UNIVERSITY OF CAPE COAST

ISLAM AND INHERITANCE CONFLICT IN WA, GHANA

BY

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DECLARATION

Candidate's Declaration

I hereby declare that this thesis is the result of my own original work and that no part of it has been presented for another degree in this university or elsewhere.

Candidate's Signature: ………………………….. Date: 10th August 2023.

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Supervisor's Declaration

We hereby declare that the preparation and presentation of the thesis were supervised in accordance with the guidelines on supervision of thesis laid down by the University of Cape Coast.

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ABSTRACT

The Islamic scholarship looked at inheritance from many academic disciplines. It looks at it from the exegetical, financial and estate planning, jurisprudential, mechanistic, and historical and gender points of view. These studies affirm the primary function of Islamic inheritance as a system that transfers wealth from one generation of Muslims to the other. It spells out the heirs, their qualifications and corresponding shares each heir is entitled to. The system also prescribes the application of the regulation thereof on the devolution of the estate of the prepositus. One of the objectives of the system is to prevent estate related conflicts among Muslims. Paradoxically, conflict does emerge among some Muslims over inheritance and estate distribution. In view of this, the current thesis sought to find out factors that are responsible for the conflict, using the Waala Muslim community of Ghana as the site for the study. In doing so, the qualitative method of data collection was employed. Primary documents, in-depth interviews and observation were employed in collecting data from the field. Apart from greed and grievance from heirs, the study pointed out that inequality and deprivation are primarily responsible for the inheritance conflict phenomenon in the community. For the phenomenon to be curtailed, not only is there the need for the root causes to be addressed but also the need for a multifaceted approach for the resolution of the conflict. Besides, Muslim clerics could reinterpret and apply Qur'ān (4:7) to apportion estate to such people who serve the deceased (as non-heirs) throughout their lives without commensurate compensation. Furthermore, there is the need for the enactment of a comprehensive law by the state to address Muslim inheritance issues in Ghana.

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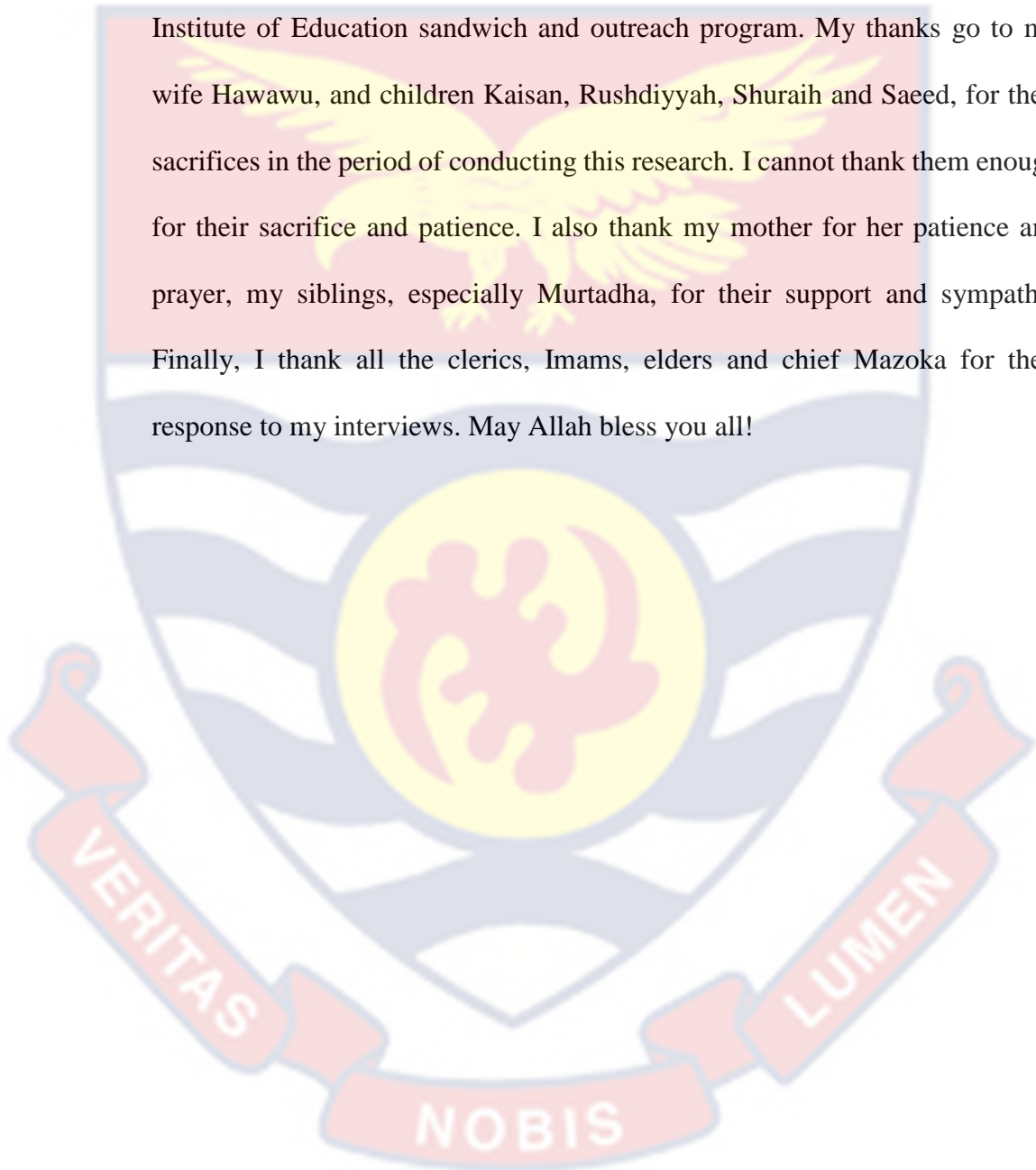
DEDICATION

To my parents, wife and children for their patience, prayer and sacrifice.

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CHAPTER ONE

INTRODUCTION

Background to the Study

Inheritance in Islam is concerned with the distribution of an estate after the certainty or assumption of Muslim death (Abdullah, 2005). It hinges on the rights of the legal heirs of the deceased as granted by Sharī'ah (Coulson, 1977). In accordance with particular provisions, Islam prescribes the distribution of Muslims' estate among their legitimate heirs. It requires the application of the rules of *farāid* on the exercise. By the application of the *farāid*, the Islamic inheritance transfers ownership of an estate from one generation to the other in fractions. Apart from pointing out the rights associated with estates, the Islamic inheritance system also spells out who is or is not qualified to inherit and to what degree. It apportions shares to the qualified heirs. It does all these primarily in accordance with Qur'ān: 4:11-12, which grants orphans their right to own a share of the estate of their deceased relatives. Islam enacted all these rules and regulations to ensure the smooth transmission of wealth from one generation of Muslims into the possession of another. In doing so, the system seeks to prevent the appropriation of estate and conflict among heirs. Indeed, it was the prevention of estate appropriation and inheritance conflict among Muslims that led to the enactment of the inheritance legislation of Islam. This happened when a widow complained to the Prophet about the attempt of her brother-in-law to deny her two daughters of the property of their late father (Sa'd b. Rabī'). The resultant answer from the Prophet, which culminated in the revelation of Qur'ān (4: 11-12), serves as the founding text of the inheritance regime in Islam. It has since been the prescribed regime for Muslims in the

distribution and the running of their inheritance affairs. Thus, the devolution of estate to the qualified heirs in Islam is to be based on the application of the system. Accordingly, when Muslims die leaving wealth behind, a section of the community takes steps to distribute the estate to the legitimate heirs of the deceased. The Waala Muslim community is no exception. The heirs, family heads and Muslim clerics take steps to distribute the estate in the community. While this comes in pursuant of the right of heirs in one breadth, in another breath, it comes in consonance with the objective of the inheritance legislation in Islam, the prevention of conflict.

Despite the legislation, the exercise is often greeted with conflict and disagreement in the community. Paradoxically, this betrays the objective of the legislation, which is the prevention of estate-associated conflicts among Muslims (Abdullah, 2005). Such conflicts, however, have become widespread and commonplace in the Waala Muslim community of Wa, Ghana. It has caused divisions of families and set members of one family against each other in the community. It is against this background that the current study explores to understand the factors that account for such a development among the people amidst the Islamic inheritance legislation and their strong connections with Islam.

Motivation for the Study

On the 13th February 2010, an incident of inheritance stimulated my interest in conducting research into the subject of inheritance conflict in the community. On the said date, I witnessed an instance of estate distribution in the community. The estate involved was an old compound house. Some of its walls had already collapsed. It was the head of the family himself, who led the

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distribution exercise. He directed his son to go to the far end of the house and stand in the middle. He then asked the son to rule a line with the foot, dividing the house into two parts. The head of the family then awarded the right-hand side of the foot-demarcated house to a widow of the deceased and her children, and the other side to a predeceased wife and her children. Few days after this exercise, conflict emerged between the heirs, the children of both wives. The shouting of onlookers brought in interveners to separate between the wrestling brothers. The resultant conflict has turned members of the family against each other.

The second motivation was the reports I had about a conflict that emanated from the land on which Melcom is built in Wa today. It was part of a dated estate that was in the custody of a family head. The land had been bought and the proceeds paid to the custodian, the family head. According to my informant, the head denied other family members their entitlement to the proceeds of the sale. This brought about the conflict in the family to the extent that some aggrieved members attacked the family head and left him with cutlass wounds. The violence committed became a police case. In confirmation of this, a participant had this to say about the matter:

> When we heard what transpired and the subsequent report of the matter to the police, we intervened. We went to the head of the family to plead with him to withdraw the matter from the police station for out-of-state settlement. However, before we even explained the mission of our visit, he had a word for us. 'If the reason for your coming here is to impress upon me to withdraw the matter from the police station for resolution at home, then you should not 'open your mouths' [do not utter a word].

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Because if you do, I will not heed to your plea'. He told us. In view of this disrespectful and recalcitrant behavior, we also decided to abandon him and boycott all his social activities. We would not attend his naming, funeral and marriage ceremonies if he ever had one[1].

These two motivations are a gist of developments reflecting inheritance conflict and its effect on the relationship between members of one family and attempted intervention of members of the community. I use these cases as the entry points into the phenomenon of inheritance conflicts among the Waala Muslims of Wa, Ghana.

Statement of the Problem

Islamic inheritance system regulates the distribution and management of a Muslim's estate in accordance with the provisions of Islamic law (Q: 4:11-12) and a number of prophetic traditions. The prescription of the rules therein and their application seeks to instill order and ensure the smooth transfer of wealth from one generation of Muslims to another. Despite these prescriptions, inheritance conflicts are widespread among the Waala Muslims of Wa, Ghana. So serious is the issue that executors of estate find it difficult to administer an estate to the satisfaction of the heirs involved. The extensive studies conducted on the subject matter in Islamic literature focuses more on the theoretical aspect of the issue. This leaves the social aspect of the subject needing to be examined. For, the conflicts associated with the issue in some Muslim communities are commonplace. Our knowledge and understanding of the reasons behind the developments of inheritance conflict are still limited. Indeed, some of the

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[1] Conversation with Abu-Sita on the 13th September 2017. The group of elders involved also affirmed this on the 17th January 2020.

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conflict cases have or are being tried in court as reported by some respondents. The pendency of some of the cases in the court has left estates hanging without devolution. Therefore, focusing on the subject of inheritance from the perspective of conflict contributes to the discourse on inheritance by engaging the underlying factors of the conflict, its forms, effects and the possible ways of resolving it from the perspective of the community in question. Through this, the study contributes to the existing scholarly perspectives by connecting the Islamic inheritance system to the peoples' social context for a deeper understanding of estate distribution challenges that face members of the Waala Muslim community and help explore possible ways of addressing them.

Objectives of the Study

The current study explores the phenomenon of inheritance conflict among the Waala of the Wa Muslim community of Ghana and the conflict resolution mechanisms that are applied to resolve such a conflict. To help achieve this aim, the study set out to achieve some specific objectives that could help in that direction. These are to:

1. discuss the socio-religious life of the Waala Muslim community

2. examine the concept of inheritance in Islam

3. investigate the causes of inheritance conflict among the Waala Muslims

4. assess the effects of inheritance conflict among the Waala Muslims

5. examine the strategies applied in the resolution of the conflict in the community.

Research Questions

The questions that are to help achieve the research objectives are as follows:

1. What is the socio-religious life of the Waala Muslim community?

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2. What is the concept of inheritance in Islam?

3. What are the causes of inheritance conflict among the Waala Muslims?

4. What are the effects of inheritance conflict among the Waala Muslims?

5. What strategies are applied in the resolution of the conflict in the community?

Significance of the Study

There is no paucity of literature on the Islamic inheritance system. Therefore, building on the existing literature, the current study explores the subject from the conflict point of view. In doing so, the study exposes inheritance as an indicator of the strong presence of Islam in the area of the study. It also highlights the interplay between Islam and the local culture. This contributes to a better understanding of how the existing cultural dynamics play out in estate distribution in the community.

The study further points out another way of looking at the phenomenon from a peoples' experience and social context to bridge the gap between the literature and the conflict phenomenon. This teases out the causes and effects of the conflict and the interventions that are being invoked to manage it. Thus, the study complements early studies on the subject by providing a social context to the discussions on the subject of inheritance.

Furthermore, the thesis not only serves as a document on the inheritance of Muslims. It also provides a way of enhancing the ability of interveners in the resolution of family conflicts among Muslims. Thus, the study equips the Muslim community with how to address pre-inheritance grievances before its transition and escalation into inheritance conflict of serious consequences.

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The study also highlights areas that policymakers could take into consideration in crafting policies on and dealing with issues concerning Muslim inheritance in general and women and children in particular.

Justification

The Waala may not be the only Muslim group experiencing inheritance conflict. This is because of the fact that inheritance is not limited to one group of people. Therefore, its associated challenges like conflict will not be peculiar to only a group. However, what makes the inheritance of the Waala people worthy of study is the state of their islamicity.

The Waala ethnic group is one of the most Islamized people in Northern Ghana. The second chapter of the thesis shows how Islam dominates every aspect and institution of the socio-cultural and political life of the people. Chieftaincy, festivals and the rites of passage have all been dominated and influenced by Islam. The outcome of the study would therefore be different if it has taken place in other jurisdictions not only because of its qualitative nature but also because of the difference in the socio-cultural and political characteristics.

Limitation

The study investigated inheritance conflict among Muslims in Wa, Ghana. One of the areas that form the fundamental part of the study is the resolution of the conflict. During the interviews, some participants pointed out how they adjudicated their cases in court and had secured judgments against their opponents. However, seeking the said judgements from the heirs, the circuit, district and high courts was to no avail. I was frustrated. I was rather given letters of administration, which did not relate to the subject matter of this

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study. Access to such court documents and the relevant rulings would have expanded the scope of the study and made it better.

Research Methodology

This section examines the strategies employed in conducting and collecting data for the study. The specific methods that have been used in this regard are the research design, data collection procedure, data collection instruments, sample and sampling procedure, and data analysis.

Qualitative Method

The study is a qualitative one. The qualitative inquiry aims at collecting data with the objective of understanding human behavior and the reasons therein (Silverman, 2000). It is the type of study that arrives at findings through means other than statistical procedures or other methods of quantification (Strauss and Corbin, 1998). It is concerned with peoples' lives, lived experiences, behaviors, emotions and human feelings. It also has to do with organizational functioning, social movements, cultural phenomena, and interactions between nations (Strauss and Corbin, 1998). The qualitative method also consists of the analysis of words and images rather than numbers, observation rather than experiment, and hypothesis-generating research rather than hypothesis testing (Silverman, 2000). It helps generate data on feelings and thought processes that are not easily learned or extracted (Strauss and Corbin, 1998). The justification behind the choice of the qualitative method for the current study lies in the fact that the study has to analyze the primary inheritance text in Islam. Textual analysis too is an exclusive preserve of the qualitative method. When it comes to textual analysis, the interpretation of the text Qur'ān (4:11-12), the study used the analytical method of exegesis. This is

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a composite method that encapsulates the *tafsīr bil-Mathūr* (Qur'ān by Qur'ān, and Qur'ān by Hadīth) and that of *tafsīr bil-Maqūl* (Qur'ān by language and others).

The study also has to do with the thoughts and feelings of the participants, which is also another area of the qualitative method. On the other hand, the inquiry does not rely on statistical data of conflict and its resolution mechanisms that are appropriate at resolving such conflicts. The issues that are related to the conflict, the assessment of the resolution processes requires interviewing the stakeholders who have knowledge about inheritance conflicts and the way the conflicts can be or are being handled in the Wa Muslim community of Ghana. The data aspect will be carried out through phenomenological design.

Phenomenological Design

The phenomenological design deals with the experiential dimension of a phenomenon. It studies, describes and presents a phenomenon from the perspective of the participant. According to Cox (2010), it is a technique of inquiry or descriptive theory of knowledge, which begins from within the person, the subject and goes beyond the person into an objective description of the world (as cited by Assanful, 2017: 21). The significance of the phenomenological method is that it allows one to understand the essence of human experiences about a phenomenon from the perspective of the participant (Given, 2012; Creswell, 2003). Phenomenology put more emphasis on and inquires the ways in which humans experience their world and how they find new ways of connecting with other humans (Given, 2012).

However, because of its description and presentation of issues from the perspective of the participant, feminist have an issue with it. Feminist scholars reject the possibility of conducting a study devoid of the perceptions and biases of the researcher involved. They point out the significance of how interpretations and meanings can be placed on findings and the presence of the researcher in a study as an interested and subjective person rather than an impartial or detached observer (Lester, 1999).

In lieu of this criticism, phenomenology is "relevant to the study of religion as a subject in its own right" (Cox, 2010, p. 151). Paying attention to the weakness of phenomenology as pointed out here rather makes its use more appropriate in the current study. This is for the fact that being aware of and paying attention to the criticism strengthens the application of the design and therefore makes it better applicable in the study. Yes, it may be true that researchers' perceptions and biases cannot be absolutely avoided. However, biases that are superimposed on participants can be avoided. Also, biases that lack scientific basis can equally be avoided. Other than that, as a qualitative strategy, phenomenology in itself is an instrument of a subjective method and therefore cannot lead to absolute objective outcomes. The thesis is about inheritance conflict in Wa, Ghana. The application of the phenomenological design, therefore, assists the study to explore and understand the experiential dimension of the people regarding inheritance conflict from the perspective of the participants in the community.

Population

According to Nwana (2005) population in research refers to the members targeted for an investigation in accordance with the aim and objectives

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presented. The target group is the entire population of the Waala Muslims of Wa, Ghana. Therefore, in line with the aim and objectives of the study, the population covers all those who are related to the issue of inheritance conflict in the Wa Muslim community. However, through the purposive and snowball sampling techniques, Imams, the clerics, family heads or community leaders, a chief, opinion leaders and parties to the conflicts were the sample of the study. The relevance of these participants to the study is that they play various roles in the development and resolution of the phenomenon and are therefore equipped with relevant experience and information that is needed for the study.

Data Collection Instruments

The study used an interview guide for the collection of data from respondents. The questions on the guide were open-ended in nature. As well as observation, the study also collected primary documents from the field as another source of data for the study. These instruments constituted part of the procedures used in the collection of the data.

Data Collection Procedure

The study used primary and secondary data. In gathering the primary data, it employed interviews, observation and documents obtained from the field as part of the primary data.

Interview

To assess participants' perceptions and experiences on inheritance conflict, definitions of situations and constructions of reality, the study used interviews to elicit information from them. The kind of interviews the study used for this process is semi-structured. The semi-structured interview is a combination of both unstructured and structured interviews (Sekaran, 2003).

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The semi-structured interview has some advantages. On the side of the participants, it gives them the latitude and flexibility in answering the questions (Bryman, 2012). It also enables the participants to communicate their views and experiences in their own languages (Burns, 2008). On the other hand, a semi-structured interview enables researchers to ask relevant questions which are not in the guide as they may ask follow-up questions on the responses of the participants. This helps deepen the understanding of the issue under investigation (Bryman, 2012). These advantages referred to above are reasons for the choice of the semi-structured interview as the strategy for data collection for the study. The interviews helped gather data on the knowledge, perspectives and attitudes of participants about inheritance conflicts and seek explanations for positions and behavior that would be more easily accessible as compared to interviews.

The data was captured both in audio recording and writing, depending on the permission of the participants. While some participants objected to the audio recording, others did not. Those who objected to the tape recording, notes were taken of their responses. Two people assisted me in the collection of the data from the field. Participants were interviewed about inheritance and its associated experiences in the Waala Muslim community of Wa, Ghana. It was participants who experienced and have knowledge about the subject matter that were interviewed. In this vein, heirs, clerics, elders, and family friends were interviewed to get to the essence of the issue. The interviews were conducted in the native language of waali. But it was written and directly transcribed in English. The collection of data took three rounds of fieldwork. With the help of my assistants, the fieldwork spanned from July 2019 to May 2021 with

intermittent breaks. The exercise did not capture all the periods. Upon feedback from my supervisors on the 24th September 2020, 6th January and 18th June 2021, I returned to the field with my assistants to seek for further clarifications on aspects of the subject matter, especially the customary system of inheritance. The interview did not set out to interview a particular number of participants. It focused on saturation as the stoppage point of the data collection.

According to Calder (1977 as cited by Bryman, 2012), when the researcher gets to a point where he or she can anticipate the response of the next group, it means that enough groups have been engaged. Put differently, when one gets to a point where one is no longer learning new things or getting new information, one stops there (Ragin and Becker, 1992). However, at the end of the exercise, the saturation enlisted 64 participants. The breakdown of the number arrived at of the saturated exercise is herein provided. The participants were made up of 13 elders, 11 clerics and 33 heirs. The rest were 2 cousins of heirs, a tenant of a housing facility in dispute between heirs, 3 family friends of heirs and an elder and a chief.

Observation

According to Blevins (2018), people are not normally comfortable with outsiders observing them and taking notes of their actions. In view of this, Blevins advises that one identifies a gatekeeper of the group to grant one permission and access to observe the group. This was not encountered by the researcher and his assistants in the field. However, the participants were informed about the observation, the purpose of the research and their permission was sought and granted for the observation and collection of data. Blevins also recommends that in the course of the observations, researchers take

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note of the participants, their role in the events, sayings and to whom it is said as the activities unfold in the course of the participation. In line with this, my assistants and I took field notes during the observations. The notes captured how life cycle events were conducted, the things that were said in the process and the sequence in which the observed events had taken place. It also captured the action and reactions of participants during such times. In so doing, data on the lifecycle events and estate distribution had been collected.

Field Documents

The other category of the data collected from the field was primary documents. Some of the documents contain litanies, prayers and processes involved in conducting lifecycle events. The relevance of such documents is for emphasis on the influence of Islam in the people's passage rites and how that influence exerts its tentacles on inheritance among them. All these documents are in the Arabic language, whose ways of analysis have been provided in an appropriate section as will be provided below.

Sample and Sampling Procedure

The study selected participants using the purposive sampling technique. Purposive sampling is a technique of sampling in which the researcher selects cases or participants that are relevant to the issue under investigation (Bryman, 2012; Sarantakos, 1993). In the current case, the research chose participants with the required knowledge and experience relevant to the issue under study. The participants include experts of estate distribution, the beneficiaries of the estate and the community leaders or family heads that play various roles in relation to the issue have purposely been sampled. Of the experts, Muslim clerics, who have participated in estate distribution and inheritance conflict

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resolution have been sampled and interviewed. The number sampled has been pointed out on page 13 above.

Furthermore, heirs, who are major stakeholders of the issues, have also been interviewed to share their experiences concerning the phenomenon in the community. The study also collected data from community leaders or family heads, who had also taken part in estate distribution and inheritance conflict resolution in the area. This has led to the collection of firsthand information on the experiences and the role each of these participants played regarding the subject matter in the community. For the sample size, as briefly pointed out above, the study set out saturation, which has been explained on page 12, as the target. According to Nwana (2005), there is no rigid rule concerning the size of sample one uses. There is no specific number or number of percentages that is said to be an ideal sample. Taking inspiration from Nwana (2005), I did not choose any particular sample size for the study. I rather engaged and continued to interact with the participants until I was no longer getting new information. Scholars have indicated that as long as saturation is the measure for sample size, there is no need in identifying either the minimum or the maximum number of the sample sizes (Bryman, 2012). Saturation is the point where "emerging concepts have been fully explored and no new theoretical insights are being generated" (Bryman, 2012, p. 717).

I also used snowball sampling to elicit information from the participants. Snowball sampling is a technique for gathering data from participants who have been identified by other participants on the subject under investigation (Michael, Lewis-Beck, Bryman and Liao, 2011). It helps identify participants who otherwise are not easily identifiable (Liao et al., 2011). In this

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vein, interacting with some of the purposively sampled participants led to the discovery of other participants. Some clerics, elders and heirs have pointed out other participants who were also part of the inheritance conflict experience in the community. Data was collected from such participants too.

Data Analysis

The primary data collected were subjected to thematic analysis. Thematic analysis of qualitative data focuses on presenting the data in themes that adequately reflect the data (Kiger and Varpio, 2020). It involves a non-statistical process of interpreting data. This data could be interviews, observations, or documents. The objective of the thematic analysis is to identify themes by repeatedly reading through the raw data. Induction is used to identify the patterns from the data itself. Going further, one takes the deductive approach to bring out recurrent patterns from the text. The purpose of this is to find issues, concepts and relationships in the raw data collected and then organize "it into a theoretical explanatory scheme" (Kraner, Nishishiba, & Jones, 2017; Strauss and Corbin, 1998).

My analysis of the data passed through transcription, editing and coding. I transcribed the responses into scripts and written text. Thereafter, I sorted out the data through coding. Coding according to Gibs (2007, p. 38 as cited by Glesne, 2011) "is how you define what the data you are analyzing is about". In practical terms "it is a progressive process of sorting and defining and defining and sorting those scraps of collected data…applicable to your research purpose (Glesne, 2011, p. 194). Some researchers refer to coding as indexing (Bryman, 2012). Through coding, the transcribed data were processed and transformed into like-terms and categories. It was then edited to reduce typographical and

grammatical mistakes to the barest minimum. The data was further organized into the various issues that form the basis of the study. The grouping and categorizing of the data were done by using different colors to code the various themes that had emerged in the data.

However, Bryman (2012) pointed out some criticisms raised against coding. One of such criticisms is that there is the risk of losing the context of the responses of the participants. With the movement of responses from their original places of the transcripts, the social setting can be lost. The other common criticism is that it can lead to a fragmentation of data, thereby standing the risk of losing the flow of participants' responses.

Being aware of such criticisms helped. It enhanced caution about the pitfalls of coding and therefore helped avoid the risk of losing the context of the responses. In order to avoid such a pitfall, I continuously cross-checked my analysis with the raw data to help reduce the risk of losing the context of the responses to the barest minimum. The coding helped with the organization of the data into categories and themes. The thematic tool "is more or less the same as a code, whereas for others it transcends any one code and is built up out of groups of codes" (Bryman, 2012, p. 578).

The other primary data that had been analyzed were the documents collected from the field. Since they were all in the Arabic language, they had been translated into English. Of these documents, it has to be noted that only the relevant portions were translated and used in the work. They have also been subjected to content analysis, showing their contributions to the issues at stake.

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Ethical Consideration

I went to the field with a letter from the university introducing me to my participants as a researcher. The consent of the participants was duly sought before the start of interaction with them. They were also pre-informed in person or through various means of communication asking them for permission for the interaction. The same thing applied to my assistants. Participants were informed about the objective(s), purposes and possible publication of the findings of the research. However, they were assured of anonymity and confidentiality in communicating the findings of the study. It is in line with this confidentiality that pseudonyms had been used in place of the real names of the participants in the work. I coined the pseudonyms of the interviewees by combining Ibn and Bint, the Arabic equivalents for son and daughter respectively and other titles to identify the participants by which such participants cannot be easily identified by readers. Some agreed and their responses were audio recorded. But others did not and notes were taken of their responses.

In the case of insiders' role, Creswell (2007) indicates that one of the ways of checking insider's bias is the disclosure of connections the researcher has with the place of study. The disclosure is vital in helping the qualitative researcher to situate himself or herself in the study. For Dwyer and Buckle (2009), such a disclosure promotes transparency and allows readers to assess the insider's role in carrying out the study.

In the light of this, I disclosed herein that I am a native of the Wa Muslim community. I spent a great deal of my life in the community under study. Hailing from the community, I have connections with some families, and households over there. I, however, have personally not been involved in

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inheritance conflict before. Epoché served as a guiding principle throughout the process of the study. It has helped me bracket and put my judgment out of action in dealing with the responses of the participants.

Literature Review

The literature review is a thematic one. In line with the objectives, the study examines the literature in three specific and broad areas. The broad areas under reference are:

a. Conceptual and theoretical framework;

b. Inheritance in Islam; and

c. Conflict and conflict resolution.

Under these broad areas, various sub-themes will be addressed in the review. The conceptual and theoretical framework deals with two main issues. These are the definition of relevant terms and the theories that underpin the study.

Conceptual and Theoretical Framework

Two themes are being discussed in this section. These are the definition of the relevant terms to the study and the theories which underpin the study. From the beginning, in order not to expect the definition of some concepts of the thesis in subsequent chapters, we define the relevant terms below.

Conceptual Clarifications

Inheritance in general is the transfer of rights and property from an early generation to a later generation (Zubair, Khattak, Hidayat-ur Rehman, & Khan, 2014; Nukunya, 2003; Goody, 1960). In Islam, inheritance is the distribution of the estate of the deceased's person among the heirs after the payment of funeral expenses, debts and valid bequest (Coulson, 1971). It has to be noted that the

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common denominator of the general and Islamic definitions is that they all subscribe to the fact that inheritance is about succeeding the deceased in his or her rights and possessions.

Coulson's definition encapsulates the fundamental components of the Islamic inheritance system. It contains all the four elements (funeral expenses, bequest, debt, estate distribution) of inheritance in Islam. In view of this, the study adopts it as the working definition. In the same vein, there are many terms that are very fundamental to the study of inheritance in Islam. The understanding of such terms is vital not only to the understanding of the subject matter but also of the current study. Thus, the current section clarifies the relevant terms that are germane to the understanding of this study. The terms in reference are *wasiyyah* (bequest), *hibah* (gift), *dayn* (debt), *as'hābul-furūd* (sharers) and '*aṣabah* (agnatic heirs). The occurrence of these terms in various sections of the study makes their clarifications herein appropriate. It is appropriate to note that traditional, indigenous and customary are used in the work interchangeably to refer to local practices that have been in use for many years.

Wasiyyah (bequest)

This term connotes a contract of gift, whose receipt becomes effectual only upon the death of the giver (Nor Muhamad, 2017; Alma'amun, 2010; Marican, 2008; Coulson, 1971). The Islamic inheritance system allocates bequest or wills (pl. *wasāyā*) to non-heirs and within the region of one-third (Alma'amun, 2010). The heirs, a person(s) legally entitled to the property of a deceased relative, are not entitled to this facility. They are given more priority and specified shares. Their presence also disinherits others. In such a situation,

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the disinherited distant heirs can get a share of the estate through a bequest (Coulson, 1971; Khan, 1998). Under the operation of *wasiyyah*, one could nominate a legatee who meets the condition of non-inheritability and give a bequest in his or her favor but within the confines of one-third of the estate. In this case, the actual delivery of the property takes place upon the death of the donor (Nor Muhamad, 2017; Alma'amun, 2010). This means that all claims of bequest are subjected to the conditions precedent. Related to this term is the case of *hibah*.

