

REPUBLIC OF RWANDA



NATIONAL UNITY AND
RECONCILIATION COMMISSION



EUROPEAN UNION

TRAINING MANUAL ON CONFLICT MANAGEMENT

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FOREWORD

A wise saying in Kinyarwanda states: "cows cannot live together without harming each other ". Not to rob the word of its original meaning, it will be said verbatim in Kinyarwanda " ntazibana zidakomanya amahembe ", This means that in Rwandan community or else where on the planet, conflict and incessant wars have come to characterize our societies. However, upon deep examination of Rwandan social history, one discovers that from time immemorial conflict existed albeit was not as destructive in a manner that transcends human understanding, as was the case in the recent past.

A history of mai-administration in Rwanda and the wanton killings were responsible for mutual hatred amongst Rwandans and mutual suspicion became a hindrance to the national progress. This is the entire reason why the government of national unity established on 19th July 1994, embarked on different programs aimed at promoting social well being of Rwandans.

In consideration of the above, the 4th June 2003 Constitution of the Republic of Rwanda recognizes the resolution of conflicts through dialogue and consensus.

The present training manual is meant for leaders of different categories as a tool to assist them in managing potential conflicts likely to emerge or those encountered on a daily basis. The main parts constituting this present manual are the following: the concept of conflict, conflict analysis, causes of conflict, the way people respond to conflict or styles of behavior, conflict prevention and resolution mechanisms. Also will be found practical exercise that will help those who'll be using it.

The present training manual was prepared by the National Unity and Reconciliation Commission with the financial aid from the European Union. It has come as complementary to the one that had been prepared by OXFAM together with the Commission and "Reseau des Femmes".

Many people were instrumental in the final realization of this manual. In that respect, we are deeply thankful to all who helped in developing and writing-up this manual. Among them were Mr. GATARI Eugene an expert in conflict management, Mr. RWAMUKWAYABernard a staff from OXFAM G.B, Mr. KAYUMBA Christopher a lecturer at the National University of Rwanda, Mr. KOBUKYEYE Frank and RUDAHANGARWATheophile from the National Unity and Reconciliation Commission and Mr. NYARWAYA KALISA Edie from the Alternative to Violence Project (A.V.P.)

Special recognition is given to the European Union and OXFAM Great Britain for their financial and technical support respectively. It remains our hope that the present manual will be of great benefit to those who will utilize it.

Fatuma NDANGIZA

Executive Secretary of the National Unity and Reconciliation Commission.

1. THE BACKGROUND OF THE TRAINING MANUAL

Ever since the arrival of colonialists in Rwanda towards the end of the 19th Century, Rwandan history has been defined by corrupt leadership based on discrimination, oppression and nepotism. Such horrific history came to bear a tremendous negative impact on social fabric of our society. Some adverse effects cited include but not limited to: mutual suspicion, distrust, refugee problem, clique formation based regionalism and ethnicity led our country into April 1994 genocide.

The existence of such discriminative tendencies in the Rwandan Society justifies the proposal for the establishment of the National Unity and Reconciliation Commission during Arusha Peace Agreements of 4th August 1993. Its creation did not take immediate effect because of 1994 genocide.

It later came to be established by the law N° 03/99 of 12 March 1999. The Commission's main objective was to socially rebuild Rwandan society that had been torn asunder by divisionism. In order for Rwandans to once again live harmony and peace unharmed, the establishment of the Commission gained more relevance after 1994 genocide which rendered the problem of national unity more difficult and complex.

The present training manual therefore becomes pivotal in helping to prevent any possible event that could potentially push back Rwandans into the legacy of discrimination. The manual also shall be used to help people to manage conflicts without resorting to violence so as to be able facilitate national unity and reconciliation process.

In addition, the Constitution of the Republic of Rwanda of 4th August 1993 in particular Article 9 Paragraph 6 provides for seeking solutions usually through dialogue and consensus as one of the fundamental principles. We should be guided by the acknowledgement of diversity of opinion and that having diverging views should not be a cause of disagreement and competition but rather a sign of complementarity. This is so because, more especially as human beings, we share a common characteristic quality of being human "ubumuntu" and that we need one another for our survival. We are also convinced that wider dissemination of the present manual is one of the ways of rebuilding Rwandan community.

Since human beings by their very nature are unique, in the same vein, there is quality each one of possesses: we perceive reality differently and so is conflict in our societies. Having or experiencing conflict is natural and should be understood as normal, meaning that conflict is part of life and is eternal. What is important is to have the capacity to manage it or minimize and contain its potential for escalation. All this is intended to rebuilt and rehabilitate every person.

2. TARGET GROUP

This manual is meant for the following categories of people:

- Persons working in the field of peace building;
- Different categories of leaders;
- Private Institutions and Organizations having conflict management amongst their attributions;
- Private individuals who are interested in having awareness in conflict management and resolution fields.

3. METHODOLOGY

3.1 What is required of different categories of leaders:

- To read and internalize this manual as a leader;
- Using the acquired knowledge in their usual work;
- Hold meetings with staff discussing main themes contained in the manual;
- Organize trainings for the Institution's staff so as to have ability to manage their conflict without affecting usual duties and social relations.

3.2. Methodology to be used in training.

To have a wider dissemination of the acquired knowledge, the training of trainers shall embark on the following:

- Practical exercises;
- Use cartoons and pictures;
- Group work;
- Using practical examples from around the world;
- Open debate and questions;
- Use of drawings and illustrations
- Ordinary use of lecture method;
- Using media as a way of sensitization on conflict management.

3.3. Objective

- To reinforce the leaders skills in conflict management;
- To empower leaders with non-violent skills used in conflict prevention to properly settle disputes that could arise from their work place or families;
- To include and entrench such acquired skills in different programs of the country;
- To have a wider dissemination of such skills all over the country.

4. CONFLICT

4.1. What is conflict?

Conflict means an adversarial relationship or a disagreement between two or more persons, between groups, regions or even nation emanating from different perceptions and interests. Such conflict may be intra-personal as result of internal disagreement within a person.

When one speaks of a conflict, it is normally taken to mean chaos, wars or mutual suspicion or strained relations, competition, hatred and many other associated ills. It is incorrect to normally regard conflict as something very destructive which deserves avoidance or denouncing.

4.2. Origin of conflict.

In most cases conflict is as a result of the following:

- Different perception;
- Different behaviors or attitudes;
- Poor distribution of national resources;
- Lack of basic human needs or their frustration;
- Different interests;
- Ideological differences based on religion or political parties.

