the customs/customs of the tribes and the modern legislation of the English settlers and how they work together (Donovan, 2008; Moore, 2005). Both of this studies were taken into consideration for our study.

Before continuing with the description of *Adat* and the Chechen traditional way of conflict resolution, we need to agree on a way to define four concepts without whom the rest of the article cannot be understood with ease.

The first one is *custom (customary law)*. Although it is generally accepted that customs have been the basis or source of formal law, no matter how much we study the subject, we fail to find a universally accepted definition of custom or customary law. The legal dictionary published by Henry Campbell Black in 1891 defines custom as a set of habits accepted as legal requirements or mandatory rules of behavior, practices, and beliefs that are so vital and intrinsic as part of a social and economic system, and which are treated as if they were laws. Tobin and Taylor (2009) add to this definition that it (custom) is dynamic and constantly evolving and often incorporates concepts and legal measures developed in other legal systems. Swiderska *et al*. (2009) provide a broader definition of custom, stating that it encompasses common visions, principles or values, rules, codes of conduct, and established practices. According to them, all these are applied by the community institutions and may have sanctions attached. Customs are especially common in small communities and are considered essential to their very identity. Defining the rights, obligations and responsibilities of members related to important aspects of life, they are accepted as mandatory rules of conduct by their members. By its very nature, custom gains its legitimacy by being accepted by individuals who submit to it. Therefore, in situations of conflict between custom and law, the former may have greater legitimacy and be respected to the detriment of the formal one, as we will see later in the article.

The second concept we need to look at is law. Traditionally, values are a solid basis for the social order, through their ability to ensure social solidarity. This concept assumes that within society there is a general understanding of accepted norms and behaviors or not (Parsons, 1968; Durkheim, 1984). This position requires from the outset a clarification of what is supposed to be the norm or the law, in order to understand why the members of a community choose to respect them, violate them or adapt them to their specificity. The Oxford Dictionary (cited by Donovan, 2008) defines law in two ways, (1) a rule of conduct imposed by the authority and (2) the body of rules, whether deriving from formal adoption or from customs, which a particular state or community recognizes as binding on its members or subjects.

Although they are in fact two approaches, one substantial (first) or functional (second) and regardless of how we position ourselves towards them (the two approaches are positioned differently from each other, the first takes into account the external criterion and the second is focusing on the effects of the law for the individual), we expect the law to regulate interactions between group members. In this sense, the law has two approaches. The first approach is one that promotes learning appropriate behavior (the aspirational dimension), showing the individual how to behave. The second approach, the prescriptive one, does the same thing, however, by punishing those who deviate too far from the established standards (Donovan, 2008).

The third concept we need to define before continuing with the applied part pf our article is the *norm*. In this case, we will accept the definition given by Jack Gibbs (1963). According to him, the norm involves a collective assessment of desirable behavior, a collective expectation of the behavior of individuals; and/ or particular reactions to a particular type of behavior, including the sanction of a particular behavior.

The last concept we need to clarify is *deviance*. As we saw above, over time, society has created norms and values that indicate to their members the dichotomy of good-bad, moral-immoral or right-wrong, thus drawing some boundaries within which the behavior of members is considered appropriate. Thus, depending on the behavior in society, an individual can become compliant with the rules and values imposed by society or, conversely, nonconformist or deviant, manifesting a behavior of opposition or denial of norms or values dominant. Given that these boundaries are flexible and Durkheim's (1984) statement that deviance is normal in any society because no authority can impose full compliance of its members, we observe that an individual can conform to the values imposed by society or it can oppose them, thus being transformed into a deviant. In turn, deviance (understood as any violation of rules, either written / official or unwritten / informal) takes two forms: in the case of unwritten or informal rules, the phenomenon of social deviance occurs, understood as any deviation from the moral code and cultural behavior of the group (eg. indecent behavior), but which is not sanctioned by formal law. On the other hand, any violation of formal laws or any

action that endangers the safety of individuals turns deviance into delinquency or crime (eg. theft or murder). Deviant behavior thus becomes, according to Agabrian (2003), "an atypical behavior that violates recognized social norms and violates institutional expectations, conflicting with accepted standards within a group or social system, both socially and culturally" (p. 183).

Chechnya's specific clan organization

Chechnya is a clan society. Chechens identify themselves as belonging to one of roughly 150 *teips* (large clans), sometimes referred to as tribes. *Teips* are subdivided into several branches (*gars*), split into patronymic families (*nekyes*). Nekyes, in turn, are subdivided into groups of related families spanning up to seven generations (*shchin-nakhs*), which are further subdivided into nuclear families (*dözals*) (Souleimanov & Aliyev, 2015). For the Chechens it's very important from which *teip* they belong. Every member of the *teip* feels responsible for the behavior of another member and the *teip* (as a whole) is responsible for the actions of its members. If one of the members of a community did something wrong to another one from a different *teip*, the members must go to that *teip* and apologies and ask forgiveness. If a solution is not possible (even in the case of a punishment from the government), the members should discuss/decide the problem with the *teip* (both of them).

The clan, or *teip*, has always played an important role in Chechen society. Its importance predates the arrival of Islam (Hille, 2010). Members of the same *teip* claim descent from a common ancestor and are considered blood relatives and *uzdens* (communal peasants) of equal rank. Each clan had a distinct name derived from its founder, occupied a definite territory, but not necessarily in a single area, and possessed an eponymous mountain. A *teip* consisted of one or more villages, and as such clan loyalties could cut across geographical divides. Each *teip* had its own elected council of elders, the court of justice and its own version of customs and traditions (Jaimoukha, 2005).

The *teip* are run by a clan elder who is chosen by the clan. The clan elder acquires his position based on his achievements in life - bravery in conflict, a strong economical position or a strong sense of justice. In the 19th century, there used to be a civilian clan elder and a military one. A clan elder can be old, but also middle and young age (Hille, 2010). Within the clan, the clan elder is responsible for the resolution of conflicts and blood-feuds between members. Part of the clan culture is hospitality which is given even to enemies when they ask for help. There is however also blood vengeance which will never interfere with hospitality. When an enemy leaves the house, he is given a specific amount of time after which his host can run after him and perform that act which evens the blood vengeance. The clan can be safety characterized as a closed society due to the fact that clan members are accountable to their clan and have to protect their fellow clan members (Hille, 2010).

Another important system of social organization in traditional Chechen society is the *tukkhum.* There are nines such *tukkhums* in Chechnya right now. A *tukkhum* is a grand alliance of familial clans or *teips*. The *tukkhum* brings together clans which are unrelated by blood but united in a higher association for the joint solution of common problems - the protection from enemy attack and economic exchange. *Tukkhums* occupied a specific territory, which consisted of them actually populated areas, as well as the surrounding area, where the *teips*, which were part of *tukkhums*, engaged in hunting, farming and cattle breeding. Each *tukkhum* spoke their own dialect of the Vainakh language. *Tukkhums* could vary in size from a few *taips* to several dozen. In Chechen society, size mattered, since influence and power were generally commensurate with how big the family, clan and tribe were, and this partly explains the Chechen obsession with procreation and the enthusiastic welcome of 'asylum seekers' (Jaimoukha, 2005).

Tukkhums, in contrast to the *teips*, had no official head or commander. Thus *tukkhums* was not so much a control body but a social organization. Everyday issues were deliberated by the Council of Elders composed of equal representatives of all *taips*. Members of a *taip* were generally not allowed to marry within the clan, but were obliged to seek marriage partners from without the *taip,* but within the *tukhum*. This system ensured that despite strife within them, *tukhums,* among themselves, were on the best of terms. The wisdom of this arrangement manifested itself several times in Chechen history with the entire nation standing as one in the face of many an external foe. The Council of Elders would convene to address inter-*teip* disputes and differences, to protect the interests of the individual *teips*, and tukhums in general. The Council of Elders had the right to declare war, conclude peace, to negotiate with the help of their own and others' ambassadors, make alliances and break them. *Tukhums* were leaderless in normal conditions, but in case of external danger, leaders would be quickly chosen and empowered to deal with it. Finally, the tribal union of all the *tukkhums* forms the Kham or the whole Chechen nation.

Adat and Nokhchallah - the foundation of the Chechen society

The Chechen collective culture retains early beliefs, values and behaviors that are rooted in a specific code of socio-cultural norms – *Adat* – and the spirit of being a Chechen – *Nokhchallah*. Even if the customary laws can be traced back to the pre-literate era, the preservation of Chechen norms is ensured through generations because the Chechens teach their children *Adat* from youth through verbal means. Chechens learn, memorize and teach tales throughout their lives. As mentioned above, tales are an important element of Chechen communication, used to convey meanings, transmit lessons and explain events and situations. Chechens express norms and behaviors through simple anecdotes. Chechen norms are strict, allowing for little variation or deviancy and the collective nature of Chechens ensures that every individual and family is held account-

able to these norms. Basically, *Adat* is a set of ideals – indisputable, propagated and internalized (Layton, 2014).

The Chechens lived in their strong and clearly defined community, with its complex social layering and clan mentality and bound together by a common interest, tied together by a code of conduct named *Nokhchalla*. The word *Nokhchallah* can't be translated per se. But it can be explained. *Nokhcho* stands for the *perfect* Chechen. Therefore, *Nokhchallah* brings together all the specific (perfect) properties of the Chechen character. It implies a large spectrum of moral and ethical norms. *Adat*, the Chechen customary law, is part of *Nokhchallah*. If *Adat* represents the institutional norms, whether codified or not, *Nokhchallah* is what those norms create in a Chechen's person. Chivalry, gentility, diplomatic skills, generosity and reliability are the qualities which a child must know from his youth. Most importantly, *Nokhchallah* made them, according to themselves and many observers, hospitable, tolerant and non-aggressive to (non-aggressive) outsiders (Gammer 2006: 3-4).

Now, after the interviews with the members of the Chechen Veterans Council in Karaganda and the available literature, we can trace the sources of *Nokhchallah* to the rough life conditions that the Caucasus offers to its inhabitants. For example, in the severe conditions of the Caucasus, the refusal to open the door to a stranger could lead to lethal outcomes. He could die due to fatigue or famine, fall prey to a wild beast or robbers. The Chechen tradition, which has been held sacred, demands that a stranger be welcomed in, seated by the fire, offered food and shelter for the night. Hospitality is, thus, *Nokhchallah*. Politeness and willingness to compromise are *Nokhchallah*.

Nokhchallah demands that Chechens respect all other men, regardless of their social origins, family background and religious beliefs. The bigger the difference between a Chechen and someone else, the more respect the Chechen must show to the later. The reason for this is the Chechen believe in the afterlife: a Chechen have a chance to be forgiven for hurting a Muslim's feelings because, people say, he can meet the person on Judgement Day. But all is lost if a Chechen have hurt the feelings of a person of a different creed because there is no chance of ever meeting him. The sin will stay with him forever.

Nokhchallah, nor *Adat*, is not a book of what you can do or not. It is their own free will that the Chechens obey its rules. *Adat*, this code of conduct finding similar strains among all Caucasian societies (but also Central Asia and SE Asia), has regulated Chechen behavior for centuries. As previously shown, respect for elders and veneration of ancestors were of utmost importance, as well as the strict rules of hospitality. Courtesy in public and private behavior, relations among families and clans and moral ethics were all ruled by *Nokhchalla*, and all Chechens obeyed these rules out of communal necessity.

In the same time, the Chechens are also Muslims. The rules and norms which developed under the leadership of Muhammad evolved into the *Sharia*, which dictates how the

pious Muslim must live his life. Religious leaders (ulama) had to guide the community to ways of external conformity, as required by *Sharia*. *Adat* has to be differentiated from the *Sharia* law which finds its basis in religion and was introduces in Chechnya only for a very short time after the first Russia-Chechnya war by the president Maskhadov (1998). Even though from 1920 soviet law and latter Russian law were imposed, the traditional *Adat* remained important within families and society.

Adat in Chechnya

Adat is the generic term derived from the Arabic language for describing a variety of local customary practices and tradition in North Caucasus, Central Asia and Southeast Asia *(*Hauser-Schäublin, 2013). Within these regions, the term refers, in a broader sense, to the customary norms, rules, interdictions, and injunctions that guide individual's conduct as a member of the community and the sanctions and forms of address by which these norms and rules are upheld. *Adat* also includes the set of local and traditional laws and dispute resolution systems by which society was regulated (Ooi, 2004). The term of *Adat* can refer to one of the following: "law, rule, precept, morality, usage, custom, agreement, conventions, principles, the act of conforming to the usage of society, decent behavior, ceremonial, the practice of magic, sorcery, rituals". Therefore, he contends that the precise meaning of *Adat* depends upon a particular context.

Following the dissolution of the Soviet Union, *Adat* practices in Central Asia began to resurrect among the communities in rural areas. This was largely due to (1) the lack of legal and law enforcement institutions in many parts of the region and (2) the lack of trust of the community in these law enforcement institutions. The federal constitution also contributed to this process, since it empowered some traditional institutions, such as councils of elders (*aqsaqals* – white-bearded), with some administrative authorities (Abazov, 2005). In North Caucasus, traditional clan-based systems of self-government, which had been functioning underground since the 1950s, began to reappear in response to the federal government's neglect. Because of the loss of Islamic scholars and literature during the Stalinist years, the *Adat* that emerged contained almost no elements of Islamic law. However, more and more Muslim scholars participate in *Adat* proceedings.

Before the arrival of Islam, the peoples of the North Caucasus had long-established codes of legal and civil law, which in the Islamic period came to be known by the Arabic term *Adat* (customs). While in Chechnya and Dagestan some uniformity in *Adat* customs existed, in the Northwest Caucasus and particularly among the mountain peoples, various forms of *Adat* functioned, based primarily along clan lines. In matters involving criminal offenses, the foundation of the *Adat* is the principle of reconciliation and the re-establishment of equilibrium in the community (Comins-Richmond, 2004). While *Sharia* punishments are not unknown among the Caucasian peoples, in the Northwest, they are quite uncommon; on the other hand, the western method of imprisonment is

completely alien. Rather, the focus of *Adat* is on the material loss sustained by the crime victim; the criminal act itself is not particularly relevant. According to the members of the Chechen Veterans Council in Karaganda (Kazakhstan), Chechens know the consequences of their actions. For example, in case of a murder the "blood" is being "paid". The relatives have the right kill the one who killed before. Another example is the one of a taxi driver who is responsible for the death of a passenger in a car accident who can pay for his life (money or nature). The role of the mediators is to determine the compensation the injured party is willing to accept in order to obtain reconciliation (Comins-Richmond, 2004). When the criminal offense causes no actual material loss – as in the case of physical assault, for example – the *Adat* process establishes a value to the offence suffered by the victim in a manner similar to the 'pain and suffering' judgments in western civil courts (an exception is sexual assault, which is usually addressed by compelling the offender to marry the victim).

Furthermore, compensation is not considered a right of the victim, but rather an obligation: injured parties who refuse mediation are subject to ostracism and even hostility by the community at large. With the exception of specific serious crimes, the republican judicial system is used primarily as a threat to a criminal who is hesitant to agree to the terms of mediation. If the authorities become involved in a matter, the injured party will most often refuse to cooperate in a prosecution. On other occasions, the mediators will intervene in the republican court in an effort to reduce the guilty party's sentence. The most notable exception is premeditated murder, in which case the family of the victim usually insists the matter be taken up by the republican court and calls for the most severe penalty, apparently seeing capital punishment as a corollary to the tradition of vengeance, a long-standing exception to the *Adat* system. In addition, there is an element of familial responsibility in a criminal case. The family of the offender must take specific steps, through the aid of the mediators, to reach a solution, and thus reconciliation, with the family of the injured party. Even when cases dealt by the republican court, as in premeditated murder, the mediators still play this role, as they did throughout the Soviet period. Occasionally, village residents unrelated to the case at hand will become involved, particularly if the case is sent to the republican court (Comins-Richmond, 2004).

Adat also regulates issues of inheritance, settling disputes between rival claimants, family and personal relations. Thus in the vast majority of cases, *Adat* is a flexible system, the ultimate goal of which is the maintenance of stability in the community and which functions quite well, even when the parties involved are of different ethnic backgrounds. Even Russians living in North Caucasus villages will often (but not always) refer certain cases to mediators (Comins-Richmond, 2004).

The *Sharia*, by contrast, represents a series of religious precepts and guidelines developed over the first few centuries of Islamic history and regulates all aspects of a

Muslim's life, both public and private. Before the introduction of a centralized government into the Caucasus, the tribal society in which Chechens lived was characterized by communal responsibility. Islam introduced different concepts, legal procedures and the means of carrying out justice (Zelkina, 2000). The idea of personal responsibility for crimes was a new idea to the Chechens and *Sharia* stressed this point. One dimension of *Sharia* deals with criminal matters, and it is from these principles that Islamic scholars render legal judgments. Mastery of *Sharia* requires many years of study, and so unlike *Adat,* where the parties to an action are involved in the resolution, a *Sharia* judgment can be issued only by a trained imam whose opinion cannot be challenged except by another qualified scholar (Swirszcz, 2009). While there is some flexibility in sentencing, corporal punishment is prescribed for nearly all criminal offenses, although material compensation is also possible is many cases. Regarding the issues of inheritance, *Sharia* has no flexibility whatsoever, as shares for immediate relatives are specifically stated in the Quran, which cannot be superseded by any other text, scholar or law. A third dimension of *Sharia*, the *Fiqh As-Sunnah*, governs aspects of a Muslim's life that are not considered within the realm of legal or civil jurisprudence in either *Adat* or Western systems: dress, food and drink, public behavior, bathing and so on. While *Sharia* and *Adat* can theoretically coexist, the complexity and pervasiveness of the first would in practice relegate the later to a minor role.

In the North Caucasus, the integration of the two systems followed an opposite pattern: only those *Sharia* laws that did not contradict *Adat* practices were successfully adopted. Chechens readily accepted Sufism as it was more akin to their introverted character and fitted well with their social system. According to Vakhit Akaev, Director of the Humanities Research Institute of the Chechen Republic: "Sufi ideology easily lends itself to adapting to popular beliefs, customs and traditions. This peculiarity, enabling the incorporation into Islam of elements of popular culture related to the cult of ancestors, elders, native land and etiquette, led to its massive dissemination among the Nakh and Daghestanis" (cited in Jaimoukha, 2005, p. 123). This is what attracted the Chechens to Sufi orders, allowing them to accept Islam on a personal, mystical level. This also explains the constant clash between Chechen's "folk" Islam and the *Sharia*-minded fundamentalists, because the majority of Chechens have consistently resisted a rigid interpretation of Islam (also brought by foreign influence). In the Northwest Caucasus, where Islam never became fully integrated into society, *Sharia* always played a negligible role (Swirszcz, 2009). In 1997, Muslim leaders put pressure on Maskhadov to institute *shariat* as the law of the land. After some hesitation, the president acquiesced to this demand, with a provision for introducing a secular criminal code for non-Muslims. Most Chechens were not very impressed with these developments. When an order was issued requiring Chechen women to abide by the Islamic dress code, it was largely ignored. Many Chechens discovered that punishments meted out the Muslim way were degrading and at odds with their customs and traditions. Over time, any distinction between the two systems was lost and

the resultant fusion was perceived by its practitioners as an Islamic legal system, even though the majority of the practices were derived from pre-Islamic traditions, including rituals that involved alcohol consumption, ancestor worship, sympathetic magic and other forbidden kinds of behavior (Comins-Richmond, 2004).