Hibah (gift)

This term is a form of contract upon which one voluntarily gives an existent and deliverable property to another. It is altruistic and is therefore without an expected return from the recipient. For *hibah*, it becomes valid if delivered and received in the lifetime of the deceased (Nor Muhamad, 2011; Alma'amun, 2010). Concerning the altruistic clause, the Mālikiyyah school of thought holds a contrary view. They are of the view that an individual can transfer something to a beneficiary with the condition that the latter compensates the former for it. They refer to this as *hibatu-thawāb*, compensatory gift (al-Qarrāfī, 1994; Ibn al-'Arabī, 1992). Whether compensatory or not, the implication is that the gift cannot be claimed of the estate after the death of the giver. Therefore, despite the fact that gift and bequest are philanthropic in nature, the two differ.

As pointed out above, failure to deliver or take possession of a *hibah* during the lifetime of the giver turns it into an estate of heirs and hence denies the designated recipient of it. On the other hand, *wasiyyah* is a promise of a gift to be received upon the death of the giver. It is taken out of the gross estate and

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is therefore not included in the apportioned shares of the heirs (Chuan, Alma'amun & Sia, 2015).

As'hābul-furūd (Qur'ānic heirs)

The *as'hābul-furūd* are a category of heirs who and their respective shares have been spelt out in the Qur'ān. This category of heirs is entitled to a fixed amount or quantum of the estate in a certain order of preference (Khan, 1998:20). Traditional scholarship normally categorizes heirs into *as'hābul-furūd* and '*asabah* (eg. Ibn Rushd, 2006; Ibn Qudāmah, 2005; and Al-Qarrāfī, 1994). The '*asabah*, who are the variant of *as'hābul-furūd*, have no fixed shares. They, however, inherit the residue estate left by the *as'hābul-furūd*. They do not inherit if there is no residue (Abdullah, 2005; Khan, 1998; Coulson, 1971). On the contrary, contemporary scholarship categorizes the heirs into three subgroups. These are the primary, substitute and secondary heirs (Alma'amun, 2010).

The primary heirs are the sons, husband, wife, father, mother and daughters of the deceased. The substitute heirs are some four heirs who generally replace the primary heirs in the absence of the latter. These are the son's son, son's daughter, the agnatic grandfather and the grandmother (maternal and paternal) (Alma'amun, 2010; Coulson, 1971). For the secondary heirs, they are made up of the brothers of the deceased, sisters of the deceased and all other male agnate relatives (Abdullah, 2005).

The implication of this categorization is that in the presence of the primary heirs both the substitute and secondary heirs do not inherit. Furthermore, the presence of the substitute heirs also excludes the secondary heirs of their share of the estate (Abdullah, 2005; Coulson, 1971:39).

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Besides these terminological clarifications, two theories underpin the study of the phenomenon. These are the relative deprivation and frustration-aggression theories.

Frustration-Aggression Theory

The frustration-aggression theory was coined by Dollard, Doob & Miller (1939). It was supported by several scholars, such as Barker, Dembo, Lewin (1941) and Hovland & Sears (1940). The main assumption of the theory is that frustration always leads to aggression and aggression is always the consequence of frustration. Thus, thwarting one or more individuals from achieving their goal(s) causes aggression from such individuals. Indeed, Dollard et al., (1939) indicate succinctly that "aggression is always a consequence of frustration" (p.1 quoted by Berkowitz, 1989). This is to say that all forms of conflict, interpersonal or international, are traceable to frustration emanating from the nonfulfillment of personal or group goals and objectives. The harm such an aggression causes comes in the form of physical injury, hurt feelings, or damaged social relationships (Anderson and Allen, 2017).

The criticism against the theory is that frustration does not always lead to aggression. In fact, the coiners of the theory, Dollard et al., (1941), were among the earliest to point out that frustration could trigger many other responses, of which aggression is part. The theory has also been criticized for its rigidity and overgeneralization (Jost and Mentovich, 2017). According to Jost and Mentovich, the theory failed to distinguish hostile forms of aggression, in which the actor's only goal is to inflict harm, and instrumental forms of aggression, in which aggression is simply a means to attain other goals (such as control or domination). For them, the theory should have only been limited to

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situations of hostile aggression alone. Furthermore, not all interference evokes frustration. For Jost and Mentovich (2017), research findings have pointed out that aggressive behavior is truly a dominant reaction to situations individuals regard as "deliberate and illegitimate efforts to interfere with their goal attainment opportunities" but not in legitimate situations. For Gur (1970) "…men who are frustrated have an innate disposition to do violence to its source in proportion to the intensity of their frustrations...." pp.36-37). While Gur is not opposed to the theory, he opines that the intensity of the aggression or otherwise hinges on the degree of frustration. This is to suggest that mild aggression does not lead to less harmful effects.

These criticisms expose some weaknesses of the theory. Indeed, every form of frustration cannot trigger aggression. However, in view of the fact that the degree of frustration influences the aggressive reaction, it has shown how the results of the aggression affect the targets in various forms of harsh and mild consequences in the community. The relevance of this theory to the study is in two folds. The fact that inheritance is a property sharing venture, any beneficiary thwarting or perceived to be thwarting the other from obtaining their share breeds frustration and aggression from the denied individual against the denying one. On the other hand, the consequence of that aggression is of both material and social values, which is one of the outcomes of inheritance conflict. From the applicational point of view, the theory shares a common characteristic with the Islamic inheritance regime. This is because of the fact that individual heirs and other stakeholders thwart other heirs from achieving their inheritance goal(s), which causes aggression from those affected by the thwarting. Examples are claiming ownership of some properties to the exclusion of others

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and the use of estate on elaborate funerals to the detriment of some heirs. The other theory applied in the study is the relative deprivation theory.

Relative Deprivation Theory

This is the other theory that underpins the study of the phenomenon. Stouffer (1949) was the one who coined the relative deprivation theory (cited by Smith, Pettigrew, Pippin & Bialosiewicz, 2015). This was an outcome of a study Stouffer conducted into the US army in the Second World War. In comparing their situations, Stouffer found that the Army Air corps men were agitated over promotions in comparison to the military police, which led to the coinage of the theory (Smith et al., 2015). The theory postulates that when people feel that they are deprived of socio-economic resources in comparison with individuals or groups of people in the same context, they protest and revolt against their condition (Guimond and Dube'-Simard, 1983). The theory indicates that relative deprivation occurs when people weigh their possessions and realize that there is a discrepancy between what they have and what they deserve in terms of economic or social resources. Davies (1969) and Gurr (1970) contend that it is such a "discrepancy between what people have and what they think they deserve that results in violent behavior and other forms of aggression" (Davies, 1969; Gurr, 1970 as cited by Seepersad, 2009 p. 16).

Brown (2014) understanding of the theory in the contexts of actual relative and perceived relative deprivations. In actual relative deprivation, the individual is truly deprived in comparison with other people in society. This is typically shown in wealth, income and lifestyle disparities and the quantification of individuals' economic fortunes in comparison to its distribution in society. In the case of a perceived relative, Brown (2014)

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explains that it is not only about one group or individual being less advantaged than others are. It also compares the condition of the less advantaged to the condition of those who are better off and therefore see their own disadvantage. For Brown, despite "…the currency of relative deprivation, it should be made clear that perceived relative deprivation is not automatically a consequence of actual relative deprivation" (2014, p.5).

The theory has three-components. It contains comparison, where one compares one's situation with that of another person. Again, there must be a cognitive appraisal where the individual thinks that s/he or the group he or she belongs to is at a disadvantage. Furthermore, such a perceived disadvantage must be considered unfair. These together cause the manifestation of the theory (Smith et al., 2015). Not only is this theory applicable to the beneficiaries in Islamic inheritance. It also concerns the inheritance arrangement itself. As it will further be explained subsequently, the study explains how instances of inequality among some of the heirs in the system lead to conflict. For this reason, the theory has a very important ingredient of the phenomenon in the community. This also has helped explain various stakeholders' behavior that leads to inequality and conflict in the community under study. Concisely, it has explained the system, estate and heirs related inequality, which makes it appropriate for the study.

For Berkowitz (1989), the relative deprivation theory fulfills the hypothesis of frustration-aggression theory in that it points out the particular areas or issues that trigger the manifestation of frustration. The relevance of this theory too to the study is in the fact that inheritance is an allocation of resources to individuals in an unequal manner. Once this is the case, people compare what

they have to what others also have. In the presence of a realized inequality, the feeling of unfair treatment by those with the least share is inevitable. Indeed, for placing unequal responsibility on the male and female members of the Muslim family, the Islamic inheritance system (Qur'ān 4:11-12) largely contains aspects of inequality along some gender lines and, in the presence of close relatives, disqualifies distant relatives from inheriting. While the theory is secular in nature and not necessarily Islamic, it explains a social reality and experience that is applicable in a Muslim community. For instance, some distant heirs, who are not legally entitled to estates in the Islamic system of inheritance, see such an Islamic disqualification as deprivation and act accordingly. The reaction from such Muslims, though not in consonance with the Islamic system, breeds protestant action and reaction from opposing heirs in the community. The character of explaining the cause of dissonance between heirs in the Waala Muslim community makes the theory appropriate for application in the write-up.

Having presented the conceptual and theoretical clarifications, the section below focuses on the review of the literature on the Islamic inheritance system. The particular themes that are being explored are the Islamic and Arabian inheritance systems, Islamic Inheritance in classical scholarship and Islam and contemporary inheritance systems.

Islamic and Arabian inheritance systems

This strand of literature on the subject is historical in nature. It looks at the connections and disconnections between the Islamic inheritance legislation with the Arabian inheritance situation that had existed before the rise of Islam. It also points out the extent to which the two have mixed and influenced each

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other. Nonetheless, it has shown how Islam has also repealed sections of the customary system of inheritance. Notable works mentioned are the works of Coulson (1971) and 'Abd al Atī (1982) *comparison of the law of succession* and *Family structure in Islam* respectively. Coulson (1971), however, engages aspects other than the historical trend of inheritance in his work. In pointing out Islam's discontinuity with and reformation of the traditional system, Abd al 'Atī explains that the differences between the Islamic and traditional systems in some respects were "so fundamental that it caused resentment and dismay, even among some Muslims" (p.252). This was because of the fact that the people were still in transition and had not yet forsaken their traditional norms. 'Abd al 'Atī, (1982) and Coulson (1971) further explains that the expansion of the network of heirs and categorization of heirs into primary and secondary based on their degree of proximity to the deceased are some of the reforms Islam introduced into the system. Furthermore, restrictions on testaments or wills were some of the areas from which the Islamic inheritance system departed from the traditional system. On the other hand, the Islamic reforms have brought other competitors, like women, into the domain of inheritance. It acknowledges females as heirs, giving them different degrees of shares. Again, unlike the traditional system, the Islamic inheritance system accorded children and the aged their share of the inheritance.

However, 'Abd al 'Atī (1982) and Coulson (1971) indicate that Islamic inheritance, though reforming of the pre-Islamic system, adopted some aspects of the customs and usages of the Arabian customary system of inheritance like the agnatic regime. Nevertheless, these adopted customs and usages were those that the Qur'ānic and/or the prophetic inheritance legislation did not out rightly

alter or abrogate. This means that such customs and usages had no force in themselves but by the approval of the Islamic tradition. Therefore, if there is a contradiction between the Islamic and traditional system in the study area, the latter will be a nullity.

Given this state of affairs, one constructs the relationship between the Islamic and traditional systems as that of appropriation, reformation or repeal. Even though 'Abd al 'Atī (1982) has not specified the nature and context of such resentment, it enables the current study to tease out the intersections between the historical resentment and inheritance conflicts in Wa today. On the other hand, it helps the study to depict the Islamic repeal of traditional inheritance norms at the time and the extent to which that plays out or otherwise in the community under study today. The continuity and discontinuity between the pre-Islamic and the Islamic systems have semblance with the experience in the community as sections of heirs subscribe to Islamic and traditional inheritances.

However, Powers (1998) denies any convergence between the Islamic and the Arabian systems of inheritance. In his *Islamic inheritance system: a socio-historical approach*, Powers (1998) denies altogether the existence of any connection between the Islamic and pre-Islamic system of inheritance. He argues that Islamic inheritance is totally a new system of inheritance. It has nothing to do with pre-Islamic inheritance. Relying on various Qur'ānic and *ahādīth* (sing. Hadīth), Powers constructs what he calls the 'proto-Islamic law of inheritance'. According to him, this is "…a hitherto unrecognized stage in the formation of the Islamic law of inheritance" (Powers, 1998, p. 18), which makes a clear distinction between testate and intestate inheritance in Islam. In

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the testate succession, one contemplating death can nominate an heir and dispose of one's estate to the designated nominee. Therefore, a son, daughter, or other close relatives, who are not qualified for bequest under the *farāid* system, can be nominated and given bequest. Similarly, any person who does not qualify to inherit in the absence of a will, like a daughter-in-law, can be nominated to benefit from the estate as a testate heir. Powers further argues that the testator has the right to bequeath the estate to parents and other close relatives (Qur'ān: 2:180), and provide for the maintenance of his wife (Qur'ān:2:240).

The law places only minimal constraints on the individual's freedom to determine the devolution of his or her property as the bequest should not exceed the legal limit of one-third (Ibn Mājah, Hadīth No.2713). The validity of this action, however, hinges on the testimony of two worthy witnesses (Qur'ān: 5:105-106). Tampering with or altering of which is prohibited (Qur'ān: 2:181). For Powers (1998), most of the detailed rules in the Qur'ān for the distribution of an estate, which formed the basis of the classical law of *farāid*, were originally intended to apply only in cases where Muslims die intestate. Therefore, the compulsory *farāid* rules of inheritance apply only in the absence of a will.

The opinion of Powers is a brilliant one. It would have been a groundbreaking position had it answered the overlapping question. The overlapping question is that the inheritance regime, which Powers refers to as intestate regime, also addresses the issue of bequest as part of the testate regime. In other words, the issue of bequest is found in the verses Powers mentions (Qur'ān: 2:180, 181, 240) and is also addressed in the primary text

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(Qur'ān:4:11-12), which he claims were meant to only apply in the case of intestate-death (Kimber 1998). This is the overlap that Powers has not dealt with and that defeats the conclusion of his proto-Islamic theory of inheritance. To suggest, therefore, that the latter is only applicable in the situations of intestate-death is superfluous. Apart from the historical approach, the Muslim classical scholarship has also looked at the Islamic inheritance system but from the content analysis point of view.

Islamic Inheritance in classical scholarship

This strand of literature encompasses classical scholarship, which primarily focuses on the Islamic inheritance system. This includes all such material of inheritance, which follows the trend of classical literature in addressing the subject matter. This strand of literature bases its analysis of Islamic inheritance on the Qur'ān, Sunnah and opinions of the companions of the Prophet. It also makes cross-references within these sources to examine the various aspects of the subject matter, paying particular attention to how the prophetic and post-prophetic generations have understood, interpreted and applied the various provisions on inheritance. This also examines the subject matter from the *madthāhib* (the Islamic schools of thought) point of view.

It has to be pointed out that while some of the literature of this trend is exegetical, others are jurisprudential in nature. Examples of the exegetical material are *Jāmiʿul-Bayān*, *Maʿānil-Qurʾān Wa-ʿIrābuh*, *al-Kashhāf, al-Jāmi li-Ahkāmil-Qurʾān*, *Tafsīrul-Qurʾānil-Azīm*, by At-Tabarī (d. 310/923CE), Az-Zajjāj (d.311/924CE), Az-Zamakhsharī (d. 528ah), Al-Qur'tubī (d.671ah) and Ibn Kathīr (d.774ah) respectively. In terms of focus, these exegetical materials address the subject matter within the broader exegetical spectrum. It does not

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dedicate its attention to inheritance only. Because later generations of these scholars make reference to earlier ones, there is not much variation in the meaning they make. There is therefore no need for targeting each one with the specific interpretation they make. That will lead to a lot of repetition. More on that will be shown in chapter three. For the jurisprudential material, works like *Al-Istidhkār*, *Distinguished jurist's primer* (*Bidāyaul-Mujtahid*), *al-Mughnī* and *Dhakhīrah*, all by Ibn 'Abdil-Barr (d.463ah), Ibn Rushd (2006), Ibn Qudāmah (2005) and Al-Qarrāfī (1994) respectively are examples to set. These works also discuss the subject of inheritance within a broader jurisprudential spectrum.

The common denominator of both sets of literature (jurisprudential and exegetical) is their content analysis of the inheritance texts and legislations of the Qur'ān and Sunnah. In so doing, as indicated above, they point out the existing debates and their proponents and opponents. To lend credence and originality to the discussions, they also refer to how the era of the Prophet, Caliphs, companions and succeeding generations have understood and explained various contentious issues concerning the subject matter. This has been addressed in chapter three.

A sub theme of this literature, though also jurisprudential in nature, dedicates its attention solely to the subject of inheritance and deals with the conceptual and mechanistic framework of the subject. In this context, the literature makes tabular and illustrative representations of cases of inheritance in Islam. Fauzān's (1999) *atTahqīqāt al- Mar'diyyah*, as-Sibā'ī's(1999) *al-Mabāhith al-Far'diyyah*, Kātib's (1988) *'ilmul-Farāid* and at-Tulābi's (2000) are some references of note in this category. Here, it must be noted that other than sharing a common style with the classical, the later works are far behind

the period of classical scholarship. They are relatively very recent. However, they are classically oriented as they share the common traits of content analysis, presentation of arguments and common sources of reference with the classical literature. With their mathematical angle of analysis, however, the latter differs significantly from the former.

In different degrees of detail, the classical literature uses the fundamental components of the Islamic inheritance system as their units of analysis. As they focus on the Islamic primary sources, the classical literature not only seeks to explain the Islamic inheritance system but also argues for the need for adherence to its application on the devolution of a Muslim estate.

In spite of not being directly concerned with the subject of conflict, the focus of these classical materials contributes to the current study. Their dissection and content analysis of the Islamic inheritance regulations provides enough foundation for the current study. The content analysis of the primary sources gives the study a framework for analyzing relevant inheritance texts and provisions that emerge in the discussions. It also helps ground the study on the various elements, which constitute the subject of inheritance in Islam. Moreover, it helps depict the extent to which estate distribution in the community is in conformity with the Islamic inheritance regime or otherwise. Apart from this classical or traditional dissection of Islamic inheritance, other scholars have also looked at it differently. Some studies also look into how Islamic inheritance compares with other legal systems of inheritance.

Islam and contemporary inheritance systems

Some studies assess the subject matter from a comparative point of view. They address the issue of inheritance as it pertains to Islam and another

legal tradition. This also includes intra and inter-traditional comparisons. The intra-traditional comparison is where the literature compares the Islamic inheritance system with another legal system operating in a Muslim majority context. The likes of *the concept of Tarikah in the Islamic law of succession with special reference to the practices of the civil courts and the Syariah courts in Malaysia* and *Appraisal of the impediments to inheritance under Islamic law for* Angulu (2011) and Abdullah (2005) respectively are examples of this category of the comparative literature. On the other hand, the inter-traditional studies are the category of literature that compares the Islamic and some foreign inheritance systems. In this case, *A comparison of the law of succession in the Islamic and British legal systems* and *Women's rights of inheritance: a comparative study of the Hindu, Muslim, New York and Quebec Laws* by Coulson (1971) and Sivaramayya (1970) respectively are also examples of such comparative literature.

Primarily, the comparisons in the above strand of literature explicate the convergences and divergence between the stated inheritance systems. Of particular interest is the work of Abdullah (2005) above. Teasing out the complexities surrounding the elements and scope of estates in Islam and Malaysian inheritance today, Abdullah points out some non-Sharī'ah compliant components of estate. This includes interest-based accounts, conventional securities, and Insurance and pension funds. Others come in the form of mortgages on property, business loans and guarantees. According to him, in Malaysia, these must fully be settled before the state court grants permission for the devolution of an estate. Conflict does emerge between the Islamic and Malaysian civil courts over who has jurisdiction over a Muslim's estate that is

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in dispute. Be it as it may, the comparative nature and the dynamics of the composition and elements of estate-wealth today is very insightful. It contributes to the study by pointing out some components that could form part of a contemporary Muslim's estate and how to deal with such a category amidst taking stock of estates of deceased Muslims in the community.

The case of the Ghanaian law, though not directly in connection with the above, fits in here. This is the intestate succession law (P.N.D.C Law111). Among other things, this law was enacted to protect the rights of surviving spouses and children of the deceased. It allocates specified items and portions to them in the course of intestacy. Hitherto, they were denied inheritance by customary law (Kludze, 1988 cited by Bin Salih, 2010). In his *PNDC law 111 in Ghana and international human rights laws*, Gedzi (2014) indicates that the estate of people who died intestate devolved to the matri-family. If there were children of the deceased, it was devolved to them within the patri-family. He argues that the customary regime, combined with manipulations from some family members, denied the widow and children any property, maintenance and security.

It has to be noted that the law was not enacted to supplant the customary law completely. It only came in to bring equity in the inheritance regime of spouses (Assanful, 2017). In line with the principle of protecting the right of women and children to inheritance, the law is in consonance with the Islamic inheritance system as pointed out above. However, the weaknes of the law is the fact that it is silent on polygyny and the inheritance of same among Muslims. Furthermore, in contemporary times scholars have also looked at the Islamic inheritance from the economic and estate planning point of view.

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Inheritance and Estate Planning

This category of literature examines some components of Islamic inheritance as instruments of estate planning in society. Specifically, it presents *wasiyyah*, *hibah* and *waqf* (endowment) as instruments of Islamic estate planning. The literature portrays these instruments as legal facilities for estate planning in the Muslim context. For Chong et al., (2015), the use of these instruments in estate planning is a way of avoiding challenges of intergenerational transfer of wealth among Muslims.

Furthermore, this trend of literature also portrays the Islamic inheritance system as a conveyer of economic balance among Muslims. This is because of its devolution of wealth from one generation to the other, and from within generations. Examples of this trend of literature are *Islamic inheritance law* (*farāid*) *and its economic implication* and *Islamic Estate Planning* by Zuleika and Desinthya (2013) and Alma'amun (2010) respectively.

These scholars present the above instruments not only as means of avoiding conflict but also as a way of giving part of one's wealth to individuals who are not one's immediate heirs. Planned beforehand, all such instruments are deducted from the gross estate and given to the designated beneficiaries before its distribution to the legitimate heirs (Sabirin, 2009). Although providing for such non-heirs is not a novelty, it turns attention to how people before their death could plan their estate within the confines of the Islamic framework to take care of non-heirs. Focusing on the idea of estate planning, therefore, these works offer a different way of looking at and applying the inheritance resources of Muslims. Indeed, the utilization of these instruments of estate planning side by side with the compulsory inheritance sharing has the

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potency of preventing family disputes over inheritance (Abdullah, 2005). As facilities that are meant for the benefit of non-heirs, *wasiyyah*, *hibah* and *waqf* genuinely presents a viable alternative to preventing inheritance conflict to some degree. It offers one of the ways by which distant relatives could be compensated for the services they had rendered to the deceased during their lifetime without necessarily bringing such distant relatives into competition with primary heirs. Aside from this, estate planning with these facilities cannot entirely prevent conflict among heirs. They only reduce the degree of outsider (non-heirs and distant relatives) contribution to the emergence of the conflict and cannot, therefore, eliminate conflict among legitimate heirs. The latter will be looked at in the work.

Despite this, the different approach from which this literature tackles the subject of inheritance contributes to a better understanding of inheritance and how proper estate planning could reduce chances of inheritance conflict in the community under study. The other modern way of looking at Islamic inheritance is the gender perspective.

Inheritance and Gender in Islam

The gender perspective is one of the ways from which the literature examines Islamic inheritance. While admitting Islam's contribution to the property right of women, this literature questions the existing regime of inequality in Islamic inheritance. Hence, it advocates for equality of the sexes in that aspect. Scholars like Wadud (1999) in *the Quran and women*, Ali (1998) in her *Equal before Allah and unequal before man* and Kimber (1998) in *the Quranic law of inheritance* are the caliber of scholars who advocate for the reinterpretation of Islam and its inheritance system in the light of contemporary

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gender circumstances. Wadud (1999) and Kimber (1998) in particular make use of the traditional method of content analysis to argue for gender equality in this regard.

On her part, while pointing out Islam's protection of women's economic rights, Ali (1998) explains that giving women half the share of the male counterpart is discriminatory. Also, like Ali (1998), Oluwakemi, Sheriff, Folarin, & Isumonah (2020), the *influence of religion and culture on women's rights* is not satisfied with daughters' share of inheritance under the Islamic legal system. They consider it inappropriate despite making room for women to inherit and own property.

For Ali, the breadwinner role of the male that some scholars have always used to support this privilege is not sustainable. This is because of the fact that the role and responsibility, which constitutes the basis of the inequality in itself, is not static. It shifts and changes with the change of time and circumstances. She argues that the fact Islam does not assign any financial responsibility to women does not mean that they would refuse to contribute to alleviating the suffering and hunger of the family just because she is not mandated by law to do so.

Basically, these gender-based materials argue for equal treatment for both sexes. Considering Islam's position on gender equality (Qur'ān: 33:35) and the role women play in the family, the quest for equality in the distribution of estate, the gender position is very plausible and appealing. It argues for the equal stake of women through a reinterpretation of existing religious traditions. However, this trend of advocacy is always silent as to the extent to which the contribution of women in the family should warrant inheritance equality and of

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what specific quantum. Is it when they contribute half to the upkeep of the family that they deserve equal inheritance? What if they contribute more or less or every degree of contribution warrants equal inheritance share? Such trends of literature are always silent on these questions. This is contrary to the position that supports the status quo.

In the same vein, Kimber (1998) re-examines the wording of the inheritance text (4:11-12). According to him, where one dies leaving behind a son and two daughters, the former inherits a half and the latter too inherit the other half. The estate in this case is divided into three unequal parts, with the son getting the greater share of it. Kimber (1998) explains that the part, "if…daughters, two or more, their share is two-thirds" of (Qur'ān: 4:11) presents the same situation involving a son. Here, the one son and the daughter inherit the half. Kimber emphasizes that if a son and a daughter each inherit a half, by implication each one of them alone inherits all the property. In her own right, the daughter alone is a residuary in this case. Kimber is, however, quick to indicate that this equal sharing, in whose case he argues for this context, does not mean that the Qur'ān treats male and female children equally.

Thus, in Kimber's analysis, there is equal treatment of male and female children in inheritance. This equality does not mean that Islam treats the sexes equally. The inequality in the text, however, does not mean to be a rule but an example. This is a contradiction. For, if it is said that Islam does not treat the sexes equally in its inheritance policy, then that statement is rather an ascription of a norm to its inheritance policy. If, however, inequality too is an example, then equality is the norm. When one is true, the other cannot be.

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In fact, many other scholars like Khan (1989) in *Islamic law of inheritance* and Abdul-Hamid (2017) in his *Islam and gender in Dagbon*, draw attention to instances of equality in the Islamic inheritance system. For instance, the mother of the deceased inherits an equal share with the father (a sixth). These scholars, however, attribute the inequality to the fact that men's responsibilities far exceed that of women in the family, the static nature of which responsibility Ali (1998) debunked and thus argued for its shifting status in an earlier submission (page 96). For them, while women keep and save their share of the inheritance, men spend theirs on satisfying their responsibilities of caring for the wives, children and other members of the family. This is the reason why their share of inheritance is 2:1 in favor of the male (Oluwakemi, 2020; Abdul-Hamid, 2017; Khan, 1989).

Notwithstanding the contention around the validity of the reasons shown above, the scholars point out the gender inequality in the Islamic inheritance system. The disagreement between them is whether or not the inequality is warranted and justifiable based on the degree of responsibility assigned to the man in the Muslim family. It has to be noted that Abdul-Hamid's assertion regarding the mother inheriting more than the father of the deceased is not in consonance with the inheritance provision (Q: 4:11-12). With that said, the current perspectives are useful views that help locate inheritance conflict as a possible outcome of inequality in the community.

In their study of *Land, Law and Islam*, Lim and Sait (2006) paint another picture of gender inequality in the inheritance practices of some Muslim communities, like Jordan, Indonesia, and Palestine. According to Lim and Sait (2006), such communities use *tanāzul* (renunciation) and *indimāj*

(consolidation) to step aside the Islamic apportionment of estate to women. They re-appropriate females' shares of land and business properties to their brothers. *Tanāzul* (renunciation) is a situation where families make female heirs step down from their Islamic share of inheritance for their male counterparts without any form of compensation. The rationale behind this practice is that women become outsiders to their families when they get married. Hence, taking their share of landed property is a way of taking it away from her paternal family to the husband. While still upholding "the religious quality and validity of the rules …" (Lim and Sait, 2006, p.115), such Muslim families resort to the practice in question. In the case of *Indimāj* (consolidation), the Islamic distribution of an estate is "followed by a series of sales and exchanges designed to reduce the number of co-owners" (Lim and Sait, 2006, p.119). In this case, the female heir is made to sell her portion of land to her brother, where payment may not even take effect in this transaction. Citing Amawi (1996), Lim and Sait (2006) describe these strategies as 'tricks' used to keep women away from their share of immovable property.

The contribution of Lim and Sait (2006) is insightful. It adds landed property to the gender discourse of inheritance from the practical experience of a people. On the other hand, their perspective is unique in addressing an aspect of joint-ownership in Islamic inheritance. In this way, it contributes to the current thesis by pointing out some of the complications of jointly owned properties and how to avert them in the community under study.

Having reviewed the literature on Islamic inheritance in the above discussion, the section now reviews the literature on conflict, its causes and forms in Society. This is in line with the other segment of the study.

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Conflict in Society

Conflict has many definitions. For Coser (1967 cited by Adam, 2012, p.93), it is "a struggle over values or claims to status, power and scarce resources in which the aims of the conflicting parties are not only to gain the desired value but also to neutralize, injure or eliminate their rivals".

This definition indicates that since conflict can only emerge in a war situation, it is destructive and negative (Adam, 2012). On their part, Donohue and Kolt (1992) also define conflict as "a situation in which interdependent people express (manifest or latent) differences in satisfying their individual needs and interest, and they experience interference from each other in accomplishing these goals" (p.3 cited by Adam, 2012). In the same vein, Mitchell (1993) defined conflict as: "[a]ny situation in which two or more social entities or 'parties' (however defined or structured) perceive that they possess mutually incompatible goals" (Cited by Abdalla, 2001, p. 162). Mitchell's definition highlights the constituent elements that exist in conflict. These are the situation, the behaviors and the attitudes of the parties in the conflict (Abdalla, 2001).

Adam (2012) explains that these definitions consider the struggle of two groups to achieve a peculiar goal and the consideration of the other party as an impediment to the achievement of the goal as the cause of conflict. However, Adam argues that the fact that there are irreconcilable goals may not necessarily lead to conflict between the parties. This is because of the fact that a party may not lose anything by the achievement of the other.

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On their part, Wilmot and Hocker (2001) define conflict as an "expressed struggle between at least two interdependent parties who perceive incompatible goals, scarce resources and interference from others in achieving their goals" (p.41). This definition implies that conflict emerges when there is a struggle of either open or latent nature, interdependency of parties, scarce resources and prevention of achievement of goals between the parties.

As highlighted in the above definitions of conflict, the issues of struggle, interdependency of parties, scarce resources and impediments of goals as components of conflict causality among conflict participants have something to do with inheritance conflict. This is because of the fact that inheritance conflict has to do with the individuals (heirs), limited resources (estates) and interference (by inheriting individuals). Thus, they are in consonance with the inheritance situation in the community and are therefore relevant to the current study. It has to be noted, however, that the focus on the individuals' role in the emergence of conflict in the definitions is problematic. This is because of its neglect of the role of society in conflict. The social dimension is a vital ingredient of conflict in the Muslim community (Abu-Nimer, 1996). Another challenge with the definitions is their depiction of conflict as an interest or struggle-based phenomenon. With their western background, they emphasize on the autonomy and interest of the individual in many affairs including conflict. It is in line with this that Abdalla, (2001) notes that:

The interest-based or struggle-based definitions typically narrow their focus on the parties directly involved in the struggle and the conflict behavior. This, combined with the cultural and social norms of individualism, individual autonomy, and independent existence of

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individuals, which are prevalent in the west, make such a definition appropriate in the western setting (p. 162).