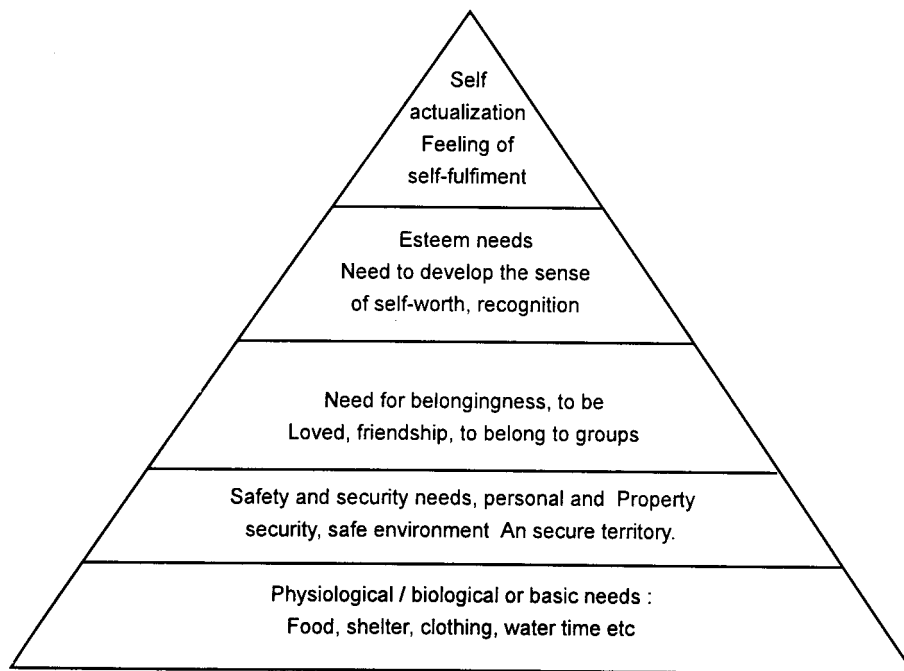
The hierarchy of needs by Abraham Maslow

This hierarchy of needs consists of classifying the Fundamental human needs according to a pyramidal disposition. According to Abraham Maslow, if the behavior of a person is motivated to attain or reach a certain goal, it is because that person has a need engendered to attain that goal by himself.

The frustration of all or some of those needs usually results in or becomes a source of conflict.

The chart below indicates structurally the hierarchy of those needs ranging from the basic biological needs to the most highly esteemed ones.

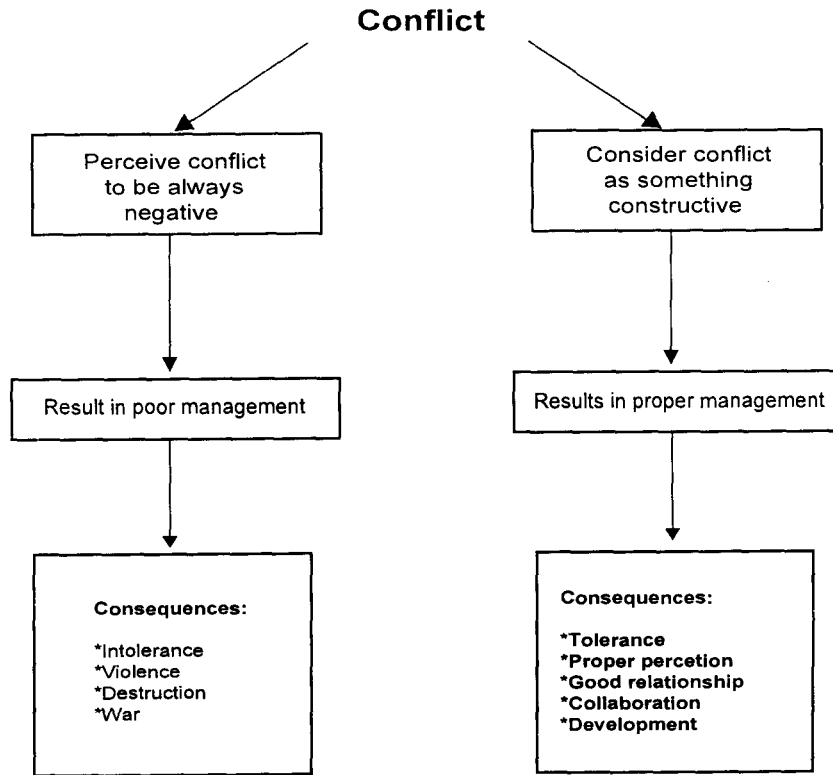
Figure showing Maslow's Hierarchy of needs:



Is conflict always negative ?

The answer is simply, no, depending on how we respond to conflict, it can be a source of violence and misunderstandings or a source of transformation. Once mishandled, it can result into a discord, chaos or even war. Equally so, if properly handled conflict can be a source of development.

The Nature of Conflict Transformation:



4.3. Types of conflict

4.3.1 Disputes.

This is a type of conflict normally encountered on a daily basis. It is usually easy to resolve this type of conflict. Examples include; not respecting time and appointments, having an argument with someone, late coming without notifying ones superior, etc. This type of conflict if not responded it can lead to social discord.

4.3.2. Underlying conflict

This sort of conflict happens when, one continues to push the problem under the carpet, avoiding or post pining it to the extent that it only requires an enabling event or a spark off or explode the conflict into war.

4.3.3. Deep rooted conflict

This type of conflict is indeed fundamental. It is based on perception and religious or ethnic beliefs. It is hard to handle or manage. Some people are even prepared to sacrifice their lives for what they consider so dear to themselves.

4.4. Levels of conflict

4.4.1. Intrapersonal conflict

The type of conflict that occur within a person. Examples : choice of partner, moral question or a decision to abandon a bad practice, use of time, taking a decision etc.

4.4.2. Interpersonal Conflict

Conflict between two or more persons over an issue.

4.4.3. Intragroup conflict

An example is conflict between people within the same group.

4.4.4. Intergroup conflict

One might cite conflicts between organizations, families, or institutions.

4.4.5. Intranational conflict

This means an internal conflict between small groups within the country.

4.4.6. International Conflict

This is conflict between two or more nations. This could be for ideological reasons, territorial claims, natural resources or other interests.

4.5. Causes of conflict

As already noted, frustrated or lack of basic human needs may cause conflict. There could also be other causes of conflict, among them one could mention:

- Bad governance;
- Lack of rule of law and regulations;
- Power hungry;
- Diverging perceptions of our history;
- Poverty;
- Monopoly of power;
- Others.

In our daily interactions, conflict could be caused by a variety of reasons some of which one could mention:

- Favoritism,
- Discrimination
- Isolation from political participation in affairs of ones country; '
- The culture of hiding the truth leading to a common saying « the truth one would have said, may be used to corrupt your superior »
- Cover up ones weaknesses fwrongs.
- Love for soft life ;
- Injustice in distribution of national wealth;
- A culture of fear avoiding responsibility or imputing blame on others;
- A culture of individualism;
- Corruption;
- Mutual suspicion and mistrust;
- Pretence double-dealing;
- Lack of critical thinking in discerning reality and make reasonable judgements starting with introspection or self examination;
- Illiteracy. This doesn't mean lack of knowledge of how to read and write, because evidence has indicated that secondary ignorance has been responsible for societal failure or state collapse;
- Others.

4.6. Different styles of behavior or Responses to conflict

4.6.1. Avoidance

This happens when a person shuns away responsibility. He/she recognizes the problem, but doesn't make any effort to solve it. This attitude is always based on the understanding that conflict is always negative, thinking that trying to extricate from it may land a person into more trouble.

It looks as if one has swept the problem under the carpet, postponing it due to fear. This simply implies covering up something one would like to see yet this doesn't solve the problem either.

The outcome of such behavior response in face of the conflict is that, such conflict avoided will always re-surface due to that avoidance attitude which has the potential to result in poor response. Such conflict may turn out to be a boomerang or destroy the entire society.