The Chechen way of conflict resolution

Conflicts differ from one and another and the Elderly Council must understand the situation. According to the members of the Chechen Veterans Council in Karaganda, sometimes Sharia contradicts *Adat*. For example, in case of separation (divorce), *Adat* say that the child must remain with the father and to continue living in the same taip. On the other hand, *Sharia* says that a child must stay with the mother, and move to her taip. In these types of conflicts, the Elderly Council can decide differently. Sometimes, if the mother has a second husband, the child can go back to his father and it's the responsibility of the tapes for any future accidents or conflicts.

Adat courts consist from five to ten judges selected from the elders and with knowledge of the *Adat* norms. The mediators decide on a compensation in money or in nature for each crime. If the injured person recovers, the guilty person and its family organize a reconciliation dinner for the victim and his relatives where they try to reach an agreement on compensation. If the victim dies, the family of the killer gives money, cattle, participates in the organization of the funeral and helps the orphans. If reconciliation fails, the injuring family leaves its settlement either on its own or after a decision of the rural gathering (ostracisation). This can be for a while or permanently (Hille, 2010).

Other customs and procedures of *Adat* were presented by the members of the Chechen Veterans Council in Karaganda. Extramarital relations were punished severely by the community. If a man had an unlawful relation with a married woman, he had to pay ten cows before being banished for good from the community. A similar offence with an unmarried woman or a widow was penalized by the payment of seven cows. If a man took his wife's life, he had to pay 85 cows to her family if the marriage was childless and only 12 otherwise.

If a person committed an offense unworthy of his name, the elderly council decided to rename it and give a disrespectful nickname. As in the case of many traditional communities, we can see here that shame is also used by the Chechen as a form of punishment: "Ban on the name of a person who has committed an unworthy act".

Another form of punishment in the Chechen clan-structured society is the ostracism – the rejection of a relationship with a member of the group who had unworthy misconduct. Also the relatives publicly renounced at the relationship with that person. He (the offender) has lost the patronage and protection of the family and became an outcast. Relatives do not bear in this case responsibility for his actions (in our previous pages

we talked about the fact that the members of a taip are responsible for the actions of the other members). Expulsion from a related group led to the fact that an individual has lost the social and physical protection. If a person committed socially reprehensible action, he was condemned in a public place. If a member of society committed more serious misconduct, he is coursed by the community in a public place and, most often, he leaves the village.

According to the members of the Chechen Veterans Council, the punishment for a serious antisocial offense (murder, treason, adultery, serious offence towards a widow or an orphan) was the burial of the offender in a round hole – "the pit of sin". The offender's body is placed in the fetus position with both hands closed over the face "like a sinner", representing the shame for their actions before God and men. Then, each member of the community is cursing him and throwing stones at him.

The most severe forms of social stigma in Chechnya is the expulsion from the village beyond the fatherland. This measure will apply to persons who have committed a particularly shameful crime – cowardice in battle, betrayal of the motherland, incest, non-compliance with the custom of hospitality, blasphemy and other violations of the *Adat*. The Chechens expulsion was accompanied by the imposition of the criminal curse, in which every single villager should participate. On the day when the decision of the curse is given, no one could stay at work or be absent. If someone tried to skip the participation in the ceremony, his behavior was seen also as a crime. The ceremony of the curse was accompanied by a roar: all the inhabitants, simultaneously, are standing at the threshold of their homes, actively pounding in pots or other loud ringing dishes or fired guns into the air. After that, the offender was forced to immediately leave his native village. The outlaw became really the "former", because he is deprived also of the right to wear the family name.

Take another example. A man steals a horse only to fall off the stolen animal and break his neck. Pagan law holds the owner of the stolen horse responsible for the thief's death. *Adat* holds no one but the dead thief to blame for what has happened: he stole another man's horse and his kinsmen ought to apologize for this. They have to give a gift to the owner of the stolen horse and, naturally, return the animal.

Another example is that *Adat* demands that a man keep order where he lives. A Chechen has two homes, a private (his regular home) and a public one (the village square.) Imagine, for example, that fighting breaks out on the village square. The farther from the square the fighters live, the more they will have to pay in reimbursement for the damages (Jaimoukha, 2005). *Adat* envisages different payments for wounds inflicted on the left and right-hand halves of the human body.

As a more recent procedure, the members of the Chechen Veteran's Council gave us an example regarding a nephew that died in a car accident. Old relatives and old people

gathered and began investigating the accident (who's to blame). After all aspects are discussed, the old people decide the solution. The decision and the procedure are very objective. Parties can say that they don't like any elders to be involved. In this case, the procedure continues until this situation is resolved (saying NO for an elderly to be a member in the Council means replacement).

When we asked them about the possibility of not reaching a solution inside this Council, the members of the Chechen Veteran's Council responded that the main aim of this Council and the parties involved is to eradicate the conflict. The most important argument is that the conflict will influence future generations if not resolved, so it's very important to resolve it now. If the decision is not respected by one/all parties, this means less respect for them (from the other members of the community), meaning they became outsiders. For the Chechens, it's very important to be part of the society (community) so a very harsh punishment is isolation.

The procedure is close to arbitration but, if one disagree with the decision, the procedure continues until a new one. Sometimes they have a mediator. This is the oldest person and he must be untouchable (independent) and respected by both parties. His job is to translate and transmit information and emotions between the parties.

Blood feuds

Adat also include the set of local and traditional laws and dispute resolution systems by which society was regulated. One of the most important one regards the blood feuds as a form of dispute resolution.

The words "revenge", "feud", "vengeance", "retribution", and "retaliation" have many meanings. In contrast, the term "blood revenge" typically refers to a more specific, context-bound form of revenge – that is, the desire to kill an offender or his (usually patrilineally delineated) male relatives in retaliation for a grave offense committed against oneself or one's relatives. As a rule, women and children are not targets of blood-revenge (Souleimanov & Aliyev, 2015).

The custom of blood-revenge has some common characteristics across societies that practice it. First, it is closely tied to the notion of honor. Described in anthropological studies as an inseparable attribute of honor in honorific cultures, blood revenge is, above all, expected to defend or restore one's honor (Nisbett & Cohen, 1996; Shackelford, 2005; Sommers, 2009). As Jon Elster (1990) observed, honor is central in all feuding societies. Part of the clan culture of honor is hospitality which is given even to enemies when they ask for help. There is however also blood vengeance which will never interfere with hospitality (When an enemy leaves the house, he is given a specific amount of time after which his host can run after him and perform that act which evens the blood vengeance.

The practice of blood feud has largely disappeared in societies that have undergone industrial development, a centralized government, a strong state authority or the decomposition of tribal-based or clan-based social structures. Nevertheless, it continues to survive and thrive in some parts of the world. Despite the ongoing processes of modernization and urbanization in Chechnya, traditional socio-cultural values and archaic patterns of the social organization remain largely intact among the Chechen people. These patterns are evident in the persistence of three key phenomena: clan identity, the concept of honor and the custom of blood-revenge (basically *Adat*).

Severe offenses historically include extreme verbal humiliation, physical injury resulting in incapacity or death and especially manslaughter or rape. Such blood insults can lead to the declaration of a blood feud (ch'ir) by the individual directly offended or by one or more of his or her male relatives. The restoration of an offended individual's honor (or that of his or her clan), requires the offense be "washed off" with the blood of the perpetrator, his brothers, or his cousins. Thus, in some cases the initial act of retaliation transforms the offender into the offended, creating a vicious cycle of reciprocal violence that can last for generations, because blood feuds have no expiration date (Jaimoukha, 2005).

As a procedure, blood revenge and blood price were meticulously regulated in the *Adat* code. It even have a very strong reason to be used: had it not been for the deterrent punishments laid out against murder and mutilation, chaos would have ruled the land and human life would not have been respected. Before the promulgation of a vendetta *(dov),* rigorous attempts would have been made by third parties to effect a reconciliation, or at least to limit the scope of punishment to the guilty party and spare other members of his family and clan. There were three ancient means for a murderer to escape immediate retribution and defer his case to a tribal council. He could take refuge in the house of the murdered man and suckle, willing or not, at the breast of his mother (later, mere touching of the breast was enough), thus retroactively becoming his milk-brother. The second method was to touch the hearth-chain in the dead man's house, signaling his joining the victim's household. The third was to let one's hair and beard grow and then go without weapons to the grave of the deceased in dilapidated attire and contrite state and let the kin of the deceased know that he was earnestly asking the gods for forgiveness (Jaimoukha, 2005). The charade was put on for the benefit of the village elders who would presumably take pity on the sorry figure and intercede on his behalf. A special *taip* council had the responsibility of deliberating and pronouncing judgment on blood-revenge suits and of determining compensation *(tam)*. Upon the death of a member of the community, it would convene to decide on the means to avenge the deceased. Generally, only members of the family and close relatives of the dead had the right to take part in the vendetta (collectively called *'ch'irkhoi'*= 'avengers'), whereas the role of the other members of the *taip* was to ostracize the murderer.

3rd party

Chechen chiefs, elders and tribal councils upheld *Adat*, maintained order, (re)distributed lands and protected their communities from external threats. The elders were primarily chosen for their legal knowledge and chiefs for their military skills (ten Dam, 2011). Assembly-councils and elder-councils (mehq-quel, akhsaks) could decide over life and death, even in matters not concerning crimes and violations. Yet, these councils did not decide on all matters. Disputants could select non-elders as judges and provided (male) relatives to take an oath in court; the graver the alleged crime, the greater the number of (con)jurors. Judges punished "ordinary" crimes, like theft, by fine or banishment, not by beatings, mutilation or death, as possible under Islamic law, though the latter sanctions were possible for intra-community crimes. Women could not be witnesses or (con)jurors, or two of them counted for one male (Luzbetak, 1951).

Clans are run by a clan elder who is chosen by the clan. The clan elder acquires his position based on his achievements in life which can be bravery in conflict, a strong economical position or a strong sense of justice. In the 19th century, there used to be a civilian clan elder and a military one. A clan elder can be old, but also middle and young age. Within the clan, the clan elder is responsible for the resolution of conflicts and blood-feuds between members.

The clan elder plays a central role in the process of dispute resolution as the justice of the peace. He acts as the mediator in resolving any kind of disputes between inhabitants of the same village, including disputes over land. He is seen as the pillar who upholds *Adat* law and thus he becomes the primary actor in the society for settling problems. Since there are no strict rules for resolving conflicts, the clan elder decides which approach and *Adat* rule to apply in each case. The primary means of dispute resolution is mediation in which the clan elder will seek reconciliation to achieve the best interests of the disputing parties. This process is crucial in maintaining peacefulness and establishing order within this society.

However, if the *Adat* mechanism fails to end the conflict, the clan elder facilitates further negotiation between both parties until they reach an agreement or find another way to settle their dispute. Not infrequently, the clan elder can suggest that the disputing parties appeal to higher administrative officials or experts (mostly in commercial matters). They may also bring the case before the state court, as a last resort. The *Adat* council head and *Adat* elders who sit in the council are chosen based on their knowledge of *Adat* norms, their authority and position and reputation. In some communities, the role of the *Adat* council is recognized only in the area of conflict resolution and in solving problems related to the breach of *Adat* rules. No salary or any other benefit was given to the *aksakal* judges for their work. The fact that the local population recognized them as "wise elders" was thought sufficient to both qualify and reward them for the new job.

Concluding remarks

Our article presents the traditional conflict resolution mechanisms used by the people from Central Asia, considering the Chechens in Kazakhstan as a case-study to show how the moral code of this population shaped its own justice system. During the research phase, we found out that there are specific factors which need to be taken into consideration when addressing alternative dispute resolution practices in the North Caucasus because both the formal and informal ways of conflict resolution conduct the actions of the Chechens. Currently, the two systems are often in conflict, as they do not always share the same view on a matter. State justice protects and prosecutes the individual. Informal justice mechanisms, as used by the clans, are primarily concerned with achieving justice for the group, sometimes at the expense of the individual's personal rights and freedoms.

Many of the clan-based indigenous peoples of the North Caucasus have a rich history of informal conflict resolution. Incorporating clan-based conflict resolution mechanisms into informal justice mechanisms, such as the use of alternative dispute resolution under the supervision of the state can lead to two very important things: (1) it will reduce the incidents of clan-based violence as parties to a dispute have greater access to justice mechanisms and (2) it will improve local management of disputes and their successful, peaceful resolution, as the method used for reconciliation respects the local traditions and practices. Incorporating clan-based conflict resolution mechanisms into state practices provides several types of justice (formal and informal) to the population, while maintaining sensitivity for cultural preferences (individual rights versus restoring social relations). It also recognizes the importance that clans have as part of the society of the North Caucasus and can play a vital role in stabilizing the region.

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Sierra Leone: Mapping the Disarmament, Demobilisation-Remobilisation and Reintegration of Ex-Combatants. Prospects for Sustainable Peace

James OKOLIE-OSEMENE

Abstract: Disarmament, demobilisation and reintegration (DDR) programmes are necessary in states that experience armed conflict. Several post-conflict societies are usually characterised by the activities of individuals who undermine state building efforts and prefer to work against joint problem solving aimed at sustaining peace. The study explores the change and continuity in the DDR programme and prospects for sustainable peace in Sierra Leone. With primary and secondary sources, including key informant interview with a former Minister, the paper responds to these questions: To what extent did remobilisation undermine peace agreements? How were the weapons and ex-combatants controlled by the government? What were the lessons and challenges of the DDR programme? How are the stakeholders sustaining post-DDR peace at the community level? The success of the state building was occasioned by the joint problem solving approach adopted by the National Committee for Disarmament, Demobilisation and Reintegration (NCDDR), ECOMOG troops, the UN Observer Mission in Sierra Leon, and other stakeholders at the community level. This paper stresses that the remobilisation of ex-combatants increased the intensity of the war which necessitated more external intervention to create enabling environment for state building and security sector reforms. Sustaining peace in Sierra Leone demands continuous empowerment of youths and their active involvement in informal peace education. Post-DDR peacebuilding should be more youth-focused and development oriented to prevent the resurgence of armed conflicts.

Keywords: DDR, Ex-combatants, Peace agreement, Remobilisation, State building.

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Introduction

"*Peace cannot be kept by force. It can only be achieved by understanding*."
Albert Einstein

Sustaining peace in post-conflict societies is usually an arduous task considering the involvement of different stakeholders, the multiplicity of actors and how the contestations between them create discord and sometimes escalate tension that would have been contained if they embraced peace processes. State building complexities are usually occasioned by the inability of stakeholders to reach agreement on several state matters and this has remained one of the causes of armed conflict in many parts of the world. Just like some scholars have concluded that conflict is an aspect of human society, armed conflict is one of the features of modern state system to the extent that belligerent parties usually engage in warfare for many months or years.

Historically, Sierra Leone was a peaceful society, a country that had peacetime after independence and later began to record decades of instabilities with attendant insecurities (human and national security complexities) to the extent that these affected sustainable livelihoods and the political life of the country. This had implications for regional stability in West Africa as people became displaced by the crisis that greeted the war.

Since 1992, intra-state armed conflicts that displaced millions led to most disarmament, demobilisation and reintegration (DDR) interventions were concentrated in Africa, including those in Sierra Leone, Ivory Coast, Angola, Liberia, Côte D'Ivoire, Burundi, Sudan, the Democratic Republic of Congo and Niger Delta in Nigeria (Abatneh, 2006, Hanson, 2007; Edmonds, Mills & Mcnamee, 2009; Joshi & Quinn, 2012). The major advantage of the DDR programmes is that hundreds of thousands of combatants were disarmed and peacebudling initiated. One significant thing about most of the conflicts is that they were either political violence or social conflict, having majority of youths as combatants.

Armed conflict in Sierra Leone and urgent need for stability necessitated the agreement achieved through facilitated bargaining that paved way for disarmament, demobilisation and reintegration (DDR) programme which started in May 2001, implemented by the Government of Sierra Leone with the support of the World Bank, and other international institutions and non-governmental organisations (NGOs). Sierra Leone's model of DDR is one of more than 60 DDR operations that were implemented since the 1990s, most of them in the past three decades, and this is why DDR is described as a 'growth industry' (Muggah, 2010). The 1991-2002 intractable conflict in Sierra Leone adversely affected the operations of the criminal justice institutions, especially the police, prisons and judiciary with belligerent parties preventing the smooth operation of the institutions, destroying the country's infrastructure and killing their personnel (Raleigh & Dowd, 2012). Consequently, state-building initiatives were undermined throughout the pe-

riod of instability. The conclusion of the DDR of combatants from all warring parties in January 2002 officially marked the end of the civil war that threatened stability of Sierra Leone, though all the programmes associated with DDR ended officially in 2004. The war in Sierra Leone was one of the 232 documented active armed conflicts since the end of World War II (Varisco, 2009).

Disarmament, demobilisation and reintegration (DDR) programmes have become a regular component of post-conflict reconstruction and state building efforts across the world. However, the reinsertion or reintegration of ex-combatants/ex-militias into civilian life is often problematic, controversial and threatened by the activities of spoilers. This becomes a problem considering the significance of the reintegration phase to the success of the whole DDR programme. These with some institutional lapses further pose serious threats to the long term sustainability of peace and security. Sierra Leoneans found themselves in a situation which Nwoko (2011) sees as failure of dialogue in the management of intra-state conflicts that heightened arms proliferation and the militarism approach to conflict management. This motivated the proliferation of arms with implications for human security. Instead of peaceful management of the conflict, actors adopted confrontational conflict handling style and this made militarism to escalate the conflict.

According to Ploughshares (2002) the civil war in Sierra Leone, where small arms and light weapons (SALW) were the main engine of violence, saw some 50,000 people killed, 30,000 had their limbs amputated, and 215,000-257,000 women were victims of sexual violence (Keili, 2008). So DDR was a roadmap to peacebuilding while peacebuilding was a platform for sustainable peace and security.

The need to revisit the DDR experience in Sierra Leone necessitated this paper considering that several studies have examined the armed conflict in the country with little consideration for the change and continuity in the DDR programme which disarmed combatants, and prospects for sustainable peace in Sierra Leone with emphasis on the historical factors that shaped the development of the conflicts in the country in order to offer more insight into the nature and functionality of post-DDR conflict transformation. It offers account of the DDR from the historical contexts to the peace initiatives.