Notwithstanding the validity of the criticism Abdalla raises against them, yet still, the definitions are relevant to inheritance conflict on two counts. On the one hand, as largely a resource-based issue, inheritance is a ground for conflict over such scarce resources. This on the other hand then brings incompatible goals into a clash with each other and leads to interference from opponents.

Notably, upholding the relevance of the definitions in their current form is not to dismiss the criticism of Abdalla (2001) in its entirety. The absence of the community factor makes such definitions less appropriate for the study. Therefore, the definition that is more suitable to the study is one that has the communal component. In this respect, defining conflict as a situation, as noted in Mitchell's definition above, is more suitable for the community under study. The suitability of this category for the study hinges on the social interdependence and the communal dimension they espouse. These two components fit with the analysis of conflict situations in the Muslim context (Abdalla, 2001) and hence the Muslim community under study. After the definition and description of conflict, we now turn our attention to its causes and forms in society.

Causes and Forms of Conflict in Society

The earlier definitions of conflict contain a useful segment of the causes and forms of conflict in society. They go beyond their definitional value to cover not only how these issues contribute to conflict but how conflicts are shaped in society. From the causal point of view, they range from incompatibility of goals (Mitchell, 1993), struggle for scarce resources and

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interference from others in goals achievement (Wilmot and Hocker, 2001), struggle over values or claims to status and power (Coser, 1967), differences in individual needs and interest' to interfering each other from goal accomplishment (Donohue and Kolt, 1992). With the exception of the political dimension of the causes, the socio-economic causality of conflict in society is in tandem with the context of inheritance conflict. This is because of the fact that inheritance conflict is largely a resource-based phenomenon. Being a ground for competition for scarce resources, constructing the causes of conflict in this manner is more in consonance with the study. Thus, some of the issues that constitute causes of the conflict in the community are embedded within the elements identified in the definitions. In consonance with this, Tonah (2015) aptly observes "…the root cause of conflicts between individuals or groups is social inequality, that is the unequal distribution of goods or resources in society. Goods or resources…are always scarce, thus compelling people to fight for them in every society" (p.10).

On their forms, the literature shows that conflict could be in the form of taking a course different from that of the opponent. It could also be verbal or action in nature. Finally, all these could be either manifest or latent (Anderson and Allen, 2017; Mitchell, 1993; Donohue and Kolt, 1992; Wilmot and Hocker, 2001; Coser, 1967; Cowan, 1960). In all this, it leaves various effects on the members in society.

The Effects of Conflict in Society

Many works have looked at the effects of conflict in society. From the social point of view, Yahaya (2018) in *the Gonja-Nawuri conflict in retrospect*, presents the disruption of social networks and general insecurity as outcomes

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of conflict in his research context. Also, in their *impact of conflict on the intergenerational transmission of chronic poverty*, Orero, Heime, Cutler and Mohaupt (2007) present the disorganization of household, social networks and disintegration of relationships of trust as key effects of conflict in society. From the economic point of view, conflict affects the economic state of society. Gagakuma (2013) in his *Effects of conflicts on local development in Ghana* articulates the destruction of farms and shops as some of the economic consequences of conflict in society.

The above works deal with the effects of large-scale conflicts at the inter-communal and interethnic levels. Nevertheless, they have relevance to the inheritance conflict. This is because of the fact that the domains of the effects are general and suitable to many conflict contexts. The above studies contribute to the current study by highlighting the material and immaterial nature of the effects of conflict in society. In the context of the study, the effects of the conflict are more grounded on the tangible and intangible domains.

In tangible terms, the destruction of properties, loss of homes, causing injuries to people are effects of the conflict that are in consonance with articulations of the above literature. The image-attack and withdrawing from social relationships are some intangible consequences in which the literature and the study intersect on the phenomenon. Therefore, while the above literature deals with the effects of larger-scale conflicts, they contribute to the explanation of the effects of inheritance conflict as socio-economic in nature. Hence, it helps the study to better construct the socio-economic outcome of inheritance conflict in society. Quite apart from this, and given the fact that conflict is of various forms in society, one finds a link between the effects and

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nature of the conflict. Severe inheritance conflicts have severe effects in society and vice versa. With the insight on the effects of conflict in society, it is now appropriate to turn attention to the segment of resolution in the study. This is appropriate because of the fact that conflict resolution is seen as a stage of conflict. According to Oyeshola (2005), conflict resolution is one of the stages of conflict. In the fulfillment of the cycle of conflict, when conflict breaks out, societies also try to deal with them (Tonah, 2015). The literature below also deals with this aspect of the subject matter.

Conflict Resolution

Like the case of inheritance, some Muslim scholars look at conflict resolution from the historical point of view. The historical point of view examines the strategies of conflict resolution from the pre-Islamic to the Islamic period. In so doing, it highlights the strategies Islam adopted from the pre-Islamic regime (El-Ahdab and El-Ahdab, 2011; Rehman, 2011). Many scholars have acknowledged the prevalence of such Arab dispute resolution strategies in the operations of early Islam (Rehman, 2011; Saleh, 2006; Hallaq, 2005). Aside from the adopted strategies, such literature go a step further to depict the unique quality with which Islamic resolution departs from the pre-Islamic one. Thus, it shows how the Qur'ān, the Sunnah and the operations of the rightly guided Caliphs have prescribed, laid out and constituted the basis of the Islamic resolution strategy. According to Rehman (2011), the Islamic resolution regime usually promotes and stresses on justice and equity in the process. However, while some of the Islamic literature look at resolution from the in-court point of view, others have it from the out-of-court perspective. Both categories

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address conflict resolution in Islam within the contexts of *Qaḍā* (adjudication),
tahkīm (arbitration) and *sulh* (mediation).

Adjudication, Arbitration and Mediation

One of the strands the literature examines conflict resolution from is the
issue of *Qaḍā'* (adjudication). This is a court-based resolution strategy. Some
of the scholars who look at it from this perspective are Oseni (2015) in *Sharī'ah
court-annexed dispute resolution*, Al-Qass (1989), Al-Khassaf (1978) and Al-
Māwardī (1971) all in their works dubbed *Adabul-Qādī*. Apart from discussing
the professional ethics of judges in Islamic law, these scholars also examine
adjudication as a strategy of conflict resolution in Islam. They explain that in
the case of *Qadā'*-based resolution, the *qāḍī* (judge), who is a state appointee,
hears the case and resolves it in accordance with Islamic law. Like the Western
adjudication, *Qadā'* is a litigation process in which lawyers act out in court on
behalf of their clients (Wilmot and Hocker, 2001). After adversarial
proceedings, the *qāḍī* decides the dispute, assigning legal right to one side and
finding the other side wrong. The decision of the *qāḍī* is binding on the litigants
(Othman, 2007). While the Islamic court system is not present or applicable in
dispute resolution in the Ghanaian context, some parties to inheritance conflict
resort to the state's court system for the settlement of the conflict. This makes
the theme under review relevant to the discourse of inheritance conflict
resolution in the community under study.

The fundamental difference between the secular and the Islamic
adjudication is their source of derivation. While the secular system resolves
conflicts in accordance with secular norms, the Islamic system emphasizes the

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Sharī'ah. As indicated by Othman, (2007) above, the outcome of this process is binding on all parties.

Furthermore, the other strategies are socio-legal and non-court based resolution. These are legal strategies that operate at the community level. In contrast to adjudication, these resolution strategies are less or not binding on the conflict parties. Some scholars who have looked at conflict resolution from this perspective are Rashid (2004) in *Alternative dispute resolution in the context of Islamic law* and Oseni (2011) in *the legal framework for alternative dispute resolution in courts.* In this manner, they examine *tahkīm* (arbitration) and *sulh* (mediation), among others, as socio-legal remedies of conflict in Islam.

In the case of *tahkīm*, the conflict parties enter into arbitration willingly. A third party takes them through the process. Any agreement the parties reach is binding on them and enforceable in court (Oseni, 2015; Othman, 2007). The fundamental difference between the Islamic and the Western form of arbitration is the source of operation. While *tahkīm* is operated in consonance with the *Sharī'ah*, arbitration relies on secular law. The binding nature of the outcome is a quality shared between *tahkīm* and some resolution strategies operated in the community. In this regard, the local practice identifies with the literature. In the context of the study, the local arbiters are usually a cross-section of elders and Muslim clerics. As shown in succeeding sections, these players exercise a relative force over the parties by the issuance of threats of sanction to them. In this sense, while the outcome of *tahkīm* or arbitration is enforceable in court, the community is the one that enforces the local practice of arbitration. It, therefore, generates compliance and enforcement from the community and not the law court.

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Moreover, s*ulh* is the other out-of-court settlement of conflict in Islam (Othman, 2005). It is not very much different from secular methods of mediation. Both share a common characteristic of being out-of-court strategies of conflict resolution. However, while the western mediators are required to detach from the conflict parties for the sake of objectivity (Wilmot and Hocker, 2001), in Islam, detachment from the conflict parties is not necessarily a requirement. Unlike only presiding over the process without any substantial power or authority over the dispute in its western context (Wilmot and Hocker, 2001), in Islam the authority to resolve the dispute is typically surrendered to the mediator (Abu-Nimer, 1996). The outcome of mediation in both contexts is not binding (Othman, 2005; Wilmot and Hocker, 2001). For its accommodation of the relationship between conflict parties and interveners, Islamic mediation (*sulh*) is more related to the research setting. Members of the community are related to each other and the interveners are part of the community.

The literature reviewed herein has shown that both the court-based and the non-court-based resolution strategies of conflict are acceptable perspectives of conflict resolution among Muslims. In that sense, the literature upholds the legitimacy of the application of these strategies in the resolution of Muslims' conflicts. Thus, it contributes to inheritance conflict resolution by showing how the various Islamic systems serve as credible fora for inheritance conflict resolution among Muslims. When needed, Muslims can resort to each for the resolution of their conflict.

Having examined the resolution strategies from the above perspectives, it is appropriate to bring the African perspective of conflict resolution into the discourse. For, the context of the study is an African context. The section below,

therefore, examines the role of various African interventions of conflict resolution.

Role of Elders, Religious Leaders, and Joking Relations in Conflict Resolution

In many African communities, elders occupy a very respectful position in society. In line with this, existing literature focuses on the distinctive qualities that project them as credible interveners in conflict resolution in traditional settings. Scholars like Ademowo, (2015) and Ajayi and Buhari (2014) in *Conflict management in Traditional African Society* and *Methods of Conflict Resolution in African Traditional Society* respectively are examples of such works. According to these scholars, society respects elders and sees them trustworthy in dealing with societal challenges including conflict. They are a repository of traditional knowledge with a vast degree of accumulated experiences and wisdom. Their age, wisdom, tolerance, uprightness and fearlessness are some of the qualities that distinguish them from the rest of the members of the community (Bamikole, 2008 cited by Ademowo, 2015). They, therefore, help with peacemaking between conflicting parties. Whether of their family, clan, or ethnic group, elders work towards helping people to reconcile their differences (Calame- Griaule 1986; Oraegbunam 2010; Ottenburg 1971 cited by Coe, Palmer, and elShabazz, 2013).

Furthermore, in accordance with the structure of traditional African society, scholars have graded the intervention of elders in the context resolution. The household or family, the extended family and village or town levels of conflict resolution represent the various levels of elders' conflict resolution in the African context (Ajayi and Buhari, 2014). Bin Salih (2008) in the Waala

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context describes the leadership of these levels as head of the compound (*Jaga ninkpong*/*Yidaan-daw*), head of gate (*Dinouri Ninkpong*) and head of ward (*Qabilah Ninkpong*). The head of the household resolves domestic conflicts between his wives, brothers and sisters. He also has the responsibility of resolving street fights involving his children, foster children and dependents (Albert, 1995 cited by Ajayi and Buhari, 2014). The implication is that when a member is not satisfied with a ruling or a resolution of an elder at any of the levels, that member could appeal to the next levels up to the court of the ward-head. The appeal can travel all the way to the paramount chief of the respective parties (Yahaya, 2018; Oguntomisin, 2004, cited by Ajayi & Buhari, 2014). In view of the fact that the community under study is a setting that has these levels, the elders' role of resolution suits its context. Moreover, although their role is uniquely traditional, it resonates with the Islamic socio-legal aspect of resolution, which Oseni (2015) and Rashid (2004) espoused as an out-of-court conflict resolution among Muslims. In this sense too, the intervention of the elders contributes appropriately to the discourse of inheritance conflict resolution. It exposes how the resolution efforts in the community interact with the existing perspectives on traditional conflict resolution in literature. The literature in this regard also contributes to the study by pointing out the levels at which aggrieved parties could appeal for a better hearing of their cases.

Apart from the elders, the literature also articulates the role of the religious community in conflict resolution. Yahaya (2018) in his *Gonja-Nawuri conflict in retrospect* and Awedoba (2011) in his *ethnographic study of northern Ghanaian conflicts* have pointed out the vitality of the religious leaders in this enterprise. They refer to the Muslim clerics and Shaykhs as a section of the

religious community whose intervention is a vital conflict resolution strategy among the peoples of the Northern Kingdoms of Mamprusi, Dagbomba, Nanumba, Gonja and Waala. It is in consonance with this context that the activities of the Muslim clerics in the context of inheritance conflict resolution cannot be over emphasized. In this regard, Oseni (2015) and Rashid (2004) make a particular reference to the *fatwā* of the *muftī*, (a jurist resolution responsum) as one of the strategies of conflict resolution, which the clerics activate to facilitate conflict resolution in society. Not only this. In *Understanding the Causes and Impacts of Conflicts in the Northern Region of Ghana*, Sulemana (2009) also points to the relevance of the religious people, clerics in the current context, to bridge barriers between conflicting parties. The clerical effort, as the above literature describes, contributes towards addressing inheritance conflict. They do this through their public advocacy as well as their direct involvement in conflict resolution in the area of the study. The aspect of the clerics' efforts in this regard makes such literature relevant to the study. This is because the literature points to the socio-personal qualities of the religious personnel, something that is common to clerics in the community.

Beyond the religious aspect, the literature also highlights the Joking relationship as one of the traditional strategies in conflict resolution. Radcliffe-Brown, (1940) in his work *on joking relationships* describes it as a customary relationship by which one party is permitted or even required to tease the other without the teased one taking offense of that. On his part, Bin Salih (2008) presents a joking relationship in the Waala custom as a relationship that allows for fun making and teasing between brothers' and sisters' children. This joking relationship extends to all male and female children who are extended aunts' or

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uncles' children. It is a relationship the Waala usually triggers in times of social crisis. For Bin Salih (2008), during conflicts, the cousin joking relationship offers an opportunity for mature reflection, dialogue, and consensus-building among the conflicting parties. This strategy contributes to the resolution of the conflict by exposing the role of such social ties in conflict resolution in the community under study. Furthermore, as an African setting, the role of these actors is very relevant to the resolution of inheritance conflict in the community. Their socio-personal qualities, close connections the elders, clerics and cousins share with all aspects of the community are central in resolving inheritance conflicts among members of the family. These characteristics make the intervention of these personalities in inheritance conflict resolution very useful to a very large degree in the community. Up to this point, there is the need for the provision of a brief description of the study context.

Wa: The Context of the Study

Islam was part of the founding of the Wa state from the onset. It was the collaboration between Solia, the first Wa Naa, on one hand and the Imam and the Yan or Yeri Naa of Mande origin, on the other hand that brought the state into existence (Daannaa, 1992). Together with the Muslims, the Naa moved from the east of Wa (Naha) into Wa, the capital of the state. Now in Wa, Ya'mur became the Friday Imam and *Imamul-Balad* (state Imam). As the state Imam, Ya'mur was to offer prayers for the chief and the state. The Yeri Naa, who was *Shaykhul-Wangarawī*, became the *amīrul-Mu'mnīn* (commander of the believers) and a liaison officer between the Muslim community and the Wa Naa (Nuolabong, 2013; Bin Salih, 2008). Since then, the descendants of these personalities have continued to occupy the offices established by these

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ancestors and carry out the functions of their ancestors to date. This affirms the earlier submission that Islam was part and parcel of the state from the very beginning.

Its participation in state formation at the early stage propelled Islam into state power. This fused it into the culture of the people and enabled the chiefs to integrate the Muslim community into the socio-political space of the state (Nuolabong, 2013; Levtzion, 1968). Since then, Islam has made a remarkable influence on the state. The credit goes to the role of the Muslims. Indeed, "the vitality of the Muslim community contributed to the influence in the cultural, social, and political life. Chiefs and Muslims, both representing ideas and institutions alien to the local segmentary society, found mutual support in each other" (Levtzion, 1968, p. 143). Thus, the institution of chieftaincy, clerics, and intermarriages with the local people were channels of Islam's influence on the people (Bin Salih, 2008). The majority of the community was Islamized. Indeed, in his *Muslims and chiefs* Levtzion alludes to a British commissioner the statement that "all the Wala chiefs and men of any standing at all in the country follow mohammedenism[sic]" (p. 142).

Today, Muslims constitute 65.9% of the entire population in the Wa, the capital (GSS, 2010). The form of Islam, however, was an accommodating one. This is because of the fact that, Ya'mur, the founding Imam, was a disciple of the *Suwarian* tradition (Nuolabong, 2013; Samwini, 2006). The *Suwarian* tradition was formed by Alhaji Sālim Suwarī. One of the qualities the tradition was its pluralistic orientation. It teaches Muslims to be conscious of their faith while respecting, tolerating and accommodating the worldview of others (Nuolabong, 2013; Samwini, 2006; Wilks, 1989; Sanneh, 1997). This was the

basis on which the relationship between the early Muslims and traditional institution and practices of the local community was built. This is a brief profile of Islam and the community, the details of which have been provided in chapter two.

In conclusion, the literature review has examined the conceptual framework, Islamic system of inheritance, conflict and conflict resolution mechanisms. It has pointed out the various concepts and theories that guide the study from the perspectives of inheritance and conflict literature. From the inheritance point of view, the review has examined the various discourse angles from which scholars have addressed the Islamic inheritance system. It has also examined the literature on the causes, effects and resolution of conflict in society. Not only has the review of the existing perspectives serve as the entry points into the discussion on the various issues of the subject matter under study. It has also explained how the reviewed materials and perspectives contribute to the study. Reviewed in line with the objectives of the study, these materials contribute to the analysis of the issues concerning inheritance conflict in the area of the study, thereby helping achieve the objectives of the study. The section below looks at the organization of the study.

Organization of the Study

This study has been divided into seven chapters as follows:

Chapter one is the introduction to the study. It gives a background to the study, statement of the problem, aims and objectives of the study, methodology, literature review, significance of the study, and organization of the study.

In chapter two, the study looks at the socio-religious life of the Waala Muslim community and how the society identifies with the Islamic religion. It pays particular attention to the social institutions, festivals and rites of passage. This examines the interaction and cross-fertilization between Islam and the traditions of the people. In doing so, the chapter seeks to tease out the nature of the relationship between the two in the area of inheritance.

Chapter three examines the Islamic inheritance system. As the basis for the system, the chapter analyzes the primary passage on inheritance. In line with this, it explores funeral and burial expenses, the clearance of deceased's debts, the execution of his or her will and the distribution of the estate as the primary elements that constitute the inheritance system of Islam. It seeks not only to show how Islam regulates the estate affairs of the Muslim but to also serve as the basis of subsequent discussions.

Chapter four analyses the issues that trigger the development of inheritance conflicts among members of the Muslim community. It explores the causes, forms and effects of inheritance conflict in the community. It examines how pre and postmortem grievances and activities lead to the conflict. It also depicts how such conflicts impact the lives of the conflict participants and their families.

Chapter five examines the resolution aspect of inheritance conflict in the community. It examines the role of society towards fixing and de-escalating the situation among the parties. In this vein, the chapter discusses the role of the conflict participants, elders, clerics and religious institutions in addressing the inheritance conflict in the community. It looks at the extent to which these players contribute to the resolution of the situation.

Chapter six gives an analysis of the connections and disconnections between the theories underpinning the study and the data from the fieldwork. It examines the extent to which the theoretical underpinnings and perspectives are congruent with the findings or otherwise. In so doing, it explains the operation of inheritance and inheritance conflict behavior in the community from those perspectives. It also highlights deficiencies in and contributions of these theoretical perspectives to the study.

Chapter seven is the conclusion of the study. It summarizes the study. It also points out its major findings and conclusions. The chapter further proposes some recommendations for scholarship, community and policy.

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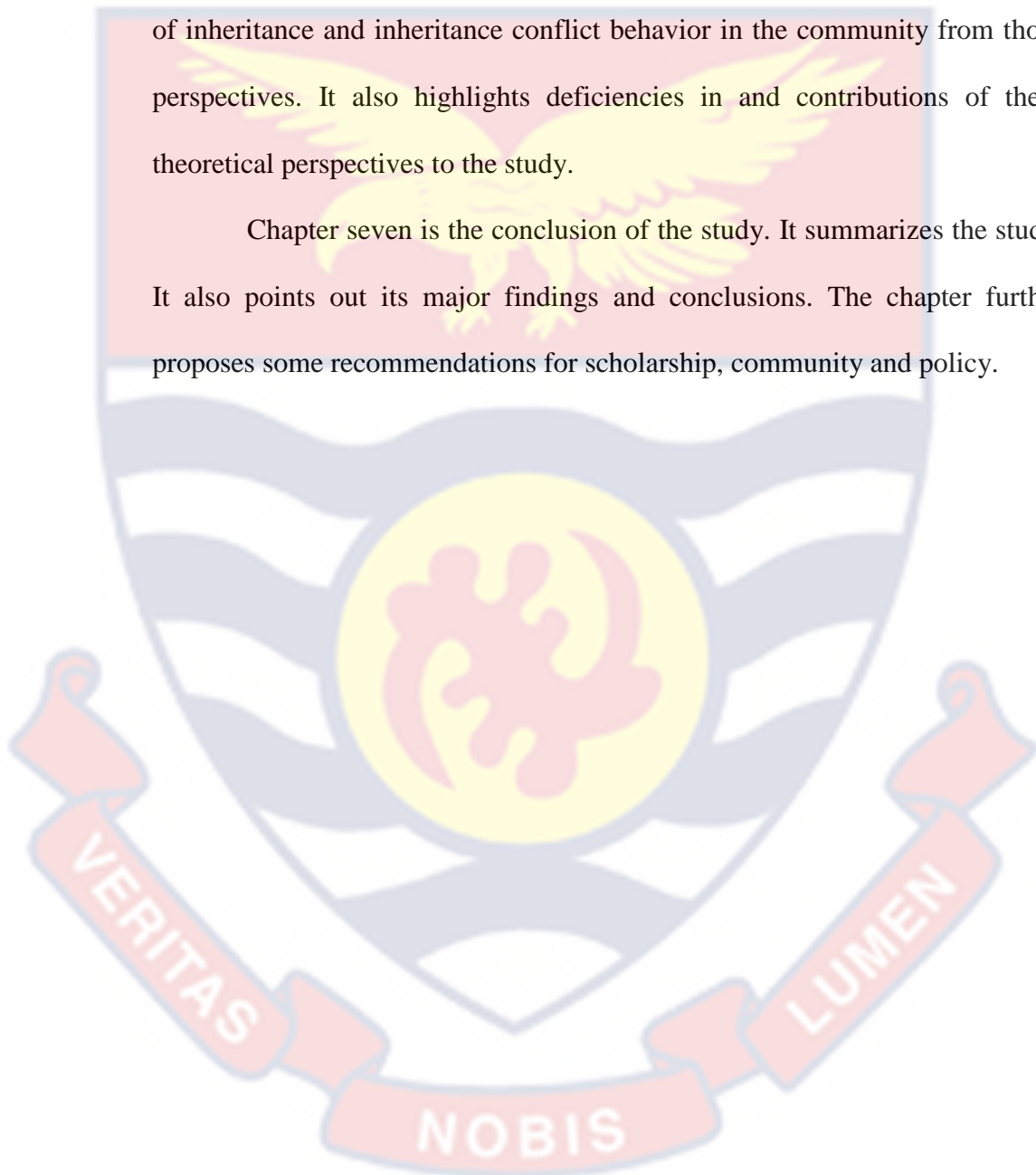
CHAPTER TWO

SOCIO-CULTURAL CONTEXT OF THE WAALA MUSLIM

COMMUNITY

Introduction

The preceding chapter presented an introduction to the study. It examined the background to the study, statement of the problem, objectives, research questions and significance of the study and literature review. Furthermore, the chapter looked at the methodology used by the study to collect data and how it has analyzed such data.

The current chapter examines the social context of the study. The Waala ethnic group is one of the most Islamized people in Northern Ghana. The current shows the role of Islam in the socio-cultural and political life of the people. It looks at the origin of the Waala Muslim community. It also examines the interactions and exchanges that took and still take place between the Islamic and local traditions at the family, community and state levels. In doing so, the chapter examines the extent to which such interactions and exchanges between the two traditions have affected the inheritance situation in the community. In line with this objective, the chapter explores the Islamic-traditional intercourse in the domains of festivals and lifecycle events. The chapter explains that the nature of the Islamic-traditional interaction is that of mixing and syncretism in the community. This has led to intercultural influence between the two traditions. It argues that despite the intercultural intercourse between the two traditions, Islam's influence manifests in many facets of the lives of the people. This includes the social and political spaces. The chapter further argues that despite the nature of the coexistence described between the two traditions, the

situation is different in the area of inheritance. The relationship between them in this aspect is that of friction and conflict.

The Waala Muslim community

Wa is both the traditional home and capital of the Waala ethnic group. It is also the administrative capital of the Upper West Region, Ghana. As briefly pointed out on page 58, the founding of Wa as a kingdom was the result of a concerted effort of three personalities. These were Solia, the first Wa Naa, the Imam and the Yan or Yeri Naa of the Muslim community (Daannaa, 1992). Rather than Solia, Nuolabong (2013) views Pelpou, son of Solia, as the particular Wa Naa who was involved with the two others in the founding of the state. It all began from Naha, the east of Wa. When the chief was moving from Naha to Wa, he invited the Yeri Naa (*Shaykhul-Wangarawī*) and Ya'mur, the Imam, to move in and settle there with him. Now in Wa, the Yeri Naa became the *amīrul-Muʻminīn* (the commander of the believers). He also served as the liaison officer between the Muslim community and the Wa Naa (Nuolabong, 2013; Bin Salih, 2008). On his part, Ya'mur also became the Friday Imam and the *Imāmul-Balad* (state Imam). As the state Imam, Ya'mur was to offer prayers for the chief and the state.

In the leadership structure of the community, the Wa Naa is the overall head of the community, followed by the Yan Naa and then the Imam. The descendants of these leaders continued to occupy the offices and carry out the functions of their ancestors to date. The collaborative effort in the founding of the Wa state helped with the infiltration of Islam into state power and many aspects of the life of the people. With this, Islam was not only fused into the culture of the people but also enabled the chiefs to integrate the Muslim

community into the socio-political space of the state (Nuolabong, 2013; Levtzion, 1968).

There is, however, no consensus as to the exact time Islam was introduced into the area. While Wilks (1989) referenced the people of the area to have put it at 717 A.H /1317/8 C.E, Samwini (2006) considers this period to be too early a time for the coming of Islam into the area. The latter, therefore, puts it at the 1600s. There is no evidence of the superiority of one particular date over the other. Perhaps, with the intervention of archaeological excavations, we will be able to restate the time Islam came into the area more precisely. Without such a thing, one finds it difficult to support one view over the other. Since the period, the exact of which there is disagreement about, Islam has made a remarkable influence on the state. The credit goes to the active role of the Muslims. According to Levtzion (1968), through the vivacity of the Muslims, Islam permeated the cultural, social, and political life of the people. With their new ideas and institutions that were foreign to the indigenes, the chiefs and Muslims found alliance and mutual collaboration with each other in the running of the affairs of the state.

This shows the extent of Islam's influence on the people and role of the chiefs in that endeavor. The institution of chieftaincy is, therefore, a primary vehicle by which Islam influenced the customs and practices of the people (Bin Salih, 2008). In fact, the presence of Islam was so dominant amongst the people that a British commissioner described it in such terms as: "all the Wala chiefs and men of any standing at all in the country follow mohammedenism[sic]" (Levtzion 1968, p. 142). Indeed, today, hardly would one find a Waala man or woman who would profess a religion other than Islam. Today, Muslims

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constitute 65.9% of the entire population in the Wa municipality (GSS, 2010).

For the Waala Muslims, Islam is the canopy under which their socio-religious

activities unfold (Abdulmoomin, 2013) including their social life.

Social life of the Waala People

According to Winthrop (1991), social life emphasizes people's

relationships with one another. It concerns forms of relationship as in marriage

and exchanges, forms of social differentiation, like hierarchy, authority, status

and characteristics of groups as in principles of recruitment and spheres of

action. It also concerns "the expression of such social patterns through

symbolism, ritual and myth (Winthrop 1991, p. 261). Social life is also not only

a relationship between groups, but also "all social relations of person to person

... .as between a father and son, or a mother's brother and sister's son"

(Radcliffe-Brown, 1952, p.191 cited by Abdul-Hamid, 2017). Social life also

has to do with the place of roles in differentiating between individuals and

between classes, not only of men and women but also of chiefs and their

subjects (Radcliffe Brown 1952, as cited by Abdul-Hamid, 2017).

Taking the postulations of both Winthrop (1991) and Radcliffe-Brown

(1952), the current chapter explores the social life of the Waala, using the

domains so described as the axis and guidelines upon which the discussions are

tailored. These will shape the discussions on the interactions that take place

between the indigenous and Islamic cultures among the people.

Family and Kinship

The family is the basic unit of every society. It is the cornerstone of

Waala social life and the core element of kinship. It refers to both the nuclear

and extended families. Kinship among the Waala is a gamut of lineage ties of

people who trace their descent to a common ancestor through the male line. Mbiti (1969, p. 102) depicts kinship in a way that succinctly matches the Waala construction of the concept. He describes kinship as:

> …a vast network stretching laterally (horizontally) in every direction, to embrace everybody in any given local group. This means that each individual is a brother, or sister, father or mother, grandfather or grandmother, or cousin, or brother in law, uncle or aunt, or something else, to everyone else. That means that everybody is related to everybody else, and there are many kinship terms to express the precise kind of relationship pertaining to two individuals.

The fact that everyone is related to the other in the Waala society is an issue that characterizes kinship in the community. Terms such as *Yiri* (clan or section), *Dinnouri* (gate) and *Jaga* (household or compound) provide various descriptions of the divisions of kinship in the society. The gate and the household are subdivisions of the clan. Yiri refers to a group of households who hail from a common ancestor (Bin Salih, 2008, 2009). The households are further divided into houses. The division of a household occurs when a member moves out to establish his family while still paying allegiance by necessity to his original family. In this case, the house still identifies with and participates in the social net of relationships of the original extended family. No house may function as a separate social entity since, as is the case also in Dagbon (Abdul-Hamid, 2017), a house that is only the nuclear family consisting of a husband, wife and perhaps children, does not constitute a household in the Waala usage of the term.

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Furthermore, the *Yiri* and *Dinouri* are applied interchangeably in ordinary speech to imply a section or a clan. For every household, gate and clan there is a leader. Age is a primary consideration for leadership in the community. This is especially the case when the choice is to be made among persons of the same generation who qualify to inherit the position of leadership through patrilines. This implies that by the nature of things, one cannot assume household leadership as long as one's father or person from his father's generation were alive. Similarly, the oldest of the same generation is the default leader of the people. In circumstances where the most senior is incapable of leading his people due to senility (Bin Salih, 2008) or other illnesses, the next senior-most person becomes the leader.