Participants are asked during the training session where avoidance resulted into destructive conflict than ever before or resulted into a transformation. When do people behave in such a manner ? Participants should answer.

4.6.2. Collaboration

This method involves mutual discussion and dialogue in order to arrive at a final decision. This requires active listening and co-operation of the other party in the conflict in finding a solution. It also requires participation and mutual understanding of both parties.

When can collaboration be used ?

When both parties are deeply convinced of their common needs or have relatively the same bargaining power.

4.6.3. Competition

This usually happens when one party feels dominant over the other and wishes to monopolize, control and out compete the other.

One party doesn't wish to pay any attention to the other and only defends his/her position. This method uses force to dominate and suppress the other party. It is being egocentric and selfish, a kind of win / lose aspect.

Competition is usually used when:

When negotiations and peaceful talks have hit a deadlock or one of the parties fails to accommodate the others views. It also happens when one party is unwilling to give up some interests and is always positional on whatever he wants.

This kind of behavior has always got negative consequences on the social relations of the concerned parties.

A. question directed to participants.

What is the consequence of people having such domination or competitive attitude?

4.6.4. Accommodation

This simply means sacrifice and giving-in so that conflicting parties could remain in harmonious relationship. It also means accepting to yield-lose something as a way of "buying» continued good relationship with the other party.

4.6.5 Compromise

This kind of attitude requires that each party loses or gives up something if it is gain anything. It means mini-lose / mini-win aspect of negotiation where each party accepts to lose something in order to win something as well.

When does such attitude happen?

When competing risks damaging relationship of the conflicting parties or when both parties have the same or equal bargaining power and no party is stronger to win the other. In other words, no party has the stamina to dominate or in any way suppress the other and this has got its own weaknesses.

EXERCISE.

What are the consequences of this attitude? Trainees or participants give personal examples, from their families, at their work places, in commercial matters or those of international character.

Table explaining conflict response behaviors or attitudes.

Attitude	Objective	Behavior.
Avoidance	All of us lose	Retreating, hiding, silence due to fear
Competing	Personal interests	Hot debate, egoism
Accommodation	Opportunity cost for peace	Sacrifice and persistence
Compromise	Both parties accept to lose something	Perseverance
Collaboration	No party feels like losing	Tolerating one another.

Practice exercise.

How do people normally behave or respond in conflict situations/ ask participants to write and talk about how people usually respond to conflicts.

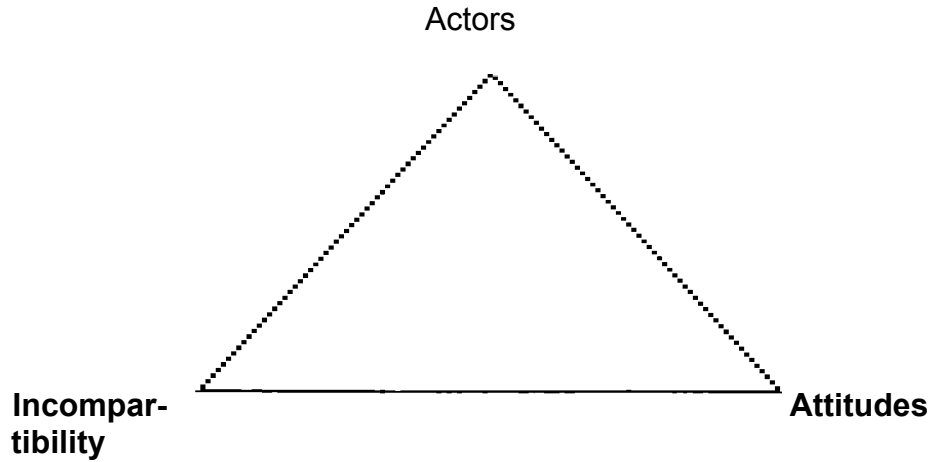
4.7. Conflict analysis

For an individual to properly understand the nature of conflict, it is pertinent to first know its causes and the way they change forms. There are three main elements that have to be considered while analyzing conflict: people, challenges and the way out.

The analysis of conflict puts emphasis on the following issues :

Actors	Attitude	Incompatibility
Who are the parties or groups	What is the spark or immediate cause of that conflict	What is the interest of either party ? What is the matter in contention
Who are other parties that are not primary parties	What are / have been common characteristics of the parties	Are their interests too distinct ? Where do they diverge ?
Who will be the likely victims ?	Is there any common way of resolving such conflicts ? How does their communication of negotiation process look like ?	Is there any common way of reaching an agreement acceptable to all ? What is that mechanism or criteria ?
What kind of leaders are involved ? How does their organizational structure look like ?	How is the conflict getting transformed ? What are the root causes of the conflict ? How does the conflict escalate ?	What are their common characteristics/needs ?
How do they perceive such conflict themselves ?	Who are those trying to prevent the conflict and what mechanism do they employ ?	What sort of conflict resolution mechanisms is used to resolve it ?
What are the issues of concern for a particular group of party ? How do their perceptions differ ?		

The chart showing conflict analysis.

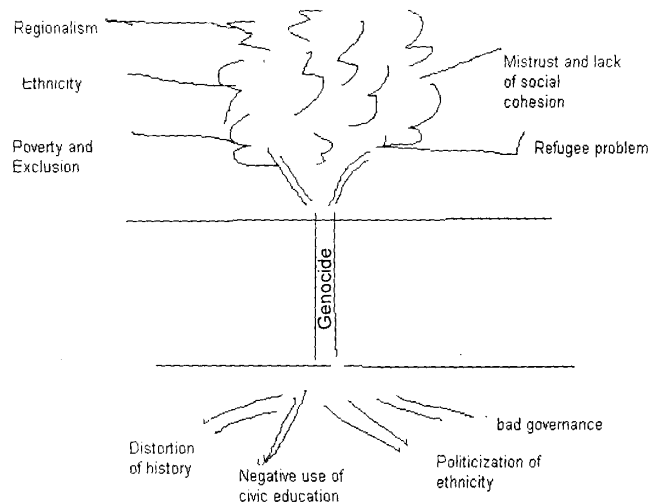


An example of a conflict tree: the case of 1994 genocide in Rwanda.

It has to be noted that Conflict is manifested externally to people by its consequences or its symptoms than through its real causes. Its real causes are always hidden; one can not easily see or recognize them not until after deep analysis. Thus most people tend to be concerned quickly in its symptoms rather than its causes.

It is by paying particular attention to real causes of conflict than its symptoms that one can really resolve conflict efficiently. What lays beneath the surface are the real causes or mots of the problem or conflict. But, unfortunately this is not usually conspicuous. Mostly, people like to make conclusions on what they see physically as proper causes of conflict yet are just symptoms. However, this way of apprehending and attempting to resolve conflict doesn't generally result into durable and efficient solution.

The tree of Conflict Analysis.



5. TECHNIQUES OF CONFLICT PREVENTION AND MANAGEMENT

5.1 Conflict prevention

Conflict prevention means to anticipate problems ahead of their happening, and the capacity to prevent it from escalation so that it may not lead to mutual distrust, chaos or even war. It requires taking early proposals, instituting commissions of inquiry, investigations, proper distribution of resources, respect for the rule of law and human rights respect.