The study responds to these questions: (a) to what extent did remobilisation undermine peace agreements? (b) how were the weapons and ex-combatants controlled by the government? (c) what were the lessons and challenges of the DDR programme? (d) how are the stakeholders sustaining post-DDR peace at the community level?

Method of data collection and analysis

This qualitative study combined both primary and secondary sources. It involved comprehensive library research and a review of secondary data on the DDR programme in Sierra Leone. The study also involved key informant interview with the former Sierra

Leonean Information and Broadcasting Minister, Professor Cecil Blake who was part of the DDR programme in the country. The author also explored the websites of the United Nations Office for Disarmament Affairs for data on the role they played in Sierra Leone, and the Peace Accords Matrix database which maps cases of DDR as provided by Kroc Institute for International Peace Studies, University of Notre Dame. The study adopted content analysis in historical context of Disarmament, Demobilisation and Reintegration modelling in Sierra Leone with emphasis on the principles of conflict transformation.

Conceptual Clarifications

(a)Disarmament, Demobilisation and Reintegration

Disarmament, Demobilisation and Reintegration (DDR) refers to a process that contributes to security and stability in a post-conflict recovery context by removing weapons from the hands of combatants, taking the combatants out of military structures and helping them to integrate socially and economically into civil society.

Apart from the internal disarmament that focuses on the removal of arms from individuals, another aspect is nuclear disarmament which focuses on state actors on their need to become signatories to treaties that limit proliferation. An example is the 2017 Treaty on the Prohibition of Nuclear Weapons (TPNW) promoted by a transnational network of government agencies, international organisations, and civil society actors with the aim of preventing the humanitarian, environmental, and developmental impacts of nuclear detonations (Egeland, 2019). DDR encompasses three broad functions: Disarmament: the collection and disposal of weapons used by combatants; Demobilisation: disbanding military structures transform from wartime to peacetime environment, Reintegration; facilitating long-term peace and the return of former combatants to civilian life. This programme is designed for ex-combatants or ex-armed militia that accept peaceful means of settling dispute or whatever agitation that led to armed struggle, through amnesty deal or peace agreement.

(b) Ex-Combatants

Ex-Combatants refer to a group of people who actively participated in violent conflicts either in form of rebellion, insurgency, struggle for power or control of resources against a state. The conflicts in this context often involve the proliferation of small arms and light weapons. Their willingness to renounce violence and embrace peace makes them ex-combatants. The involvement of women and children in terms of provision of logistics in the conflict increased the number of ex-combatants in Sierra Leone.

DDR as a global framework for achieving peace and security

The fact that armed conflicts decline or end does not stop combatants from handling the weapons at their disposal. Where there is weakness of social control or implementation of the rule of law, most people would stockpile arms for illegal use. It has been

established that, partly because of the continued presence of automatic rifles, grenades, and handguns, arming in self-defence becomes normalised (Muggah, 2005).

Therefore, suspension of hostilities as well as successful disarmament, demobilisation and reintegration (DDR) start with the ability of warring parties or parties involved in armed conflict to realise the fact that violence is no means to achieving their goals. Knight (2010) contends that whenever a conflict comes to an end, either through a peace agreement or as a result of military victory, the war-torn country needs to address the issue of surplus troops who may be discharged from military and rebel forces, which for security purposes, are being disbanded. Even United States Institute of Peace (USIP) supports the universal view that disarming and demobilising ex-combatants is a highly visible process that can increase public confidence in the peace process.

As peacebuilding initiative, DDR is required to discourage armed groups from adopting violence as a way of addressing their concerns. Disarmament is the first step of a DDR process which is concerned with the removal of weapons, ammunitions and explosives, and signifies an end to people's active involvement in any combat (United Nations, 2000). As essential part of DDR, disarmament provides a secure environment in which demobilisation and reintegration can take place as part of a long term peacebuilding strategy. The belief that the availability of weapons armed conflict in many parts of the world makes disarmament relevant. UNDDR Resource Centre outlines the four main phases of disarmament component of DDR programme: (1) information collection and operational planning; (2) weapons collection or retrieval operations; (3) stockpile management; and (4) destruction. It is also shaped by four guiding principles namely: national sovereignty, armed violence reduction, safety and capacity development. In essence, what disarmament phase of DDR entails is that weapons belonging both to combatants and the civilian population are collected, documented, and disposed of (in most cases, destroyed) (Hanson, 2007). This paves way for demobilisation.

Demobilisation according to Muggah, Maughan and Bugnion, (2003) is the formal and usually controlled identification, registration and discharge of active combatants from regular or irregular forces. Through demobilisation, repentant combatants are induced to disband their military organization and structure and shift from 'combatant' to 'civilian' status (Ball & de Goor, 2006). Disbanding them becomes pertinent to prevent remobilisation.

Prioritising pre-disarmament planning prevents DDR from failing from the onset considering how it offers opportunity to determine who is to be disarmed, establish collection sites, timetable, disposal of collected weapons and post demobilisation needs of the ex-combatants (Laurence & Shie, 2003). In their peacebuilding works at the North Rift, Nolasco Lazarus and Munene Martin (2012) discovered that successful cooperation and coordination among all actors guarantees successful disarmament, demobilisation and reintegration, of course with proper planning. The pre-DDR planning, cooperation and

coordination of stakeholders makes it easier for them to check remobilization possibility, thereby permanently addressing the security challenges confronting a nation due to availability of arms in the wrong hands.

In most DDR programmes, rehabilitation phase comes before proper reintegration into the larger society to enable ex-militias to get used to civilian ways of life. Mental demobilisation is an aspect of DDR that needs proper consideration by stakeholders to ensure that achievements recorded through DDR programmes are sustained without being undermined by return to armed conflict. This is not disputable because the minds of ex-combatants would determine their actions. According to Cuny (1991) inability of governments to demobilise youths mentally is one of the precipitants of soaring crime rates and enduring political instability in former conflict theatres (as cited in Faleti, 2005, p. 382). This explains why there is a problem of remobilisation thereby justifying the return to violence. Proper consideration of psychological needs of ex-combatants remains crucial for stability in post conflict societies considering the implication of inadequate confidence building initiatives during DDR programme.

Oligopolies of violence theory and the principle of conflict transformation in the context of the war in Sierra Leone

Oligopolies theory was developed by Mehler to explain the post-conflict situation where the state is unable to fulfill its mandate to exercise a legitimate monopoly of physical coercion usually due to the activities of non-state actors (Lamback, 2007). This means that there is an unfulfilled demand for protection in such an environment especially when armed groups remobilise or reject the peace initiatives by state actors. As a result, alternative producers of violence get involved in security market, thereby making social change a necessity through the timely implementation activities that would restore order and sustain peace (Lederach, 1998). The thrust of this theory is that post-conflict societies also share similarities in the area of peacebuilding by facilitating reconstruction and confidence building. The theory classifies armed conflicts into high and low intensity conflicts. For instance, Lamback (2007) argues that Sierra Leone showed the fractal nature of security markets: at local and individual level, new actors emerge while others fade away. While high intensity conflicts closely resembled classical models of civil war, often resolved through peace agreements or military victories, low intensity conflicts are associated with banditry, riots and criminal violence. The involvement of multilateral forces shows external military intervention**.** The armed conflict in Sierra Leone was classified as a high intensity conflict which involved external intervention such as United Nations and ECOWAS.

In high intensity conflicts, military intervention could lead to the entry of a strong competitor into the security market, usually resulting in a rapid change of market structure. The outcome of peace initiative is that a peace agreement supports the eventual emer-

gence of a monopoly of violence either through the demobilisation of ex-combatants or their integration into a national army. A peace agreement is also supposed to reduce hostility perceptions among groups, making interaction between market actors less conflict oriented, such as power-sharing agreements (Lamback, 2007).

Similarly, conflict transformation demands for change of situations. From the process of conflict transformation, it is not disputable that DDR aims at achieving positive peace. Several theorists have described conflict transformation as a continuous process which endeavours to focus on the root of every conflict (Galtung, 1996; Väyrynen, 1999; Lederach, 1998) with the aim of creating "new social relations, institutions, and visions" in the society (Väyrynen 1999, p. 151, as cited in Botes, 2003). Conflict transformation processes are observed in the area of nation building, national reconciliation and healing (Botes, 2003). All these enhance state building. From the implementation of DDR programme in Sierra Leone, it is obvious that the aim was to create peaceful society.

Significantly, Schirch (1999, as cited in Botes, 2003) outlines the four dimensions that should be taken into consideration in order to transform systems include: (a) *personal*, or individual changes in the emotional, perceptual, and spiritual aspects of conflict; (b) r*elational*, or changes in communication, interaction, and interdependence of parties in conflict; (c) s*tructural*, or changes in the underlying structural patterns and decision making in conflict; and (d) c*ultural*, or group/societal changes in the cultural patterns in understanding and responding to conflict. Achieving peace means that actors involved need to focus on issues based on context with the aim of achieving desired change through understanding.

Historicising the contexts of Disarmament, Demobilisation and Reintegration Programme in Sierra Leone

The proliferation of small arms and light weapons (SALW) crimes in many African states which have been affected by social conflicts, and this creates the climate of insecurity (Edeko, 2011). SALW are convenient and attractive to rebel groups in many parts of Africa due to their availability, affordability, destructiveness, easy to transport and smuggle, and use in attacks unlike heavy conventional arms, such as artillery pieces and tanks that are more expensive and procured by security forces (Boutwell and Klare, 2000).

Sierra Leone, a country that recorded political instabilities, coups and counter coups that made governance brutish. Rebellion and insurgency characterised the armed conflict in Sierra Leone. According to reports, Taylor kept up his support for the Revolutionary United Front (RUF) rebels in neighboring Sierra Leone and also provided support to some rebels in neighboring Guinea (Obi, 2009). Apart from smuggling of diamonds that attracted several actors, the lucrative nature of the business of diamonds was a driver of struggle by actors as Sierra Leone produced $300 to $450 million worth of diamonds per year in the mid 1990s (Montague, 2002). Post-colonial economic marginalisation,

exploitation of the labour force, perceived politics of exclusion, motivated the armed conflict, especially as the youthful population could not actualise their human potentials with autocratic gerontocracy in communities (Boersch-Supan, 2012; Tom, 2014).

Violent conflict between elected governments, the mutinous military and the Revolutionary United Front (RUF's) rebellion characterised the country between 1991 and 2002. An estimated 50,000 people were killed and thousands more injured or maimed. Over two million people were displaced with 500,000 fleeing to neighboring countries. Most of the country's infrastructure were destroyed namely roads, hospitals, schools, and commercial enterprises, to the extent that it affected livelihoods, with declined economy and societal relations undermined (Ginifer & Solomon, 2008). The conflict occurred as a result of both internal and international dynamics. Internally, it was rooted in governance inconsistencies, widespread corruption, and the marginalisation and disempowerment of the rural communities, through monolithic and inefficient central government control over economic and political activities. According to Ginifer and Solomon (2008) various factors were responsible for the crises that exacerbated instability in sierra Leone including mounting foreign debts, worsening terms of trade for the country's limited export commodities, and misguided economic policies. Some macroeconomic and structural reforms initiated by the World Bank/ International Monetary Fund (IMF), and the attendant stringent conditionalities, exacerbated economic instabilities instead of stabilising the economy and restoring growth. The consequence was political instability.

The country became an enclave of instability when the government of then President, Joseph Momoh was attacked by RUF in 1991, after the rebel group got external support from National Patriotic Front of Liberia (INPFL) (Obi, 2009), and this marked a watershed in the socio-political history of Sierra Leone as life became brutish with the violation of human rights as a result of the events that followed the incidents. The civil war was characterised by atrocities committed by all factions including the burning of villages, forced conscription of child soldiers, murder, torture, rape, and mutilation of civilians that affected thousands of people (Richards, 1996; cited in Asiedu & Berghs, 2012).

Through its anthem, RUF sought to promote the group's message titled "Footpaths to Democracy,", thus:

> Where are our diamonds, Mr. President?
> Where is our gold?
> RUF is hungry to know where they are,
> RUF is fighting to save Sierra Leone,
> Our people are suffering without means of survival,
> All our minerals have gone to foreign lands.
> RUF is hungry to know where they are,
> RUF is fighting to save Sierra Leone (Montague, 2002).

With the backing of the Armed Forces Revolutionary Council (AFRC) RUF was able to overthrow the government of President Kabbah on 25 May 1997; and in February 1998, the Nigerian led peace-keeping force, the Economic Community of West African States Monitoring Group (ECOMOG) forced the rebel movement out of power and reinstated President Kabbah. During the year 1998, lethality of the violence escalated due to RUF's atrocities that undermined human and national security.

The factors that triggered the war in Sierra Leone have also been highlighted by Dupuy and Binningsbø:

> The war was rooted not in ethnic or religious rivalries, but rather in the gradual withdrawal of the state from rural areas and the subsequent collapse of the country's patrimonial system of governance. The RUF's stated aims of overthrowing the government spoke to the long-running grievances of rural people against an overly centralised, corrupt government that had long neglected socio-economic development outside the capital and that had left many feeling disenfranchised and excluded. In particular, the role of the country's massive diamond deposits in exploitative agrarian relationships that marginalised young people helped to mobilise support for the RUF (2008, p. 1).

The war in Sierra Leone began when a small group of rebels called the Revolutionary United Front (RUF) forced their way into the country from neighboring Liberia, backed by Charles Taylor, and their activities made peace elusive to the people as Sierra Leone recorded debilitating lethal violence that killed tens of thousands of civilians, displacing hundreds of thousands thereby making them homeless (Humphreys & Weistein, 2005, p. 8). As usual with leaders of rebellious groups, they justified their campaign to have a human face by asserting that the RUF engaged in armed struggle with the aim of salvaging the country from the claws of the oppressive regime of the All People Congress (APC) which ruled from 1968 to 1992 (Gbla, 2003, p. 171). The complexities associated with the war manifested as it was problematic identifying the areas of involvement by different stakeholders and shadow parties.

It became a regional war with global connections: Nigerian-led ECOMOG (Economic Community of West African States' Monitoring Group), got additional mandate to restore peace in Sierra Leone after involvement in Liberia since formation in 1990, cooperated with the government, and supported by the British government and the United States. The war created multiple security provision initiative as private military companies, such as the Gurkha Security Guards (GSG) Ltd and the Executive Outcomes (EO) and Sandline International got contracted by the government to provide security and train the Kamajor militia. The Armed Forces Revolutionary Council (AFRC), renegade members of the Republic of Sierra Leone Military Forces (RSLMF), entered into an "alliance of convenience" with the RUF, the primary rebel group in the Sierra Leone conflict

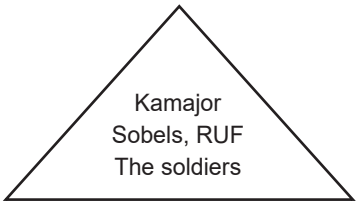
(Ginifer & Solomon, 2008). This was complicated by shadow party states like Libya, Liberia, Burkina Faso, Côte d'Ivoire.

By January 1995, RUF was able to occupy some diamond mines in Sierra Rutile and Sieromco thereby making it difficult for the government to have the capacity to repay IMF loan as expected (Montague, 2002). Successful targeting and occupation of mining communities demonstrated that RUF was determined to change the rhythm of the war against the government.

Through an election, Ahmed Tejan Kabbah was elected president in 1996, and later toppled in May 1997 by the AFRC military junta, led by Corporal Johnny Paul Koroma. Efforts to reduce numbers in the army and the loss of privileges of junior officers who felt economically and politically marginalised, as well as hostility to the increasing influence of the Kamajor militia, contributed to the coup (Kandeh, 2004). The junta was ousted by ECOMOG forces and in 1998 Kabbah returned from exile as President; by January 1999 RUF rebels invaded Freetown on a killing spree but were pushed back by ECOMOG troops whose presence/response portrayed negative peace (Ginifer & Solomon, 2008).

Unfortunately, the inability of successive leaders to offer the society much desired good governance coupled with their politics of exclusion and selfish desire to remain in power created development gap that increased opportunity for youths who dominated the rebellion in demonstrating their position as vandals, to embrace violence as option to end perceived exploitation and marginality (UNAMSIL, 2003; Boersch-Supan, 2012; Tom, 2014). Moreover, the emergence of Kamajor militia group was the outcome of the 'sobelisation' of the national army, as the civil defence force made up of local hunters and other volunteers armed with locally made guns and weapons (Ukeje, 2003). With this, they became a force to reckon with in communities that had poor footprints of security forces thereby responding to the traditional security provision need, defending the people from rebels. The escalation of the civil war made the government to engage the Kamajor to contain RUF guerrillas whose campaigns threatened Freetown and environs. Their defensive warlike strategy positioned them to fend ambushes and raids by RUF fighters, thereby neutralising their sabotage operations. The consequence of sobelisation was that armed forces became compromised making it difficult to differentiate their modus operandi from the rebels at a time when national security was at stake and this positioned the civil defence militia as a stabilising force. The government of Sierra Leone was in a state of confusion with such a difficult situation.

With sobelisation, there was a tripartite war as shown by the diagram here



The Peace Initiatives for DDR Planning and Implementation in Sierra Leone

This section explores the nature of DDR especially those significant efforts that were made by the authorities in Sierra Leone in planning their DDR programme modeled within the framework of peace agreement. According to UNAMSIL (2003, p. 4), given the dynamics of disarmament, remobilisation and reintegration, it is important to note that:

> There is no generic template of DDR practice that can be superimposed on post-conflict scenarios throughout the world. DDR processes must be carefully and sensitively custom designed for each scenario, by teams with intimate knowledge of the respective theatre, the players, the overall objective of the peace process and the tools available.

Notably, peacebuilding programmes were based on liberal peace model which prioritises economic and political liberalisation in post-conflict environments to sustain the peace (Tom, 2014).

The DDR programme was premised on the fact that it is difficult to plan any programme aimed at removing arms from the wrong hands without creating environment embedded in conflict transformation and principles of conflict transformation with the core objective of ensuring that the post-conflict society is not thrown into another chaotic environment again. Observations have shown that the way DDR programme is planned by stakeholders will determine its success. The planning of DDR was done in a manner that would restore the much needed peace.

Most times, roadmap to successful DDR programmes starts with peace agreements or any form of peace accord. Without a negotiated agreement, it is difficult to commence any DDR programme and this could make activities of spoilers to be on the increase. The opportunities offered by peace agreements in DDR programmes are aimed at achieving sustainable peace. Peace agreements are not only designed to terminate civil wars but also to give room for reconciliation, reconstruction and development. The successful implementation of every DDR programme greatly depends on the nature of agreement, acceptance and behaviour of parties to the agreement.

Table 1. Conflict handling mode

	Accommodation	Compromise
Outcome	Little fuss -- no feathers ruffled	No one returns empty-handed
Gain	Others may view you as supportive	Keeps the peace

Source: Glen (1981), Glen, Whitmeyer, & Stevenson, K. A. (1977); Kozan (1997; 2002).