The head of each division is commonly referred to as *yiri Ninkpong* (lit. clan head) or *Yidan Daw* (lit. male owner). The head of the household is answerable to the head of the gate, and the head of the gate is also answerable to the head of the clan. Matters which cannot be settled at the lower level of the hierarchy are referred to the next in authority. This could travel all the way to the chief palace. Yahaya (2018) also makes reference to this fact in his work. I refer to all these as micro authorities.

The Imamate and the Yan Naa institutions are very vital in addressing social discord before it travels to the level of the Wa Naa. The Yan Naa, however, mediates between the Muslim community and the Wa Naa (King of Wa). I refer to these hierarchies of authority as the macro authorities. This structure of authority reflects the kind that Radcliffe-Brown characterizes as a stratified community. The Waala community is stratified in accordance with the roles individuals and classes of people play in it. In the Waala system, however,

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the jobs people do for a living are not fixed on any particular one. One can go into a career of one's desire.

Descent Structure

The Waala social system is patrilineal in nature. It traces the genealogy of a person to its remotest roots of kinship from the perspective of the patriclan. Besides, the Waala have a construct for identifying relationships across kin groups. This system classifies various generations into titular or appellative groups. By this, the system identifies each group of generation by their specific titles. Through these titles, the society identifies and classifies intra- and inter-generational relations. It helps define the mode of interaction between different generations in the community. For instance, the *Sumpuo Ma* generation is the grandparent generation of the *Chengabe*. Because grandparents are playmates of their grandchildren in the Waala tradition, these two generations spontaneously exchange the courtesy of jokes upon getting to know each other's titles even if they had no prior acquaintance of each other. This system of identification echoes the fact that the social life of a people does not only stress their relations with one another. It also stresses forms of social hierarchy (Winthrop, 1991). This is the nature of family and kinship in the community.

In the sections below, the chapter turns attention to the various social institutions. This is to show the intercultural interactions and exchanges which take place between Islam and the indigenous tradition in the community. One of such domains is that of festivals.

Waala Festivals

Festivals in the Waala community could either be state or non-state facilitated. State facilitated festivals are those that the state is fully involved in

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organizing from inception to closure. The *Dumba* festival is an example of a state facilitated festival. The non-state facilitated festivals are those festivals that the state participates in but does not take a lead role in organizing it. Various households and clans in the community initiate such festivals in their individual capacities.

Festivals vary in their nature and purpose (Abanga, Conrad, Kuuder & Adongo, 2012). In the context of Wa, festivals strongly portray the Islamic-indigenous cultural connections, regardless of how their purposes may be. These festivals are discussed here to show the intercultural interaction between Islam and the indigenous culture at the state and non-state levels. The section dwells on *Jimbenti* (non-state based) and *Dumba* (state-based) festivals. This is because of the fact that the two are the most popularly known and regularly celebrated festivals in the community.

The *Jimbenti* Festival

The celebration of *Jimbenti* takes place in the first month of the Islamic lunar calendar, Muharram. *Jimbenti* is both the name of the festival and the Waala equivalent for Muharram. It is celebrated as an occasion for introspection, evaluation of the past, and planning for the New Year. The community also celebrates the *Jimbenti* in commemoration of their ancestors and the purification of the Kingdom from malevolent spirits (Bin Salih, 2008).

While some consider the festival to be of a pagan origin (Dougha, 1966), others think otherwise. For the latter, the *Jimbenti* is the 'Āshūrā festival of Islam. A section of Muslims celebrates and commemorates the martyrdom of Hussain, the grandson of the Prophet of Islam. Hussain and some of his family members were killed by Yazīd b. Mu'āwiyah's loyal forces in Karbala in Iraq

on the 10th of October 680C.E/10 Muharram 61 A.H (Encyclopaedia Britannica, 2020).

On the celebration of the festival, people slaughter animals to cook for the feast. When night falls, the community sings and dances until midnight. They light up touches made of branches of trees and go dancing in procession to a designated place where they throw down the torches (Dougha, 1966 cited by Bin Salih, 2008). Believing in the participation of their ancestors in the feast, the households store some of the food in offering to the ancestors. They offer it in clay bowls and calabashes. They store it under the household's drinking pots. It is customary to store water in pots from which all members of the household drink. When day breaks, the families inspect the food to see if the ancestors had accepted and eaten their food offering. They look for specific marks on the food to identify the awaited ancestral consumption of the food. In the event that there are no such signs, the household seeks answers from diviners and the necessary remedies are applied. The ancestral veneration combined with the merry-making cloth the festival with the sacred and secular character by which it serves its specific purposes in the community (Etikpah, 2012). The community gives the remnants of the ancestral food, symbolically consumed or not, to orphans (Dougha, 1966 cited by Bin Salih, 2008).

This piece of analysis shows how the community receives and adopts aspects of the Islamic tradition as their own. They make alterations to it and use it in ways that are suitable to their context. This is the outcome of the interaction between the systems in the community. Indeed, in this festival, the Waala have appropriated the celebration of the life of an Islamic martyr for their own objective of ancestral veneration. The traditional setting has borrowed from the

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Islamic tradition. This type of cultural exchange occurs because "the use of a culture's symbols, artifacts, genres, …rituals, by members of another culture, is inescapable when cultures come into contact" (Rogers, 2016, p. 1) with each other.

It has to be noted, however, that the conversion of the festival from Islam into an indigenous ritual is not entirely out of place. Since the celebration was to commemorate the life of a martyr, for that matter an 'ancestor' of Islam, the Waala sees a logical connection between that and their tradition and therefore uses the same occasion to celebrate their own ancestors. This festival is a typical example of a non-state festival. Once the date on the local calendar, which is the Islamic calendar too, is due for the celebration, individuals, households and sections make preparation and celebrate it accordingly.

The discussion of the festival above has shown the influence of Islam on the indigenous tradition through the processes of interaction and exchanges that took place between them. The idea of celebrating the life of a martyr in Islam to affirms the genesis behind the celebration of the festival. It has blended with the celebration of ancestral veneration in the community. The *Dumba* festival is one of such areas which shows an intercourse between indigenous and Islamic traditions in the community.

The *Dumba* Festival

The celebration of the Dumba festival cuts across many ethnic groups of Northern Ghana. While it is known as the Damba festival among the Dagomba, the festival is known as Dumba among the Waala. According to Abdul-Hamid (2017, 2002), originally, Dagomba people celebrated the Dumba festival to thank and appeal to their ancestors and deities for prosperity in the

New Year. Today, however, the Waala, like the Dagomba, celebrate Dumba to commemorate the birth of the Prophet Muhammad. This is popularly known in Arabic and Islamic circles as *Mawlidun-Nabiyy*. The Waala also celebrates the Dumba festival in the third month on the Islamic lunar calendar. While the Dagomba celebrates it only on the 12th and the 19th days of *Rabī'ul-Awwal* (Abdul-Hamid, 2017), the Waala's celebration lasts for seven days. They celebrate it on the 12th, 13th, 14th, 15th, 16th, 17th, and 18th days of the month.

The celebration commences at 4:00 pm in the evening of the 12th, the reported birthday of the Prophet. On the day, a selected group of people is tasked to symbolically carry out a search for the festival from its secret location. They search for it at *fife muni* (under the fife tree, a markedly known place in town). At the said location, members of the search team go down on their knees and offer a libation to the ancestors and the late chiefs of the kingdom to seek their guidance as they search to locate the Dumba. Then, they act pretentiously to have searched and found it. Normally, in the form of a pebble, they take it, hide it and rise up from their knees amidst singing and drumming. They take it to the chief palace, the ground of celebration, where multitudes of people have been waiting for their arrival (Bin Salih, 2008). Now, upon their arrival at the grounds, people join in dancing in excitement with the arrival of the festival. The celebration of the festival continues, as mentioned earlier, for seven consecutive days. The dancing takes place and breaks at sunset every day. It then resumes after *Isha* prayers. The sixth night is dubbed *sew jang yengeng*. It means dancing overnight and it does continue till daybreak. "Chiefs, headmen, princes and important personalities of the Wa town take part in the dance" (Bin Salih, 2008). The Wa Naa is always present but he does not dance himself.

The seventh day climaxes the celebration. Just as in Dagbon, in Wa also, two major events climax the celebration of the festival. These are the rice-picking and the crossing-over-the-cow events. On the morning of the 12th day, the day marking the beginning of the celebration, the Paramount Chiefs provide rice to mark the event of rice picking. The rice is poured on a mat and the Wa Liman (Imam), Yari Naa (chief of the believers) and a number of Muslim clerics and elders assemble to sort the grain. In a circular sitting, and with the rice in the middle, they thrash out the grains amidst chanting praises to Allah and salutations to the Prophet. The rice is chosen for picking as a representative sample of all grains. The chanting of the praises of Allah during the exercise is a way of showing gratitude to Allah for a good harvest in the year (Abdul-Hamid, 2017).

The other event that climaxes the celebration is Wa Naa's jumping over the Dumba bull. In the evening of the said day, the bull is tied down and the Naa jumps over it without touching any part of it. However, before that, the clerics again perform a ritual of going around the cow amidst chanting the praises of Allah and the Prophet. This is to emboss spiritual sanity on the event for the Naa's safe negotiation of the crossing or jumping over the task (Bin Salih, 2008).

At the end of the celebration, the group that searched for the festival at the first instance would send it back to its abode of rest. This takes place in the evening of the last day. In this instance, they send it to *jam-jang,* a popular cult pond of the *Tendamba* of *Sakpa Yiri* located in the west of Wa. There, once again, they offer a libation to thank the ancestors for their guidance and protection before leaving the Dumba to its resting place (Bin Salih, 2008). As

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soon as they finish with the libation, they disperse back into the town, and that marks the end of Dumba for the year. With this ends the festival as a space of Islamic and traditional interaction. As a result of the interaction, Islam has converted the objective and identity of the Dumba festival into the celebration of the birth of the Prophet. I loosely refer to this as an influence of replacement.

Looking at the description of the festival, one notices that the celebration of the Dumba comes with a combination of multiple elements. These are the ancestors, the lived world, cow and rice. This points to the Waala conceiving of their community not only as a cohabitation of humans and nonhumans but also of the physical and the spiritual. This concept of the community as a collective body of beings also matches the Akan concept of community (Etikpah, 2012). This assemblage of different elements of the community into one unified whole also construes the Dumba as a festival of "multibeing rituality". It establishes a network of relationships between heavenly and earthly elements, blending humans of all ages and sacred activities together in one space (Orsi, 2005, as cited by Etikpah, 2012) confirmed this when they note that the institutions of festivals not only reenact the relationship between the physical but also the relationship between the physical and the spiritual world. This takes place through the execution of offerings and prayers given in remembrance of the ancestors.

In both the state and non-state mediated festivals, we encounter another layer of interaction between the Islamic and indigenous cultures. The two festivals play out the extent to which the indigenous and Islamic traditions constitute a fundamental part of the social practices of the people. From the indigenous aspect, the offering of libation, searching for the festival, escorting

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the festival to its resting abode are still part of the now Islamic celebration of the birthday of the Prophet. The presence of these elements does not only point to the linkage of the festival with its indigenous origins. It also shows a great deal of endurance of some original elements in its newly acquired identity as an Islamic festival.

Nonetheless, the manifestation of Islam's influence on the culture is clear. It has reshaped the original agenda of the Dumba festival into an Islamic celebration. It also touched on the date of the celebration. As pointed out above, the elements of rice picking and jumping over the festival cow are indigenous practices. Nevertheless, the clerical embossment of the two events with the praise chanting for Allah and salutations for the Prophet is a cast and manifestation of Islamic influence on the festival. Dumba, unlike the *Jimbenti* festival discussed earlier, is a state-mediated festival. The state leads the organization and celebration from the beginning to the end of the festival. In fact, the Wa Naa plays a clear role in the execution of the festival. The bringing of the clerics into the celebration, particularly the Imam and Yan Naa, is one of the facilitations of the state. What this means is that the Islamic permeation of the festival also affects the political level of the state. The reshaping of the genesis of the *Jimbenti* festival on one hand and reshaping the purpose of the Dumba festival on another hand points to the pervasive nature of the Islamic influence at both the community and the state levels. This corroborates the position of Levtzion (1968) on the Islamic permeation of the cultural, social and political life of the people. It also affirms the position of Bin Salih (2008) of chieftaincy being the primary vehicle for Islam's influence on the customs and practices of the people.

The nature of the interaction between these festivals and Islam is that of appropriation and interpolation. The appropriation is where the people have adopted Islamic festivals and made them their own. On the other hand, the interpolation is where the people went beyond simple adoption to make inputs into the adopted Islamic practices. The relationship between the two traditions should have an effect on the state of inheritance in the community. The interwoven nature of tradition and religion in these aspects of social life shows the possibility of the presence of a similar relationship between them in the area of inheritance. The absence or otherwise of such an intercourse therefore presents and constitutes a ground for inheritance conflict. It also shows why the selection of the research site instead of any other. All institutions of the Waala state are much Islamized. This is not all of it. Islam has also made inroads into the marriages of the people.

Marriage among the Waala

There are clearly some common intersections between Islam and the indigenous social systems. The recognition of polygyny, acceptance of divorce in certain circumstances and acknowledging procreation as a major objective of marriage are some of the common features of the two traditions. There are three phases in the Islamic marriage ceremony. These are the proposal and engagement, the marriage contract and moving the wife into the home of her husband (Acquah, 2011). The steps of conducting marriages in the Waala Muslim community are also in three stages. The initial one is the *pouho* (lit. greeting) stage. The final one is the *bīelibu* (lit. escorting) stage. The section below dwells on marriage. It highlights the interactions and exchanges that take

place between Islam and the indigenous culture in the performance of marriage in the community.

The *Pouho* stage

A primary component of marriage in the Waala Muslim community is the *puoho* stage. The *pouho*, (lit. greeting) is a mini public activity that takes place between the prospecting husband and the family of the intendant. In a process that I refer to as a familiarity visit, the husband and his companion(s) from the family are led by one of their brothers-in-law to greet selected individuals prominent to the woman and the marriage process. Such an elected traditional agent, having been given an agreed amount in advance, gives a token to each family member greeted amidst a brief introduction, spelling out the purpose of the visit. A respondent indicates that after the completion of this exercise, "all later expressions of interest in the lady in question are prohibited in the Waala tradition"[2].

Indeed, there is a corresponding prohibition in Islam too. Islam outlaws "…proposals of marriage upon [an earlier] proposal…" (Sahih Muslim. Hadīth. No. 3287). After the successful execution of this stage of engagement (Acquah, 2011) or knocking stage (Assanful, 2017), the two families set a date for the marriage contract. This is what leads to the execution of the *furi leību* and or *bīelibu.*

Furi Leibu: Tying the Knot among the Waala

The tying of the knot is the most important stage of the marriage process. The successful execution of this stage legitimizes conjugal relationship between the couple-to-be. Preferably, the Waala contract their marriages on

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[2] Ibn Abdul-Aziz, a family head, interviewed on the 15th August 2019.

Thursdays. Thursdays are believed to be virtuous days for marriages (Bin Salih, 2008). It takes place on this day if and only when both the marriage and escorting (*bīelibu*) the bride to the groom are to be executed at the same time. This is because of the fact that the contract could be done in advance and the escort delayed or deferred to another day. When escorting the bride to the husband is to be deferred, then, traditionally, the knot is tied on a Friday. In this case, the escorting is to be deferred to a Thursday. Today, however, marriages are being contracted on Sundays. This new trend is being propelled by contemporary work culture. The Sundays have emerged to accommodate the work needs of the couples and invited employees who are usually free on this day.

The *Furi* (marriage contract), unlike the 'greeting', is the larger community's event among the Waala. The relatives and friends of the couple-to-be send messages and invitations to their loved ones about the date scheduled for the contract. When the appointed day comes, the invited relatives and well-wishers gather to witness the proceedings at the community's mosque or *Jangu* (a traditional hall, which normally serves as an entrance to a compound) designated by the wife's family for such activities (Bin Salih, 2008). The most important individuals in the proceedings are the presiding cleric and head of the host family. To start the proceedings, the presiding cleric or head of the host family[3] or his spokesperson, calls upon a *Tagara* (a person from the Yan Naa clan) to commission the occasion. Any *Tagara* man present accordingly responds to the call. He would say "*anjuoho*" three times and the congregants

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[3] Either does it in all the cases that were observed in the field from August 2019-2020.

would also say it after him. Then he says and they say after him, "*ka mine lapāhi*" (lit. may similar things increase). The same is repeated on the second time. This time, however, the second line is replaced   with "*mwin napā hi atā yaga*", (lit. may Allah increase many of such occasions)[4]. With this, the proceedings are officially commissioned to start.

At this stage, the presiding cleric takes over the proceedings. According to Bin Salih (2008), for purposes of confirmation, the cleric calls the husband to stand up and confirm publicly as having expressed interest in marrying the lady whose knot is being tied. He stands and does that accordingly. My observations have, however, revealed that usually, the guardian of the bridegroom in the marriage executes this confirmation responsibility[5]. The bridegroom may only be called to stand up for the public to know him[6]. The presiding cleric then delivers the marriage sermon (*khutubah* or *furi doubu*). In his recitation of the sermon, the cleric gets to a point where the requirements of Muslim marriage are listed. At that point, he asks whether the offer and acceptance, dowry, witnesses and guardianship requirements have all been fulfilled. When the answer is in the affirmative, which is always the case, he proceeds to the end of the sermon. The sermon in question is called *Khutbatul-Hājah* (the sermon of need), the delivery of which is recommended to Muslims during their marriages. It is the sermon recited as part of the process of officiating Muslim Marriages. The Waala version of it, however, is different and longer than the original one. For two reasons. Apart from the components

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[4] Participant observation at Liman Yiri, Kabanye and Jangbeyiri sections, January 2020.

[5] In all the 7 marriages observed, it was always the guardians who played this role. Perhaps things have become different today from the time Bin Salih was writing.

[6] This happened in only one instance of the marriages observed.

of the original text, the people have inserted components that are responsive to their local aspirations into it. This is what accounts for its lengthy nature. On the other hand, they have packed it with incantations and a litany of supplications, which are meant to invoke the blessings of prophets' and saints' marriages on the marriages under construction in the community. This makes it different from the original one. Below is the relevant portion of the local version:

Text of the Sermon:

Alhamdulillah Rbbil- ālamīn, (*thalatha marraat*)*, Alhamdulillahi'lladi amaranaa bin-Nikāh walā-nikāha illā biwaliyyin, was-Sadāqi wasShāhidayn al-adlayn. Al-khayra, Al-khayra, Al-khayra, bi-hurmati Adama wa Hawwā wa-shajaratun-tūbā wal-malāikah. Allahumma Bārik fī hādhanNikaah bi-hurmati Yūsufa wa Zulaykha, Allahumma Bāarik fi hādhan-Nikaah wa-shajaratun-tūbā wal-malāikah. Ijma' baynahumā bil-khayr kamā jama'ta bayna Ādama wa hawwā. Allahummah ijma' baynahumā bil-Khayr kamā jamata bayna Yūsufa wa Zulaykha, Allahumma ijma' baynahumā bil-khayr kamā jama'ta bayna Muhammad wa Khadījah, kamā jamata bayna Muhammad wa Āysha, Allahumma ijma baynahumā bil-khayr Kamā jamata bayna 'Aliyyin wa fātimatah. Allahumma inkāna rizquhumā fi-samāi fa anzilhu, wa in kāna ba'eedan faqarribhu, wa inkāna fil ard fa'akhrijhu* (taken from the sermon as shown in appendix).

Translation:

All Praise be to Allah, the master of the worlds (3 times). Praise be to Allah, who legislated marriage on us and 'no marriage is valid without

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a guardian, dowry and two just witnesses'[7]. [We pray for] the best (3 times) as you installed in the marriage between Adam and Hawwa, and with the sanctity of the tree of tuba and the angels. Oh, Allah! Bless this marriage as you blessed the marriage between Yusuf and Zuleikha. Oh, Allah! Bless this marriage with the tree of tuba…

I have translated only the portion of the sermon that is relevant to the explanation of the issues. This is the traditional version of the marriage sermon in Wa. Apart from this portion "no marriage is valid without a guardian…." the rest of the sermon is locally constructed and therefore contains more elements than the original text. The sermon contains the aspirations and needs the community aspires for in their marriages. Looking at it again, one would realize that the sermon contains prosperity for the couple, protection and blessings for them. Perhaps it is the absence of these components in the standard sermon that has led to the coinage of the local version of the sermon.

Invocations of the angels, trees and the blessed marriages of early Prophets too have been triggered for the accomplishment of the aspirations. These are infusions the indigenous system made into the original text. In so doing, they have shaped the text in such a way as to respond to their marital needs and aspirations. However, some excerpts of the text are traceable to the standard sermon texts. This includes "*no marriage is valid without a guardian, dowry and two just witnesses*" and "*praise be to Allah who prohibits adultery and fornication*" (Zinā).

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[7] It is at this point the presiding clerics normally pause and ask whether or not the requirements of Islamic marriages have been fulfilled.

At the closing stages of the sermon, people then step forward with money and ask the presiding cleric to petition Allah on their behalf for a blessing on the marriage, attendees and the whole community. As they drop money in front of the presiding cleric, they ask him to pray for their ancestors, the aged elders and blessings for the new couple too. The excerpt below is an example of intercessory prayer a participant sought from a presiding cleric on behalf of the attendees and community.

> *Pray to Allah to heal and cure the sick, protect and bless our children, bless the marriage, bless and protect the whole Waala community and save us from the challenges of our time. I would like you [the presiding cleric] to also pray for riches for all of us and for many more of the bachelors among us to be able to marry*[8]

`   This practice is common in all the marriages in the community. Many people step forward to ask for prayers for different things from the presiding clerics. Usually, an elder of the host family acknowledges the presence of attendee sections at the occasion by giving them Kola. According to Ibn Abdullah[9], a family head, giving the Kola to representatives of the sections is not only a symbol of appreciation but it is also to further broadcast the newly contracted marriage to as many parts of the community as possible. According

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[8] It was a participant who was asking the cleric to pray for such a list of things from Allah. Many of these prayers are in the sermon read always in Allah marriages in the community. But because that one is in Arabic language; its contents get repeated in "the asking for prayer session"

[9] Interviewed on the 25th August 2019.

to Bin Salih, anything other than Kola, the host community makes sure that every section that is represented at the occasion gets their fair share of it[10].

In some Muslim jurisdictions, the climax of the marriage celebration takes place immediately after the contract ceremony is over. In those jurisdictions, like the Akan Muslims, the celebration and feasting on the execution day continue until the bride is finally escorted to her husband's house (Acquah, 2011). In the community, while the celebration does not take place after the contract ceremony, it goes concurrently with the escort procession that accompanies the bride in the night to the husband.

Under marriage too, there is manifest intercultural interaction and exchanges between the Islamic and the indigenous traditions. From the side of the tradition, the commencement of the proceedings of the marriage contract by the recitation of the 'initiation text' (*anjuoho*), is a substantial component of the marriage processes. The blockage of the entry of the bride into her husband's home under the declaration of the "sea is full" is one of the indigenous elements that is still in force in the community.

In the case of Islam, the recitation of the marriage sermon is very fundamental to the proceedings. The inquiry about the fulfillment of the requirement of the Islamic marriage no doubt plays out the permeation of Islam into the traditional domain of the people. This does not suggest the Islamic influence as a unilineal one. The indigenous tradition has also made inroads into the Islamic tradition as it interpolated the sermon with the needs and aspirations of the people. These exchanges are a form of mixing. The cases of mixing

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[10] It is the case that other items, like take-away packs of rice, are shared to the congregants. But in the participant observations, unlike the Kola, these parks were not shared according to sections.

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represent a phase of Islam's interaction with the African context, where the people blend Islam with traditional and local practices (spice digest, 2009). This situation affects many social institutions of the people including their naming ceremonies.

Naming Ceremony

The naming ceremony in the community is prefixed with the traditional care given to the first pregnancy of the expectant mother. The first pregnancy of a woman comes with a special ritual. Such a ritual is believed to be a fortification and measure of protection for the unborn baby and her mother. The Waala call the ritual as *pu-bahi* (lit. releasing of pregnancy). It is meant to release the pregnancy from the reach of evil. It is performed preferably by a senior most sister of the husband. Like in Dagbon (Abdul-Hamid, 2017), the sister-in-law comes to call the pregnant woman out at dawn. The moment she steps out of her room, the husband's sister hangs a talisman around the pregnant woman's neck and through her armpit and takes her away to her home. She stays with the sister-in-law for the whole day and is prepared food of her choice with either a guinea fowl or chicken[11]. While pointing out that this practice predates Islam in the area, respondents are not able to say what was the content of the talisman in pre-Islamic Wa. They, however, point out that the content of the talisman in the Islamized era is *ayatul-kursiyyu*, a Qur'ānic verse (Q: 2:255) popularly referred to as the throne verse.

The Waala, like in many Ghanaian cultures, when a child is born into a family, they send messages to the head of the husband's family, a family of the mother, the cleric who is to preside over the naming and beloved ones and

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[11] Hawawu Sulayman, interviewed on the 29th July 2020.

friends of the couples. Before the child is named on the seventh day (Abdul-Hamid, 2017; Acquah, 2011; Bin Salih, 2008), or eighth day (Abdul-Hamid, 2002; Oduyoye, 2002), the information is sent again to the said people informing them about the ceremony. (There is disagreement among scholars as to whether or not the day in which the child was born counted). In the Waala Muslim community, the cleric would have chosen the name for the child from an Arabic material titled *qāla shaykhu* (lit. Shaykh states). This is perhaps the manual Abdul-Hamid (2002) makes reference to as one of the sources for naming among clerics in Dagbon. With the *qāla shaykhu* arranging the names in accordance with the days of the week, one could tell the day a member of the community had been born. But today, parents and families put their desired names forward for their children. Normally in the community mosque, or *jangu* (lit. traditional hall) people of different backgrounds gather for the occasion. It starts with offering praises to Allah and the Prophet. After this, the presiding cleric starts his officiating with the reading of what I loosely refer to as the 'naming text'. It reads in the wali language as follows:

Text of the Sermon

Nndaa na naamwini! Inan kuti kūbu, kaakūbu yi malakay lihālah awa jiniya lihala, ayi jiniya lihālan awakpe poglung lihālah, ayi poglun lihālan awa kpe dawlun lihālah, tin wajinche, naamwini faridan, tuntuna sunnan, karimamina mustahabbun, adi abie yuori aku [name of the child eg. Muhammad]. Muhammadu bunjaa uhan wapagi a yiringn'che mwinna baagu. Muhammadu kon-maahu, kon-tulū mwin na-iw chihi ayi a touran. Muhammadu! U'kharijagi foro la uma bihi.

Bilajun uma bihi mwin'nain barika, mwin'nain fahami[12](taken from the naming text as shown in appendix 2).

Translation

My Lord! It is You who gave us a gift, which transitions from the angelical state into jinn state, from the jinn state into 'maleness' state, from the maleness state into femaleness state and we gather here under the obligation of Allah, under the tradition of the Prophet and under the recommendation of clerics and name the child as [Muhammad, for example]. Muhammad! May he live long with all the children he came to meet. From the harm of hot water and cold water may Allah protect him! Muhammad, his first source of sustenance is his mother's breast milk; may Allah bless it and put intelligence and wisdom in it (personal translation).

This is the local 'naming text' the presiding clerics recite all the time at the naming ceremonies in the community. It is a creation of the community itself. But the particular person who crafted it, like the marriage sermon, is not known. The recitation of the Islamic prayers and local texts symbolizes the significance of the dual identity not only of the community but also of the newborn baby, so that, as in the depiction of D'Alisera (1998) he or she is not left only to one cultural locale.

At this stage, water and Kola in a bowl are brought before the cleric, who dips his hand into it and rubs his face and hands with it. Then, it is taken round the sitting for attendees who are willing to also dip their hands in and rub

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[12] This was said exactly by the presiding clerics in all the 16 naming ceremonies that were observed in the community from august 2019 to January 2020.

their faces and hands with it. This water is to be used in bathing the child. "It is believed that such water brings blessing to the child and protects it from evil eyes"[13]. There is a similar practice in the Wolof tradition. They write a Qur'ānic verse on a wooden slate and wash it for the mother and her baby to drink for protection and blessing (Mbiti, 1969). People then come into the middle of the gathering, as in the case of contracting marriage, to ask for prayer from the cleric for the child, relatives and friends present, departed souls of the families and the entire Waala Muslim community and prayers of mundane purposes for the living. After prayers are made for these requests are over, then the cleric brings the session to an end by initiating a recitation of salutation and praise to Allah and the Prophet, and the congregation joins him to the recitation and in unison.

The cleric or any other person goes to take the baby and recites the Muslim's call to prayer in its right ear, and the starter of prayer (*iqāmah)* into the left ear. This is part of the Islamic naming regime (Ibn Rushd, 2006; Ibn Qudāmah, 2005; Al-Qarrāfī, 1994). The calling of the *adhān* and *iqāmah* into the ears of the child does not only reflect a prophetic practice. It is also a symbolic call of the child to submit to Allah (Acquah, 2011). There the officiating cleric calls out the name the child has been given three times. This, in the local language, is called *youri imbu* (lit. name inputting).

A ram is slaughtered for the purpose of the ceremony[14]. The mother gets her share of the meat. A front thigh is required by tradition to be sent to the in-

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[13] Ibn Abdul-Aziz, a family head, interviewed on the 15th August 2019.

[14] The Prophet is reported to have said: "Every new-born baby is in pledge for his *aqiqah*, a sacrifice is made for him on the seventh day, his head is shaved and he (or she) is given a name" (Abū-Dawūd, Book 9, Hadīth. No: 2832).

laws. The rest of the meat is distributed among members of the community (Ibn Rushd, 2006; Al-Qarrāfī, 1994). Today, foods and soft drinks, in take-away packs, are distributed to the attendees. This has brought an additional cost on the performance of the rite.

Adapting the material (*qāla shaykhu*) in naming the children in the past, and the parents deciding the names of their children today makes the Islamic or Arabic names a dominant culture in the area. This is the result of the Islamic influence on the lives of the Waala community. Only that there is a new trend towards restoring the indigenous names to the naming culture. Today, children are given Islamic and their corresponding indigenous names. Parents now write the indigenous names of their children with their corresponding Arabic/Islamic names on the entrances of the mothers' rooms and beds of the so-named children. This is a growing phenomenon in Dagbon too. However, even in this era of cultural revivalism in Dagbon, "…children are given both indigenous Dagomba names and Islamic/Arab names" (Abdul-Hamid, 2017, p. 137). This is a new trend in the larger Ghanaian Muslim community. The significance of this is the fact that the people are not only reconnecting with their roots, but also they are beginning to participate selectively in the Islamic tradition.

The blend of the two traditions in the naming of children, therefore, has two merits. With the indigenous names, the community reinvents its traditional identity on the newborn. With the Islamic or Arabic names, on the other hand, the community transcends the ethnic line to link the so-named Ghanaian Muslim with the rest of the Muslim world (Acquah, 2011).

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In the naming ceremony too, the issue of 'releasing the pregnancy', the reading of the naming text and the use of the Kola-water in the naming processes are traditional dimensions of the practice. The influence of Islam is, however, seen in replacing the traditional content of the talisman with the Qur'ānic text (2:255) in the practice of safeguarding the first pregnancies in the community. The naming ceremony on the seventh day, as well as the Islamic and Arabic names, are all part of Islam's influence on the life of the Waala people. This form of influence I loosely refer to as influence of replacement. The islamic tradition replaces the existing traditional practice of the content of the talisman. With the Qur'ānic verse taking the place of traditional talismanic content and the Arabic-Islamic names dominating, the Islamic culture has replaced the former in these contexts. We have seen the place of Islam in the naming ceremony through to the end. This is the outcome that emerges as Islam comes into contact with the indigenous setting. Having outlined the Islamic and indigenous interactions in the sphere of celebration of life, we now turn our attention to how the mortuary and postmortem practices of the people play out. These include the clothing of the kafan (shroud) and the performance of intercessory rites.