5.2. Conflict Resolution

There are different mechanisms of conflict resolution but the common ones are the following:

5.2.1. Use of Force

The use of force has got many aspects;

- Force of internal rules and regulations;
- Power of courts and;
- Military force.

a. Force of internal rules and regulations

An employer may use administrative laws or internal rules and regulations of the organization to settle a dispute arising from work place. Such disputes may result into a bigger conflict concerning:

- Members of staff within same of organization;
- Employers and employees
- Dispute that is contrary to the interest of the organization;
- Embezzlement of the organization's fund and deceit practice.

In most cases the employee must have signed and accepted the terms of the contract. Some times the employer use such regulations to settle that show up, if not heeded to, may result into expulsion or firing of an employee, deduct his monthly salary or even demotion

In majority of cases where this method is used it is intended to be a disciplinary measure. The employee usually is denied an opportunity to defend himself. From time the employer punishes the employee accepts to execute such punishment, no good relationship may ever characterize harmony between both parties. Although, it is proper to use internal rules to regulate labor disputes, it doesn't usually satisfy all sides. In the meantime, conflict may ensue and this may be harmful to the people.

b. Force of laws

The use of ordinary courts to settle disputes in Rwanda is of usual practice like it is elsewhere in the world. In a country where rule of law is practiced, a person is required to respect such laws failure of which may result in a legal action through courts of competent jurisdictions.

Sometimes however, using courts of law to settle disputes is good in the sense that, it may compensate the victims and this makes them regain their human rights that had been lost or abused. However using this method to resolve disputes may result into:

- The party who wins the case in courts is not necessarily who is right. Sometimes this may depend on the shrewdness of the adversary or his/her counsel who properly argues his case. At times in certain countries, they use money to bribe judges, and in such circumstances a poor person loses and bears the injustice.
- Once again, using courts of law to settle disputes doesn't mean that the parties to the dispute this time will live together amicably. In fact courts are not the best ways for reconciliation purposes. Appeal cases are indicative of appellant's dissatisfaction in the courts ruling.
- In resorting to courts of law to settle our disputes, it should be kept in mind that this is usually costly. What is more, is that court fees are borne by both parties and the rest is paid to their advocates without even being certain of winning the case. In this case there are potential risks for revenge in case of using courts of law to resolve disputes. This normally happens when the party that loses the case feels that it was due to an unfair judgment and yet sees no alternative ahead. Instead of resolving a conflict, courts may worsen the situation making the conflict to escalate. This is so, because judges do not only base on the oral evidence adduced in court, but also rely on the written procedural law that is very technical and may not necessarily reflect the truth. In courts, legal provisions are considered as primary evidence more than any other form evidence.
- In Rwanda like any other parts of the world, not many people are conversant with what the law provides. Also, even those who are literate laymen and are able to read a legal text, can not properly interpret legal provisions for they do not have such required skills like lawyers or « learned friends » do.

- For the general masses or peasants, not many can access legal services rendered by courts very easily for a variety of reasons. Majority still have a tendency of fearing courts even though they might have no case to answer.
- In Rwanda where majority are financially poor, ignorant and or illiterate, do not understand how courts function and applicable laws in particular cases. It would only be proper to resort to courts only when other avenues have been tried and exhausted.

Also in consideration of bad governance and consequences of 1994 genocide, it would be better to rely more heavily on other alternative dispute resolution mechanisms while managing or resolving disputes since courts have the potential to worsen the conflict instead.

c. Military force

The use of military force is one of the ways to manage conflict. This method, however does not resolve conflict obtaining between both parties because the losing party remains disgruntled and keeps the desire for retaliation and revenge. It is also the method that exhausts too much resource and retards progress and spoils social relations amongst people. However, there is an exception to this general rule that permits the use of such force. This is used only used or applied as a last resort when other means have failed.

1st Exercise:. Water crisis in Mugezi District.

The district of Mugezi has been with the problem of water crisis for livestock for years and even for the everyday usage. After sometime, the local residents together with their leaders collected some funds and managed to buy a machine that pumps water up from river Kaliiii and distribute it in ail sector and celures of Mugezi District.

The district administration together with those of schools, hospitals, prisons and the police agreed that every body should pay for usage of such water. The other reason behind collecting money from every person using that water is to be able to pay salaries of employees, buy fuel for the machine pumping up water and the general maintenance.

In order to have this water project function well, ail the district local administration got involved in supporting local residents to elect their own leaders in charge with revenue collection from ail using such water. To also have proper management of funds in a way of forecasting, so as not to experience money shortage as the case was before. Because of the above arrangement, it did not take long when plumbers got reasonable salaries and also local residents had their lives improved.

After only seven months, the head of plumber team and few other individuals stole some project money and used it for personal gains contrary to what the project stated. The plumbers who maintain the machine, failed to get their salaries paid, the water taps could not get oiled or repaired and taps got blocked, the problem ensued.

Since then, conflict emerged, local residents, teachers, head teachers, the police and hospital administration asserted: « if nothing is done, life will be at risk ». every section of leaders designed a combined strategy to apprehend such culprits. What was evident however was that such strategies seemed contradictory to one another and if used, had potential to destroy the entire Mugezi District.

Ask the following administrative authorities, how they would handle such conflict in Mugezi district:

- school administration ;
- hospital administration ;
- police administration ;
- district administration ;
- other administrative authorities

5.2.2 Negotiation

a. What is negotiation?

Negotiation is one of the peaceful techniques used in conflict management through compromise.

Parties to the conflict negotiate on how to conclude an agreement. Parties themselves dig-deep into the roots and nature of the conflict and then mutually agree together to find a common ground acceptable to both or all parties in the conflict.

Negotiating parties might reach an agreement by themselves or with the help of a mediator. This method is used to settle disputes at work places, between employees and employers, between groups, labor organizations: examples, increased organization's output and profits, salaries and other sorts of remunerations, clear terms of reference of every employee, employer or the head of the organization. Negotiation is found in all of the aforementioned cases.

Negotiations also may be used to settle conflicts between and among nations, or between organization x and the government. This technique is also used to manage conflicts between different political parties, belligerent parties in war or in the organization and administration of international trade.

b. Negotiation stages

b.1. Pre-negotiation stage:

This stage involves:

- Proper scrutiny of contentions between both parties or issues to be settled;
- Get informed of parties who will be involved in the negotiation and be informed of their different positions;
- Be informed of third parties who will intervene in the negotiation process;
- Deciding on the location of the venue;
- Define composition of delegates who will participate in the negotiations and their competencies.

b.2 Negotiation stage.

- Point out ones proposal on the issues to be negotiated upon;
- Prior consensus of the parties on the issues to be resolved ahead of conclusion of any agreement;
- Techniques to be used in negotiation (competing or negotiation?).

b.3. Thing of appropriate techniques to be adopted Depending on the negotiation proceedings.

Any party in negotiation process must put emphasis on the following:

- Involving other parties with whom you will negotiate ;
- Internalize and think about personal interests and possibilities of having a conflict resolved;
- Propose a way out;
- Estimate the strength and weaknesses of other parties;
- Anticipate of the any alternatives in case negotiations collapse.

b.4 Concluding an agreement.