As shown by table 1, the DDR programme took cooperative and assertiveness dimensions at different stages, from the period of demand/negotiation stage to the agree-

ment in Sierra Leone through accommodation and compromise. There was no better option than accommodation considering the needed change of perceptions as part of confidence building.

The government established the National Committee for Disarmament, Demobilisation and Reintegration (NCDDR), chaired by the president, in July 1998. An Executive Secretariat reporting to the NCDDR was set up, with responsibility for the overall planning and implementation of the Disarmament, Demobilisation and Reintegration (DDR) programme. The government's policy and programme framework were developed in close consultation with all the relevant stakeholders: the West African peacekeeping force ECOMOG; the UN Observer Mission in Sierra Leone (UNOMSIL); UN agencies, the UK's Department for International Development (DFID); the World Bank; NGOs; the Armed Forces of Sierra Leone (AFSL); and the affected communities. The Abuja Agreement signed in November 2000 initiated the elements of the Lomé Peace Agreement. The UN finally took a leadership role in disarming the factions. Peace agreement laid the foundation for DDR in Sierra Leone.

Political guarantees are "integral aspect of peace agreements and involve political and practical support to assist implementation and assurances that external parties will use their influence to foster parties' compliance with the terms agreed" (Griffiths & Barnes, 2008, p.12). Francis (2000, p. 364) explains that apart from power sharing, amnesty is a very important aspect of political settlements during armed conflict and military intervention. The devastating war in Sierra Leone required quick intervention which led to peace agreements that paved way for the DDR. Rakate (2008) notes that cease fire agreements propose measures geared to promote peace and reconciliation (like that of Sierra Leone in Lomé on July 7 1999). DDR programme in Sierra Leone emerged from the following peace agreements:

1. Abidjan - November 30, 1996
2. Conakry - October 23, 1997
3. Lomé - July 7, 1999.

But the implementation of all the agreements, from the first to the last was challenging. The first peace process between the government and the RUF was initiated in late 1995, which prepared the ground for agreement signed in Abidjan, Côte d'Ivoire, in November 1996. Initiated by the NGO International Alert, the process was taken over by the Organisation for African Unity (OAU) in the summer of 1996.

The agreement contained an amnesty for the RUF, provisions for transforming the RUF into a political party, withdrawal of regional forces within three months, expulsion of the private security firm Executive Outcomes, and provisions for electoral, judicial and police reform as well as for the protection of human rights. The accord did not reach a proper implementation stage, in part because RUF leader Sankoh refused to allow UN

peacekeepers or monitors to be deployed after the expulsion of Executive Outcomes. Fighting resumed less than two months after the accord was signed (Gberie, 2000). In between the aforementioned agreements was remobilisation occasioned by lack of commitment by the rebel forces.

In preparation for the peace talks in early 1999, a three-day consultative conference hosted the political leadership, traditional leaders and representatives of civil society to debate the terms of a peace agreement. The conference was organised by the National Commission for Democracy and Human Rights, a government body, and followed extensive regional consultations that this Commission had undertaken throughout Sierra Leone over the previous two months. The conclusions of the conference on questions of justice and power-sharing were different from what was ultimately agreed in Lomé. In consensus, the conference concluded that in the interest of peace, national reconciliation and unity there should be an amnesty for all combatants, but cases of serious human rights violations should go through the proposed Truth and Reconciliation Commission (Gberie, 2000). Lomé, Togo, was chosen as the venue for the Sierra Leone peace talks because Togo was chairing the Economic Community of West African States (ECOWAS) at that time.

From a position of strength, the RUF reached a negotiated settlement with the Government of Sierra Leone when signing the Lomé Peace Agreement on 7 July 1999. According to the terms of the Agreement, in exchange for disarming, the RUF was given posts within the government, and guaranteed the right to form a political party to contest elections, and the United Nations (UN) Mission in Sierra Leone was formed (UNAMSIL).

Article 1 of the Lome Peace Agreement provided for the immediate suspension of hostilities with the aim of permanently bringing to an end the armed conflict between the government and RUF. Article II mandated the United Nations Observer Mission in Sierra Leone (UNAMSIL) to chair the Ceasefire Monitoring Committee with RUF, Civil Defence Forces (CDF) and ECOMOG as members saddled with the responsibility of monitoring and reporting incidents of violation. Apart from the peacekeeping provision, the Lome Peace Agreement also had security governance component with emphasis on national security, protection of DDR personnel and protection of UNAMSIL (see Article XIII). Article XXIX also took control of the reparations need as it provided for the internal and external stakeholders to design and implement rehabilitation programme for the victims of the war through a special fund provided for the beneficiaries. This component has conflict transformation and peacebuilding value considering the confidence building significance of the initiative. The fact that rebellious group members of RUF, CDF and SLA were given the opportunity to integrate into the newly reformed armed forces (Article XVII) indicated that the conflict actors were ready for sustainable peace and security thereby making the peace initiative a win-win outcome for all. Article XXI

also considered the necessity to release all prisoners of war and abductees by all actors unconditionally in accordance with the Statement of June 2, 1999 (Peace Accords Matrix). Such goodwill would guarantee peace and sustain constitutional reform as contained in the agreement.

Unfortunately, the RUF which spearheaded the rebellion violated Lomé agreement on several occasions including launching attacks on civilians and UN peacekeepers. British forces were deployed to Freetown to evacuate UK citizens and secure the airport to allow the arrival of UN reinforcements.

The agreement signed on 7 July 1999, called for the demobilisation of the rebel forces, and the incorporation of some into the army (Hayner, 2007), but there is no indication that individuals' past human rights records should be taken into account. The Accord simply states that "those ex-combatants of the RUF, CDF and SLA who wish to be integrated into the new restructured national armed forces may do so provided they meet established criteria." The RUF demanded for a transitional government, in the form of a government of national unity, and insisted that they be allocated half the ministerial positions, which was contested by the government. The government was initially willing to concede only two ministries to the rebels but after much deliberation, the government did awarded four ministerial posts to the rebels.

Hayner (2007) noted that the 1999 peace agreement between the members of opposition and the Government of Sierra Leone received considerable international attention. It ended a war renowned for its brutality, with a rebel force that did not have clearly stated political goal. The peace accord is often remembered internationally for the blanket, unconditional amnesty granted to all warring parties, which met strong international condemnation. The dynamics of negotiation was brought into play during the agreement that led to the signing of the 7 July 1999 agreement in Lomé, Togo, as various people perceived it differently.

For those who identified the violations of the laws of war as severe wrongdoing requiring no pardon, they viewed such an amnesty as unacceptable for the groups that abused human dignity and needed to be punished for their atrocities; while some regarded it as an ice on the cake in the journey to a peaceful Sierra Leone. This was part of UN disclaimer which rightly pointed out that the amnesty was seen as not being within the bounds of international law and acceptable practice. Being a precondition for peace meant it needed not to be ignored despite the grey areas.

Remarkably, several stakeholders took active part in the Lomé talks including RUF and AFRC had their delegations. Also, the Inter-Religious Council of Sierra Leone played a significant role as a stakeholder in the country desirous of correcting any impression on religion being a contributing factor to the conflict. Other Sierra Leone civil society and private sector representatives were also present as observers, some for few weeks

and others for almost throughout the period. These observers represented a range of organisations, including the Human Rights Forum, the association of war victims and amputees, the Women's Forum, the Labour Congress, the Chamber of Commerce, the Sierra Leone Indigenous Business Association and the Sierra Leone Association of Journalists. The delegates were grouped into three committees, addressing: military and security issues (Gberie, 2000), all saddled with the responsibility of reaching agreement on the main issues through their contributions. With their input through informal lobbying and consultation on the sidelines of the main meetings, the agreement became people-centred.

The National Commission for Disarmament, Demobilisation and Reintegration (NCDDR) identified groups that were to benefit from the DDR programme which included the former members of the Armed Forces Revolutionary Council (AFRC), Revolutionary United Front (RUF) rebels, pro-government Kamajor militia fighters, loyalist soldiers that served with Sierra Leone's largely defunct army, and others from unspecified categories. The Commission also outlined the eligibility criteria in the country's DDR as follows: (1) members of a recognised fighting force in the civil war; (2) Surrender serviceable weapon, a group weapon or ammunition.

Disarming and reintegrating militias without coercive means but through DDR guarantees sustainable security. This is pertinent due to need for confidence building between security forces and ex-combatants. When the security sector is restructured, people's confidence in security operatives will improve and that way, it would be easier for them to share information. The duration was mapped out in different phases from disarmament, demobilisation to rehabilitation and then reintegration. Sierra Leone ended DDR officially in 2002. Generally, Lomé peace agreement was productive considering the success of the DDR programme so far.

The Management of Ex-Combatants and the Weapons of Warfare

Various stakeholders were involved in the management of the DDR including internal and external stakeholders. External stakeholders include funders, supporters, beneficiaries, partners; internal stakeholders include staff, board members, trustees, include those involved in monitoring. During the DDR in Sierra Leone, multiple stakeholders were involved. The institutional responsibility had the National Commission for Disarmament, Demobilisation and Reintegration (NCDDR) implemented the programme in Sierra Leone.

Moreover, efforts were made to go beyond NCDDR to initiate other disarmament units such as the Community Arms Collection and Destruction (CACD) and Arms for Development (AFD) programmes, as initiated by United Nations Development Programme in collaboration with UNAMSIL and the government of Sierra Leone. Sierra Leone's DDR, according to Asiedu and Berghs (2012), began in earnest in 2001 with

the disarmament phase which comprises the collection, registration, disabling and destruction of all weapons and ammunitions.

The DDR was funded by UNO, World Bank among others as the country was recovering from years of civil war that led to over 1,000,000 internally displaced persons and 363,000 refugees scattered within West Africa. Generally, World Bank funds and assists in the operation and evaluation of DDR with the primary tasks of (1) giving policy advice, (2) mobilise and manage funds (3) information dissemination to sensitise stakeholders (4) provide technical assistance and (5) leading donor coordination based on request.

From United Nations 2011 report, this process was carried out in 45 reception centers. UNDPKOs shows that over 72,490 people were disarmed and over 30,000 weapons were collected. In the words of Professor Cecil Blake "accounting for the total number of weapons collected was problematic" (personal communication, April 2012). Majority of the initiatives during the DDR programme in Sierra Leone were implemented by the Government of Sierra Leone and World Bank, and UNAMSIL. According to Cecil Blake,

> The Government of Sierra Leone categorised, beneficiaries/participants into combatants and victims and were given some incentives. Information dissemination was carried out by the government on the need to sustain stability in the country. The credibility of the army which was undermined during the war had to be restored" (personal communication, April 2012).

The restoration of this credibility was a necessity considering the threat earlier posed in the 1990s by the sobelisation of the armed forces which required confidence building measures to be addressed. Heavy weapons were buried in cemeteries, and some graves were desecrated during the war and weapons buried there. Weapons recovered included small arms and ammunition such as hand grenades, rocket propelled grenades, and mines. This was noted by Professor Cecil Blake during an interview with him when he averred that the government in Sierra Leone was confronted with the problem of what to do with the heavy weapons.

The disarmament process was conducted at reception centres distributed around the country. It included five phases: the assembly of combatants, collection of personal information, the verification and collection of weapons, the certification of eligibility for benefits, and transportation to a demobilisation centre. Disarmed combatants were prepared to return to civilian life in demobilisation sites where they received basic necessities, reinsertion allowances, counseling, and eventually transportation to a local community where they elected to live permanently. In the community, combatants benefited from training programs (largely vocational skills including auto repair, furniture-making, etc.) designed to ease their reentry into the local economy. Operationally, moving more than 70,000 soldiers through this process is an accomplishment in itself, as enumerators worked through both official (UN and government) contacts and local com-

munity leaders to develop lists of ex-combatants. Teams identified pools of candidates from more than one source: some from the town or village Chief, some from the village youth coordinator, some from various DDR and NCDDR skills training centres, etc. The teams aimed to identify two to three times the targeted number of potential respondents and then to randomly select respondents using different methods**.** In most cases, Chiefs and DDR staff asked a number of ex-combatants to meet at a public location and teams selected candidates randomly from that pool (Humphreys & Weinstein, 2005).

On the other hand, the demolisation phase of DDR in Sierra Leone was held at sixteen centers. Combatants were disbanded during this phase. About 71, 043 ex-militants went through the demobilisation process, including 4,751 women and 6,845 children (Carames, Fisas, & Luz, 2006; cited in Asiedu & Berghs, 2012). The nature of the armed conflict in Sierra Leone apparently led to the amputation suffered by majority of civilians especially in crisis ridden areas. The government (authorities) set up amputee camps (Interview with the Minister of Information and Broadcasting during the DDR programme in Sierra Leone, Professor Cecil Blake, June 2012) so as to alleviate the sufferings of the people.

Notably, the rules of engagement were periodised in the DDR programmes for strict compliance with stipulated timeframe. This made it possible for disarmament phase to be set out for ex-combatants. With the DDR, it was easier for stakeholders to recover and remove small arms and light weapons (SALW) from the wrong hands, and this restored law and order. Although there were many accords before Lome, that of Lomé was unique because it paved way for the entire DDR and Truth and Reconciliation Commission.

Table 2. Total disarmed and demobilised in Sierra Leone by district

District	RUF	CDF	Others	Total
Bo	17	3,755	0	3,772
Bombali	4,049	110	20	4,179
Bonthe	0	1,246	0	1,246
Western Area	155	1,972	163	2,290
Kailahun	6,115	1,694	40	7,849
Kenema	1,660	3,048	30	4,738
Kolnadugu	317	1,205	30	1,552
Kono	3,730	2,255	38	6,023
Moyamba	1	2,938	0	2,938
Port Loko/Kambia	1,680	5,595	126	7,401
Pujehu	0	2,962	0	2,962
Tonkoli	1,543	1,271	16	2,830
Grand Total	**19,267**	**28,051**	**463**	**47,781**

Source: Thusi and Meek (2003).

The organisation of the DDR in phases indicated that there were instances when some ex-combatants remobilised due to different factors which included security governance, political issues, collapse of agreements by actors, and their inability to develop mutual trust. For instance, between 1998 and 2000, those that were yet to be totally disarmed were potential conflict entrepreneurs who would stop at nothing to foment trouble.

Table 3. Total Disarmed by group

Category disarmed	PHASE I (Sep.-Dec. 1998)	PHASE II (Oct. 1999-April 2000)	Interim Phase (May 2000-17 May 2001)	PHASE III (18 May 2001-Jan. 2002)	Total
RUF	187	4,130	768	19,267	24,352
AFRC	0	2,129	445	0	2,574
Discharged/Ex-SLA	2,994	2,366	593	0	5,953
CDF	2	8,800	524	28,051	37,377
Others (including paramilitary)	0	1,473	298	463	2,234
Total	**3,183**	**18,898**	**2,628**	**47,781**	**72,490**

Source: NCDDR, August 2002 cited in Thusi and Meek (2003).

In terms of the level of involvement of children in the Sierra Leonean crisis which recorded involvement of thousands of combatants, it was revealed that a high percentage of children were experts in handling AK47 and other assault rifles than pistols, heavy machine guns and rocket propelled grenade launchers (Weiss, 2005). This contributed to the level of their brutality during the war.

It should be noted that the high intensity of the war in Sierra Leone greatly contributed to the greater number of ex-combatants disarmed and the volume of weapons collected and later destroyed.

The final stage, reintegration is premised on the fact that without a successful reintegration, the DDR programme will not be totally successful. About 56,700 former combatants were registered in the reintegration progarmme by December 2002, a year after the completion of disarmament and demobilisation phases. By January 2004, a total of 51,122 former combatants had received some sort of support: vocational training/apprenticeship (28,901), formal education (12,182), resources to pursue agriculture (9,231), job placement (444), and other (364) (United Nations, 2001). According to the UN report, former combatants in Sierra Leone that did not go through the reintegration process were given a one-time payment of $150 and one implication is that payment is not adequate post-conflict initiative.

Lessons and challenges of Disarmament, Demobilisation, and Reintegration in Sierra Leone

Lessons from the historical development of DDR in Sierra Leone are noteworthy. First, focusing on the issues that require conflict transformation rather than actors remains critical for sustainable peace, and this prevents the collapse of peace agreements and guarantees the success of conflict transformation. Secondly, multiplicity of actors reveals it was high intensity war. It is remarkable that lack of confidence in peace agreements motivates remobilisation which makes high intensity conflicts intractable, and this is why confidence building is necessary.

The third lesson is that most times, warlords and rebel groups see themselves as saviours of the people and are motivated by the theory of victory which is the victorious perception that makes them see the end of battle to their own advantage.

DDR programmes also come with challenges. According to United Nations Office of the Special Adviser on Africa (2005) there are several challenges that characterise the implementation of DDR programmes which hinder state-building in Africa. Some of these challenges are directly linked to delays in the design of DDR programmes while others are due to the absence of qualified and experienced DDR practitioners in peace negotiations and pressure from major partners to have peace agreements implemented in the shortest timeframe possible.

The DDR in Sierra Leone was top-down process (Asiedu & Berghs, 2012) to the extent that it did not properly engage people at the communal level. The community-centric approach of reintegration would have been more effective in the country. From non-compliance with peace agreements to the restructuring of the programme and resurgence of armed conflict, but stability was restored towards the last phase of DDR in 2001 (Ginifer & Solomon, 2008). Titles given to female soldiers such as "females associated with the war," "dependents," or "camp followers" as noted by Mackenzie (2009) portray the reluctance of reintegration agencies to identify females who participated in war as soldiers; despite about 12 percent of the RUF members being women (Knight, 2008), meaning they were actively involved in the war. The problems that were inherent in the DDR in Sierra Leone resulted from poor conditions in the demobilisation camps as well as ex-combatants not receiving their entitlements at the right time (Thusi & Meek, 2003). This seems to be a common problem with many DDR programmes.

The problem of resource use characterised the demobilisation and rehabilitation phases of the DDR in Sierra Leone where limited space and food in camp had to be shared with dependants and ex-combatants. Managing such a problem was challenging as access to welfare materials became an issue. This was an error on the part of managers who implemented the programme (Kai-Kai, 2006). Some ex-combatants were reluctant to leave rehabilitation centres after discharge, and the problem of double identity manifested

in the DDR package delivery as some people who were designated former combatants later claimed victim status and benefited again from the victims fund, while some others received nothing (Asiedu & Berghs, 2012).

There was a notable problem of threat of incomplete weapons surrender and perception of remobilisation by some rebel members who were expected to participate in the DDR.

This is because partial surrendering of weapons by combatants poses grave danger to the success of DDR programme. The problem of insincerity played out in Sierra Leone where there was insincerity by one or both parties i.e. the RUF could not be trusted in sustaining the agreement especially from their record of launching attacks in Freetown in 2000 which also affected UNAMSIL peacekeepers (Smith, 2001). This lack of trust and readiness to be trusted threatened the process. According to Theidon (2007) DDR programmes will be increasingly forced to consider the 'R' that traditionally seems to be the weakest link in the chain; therefore, going beyond the measures that prioritise offering repentant belligerents some incentive for accepting ceasefire, in preparation for disarmament and demobilisation, which would surely create way for the truth, justice and reconciliation.