The Funerary Regime in the community

When a Waala man or woman dies, like in many Ghanaian cultures, elders of the deceased family instantly inform other members of the community about the demise of their relative. While the family set out to get a grave ready for burial, others prepare the shroud (*kahana*, a white cloth woven locally, corrupted from the Arabic word *kafan*, which means a shroud). It is used to cloth the remains of the deceased. Some Muslims even procure their own

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shrouds before death. If one, however, had not done that in one's lifetime, their relatives find shrouds for them. The family performs the ritual bath on the body. In the absence of or inability of relatives to bathe the deceased, it is delegated to mature and trusted members from the community (Acquah, 2011). Men are usually bathed by men and women by women (Bin Salih, 2008; Abdul-Hamid, 2017). After the washing, and by which time the shroud is ready, the elders of the family dress up the corpse. In the past and before the inception of Islam, the community, in the course of preparing the body for burial, would shave the male's hair and dress up his corpse for burial (Bin Salih, 2008). This shaving of the head and dressing up the corpse have stopped due to the influence of Islam. Islam outlaws it from the mortuary practices (Al-Azharī, 2011; Ahmad, 1997). The reason is found in the work of Ibn Abī Zayd's (1997) epistle (*risālah*), which is a primary source of the ethico-jurisprudential source material of the community. The epistle excludes such things from the Islamic mortuary practices. While waiting for the grave to be ready, a cross-section of clerics and students of the Qurān gather around the corpse to recite *sūratu-Yā Sīn* (Qurān:36) and *bar'zanji,* also called *mawlūdi* (a material on the eulogy of the Prophet), as intercessory prayer for the soul of the deceased. Today, the offering of this service is the exclusive preserve of the female clerics and their students. The reason behind this takeover is twofold. In Wa today, like in many other Muslim communities, Muslim women, especially the married ones, are more into Islamic learning than their male counterparts. They have established weekend Islamic schools all over the community. On the other hand, the reformist Islamic preaching (*Wahhabism*) has contributed to the decline of male participation in this respect.

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When the grave is eventually ready, the body is brought out for the final pre-burial service, the *salātul-janāzah* (i.e., funeral prayer). Between the congregation and the corpse in front of him, the Imam leads the pre-burial prayer for the deceased. After the prayer, the body is conveyed to the cemetery for burial amidst the chanting of *kalimatus-shahādah,* (lit. the word of witness), another practice that is observably declining due to the preaching referred to above. The Waala bury their dead people in the *lahad* style. For the *lahad*, which the Waala call *bogi bie* (a grave's inner chamber), it is a hole dug deep into the eastern side of the main grave (Bin Salih, 2008). The corpse is put into the *lahad* with the face turned towards the direction of *qiblah* (where Muslim face during prayer). After covering the *lahad* with bricks, (now with blocks also), and mortar, the main grave is also covered with soil. This *lahad* type of burial is the preferred form of burial to the *shiqq* style, the opening carved in the middle of the grave (Al-Azharī, 2011).

The subscription to this style of burial is the effect of the *mālikiyyah* school of thought the people are holding onto. The epistle of Ibn Abī Zayd (d.386ah), in which the style of burial is recommended, is the school's material the people study and rely on as their manual on Islamic law and ethics in the community (Ibn Abī Zayd, 1997). After the burial, another prayer is offered for the deceased. Sometimes, before the prayer, a short admonishing for the burying congregants is said by a cleric. The buriers return home to report the successful burial back to the elders. After the report has been delivered, another prayer is offered for both the deceased and the executors of the burial. They disperse at this stage until the next morning for the official conveyance and acceptance of condolences.

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The next morning, the bereaved family congregates at an open place for *ansuma* (lit. Good Morning), an assemblage of offering and reception of condolences from the community for the loss. People express their condolences by greeting and shaking hands with members of the bereaved family, their relatives and other members who, after consoling the bereaved, stay back to commiserate with them. In the Waala tradition, every well-meaning member of the community is expected to attend and console the bereaved family at the assembly point[15]. The congregation for the reception of the condolences ends in the same morning between 8:30 and 9:00 am. A Muslim cleric says a closing prayer to bring the proceedings to an end. While the closing prayer is being said, monetary donations are made and collected for the presiding clerics and his entourage. These monies are shared among presiding and the other clerics present. It is at this point that the date for the performance of *sarika*, either three days alone or and the seven days combined, is announced to the general public[16].

Now, in a mini gathering, the deceased's family continues to receive condolences from members of the community. It is at this stage that individuals and families make donations in cash and or in-kind to the bereaved family. This is to assist the family and reduce their burden of feeding sympathizers who congregate to sympathize with the family (Bin Salih, 2008). This is also the case in Islam. When a Muslim dies, Islam enjoins members of the community

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[15] All the funerals attended and observed in the community have all observed this tradition in the community before the country was locked down during the outbreak of the Novel Coronavirus Pandemic in 2019 (Covid 19). During the lockdown, the community started observing it very early in the morning and immediately after the Muslim dawn prayer (between 5:30 am-6:30am).

[16] This was the situation in all the post burial practices observed.

to prepare food for the bereaved family. When Ja'far, a companion of the Prophet died, the Prophet instructed the Muslim community to "prepare food for the family of Ja'far; for there has come to them that which is keeping them busy" (Ibn Mājah. Hadīth No. 1610). Only that in the community, the bereaved family is expanded to capture all distant family and community members who come to solidarize with the bereaved. With the announcement of the schedule of the rites, the grounds are prepared for the performance of the *sarika* (sadaqah), or *aduwa*, which is soul appeasing and intercessory in purpose[17].

Intercessory Rites

After the exercise of the 'good morning' referred to above follows the performance of a series of *sadaqah* rites. These rites come on the 3rd, 7th, 12th, 40th days and one year. In Ghana in general and Wa in particular, funeral rites are processes rather than events (Arhin-Sam, 2014). In describing the space of time these funeral rites cover, Arhin-Sam (2014) indicates that the period depends on the status of the dead. This may take a couple of days, weeks, months and even a year and beyond. However, in the case of Wa, the high status of the deceased could even shorten the period of celebrating the funeral rites. This is because of the fact that some of the days on which the rites are performed may be combined to enable distant relatives to attend the ceremonies. Other than that, in the Waala tradition, funeral rites officially terminate after the one-year celebration. After the one-year celebration, whatever the family does in commemoration of the deceased no longer draws the generality of the members of the community[18].

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[17] Ibn Dawud, interviewed on the 12th September 2020.
[18] Bint Abdul Aziz, interviewed on the 19th January 2020

All these are believed to be efficacious in interceding with Allah to have mercy with the soul of the deceased. The performance of these rites is grounded on how the community views the state of the soul. There are spiritual underpinnings beneath the designated days on which the rites are performed. The Waala believe that the souls of the deceased return on these days to find out whether or not the community has neglected them after their demise. In view of this, the community performs these rites to allay the worry of the returnee souls and give them peace and tranquility in their abode[19]. This philosophy is in consonance with the Yoruba tradition. For them too "the soul is believed to have been wandering about till proper burial ceremony involving…preparation of food and slaughtering cows is organized" (Adebayo, 2014, p.45).

The Waala community, therefore, engages in these intercessory ritual charities (*sarikahi*) on the stipulated days to show their care for such returnee souls[20]. On the night of the third day, relatives of the deceased fry *mwemi* (millet flour cakes) for invited guests and all participants (Bin Salih, 2008). On the morning of the day, Muslim clerics and representatives of families and relatives attend the ceremony. The clerics recite the Qur'ān and are given their honorarium. All attendees are given their share of the millet flour cakes. Some of the cakes are distributed to the elders of the sections in the community. Besides the donations received as indicated above, by the instruction of heads of the family, the cost of the rites or the seed money is borne by the resources of a wealthy deceased or his dependents. In a case where the deceased is poor,

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[19] According to Ibn Abubakar on the 23rd August 2019, *Daqāiqul-Akhbār* by Al-Qādī corroborates this worldview.
[20] Ibn Idris, interviewed on the 15th August 2019

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members of the affected communities are levied[21] to help carry out the rites. Apart from the 3rd day, cattle are slaughtered for the 7th, 12th, 40th days and one-year celebrations.

Furthermore, the extravagant nature or otherwise of carrying out these rites depends on the material wealth or social capital of the deceased. The estates that are readily accessible of the resources of the deceased, like cattle, are used on the stipulated periodic occasions. Sometimes leadership of the family and the community coerce non-complying heirs to allow the use of the estate for such purposes. More often than not, resistance to the application of the properties on such purposes results in disagreement between heads of families and the heirs. This is because of its being part of the estate meant to be distributed to heirs[22]. Indeed, taking into the consideration the four elements of inheritance pointed out in the introduction of the study, one agrees with the fact that all such spendings on the funeral rites of the gross estate would affect the quantum shares the heirs would inherit at the end of the process. In the face of such a reduction and the corresponding resistance to it is therefore a case of rejecting a form of inequality, which makes conflict inevitable.

In all these funeral rites, the Qur'ān, *dalāilul-khayrāt* (lit. pointers of the good), a litany on the salutations of the Prophet, and other prayers are said to intercede on behalf of the deceased. The *mwemi* too is always part of all the occasions for distribution to participants. In recent times, *fūra* (cooked and round molded millet flour) and bread have also become part of the distributed foods. For the forty days and one-year celebrations, rice is cooked for the

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[21] Ibn Idris, interviewed on the 15th August 2019
[22] Conversation with Abu Hibah, 13th July 2019.

participants. Today, apart from the items just pointed out, the family of the deceased distribute ablution cans, prayer mats and slippers to participants (clerics and laity) in the activity. This is different from what they did in the past[23]. The latter addition is believed to be in response to the reformists' (Wahhabism) criticism of the act as transient and innovative (*bid'ah*). They, therefore, included the new items to give the rite a more lasting character that what it used to be[24]. The response to the charge of innovation by the reformists also in a way reflects the influence of modernity.

The relative longitudinal nature of the period these rites cover concurs with Arhin-Sam's (2014) qualification of Ghanaian funerals in general as processes rather than events. These are the main funeral rites that are performed in the community.

In the performance of the rites, we see a mixture of indigenous practices with Islamic ones. While some of the indigenous practices continue to be observed side by side with the Islamic ones, others have totally given way for the Islamic ones. In the Waala tradition, the *bogi sulei* (a big grave with a small access circular vault for opening and closure), for instance, was the traditional grave for burial. Animal skin was also the material used for dressing the corpse for burial. Also, libation was also offered before and after burial. With the coming of Islam into the area, a new cultural regime had been established to replace such indigenous practices. The use of the white shroud in clothing the corpse, bathing of the body, the grave style and pre-and post-burial prayer and service are all Islamic influences on the mortuary and postmortem activities of

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[23] These items were provided during the funeral rites of A. Abubakar, 15th May, 2020, Abudi, 7th April 2020 and A. Adamu 3rd March 2020.
[24] Ibn Dawud, interviewed on the 18th July 2019.

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the people. The complete replacement of the traditional practices is what Abdul-Hamid (2017) refers to as total influence. Indeed, the mixing of Islam with the African culture is said to be the reason behind its success among the African people (Abdul-Hamid, 2017; Owusu-Ansah, 1987). According to Jennings (1991, p. 1):

The history of Islam in Africa has been, to a large extent, a history of the amalgamation of Islamic beliefs and practices with those of indigenous peoples. Wherever Islam has penetrated, the various populations of Africa have accepted it to a greater or lesser extent, without completely abandoning their own traditional customs. The result, in many areas, has been a syncretic combination of religions and cultures.

The situation in the Wa Muslim community is in line with Jenning's depiction of Islam's contact with the local peoples. Although the Waala people have also accepted Islam without completely abandoning all of their traditional customs, the Islamic influences are very glaring. They still partake in the festivals, whose character has been largely Islamized. This situation is responsible for syncretism in the community. They follow the Islamic law in many of their social activities but still resort to their traditional ways in life cycle events and in some cases even resort to the traditional inheritance system for estate devolution.

Going back to the funeral rites, after the performance of the rites, the community now turns its attention to the estate of the deceased. In the Waala tradition, it is either after the forty days or one-year celebration that the family decides on the properties of the deceased. According to Ibn Imam

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Muhammad[25], the estate distribution is pushed to the above periods so that heirs and affected members of the family would have recovered from the psychological or emotional shock emanating from the loss of their loved one.

The Waala System of Inheritance

The state of Inheritance among the Waala was largely based on the operative system of ownership in the community. In the past, there was a limited degree of individual ownership in the community. Properties were acquired by families and therefore belonged to the entire family. Households and families collectively under one leadership built and lived together in compound house accommodations[26]. They also acquired livestock, movable and non-movable property, farm produce and businesses through a collective effort[27]. Thus, all properties in the past belonged to the family and were therefore entrusted in the custody of the head of the family. Collective ownership of property in the name of the family was, therefore, the order of local tradition. In this system of ownership, inheritance was understood and practiced as the transfer of wealth from the hand of one late head of the family into the hand of the succeeding head of the family[28].

With the passage of time, however, private and individual ownership started to creep into the community. This was when people started acquiring their own properties. With this too, though some individuals have acquired their businesses and properties, it was not phenomenal in the community[29]. Even in this case, upon the death of the owner, the property was not devolved to all

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[25] Phone call, 29th September 2020.
[26] Bint Saeed, interviewed on the 27th July 2020
[27] Ibn Abdullah, interviewed on 13th August 2019
[28] Ibn Gaws interviewed on the 29th January 2021
[29] Ibn Idris, interviewed on the 18th December 2020

individual heirs of the members of the deceased's heirs[30]. Instead, the property was transferred into the custody of a brother or a son of the deceased in the absence of the former[31]. The role of this heir was not to own but to manage the property on behalf of all the children. The implication of this is that either the uncle or the son ends up appropriating the properties of the deceased. This appropriation has happened and has denied many of their inheritance.

Furthermore, in this regime of privately acquired property, joint ownership also emerged. This was a situation where an individual acquired and made his private wealth but turned it into a jointly owned property between him and his brother(s). In other words, people who have privately acquired property made such properties the ownership of himself and all his brothers. In this situation, one has acquired the property alone but brought in his brother(s) as a 'co-partner(s)'. By virtue of age, the elder one would be in control and in a more commanding position of the property or business rather than the originator[32]. Occupying leadership positions in business was, therefore, largely based on seniority rather than 'ownership'. In fact, there was an extreme case where younger brothers had given their property to their elderly ones as tradition demanded, to run for the common good of all[33]. This was because of the fact that the Waala society frowned upon "any individual who wanted to have separate possession of his own property independent of his brother(s). Such an act was considered as an act of *hinan tanye* [separatist and merciless tendency]". This situation has later brought about a contention about ownership

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[30] Shaykh Ibrahim, interviewed on the 17th November 2019.
[31] Ibn Gaws, interviewed on the 29th January 2021
[32] Khadija bint Saeed, interviewed on the 27th July 2020
[33] Shaykh Ibrahim, interviewed on the 19th September 2020.

among various groups of heirs[34]. A seventy-year-old man has this to say about this:

> *Growing up, we witnessed brothers, uncles and fathers running businesses together. Upon the death of the elderly brother, the next senior-most brother succeeded him in taking headship and custody of the property. It was the legacy of this arrangement that has just led to the conflict in the case of A. Ghaniyyu and A. Khaldun I just told you about*[35].

It is clear from the above response that the practice turned the boundaries of ownership blur. Today, as the study exposes subsequently (chapter four), this is the challenge associated with the system in the community. Thus, in line with the tradition, upon the death of the owner of the privately acquired property, joint or otherwise, there are two ways of dealing with the issue. Family heads either commit the estate into the custody of a holder or distribute it to the heirs[36].

The Holder's Role

The practice of the head of the family succeeding the deceased head subsided with the decline of family ownership. In the course of this, the holder's role came in to manage estates in the community. This was the situation where family heads committed the estate of the heirs into the custody of the elder brothers or sons of the deceased. This trusteeship was one of the ways by which the people devolved the estate. The children could be mature but the property

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[34] Ibn 'Umar, interviewed on the 1st January 2020.

[35] Shaykh Y. Idris, interviewed on the 15th August 2019.

[36] A. Muhammad, a family head, interviewed on the 16th August 2019.

would not be given to them[37]. An heir of such an arrangement (a graduate of the last badge of the sixth form in the Ghanaian public schools) shares his experience in the words below:

> *When my father died, the elders of the family put my uncle as a custodian of the property. Some of us were mature enough to run and manage the business. Indeed, while my father was alive, I was managing the business with him. Therefore, I knew a lot about his properties. At the time, I had also finished my upper sixth level of secondary education.*

This response does not only tell us about the holder's role in inheritance. It also tells us about both the currency of the practice in the community. On one hand, it also overlooks the maturity of the heirs in its operation. This has its own implication for some members of the community. According to Imam Muhammad, many people are not aware that the source of the wealth of Ayasidk (pseudonym) is custodianship. He appropriated the estate of his late brother and denied the latter's heirs of their inheritance. That is the source of all the property he possesses today. Today, many people, including his own children, think or consider him as the legitimate owner of the properties. If the Islamic inheritance system was to be applied, this would not have happened[38]. Besides the custodianship over the private estate, another way of dealing with such a property is to devolve it to the heirs in accordance with the number of their mothers.

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[37] Ibrahim Idris, interviewed on the 15th September, 2019.
[38] Imam Muhammad, interviewed on the 7th January 2020.

Scheme of Distribution

The traditional or customary system distributes estate in accordance with the number of wives the deceased leaves behind. By this 'wifely' consideration, the traditional system allocates the estate to the heirs equally and in accordance with the number of wives. Each widow or wife with her small or bigger number of children is allocated the same quantity of inheritance property[39]. For instance, if the wives are four, the traditional system divides the property into four portions. In so doing, it does not take into consideration the number of children each wife has. In line with this way of estate distribution, one heir[40] has this to say:

> *In our case, there was nothing to worry about. The compound house was all the property that my late father left behind with four wives and their children. The house had to be divided into four in accordance with the number of our mothers.*

The above response affirms the distribution of estate to the beneficiaries in accordance with the number of wives the deceased left behind. As stated above, the number of children each wife has for the deceased is not factored. This way of distribution is in consonance with the Nigerian Yoruba's system (*Ori-o-jori*). In that Yoruba system too, the estate is apportioned equally to the heirs in accordance with the wives of the deceased (Busari, 2020). There is, however, a slight difference between the two. In the Yoruba context, the estate is apportioned equally to the male and female children of the wives of the deceased (Busari, 2020). The Waala system subsumes the share of the females

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[39] Ibn Yaqub, interviewed on the 17th October 2020.
[40] A. Karim Muhammad, interviewed on the 29th October 2019.

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under that of their male counterparts. Hence, the female heirs end up being denied their share of the estate. This is because of the fact that with no redistribution of the estate into micro shares to the children in accordance with gender, the male heirs take possession of the estate to the exclusion of their female counterparts. In an answer to this gender anomaly, one participant has this to say[41]: "…you see! When the female heirs get married, if they inherit, they carry the property of the family away into that of their husbands. It is in avoidance of this risk that they are normally disinherited by the system".

The sentiment expressed herein is not peculiar to the community understudy. Lim and Sait (2006) have found a similar practice in some Jordanian, Palestinian and Indonesian Muslim communities. In order to prevent female heirs taking estate from their families into that of their husbands, these communities resort to the *tanāzul* (renunciation) and *indimāj* (consolidation). This happens even after the application of the Islamic system. They either make the female heirs step down (*tanāzul*) from their Islamic share of inheritance for their male counterparts or sell back their shares to the males (*indimāj*) for which they may or may not be compensated (Lim and Sait, 2006). Thus, in the operation of the community under study, it is the same sentiment that underpins the disinheritance of the female heirs. In both the Waala and the experiences of the other communities Lim and Sait (2006) mentioned, the indigenous system is used to cause the sentiment. As it makes sense to the beneficiaries of the customary system, it negatively affects other legitimate heirs and denies them of their deserved estate.

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[41] Ibn Abdul-Moomin, interviewed on the 12th January 2020.

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For predeceased or divorced wives who have children with the deceased, the system allocates to their children too. In this case, such children are treated as separate entities and are allocated the estate through their predeceased and divorced mothers as though such widows or divorcees were still alive or are still in valid marriage with the deceased at the time of death. In other words, such wives are theoretically added to the living wives of valid marriage with the deceased[42]. The implication of this is that if the husband passed away leaving behind four wives but with another wife predeceased, the estate will be divided into five equal parts between their children. This is how the traditional system operates in the community.

Conclusion

The chapter discussed the interactions and exchanges between Islam and the indigenous tradition in the community. In doing so, it looked at the institutions of festivals, marriage, naming ceremonies and mortuary activities as the domain within which the interaction between Islam and the tradition of the people takes place. Whilst pointing out the syncretic nature of the interaction, the chapter portrayed how the two traditions influence each other. It explained that the nature of this intercultural influence moves between appropriation, interpolation and repeal or replacement. It explained that not only has Islam influenced the community at the micro-level. It has also affected the political organization of the state. The chapter noted that in spite of the intercultural influence between the two traditions within the stated domains of rites of passage, the relationship between the two in the area of inheritance is different. In the aspect of inheritance, the chapter further explained that the

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[42] Mba Karima, interviewed on the 12th July 2019.

traditional inheritance system commits privately acquired estate into the custody of a brother or first son of the deceased or distributes it. Many of these practices are still in operation in the community. When the traditional system distributes it, it does so in accordance with the number of the wives of the deceased. Thus, the chapter concluded that the nature of the relationship or interaction between the Islamic and traditional inheritance systems is that of friction and incompatibility.

The following chapter examines the Islamic system of inheritance, focusing on funeral and burial expenses, clearance of debts, execution of will and distribution of the deceased's estate. In doing this, the chapter engages the primary text on Islamic inheritance (Qur'an 4:11-12) in the discussion of the issues on the subject matter.
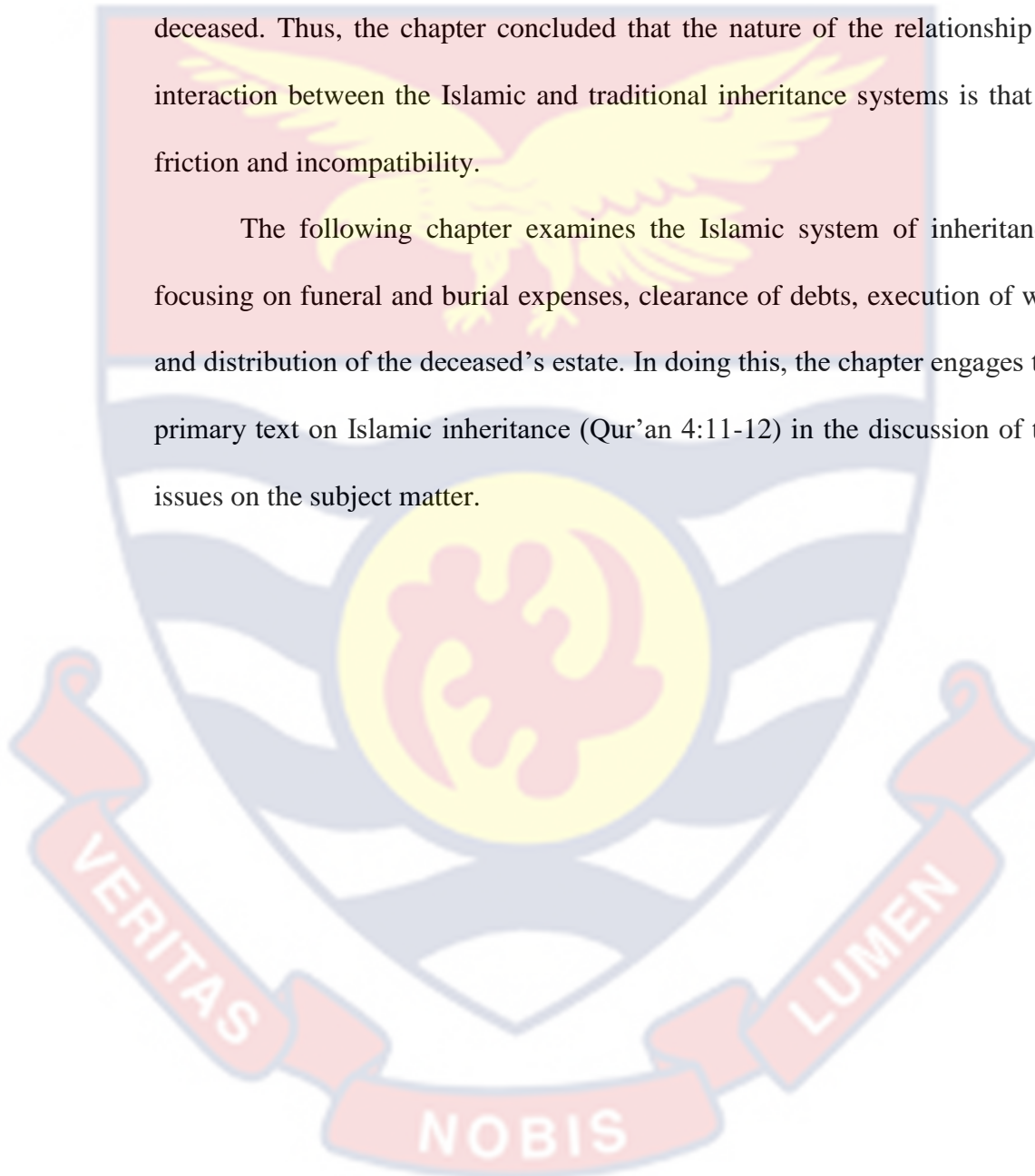
CHAPTER THREE

POSTMORTEM ACTIVITIES: BURIAL, DEBT, BEQUEST AND DEVOLUTION OF ESTATE IN ISLAM

Introduction

The preceding chapter examined the interactions and exchanges that take place between the Islamic and indigenous traditions in the community under study. It looked at festivals, marriage and naming ceremonies and mortuary practices as the aspects in which such an intercultural interaction takes place. The chapter argues that in spite of the intercultural intercourse between the two traditions in many facets, the same thing cannot be said in the area of inheritance. In this aspect, the nature of the relationship or interaction between the Islamic and indigenous traditions is that of friction and incompatibility.

The current chapter is an interpretation of Qu'ān: 4:11-12 and analysis of its contents. In light of that, it engages the various Islamic exegetical and jurisprudential materials on the issues at stake, the primary elements that constitute the inheritance system of Islam. The Islamic inheritance system conflates between a number of elements. These elements include the settlement of funeral and burial expenses, the clearance of the deceased's debts, and the execution of his or her will. The final stage of these elements is the distribution of the deceased estate among the legitimate heirs. The execution of these instruments is grounded in Islamic texts. As the basis for the execution of the Islamic inheritance, the chapter engages the discourse with an analysis of the primary passage on inheritance. Such an analysis will not only assist in better understanding the issues concerning Islamic inheritance. It will also serve as the basis for engaging the issues in subsequent chapters. In the course of the

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discussion, the chapter highlights the connections between the provisions of the inheritance system and some of the theories outlined in chapter one. It also points out areas within the inheritance system that serve as potential conflict areas in the operation of the system in the community. Pointing out these areas, however, is not to suggest that they serve as the only causal elements of the inheritance conflict among the people in question. Rather, it is for the sole objective of pointing out those that are relevant to the current discussions. We now turn our attention to the analysis of the inheritance issues. Unless otherwise is mentioned, the translation of Yusuf Ali will be used in the work. In the Qur'ān, there are many interspersed verses on the subject of inheritance. These include Qur'ān 2:180, 240; 4:7-12, 4:176, and 5: 105-108. The verses that, however, serve as the foundation of the system are Qur'ān 4:10-12. Apart from the burial expenses, this text covers all the provisions relating to the administration of inheritance in Islam. The Qur'ān states:

> Those who unjustly eat up the property of orphans, eat up a Fire into their own bodies: they will soon be entering a blazing fire. Allah thus directs you as regards your children's inheritance: to the male a portion equal to that of two females: if only daughters, two or more, their share is two-thirds of the inheritance; if only one, her share is a half. For parents, a sixth share of the inheritance to each, if the deceased left children; if no children, and the parents are the (only) heirs, the mother has third: if the deceased left brothers (or sisters). The mother has a sixth. (The distribution in all cases is) after the payment of legacies and debts. You know not whether your parents or your children are nearest to you in benefit. These are settled portions ordained by Allah: and Allah

is all-knowing, all-wise. In what your wives leave, your share is a half, if they leave no child, but if they leave a child, ye get a fourth; after payment of legacies and debts. In what ye leave; their share is a fourth, if ye leave no child, but if ye leave a child, they get an eighth, after payment of legacies and debts. If the man or a woman whose inheritance is in question has left neither ascendants nor descendants but has left a brother or a sister, each one of the two gets a sixth, but if more than two, they share in a third, after payment of legacies and debts, so that no loss is caused (to anyone). Thus, is it ordained by Allah: and Allah is all-knowing, most forbearing.

I have chosen this particular passage over others because of its all-inclusive nature of all the elements of inheritance in Islam. It is the main passage that pieces together the various inheritance provisions in one place. I divide the above passage into three focal areas. These are the preamble, the estate and the conclusion. The preamble reads as "*those who unjustly eat up the property of orphans, eat up a Fire into their own bodies: they will soon be entering a blazing fire.* This part of the passage threatens to torment those who spend the inheritance of the orphan fraudulently. The second component of the passage "*Allah thus directs you as regards your children's inheritance*" up to "*so that no loss is caused (to anyone)*" is on the prescription on the execution of inheritance provisions. Then the concluding part points out the prescription as coming from Allah and Mentioning His attribute as in "*... is it ordained by Allah: and Allah is all-knowing, most forbearing*". These are the domains of the structure of the passage.

It has to be noted that the passage presents the settlement of bequest or will before the execution of debts. In accordance with *farāid*, the sequence of bequest changes. The debts are paid before bequests. It is also paid before the distribution of the estate. This is because debts are compulsory rights of others on the deceased. Wills are, however, the voluntary right of the deceased. The implication is that if upon the settling of the debts nothing is left of the estate, the legatees get nothing (Abdullah, 2005; Arīfī, 2009, Fawzān, 1999 and al-Kātib, 1997). From the onset, the chapter will deal with burial expenses. Then it will attend to paying off the debts of the deceased, and execution of bequest or wills before addressing the distribution of the net estate to the heirs. This is the chronological order in which all the details follow in the chapter.

Burial Expenses in Islamic law

The burial expenses are the rites that are associated with the mortal remains of the deceased. Although the inheritance passage is silent about this right, it is central in the operation of the inheritance system in Islam. It is so fundamental that it is the first instrument that is deducted from the estate even if it exhausts all the property of the deceased. Prior to the execution of the other inheritance provisions from the estate, burial expenses would have been paid out of it beforehand. This was the standard practice of the Prophet. Upon the death of Mus‘ab bin ‘Umayr at Uhud, the Prophet instructed the Muslim community to shroud him (Mus‘ab) with his (Mus‘ab) garment. The garment was the only estate the deceased left behind (Bukharī, Book 58, Hadīth No. 237). According to Muslim scholars, in this case, the burial expenses exhausted the only property Mus‘ab had and nothing was then left to be inherited.