This stage includes:

- Proper analysis of whether there could be alternative ways of resolving a conflict;
- Lay more emphasis on what is common to all parties and which has been reached by consensus;
- Critique what has been agreed upon or recommendations;
- Taking a final decision and sign an agreement and is satisfactory.

b.5 1 mplementation of the agreement.

- Recommendation adopted are considered as final and are not subject to debate any more;
- Clarification is made on what each party has ta implement;
- Each party's role must be clearly defined.

C. The need fora negotiation.

There are reasons why conflicting parties resort to negotiation as a method of settling disputes. Some of them are:

- To have an agreement which relatively satisfies both parties;
- Parties have been publicly known and their conflict is no longer a private matter;
- To estimate the strength and weaknesses of the other party;
- Sharing experiences on the nature of their conflict;
- To have individual perceptions changed;
- To lure supporters of their strategies so as to get extra time allocated for other programs on the agenda;
- To have a conflict mutually resolved without resorting to violence as method of conflict management.

C.1 . Where should negotiation take place?

- A place agreed upon by both parties ;
- A convenient place to both;
- A place whose temperature is neither too hot nor too cold. It is possible that some parties in the negotiation process wouldn't wish to end the process due to personal interests they would gain if the process continues for some time
- In a negotiation, all chairs must be of the same make and size to avoid any possibility of some who would use it as a pretext not to negotiate;
- Avoiding a possibility where a party may lodge a complaint that a seating place reserved for them is not convenient or conducive to properly negotiate;
- Attention should be paid on the colors decorated in the room. Some people might say that a certain color stands for the interest of the other party or materials used symbolizes their flag, thereby making it withdraw from the negotiation;
- Prior consensus on the language to be used during negotiation process.

C. 2. Principles to be based upon for a meaningful negotiation:

- When both parties are willing to participate in the negotiation process ;
- When both or all parties have got interest in the process, should indicate willingness to get involved, otherwise negotiations will fail if one party withdraws or declines to participate and or has been excluded;
- When both parties have got common interests or need each other to have their needs met. In case one party has got an option of getting their interests satisfied else where than the adversary, then negotiations may fail because one party doesn't need the other for anything;
- When both parties are prepared and willing to negotiate. When parties enter into a negotiation process forcefully or as a way of buying time, that process is bound to fail abnitio. Parties to a negotiating table should be psychologically prepared enough, have necessary logistics and time to negotiate;
- When both parties are willing to conclude an agreement. Sometimes, a party may enter into a process of negotiation ostensibly just to conceal real intentions. In fact, one might find a party is interested in delaying the process being more beneficial than when the process is concluded.

- When the subject matter to be negotiated is capable of being resolved. When the conflict parties see no possibility of compromising or the issue in dispute is non-negotiable, then they better leave it. This happens when one party is stronger than the other and is determined to win at all costs. Equally, the other party sees no point in continuing the process if nothing will be gained;
- When there are means and ways to facilitate the process. For a negotiation process to produce any meaningful results, parties must have competence and are capable of negotiating. In short, not every body can negotiate. What is more, as already mentioned above, parties should have the necessary logistics, time etc.

c. 3. Different techniques used in negotiation.

c.3.1. Apply all means to prove the interests of each party in conflict

This approach comprises of different elements:

- Be obstinate on your position

This can be use in solving or preventing commercial conflicts, or political conflicts, etc. This approach starts with high opening demands, demands that are almost impossible to come by since one becomes positional on his/her demands. Those who adopt this approach want to gain more than what they would normally deserve in case of productive consensus.

In case of commercial conflicts, the buyer may start bargaining at a price half lower the amount he is willing to pay even though he would not mind paying that extra half itself. On the other side, the seller may also charge a price twice higher than what he would want to receive. In politics, leadership, employment, education, non-governmental organizations, or donors, we find many people who use this approach

We have given these examples so that when a person starts negotiating with people who use this method he doesn't be taken on surprise. But again, one may use it when dealing with donors or others because it is their most used approach:.

- To revolt or show your anger during negotiations

It is the same as a child who rebels to obtain what he wants. To comprehend this method would facilitate people to make discernment thereby take measures when dealing with people who use this method. This would also help while working with other institutions.

EXERCISE

The trainer will ask participants to give as many examples as possible about these strategies.

c.3.2 Collaboration of both parties for mutual gains.

This method aims at benefiting all the parties while resolving the conflict. In this way nobody feels cheerless, angry or doubtful about the outcome. Both of them are pleased with the compromise they have reached from their discussions: they think over carefully at their problem and suggestions to resolve it. While using this method, one should avoid judging the other person or institution as the problem itself.

Exercise 2 : Plan to renovate the Rubobi City

The administrative management of the City of Rubobi has initiated a plan to renovate the City with respect to the development strategic plan of the country.

In order to achieve this, the city inhabitants have to make a lot of sacrifices, consequently many people did not welcome this plan as it has since been observed. To reduce the number of obstacles to the plan, the mayor of the city convened a meeting to discuss in better terms with all parties involved in the development of the city of Rubobi.

Prepare the negotiations including the following parties:

- The town council,
- Business-men,
- Immoveable property holders, Industrialists,
- Private sector entrepreneurs Government,
- Wheelers' owners,
- A representative of power supply societies;

The mayor of Rubobi city facilitates negotiations. Find key issues of discussions in the context of the city renovation, the interests of each party involved in negotiations so that one party can obtain his without being a hindrance to the others.

5.2.3. Mediation

Mediation is a method of preventing and resolving interpersonal conflicts with the help of a neutral person agreed upon by both parties. He should be a person of integrity and acceptable by both parties involved in a dispute. This method is used when parties, institutions or families are not able to resolve conflicts on their own. The mediator can be a person, institution, country, or joint countries. Mediation can be between more than two parties.

a. Principles of mediation

When a person is asked to mediate conflicts in the family or between people, he is required to be clearly acquainted with the principles of mediation. These are:

- Not be a party to the conflict;
- Be of integrity;
- Be impartial;
- Be honest and can keep secrets;
- Guard against taking positions or make judgments;
- Believe in his communication skills;
- Be able to hear and pay attention to the parties he is reconciling;
- Have a spirit of discernment;
- Avoid and control emotions.

Having talked about the above rules, it is now better to look into the process of mediation.

b. Mediation process

b.1. Step One

- Although the mediator may be familiar to the parties in conflict, they may not know you very well. He /she should introduce him/herself to them and ask them to do the same.
- If possible, ask them to sign a mediation agreement stating that they had recourse to you voluntarily;

- Explain clearly the terms of the agreement so as to delimit the extent your contributions;
- Explain to them that the mediation process requires mutual understanding, and that from then they must be patient to and give each other enough time to express their feelings
- Instruct them that they can have private discussions;
- Make it clear that they do not have advocates, thus their presence is required;
- Try to make them understand that the goal of mediation is to find a solution to their conflict;
- Agree on the agenda to be followed;
- Show them that your preoccupation is not to judge but facilitate them solve their conflict.

b.2. Step two: the mediator listens to one side at ago.