Post-DDR confidence building has centred on youth-focused peacebuilding which seeks to give the youth a sense of belonging through reorientation as well as the enlightenment of elders and other stakeholders on inclusion of youths in the area of community development and decision making, being more beneficial than a situation where elders list the dangers of youths questioning their authority (Tom, 2014). Such participatory development remains critical in discouraging the resurgence of arms proliferation and rebellious activities. Community awareness and development remain crucial to national stability.

Since the completion of DDR, post-conflict sensitisation by non-governmental organisations in form of radio jingles, cultural activities, community-level discussions, have dominated peace awareness campaigns that are aimed at sustaining the atmosphere of positive peace (Kilroy, 2014; Tom, 2014). Such channels are instrumental to conflict prevention, peacebuilding and community security provision. This should be supported by Paramount Chiefs through their timely response to various concerns of youths in the rural governance especially their involvement in handling social relations to complement the efforts of government promoting empowerment of young people. Traditional institutions especially the chiefdoms have a role to play in sustaining the peace, by emphasising on the benefits of peacefulness, inclusiveness and equal rights for all to enable the youth especially those who were children or not born during the war, to appreciate peace and eschew any act of conflict in communities. So far, the success of the DDR manifests in the non-militarisation of communities, as the security forces cooperate with people including youths in the society.

Conclusion

The failure of governments to contain conflicts at latent phase explains why the problems escalate thereby making it difficult for conflict transformation that would be acceptable to the actors to take place. This is why history should be our guide in using past events to prevent contemporary problems. From the time the government of Sierra Leone lost control of the country, it was obvious its monopoly of violence had declined thereby creating the need for the involvement of more stakeholders from outside the country who were expected to broker peace and sustainable security. A recurring challenge facing most peace initiatives is that various governments seem to be more interested in the success of disarmament and demobilisation phases than complete reintegration of ex-fighters. The short period of rehabilitation does no help the situation as desired.

During the peacebuilding initiatives, the government was planning and initiating DDR, while the rebels were making their position hardened and focused on what they intended to gain, thereby making remobilisation a reality. The success of the state-building was as a result of the joint problem solving approach adopted by the National Committee for Disarmament, Demobilisation and Reintegration (NCDDR), Executive Secretariat, ECOMOG forces, the UN Observer Mission in Sierra Leone (UNAMSIL) and other stakeholders.

Sierra Leone's DDR process is regarded as rewarding with positive outcome, as elements of the Sierra Leone 'model' were replicated in neighbouring Liberia, in Burundi, and as well as Haiti. A total of 72,490 combatants were disarmed and 71,043 demobilised, and 63,545 former combatants participated in the reintegration segment, including 6,845 child soldiers (Ginifer & Solomon, 2008; Kilroy, 2014). Participation rates in the DDR programme were high and peace has been maintained in Sierra Leone for over two decades since the end of the civil war.

Findings from this study show that poor ethical consideration could affect any peace agreement, thereby undermining a DDR programme. That is why stakeholders need to remain committed to avoid acts that encourage negative peace. Sustenance of good governance and improved social integration could be significant in addressing some of the challenges inherent in DDR programmes. The roles played by the security forces in the armed conflicts make it pertinent for security sector reforms to be one of the first priorities and remains strategic just like the DDR itself. The fact that in Sierra Leone, some members of the armed forces fought against the government and its interests, indicated that even after DDR there was need for continuous confidence building initiatives to avoid remobilisation for sustainable peace. This study argues that the remobilisation of combatants after peace agreements increased the intensity of the war which necessitated more external intervention to create enabling environment for state building and security sector reforms. Sustaining peace in Sierra Leone demands continuous

empowerment of youths and their active involvement in informal peace education. Therefore, post-DDR peacebuilding should be more youth-focused and development oriented to prevent the resurgence of armed conflicts.

It is hoped that Sierra Leone would not experience such a devastating war in the future and this can only be guaranteed when continuous security guarantees and provision of basic human needs are prioritised to motivate ex-combatants to remain peaceful and shun any temptation remobilisation. It is recommended that while DDR programme is ongoing, stakeholders should stop addressing ex-fighters with their group name to prevent giving them psychological strength or influence.

To overcome challenges in DDR, much attention should not only be given to disarmament and demobilisation phases of DDR, rehabilitation/reintegration phase demands more coordinated actions to ensure proper implementation of reinsertion and successful reintegration of ex-combatants into their communities. The Chiefs in rural areas, local government and leaders at the national level should not take for granted the experiences acquired by ex-combatants in terms of handling weapons to avoid the temptation of remobilisation. This could be achieved by giving them recognition as partners in peacebuilding and a sense of belonging in the governance of their communities and the entire country.

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United States: A Review of the US Middle East Policy from Harry Truman to Bill Clinton

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Abstract: Since the Second World War, the Middle East has been mentioned in connection with the national interest of America manifested by US presidents. This paper looks at the US foreign policy in the Middle East from Truman to Clinton on the premise that the US foreign policy has contributed to creating a breeding ground for dissatisfaction toward the US In this context, the paper focuses on the doctrines in use from the time of President Truman to Clinton. Thus, every American president has a doctrine, and this doctrine tells what political line the president follows regarding domestic and foreign policies.

Keywords: Middle-East, Israel, US national interest, Soviet Union, Natural resources, ideologies.

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Introduction

In the wake of the Second World War (WWII), the United States of America (US) started showing interest in the Middle East. With Harry Truman's uncompromised support for the newly created state in Palestine, Israel, the Middle-East became an essential part of the US global policy. The US isolation policy that advocated non-involvement in the European and Asian conflicts and non-entanglement in international politics during the 1930s, gave space to Britain, France, and Germany to act actively and independently in the Middle East. However, the dev-

astating economic consequences of the WWI and its impact on the US economy pushed the policymakers in this country to rethink their isolationist policy. In the aftermath of WWII, a radical change occurred in the USpolicy towards the Middle- East to preserve its vital security interests there. Three essential pillars have played a crucial role in the US Middle East post-war policy:

1. Preventing the Soviet threat and its impact on the region,
2. Keeping Israel secure,
3. Maintaining stability in the area to ensure oil flow to the US and the West.

The Concept of Civilisation and American Foreign Policy

The 20th century can also be called the American century. In the second half of the 20thcentury, the US became dominant in world politics and the global economy. US dominance was based on a combination of economic, political, and military power and on an ideology that the US stands for values that the world should take to heart. To recall ex-president George W. Bush after the 11/9/2001 assault, who said:

> "There is a value system you cannot compromise with, and it is the values we salute. Moreover, if these values are good enough for our people, they should also be good enough for others, not to impose it because they are God-created values. They are values of freedom and human rights and maternal love for their children (Andersen, 2003, pp. 46-47)".

The American power in the second half of the 20th century was used to promote American values worldwide, first in a showdown with Nazism and Japanese militarism, then with communism. It has indeed been the US self-perception that they must subjugate the non-civilized areas and give them part of American values (Rose, 2000). As George W. Bush said in the presidential campaign in 2000, "Our nation is chosen by God and commissioned by history to be a model to the world" (Nielsen, 2003).

During the Cold War, American politicians managed to convince many traditionally isolationist (Nye, 2014) Americans that communism was a threat to the American way of life. We may also remember that America helped to motivate European counties after WWII to establish a military alliance to defend their common interests. In 1948, this alliance was first called the Western Union and later became known as NATO (Yost, 2014). International responsibility and participation in NATO were observed reverse order the US wanted to make the world safe, but also because it was part of US self-defence program and foreign policy. There was a radical change in American security and Middle East policy when Ronald Reagan came to power because Reagan's view was that the war against communism must be won at any cost. Therefore, the war against communism had priority over all other things.

Since the Second World War, the US government has faced many problems in the Middle East, among which was the continuing conflict between the Zionist state in Palestine and the Arab states. This conflict was the reason why the Arab world became divided between conservative and radical states. In 1945, when the European influence was still active in the region, the Arab countries were led by conservatives. However, in the following decades, the power was taken over by radical forces in Syria (l949), Egypt (1952), and Iraq (1958). In the middle of the 1960s, Palestinians in exile founded the group known as the Palestinian Liberation Organization (PLO), which aimed to work for the formation of a Palestinian state (Spiegel, 1985).

Following this, the US government developed three primary objectives in the Middle East. First, it defended the right of Israel to exist. Behind this attitude were mainly domestic political pressure, humanitarian and theological terms, and the need for a reliable strategic ally in the region. Second, it supported peace in the region on the assumption that war and unrest would allow the Soviet Union to gain political or military influence. Finally, the US continually sought to reduce the spread of revolutionary Arab nationalism for the sake of Western strategic and economic interests, including access to oil and preventing Moscow from gaining political influence (Rubin, 2002). Faced with the power balance that existed between Israel, the conservative Arab states, and the radical Arab states, the US policies often sought to strengthen both Israel and the conservative Arabs.

Truman and Eisenhower's Middle East policy

The first US President to recognise Israel as a state was Harry Truman. On May 14, 1948, after an eleven-minute meeting with the Zionist leaders, he officially announced his recognition of the new state. The president participated as a facilitator when Israel was founded during his first presidential term. In August 1945, he publicly supported the Zionist claim that 100,000 Jewish refugees should be allowed to immigrate to Palestine, at the same time thousands of Palestinians were forced to leave their homeland. After the presidential election in 1948, Truman pledged the US support for Israel and granted a loan of $90 million (Bar-Siman-Tov, 1998). His support for Israel was the cause of the worsening of the US relationship with the Arab governments and those who opposed the extensive immigration to the Jewish state in Palestine. For the first time, terrorists carried out a bomb attack on the American theatre in Cairo, in which five people were killed. Truman's support for Israel also challenged the Arab nationalist ideology and attracted a great sentiment of anti-Americanism. Thus, the US was seen as a Neo-Colonial power, replacing the old European colonialists.

After Truman, Eisenhower came to power at a time when the centre of gravity in the US-Soviet rivalry moved to the Middle East thanks to the Nasser who was the president of Egypt with a pan-Arabism ideology depicted the Western countries and the US as

the main reason for the Arab nation's backwardness (Robby, 2020). Then, Eisenhower needed to convince the Arabs that the US policy was impartial and neutral, while at the same time, he was trying hard to placate the Arab states so much that they would refrain from providing facilities to the Soviet Union. It was clear that unrest would lead to a weakening of Western influence in the region and possibly increase Soviet influence (Spiegel, 1985). In March 1957, Eisenhower pledged financial aid and troop support to friendly governments in the Middle East, especially those threatened by the Soviet Union's expansionist foreign policy. The doctrine was intended to:

1. Prevent Moscow from gaining a foothold in the Middle East,
2. Placate growing nationalism and control modernisation, and
3. Maintain access to oil and otherwise stabilise the region (Yaqub, 2006).

The problem with Eisenhower's doctrine was that it gave the US the right to interfere in the entire region with no regard for the Arab National sovereignty. His doctrine did not improve US relations with the Arab world because the doctrine was utterly contrary to Arab interests. There was widespread support in the Arab world for the Egyptian leader Nasser, Israel's primary opponent. He led a media campaign against the conservative states of the Arab world, such as Jordan and Saudi Arabia. There was a popular rebellion against King Hussein, and the rebels were about to overthrow his regime. However, Eisenhower sent $10 million as emergency aid and moved the US Navy to the Mediterranean to prepare for a possible military intervention in Jordan. Jordan was essential for the United States because King Hussein had a moderate policy towards Israel, and he was against nationalism (Spiller, 1981).

John F. Kennedy and Arab nationalism

The American relations with the radical Arab states were beginning to improve during the presidential term of John F. Kennedy, who had a subjective understanding of Arab nationalism. He was the first president who was seeking a rapprochement with Nasser by sending diplomats to Cairo. The Arabs initially rejected his plan for the Middle East because he proposed to finance the settlement of Palestinian refugees in Iraq and Syria. The proposal, which was justified by Israel's overpopulation problems, looked like an Israeli plan. As the mid-term elections of 1962 approached, Kennedy eased the US pressure on Israel, and the refugee crisis remained unresolved (Spiegel, 1985).

Richard Nixon and the Cold War

When Nixon came to power, the USA was not as secure compared to a few years earlier because of the US Vietnam policy. The US withdrawal from Vietnamin the early 1970s resulted in the US becoming weaker in the fight against China and the Soviet Union. US influence over its closest allies in Western Europe and Asia was also lower during the 1960s. Western Europe had achieved stability and prosperity and was economically

and politically less dependent on the US. The Japanese economy was also revived, and Japanese exports began to rival many US products (Roslyng-Jensen, 2003). It was also clear that the US and Western Europe were, from the beginning of 1960, dependent on oil from the Middle East. The Nixon administration saw the Middle East's problems through the prism of superpower issues.

Nixon and his national security adviser, Henry Kissinger, used the Middle Eastern states as pawns in their global chess game with the Soviet Union. Nixon and Kissinger dealt with Israel as a vital element in US strategy, and they approved the irregular borders as they oversaw the Six Days War and provided Israel with military equipment (Ashton, 2007). Israeli concessions to the Arabs appeared (to Kissinger) as a US abandonment of the struggle against the Eastern Bloc.

Jimmy Carter and the Camp David Agreement

There is no doubt that Jimmy Carter was the first American president who used all his energy and time to achieve peace in the Middle East. President Sadat of Egypt was posed to sign two agreements, one of which declared peace between Egypt and Israel and laid out a timetable for Israeli withdrawal from Sinai. The second gave essential guidelines for the transfer of power in the West Bank and Gaza for the local population. Arab criticism was that Egypt gave up the most and it gave Israel peace in return for a territory that legally was its own, without achieving anything for the Arab countries. The agreement was a significant success for Israel, which had peace with Egypt and secured US promises of the supply of arms and oil, without having to make real concessions in the West (Spiegel, 1985). When Carter was in power, the US lost one of its most important allies in the Middle East: Iran. A regime change in Iran was a significant loss to the United States, and the Carter administration was afraid of an even more significant Communist penetration in the region. However, when the Soviet Union began the invasion of Afghanistan, the Carter administration saw an excellent opportunity to weaken the Communist armies in this war through the Afghan rebels. Therefore, the US government chose to support the Islamic movement, which was started in order to combat communism in Afghanistan. The US-Afghan strategy led to new cooperation between the US and Pakistan. Pakistan was thus a new ally for the US and a central location for the United States, which could manage the Afghan conflict there (Galster, 2001).

Ronald Reagan and the fight against Communism

Ronald Reagan was elected US president in November 1980 at a time when the relations between the superpowers were getting worse. The Soviet Union carried out in 1978-80 a series of political and military progressions in Africa and Asia, and the US responded through political moves and arms supplies. Soviet aggression in Afghanistan and an

Islamic fundamentalist revolution in Iran resulted in the Ronald Reagan administration giving up peace to concentrate on defending the Middle East against Soviet and Iranian influence (Spiegel, 1985). Reagan looked great in regional conflicts, and this is what he wanted, to protect American interests by building a strategic consensus between Israel and the Arab states from Egypt to Pakistan (Cobban, 1989). To build strategic consensus, he assisted friendly governments in Turkey, Pakistan, Egypt, Saudi Arabia, Israel, and Jordan.

It was Reagan's view that the Soviet Union would have access to oil in the Arabian Peninsula and he would do anything to destabilize the situation in Afghanistan to help mujahedeen against communism. Pakistan got a new supplier for helping the anti-Soviet partisan movement in Afghanistan.

Lars Andresen, a Danish professor, notes in his book that Reagan carried out real politics (realpolitik) as the USwas about to find alliance partners in South Asia and the Middle East in the struggle against communism (Andersen, 2003). There were different organisations in Saudi Arabia, which sent young Muslims to holy war in Afghanistan, where the young people were strictly trained to fight against communism and received financial help from the King family in the Gulf countries. The United States also supported mujahedeen with different weaponry, and the CIA also played a very significant role in the war with their agents (Andersen, 2003). According to Zachary Lockman, when the young Muslims returned to their home countries, they felt that they had defeated the Soviet Union, who was one of the superpowers of the world. Therefore, they felt that they were now able to overthrow their corrupt regime and maintain an Islamic state. However, this dream was never fulfilled, and many of them met stiff resistance from their government. Gradually, it became clear to the young Muslims that the United States had supported their corrupt home regime, and, therefore, many of them chose to direct their hatred and frustration towards the US and joined Al-Qaida under the leadership of Osama Bin Laden (Lockman, 2004).

Reagan's relationship with Iran after the Shah's Fall

Iran had a good relationship with both the US and Israel before the Shah's fall in December 1978, and a keen Iran for keeping their relationship with the US was considered to be in the US interests (Simbar, 2006, pp. 76-78). This interest in Iran was due to the country's neighbour, Iraq, which was under a nationalist government, and Iraq was more open to the Soviet Union. Conservative regimes were given an even more significant role in US policy after clerics ruled Iran. There was also a high risk that Iran would export the revolution to the entire region. Iraq went to war against Iran to stop the Iranian influence in Iraq and a Shia revolution in the region. Thus, there was an opportunity for Reagan to shift US support from Iran to Iraq because Iraq was in combat against the Iranian regime. Iraq came into this significant role after the clerics

overthrew the Shah's regime. This shift in US Middle East policy was crucial for Reagan because he could preserve peace and stability in the region and ensure the flow of oil into the West. Many people ask today why the United States and the West did not respond when President Saddam Hussein of Iraq attacked the Kurds with chemical weapons. The answer is that Saddam's regime at this time was more important for the US than anything else, and as a result, the US was forced to support a dictatorial regime like Saddam's (Andersen, 2003).

The US Middle East policy during the Cold War

The US foreign policy can be analysed from two different school perspectives: realism and idealism. In realism, power has the priority overvalues and ideology, and power is the key to stability and security, but in idealism, there is an emphasis on the need for achieving peace and security (Andersen, 2003). The Cold War divided the world between the US and the Soviet Union and their respective allies in what has subsequently been called the bipolar world order. These two superpowers were representing each of their different ideologies.

I have chosen to start from the Truman doctrine because of his doctrine, in my opinion, is the foundation of American foreign policy during the Cold War. The Truman Doctrine provides the framework for the Cold War regarding who the enemy is and what the US role would do about this enemy. It stated:

> "One of the primary objectives of the foreign policy of the United States is the creation of conditions in which we and other nations will be able to work out a way of life free from coercion. We shall not realize our objectives, however, unless we are willing to help free peoples to maintain their free institutions and their national integrity against aggressive movements that seek to impose upon them totalitarian regimes. This is no more than a frank recognition that totalitarian regimes imposed upon free peoples, by direct or indirect aggression, undermine the foundations of international peace, and hence the security of the United States" (Anders, Fredrik, Oyyind, &Torbjorn, 2008, p. 335).