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The need for shouldering the above responsibility arises in cases in which the deceased leaves no estate behind. In such a circumstance, the responsibility shifts to those who had been responsible for providing for the deceased in his or her lifetime or the general Muslim community in the absence of such people (Sabiq, 1999, Abdullah, 2005). The expenses of the burial, however, must be devoid of extravagance, superfluity but yet without deficiency (Sirajiyyah as cited by Khan, 1989). Such burial expenses must take care of the costs of shrouding, washing the body, carrying the deceased to the graveyard and digging and covering the grave. Al-Kātib (1997) explains that because such expenses are deductible from the estate, any extravagant expenditure contributes necessarily to a reduction in not only the quantum of the shares each heir receives but also affects the entitlements of all legal beneficiaries. The expenditure on this element, therefore, should only aim at serving the basic needs of burying the remains of the deceased (Abdullah, 2005). This means that the execution of this instrument should take into consideration the extent to which it affects the rights of the individuals that are elementary to the inheritance of the estate. Practically, the fulfillment of the burial expenses, whether from the estate of the deceased or the resources of the Muslim community, is an Islamic universal culture. Nevertheless, every Muslim community observes it in their own unique ways and the Waala Muslim community is not different.

The Funerary Practices and Inheritance

The intention behind the current theme is to briefly show the effect of funerary practices on the inheritance conflict situation in the community. In the earlier theme, we explained how the burial of a Muslim is conducted in the

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community. Henceforth, 'the community', unless otherwise is mentioned, is used in reference to the Waal Muslim community of Wa, Ghana.

The intercessory rites, because they are believed to be efficacious in interceding with Allah to have mercy with the soul of the deceased, the community is very elaborate in performing it. There are spiritual reasons that underlie the performance of the rites on the specified days mentioned above. The Waala believe that the departed souls return on these days to find out as to whether or not the community has neglected them after their demise. The Waala community, therefore, engages in these intercessory ritual charities (*sarika*) on these days to show their care for such returnee souls[43].

So, the insistence upon the performance of such rites hinges upon their belief that the soul wanders about till proper burial ceremonies are performed for it. They, therefore, engage in these intercessory rituals to appease the souls of the deceased. The execution of these rites involves the preparation of food and slaughtering of animals for charity. The intensity or otherwise of carrying out these rites depends on the material wealth or social status of the deceased. Cattle of the deceased are slaughtered on the stipulated periodic occasions. For the fact that some of these resources constitute part of the estate of the deceased, more often than not, resistance to their use on such purposes results in conflict between heads of families and heirs of the deceased[44].

As indicated earlier, the burial expenses are the only part of the four elements of inheritance that have not been captured by the referenced Qur'ānic passage (4:11-13). However, all the elements discussed in the succeeding

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[43] Ibn Idris, interviewed on the 15th August 2019.
[44] Ibn Idris,….

themes are part of the passage. The first inheritance provision that is to be discussed below is the payment of debts. The problem is a self-inflicted one. The burial expenses in Islam are very simple and straightforward. Strict adherence to them would have prevented this aspect of the conflict. Adherence to the customary practice, therefore, is largely responsible for such a state of affairs, which and its associated conflict causality is avoidable.

Payment of Debts

The payment of debts is fundamental to the implementation of the inheritance system in Islam. In terms of application, the settlement of debts comes immediately after the fulfillment of funeral and burial expenses. It is also to be paid from the estate of the deceased. However, unlike the execution of the funeral and burial expenses, the payment of debts is grounded on the inheritance text (Qur'ān 4:10-12). In the sequential arrangement of the components of inheritance in the text, the execution of bequest precedes the settlement of debts. The text states: *"...after the payment of legacies* [*wasiyyah*] *and debts*…" The conjunction "*aw*" is what has been translated as "and" here. Technically speaking, it should rather have been translated as "or". This means that the text should have read as "*...after the payment of legacies* "or" *debts...*" The linguistic tool "or", as I argue here, gives the choice to administrators of the estate to start with either the payment of bequest or debts from the estate. This linguistic position is, however, contrary to the normative position of prophetic practice and the Muslim scholarly community. This is because of the fact that the convention among Muslim scholars is that debts must be settled before bequest (Angulu, 2011; Abdullah, 2005; Doi, 1990). The reason being that while bequest is the voluntary right of the deceased, the settlement of debt is

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compulsory (Abdullah, 2005; Arīfī, 2009, Fawzān, 1999 and al-Kātib, 1997). In Islamic law, when there is a conflict between interests of different degrees of needs, compulsory issues take precedence over voluntary ones. On the other hand, the Prophet and the early Muslim community had always inquired about the debt profile of a deceased or even settle it before performing *salātul-janāzah* on the deceased (funeral prayer or service) (Ibn Mājah, Book 22, Hadīth No. 2715).

The consequence of this position is that when the estate is not enough to settle both provisions simultaneously, then the estate is used to settle the debts of the deceased. If after the settlement of the debt nothing is left of the estate, then all claims, including the inheritance of the heirs, become null and void. The settlement of bequest is, therefore, dependent on the availability of enough resources left behind by the testator (Angulu, 2011; Khan, 1989). Financial commitments of the category of guarantees (*Kafālah*) provided by the deceased for business loans are payable from the estate when the original debtor fails to pay such loans (Al-Zuhaylī, vol. 5, p. 132). The same rules apply in the case of personal credit cards and student loans (Abdullah, 2005). Debts and liabilities to creditors include personal financial pledges the deceased made to people while he or she was alive. All such commitments or pledges are payable from the estate (Abdullah, 2005). After such debts have been paid, the next right that is to be paid from the gross estate before its distribution to the legal heirs is the execution of the deceased's bequest or *wasiyyah* in the terminology of inheritance.

Wasiyyah

Wasiyyah is also deductible from the estate. It is a means by which an individual contemplating death commits his or her wealth to be given upon his or her death to a designated individual, group of people or an institution. Through *wasiyyah*, the testator can give to relatives who the system might have been disqualified from inheriting. Such a disqualification could occur because of the existence of closer heirs to the deceased under the rule of priority (Coulson, 1971). The rule of priority implies that a son of the deceased, for instance, excludes the latter's own children, his nephews and nieces (Alma'amun, 2010; al-Katib, 1997; Bamba, 2002; Fawzan, 1999). Through bequest (*wasiyyah*), the deceased while alive could make provisions for all such people who cannot inherit him or her because of either legal disqualification or exhaustion of the estate by more closed heirs. This implies that the testator (deceased) cannot activate his or her right to *wasiyyah* in favor of legitimate and inheriting heirs. It is, however, important to note here that some verses instruct that bequest be given in favor of some heirs. The Qur'ān has this to say about that "… anyone who is at the point of death, and has goods to leave, should bequeath equitably to his parents and near relatives. This is an obligation upon the pious" (Qur'ān: 2: 180). Also "Such of you as die leaving wives should bequeath to them maintenance for one Year..." (Qur'ān 2:240). Nevertheless, the foundation text provides for these people (parents and wives) their defined and fractional shares as heirs. This is a contradiction to the earlier claim. To attend to this contradiction, Alma'amun (2010) and Coulson (1971) reconcile the revelations on the matter by resorting to the chronological dimension of those revelations. They indicate that the revelation of bequest verses predates

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the revelation of the inheritance verses and therefore has been abrogated by the latter.

With the emergence of the succeeding inheritance provision largely expressed by Q.4:11-12,' the bequest regime was deactivated (abrogated) in respect of those who have been provided for by Q.4:11-12. Again, the legal ability of the testator and the extent of the estate he or she could make available to his or her relatives were narrowed to a prescribed degree (Coulson, 1971). This is because of the fact that the "permissive and discretionary system of succession to property at death had now been replaced by mandatory rules which prescribed the entitlement of the different relatives in terms of a fixed fractional share of the estate" (Coulson, 1971, p. 213). This means that although *wasiyyah* was the first institution of succession, it was, and still is, a voluntary facility applicable in respect of non-heirs and disinherited individuals. The testator could bequeath only up to one-third of the estate and could only discharge such a right in favor of non-heirs. This is because "Allah has already given to each entitled relative his proper entitlement" [and therefore] "no bequest in favor of a legal heir" (Ibn Mājah, Hadīth No.2713/2714).

This hadith indicates one who receives a share of the estate cannot receive a bequest in addition to the share (Powers, 2015). Describing the position of traditional scholarship, Powers points out that the bequest verses were fused together with the shares to create a single system of inheritance that came to be referred to as '*ilm al- farāid*' or "science of the shares". Pavlovitch and Powers (2015), however, have this to say about the matter:

> The Qur'ān contains two sets of verses that treat the subject of inheritance, one dealing with a bequest, the other with inheritance

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shares. The first set of verses ("the bequest verses") indicate that a person contemplating death enjoys considerable freedom to determine how his property would be distributed after his death. The Qur'ān commands believers to leave a bequest (*wasiyya*) for parents and relatives(Q2:180), and advises a man contemplating death that he may leave of up to one year's maintenance for the widow, with the understanding that she will remain in his home during that period(Q2:240). The Qur'ān also instructs believers to draw up a bequest in the presence of two trustworthy witnesses (Q: 5.106-107), and it warns them not to alter a bequest after it has been duly attested (Q2.181). In the event of disagreement, the opposing parties are encouraged to reconcile their differences (Q2.182). The second set of verses ("the inheritance verses") affirms the inheritance rights of both men and women (Q4.8) and specifies the exact fractional shares to be awarded to a surviving daughter(s), parent(s), sibling (s) and or spouse (p.1).

Powers (1982), on another occasion, denies the presence of any limitations confining the full exercise of the bequest regime in Islam. For him, the setting of such limitations is post-Qur'ānic and is therefore not proper. He finds support in the opinion of al-Qurtubī concerning "no bequest to an heir". Al-Qurtubī states:

If it had not been for that hadith [no bequest to an heir], then it would have been possible to have both of these verses [Q. 2:180 and 4:1 1], so that they [the heirs] would either take property from the testator in accordance with a last will and testament or by inheritance if he did not

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leave a will or if something remained after the will. However, this possibility is prevented by the hadith and *ijma* (al-Qurtubī, 2: 263).

For Powers (1998), therefore, most of the detailed rules instituted by Qur'ān.4:11-12 were originally intended to apply only on the estate of a Muslim who died intestate. For him, it is the absence of a will that allows the application of the compulsory Qur'ānic rules of inheritance on the estate of a deceased. In contrast to the conventional view, Powers further argues that the testator is even at liberty to designate and give a bequest to beneficiaries from among the stipulated heirs in Qur'ān.4:11-12 or outside it. The conventional position synchronizes the testacy and intestacy schemes as one but restricts the testate with some conditions. This is in the light of the texts referenced earlier. In opposition to this too, Powers holds that restricting the validity of wills to the tune of one-third and only to non-heirs is inaccurate.

Kimber (1998) does not see the bequest verses indicative of the meaning Powers attributes to them. For him, Qur'ān 2:180 instructs Muslims, in anticipation of the imminent death, to, as a matter of compulsion, leave a will for their parents and other close relatives. Also, in Qur'ān 2:240, Muslim men are required to make provisions for their widows to remain in the marital home for up to a year. The verse has neither designated any of the relatives therein as heirs nor given freedom for the designation of anyone else as an heir. This is because of the fact that none of the verses uses the term *awratha,* which stands for designating and giving an estate to an heir*,* in the context in question. Kimber further contends that the part of Q4:11 which, according to Powers, applies specifically to the law of intestate succession also includes the wording "*min ba*'*di wasiyyatin yūsī bi-hā*", meaning, "after payment of bequest".

Yes, in traditional scholarship, some scholars are of the view that the *farāid* verse, Q4.11-12, has abrogated the verses for wasiyya for widows (Qur'ān 2:240) and parents and close relatives. These people have been given their shares as prescribed in the abrogating verse above (Al-Razī, 2010:2). For the widow, Bu Hindi (2004) does not even see the verse as talking about inheritance. For him, the verse is rather talking about the widow staying in her husband's house and no one having the right to evict her from it during that period. When it comes to verse Q2:180, it also lies under the issue of specification of a general rule. For some scholars, the will therein is for parents and all other relatives who do not inherit in one way or the other (Al-Razī, 2010:5).

Indeed, taking into consideration the inclusion of bequest as one of the rights of the estate in the founding text, Powers' position is difficult to sustain. This is because of lack of explanation and reconciliation of the presence of bequest in the founding text too. He has not answered that question. The inclusion is an indication of the subjection of a bequest to the rules of the intestate system of inheritance. Therefore, both testate and intestate succession are subject to the rules and limitations of the inheritance regime of *farāid*. As a result, one can only agree with the position of Kimber and the other scholars on the matter.

Apart from making some resources available to some people, for Alma'amun (2010), *wasiyyah* offers another benefit to family members. For her, it prevents family disputes over the estate. Leaving a will allows the estate to be distributed in accordance with the testator's final wishes, and at the same time ensures the distribution of estates in accordance with the *Sharī'ah*.

According to this point of view, a bequest is of three-dimensional utility. It alleviates family conflict, attains the wishes of the testator and facilitates estate devolution in accordance with the compulsory rules of inheritance (Alma'amun, 2010). Indeed, it ensures the execution of the wishes of the testator. Nevertheless, it only does that to the extent as stated earlier that (the requirement of one-third and non-heir is adhered to). Thus, it can assist in giving the portion of the estate to the defined beneficiaries within one-third and without valid interference from the legitimate heirs. However, it is difficult to understand how this can become a preventive measure of familial conflicts because bequest in itself is a potential cause of conflict. It is contestable and could ignite protest depending on its impact on the shares of some of the legal heirs.

Another challenge with Alma'amun's submission is the contradiction that lies in his support of the validity of bequest in installing the wishes of the deceased on one hand, and his his support for the distribution of the estate in line with *farāid* on the other hand. This is because whilst *farāid* is the percentage sharing of the estate to the legitimate heirs, *wasiyyah* is a right of a limited degree as may be expressed by the deceased to non-hers. If her point, however, was that once the will is deducted from the gross estate, then that reduces estate to a more easily divisible entity and hence narrows the chances of conflict, then that would have been understandable. After the execution of *wasiyyah* from the gross estate, the net estate is to be distributed to the legal heirs in accordance with *farāid* as contained in Q.411-12 of suratun-Nisā.

Farāid (Devolution of shares)

Having dealt with the burial expenses, payment of debts and execution of the will from the gross resources of the deceased, the final stage or element of the Islamic inheritance system is the distribution of the net estate to the legal heirs of the deceased. All the net estate goes to the heirs (Bello, 2016; Arifi, 2009). The distribution of such an estate to the heirs is done through the application of *farāid* as outlined in the primary texts and other sources of the law (Alma'amun, 2010). In Islam, the heirs are normally categorized into three groups: the Qur'ānic heirs, non-Qur'ānic heirs and agnatic heirs. The category of agnatic heirs or residuaries refers to all males who are related to the deceased through another male or a pair of one male and one female. An example of this category is the consanguine or germane brother. Their inheritance status in *farāid* is that they receive the remainder (residue) after the Qur'ānic heirs have taken their shares of the estate. If, however, the shares of the Qur'ānic heirs exhaust the entire estate, the agnatic heirs inherit nothing ('Abd al 'Ātī, 1982; Doi, 1992; Bin Salih, 2010). The third category is made up of uterine heirs (daughter's children). They relate to the deceased through a female. They are a category other than the Qur'ānic or agnatic heirs. It is only in default of the Qur'ānic and non- Qur'ānic heirs that this category inherits ('Abd al 'Ātī, 1982; Doi, 1992; Bin Salih, 2010). Chapter one explained this in detail. The focus of the chapter, however, is the analysis of the shares of the Qur'ānic heirs. Because the primary text captures only that category as indicated above (page 96). Such a focus is given to the stated category because of the objective of the chapter being to examine the core issues of the system in order to identify some conflict

or potential conflict areas therein. It is also to highlight what is it that we refer to as the causal factors of the conflict among the people in question.

However, where and when necessary, references will be made to other related issues to the discussion. The apportionment of the estate to the heirs is regulated, as indicated earlier, primarily by Q: 4:11-12. The legal heirs get their respective percentages of the estate in accordance with the text. It is the establishing text of the Islamic Inheritance law. It generally bridges to some extent the gap of social inequality between the sexes, presenting them as bearers of entitlements to the property of their deceased relatives (Bello, 2015).

According to Alma'amun (2010), it is in the absence of consensus among heirs about the estate that subjects the distribution of the estate to the prescribed regime of devolution (Qur'ān 4:11–12, 4:176). This could be true if one takes into consideration the circumstance that brought forth the revelation of the verse into existence. The genesis of this system was a widow's complaint to the Prophet about the attempt of her brother-in-law to deny her two daughters of the property of their late father (Thābit b. Qays). The question asked of the Prophet led to the revelation of Qur'ān (4: 11-12) as the answer and serving as the primary inheritance regime for Muslims (Sunan Abū-Dawūd, Hadīth No.2885). According to the narrator, Jābir b. Abdullah, upon the revelation of "Allah (thus) directs you as regards your children's (inheritance)", the Prophet asked me to call the woman and her husband's brother. The Prophet said to the latter: "Give them two-thirds and their mother an eighth, and what remains is yours" (Sunan Abū -Dawūd, Hadīth No.2885). Contrary to the claim of Alma'amun (2010) above, the absence of consensus among heirs, therefore, is not a condition precedent to the application of Islamic inheritance. Indeed,

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Coulson and Kimber qualify the inheritance system as compulsory because of the need for the application of the system on the estate of deceased Muslims. It is, therefore, inaccurate on the part of Alma'amun to portray the system only as the resort of heirs in the absence of consensus.

Again, the fact that the regulation came into being as a result of a conflict presents it as a resolution mechanism rather than the opposite. To assume, therefore, that the lack of consensus among the heirs is the constituting factor for the application of the compulsory Islamic system is not tenable. With the coming of the inheritance law into existence, the estate of a deceased Muslim is distributed to the heirs or is to be availed to the system regardless of the absence or presence of consensus. The question Alma'amun raises is that, even if the heirs reach a consensus, for which the system should not apply, the determination of the share of each one of them will be very difficult. Because it is the system that devolves the net of the estate into fractional shares for the respective heirs. So, the heirs' consensus cannot bring the matter to a conclusion. Had the position of Alma'amun stood, it would have limited the system to the causal case above. In fact, "the *sabab* [cause of revelation] may narrow a verse's application to a particular type of situation, but not so far as to limit its application exclusively to the instance referred to by the Qur'an" (Hidayatullah, 2014, p.1).

Therefore, the genesis of the text does not indicate the lack of consensus among heirs as the factor that warranted the application of the Islamic inheritance system. Rather, it has become a regime for the devolution of the estates of deceased Muslims to their heirs. It constitutes the primary regulation of inheritance in Islam. Therefore, heirs that constitute the beneficiaries of the

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net estate and their respective shares are all outlined in the Qur'ān. As an embodiment of the inheritance system, Qur'ān 4: 11-12 forms the basis for the discussions here. It will also be referred to subsequently in the next chapter. In view of this, it is appropriate for the passage to be analyzed at an early stage as herein. For analytical convenience, I divide the verse into four parts. These are (a) inheritance of children, (b) inheritance of parents, (c) inheritance of spouses and, (d) inheritance of *Kalālah.*

(A). Inheritance of Children

Allah thus directs you as regards your children's inheritance: to the male a portion equal to that of two females: if only daughters, two or more, their share is two-thirds of the inheritance; if only one, her share is a half (Q.4:11-12).

This part of the verse talks about two scenarios. The first is when sons and daughters inherit together. The second one is the case where daughters inherit alone. The sharing in the verse favors the male over the female children. In a situation where the daughters inherit together with their brothers, the males inherit double the share of the females. On this, scholars have expressed three different opinions.

For traditional scholars, the letter of the Islamic inheritance provision (Qur'ān 4:11-12) talks about the share of a son in such clear terms as "…a portion equal to that of two daughters…" For them, therefore, the share of the daughter is half the share of the son. They take their shares in the ratio of 2:1 in favor of the son. Hence, it is a nonstarter to think otherwise. So, therefore, when, for instance, two daughters inherit with only one of their male counterparts, the former would share a half and the latter would inherit the other half. This is the

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opinion of Al-Razī (1981), Ibn Kathīr (1431 ah), Ibn Qudāmah (2005) and Al-Qurtubī (2009) and the view of the overwhelming majority of Muslim scholars.

On the contrary, Abū Zayd disagrees. For him, the text expresses the independence of the share of the female. Based on that, it stresses on the priority of the female's share than that of the male. The reason he gives in support of this position is the categorical occurrence of her share in the text and not that of the male. He contends that in the text: "to the male a *portion equal to that of two females*) only mentions the share of the female. There is no mention of the share of the male. However, the determination of the share of the male is dependent on the knowledge of the females' share (Abū Zayd in Rahman, 2001; Sharawī, 1991). Abū Zayd explains that, if the text had read "to the female, half the share of the male" the emphasis would have been on the share of the male. This, for him, even implies that the half she gets is even the minimum share that she must not fall below. On the contrary, the share apportioned to the male by the verse is the maximum quantum that the male too must not go beyond (Abū Zayd, 1999 as cited by Qadafy, 2011). The construction of the verse, therefore, gives priority to the shares of the female.

The analysis Abū Zayd (1999) gives priority to the share of the female. The basis of such a priority is hinged on the pronouncement of the female's share in the verse. Also, the determination of the males' share depends on the knowledge of the female's share. This analysis does not only present the female share as the primary and independent share.

It also defines the quantum of the male's share. In other words, knowing the share of the sons depends on the knowledge of the daughters' share. Thus, his argument is based on the content analysis of the text. Indeed, no specific

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fractional share has been given to the son in the text. However, it has to be noted that while the strength of the opinion lies in content analysis of the text, it overlooks the structure and arrangement of the text. Attention to such structure and arrangement of the text would elicit another or even a different understanding and meaning of it. Before continuing, it is necessary to revisit the text. It reads: "to the male a portion equal to that of two females".

It is clear from the structure of the text that the male gender has preceded the female one. In view of this, the emphasis is laid more on the one that has been mentioned first. Here, the male gender has been mentioned before the female one. This has a linguistic implication. This is because of the fact that in Qurānic language, the mention of a word contributes to meaning-making the same way that sentence structure does. The location of a word also provides meaning. Thus, the mention of the male before the female (to the male a portion equal to that of two females) gives him a primacy in consideration more than the succeeding sex, the female. Hence, the verse puts the share of the son in a prior situation than that of the female. It is consistent with such precedence that the male's share is double the share of the female even though the knowledge of his share is dependent on the knowledge of hers.

Another opinion on the matter is that of Kimber (1998). He points out that the position of traditional scholarship in the award of a double share of the females to the male is inaccurate. The traditional position takes the verse out of context. This is the reason behind the unequal treatment of females. For Kimber (1998), this is the consequence of *ta'sīb* (agnate), the operation of which shifts the female from her Qur'ānic status of higher shares to an agnatic heir of lower shares. Thus, the ratio 2:1 in favor of the male. For him, therefore, the text must

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be read as one whole unit. The phrase 'God instructs you' up to 'she shall have half' constitutes an inseparable rhetorical and logical unit, talking about two different scenarios. One scenario is where a son together with two or more daughters inherit. In this case, the son inherits half and the two or more daughters together share the other half of the estate. On the other hand, where a son and a daughter inherit together, each takes a half. He states: In the presence of a son two daughters share half of the residue and the son takes the other half for himself. The two-thirds assigned to more than two daughters is still in the presence of the same one son, and so is the half assigned to one daughter (Kimber, 1998, p. 306).

It means that, for Kimber, in a situation where one son together inherits with more than two daughters, the verse still awards two-thirds to that number of daughters and a half to the only son involved. The explanations so far have shown Kimber's analysis of the issue of inequality. He dismisses the traditional analysis that leads to inequality and hence deals with the situation by reading the text differently. He read the inheritance verse in its proper context, a process, which led to the sharing he projects above. Kimber's analysis is apt as it opens up another way of looking at the issue. It ably shows how gender inequality could be addressed. This engagement of the verse is innovative in two ways. The first innovation lies in his segregation of the heirs into different categories.

The second innovation lies in his apportionment of the shares of somewhat equal to the male and female heirs. This (categorization and equalization of shares) to a large extent distinguishes his view from the traditional point of view. It establishes relative equality between the shares of sons and daughters. As he pointed out earlier, the traditional philosophy of

'agnatism' (*ta'sīb*) would have taken place in the combination of the son and daughter(s). Interestingly, however, Kimber contradicts himself when he posits that his analysis does not mean that Islamic inheritance treats the sexes equally. However, he argues that the inequality in the text does not mean to be a rule but an example. Therefore, if the inequality in the verse is not the norm but an example, then equality is the rule or norm. Consistency would have been achieved if he had argued that Islam treats them equally, but the inequality therein is an exception rather than a rule. Being as an example, as Kimber argues, then the inequality is only relative to the specific case (sons and daughters) in the text. In so doing, he argues and finds a justification for his opinion within what he had rejected.

As for the award of a half to two daughters, it is already a contentious issue in classical inheritance scholarship. Kimber expresses his opinion. This is because of the fact that the verse gives two-thirds to more than two females, "…*their share is two-thirds…*" In the case of a daughter, it gives her half the share of the male. The verse is, however, silent on the share of two daughters. Because of this, scholars have disagreed as to the share of the two daughters. For Ibn Abbas (d.68 ah) the share of two daughters is a half (the position Kimber adopts). However, Shanqitī (1979) intimates that their share is two-thirds. He explains that the reading of their share in the text should be juxtaposed with the preceding prescription (to the male a portion equal to that of two females). In this instance, the male certainly inherits two-thirds of the estate. That being the case, then two females must have two-thirds. This is because, where two females are with a male, the two females inherit two-thirds. If therefore, they are two females alone without a male, then the females should inherit two-

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thirds. In addition, the verse is clear on allocating two-thirds to two sisters, a share that is analogous to the share of two daughters. This presupposes that the share of two daughters, who are closer to the deceased than the sisters, should, therefore, be two-thirds. In line with this position, Yusuf Ali (1989) argues that:

> At first sight, the Arabic words seem to mean: "if more than two daughters". But the alternative in the next clause is: "if only one daughter". Logically, therefore, the first clause must mean, if daughters, two or more." This is the general interpretation and is confirmed by the supplementary provision of verse 176 at the end of the surah [chapter], which should be read along with this (p. 209).

The arguments try to fill in the missing link (share of two daughters) in the text. This effort at filling in the gap has resulted in those scholars giving two daughters the rule of either one or three daughters. This implies that if Shanqitī and Yusuf Ali were to distribute an estate involving two daughters, they would award them two-thirds of the estate. If, however, Ibn 'Abbās (a companion of the Prophet) was to do the same, he would also award half of the estate to the two daughters. This has its potential implication on the application of the law in real-life situations. An applicant who shares the view with any of these scholarly opinions will distribute the estate in line with such an opinion and vice versa. If heirs are therefore aware of which one serves their interest better, it is possible for them to demand the alternative instead of the view of the distributor. This could also be rejected by beneficiaries of the other opinion thereby generating disagreement. The issue that comes next is that of the parents of the deceased.

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(B). Inheritance of Parents

For parents, a sixth share of the inheritance to each, if the deceased left children; if no children, and the parents are the (only) heirs, the mother has third: if the deceased left brothers (or sisters), the mother has a sixth Q.4:11-12.

This part of the text concerns the parents of the deceased in either the presence or absence of children and brothers and sisters. Thus, the inheritance of the parents has three scenarios. These scenarios are where parents inherit together with the children of the deceased, parents inheriting alone, or parents inheriting together with the sisters or brothers of the deceased. Where parents inherit together with the children of the deceased, the verse gives a sixth of the estate to each one of the parents.

However, if the deceased does not have children, the mothers' share is a third, similar to the shares of sons and daughters when they inherit together. The residue in this case goes to the father. Finally, where the parents inherit with the sisters or and brothers of the deceased, the mother inherits a sixth. The residue goes to the father after the sisters and or daughters have taken their share (Bello, 2016). However, for Kimber (1998), the text is silent on the share of the father alone or mother alone in the absence of children. As with the presence of a son and or daughter, the parents share a sixth. This joint entitlement to the residue indicates that either alone inherits the whole. The mother as a parent, like a daughter as a child, is a residuary heir in her own right.

The claim of Kimber of the silence of the text on the residuary status or otherwise of the parents in the absence of children is out of place. This is because of the fact that the text has already stated their share in the presence of

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children; and pointed out the share of the mother as a third in the presence of the father, but the absence of children. In this case, the two-thirds, which is the remaining share after the share of the mother, is the share of the father. On his part, Ibn Kathīr (1431ah) notes that the father in this case inherits as a pure residuary, inheriting all the two-thirds. Kimber further asserts that each of the father and the mother inherits a sixth if the deceased is survived by children of any sex. This view is in consonance with the traditional position in respect of the presence of male and female children.

The traditional Muslim position, however, is that daughters alone cannot serve as residuaries in their own right in the absence of a son. In view of that, they (daughters only) cannot limit the father of the deceased to a non-residuary sixth as long as the father and daughter of the deceased are in a contest in the said scenario. The traditional scholarship does not consider the part "*each one of his two parents shall have a sixth of what he leaves if he has children*" as a restriction to non-residuary status as Kimber proposes here. It is rather an additional entitlement that the male parent of the deceased combines with his residuary share. Therefore, when daughters inherit with the father of the deceased (their grandfather), he inherits as non-residuary sharer, *ahl al-farā'id*. The deceased's father in theory takes his non-residuary share of sixth as a Qur'ānic heir and proceeds to inherit the residue, if any, in his capacity as an agnatic heir. Because the residue goes to the nearest male (Doi, 1992; Angulu, 2011). The one-sixth the father inherits is the minimum he receives (Kimber, 1998). Kimber explains that his argument to the effect that any child, regardless of sex, limits either parent to non-residuary status, hinges on the idea that Q4:11 as a whole, deals mainly with residuary entitlements. But in Kimber's early

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claim that the verse grants traditional scholarship the space to bring together the Qur'ānic and agnatic heirs is not accurate. This is because of the fact that the verse itself has combined them. The only addition of the traditional school of thought is the qualification or a description of such a combination as an agnatic one. Other than that, the share some scholars argue in favor of that agnatic relationship is not less or more than the textual apportionment to the males and females. So, it is of no consequence.

However, the portion under reference also shows that it is not in all cases that men inherit more than women. In the case of the parents of the deceased, it is stated: "…*For parents, a sixth share of the inheritance to each, if the deceased left children …*" (Q: 4:11-12). In this situation, Abdul-Hamid (2017) explains, the share of the mother is equal to the share of the father if the deceased is survived by children. If the deceased has no children, then the mother gets a share greater than the father. For him, a special attachment to their children, troubles of pregnancy, the risk of childbirth and taking care of the children and bringing them up are probably responsible for the equal or even better share here than their male counterparts. In authenticating this position, he makes reference to: "We have enjoined on [hu]man doing of good to his parents; with trouble did his mother bear him and with trouble did she bring him forth; and the bearing of him and the weaning of him was thirty months" (Qur'ān: 46:15). Again, he makes reference to the prophetic Hadīth that "paradise lies at the feet of the mothers" (An-Nasāī, Book: 25; Hadīth No: 20).

Attention has to be paid to the position on the claim of mothers getting more than the father of the deceased. The claim to the effect of the mother getting more than the father in the absence of a child is inaccurate. Because in

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that situation the father's and mother's share reverts to the 2:1 proportion in favor of the father (Q: 4:11). The explanation, however, here for equal treatment of the sexes is a good contribution. It points to the fact that the degree of a person's contribution is a determinant of how much a person gets from an estate. Thus, in principle, it corroborates with Ramadan's position when he proposed a relook at the shares of women in line with the responsibility they carry out in contemporary times. Nevertheless, there is an issue with this assumption because there are other females in the same comparable situation who receive different treatment from the system. A case to refer to is husband-wife differential shares as indicated below.