- The mediator asks the parties to chose among them which side to expose the problem first;
- The mediator asks that side to explain what prompted the problem;
- The mediator listens to that party in order to discern the nature of the conflict;
- The mediator will ask questions when he deems it necessary otherwise he will await for that side to close its speech;
- Up to now he will avoid ask them their proposais to resolving the conflict.

b.3. Step three: the mediator asks the other side to explain what happened

- The mediator listens to the other side;
- The mediator avili again avoid asking questions.

b.4. Step four: The mediator asks both sides questions relating to their conflict

- The mediator will ask them to question each other and meanwhile he will be trying to understand the source of their conflict;
- The mediator explains to them that they are not in a verbal fight but are expressing productive opinions about resolving their conflict;

- The mediator will ask them not to judge each other. In case this happens, the mediator intervenes and redirects the mediation to resolving the conflict;
- Having listened to both parties, the mediator will announce and explain the next steps to follow.

Here the mediator is required:

- To examine what he has been told;
- To think about different solutions to their problem.

b.5. Step five: have private discussions with the side, which was first to expose the matter.

- The mediator gives this party enough time to talk so that nothing is left out hidden;
- The mediator will ask if there is anything this would like to add on his first declaration;
- The mediator will avoid insulting the side if it repeats what it had said earlier;
- The mediator summarizes what he has heard;
- The mediator asks the side's propositions to solving their conflict.

b.6. Step Six: the mediator has private conversation with the other side

- He summarizes what has been said;
- He examines the nature of the problem;
- He tells this side what its opponent avants as a solution to the problem;
- The mediator asks what this party's own solution is;
- He brings both sides together to help them reach a compromise.

c. The Process of reaching a compromise that lis acceptable to ail

Very often the conflicting parties resort to the mediator for help, when they could not solve their problem on their own. During the medaton process, the mediator may come across cases where an agreement cannot be reached. Hence he is required to adopt certain methods so as to assist them. He may use one of the following methods:

c.1. Counsel both parties

Having listened to the pleas of each side during the discussions he would have headed, he may counsel them to make mutual sacrifices and give more emphasis to common interests that benefit both of them. He will however offer them this advice only when they request it and after he has explained to them carefully that his only goal is to have them reconciled.

One can often notice that the main reason behind misunderstandings is that conflicting sides do not want to change their positions. And these positions are not merely adopted but hide some personal interests. Hence the mediator asks them to put aside these interests and search for a common ground where each side will gain his own interests without hindering those of the other side.

c.2. Help them to analyze the nature of the problem

Sometimes the conflicting parties think that their problem is too big to be easily solved. Here it is required of the mediator to show his ability to help them analyze the nature of the problem. The mediator does this however with the aim of arriving at a compromise, and without forcing them to adopt it.

c.3. Support both parties by revealing to them that the solution they have Adopted is the best.

This shows that he very well understands their problem and he would be pleased if it were solved. But it is necessary that he does not seem to be implicated in their problem so that he doesn't latter be accused of partiality.

c.4. Ask questions which aim at disclosing the source of the conflict

If complications are still observed after having brought together the conflicting sides and helped them to resolve the conflict, it is useful for the mediator to ask questions, which motivate dialogue. The ultimate end here is to disclose the source of the conflict. These questions should act as stimuli to talks and new ideas, and hence should not be closed questions requiring answers of the type "yes" or "no" or even open questions of the type "why?", "how?" or "when?" because their replies do not lead to telling the true reason behind the conflict. The mediator may ask questions like:

- * "I am wondering if
- * "It is possible that..
- * "It is understandable that. . .
- * "It is obvious that. .
- * "What I understood from that is. "

- * "It would be right to say that..
- * "The way I understood it is that...
- * "I think that "
- * "I don't know very well if what you mean is that. . .
- * "Can you explain me again about.."
- * "Maybe you can add on something .
- * "I think there is something you can add .
- * "Maybe you would like to explain more what it means.

C.5. Reformulate the problem in order to comprehend its nature properly.

Although it was observed that the mediator is competent enough to discover the nature of the problem, there are times when the conflicting parties do not say what their real problem is. The mediator will hence use his discernment skills in order to grasp the matter. He may ask for more explanations and then say in his own words what he understood from the nature of the problem. In this way the parties retain confidence in him and feel that they need not hide anything from him. They will again explain in details their problems.

N.B.

This method is used at the request of the parties. He will avoid taking it on his own initiative otherwise he is risking to look pretentious to them; hence they will lose confidence in him and no compromise will be reached in any case. This may explain the reason why conflicts at the international level are not fully solved or the solutions taken give rise to further revolts and wars.

There are some people who mediate using the wrong approach by allowing themselves the permission to dictate to conflicting parties what they should do. They forget that these parties contacted them as a third one to only help them reconciling,

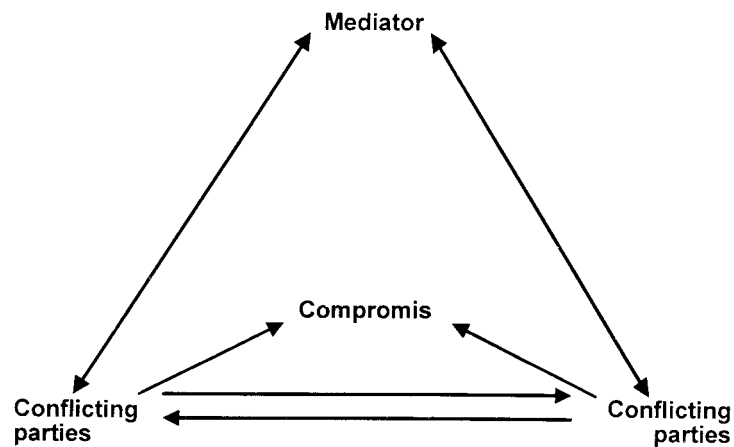
c.6. Signing an agreement

When people are literate, it is better to draft a contract of conflict resolution outlining the terms of their compromise. The mediator will help them finalize this contract, but he will in no way dictate them the final conclusion they should take. All the terms of agreement should be included in this contract. It is very helpful if both parties and the mediator, with the date and venue written on it, then sign this contract. An example of Mediation Contract.

1. The terms agreed upon in this statement have been voluntarily reached through the mediation carried out on October 24, 2004 between Vubi and Bushari.
2. Vubi and Bushari agree on the point that this statement does not incriminate any body.
3. Vubi and Bushari agree to abide by what is included in this contract before the following date:
4. Vubi and Bushari agree to never ask the mediator to testify into court on issues he has helped them to solve.

Vubi Signature	Date : 20th october,2004
Bushari Signature	Date : 20th october,2004
The mediator Signature	Date : 20th october,2004

Graphic representation of mediation:



Questions:

- How can this approach be used in Government policies?
- What are the demerits of this approach?

Exercise 3: Shareholders

Rukara and Keza are shareholders in a society, which funds developmental projects. They gain an interest of 10% at each loan they grant. Rukara is the major shareholder but due to his busy schedule in supervising his businesses around the country and outside in neighboring countries, he has little time to meet his clients as they wish.

Keza is instead the minor shareholder. His task is to travel all over the country searching for potential customers. The nature of his job hence puts him into contact with many customers. As he noticed that their number is large, he calculated that by reducing the interest rate they would attract more customers and expand rapidly as competitive funding societies demand higher interests of 16%.