It can be inferred from the Truman Doctrine that the US' interest is to fight causes that threaten their interest in the world and their safety as a nation. The US considers communism a threat that will challenge US power in the international system. The background of the US perception of communism as a threat, arises from ideological differences. Communism hinders the spread of American capitalism as an ideology, and the US has an economic incentive to fight communism. This threat will be realized by a promise of US military aid to countries that are threatened by communism, as was the case in Greece and Turkey, which received financial assistance (Branner, 2002). After the Second World War, the Middle East became strategically and economically important for the United States. In 1931, the California millionaire and globetrotter

Charles R. Crane visited Saudi Arabia, which led to negotiations with the new kingdom and with the oil companies with a conclusion of a 60-year contract to extract oil in the Gulf. The agreement was signed in 1933, and in 1939, the transporting of Saudi oil to the US began through the Saudi Arabian company Aramco (Andersen, 2003). Up to 1947, US interests in the area were so little that the US did not even have an ambassador in Riyadh.

However, with the development of the first Cold War and the American Containment policy towards the Soviet Union, the area grew not only economically but also became politically and strategically important for American foreign policy. At this time, the seven major oil companies, called the Seven Sisters, had secured full control of Arab oil. In 1950, the Seven Sisters became responsible for 99% of oil production in the Middle East and 50% of the worldwide production (Gettleman & Schaar, 2003). The Second World War was followed by a period of rapid economic development in industrialised countries increased private car production in Europe and particularly in the US It resulted in the need for oil doubled in the period 1950-1965, and oil was expected to be an efficient and clean energy resource, which was preferred over coal.

However, the great powers' influence started to diminish. For example, the United Kingdom (UK) faced many economic problems after the Second World War, and it was difficult for the UK to keep its position as a colonizer in the Middle East. It no longer had the resources needed to retain control of the Middle East. Therefore, the UK was not able to maintain its power over Palestine; hence it handed it over to the UN. This resulted in the US taking over the western influence in the area fearing that it would fall into the hands of the Soviet Union. The United States wanted the Middle East to be part of the global anti-Soviet defence, aimed at blocking communism so that it would not expand.

US involvement in the Middle East had as its purpose that the Soviet Union would not gain control over the vast oil reserves. It happened at the same time that oil had a vital importance for US industrial production and economic and technological development. US interests in the Arab region's oil resources have resulted in their direct involvement in the region. During the first oil crisis, the then American Secretary of State, Henry Kissinger, said that the US would not rule out the use of force. They threatened to intervene militarily in the Arab countries if they limited the Western world by limiting oil availability (Bowcott, 2004).

The fact that US oil consumption was the largest in the world and the most massive oil deposits are present in the Middle East makes oil one of the primary determinants of US involvement in the area. In this context, free access to oil is a vital interest to the United States, mainly to prevent the Soviet Union from gaining more power around the world.

US military presence

Another critical aspect of the US Middle East policy is that the US has a keen interest in maintaining stability in the region so that oil flows unimpeded through the Arabian Gulf. The US and Saudi Arabia reached an agreement in 1945, observing military protection for Saudi Arabia in return for the United States having priority access to its oil sources (Rubin, 1979). With direct military support to the Saudi Arabian royal family, the US cemented its influence in the country. The agreement created a symbiosis that developed the US military presence into a necessity for both the US and Saudi Arabia. Symbiosis can be seen in the Saudi royal family who needed the US support and presence to stay in power, and the US has agreed to military protection to maintain their necessary oil supply. The main reason that the United States did not want to remove the Saudi royal family from power was fear of unrest and instability in the oil-rich area. At the same time, we must also remember that Wahabism also had a significant role in this agreement between the US and Saudi Arabia. For example, part of the agreement included that religious leaders would not interfere in national politics, and their only request from the Royal Family was that the Constitution should have an Islamic basis. However, this picture has changed after the Iraq-Kuwait war and especially after the Saudi royal family offered military bases to the American armies.

Another primary reason for excessive anti-American sentiments in the Arab World is the US handling of the conflict between Israel and Palestine. Since the creation of Israel in 1948, Israel has received crucial financial support from the US, and in the period from 1948 to 1988, Israel received an overall US contribution that amounted to $65 billion. Although a significant proportion of aid was in the form of military aid, in 1983, Israel got an economic aid amounting to $487.50 per capita, while other countries in the region received far less, such as Egypt which received $23.28 per capita (Zunes, 2002). Besides providing Israel with direct economic and military aid, the US has also supported Israel in the following vital areas:

- Israel has free access to the most advanced military technology and Intelligence.
- Israeli producers are allowed to compete with US producers, mainly in NATO and in the third world.
- Investment in an Israeli equipment
- Include Israel in Strategic Defence Initiative (SDI) research program.
- Direct the majority of US embassies around the world to help the Israelis to promote Israel's political and economic influence
- Israel is still the country in the world which receives the most exceptional support from the US, in the form of American military and economic support (Andersen, 2003, p. 113).

The underlying interests of US support for Israel

No other state and no Arab country have ever had such an intimate, distinctive relationship to the internal political process in the US as Israel. This is partly due to the American Jewish community, who is willing to make an extraordinary effort to help the state of Israel and disseminate a pro-Israeli opinion across the American society as reflected in the US Congress and successive administrations. Approximately two-thirds of the world's Jews live in Israel and the United States. There is a deep connection between Israel's 3.4 million Jews and the 6.6 million US Jews (Nauntofte, 1987). It is the Jewish community in the US who is the real impetus for the unique relationship between the US and Israel. At the same time, a significant majority in Congress, which has always been willing to provide Israel with generous financial support and weapons, has always been supported by pro-Israeli lobbying organizations.

The Jewish lobby in the US is an influential factor in American foreign policy in connection with Israel. An organization like the American-Israel Public Affairs Committee (AIPAC) is today the most powerful lobby in Washington, which, due to its enormous economic resources, can lead a reasonably simple but very effective strategic plan. The strategy is to finance the election campaign of a candidate for Congress and then, if he/she is elected, to try to promote AIPAC's issues through powerful presence. Lars Erslev Andersen has written in his book, "For an American politician who has received campaign funds from AIPAC, it can be extremely harmful to the candidate to put themselves out with AIPAC" (Andersen, 2003, p. 140).

A concrete example of the Jewish lobby power appears during Clinton's administration. The Clinton administration included several eminent people who were under strong influence from AIPAC.

Furthermore, the Jewish community in the US in 1992 contributed to 60% of Clinton campaign funds, and 80% of American Jews voted for Clinton in that presidential election. That gave Clinton an insufficient ability to push Israel into the peace processes that he worked hard on. In April 1998, AIPAC wrote a letter to Clinton, where they appealed to him, saying that he was not pushing the Israelis in peace talks in London. The letter was signed by 81 of the 100 senators (Andersen, 2003).

The US has historically condemned the Jewish settlements in the occupied Palestinian territories, but it has never imposed direct sanctions on Israel. Moreover, when Israeli settlements spread beyond the region to integrate some of the areas in Israel, it was the American taxpayer who paid to finance that process of illegal restructuring of settlements. It is because of this that the reluctance to support the United States is rapidly increasing in all Arab countries (Chomsky, 2003). Another reason for US support for Israel can be seen as a result of the security interests in the Arab region during the Cold War. The following four points indicate what objectives US foreign policy was prone

to foster:

1. Enhance US national security and its international role and prestige
2. Facilitate US access to world markets and essential natural resources (including energy)
3. Match the Soviet military and political influence around the world and undermine the communist economic and political systems
4. Maintain Israel's military superiority over Arab countries

These points were put forward in 1988 when the Soviet Union was still strong enough to threaten the national interests of the United States. Paragraph three shows US security interests about the promotion of American values in Israel. This point was very relevant during the Cold War when the United States saw communism as its most significant threat. In particular, Ronald Reagan led the security policy, as Lars Andersen describes it, as a conservative civilization approach aimed at combating civilizations that threatened their culture and tradition, including war. Therefore, a secure Israel, and thus, ironically, an entire secure region, would have projected American values, which was needed as a bulwark against communism. Paragraph 4 is a natural extension of this idea but also an expression of the Israeli lobby in the US Section, to illustrate how the US acted as hegemony.

Nevertheless, there is a religious dimension to this issue, too. There are biblical and historical reasons for the goodwill that Israel enjoys. There is a feeling of guilt because of the fate of the Jews in the Holocaust. For the Christian Zionists in the US (the Republican right-wing), it is also about helping the Jews rebuild the Temple in Jerusalem because it would open the way for the Second Coming of the Messiah (Andersen, 2003).

The New World

The US Middle East policy after the Cold War and the Soviet Union's capitulation in 1989 changed the world system from Bipolarity to Uni-polarity. Thus the United States returned to being the sole superpower in the world. This led to the US role in the Middle East to get a new meaning. This was built on the fact that all other countries in the world system now had to take into account the United States, without the possibility of allying with another superpower. US interests could now be managed without regard to the threat that the Soviet Union had previously posed against them (Herrmann, 1994).

After the Cold War was over, opportunities disappeared in the Middle Eastern Arab countries to seek the support of a superpower in the fight against US-supported Israel. As a matter of fact, these countries had to engage in dialogue with the United States. As the United States ceased to be the sole superpower in 1991, there was a peace process between Israel and a few Middle Eastern Arab countries. The new world system led those Arab countries to realize that they cannot make peace on their own because,

with the United States as the sole superpower, they had to seek other ways, such as negotiation.

George H. W. Bush, Sr., launched the term *New World Order* on 1 October 1990 in his speech to the UN General Assembly. In that speech, he primarily described the arrangements which the UN had made against Iraq because of Iraq's occupation of the neighbouring state of Kuwait. However, the main speech was a vision of creating a new world with the help of the UN. The goal was to increase democracy and prosperity and to reduce militarization, which would have been achieved through international and regional organisations (Branner, 2002).

George H.W. Bush Senior described the objectives of Congress, on 11 September 1990 as follows:

> "Out of these troubled times, our fifth objective – a new world order – can emerge a new era – freer from the threat of terror, stronger in the pursuit of justice and more secure in the quest for peace. An era in which the nations of the world, East, and West, North and South, can prosper and live in harmony" (Ougaard, 1992, p. 141).

The quote is from an article in the Washington Post which appeared immediately after Iraq invaded Kuwait and expressed a vision in which East and West, North and South, were united in peace and harmony. The United States saw itself as the natural leader in this context "... the United States remains the only state with genuinely global strength, reach, and influence in every dimension (Ougaard, 1992, p. 142)".

The Powell Doctrine

Colin Powell was the US Chief of Staff during the military intervention in Iraq before Operation Desert Storm, and he formulated his doctrine to the US defence and government. Powell's doctrine implied that the US should limit its military interventions into those conflicts, which he saw as easily overcome quickly and richly victorious. This perspective included that the military interventions must be done by using sufficient military force, which would ensure minimal casualties within the Americans military establishment. An involvement would have required broad popular support and a clear focus. This doctrine could be viewed in light of Americans' traumatic experiences from the Vietnam War (Olsen, 1991).

The Powell doctrine has been the benchmark for how the US has led war since its formulation. The doctrine was implemented for the first time in 1991 during the Kuwait war and later in Kosovo in 1999. In 1991, during the Gulf War, it was a very successful strategy, since the war was short. In Kosovo, it was used in this respect when the US conducted air bombardment. By managing to limit the duration of the war, the US forces were successful in avoiding the loss of lives and thus confirmed the premise. To that

effect, America could allow itself to formulate a document such as the Powell Doctrine that can be considered a result of a long standing emphasis on the military.

A few years after the Cold War ended, despite significant multilateral opportunities, the election of George H.W. Bush Senior led the US to emphasise the selectivity of their military commitment. This policy of selectivity demonstrated that the United States, through its foreign policy line, gave more weight to its military than to international cooperation.

In August 1990, Iraq invaded the neighboring state of Kuwait due to economic reasons. Iraq announced that Kuwait had exceeded its oil production quota agreements, which were managed via OPEC. Excess production had resulted in a decrease in the oil price, which badly affected Iraq since the country's only export source was oil. The low income had a substantial impact on Iraq because the country's reconstruction after the 8-year war against Iran from 1980-1988 was costly. Iraq also believed that Kuwait drilled Iraqi oil in Rumaillah oil field (Al-Sabah, 1990). A stable flow of cheap oil from the Middle East was vital for the United States to maintain or strengthen its capability, which was strong technologically and ineffective in weapons manufacturing. According to Neorealists' theory, the military force is the primary magic factor in international politics, and this is based on state capability, which ensures the oil resources to the industry. Therefore, the US' military capability is built on their weapons competitiveness compared to other states.

The US has, like many other Western countries, their own production of oil, but production is costly compared to oil imports from the Middle East (Jerichow, 1993). It is in this context, and one can see the Gulf War as an expression of oil interest affecting the US On 8 August, President Bush, Sr. declared that America would send troops to Saudi Arabia and the Persian Gulf under the code name "Desert Shield". It was stressed by the President that "our troops' mission is purely defensive... They will not begin hostilities, but they will defend themselves, the Kingdom of Saudi Arabia, and other friends in the Persian Gulf" (Olsen, 1991, p. 60). The president tried to outline US interests in the crisis: "Our jobs, our lifestyles, our freedom, and freedom of Western-minded countries everywhere will suffer if control of the world's enormous oil reserves falls into the hands of this man, Saddam Hussein" (Olsen, 1991, p. 61).

This crisis could have moved the balance of power in the world because if Iraq took over Kuwait, they would have had a very significant percentage of the world oil resources and thus could have pushed out the West. It would have weakened the US power in the region and also their control of oil resources. Therefore, it is not difficult to answer the question of whether it was Kuwait's 2 million inhabitants or the oil resources that the US was interested in liberating.

On 8 November 1990, George Bush, Sr. said that the US would send 200,000 more soldiers to Saudi Arabia. From August to November, the US strategy was to build an international coalition against Iraq. The transition from a defensive to an offensive strategy is primarily found in that Washington slowly became aware of the extent of the enormous war machine that Iraq possessed. The CIA and other Western intelligence services have, for years, had a secure knowledge of the vast store of Iraqi arms, including weapons of mass destruction (Olsen, 1991). After the collapse of Eastern Europe and the *Warsaw Pact* in 1989, the US military establishment, like other Western countries' defence, realized that the so-called "ascending" regional powers in the Third World could upset the existing balance in the world. The perception was formulated by the US Army Chief of Staff, General Carl E. Vuono, who wrote in April 1990:

> "The proliferation of advanced military capabilities has given an increasing number of developing countries in the developing world the ability to wage sustained, mechanised land warfare. The United States cannot ignore the expanding military power of these countries, and the army must retain the ability to defeat potential threats wherever they occur. It could mean confronting with a well-equipped army in the Third World'' (Klare, 1992, p. 134).

Based on the quote mentioned above, and on similar studies from other US military personnel, we can hardly doubt that a critical objective for the US transition to the offensive strategy was to curb a potential high power in the Third World. During the crisis, it came to be clear, however, that the United States, Israel, and Western countries feared the large Iraqi army. Therefore, the destruction of Iraq's aggressive capacity was crucial.

The US could remove Saddam Hussein, but they did not, because they did not want him to be replaced by another leader who might have taken the region to further instability. Instead, the Americans were trying to destroy Iraq's production of chemical and biological weapons and their attempts at developing nuclear weapons, probably because they feared an Iraqi attack on strategically important countries such as Israel, Kuwait and Saudi Arabia.

US policy in the Middle East after the Gulf War

After the Gulf War, it was apparent that the US had to focus on peace around Israel. Iraq had tried to drag Israel into the conflict by attacking Israel. In this way, President Saddam Hussein hoped to get the Arab world's support. Israel was warned that it could not repay Iraq's attacks with Scud missiles, as it was believed that it would gain Iraq the support of the Arab countries (Andersen, 2003). It was clear to the US that he Israel-Palestine conflict should be resolved to ensure stability in the Middle East. After the Gulf War and the liberation of Kuwait, Americans viewed the Middle Eastern states as having a status change, which is why Clinton chose to spend much of his mandate in the White House getting the Israel-Palestine conflict resolved. In short, this

meant that the US began to watch stronger regional powers that might revolt against American leadership.

Israel was strengthened in the short term in the region after the Cold War. Syria lost the Soviet support for its army, and the PLO and Jordan suffered from economic and political damage because they supported Iraq in the Gulf War. Regional powers in Clinton's time threatened the stability of the Middle East. Therefore, his policy emphasised stability. The Carter doctrine stated that any attack against the stability of the region would be regarded as an attack on US interests. The US considered Iran and Iraq, especially as threats to regional stability. In Iran, the danger existed due to the Islamic revolution in 1979 and the fundamentalist wave it might have brought. Iran's policy in the West was perceived as expansionist and political elements were seen as directly hostile to the United States.

Iraq had approximately one million combat-trained soldiers after the ceasefire with Iran in 1988. The United States, for fear of Iran, initiated a closer relationship with Iraq beginning in the mid-eighties. The US used Iraq to counter balance Iran and ensure balance and stability in the Middle East. The same tactic had been used earlier when the United States had supported the regime in Iran until the Iranian Revolution in 1979. The idea was that the UScould steer developments in the Middle East through a surrogate state. The problem was that both Iran and Iraq had ambitions to become a regional superpower, threatening US hegemony in the Middle East. After the Gulf War, both Iran and Iraq became the most significant threats to stability and oil interests. The Clinton administration formulated thus the "dual containment" doctrine, which ensured that the two countries must not become regional superpowers. The dual containment was a response of the United States realising that it was impossible to verify their policy. Instead, the US would seek to dissuade them from being reinforced. The strategy was also an attempt to minimise Iran's influence on the Arab-Israeli peace process.

The impact of US Middle East policies on the conflicts in the area

Before we highlight the role of US Middle East politics in the conflicts in the MENA, we need to identify the mechanism for how the political decision-makers work together in an integrated climate to decide on an issue, whether it is a domestic or a foreign one.

In the United States, there is the interplay between interest groups, state bureaucracies, state legislators, the president, and Congress. Since there are so many attitudes and possible problems that can be solved, it is impossible to hear them all. That is why the mentioned groups, the Iron Triangles, often occur. Some topics may get much attention due to public interest in the topic. A policy is legitimized through public statements or actions of government officials, including the President, Congress, state legislators, government officials, and the courts. This takes place in the form of executive orders,

budgets, laws and appropriations, rules and regulations and administrative decisions of the courts (Holsti, 2006).

An Iron Triangle consists of three links (Hayden, 2002). The first link is the senior management positions of the government. The second link is the Congress. The third link consists of the interest groups that have an interest in the problem. The participants are organized in mutually reinforcing relations between regulated interests and regulators. That is a community where each member is interdependent. The interest groups have some resources that the politicians are interested in. They can be in the form of donations to the politician and his or her campaign. Politicians provide access to the political arena, i.e. to Congress, and the Congress provides interest groups with a satisfactory solution. Together, they create an Iron Triangle, which in turn creates solutions to the problems that receive attention. In this model, AIPAC is perceived as an interest organization. AIPAC also holds a large portion of the money that politicians may well use for election campaigns, in return for some favorable choices and decisions in the policy process (Mearsheimer & Waltz, 2008). That way, they get access to Congress through the interested politician.