(C). Inheritance of Couples

In what your wives leave, your share is a half, if they leave no child, but if they leave a child, ye get a fourth; … In what ye leave, their share is a fourth, if ye leave no child, but if ye leave a child, they get an eighth (Q.4:11-12).

This part of the passage also deals with the shares of husbands and wives in either the presence or absence of children for the departed one. Here, the husband inherits a half and a fourth in the absence and presence of children respectively. The case of the wife is different in terms of the quantum involved in the presence or absence of a child of the husband. She inherits less than the husband in the same situations. She inherits half if the husband has no child or children. If the deceased husband, however, has a child, either of her or of any other wife (deceased, alive or divorced), the wife inherits an eighth. This follows the general rule of the female share being half of her male counterpart (Yusuf Ali, 1989). The fourth or the eighth is shared equally among widows of

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polygamous marriage (Ibn Kathīr, 1413ah; Yusuf Ali, 1989). From this point, attention goes to the case of *Kalālah,* one passes away without leaving children and parents behind.

(D). Inheriting the estate of *Kalālah* (no ascendants and descendants)

> If the man or a woman whose inheritance is in question has left neither ascendants nor descendants, but has left a brother or a sister, each one of the two gets a sixth, but if more than two, they share in a third, …

For Ibn 'Āshūr (1984), after giving the children and parents their share, the verse shifts to a different category of heirs. Al-Rāzī (1981) also indicates that after giving those who are directly related to the deceased, the verse turns to the share of a category of people who inherit the deceased through the agency of indirect relationship with the deceased. This is the case of *kalālah*; a childless and fatherless deceased male. The *kalālah* has a uterine brother(s) and sister(s) of the same mother. In this case, each of the heirs, regardless of sex, inherits a sixth. If such brothers and sisters are two or more, then they share a third. This is the other instance in the text where there is equality in the allotment of shares to the male and female heirs. It is appropriate to go back to the issue of women in the text.

Women in the text

The issue of women needs particular attention. This is because of the two-sided nature (equality and inequality) of their shares in the text. The text has given women of various levels (daughters, wives, sisters or mothers) half the share of their male counterparts in comparative situations. This is an inequality expressed by the text. The inheritance literature has explained the rationale for the inequality. For Shanqitī (1979) and Khan (1989), the rationale

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behind the discrimination in favor of the male is attributable to the responsibilities Islamic law imposes on men in the Muslim family. Islam places various social functions and roles on the male gender. They are the breadwinners and providers of sustenance to the family. The females are the beneficiaries of the responsibilities the males execute. Therefore, where the males inherit double the share of the female, it is to compensate such males for the corresponding responsibilities they execute. These scholars further argue that favoring the male in the inheritance scheme places both sexes on equal course in their economic rights. This is because of the fact that the women receive dower, maintenance and gifts from their husbands without any demand on them to fulfill any corresponding financial responsibilities attached to it (Khan, 1989; Bello, 2016). This is why men are given support in terms of more estate to be able to execute their responsibilities. However, on the two cases of equality (in the case of parents and *kalālah*) among the sexes, Khan (1989) indicates that:

> The scheme of equal share to father and mother (1/6 to each) and to uterine brothers and sisters (equal shares irrespective of their sex) clearly illustrates the fact that sex is not the basis of inequality of shares. The seeming inequality rests on other factors than the sex of heirs. Most important of these factors is the variation in financial responsibilities of the two sexes (p.217).

The current submission of Khan dismisses biological difference as the factor determining the inequality in the allotment of shares. But this is hard to accept. Khan seems to ignore the fact that the different responsibilities assigned to both sexes in the family in itself are based on sex. The financial

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responsibilities are situated in the context of being a husband, brother, or father in the family. All these terms (husband, brother, or father) are titles that are determined by sex. Therefore, sex is the pretext of the inequality in the shares. The same thing can be said in the case of the parents above. When it is only the father and the mother, the father inherits twice the share of the mother.

On questioning the position of traditional scholarship, Ramadan (2009) describes such an approach as literal and unfair from the perspective of contemporary circumstances. For Ramadan women in contemporary times shoulder financial responsibilities if husbands abdicate their responsibility. For him, therefore, in the distribution of estate attention should be paid to the realities of today. In line with this, he calls for efforts to "produce a renewal of Islamic thought, avoiding both defensive, often unfair maintenance of the *status quo*" (p. 229).

Ramadan's view about women contributing to the upkeep of families today is a sound one. Therefore, his proposal for the consideration of the contemporary situation of women in the distribution of the estate is a valid one. Such a proposal is in line with the shifting of the domain of responsibility at the family level. There are women who are the breadwinners of their families today. To use, however, the contribution of women to the upkeep of the family in estate distribution may not yield a just outcome. This is because, like men, it is not all women in contemporary times that contribute financially to support and maintain the family. The implication is that wherever the responsibility shifts, the regime of inheritance should also shift accordingly. The calls for equal treatment, however, do not propose the modalities that could guide the operation of equality. It is not clear as to whether or not such equality should

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happen at all times due to the change of circumstances or whether each case must be considered within its own merit or otherwise. Because the change of circumstances does not mean that all women necessarily contribute financially to the upkeep of their families. Therefore, consistent with the change of realities of today, it could only be better argued that where women do not contribute or contribute minimally or more, their share of inheritance should match up with the rate of such a contribution. So, the argument should rather be that every inheritance case should rather be assessed on its own merit. In such a situation, the traditional understanding and application of the system in favor of men is still applicable. Furthermore, it is worth noting that for the traditional scholarship, women are not responsible for the upkeep of the family. It is legally nonexistent. For this reason, such a nonexistent responsibility cannot be advanced for an equal share of the inheritance. Hence, when scholars like Khan (1989) argue for the maintenance of the unequal distribution of the estate, they explicitly argue for the maintenance of the *status quo* in the family.

Returning to the verse, women in their relationship to the deceased have a four-aspect relationship in the text. They are presented as daughters, sisters, mothers and wives. As daughters, they inherit in the proportion of 2:1 in favor of their male counterparts. As wives, they inherit less than their male counterparts. Also, as full, half-brothers or sisters, the male inherits more than their female counterparts. It is only in such instances that sex and social roles do not contribute to the allocation of unequal inheritance resources of the heirs. This is perhaps because these heirs are not directly responsible in Islamic law to take care of their siblings in the presence of the parents and children of the deceased.

It has to be noted that all the instances of equality and inequality together build a frame of recognition for the patrilineal and matrilineal relationship as legitimizing sources of inheritance in Islam. The argument here is that, in the text, there are cases of equality as there are of inequality among the sexes. However, while the social role of each sex is purported to be the rationale behind such differential treatment, no reason is held responsible for the aspect of gender equality in the devolution of the estate. The only possible consideration is relational in nature. Brothers and sisters upon the death of the *kalālah,* uterine brothers and sisters upon the death of their mother, and mother and father upon the death of their children are reference cases of equality. Aside from this, there is no clarity as to the reason behind such equality.

Domains of conflict in Islamic Inheritance

With the above discussions, some conflict areas have been gleaned from the Islamic inheritance system. These are inheritance arithmetic, inequality and funeral expenses. On the part of the arithmetic, the Qur'ān expresses the shares of the heirs in fractional terms. Because of this, Bamba (2002) points out arithmetic as a fundamental requirement for venturing into the subject of inheritance as a field of study. The challenge, however, associated with this aspect lies in the conversion of some properties into various divisible components in accordance with the fractions. Estates that are not readily divisible pose a challenge to distribution personnel in their allocation of the estate in fractional terms. This is the case in the distribution of houses, machinery and plots of land. Indeed, a situation of this nature led to the pairing of heirs on an estate. This, however, did not go down well with one of the heirs. He accused his elders of conniving to cheat them (the heirs) as a result of paring

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them together on an estate due to its indivisibility. Munir Muhammad[45], an heir, has this to say about that:

> *I was expecting a chamber and a hall from the house like the other heirs. They, however, paired me with a sister for one of the rooms and another separate room. This makes it difficult for me to rent my share out as a chamber and a hall. How can that be representative of 2:1 sharing between my sister and me! It is a result of connivance between my elder brothers and the head of the family. That is why the head distributed the estate the way he did.*

The above piece of the response contains the distribution of an estate by an elder, evasion of the expected distribution regime and conspiracy to deny an heir his right entitlement of the estate. Apart from these issues, the focus of the response is the indivisibility of part of the property in accordance with fractionally. This lies at the core of the dispute. It was explained that the "*one separate room would serve as a hall for him and part of the other single room, which he shares with the sister, would serve as his chamber*"[46]

However, such a challenge could be addressed to a large extent. If the heirs agree to rent out the indivisible property, then the rent could easily be shared in accordance with the fractions in the Islamic inheritance passage. Another area of conflict is the issue of burial and funeral expenses. Yes, scholars have tried to limit it to the barest minimum in order for much of the estate not to be spent on that element. Nevertheless, misunderstanding occurs as to how much should go into it. Family and community elders stand accused

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[45] Interviewed on the 17th July 2019.

[46] An elder of the family explains the reason behind pairing two heirs on one estate on the 19th July 2019.

of taking advantage of the situation. In this regard, Ibn Abu Bakr[47], an heir, shares his frustration and anger in the words below:

> *Can you imagine that they sent for and slaughtered three cattle on the seventh day just under the claim that many people were going to attend the funeral on that occasion! This extravagance is intended to give the elders what they want of the property and also deny us a substantial part of our shares.*

These are contests people express regarding the handling of their estate in the community. Although this has nothing to do with the Islamic law of inheritance, these are both real and potential conflict areas in estate distribution in the community. Details of this aspect of the work are presented in the next chapter.

Conclusion

The current chapter examined the postmortem elements that constitute the basis for the Islamic inheritance system. It served as a theoretical basis for the study. It discussed the settlement of burial and funeral expenses and also analyzed the texts on inheritance passage and the core issues it presents. Specifically, the discussion highlighted the execution of the deceased bequest, payment of his or her debts and the distribution of the net estate to the legitimate heirs in accordance with *farāid*. The analysis of the passage also pointed out the legal heirs and the respective shares apportioned therein to them. However, a number of scholars argue that the Islamic inheritance system is only applicable in the absence of bequest. They also argue that the imposition of the limitations

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[47] Interviewed on the 11th August 2019.

of one-third and the viability of bequest for only non-heirs are not sustainable.

The chapter argues that the system as prescribed by (Q.4:11-12) also prescribes bequest, the reason for which it cannot be said to be only applicable in the absence of bequest. It also argues that the instrument of bequest is a medium by which the inheritance system allows testators to express their property right over their property. Here, I should make the point that in this regard and to a very large extent, Islam shares this legal facility with the position of Bell and Parchomovsky (2005) that individuals have the right to personally use their property, exclude others from it, and to transfer it to others of their desire. To this end, an individual contemplating death is allowed by the Islamic inheritance regime to commit part of his property, to be given upon death, to beneficiaries of his or her choice. Islam, however, limits the operation of bequest, as pointed out above, only to the maximum of one-third and only in favor of non-heirs or disinherited heirs. The presence of absolute legal ability of the individual to express his or her right on the property in the property right theory is one of the differences that exist between the secular and Islamic frameworks. The other difference between them is the inability of the testator to bequeath to an inheriting person, while that is open in the property right theory. Therefore, although the system recognizes the property right postulation, it has put some restrictions on the absolute exercise of such a power on an estate.

Other than the allocation of estate resources to the male heirs more than the female ones, the chapter also points out a feeling of inequality by some heirs in the real-life situation of the study area as to the quantum of their shares. Generally, this confirms what is believed of inheritance as a reproducer of

inequality in society. With the power to "contribute to the reproduction of social inequality" therefore (Szydlik, 2004, p.1), inheritance can cause conflict in human society. Indeed, the Relative Deprivation Theory (RDT) postulates that in a situation where people realize that what they get is less than what they deserve relative to individuals or groups of people in the same context, they protest and revolt against their condition. This protest results in conflict behavior and aggression (Davies, 1969; Gurr, 1970 as cited by Seepersad, 2009, Guimond and Dube'-Simard, 1983). And "when two or more people fight in a community, it means that something has not been shared equally" (Abdul-Hamid, 2019 personal communication). Inequality, perceived or real, is one of the issues that cause inheritance conflict among the Waala of the Wa Muslim community of Ghana. The next chapter explores the remote and immediate causes and forms of inheritance conflict in the community under study. It also examines the effects of the conflict in the community.

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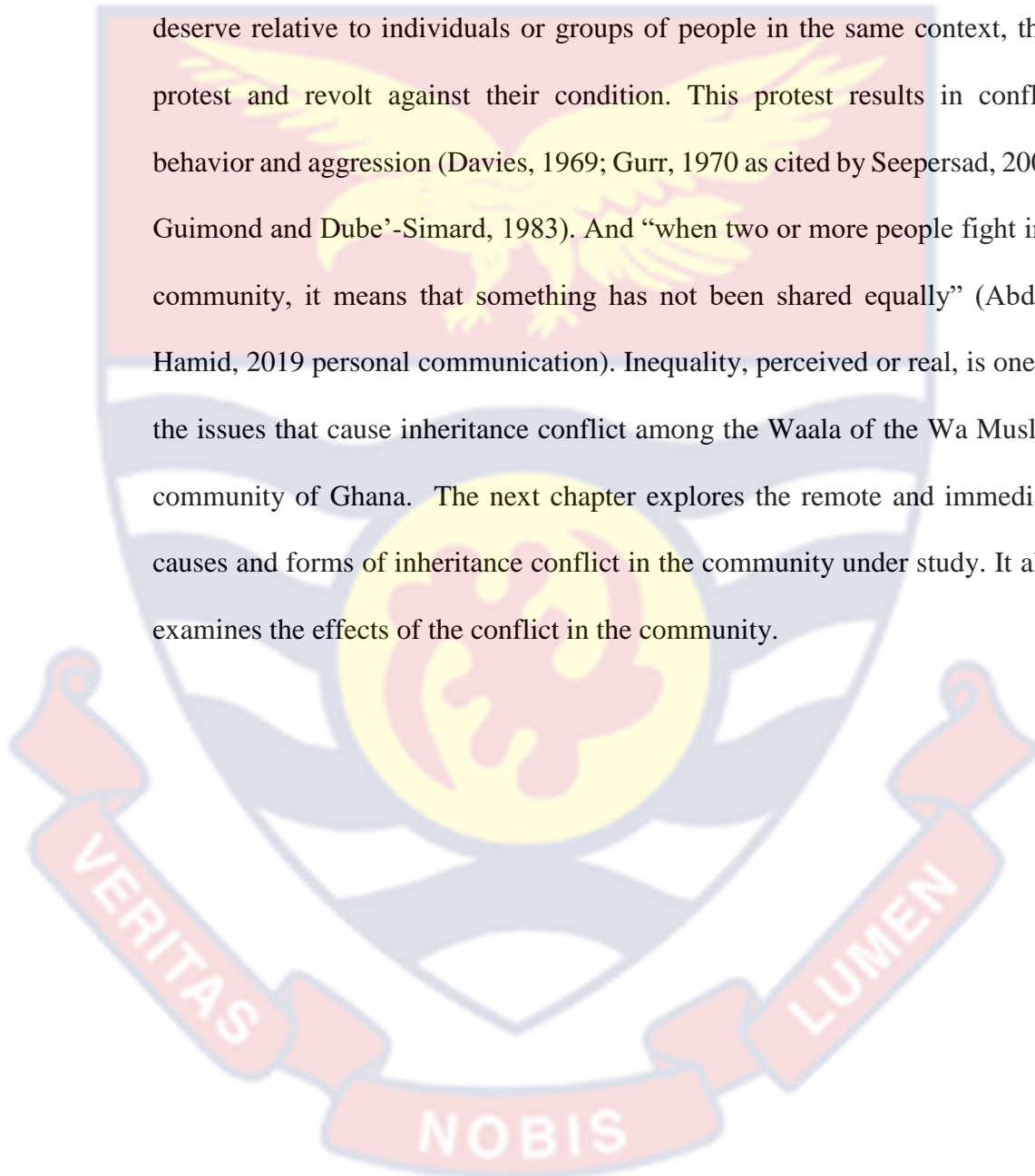
CHAPTER FOUR

COUNTING THE COST OF INHERITANCE

Introduction

The preceding chapter examined the various elements that constitute the basis for the Islamic inheritance system. It discussed the inheritance passage (Q4:11-12), focusing on the components that form the basis of the system. The execution of the deceased bequest, payment of his or her debts and the distribution of the net estate to the legitimate heirs are the core mandate of the Islamic inheritance system. In line with this, the chapter pointed out the legal heirs and the respective shares apportioned therein to them. Furthermore, it pointed out aspects of gender equality and inequality that exist in the system of inheritance. The chapter argued that despite its imposing nature for the distribution of the estate, the Islamic inheritance system allows prepositus to express their freedom over their property by bequeathing a particular legal percentage to a category of people. Hence, an individual contemplating death is allowed to commit part of his property, to be given upon death, to beneficiaries of his or her choice, who are not inheriting.

The current chapter explores the causes, forms and effects of inheritance conflict in the study area. It examines the remote and immediate causes of the conflict. It also points out the extent to which various aspects of deprivation in inheritance trigger aggressive behavior in the Waal Muslim community. The chapter argues that as long as perceived or real deprivation persists in estate distribution, inheritance conflict in the community is inevitable. In what follows, the chapter examines the remote and immediate cause of inheritance conflict in the community.

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Remote Causes of Inheritance Conflict

This category of the causes of inheritance conflict constitutes the distant events that trigger the occurrence of the conflict. They unfold and transition into contributing indirectly to the state of inheritance conflict in the community. They pre-shape and affect the relationships of the heirs before the period of estate distribution. They are antecedents of the conflict. They, however, do not immediately lead to the conflict amongst them. These remote causes are socio-economic in nature. In this vein, the remote causes are divided under two categories, social and economic causes of the conflict.

Social Causes of the Conflict

One of the antecedents of the conflict is grievances within the family. Participants have pointed out how parent-child grievance transitioned into inheritance conflict in the community. In this case, the father tried imposing the sponsorship of a wife's <u>hajj</u> on her stepson. The son in question, however, refused. This resulted in a dispute between the father and the son. This dispute lasted for a long time and metamorphosed <u>into</u> and escalated the inheritance conflict. In describing how this situation culminated in inheritance conflict, Ibn Uthman[48], a brother of the deceased, has this to say:

> *My late brother is to blame for the conflict. Intending to embark upon the hajj, the son in question informed and asked for blessings from his father for the journey. However, awkwardly, the father instructed the son saying, 'give the chance to your mother'. 'But you know my mother is late!'* The son responded. *Ah, are you suggesting that your stepmother is not your mother!* The father questions. *Disregarding the objection of*

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[48] U.S. Ibn Idris disclosed on the 15th August 2019.

his father, the son went ahead and performed the hajj. This led my late brother [the father in question] to in advance denounce the said son from inheriting him and communicated same to the latter's siblings[49].

From the above response, one realizes that originally, the contention between the father and his son had nothing to do with inheritance. It originally bothered the candidacy of one (son or stepmother) to pilgrimage. However, it transitioned into and served as a prelude to inheritance conflict. With the two divergent interests, the father and his son disagreed. This situation led the father to the disqualification of the son from inheritance.

This situation presents a clear case of incompatibility between the interest of the father and that of the son. The interest of the father, which is the stepmother performing the pilgrimage first and under the sponsorship of the son, could not be reconciled with the interest of the latter. This vividly reiterates the position of Kramer, Kavanaugh, Trentham-Dietz, Walsh, & Yonker (2006) when they observe that conflicts break out among family members based on opposing and incompatible opinions, values, needs, or expectations. The conduct of the son here is not only in denial of the status of the stepmother as his mother but also a direct assault on the father's traditional power over his children, a reason over which people differ (Ademowo, 2015). One, however, wonders about the position of the father. He could deny the son of inheritance but could not sponsor his wife's pilgrimage out of the estate! The son, Ibn Khalid,[50] has this to say:

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[49] This had been confirmed by another family member, Ibn K. Yahya, 26 August 2019.

[50] Ibn A. Khalid, interviewed in September 2020.

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I asked a lot of opinion leaders to plead with my late father to rescind his decision. But he persisted. When he passed on, because he had communicated my disqualification to my siblings, they were bent on enforcing his position. I had to go to court to get my share of the estate.

It has to be noted that the position of the father was neither compliant with Islam nor indigenous custom. One cannot of one's own desire disqualify an heir from inheriting in both Islam [51] and indigenous tradition[27.] However, one wonders if the attempt to disinherit the brother by his siblings was a genuine show of loyalty and obedience to their father. This is because of the fact that the disinheritance of an heir increases the chance of other heirs to inherit more of the estate. Given this state of affairs, therefore, the authenticity of the siblings' intention to enforce their father's position is questionable. It appears to be motivated by their implicit desire to inherit and possess more of the estate resources. It was an attempt to have control of more resources than their alienated brother. This aptly portrays the assertion of Tonah (2015). According to Tonah, the struggle for control and ownership of resources is a trigger of conflict in society. As indicated above, whilst the matter at stake is a non-inheritance grievance in the Islamic system, it has transitioned into inheritance conflict among the heirs. Furthermore, one of the remote causes of the conflict is existing family rivalries escalating into the conflict.

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[51] The current disagreement is not one of the disqualifying factors in Islamic and traditional inheritance systems. The illegitimacy of a child disqualified him or her from inheriting in the Islamic and indigenous traditions (Interview of <u>Busa Bise</u> Naa, Wa, on the 15 th May 2021). Muhammad M. Sidik explains on the 13th January 2020; Ibn Abdul-Aziz, interviewed on the 19th July 2019.

Rivalry in the Polygynous Home

One of the social causes of the conflict is rivalries in the polygynous home. This is a situation where the rivalry between members of the polygamous setting evolves into inheritance conflict. In this context, existing disagreements between wives and or their stepchildren culminate in the conflict. Sharing his thought about a widow, Muhammad M. Sidik, a family friend[28] asserts that:

> *The widow in question worried both her rival and disturbed her husband while he was alive. The behavior she displays today reflects the bad relationship she had with the husband, and still has with her rival and the entire family. I truly regret advising him [the husband] not to divorce her.*

In the above piece, the nature of the relationship that predated the inheritance situation is said to be responsible for the inheritance conflict. The post-mortem behavior of a widow towards her rival is a continuation and a reflection of her previous behavior. This rivalry of the woman is presented to have transitioned into the postmortem period. It divided the heirs along the lines of the existing rivalry. The response, therefore, holds the relationship between members of the family before and after the death of the husband responsible for the conflict. On his part, Ibn Abdul-Aziz, an heir, has this to say about the existing state of affairs in the family in statement below[29]:

> *My stepmother and her children never liked us [children of a rival]. Anytime we went for money in my late father's shop, if dad was not present, my stepbrother would subject us to embarrassing interrogation as though we had no stake in the property or we were just cheats. Now,*

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after the death of my father, they still want to carry on. We will not

agree.

This statement points out the nature of the relationship between the children and their stepmother and her children. This means that the polygynous situation has already created tensions in the family over the property while the prepositus was still alive. This also means that some family members felt that the treatment they had received from their step-relatives created the impression that they had no right of equal claim to the property of their father. They, therefore, had to struggle with their rivals for the property of their father during his lifetime and after his death. Conflict among two or more children in a family as a result of competition for desired benefits is inevitable (Ihinger, 1975). This rivalry within the step relatives and competition amongst them transitions into conflict over the inheritance property, thereby corroborating the finding of Sussman et al., (1970 cited by Anderson et al., 1979). Sussman et al., (1970) found as inevitable the occurrence of tension and conflict over inheritance properties between children of different wives and step relations as a result of remarriage in America.

The existing rivalries and tensions make the individuals involved in the impasse consider each other as opponents. Thus, the response exposes the interaction of individuals within the polygynous home as one that operates on the binary axis. With family members presented in opposed, polarized and binary extremes, the state of affairs as described, re-echoes the view of Hall (1997). Despite predating the period of allocating inheritance resources to the various heirs, the binary relationship established on the existing polygynous rivalry subsequently came to affect the inheritance situation in the community

under study. Beyond the social context of the remote causes, there also exists the economic aspect of it.

Economic Cause of the Conflict

Of the remote economic causes of the inheritance conflict is the contention over ownership of jointly-ran properties. As an issue that predates the inheritance period, it qualifies as a remote cause. On the other hand, as an issue that emerges after the death of prepositus, it qualifies as an immediate cause of inheritance conflict. The contention over ownership causes heirs to disagree over who, among their fathers and uncles, truly owned a particular property of the estate. This comes about when brothers die without pointing out their share of their jointly managed properties to their respective children. Consequently, their respective heirs claim some properties as belonging to their fathers and hence make a claim of their right to inherit such properties to the exclusion of their cousins. On the other hand, because of completion for these resources, even when there is some knowledge of an owner, some heirs still raise the issue of who owns what and to what degree. As a testimony, Ibn O. Idris [52] narrates that:

> *We all witnessed their fathers, who were brothers, trading and running the business together. Then, when one of them passed away (the elder one), his junior brother took over the managerial role of the properties. Then the latter also passed away. After the death of the latter, his children and the children of his elder brother who died first, have all claimed a number of strategic properties as has been acquired and*

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[52] Ibn Saeed, interviewed on the 29th August 2019.

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owned by their respective late fathers. This has since become a reason for their litigation in court.

This account points out the risk posed to the family by jointly owned and managed properties in the community. In such a situation, any property that lacks documentation bearing the name of any of the purported owners continues to be a subject of conflict in the family as portrayed by the current response. It is a natural risk that is inevitable when families do joint businesses. As it brings prosperity into the family (Miller & Le Breton-Miller, 2005 as cited by Manners et al., 2013), the same way that it leads to conflict with devastating consequences for both the business and the family (Levinson, 1971 as cited by Manners et al., 2013). The family in question has reaped both the benefit and the effect of family joint business in the community.

The disagreement becomes more telling when it concerns a residential facility. In resisting an eviction threat, based on contentious sole ownership, Ibn Y. Ismail[53], an heir, argues saying:

> *We all have a stake in the house. This is because, when their late father returned from Makkah, the renovation of his accommodation incorporated the accommodation of my father. Therefore, my late father had to vacate and build two rooms with mud bricks on the location of the house in dispute today. It was during the construction of the said blockhouse that the two rooms were demolished. This being the case, why does he [an opponent] think that the entire house was built with only the resources of his late father?!*

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[53] Muhammad Ismail, interviewed on the 28th July 2019.

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This voice presents not only an issue of eviction but also a case of contested sole or joint ownership of a property in the family. The response, though reactionary to an eviction threat[54], raises a question about the real owner of the property. In this case, the respondent is not denying the stake of his opponent in the facility. He is, however, arguing that the entire property has no one sole owner. In fact, the rhetorical question "…. *why is he thinking that the entire house was built with only the resources of his late father*" questions the basis of the eviction notice. This situation mirrors the legacy of the people, which by tradition originally operated on the axis of collective ownership as pointed out in the previous chapter (page 93). It affirms the position of intergenerational ownership and use of a property as one of the causes of conflict in society (William, 1998). Beyond the question of who owns the property, the holder's role also comes in as one of the causes of inheritance conflict in the community. The aggregate of the remote socio-economic causes of the conflict intensified tensions among the heirs but did not immediately trigger the inheritance conflict. The causes that triggered the conflict were the immediate ones.

Immediate Causes of the Conflict

This section addresses the issues that are directly involved in the causality of the conflict in the Waala Muslim community in question. This category of causes of the conflict is cultural and socio-economic in character. One of such issues is the claim of ownership of an estate as a gift from the prepositus while alive.

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[54] In our interaction with Ibn Anuhu, in August 2019, he confirmed issuing such a threat and even took steps to evict all those he perceived to be wrongfully staying in the facility.

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The claim of an Estate as a Gift

One of the contentious issues is the claim of inheritance property by gift. This is where an heir tries to exclude a property from being distributed as part of the estate. They claim to have been given such properties by their prepositus in their lifetime. This is made known prior to the apportionment of the estate. In claiming an estate (corn mill) as a gift from the prepositus, Ibn A. Muhammad[55], an heir, has this say:

> *While he (a deceased father) was healthy and alive, my father acknowledged the service I rendered him by giving me the property. That is why I used it and was in charge of it during his life. Why did they [rivals] not resist it! If they had raised an objection to my ownership and use of it at the time, father would have confirmed to them his transfer of the property to me.*

In this response, there is a clear claim of ownership of the estate by gift. It also accounts for the motivation behind the gift. For the respondent, the gift was in a recognition of the services he rendered his late father. He bases the validity of the gift on the failure of his counterparts to protest and authenticate his possession and use of the property before the giver's death. In other words, they missed the opportunity to ascertain the legitimacy of the claim. The basis of the purported remuneration is the claim of its being compensation from the deceased for services rendered him whilst alive. For the reason that legitimate gifts are isolated and exempted from being distributed as part of the estate in Islamic law (Nor Muhamad et al., 2018), the property in question would have become the property of the claimant. This would have also conformed to the

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[55] D.A Muhammad Zaman, interviewed on the 10th September 2019.

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malikiyyah proposal of compensatory gift (*hibatu-thawāb*) as explained earlier (p.10).

However, to use the lack of the opponents' prior verification of the gift from the purported giver to support the authenticity of the gift is not sustainable. This is not to say that the substantial claim is or is not true. It is only to question the basis of validating the gift. This is because of the fact that if the opposing heirs were not aware of the transaction, they would not be able to verify or raise an objection against it. Given the death of the giver, the late father, one would have expected the production of alternative evidence to authenticate and validate the gift as more appropriate than the current reasoning. Indeed, in disagreements over ownership, the production of evidence is necessary for both Islam (Bukhari, Hadīth No. 834) and indigenous systems[56]. In fact, rendering to benefactors by children has been identified as a strategy used to take estate from parents and to deny others of inheritance. Schwarz (2003) indicates that children render service to their parents to convince the latter to give their estate to the former to the exclusion of their brothers and sisters. In an objection to the claim of pre-mortem gift, other heirs questioned the authenticity of the claim. In this vein, Ibn Yusuf[57], a rival heir, has this to say:

> *Hmm! Can you imagine that he [the claimer] is claiming that my father gave him one of the corn mills! But it is because it was under his control. How could he give it to you? Are you his only child? How could that be when we used to witness you render accounts to my father after the closing of work! If father were going to give the property to him, he*

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[56] The chief of Biihee, Wa, interviewed on the 15th May 2021.
[57] Ibn Yusuf, interviewed on the 14th September 2019.

would have involved all of us. We really should have protested against his position while his father was still alive.

The above response is a rejection of the early claim about an estate being disposed of as a gift. This is premised on two reasons. In the first place, the rendering of accounts to the father whilst he was still alive is evidence of the dubious nature of the claim. On the other hand, even on the assumption that the claims were authentic, the father would have communicated the transaction to all the children. In any case, the opponents argue that the heir claiming the property as a gift does not possess any exclusive quality for which he would be more deserving of the father's special care to the exclusion of others.