When Keza made the above suggestion to Rukara, the later refused so Keza began giving out loans at the rate of 8% without telling this to Rukara. When interests start accruing in their account, Rukara remarked the abnormality in terms of 8% of the loan as interests and a higher number of customers. He became furious and asked Keza why he did that without his prior consent. They started misunderstanding and becoming suspicious of each other. They finally decided to close down their business and liquidate their goods. When customers found out that they were the ones to lose their funds in the process, they complained to the leaders.

Meanwhile, Keza started his own business of funding without the assistance of Rukara who saw this and decided to accuse Keza of robbery.

Keza denied this accusation and asserted himself as the population saviour against Rukara who in turn he accused of being a thief.

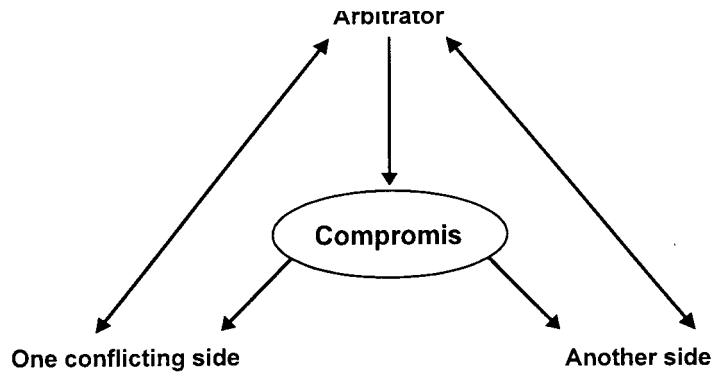
Having noticed that these mutual accusations would be endless and were only harmful to their business, they decided to approach one leader of the Province Habana to reconcile them.

Ask the trainees to do this exercise of resolving the above conflict using the mediation approach.

5.2.4. Arbitration

Parties in conflict choose a mediator to reconcile them leaving him however with the power to take decisions on their behalf. The decisions he takes cannot be changed and should be followed as such.

Graphic representation of arbitration:



Questions:

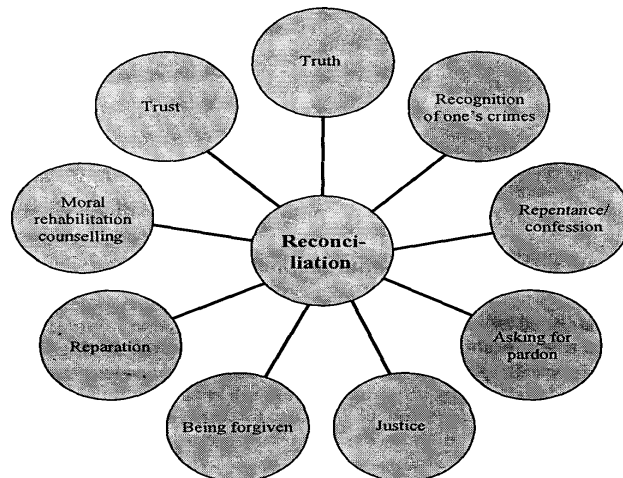
Having learnt this method of conflict resolution, in which cases do you think it can be used? What are its demerits?

5.2.5. Reconciliation

a. What is reconciliation?

Reconciliation is a method of bringing closer once again people or families who were split apart or destroyed by massacres, wars, etc so as to rebuild community again. The process of reconciliation has many components namely telling the truth about what happened, repentance, asking for pardon and being forgiven, being charged of and paying reparation. There may later be pursuits in justice, moral rehabilitation and counseling, compensations for damages, etc; all these steps lead to people living again together in harmony.

Reconciliation Components:

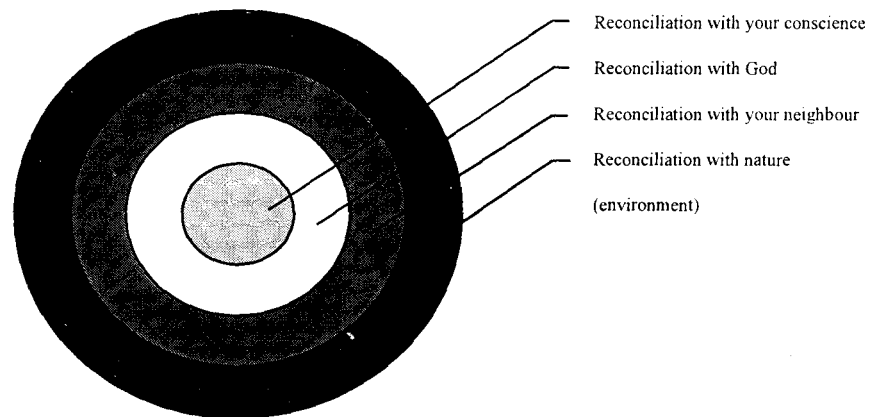


b. Reconciliation process

There are experts who say that before reconciliation, one is required to:

- Reconcile himself with his conscience;
- Reconcile himself with God (for believers);
- Reconcile himself with those you committed crime against;
- Reconcile himself with nature (environment).

Graphic representation



b.1. Conducive factors that facilitate reconciliation process

- **Strong governmental institutions**

These include a leadership too strong to be shaken by any body. This leadership helps people satisfy their basic needs so that they can devote themselves to the process of reconciliation.

The activities of these institutions should be supported by educational programs, which aim at explaining to people the nature of conflicts and methods of resolving them, tolerance and building up a culture of peace.

In addition, memorial sites, articles and books, days of commemoration and others which act as constant reminders to the survivors, genocide perpetrators and bystanders of what happened.

There should also be a reform in these institutions because it has been observed that their structures have sometimes led to discrimination and injustice as sources of conflict.

- **Internal and external security services.**

Reconciliation process as described above is possible only when people are calm and feel secure. When there is any threat in the country or attack from outside, people do not feel motivated to take up reconciliation because they are not sure of their security. When there is security, people are confident about the future and believe that there will not be any consequence of telling the truth.

- **Criminal justice system**

As said before, there is a need for the judiciary system to be existing and operative. One of the most used methods in justice is punishing criminals. This is one way of rebuilding the confidence of survivors so that they may be inclined to take up the reconciliation process.

Punishing criminals is a positive factor to the reconciliation process:

- It eliminates feelings and acts of revenge;
- Prevents criminals to regain power. This again shows people that what happened will never be repeated again;
- The survivors feel relieved and this help them start thinking about ways of rehabilitation. This is the first step towards reconciliation
- Justice punishes each according to his deeds. It shows an individual's role and participation in committing the crime. .

This hence removes the culture of generalization of criminality on the family or some ethnic group as a whole;

- It strengthens the culture of transparency, good governance and democracy, and free expression of opinion. Its effect is that people feel peaceful and hence can adopt the reconciliation process;
- It eradicates the culture of impunity. This weakens those who have plans to transgress human rights;
- It helps people feeling again respected as human beings.

Question

How do you perceive the process of reconciliation in Rwanda?

Ask trainees to go into group and discuss about the above question. They will prepare a presentation on their perceptions of the reconciliation process in their places of origin.