US policy impact on the Palestinian problem

William Quandt explains in his book *Peace Process: American Diplomacy and the Arab-Israeli Conflict since 1967* how politics and bureaucratic habits influence policymaking and implementation in regular times. However, the main point of the study is those few moments when politicians try to understand the confusing flow of events, and also when they try to connect actions with the intent behind them. Leadership capabilities and limitations are most evident.

Quandt begins by noting that since the dividing line represented by the June 1967 war, US Middle East policy has changed from an emphasis on the substance of peace to an emphasis on the process leading to peace. In some cases, the United States provided the destination and the mechanism, and that was the peace process at its best. Nevertheless, "at worst, it has been little more than a slogan used to mask the making of time" (Quandt, 2005, p. 2).

The primary American position during the period of making a deal between Arab and Israel remained remarkably consistent. In general, successive US administrations have supported the concept of exchanging land for peace, and the position that East Jerusalem is an occupied territory, and whatever its final status will be, it must not be divided again, and that settlements are at least an obstacle to peace. In this regard, the partnership with Jordan is better than an independent Palestinian state, and that Israel's military superiority must be preserved. The writer believes that the United States adheres to these positions firmly and is unlikely to change them significantly (Quandt, 2005).

The US-Egyptian relations

The Egyptian-American relations have gone through turbulence between the years 1964-1967. According to William B. Quandt, the US considered then Egyptian president Nasser as a threat to stabilization in the region. Consequently, the US Middle East politics played a massive role in the Six-Days war between Israel and Egypt, and after the Israeli defeated the Arab armies, Israel became an essential and vital ally of the US. Also, the support shown by the US Senate for the government of Israel and its projects was one of the "encouraging" ingredients for launching the 1967 war. The US Middle East policy played an enormous role, and in the post-Nasser era and the US willingness to adopt/embrace Egypt resulted in the normalization relation between Egypt and the West. It led to the Camp David Accords between Israel and Egypt in 1978 (Quandt, 2005).

The US policy impact on the Iraq-Iran War

In the 1980s, the strategy of the United States in the Arab Gulf has changed with the emergence of the "Carter Doctrine", which was announced by the US President (Jimmy Carter) to form the deployment or rapid intervention forces in the region. Thus, the United States viewed the Iran-Iraq war as a risk to the security of oil supplies and the war of navigation, so it rushed to form the rapid intervention forces in an attempt to discourage the Soviet Union not to think of any military intervention in the region (Hersh, 1992). Moreover, despite the US administration's declaration of its neutrality in the Iraqi-Iranian war with this understanding that the war was serving it and its allies, on condition that it did not extend to other regions.

The position on the war: The United States of America sought to declare its neutrality at the outbreak of the Iraq-Iran war in 1980, although it was not linked to any of the warring parties with diplomatic relations, and the US position was due to the fact that the war did not affect the allies of the United States in the region (Donovan, 2010). However, the American position did not remain at a consistent step during the years of the war. Instead, it changed more than once as a result of the developments and results of the military battles between the two sides, and that the US policymakers did not want Iran to achieve a victory. The reason for this is that the Iranian regime did not represent a threat against the vital American component in oil supplies and the security of Israel. As for Iraq, the United States sought to support its regime and considered it is less threatening its interests, but it certainly did not want to make it a friend or an ally (Riedel, 2013).

The position of the US in the war crisis can be classified into four stages (Murray, 2014).

1. The initial stage of the war, exemplified by the relative American neutrality
2. The stage of establishment of diplomatic relations with Iraq
3. The stage of Intelligence and military support for the Iraqi government against Iran
4. The stage of US military attacks against military facilities

The United States saw the Iraqi military superiority during the first two years of the war and the absence of diplomatic relations between it and Iraq as sufficient reasons to take a position of neutrality. Consequently, it did not have a strong justification for supporting Iraq openly and effectively, and that is what distinguished the first stage of the war, which extended from 1980 until 1983. As for the second phase, it was confined to the years 1983-1985, which was the period which witnessed a tremendous Iranian military superiority, ended up by the restoration of all the lands that Iraq controlled during the first years of the first phase. It resulted in pushing Iraq to retreat to the international borderline, which was what prompted the United States to take part in the conflict very actively without any hesitation. It fits with those developments, as it raised the level of diplomatic representation within Iraq to the level of an embassy, provided intelligence assistance and placed it at the disposal of Iraq. It also encouraged its regional allies, such as the Kingdom of Saudi Arabia and the State of Kuwait, to assist. As for the third phase, it came after Iran's occupation of the Iraqi (Al-Faw) peninsula in 1986, which was marked by the US military intervention in favor of Iraq and the beginning of the straightforward US military operations against Iran in 1988. Furthermore, with the heavy presence of helicopters and their secret reconnaissance missions in the Gulf region, and Special Forces that includes surveillance ships, made a clash with the Iranian forces unavoidable (Woods, Murray, & Mounir, 2009).

As for the fourth stage, it started from the fall of the year 1986 until the spring of the year 1988, and at that stage, the United States found that its position in support of Iraq during the previous stages did not contribute to making a significant change in Iran, so the American naval forces attacked Iran.

Conclusion

In conclusion, this study has tracked the Middle East policy of the successive American administrations from Truman to Bush, Sr., in the interest of Israel. The end of WWII led to the emergence of a new world order that obliged the United States to involve itself in the Middle East. This involvement occurred as a combination of a desire to guarantee access to oil flow, protect Israel, contain the influence of the Soviet Union, and secure regional stability in the Middle East. These factors used to maintain a balance of power against the Soviet Union until the fall of the Berlin Wall in 1989 and subsequently the fall of the Soviet Union.

After the Cold War ended and the world transitioned to uni-polarity, Israel was still a driving interest behind American foreign policy. US' unconditional support for Israel indirectly had a negative influence on the Middle East countries. Moreover, the US role in the wars that Israel waged against its Arab neighbours has contributed negatively to the American image in the Arab world and the Middle East. The reason for continued US interest in Israel goes back to the Jewish lobby being highly influential in US foreign policy. It is also in light of this that we must understand the US desire to see

the other Middle Eastern countries accept Israel as a state, which was reflected in its efforts to spark a continuous peace process. Another turning point in the Middle East was Iraq's invasion of Kuwait. This invasion has allowed Americans to establish their military bases on Muslim soil in Saudi Arabia. The US presence in Saudi Arabia was used to radicalize a large group of young Muslims against both American hegemony and Arab defeatist regimes. Young Arab radicalists would see their leaders as servants of America. A combination of historical and current conflicts have had a broad impact on the population in the Arab World, and it is this combination that the researchers think is the reason for the mass dissatisfaction with the US policy of today, considered to be a biased policy that we are experiencing in the Middle East today.

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East Asia: The Systemic Disorder and the South China Sea' Dispute. An International Law Prospects

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Abstract: This paper analyzes the South China Sea dispute when the international system lacks orientation and respect for the norms, values, and institutions. The conflict is conceptualized to encompass the States, International Law, and the East Asia order. The evidence demonstrates that ASEAN's regional order is more efficient than the US-Led Liberal order through UNCLOS. Additionally, it is necessary to overhaul and strengthen the institutional mechanisms from international Law regarding the United Nations. A change in the order and an international recognition are recommended to legitimize regional institutions to arbitrate territorial disputes.

Keywords: ASEAN; Regional Order; Conflict Resolution; South China Sea Dispute.

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The international system continues to exhibit changes and diffusion of power, which have created a complex structure of different orders and different domains (Johnston, 2019). China's rise is the target for this change, but power in global politics is no longer related to polarization. The establishment of a nonpolarity world is rooted in a systemic change, together with the creation of distinct East Asian orders due to the China's rapid technology and economic development. The effect was a regional development network reshaped to interconnect

factories and products, increasing exports and imports in many East Asian countries. Additionally, China drives for a domestic consumer market and its efforts to create a more ambitious regional network with the construction of numerous projects, increasing production and exports through the belt and road initiative.

Simultaneously, we witness the involvement of Asian countries in regional institutions, leading to a departure from the US-led liberal order, in particular when it is to decide or resolve regional issues. Concerning the dispute in South China Sea it seems that claimant's preference is ASEAN (Fravel, 2011). In the initial stages, China's position concerning the South China Sea was for delay strategy. Recently, China gradually shifted towards escalatory strategies but has mostly refrained from them and concentrated more on consolidating its position in the region (Roberts, 2018). Regardless of this, the dispute is China's heart sovereignty interest.

Sovereignty means the exclusive right and power of the governing body on itself, without any interference from the outside bodies. As defined by the Concise Oxford Dictionary, Sovereignty is the absolute authority of a State or nation to exercise governance by itself. Thus, when the State fails to do so, we can consider that we are in the presence of a "Failed State" (Pavia, 2017). Sovereignty incorporates rights and thereby ownership or title over a property. The South China Sea conflicts arise from competing for sovereignty claims by several states in the region, primarily by China, and countering these claims by the rival states with backing from the US.

With its vast yet largely unexplored resource potential, the strategically-located South China Sea is, understandably, a prize enticing many claimants under the guise of sovereignty (Cheeppensook, 2020). Over the past four decades, the competing states have not resorted to military action to settle any dispute due to the 'ASEAN Way' of using the concept and practice of consultation and consensus. This traditional Javanese approach may work in the 21st century, where the stakes in the region are high. The region enjoyed peace because the United States has enforced the freedom of navigation under the United Nations Convention on the Law of the Seas (UNCLOS) of 1982.

This instrument gave rise to several issues. This article uses it as a foundation and framework to analyze China's sovereignty claims in the region, its rejection of the Arbitral Chamber's jurisdiction and Award, indicating it is above the rule of law. The Convention's grant of freedom of navigation has been used by the US, a non-signatory state, and reliance thereon by former President Obama's Administration to maintain harmonious relations in the region.

The UNCLOS authority decline

China's started to claim South China Sea during the Han dynasty (206 BC to 220 AD) and through the ocean's use by fishers and merchants (Pham, 2010). Additionally, Imperial China's first official claim dates from a treaty with France on the Gulf of Tonkin in 1887

(Pham, 2010). China considered this area to incorporate the South China Sea based on its "nine-dash line" delineation. EU asserted that China marked its territorial claim using the so-called "nine-dash line," as first depicted by a Chinese cartographer on a map published in December 1914 and gradually adopted by Nationalist China (Er, 2016).

This demarcation incorporates 90 percent of the South China Sea, an area of approximately 150,000 square miles. Later on, the Republic of China proposed the nine-dash line in 1947 and later on validated by the People's Republic of China (PRC). The Chinese Maps, which were submitted to the UN, claimed that their territory included almost the entire South China Sea (Baumert & Melchior, 2014).

The requisite provisions for an analysis of disputes in the South China Sea are outlined in the 1982 United Nations Convention of the Law of the Seas (UNCLOS), signed on December 10, 1984 (Joshi, 2016). Under General Provisions in Section 1, Article 2 prescribes the following:

1. The sovereignty of a coastal State extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea (EUR Lex, 1998, p. 1).
2. This sovereignty extends to the air space over the territorial sea as well as to its bed and subsoil (EUR Lex, 1998, p. 1).
3. The sovereignty over the territorial sea is exercised subject to this Convention and to other rules of international law (EUR Lex, 1998, p.1).

Article 3 puts a limit on any territorial sea's breadth to 12 nautical miles right from the prescribed baseline. Article 15 provides that such demarcation would not apply where, because of "historical title", it may not be necessary to limit the territorial sea. The UNCLOS does not define historical title. Hence, China's claim over its sovereignty regarding the enclosed area by its "nine-dash line" perimeter cannot be decided firmly under the circumstances (Hughes & dos Santos, 2016).

Potential conflicts are bound to arise when any claim based on sovereignty leads to proclaiming an exclusive economic zone (EEZ), prescribed in Article 5 of the UNCLOS. This treaty limits the perimeter of an EEZ to 200 nautical miles from a country's coastal baseline. With several ASEAN members proclaiming their respective EEZs in the South China Sea, overlapping of "ownership" is inevitable, with some dubious claims capable of being disputed. This issue is addressed by reviewing the relevant articles of the UNCLOS (Keyuan, 2006). China is a signatory to the Convention, whereas the US is not. Contrarily, according to a former US diplomat, Chas W. Freeman Jr. the "South China Sea was a regional commons before the emergence of nation-states, with fisherfolk and seafarers using the sea for thousands of years without going into the issue of ownership of the largely uninhabited islands" (Joshi, 2016, p. 3).

The sovereignty claims of China over the South China Sea precedes the UNCLOS. Plus, given the South China Sea's strategic location and resources, many other nations have a keen interest in the region's developments. The US's foreign policies and strategies on Southeast Asia that are primarily based on freedom of navigation have contributed to the maintenance of peace in the area. US threat awareness breakwater after the US navy surveillance team's coercion by the Chinese Ships in the SCS in March 2009. Recently, the US ships' military operations were close to a confrontation with a Chinese destroyer in the South China Sea waters when the two vessels came within 41 metres of each other had raked up tensions between China in September 2018.

However, in the face of increased Chinese military activity, this includes naval maneuvers and exercises, as well as the construction of industrial outposts, ports, military installations, and airstrips on artificial land, particularly on Paracel Island and Spratly Island, a more aggressive reaction would be expected from the claimants' states of SCS. Furthermore, China has militarized Woody Island on which it constructed a radar system and from where it deploys fighter jets and cruise missiles (BBC, 2016). Such actions constitute the practical implementation of the new policy adopted in China regarding foreign relations, which incorporates its stance on the South China Sea.

Furthermore, China unilaterally proclaimed an Air Defense Identification Zone (ADIZ) over the East China Sea in November 2013. This decree demands that any aircraft flying within the 130-kilometer ADIZ must:

> "Report a flight plan to the Chinese government, maintain radio communication and respond to identification inquiries from the Chinese government, maintain radar transponder function, and exhibit clear nationality and logo markings" (China's Defense Ministry 2013, as cited in Osawa, 2013, p.1).

The ADIZ covers over two-thirds of the area. The absence of any consultation has resulted in much overlap with other countries' ADIZs (Fravel, 2011, 2016). Objections have been raised by China's neighbors, Japan, South Korea, and the US. Many observers of the international scenario have asserted that China has sufficient capabilities to conduct 24 hours surveillance in the maritime as well as through the air around the South China Sea; it may establish an ADIZ there. They added that following several dangerous near missions in 2013,and in 2014; the two sides, the US and Chinese forces, made a treaty that determined the expected code of conduct on naval ships. However, the risk of a dangerous incident between these states within China's EEZ is still a major concern due to the possibility that there could be a military escalation. Keeping in consideration, these activities by China, the US has increased its naval presence and military activity in the South China Sea based on freedom of navigation guaranteed by the UNCLOS (Hong, 2013).

The freedom of navigation essentially pertains to Article 86 under Part VII of Section 1 describes "high seas" as all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State (Hong, 2013). Article 87 provides that the "high seas are open to all States" and that "freedom of the high seas is exercised under the conditions laid down by this Convention and by other rules of international law" (United Nations part VII, art. 87). The Sections 1(a)–(f) allow all States to have the right to navigation, overflight, laying of submarine cables and pipelines, construction of artificial islands and other installations, fishing, and scientific research.

Cluttered order in the South China Sea

The US motive for its activities in the region is to protect its own economic, military, and political interests, including support to its allies in the area. The US conducted six freedoms of navigation operations in the South China Sea between May and August 2018. In his visit to East Asia in November 2017, President Donald Trump highlighted the importance of such operations (Cheeppensook, 2020). In 2017, Japan, one of the US allies, sold military ships and equipment to the Philippines and Vietnam to increase security capacity and counter Chinese "assertion" (Lindgren & Lindgren, 2017). Furthermore, China argues that in terms of the UNCLOS, foreign powers are precluded from conducting intelligence-gathering activities, including reconnaissance flights, in or over its EEZ.

Earlier, in July 2016, the Permanent Court of Arbitration (PCA) in The Hague in PCA Case No. 213-19 (The Republic of the Philippines vs. The People's Republic of China) declared its award (Cogliati-Bantz, 2016). The tribunal ruled in favor of the Philippines as well as shed light on the issues and problems inherent in provisions of the UNCLOS 9 (Cogliati-Bantz, 2016). China did not appear at the hearing, so the tribunal made what was the equivalent of a "default judgment" in terms of Article 9 under Annex VII of UNCLOS ("Default of appearance"). China claimed that its refusal to participate in the arbitration was based on the policy that requires it to resolve "disputes had to be only settled by negotiation and agreed between the parties"(Cogliati-Bantz, 2016, pp. 761-762). The tribunal ruled that China's historical sovereignty claim based on the "nine-dash line" is inconsistent with the maritime zones proclaimed by UNCLOS (Beckman, 2013). China rejected both the standing and authority of the tribunal to hear the dispute and its ruling. Despite China being a signatory of the UNCLOS, its rejection of the tribunal's rulings and the awards an infringement of the sea law. On July 13, 2016, President Xi Jinping stated that the tribunal's judgment would not have an effect on the maritime activities in the South China Sea (Ikenberry, 2015). Since UNCLOS as an authority lacks the requisite power of enforcement, China could carry on as before (Ikenberry, 2015). This makes the situation precarious for the future conduct of claimants in the South China Sea dispute. However, the award was not without defects. The situation, coupled

with China's "assertive" policy on the region, has the potential for conflict in the region that could have negative global impacts (Guan, 2000).

No severe conflict has occurred to date, even though the tensions have risen in the South China Sea since 2009; however, this could be the proverbial lull before the storm keeping in view the belligerent and unconsciousness of President Trump's statements that the US is above the law. The same is true for China, considering its rejection of the Arbitral Chamber's jurisdiction and award (Shicun, 2013). Accordingly, it has also begun implementing its new foreign policy aggressively with complete disregard of the UNCLOS.

The Chinese claim to vague "historic rights" within the so-called "nine-dash line" (NDL) is making the process of dispute resolution a complex affair. In the first instance, the NDL was fronted by the Republic of China in 1947 and later recognized by the PRC (Hayton & Torode, 2014). Chinese officials have declined to express the extent of the rights within this line after the map that was presented by NDL, showing Chinese covering the entire line. UNCLOS does not allow the kind of claims that China is making about the meaning of NDL (Hayton & Torode, 2014).