6. GACACA: RECONCILIATORY JUSTICE

Gacaca is one of the ways used to reconcile Rwandan community after 1994 genocide. It is also a restorative form of justice essentially based on Rwandan culture.

6.1. Background of Gacaca in Rwanda

From time immemorial, Rwanda has been fond of managing its own conflicts. Citizens participated in this process and this legacy followed as time went by. That method of conflict resolution is what was referred to as Gacaca where the people sat together, deliberated over disputes and designated punishments or reconciled the conflicting parties.

Before the arrival of Europeans, Gacaca was the court of first instance of the local area. Gacaca was presided over by persons of integrity who used to congregate and settled any disputes or conflicts that came up in the society. The Gacaca courts had competence to settle everyday conflicts of civil nature like divorce, land, libel or defamation and other kinds of unbecoming behavior. During the colonial period, Gacaca courts continued existing, but for proper functioning of the new kind of court system, it sought its basis from proper functioning of such Gacaca courts. This kind of partnership was evident during the investigation stage. However, greater power was accorded to ordinary courts of written laws.

After independence in 1960's, Gacaca never retained much power like before; conventional justice system increasingly gained more power and almost replaced Gacaca. However, Gacaca become a sleeping but not dead model of justice, because, locally people in their sectors, continued relying on it.

6.2. Why were Gacaca Courts revived?

The 1990-1994 genocide and war left Rwanda with numerous problems that were varied and various. Among them we would mention justice, which was the most challenging. The government deliberated over what course of action to take in managing the problems left by genocide and inherited by the new government, because the ordinary courts system had been destroyed as well, and demonstrated weaknesses in facing such challenges.

After the 1994 genocide, the justice system had been destroyed. The problems in the justice sector can be classified into 2 parts:

- Problems in the ordinary justice system that concerned civil cases. In such cases, one would mention:
- The number of prosecutors, investigators and judges was very small. This was due to the fact that, some had taken refuge outside and others died during genocide. In addition to this, Rwanda had a weak justice system at competence level and around their number was minimal.

- Prosecutors, investigators and judges had no necessary qualifications and competence.
- Poor services administered by courts and people who kept moving up and down for legal aid without any help.
- The prosecution and courts had no necessary logistics.
- Corruption had become endemic.

What is more, is that genocide left numerous justice problems to the extent that, responding to all of them at the same time was rather extremely difficult and each could not get required attention:

- Crimes committed during the genocide were concomitant and by many people and in different places. Investigating such cases was very difficult more especially that judicial structures had been entirely destroyed;
- More than 135000 persons had been imprisoned as genocide and crimes against humanity suspects;
- More others were looming large outside prisons and needed to be prosecuted as well;
- Given that more than 135000 suspects in prisons had to be fed by the state was rather costly on the national economy;
- Mutual suspicion had the potential to increase amongst people; if all were to be prosecuted in the ordinary courts that had themselves exhibited strong weaknesses.
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6.3. The role of Gacaca in unity and reconciliation

The main objective of Gacaca is to not only punish those found guilty but also has an objective of eradicating the culture of impunity and to reintegrate in society those who willfully acknowledged their responsibility in the genocide. The procedure, with which such cases are tried, is participatory in reaching the final verdict and leads to the truth.

When the truth is known and mutual suspicion reduced and perpetrator punished while the victim is repaired/ rehabilitated and justice is done equally for all, the likelihood for national reconciliation among Rwandans is improved. In addition, more than 30 years of mal-administration based on discrimination, nepotism and refugee problem and worst of all the genocide of 1994, necessitated that justice become a pivot upon which national reconciliation hinges.

Gacaca courts in Rwanda will lead to the truth being known on what happened which is the foundation of unity.

The people themselves act as prosecutor and defendant witnesses of the parties. In particular they have a role in rehabilitating the country based on proper justice where everyone becomes a participant. Gacaca courts must be based on codes like the ordinary courts do based on written law (codes) that is why the Gacaca law was enacted.

In the conventional courts, the losing party is penalized, but that doesn't become the end of the story, instead it increases mutual hatred between the concerned parties.

On the understanding that mutual trust and confidence amongst Rwandans had been lost, the new kind of justice system based on Gacaca must have a role in aiding Rwandans to participate in prosecuting perpetrators and to design together penalties as provided in the law.

In that sense, the culprit feels that merits of punishments are legitimate; making him/her accept responsibility for the crime committed, and possibly asks for pardon publicly and is pardoned when necessary, That may become the beginning point of uprooting the culture of impunity, and promoting unity and reconciliation among Rwandans.

In particular, Rwandans expect the following from Gacaca:

- • Speeding up trials;
- Facilitating unity and reconciliation;
- Rebuild a new Rwanda, a Rwanda without any discrimination;
- Rehabilitate victims and award punishments intended to rectify the repentant person who acknowledges criminal responsibility;

6.4. People's role in Gacaca courts

Sincerely speaking, genocide is a crime of all crimes. It involved majority of Rwandans, tarnished their good image and destroyed society. It was committed openly when everybody was seeing. It is therefore proper to prosecute such genocide crimes publicly and those who witnessed it should participate in pointing out those who are responsible. This sounds contrary to the conventional court procedures where the population perceives as distant justice and not their own. But with Gacaca, most people are made to actively participate because they feel some sense of ownership in the entire process.

In particular, people in Gacaca are required to:

- Attend and participate;
-
- Point out or tell the truth on what they saw and to be neutral;
- Not to conceal perpetrators even though they could be related to them or are their friends;

In the present training manual, emphasis was put on clarifying the concept of conflict, people's styles of behavioral response to conflict and conflict prevention and resolution. This manual explains various mechanisms of conflict resolution. No single method should be taken as the only one appropriate and applicable, not even one method should be considered as a principle.

This becomes the sole reason for those who will use the present manual, will be required to add in more knowledge in the field especially that acquired from participants or partners so that the next manual to be published shall include such new points and skills

- Encourage others to tell the truth;
- Plead guilty and acknowledge responsibility for those who committed crimes;
- To accept to forgive those who acknowledge responsibility;
- Have as an objective uprooting the culture of impunity, unity and reconciliation. Question to participants.

What is the advantage of Gacaca jurisdictions over other forms of conflict management? What are the weaknesses of Gacaca jurisdictions?

7. COMMITTEES OF MEDIATORS

This is an organ of judiciary provided for in Article 159 of the Constitution of the Republic of Rwanda of 4th June 2003. There's hereby established in every sector "a mediation committee" responsible for mediating between parties to certain disputes involving matters determined by law prior to filing a case with courts of 1st instance.

That committee shall comprise of twelve residents of that sector who are persons of integrity and are acknowledged for their mediating skills.

They are elected for a term of two years which may be extended. They shall be elected by the executive committee and councils of sectors from among persons who are not members of the decentralized government or judicial organs.

Parties to the dispute shall choose three of the mediators to whom they shall submit their case for mediation.

CONCLUSION

Normally, a training manual like this one does not give any conclusion because it is constantly amended and updated. This however should not mean that nothing can be said on what has been written in the present manual.

Some of the materials or proposals input in the present manual may not be applicable to the training in conflict management in Rwanda. Even Gacaca jurisdictions in which Rwandans have got much faith, are of recent invention in our country.

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