Historically, the region is particularly sensitive militarily for China as it has a crucial submarine base on Hainan Island from where its vessels move through the South China Sea waters. There have been few clashes incidents over the past few years, such as in 1988 on Johnson Reef, in 1994-1995 on Mischief Reef (Shicun & Huaifeng, 2003). After this assault, resentment increased over China's conduct and intentions in the South China Sea region. In a diplomatic attempt, China signed a regional nonbinding Declaration of Conduct in November 2002 with member states of ASEAN (Shicun & Huaifeng, 2003). This implied a voluntary restraint, negotiation, and consultation rather than conflict to resolve disputes. However, the Declaration of Conduct for diplomatic negotiations to offer a solution to the dispute without necessarily engaging in active confrontations with the military. However, this did not deter the continued conflicts between the two nations over the US Navy activities in the EEZ of China's territorial waters (Shicun & Huaifeng, 2003). During the last few years, the Southeast Asian claimants have tried to present a unifeid front as ASEAN in order to find a solution. Instead, the US government has voiced Chinese actions as provocative, aggressive, and destabilizing in a series of statements.

International politics have been witnessing time and again to the instances where countries have failed to identify a present danger or simply not reacted to it, or reacted in a trivial manner. International politics have been witnessing time and again when countries have failed to identify a present danger or not react to it or react trivially. This behavior can be termed 'under-balancing' works contrary to the assumption that threatened states will balance by building alliances or by increasing military capacity or both. In this context, no competitor emerged for more than a few decades after the end of the US-Soviet Cold War to balance out the United States. If this is the case, the term

should be an overbalancing, which occurs when a state incorrectly perceives another nation as threatening (Schweller, 2004).

The Permanent Court of Arbitration (PCA) makes a ruling on the South China Sea dispute, which was useful as reference precedence in determining such related issues regarding the Exclusive Economic Zone (EEZ) as well as territorial waters (De Castro, 2017). However, China asserts that its territorial sovereignty and maritime rights would not be affected by the ruling, which declared large territorial waters as neutral or EEZ of other countries. China keeps running naval exercises in the disputed waters. To reduce the tension and manage conflict, ASEAN countries and China have been conducting talks for more than a decade (De Castro, 2017). Though the ASEAN is united on the Code of Conduct (COC) but China insists on terms that any code should not interfere with its naval patrols. The idea of COC took shape in the 1990s but was formally mandated only by 2002 at a meeting of foreign ministers of ASEAN and China. However, little progress has come while the tensions have escalated. On August 3 of 2018, the foreign ministers who constituted the ten member states of the Association of Southeast Asian Nations (ASEAN) with the Chinese people make a pronouncement on the Single Draft South China Sea Code of Conduct Negotiating Text (SDNT) that served the foundation leading to the adoption of the South China Sea (Storey, 2017; Thayer, 2018; Zou, 2020).

The US role in the South China Sea

The US policies have contributed significantly to fostering American growth for more than three decades. The US military dominance, military presence, and related actions have diminished the possibility of escalating conflict in the past few decades, resulting in the realization of Asian economic emergence (Sinaga, 2015). However, the marine territorial disputes in the South China Sea are a constant hindrance to the US interests, and the situation becomes precarious as it exhibits the rise of China and its increased interests in the region. Since each country is bound to expand and progress, the increase in China's interest is natural.

The UNCLOS states the seas as an area of freedom, which is critical to the US as a global power. The US has to ensure that the area is not declared as an Air Defense Identification Zone to maintain freedom of overflight (Xie & Shan, 2012). All the nations in the Asian Pacific regions, which encompassed China, have a common interest in the trade and commerce route that this area provides; it is necessary to prevent any interference. The US-led liberal order already shows signals of his incapacity to unravel global problems. The US still operates under military options to fix issues and achieve national interests, and interventions only make situations worse. Recently, the system's lack of authority along the US' predominance led to interventions in Libya, Iraq, and Afghanistan, and none of those was a success (Drezner, Krebs, & Shweller, 2020)Surprisingly, after the

international system establishment in October 1945, only the Kuwait intervention could be called a success.

However, according to the US, its most crucial objective is the peaceful resolution of the dispute and restrainment from coercion as it is critical for regional stability and peace. Structural necessities do not compel the political leaders to adopt one policy overriding another; however, this does not mean ignoring such necessities. Preferably, the response to threats and opportunities is calibrated by giving due consideration to policymakers who reach a consensus within the competitive political systems.

Recent face-offs between the US and China in the international waters have shown a disregard from the military powers' part for international laws. The tendency is common to both nations. While the US starts such actions, other nations generally follow in such infringement's activities. The US has often rejected the jurisdiction of international tribunals in recent decades. The US refused to ratify the 1982 UNCLOS agreement (Zhang, 2015). The immense claim made regarding the South China Sea is the NDL, which covers nearly the entire South China Sea (Zhang, 2015). China has clarified the nine-dash line, which is the contest that it makes in that it owns the marine area and all the creatures in that locality. This is a serious claim that would have an immense effect on the other States' rights and probably destabilize the current living state (Zhang, 2015). However, we must note that neither China nor any other country lays claim to the entire South China Sea (Hong, 2012). Officially, China claims the South China Sea Islands Dongsha/Pratas Islands; Xisha/Paracel Islands; Zhongsha Islands, and Nansha/Spratly Islands with their adjacent waters and asserts based on "historic rights" within the "nine-dash line" (Government of the People's Republic of China, 2014).

Trump's rejection of the ruling of the International Court of Justice in 2018 points to the US considering itself above the rule of law, a dangerous precedent that could persuade other states to do the same, as done by China in 2016. Dehghan and Borger (2018) reported that the ICJ in a unanimous decision on October 3, 2018, "reprimanded the US over its re-imposition of sanctions on Iran, ordering Washington to lift restrictive measures linked to humanitarian trade, food, medicine, and civil aviation" (pp. 1-2). This was a victory for Iran after it "complained to the ICJ in July that the return to sanctions imposed by Donald Trump following the US withdrawal from the 2015 landmark nuclear agreement was in violation of theTreaty of Amity, a 1955 pre-revolutionary friendship treaty" (Dehghan & Borger, 2018, p. 1-2). Without an analysis of the judgment, Secretary of State Mike Pompeo declared that the US would ignore the court's ruling: "I am disappointed the court failed to recognize its lack of jurisdiction" (Dehghan & Borger, 2018, pp. 1-2).

Ignoring the ICJ's ruling bodes ill for international relations and cooperation. The Speech that was made to the UN General Assembly on September 25, 2018, President Trump

said, "We reject the ideology of globalism and accept the doctrine of patriotism" (Borger, 2018; pp. 1-2). Throughout his speech, he defended "America's sovereignty". Much of his second address repeated what he had said in his first. He boasted about the "America First" world view, was concerned of the national security issues including nuclear talks with North Korea following his fiery speech the previous year when he vowed to "totally destroy" it issuing threats to the US and its allies; coercion with Iran; and his trade rivarly with China (Borger, 2018).

China's role in the South China Sea

The South China Sea is a priority in China's foreign policy due to its political, economic, and geographical location. China's policy towards this is mainly to divide and conquer. It encourages the ASEAN countries who do not dispute with China to remain on the sidelines while bilaterally handling those with the dispute to keep the US out of the South China Sea. A typical policy regarding Power Politics and every global actor in China's position probably chose the same approach.

China limits Japanese autos' import to display its disapproval of Japanese policies (Amy Searight, 2017, cited in Roberts, 2017). China lets Philippines produce spoil on the wharf to show disapproval of Manila opposing China's policies on the South China Sea. Most of the nations have made the argument that China should agree to the UN convention, UNCLOS, which is the organ that is supposed to set maritime zones of control along the coastlines (Amy Searight, 2017, cited in Roberts, 2017). The US is one such country that agrees with UNCLOS's resolution and is commonly known to abide by this body's resolutions. However, China borrows from the temporal laws that are founded on historical records and evidence from archeological findings from the Islands to claim territorial boundaries. China has consistently stated that the UN codes on maritime governance are incompatible with its region, arguing that it is a Western-based organ to influence regional agendas and oppress the Chinese rise as a superpower (Amy Searight, 2017, cited in Roberts, 2017).

Naturally, China initiates a massive institutional program focusing on creating regional economic institutions promoting a departure from UNCLOS by inciting mechanized processes to negotiate and find solutions within the regional institution, ASEAN (Teixeira, 2019; Xie & Shan, 2012). It has set up and encouraged China-led the Asian Infrastructure Investment Bank to support the belt and road initiative, providing special privileges to a nation that supports it in the United Nations, and offers loans to nations which are more than the total of those given by the World Bank and the International Monetary Fund (Amy Searight, 2017, cited in Roberts, 2017). The rise of China has intensely impacted the regional economy and strengthened the relationships between East Asia countries. It all starts with East Asian' nations disappointment with the Western disregard during the Asian-based financial crisis experienced in East Asia in 1997.

In 2002, the summit consented to the declaration on conduct in the SCS, which formally commits Claimants to enforce nonaggression principles, particularly noninterference (Shambaugh, 2005). With biannual summits meetings, the institution provided China's (and other members) the perfect platform to successfully ouster US-led institutions over the Asian ones. Over time, China shifted toward noncompliance with UNCLOS, and regional political mechanisms and social processes were noticeable by escalatory dynamics. Indeed, even if China is a UNCLOS member, it has officially subscribed to a different framework for the resolution of the dispute (Shambaugh, 2005).

The Chinese Society of International Law conducted a significant case study titled The South China Sea Arbitration Awards: A Critical Study, to shed light regarding the opinion of the Chinese government concerning the awards in favor of the Philippines on October 29, 2015, and July 12, 2016, in the South China Sea territorial arbitration (CSIL, 2018). In it, the institution raises several vital aspects that would make the awards a violation of China's autonomy and territorial integrity, and international law (CSIL, 2018).

First, the study raises questions over the jurisdiction of the tribunal and admissibility of the Philippines' evidence.The Philippines presented submissions relating to territorial and maritime delimitation disputes with China over the South China Sea. The Philippines contends that China's nine-dash line claim is null and void because it goes against UNCLOS provisions on exclusive economic zones and sea territory. This is because most of the Spratly Islands, which it claims cannot sustain life and cannot stand as an independent continental shelf as per the UNCLOS convention. China declined participation in the arbitration because it has treaties with the Philippines and the ASEAN (to which the Philippines belong) prioritizes bilateral negotiations in disputes of this nature (Zhao, 2018). It further issued a white paper in 2014 arguing its position by terming the dispute as relating to sovereignty and not falling under arbitration courts. In response, the tribunal declared it had jurisdiction over the issue and declared the Philippines' evidence as admissible in the hearings in October 2015 before ruling in favor of the latter in July 2016 (Zhao, 2018).

The case study further points out the deficiency in the ruling that China has no historical rights in the South China Sea by highlighting the separation of this aspect from territorial and maritime delimitation, which was pending as a bilateral dispute between China and the Philippines. Since this dispute is still unresolved between the two countries, the rationale for effecting Article 56, 57, 62, and 77 of the UNCLOS convention does not exist (Zhao, 2018). This is more proof of the tribunal having an ulterior motive against China.

Third, the case study points out that the tribunal's ruling on the status of China's Nansha Qundao and Zhingsha Qundao is flawed because it addresses each island separately, yet they form part of the same archipelago; effectively dismembering them to facilitate ruling against China. International law ably addresses these archipelagos' status, and

the tribunal erred in assuming jurisdiction over something, then misinterpreting the law and doing the country an injustice.

Fourth, the case study points out that by appropriating territories for the Philippines as belonging to its 'special economic zone and continental shelf, the tribunal was relying on pseudo-facts not founded on law and infringing on China's freedom to develop its territories in the SCS. In essence, the tribunal applied the convention on China and provided an exception for the Philippines in every scenario possible as a buildup to ruling in its favor. This sad state of affairs creates a bad precedent in the SCS because there are numerous disputes among the claimants, both at bilateral and ASEAN bloc level. This lopsided justice could open the doors to more unjust rulings from future tribunals against China and any other claimant who plays his politics selfishly. The case study correctly concludes that the ruling's deficiencies in favor of the Philippines deprive the awards of legitimacy and will definitely undercut the international rule of law, especially as regards territorial disputes and aspects of sovereignty.

In recent years, the different Chinese government has selectively and strategically used their domestic laws to create ambiguity of the Chinese claims' legal aspect, pit Chinese claims into context, and extend China's influence on the disputed area. The effect comes from the non-complianceof the policies, agencies and a challenge to the international laws itself. China has been able to use its domestic law to challenge international laws because its legal terminology does not cohort with international legal terminology. Hence, note verbale submitted to the UN in 2009 used words such as 'relevant waters' and adjacent waters, which are not defined in international law. This served as a foundation for altering the domestic maritime laws to remain ambiguous about the extent of China's boundaries in international waters.

China has been able to wield its geo-economics influence on institutions ranging from the UN General Assembly and ASEAN to IMF. It gives considerable confirmation that geo-economic pressures work and succeed in advancing geopolitical interests that may or may not be positive. China has been able to influence the countries as well as institutions to alter their course in pursuing territorial interests. The level of geo-economic actions cannot be determined and cannot be assessed as happening or measured. However, when comparing the scant historical inventory available in such cases, it can be significantly said that the geo-economic efforts are rising (Scobell, 2017).

Like military power, geo-economic measures too can cause a sway of influence. At times, geo-economic success is often exaggerated, especially in the case of China. Their internal obligations and natural limits that do not allow the application of unlimited geo-economic pressure. China can have domestic issues such as the social welfare system, stock market issues, housing problems, and government corruption. Similar to any other country, there can be a clash between geopolitical interests and purely economical interests.

The participants, at times, can be less than willing to be perturbed by geopolitical needs. A pressure that may seem undue can force the Southeast Asian countries to achieve a measure of balance by inching closer to the US (Kumari, 2014). The geo-economic pressure can prove to be more effective when obliquely implied rather than directly imposed. At times, China's attempt to exercise geo-economic pressure heavy-handedly along with assertive marine actions in the South China Sea did not have the desired results. Nevertheless, China's geo-economics prowess has had more than a substantial positive effect.

Realizing that nationalism is very eminent in Chinese society, the Chinese leadership placed it alongside patriotism and pride as the government's fundamental tenets (Sinaga, 2015). Emboldened by such decisions, China actively began engaging in war, like activities that encompassed military force in the South China Sea to toughen its claims therein (Sinaga, 2015).

The ASEAN and the Social Compact

Yaqing Qin (2014)asserted that the "sovereignty competition" experienced among the Chinese neighbors regarding territorial borders and resources in the South Sea China could continue despite being there for more than four-decade (Qin, 2014). This conflict has attracted international diplomats' attention, including military organizations devoted to promoting stability and peace across the globe. No provision in the UNCLOS allows China to interrupt the independence of triangulation or act as a sole regulator of the South China Sea (Teixeira, 2018; Beckerman, 2013). Notwithstanding these provisions and given that both the US and China have not accepted the rule of law, under the guise of innocent passage, the US could carry out reconnaissance activities that would culminate with challenging China on the assumption that it acts against the US by violating its freedom to navigate (Teixeira, 2018).

The Convention, however, provides for freedom of navigation but does not guarantee it. Hence, under the pretext of "innocent passage", a country like the US could carry out covert setups in the South China Sea, and so could China. Given China's national priorities and the insistent international policy being implemented proactively, it does not help to give its stance a theoretical label like "revisionist". Indeed, China's contestation may be anti-order, but also shows signs that can be pro-order (Goh, 2019).

Furthermore, in August 2018, a Single Draft South China Sea Code of Conduct Negotiating Text (SDNT) will form the ground for the endorsement of the code of conduct in the South China Sea. All countries contributed to the document, with the most notable being China's view regarding cooperation and the marines States, which was to be expedited along with littoral States "and shall not be conducted in cooperation with companies from countries outside the region" (Thayer, 2018, pp.1-2). In contrast, Malaysia anticipated that nothing in the COC "shall affect… rights or ability of the Parties to conduct

activities with foreign countries or private entities of their own choosing" (Thayer, 2018, pp. 1-2).

China notes that in the first point "military activities in the region shall be conducive to enhancing mutual trust" (Thayer, 2018, p. 1). China's second point calls for an exchange and relation regarding the defense and military forces including "mutual port calls of military vessels and joint patrols on a regular basis. Point three calls for undertaking joint military exercises among China and ASEAN Member States on a regular basis" (Thayer, 2018, p. 2).

China's fourth point states that Parties involved, shall establish a notification mechanism regarding military activities and make proper communication if there is a need for military incursion when deemed necessary. The Parties will not hold joint military activities with nations outside the region, except if the gatherings concerned are advised previously and express no complaint. China's fifth point takes note of that military vessels and airplane appreciate sovereign invulnerability and are "immune from the jurisdiction of any State other than the flag state. Further, military vessels and aircraft are entitled to self-defense, but should have due regard for the other side's military vessels and military aircraft. China and the Philippines both inserted point six that called for the just and humane treatment of all persons who are either in danger or in distress in the South China Sea. Finally, the Philippines proposed point seven that included respect of the exercise of traditional fishing rights by fishermen… access to features and fishing grounds" (Thayer, 2018, p. 3).

We can testify that ASEAN is on the right path; it produces the necessary cooperation to reach a resolution. At least its decision-making processes are not rejected but negotiated. The process in which an institution with regional consent to establish order and authority will determine an explicit social conception of regional order centered on cooperative negotiations of shared perceived values, norms, and duties between them, resulting in a social compact (Adams, 1842; Gilpin, 1981).

A compact illustrate the mutual and conditional exchange of commitment: to a regional member is provided some privileges by others in return for certain constrains, benefits, duties or provide development that uphold the region and its members. A similar situation is underway in Europe; the European Union is taking the lead and we witnessed more and more of an "Europeanisation of Maritime Issues" (Pavia, 2019, p. 131).

Conclusion

From the evidence, we can consider that ASEAN has the determining structural mechanism to resolve the dispute. The institution is marked not only by superior capability but also by his members' support. Namely, it has regional legitimacy derived through negotiation between members than by imposition. The most probable situation for the

eventual fate of the SCS questions is the support of the norm, where talks are saved casually and concentrated on specialized issues. One could contend that this circumstance is passable, in any event for the time being, and that the petitioners may keep on fulfilling their household populace by comments and explanations yet will stay away from outfitted clash because political and monetary costs included. This includes living with business as usual until there were diminished pressures and the probability of political chiefs settling that no nation has an ideal case in the SCS. Thus, they have to bargain for the opportunity of a set of accepted rules to be figured out.

Furthermore, over the last 20 years, diplomatic relations between China and the US have significantly improved and saved the few instances that could derail the US's relationship until recently where the trade rivalry has arisen (Wang, 2010). The last five US administrations have attempted to demonstrate an impartial position regarding the South China Sea dispute by resorting to a softer non-coercive approach entangled in the territorial dispute. The senior US administration officials' approach does not depict that the US will remain neutral in the South China Sea disputes and needs to resolve them without coercion (Liff & Erickson, 2013). However, this effort, which appears unbiased, is problematic to maintain, since the US appears to depict many states in the South China Sea dispute into its politically based process that relates to military force, excluding China from any participation.

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