Ibn Yusuf aptly questioned rhetorically '*are you his only child to be given such a gift!*' This question exposes the social meaning gifts express as existing between the giver and the recipient. Indeed, citing Cheal (1996), Ambwani (2014) asserts that gifts portray the feelings of the giver towards the beneficiary and also point out the nature of the relationship that exists between them. The current response rejects the existence of such a special feeling and relationship between the father and the beneficiary to the exclusion of other children. That being said, the responses have at least shown the existence of a business relationship between the deceased and the claiming heir. The statement "…I was in charge of it during his life…" juxtaposed with "…we should have protested … while father was still alive…" in the former and latter responses respectively are evidence to that effect. This business relationship is to be held as the effective cause, which warrants the claim of the gift that is in dispute here. This mirrors the view of Anderson, Sandra, Paul & Rosenblatt (1979), when they identify, among others, congenial relationships and frequency of

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dealing with benefactors as some of the ingredients that bestow on some heirs the right to owning inheritance property. But for such a relationship with the deceased, one could not claim ownership of property in the absence of compelling evidence. The claim of and the lack of evidence bring about division between heirs and breed in them hostile feelings towards one another. This is further emphasized below. For Ibn Abdul-Salam[58], a rival heir, on his part bitterly expresses the extent to which he would fight the opponent for taking an estate with a dubious claim. He says:

> *We will fight it to the heavens and back. It is very pathetic that a Muslim can do this! It is either he is not aware of the punishment that is in store for the unjust appropriators of inheritance or he is intentionally disregarding it. Either way, we will fight it.*

This response is a rejection of the claim to owning the property via pre-mortem gift. The falsity of the claim in the eye of the opponent is a grievous wrong in Islam. With regard to the punishment in waiting, the respondent is implicitly making reference here to "…who unjustly eat up the property of orphans, eat up a fire…" (Q: 4:10) as the particular case of awaiting torment.

From the responses, it is clear that the property, whose gift is in dispute, was a trusted property in the hand of an heir. There is, however, ambiguity as to the time such a property transitioned from the status of trusteeship into that of ownership, gift. This ambiguity poses a risk to the share of the heirs. It could deny some heirs of their legitimate claim of ownership. On the other hand, it could also give an advantage to heirs, who are in the position of trust to appropriate estate at the expense of their counterparts. However, in a situation

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[58] A. Salam Harun, interviewed on the 25th august 2019.

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like this, evidence could help reduce the risk of conflict to the barest minimum. The Waala tradition requires recipients of gifts to delegate a representative(s) to show their appreciation to the giver[59]. On such occasions, people are always there to witness it and could always recollect and authenticate the transfer of the property and the process of rectification that had been involved (Mikell, 1984 as cited by Awusabo-Asare, 1990). In some cultural contexts, the failure of the recipient to offer his appreciation to the giver to rectify the gift renders it null and void (Assanful, 2017). Aside from the debate among Islamic schools of thought as to whether or not a father is legally capable or otherwise to give a gift to some of his children to the exclusion of others (Ibn Rushd, 2006), Islam too requires the production of evidence to authenticate ownership and settle the associated conflict (Bukhārī, Hadith No. 834).

Moreover, the determinacy of the delivery or taking possession of the gifted property is for the beneficiary to be in possession of and reaping the usufructs of the property to the exclusion of the giver. The absence of these requirements renders the gift null and void (Ahmad, 2009). Based on this, the recipient's rendering of account to the benefactor, as claimed above by his opponents,[60] attests to the unabated ownership of the property by the original owner. This is a potential nullity of the gift from the Islamic legal point of view.

The claim of gift, if interpreted as bequest, would have only conformed to the position of Powers (1998), who argues for the permissibility of an heir to be nominated and given bequest as pointed out earlier (page 29). Even with this, there must be evidence to that effect. It has to be noted here, however, that even

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[59] Interview with U.S. Abu Bakr, 13th September 2019.
[60] Interview with Ibn Yusuf.

if the evidence had been produced to authenticate the gift claim, contestation was still possible. This is because of the fact that the execution of the gift would have posed the risk of reducing the shares of other heirs of the estate. From whichever way it is looked at, it depicts the case of incompatible goals (Mitchell, 2002) between the heirs, interference (Wilmot and Hocker, 2001) from opposing heirs and that consequently triggered feelings of relative deprivation (Pettigew *et al.*, 2015) and Frustration-Aggression (Dollard *et al.*, 1939; Barker et al., 1941) among the heirs who are in inheritance conflict. In that, the gift provides more resources to some instead of all and therefore causes aggression from the parties deprived of it. Apart from this, some heirs also search for the right forum or procedure of inheritance that serves their interest better, a situation that brings about inheritance conflict in the community.

Forum Shopping [61]

As indicated above, this is a situation where some heirs search for an inheritance distribution forum from the community that better serves their inheritance. Such heirs seek to get an expert's determination on the estate that is fulfilling the desired and expected devolution of the estate. A forum-shopped Shaykh[62] has this to say about his encounter with such a situation when he recollects that:

> *I remember that two people [names withheld] came to me about an*
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> *estate that was made up of a compound house, corn and flour mills and*

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[61] Technically, forum shopping is "a practice adopted by litigants to get their cases heard in a particular court that is likely to provide a favorable judgment" for them https":// definitions.uslegal.com/f/forum-shopping/accessed 13th March 2020). This deals with the cases that are tried in the courtroom domain. The state-based court is, however, not the point of reference here.

[62] U. S. Ibn. Idris, a popular scholar in the community and Friday Imam, interviewed on the 29th August 2019.

livestock on one hand, and the number of heirs that were involved on the other. Equipped with such information, I made it clear to them that the properties could only be distributed in the right Islamic fractions if converted into cash. It was only the ashābul-furūd [Qurānic or primary heirs/biological children] of the deceased that were entitled to the estate. ...In the absence of a bequest in favor of anyone, it is only the biological children that inherit.

The above account reveals the interaction that has gone between heirs, family and Muslim clerics about the distribution of an estate. For this cleric, estates have been distributed in the Qur'ān in fractions. Such fractions can largely be distributed Islamically if solid properties had been converted into cash or their proceeds are distributed to their heirs in the stated fractions. The converted estate should then be distributed to only the biological children or heirs of the deceased. Non-heirs, however, could only benefit from the estate through the facility of the bequest. This opinion is in consonance with the Islamic inheritance system (Qur'ān: 4:11-12) and also corroborates the position of traditional scholarship.Traditional scholarship quantifies the estates and divides them or their proceeds into the Quranic fractions for the heirs. Making references to the specific inheritance provisions in Islam, all of Ibn Rushd (2006), Ibn Qudāmah (2005) and Al-Qarrāfī (1994) point to the deserving categories of heirs, their share and status of inheritance and regulations concerning the application of bequest in favor of non-heirs (in the second chapter).

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It has to be pointed out that when their estate was distributed in accordance with the Islamic system, Hajia Khamis[63], a female heir, protested. Her protest was based on the inequality the female heirs suffered. She questioned why the male heirs should be given more of the estate than the female ones. Hence, she accused the clerics of bias and unfairness[64]. According to one of the accused clerics[65],

> *Of the eight heirs, only two of them were males. So, we divided the estate into ten portions. We gave the males twice the shares of the females. She [the woman in question] insulted us and accused us of collusion with the male heirs.*

The above accounts describe resistance from some heirs against the application of the Islamic inheritance system. Its gender inequality and exclusion of distant relatives have been resisted in the instances above. In fact, it is in the quest to set aside the Islamic inheritance regulations that the non-biological heirs, who have contributed to the acquisition of the properties for the deceased, looked for an alternative. They based this upon the idea that all such people have earned the right to inherit the estate. Indeed, in line with this belief, an inheritor says:

> *...we asked him [the cleric in favor of the Islamic regime] 'do you mean it is only the biological children of the deceased that inherit the estate! Just like that? What about those whose toil has acquired the property, managed it and brought up the children of the deceased?[66] I was the one*

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[63] She is the daughter of a late rich man in town. This was revealed by one of her brothers on the 18th September 2020.

[64] Ibn Siddiq, interviewed on the 23rd September 2020

[65] Ibn Mahamud, interviewed on the 19th September 2020

[66] U. S. Ibn Idris narrates on the 29th August 2019.

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who brought the livestock, the compound house and the spare parts store into existence. I acquired all of that with one old corn mill[67]. He states.

Indeed, the cleric indicated that "…as they [the heirs] left, they promised to get back to me. They, however, never did. But I heard that they took the matter to another cleric for consideration". This response indicates that; the said heirs did not subscribe to the prescription of the cleric in this instance. As pointed out above, they indeed took the matter to a different cleric. Ostensibly, they found the desired audience with the latter. The latter, having had access to the prescription of the abandoned cleric, is reported to have qualified it saying "…it lacks wisdom. Had the estate been subjected to that distribution, it would have been a complete dissipation of the estate rather than distribution[68]". This means that the cleric in question was not following the dictates of the Islamic provisions on inheritance. It was an expression of a personal opinion, which contradicts the position of another cleric. This was a dismissal of the Islamic position as espoused by the earlier cleric.

In the view of the latter cleric, like the heirs beseeching his service, the biological aspect should not be the only basis for estate distribution. Hence, contributing to the acquisition of the property should qualify the non-biological children, who fall under this category, to inherit. In favor of the plight of the wealth acquirers, the presiding cleric distributed the estate in the name of the traditional regime that is claimed to respond and provide a solution to the

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[67] Abubakar b. Abdullah Nuh, interviewed on the 23rd July 2019.
[68] A R. ibn Musa, interviewed on the 15th October 2019.

situation. According to Ibn Ishaq[69], one of the heirs, the presiding cleric[70] apportioned an estate to some non-biological heirs for having worked for the accumulation of the estate for the deceased. Unlike the Islamic inheritance system, this allocation had happened without any specific fraction. Flour and corn mills were apportioned to four non-biological heirs. Machine spare parts, livestock and a chamber and a hall of a compound house were apportioned to an elder heir, who, in this case, is a secondary heir. The other three secondary heirs got a single room each in the compound house. Of the eight *ashābul-furūd* (biological heirs), only one male heir got a chamber and a hall. The seven other males got a single room in each of the houses. Having been distributed in accordance with the number of the wives, only the male heirs inherited. The estate had not been redistributed to give the five female heirs their share of the inheritance. The females' share had, therefore, been absorbed by the brothers. The secondary heirs were given shares equal to that of the primary heirs[71].

The contribution towards the acquisition of an estate serving as an element qualifying an individual to inherit is a common claim. Anderson et al., (1979) note that the contribution towards acquiring the deceased's estate is one of the things people consider as qualifying them to inherit their deceased relatives. Ibn Ishaq, a primary heir, further states that "…the rest of the property was shared among us in accordance with the number of the wives of my late father and in accordance with the way our elder brother wanted the cleric to do

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[69] Mobile phone communication with Ibn Ishaq, 6th August 2020.
[70] The said cleric is no longer alive (d. 2001).
[71] Abu Fawzān, interviewed on the13th August 2019

it"[72]. This reiterates the fact that the estate was partly allocated in accordance with the traditional inheritance system. This is the case where the estate is distributed among the male children of the deceased by the number of wives the deceased left behind as explained earlier (page 146). The distribution in question does not take into account the number of children the wives had for the deceased. This state of affairs corroborates with the Nigerian Yoruba's system (*Ori-o-jori*), where the estate is equally apportioned to the deceased's children in accordance with the wives of the deceased regardless of the gender of the children (Busari, 2020). The difference between the applications of the traditional system in both contexts is that while the Yoruba tradition gives female heirs their share of the estate, the Waala tradition deprives the female heirs of the estate.

The intervention here plays out the role and cultural capital of the clerics and recognizes their authority as guardians of Islamic tradition in the community. This shows both the pervasive nature of their influence and Muslim's acceptance of their rulings on religious matters even when such rulings contravene clear textual evidence of Islam (Abdul-Hamid, 2017). The latter distribution under reference here is an example of a clerical verdict that is not in consonance with the Islamic inheritance system. It further reveals the dual nature of the identity of the cleric as he apportioned the share in accordance with the number of the wives of the deceased. These two acts are contrary to the clear textual evidence (Q: 4:11-12). This has not only revealed the power of the clerics as agents of mixing in the community. It has also played out a

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[72] Distributing the estate in this manner has been confirmed by Ibn A. Ismail, 20th August 2019 and Muhammad Ismail, 28th July 2019

dimension of cultural syncretism in the community in the sense of mixing the Islamic heirs with traditional ones. This state of affairs exposes the point that being Muslims, clerics or laity, has not led to a complete abandonment of indigenous cultural norms of the community. This re-echoes the fact that, where African peoples embrace Islam, they do so "...to a greater or lesser extent, without completely abandoning their own traditional customs. The result, in many areas, has been a syncretic combination of religions and cultures (Jennings, 1991, p. 1).

The current data shows that the degree of mixing goes beyond the space of traditional rites of the people, as noted earlier, to also cover that of their inheritance. This comes about in the cleric's inclusion of others in inheritance from the forum shopping. On the other hand, it happens in the distribution of the estate in accordance with the number of wives. Therefore, the space of the clerics' influence on the life of the people cements their role as preservers of local traditions and not only that of Islam. In other words, though considered as guardians of Islamic lore (Abdul-Hamid, 2017), some of the clerics double as agents of the traditional inheritance system in the community.

In the forum shopping, two different clerics were contacted about the estate. All of it was in search of a favorable platform. It is realized that the cleric who remained loyal to the Islamic provision was abandoned for a different one. This is a sign of mistrust in the cleric, which implicitly steps aside the Islamic inheritance provision. Succeeding to have access to the intended benefits of the shopping resulted in the expansion of the net of inheritors beyond the limit of the Islamic and traditional heirs. The inclusion of distant family members in the allocation because of their service is contrary to both the Islamic and indigenous

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inheritance." In the case of Islam, this category cannot inherit in the presence of the primary heirs as many of the clerics above demonstrated. This re-echoes the position of Nor Muhamad (2017) and Alma'mun (2010). The allocation of the estate to such distant heirs, even in the traditional inheritance system, as explained in chapter to, is not allowed. The only way they could have found their way into the scheme of the traditional system is through custodianship. As explained in chapter two, in the case of the local tradition such a category could have been brought in only as holders of the estate but not to share in the estate with the heirs (page 91). The Islamic system as shown earlier has disinherited such people completely. It is in line with this that the participant above described the distribution as occurring "…in accordance with the way our elder brother wanted the cleric to do it.

The manner in which the estate has been distributed triggered inheritance conflict in the family. It has brought the biological heirs into conflict with one another over the shares on one hand, and between them non-biological heirs. Indeed, Ibn A. Ismail[73], one of the distant heirs, recalls the trigger in the words below:

> *…some of the biological children of the deceased had a counter opinion, whose application on the estate would have been more favorable to them than the one eventually applied on its distribution. It would have disqualified all the non-biological children of the deceased from inheriting. This implanted a seed of discontent and dissatisfaction in their heart, which manifests in the ongoing conflict in the family.*

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[73] Ibn A. Ismail, interviewed on the 20th August 2019.

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The respondent here attributes the conflict to the opposition of the biological heirs. Knowing that they could have inherited more in the absence of the secondary heirs, non-biological children, the affected side, therefore, opposes the sharing that has been effected on the estate. They have realized the gap between what they have actually received and what they would have received of the estate in the disinheritance of the non-biological heirs did not inherit. Indeed, people rebel when they realize a discrepancy between what they expect and what they truly get (Brush, 1996). With this, it has to be noted therefore that both sides have pursued forum shopping in their bid to obtain favorable sharing of the estate. In the end, however, it was one side that secured the utility of forum shopping. Not only this. The desire to be allocated a particular property of the estate is another cause of inheritance conflict in the community.

Greed for a Specific Estate

This is an instance where an heir feels deserving of a particular property or part of it to the exclusion of others. The event of not being allocated such a property brings about frustration and aggression. The exchanges between Ummul Khayr, a widow, and Ibn Yakubu, a family member of the late husband, aptly conveys this situation:

"*If people would be fair, then I should have the apartment*", the widow argues. "*Why do you say so*?" Ibn Yakubu asked. "*If you Alhaji will be fair and truthful; you will testify to my right to inherit that apartment. You are aware that my late husband gave it to me upon my return from Makkah for hajj*" the widow answers. In response, Ibn Yakubu states:

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I cannot testify to such a false claim. The day we came to resolve the

contention between you, your late husband and other members of the

family over the said apartment, you insulted and disgraced all of us. If

there is a rightful claim to be laid on the apartment, it should not come

from you but your rival, who is the first wife of your husband[74]!

The above exchanges concern a particular property. For the widow in

question, having the apartment in her share of inheritance is a confirmation and

restoration of her right. Indeed, she had earned the right to possess it even prior

to the apportionment of the estate. It is the failure to obtain this right of hers

that caused her contentious behavior towards the family member. She

questioned the credibility of the opponent, whose behavior sought to deny her

the right to possess the property. Feeling deprived of this right, the widow

became aggressive and hostile towards the accused. The behavioral

corroborates the relative deprivation and frustration-aggression postulations

(Brush 1996; Berkowitz, 1962). The desire for having and getting apportioned

of a particular property of the estate is inconsistent with both the Islamic and

traditional systems of inheritance[75]. The situation is more precarious as some

heirs even go a step further and actually annex (part of) the desired estate before

its distribution. In a state of bitterness, Muhammad Ibn Khidr[76], a child who is

an heir to the estate, indicates:

Shaykhu! Some people think they are smart. Before the distribution of

the estate, he went and built on the land our late father left behind for

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[74] A participant observation of exchanges between Ummul Khayr, a widow and
Ibn Yakubu on the 14th November 2019.
[75] Adnan. M. Saeed, interviewed on the 25th September 2019.
[76] Muhammad Ibn Khidr, interviewed on the 15th September 2019.

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> *all of us. Disregarding all others, he built and occupied more than half*
>
> *of the land. If you treat people like this, how can they forgive you! We*
>
> *are not ready for any resolution without fairness, justice and restoration*
>
> *of our portion!*

This account reveals an heir taking over possession of a major part of an estate before its distribution. The respondent portrays the act of annexing the estate in the mind of the perpetrator as an act of smartness. For Muhammad Ibn Khidr, that cannot be the case. For him, annexing the property in the manner described is not acceptable and justice is the only way out in the matter. Conversely, Abdullah Ibn Khidr[77], the heir accused of the seizure of the property, considers fighting him about the land as an expression of envy rather than objectivity. He states that

> *...fighting me for building a moderate habitat on the land to lay down*
>
> *my head is nothing but a result of envy. Other than that, what prevents*
>
> *them [the other heirs] from using the remaining piece of the land for*
>
> *their own purposes! I should not be envied for their inability to use the*
>
> *remaining piece of the land.*

This response, while admissive to taking the land in contention, rather portrays envy as the cause of the impasse. The alleged envy is premised on him having been able to build on the property on one hand and the inability of the other heirs to develop the available part of the property on the other hand. The participant by this argument, implicitly admits to the arbitrary use of the property without its apportionment.

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[77] Abdullah Ibn Khidr, interviewed on the 19th September 2019.

With the two responses, we raise the question of whether envy or wrongful capturing of inheritance property is the reason behind the conflict. However, given the explicit admission by the latter respondent as having built on the land before its division among the heirs, one considers the use of the land as a more credible cause of the impasse rather than the perceived envy. Nevertheless, such perceived envy is based on perception. However, the perception does support the place of perception as a cause of conflict in society (Oyeshola, 2005). This is what plays out in the allegation of envy.

Pseudo Custodianship of Estate

It is a popular practice among the Waala for family heads to commit an estate into the custody of the deceased's brother or elder son. The purpose of such a practice is for such a holder to manage it and take care of his late brothers' or father's family[78]. This has led some holders to take or attempt to take over the estate at the expense of vulnerable heirs[79]. Businesses in the forms of contracts have been appropriated while rightful owners wallow in poverty[80]. As a consequence, particularly in recent times, heirs now show resistance to this rule. Such resistance brings the heirs into a clash with the stakeholders and the guardians of the custodianship. Ibn Muhammad,[81] an affected heir, gives a vivid description of his experience in the words below:

> *When my father died, the elders of the family put my father's brother in the hold of the property even though some of us were mature enough to manage the business. In the course of this, while some of my brothers*

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[78] Mba Karima, interviewed on the 29th February 2019.

[79] Mallam Abdul-Haqq, interviewed on the 13th January 2020.

[80] Ibn Idris, interviewed on the 18th January 2020.

[81] Ibn Muhammad, interviewed on the 13th Much 2020.

and sisters were struggling in life, the caretaker was misusing the property. He sold the only caterpillar my father left behind. Surprisingly, when I asked for the property to be returned to us, the elders insisted that it was in safe hands and that there was no need for my request. When I exposed the sale in question before them, the head of the family showed a fake face of shock at that. In the end, I tell you [the interviewer], we ended up in court as the elders insisted on the retention of the property in the hand of my uncle.

This response highlights the state of heirs, the role of elders and the holder's role. From the above response, one heir was mature whilst the estate had been committed into custody. For this heir, the sale and appropriation of the estate resources by the uncle was evidence enough for the termination of the custody. Given the elders' insistence on the continuation of the custody amidst the revelation of the stated sale of property, one understands why the respondent describes the head's display of shock as a form of pretense and show of "fake face". The want of stay of custody by the leadership of the family on one hand, and the opposition to it by the participant on the other, are two irreconcilable interests. And pursuing incompatible interests or goals is one of the causes of conflict in society (Ajayi and Buhari, 2014; Ademowo, 2015; Wilmot and Hocker, 2001).

The account shows a disregard for the state of maturity of the heirs whose property is in custody. Indeed, "…some heirs have gotten married and established their own ways of life, and yet still, their estate had not been handed over to them"[82]. Given the fact that the heirs involved here were mature while

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[82] AWAJ Upper West Regional Imam

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their estate was still in custody and the way holders handle the property, custodianship conflates between inheritance and care-taking for the estate. From the case under consideration, custodianship appears to serve as a subtle scheme to deny heirs of their share of the estate. The historical practice of a custodianship being in charge of the estate has crept into the administration of the privately acquired property. Therefore, from the state of affairs described, the holder's role looks more like a pseudo facility of custodianship used for the appropriation of the estate rather than preserving it.

The position of the elders, however, shows why the case under investigation is what it is. In explaining the position of the elders, Ibn Y. Siddiq asserts that the elders' point of view was that many of the heirs were still minors. In that circumstance, if the estate was to be distributed at that stage, because of one or two mature heirs, the property would go to waste. It was their attempt to protect the minors that caused the boy to sue them in court[83].

This means that the interest of the minors was the reason behind the unwillingness of the elders to terminate the custodianship. While protecting the interest of the minors is a genuine concern, one cannot brush aside the elders' reaction to the accusation of appropriation of the estate when it was raised. Furthermore, without questioning the validity of their position, the estate could have been apportioned. This is, however, one of the differences between the elders' rule and the Islamic inheritance system. In the Islamic system, when the heirs are made up of minors and mature ones, the estate is still distributed. The minors' share is, however, kept in custody until they mature enough to manage their own affairs. At that point, the custodianship is terminated and the property

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[83] Ibn Y. Siddiq, interviewed on the 17th September 2020

is handed over to the heir. The same thing happens when all of them are minors (Ibn Rushd, 2006). When it is being handed over to them, it must be done in the presence of trustworthy witnesses (Q: 4:6). These are the differences between the Islamic and traditional inheritance systems in relation to the practice of custodianship.

With the above discussions, it is realized that the causes of inheritance conflict are socio-economic in nature. Their socio-economic nature is in consonance with the greed (economic) and grievance (social) causality of conflict. Despite preferring greed to grievance, Collier and Hoeffler, (2004) portray both as valid causes of conflict and rebellion in society. All the causes of either remote or immediate nature are manifestations of deprivation and frustration of various degrees from participants. It is a situation that also in turn triggers frustration-aggression from the affected heirs. When such a thing happens, it leads to various forms of inheritance conflicts in the community.

Forms of Inheritance Conflict in the Community

Having examined the factors that contribute to the development of the inheritance conflict in the previous section, the current section centers on the various forms that such conflict takes in the community under study. One of the manifestations of the conflict is the stoppage of greeting/communication and avoidance of one party by the other.

Lack of Greeting and Avoidance of Opponents

As a form of dialogue, greetings promote and or maintain rapport between people (Firth, 1957 cited by Egblewogbe, 1990). It also serves as a form of interaction that establishes union ties in a social setting (Malinowski, 1927:315 cited by Egblewogbe, 1990). Similarly, greetings create rapport and

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function as a tool of solidarity and unity among the Waala people. Indeed, the non-greeting of or the lack of answering thereof is an offensive behavior and an expression of a missing link between the individuals involved (Egblewogbe, 1990). True to this, parties to inheritance conflict in the community by refusing to greet or respond to the greetings of their opponents. In demonstrating this state of affairs, Ibn A. Muhammad, an heir, points out that "…because of my protest and seeking for the inheritance property in the law court, the family elders and opposing heirs have been refusing to greet or respond to my greetings, including some of my siblings. So, I also stopped[84]. This exposes how the lack of or response to greetings is used to negotiate inheritance conflict.

In fact, people resort to the greeting situation to manifest their dissatisfaction with the behavior of others towards them (Egblewogbe, 1990). As conflict parties exhibit this behavior in private spaces, the same way that some display it in public occasions. For instance, Ibn A.A. Idris asserts that "…upon arriving at the ceremony grounds, he [Ibn A. Sena] greeted and shook hands with everyone except me. When I asked him why he ignored me, he [Ibn A. Sena] said 'but I greeted you the other time we met. This was last year wooo! Hmmm"[85]. Ibn A.A. Idris reveals.

The above response mirrors a deliberate refusal to shake hands with the opponent. On the other hand, it depicts the sustained nature of this conflicting behavior between the opponents. The refusal of one party to greet and shake hands with the other party is not only expressive of the existing conflict. It also derecognizes the opponent, which is a validation of the opinion of Egblewogbe,

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[84] S. A. Muhammad, interviewed on the 9th July 2019.

[85] A. A. Idris, interviewed on the 15 th June 2019. An eye witness, Ibn Dawud, also confirmed it on the 23rd of June 2019.

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(1990). In confirmation, Ibn A. Sena's[86] account "…having cheated us of the inheritance, he still expects us to greet and shake hands with him. We cannot be at peace with him" exposes the reason behind the behavior. In some situations, refusing to greet the opponent also comes with the avoidance of opponents entirely. The expression "When he and any of the children of his brother see me, they take a different course of direction. In social gatherings like marriages and naming ceremonies, they avoid shaking hands with me[87]" is the case of entrenching the hostile relationship amongst opponents. On his part, Ibn Abdul-Aziz [88]explains that because "…. *he used his power and influence to cheat us of our inheritance, we feel the pain seeing him enjoy the booty of the cheating. Hence, we all avoid and do not greet him*".

The account above shows that avoidance is used as a form of protest against the behavior of the opponent. Given the fact that avoidance excludes any possible discussions about the subject matter of a conflict, some scholars consider it as a behavior of conflict emanating out of low assertiveness and low cooperativeness by ignoring or withdrawing from the subject of the conflict (Thomas and Kilmann, n. d, cited by Eilerman, 2006). On the contrary, Eilerman (2006) rather considers it as a way of conflict management. While it is true that the avoidance behavior could be a form of conflict management as it prevents conflict participants from confronting each other, avoidance, as shown in the above responses, has rather been used as a mode of inheritance conflict in the community under study.

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[86] Ibn A. Sena, interviewed on the 27th June 2019.

[87] Muhammad Ibn Saeed, interviewed on the 15th August 2019.

[88] Ibn Abdul-Aziz, interviewed on the13th August 2019.

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The lack of exchange of greetings and avoidance of opponents constitute a milder manifestation and a less intensive phase of inheritance conflicts in the community. This resonates with one of Cowan's (1960) depictions of *Ikhtilāf*-based conflict. He portrays the *ikhtilaf*-based conflict as a mild form of conflict where the parties take a different position, or course from that of another in opinion, utterance, or action. In some instances, the manifestation of the conflict stays at this stage. In others too, it degenerates into a more intensive form of conflict. Indeed, some inheritance conflicts degenerate into insults and abusive language in the community in question.

Abusive Language and Insults

Another form of the conflict was casting insults and inflammatory language on each other. According to Ndushabandi, Kagaba & Gasfari (n. d), conflict can take the form of psychological or emotional acts of insulting and threatening the opponent. In fact, verbal abuse and defamatory remarks about opponents constitute part of inheritance conflict in the community. Having experienced such abusive language at the hand of his brother, A. A. Idris[89] narrates below:

> *He accused me of cheating them. He says that I slaughter and consume from the cattle on every Eidul- adhā celebration to the exclusion of other heirs. It is this cheating habit and bad name of mine that is preventing more people from joining the religious sect I belong to. He said these things against me publicly even when he went to lodge a complaint*

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[89] A.A. Idris, interviewed on the 7th August 2019.

against me at our Imam's office[90]. Upon lodging this complaint, I did all that I could for the estate to be distributed.

This account exposes the attack on the image of the respondent. In this response, not only is the participant accused of estate appropriation. He is also accused of preventing the distribution that would grant other heirs of their share of the estate. This is the cause of the frustration that led the affected heir to verbally abuse the thwarting agent. Where there is frustration, there is aggression (Dollard *et al.*, 1993 as cited by Berkowitz, 1998). Confirming this incident, the Imam[91], to whom the complaint had made, narrates:

He [the accusing heir] came to invoke my intervention with his brother for the distribution of their estate. For him, if I did not intervene, the brother would finish the estate to the disadvantage of his co-heirs. He further indicated that it was the bad character of his cheating brother that was responsible for the stagnancy of our population. 'If you think I am lying, excommunicate him and it will surprise you of the multitudes of people that will join your sect 'he claims.

Apart from seeking the intervention of the Imam, the response validates the attack on the image of the accused. Notwithstanding the abusive language that accompanied the complaint, the intervention of the Imam terminated the custody of the accused brother and brought the estate to distribution. For the distribution of the estate in question, the Imam, elders of the family and other stakeholders were invited to take part in the process. However, the inclusion of the elders in the process marked another incident of verbal abuse from the same

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[90] The Imam confirmed this incident on the 27th August 2019

[91] The source above

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heir, whose complaint has initiated the case under attention. According to the Imam[92], when all was set and everybody was waiting for his arrival,

> *He called me and unfortunately, my phone was on the loudspeaker. 'Why have you brought in these hypocrites, the elders of his family, into the matter? He questioned. 'They are at the heart of the problem. They have no dignity. They are the cause of all the mess we have been involved in up till now' he concluded.*

In a loudspeaker, therefore, all the participants heard the abusive language uttered against them. In justifying the abusive behavior, Ibn A. Kunatey, the heir in question, has this to say: "I did not like the elders' composition of the devolution team. For, they were part of the conflict and cannot then turn to resolve it. Earlier, they had all made negative comments about my position regarding the estate"[93].

This means that the said conflict party was not pleased with some of the elements constituting the team. It is the inclusion of these unwanted elements in the process that triggered his angry reaction. One's angry response and reaction to an event is influenced by one's perception of that event (Lochman and Dodge, 1998). The nature of his reaction to the situation led to the suspension of the exercise on that occasion[94]. Given the displeasure expressed by the current respondent, one could conclude that proper consultation on the composition of the distribution did not take place. The reaction could have been different if all the heirs were part of the process leading to the selection of

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[92] Before whom the matter was brought for arbitration on the 27th August 2019.

[93] Ibn A. Kunatey, interviewed on the 12th Much 2020.

[94] Deputy regional ASWAJ Imam and Shaykh A. Umar alluded to that in a conversation on the 24th July 2020.

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members of the distribution team. Had consultation taken place, a consensual resolution about all such unwanted personnel included in the team could have been reached. The statement "Why have you brought in these hypocrites…" is the opponent's description of members of the intended process of distribution. It has to be noted that the participant in this instance manifests the abusive behavior in absentia through a phone call. As such, it did not trigger violent reactions as both the abused and the abusing sides were not face-to-face with each other. The trading of abusive language in face-to-face encounters is rather severe and leads to violent exchanges in the area of the study. Describing his face-to-face encounter with his uncle, Ibn. M. Umar asserts that: "…warning him not to insult me and my mother again rather made him angrier. He intensified the abuse and insult. So, I also responded in a like manner…"[95].

The above statement echoes our earlier position that the consequences of face-to-face exchanges of inter-verbal abuse are more severe than the distant one. This overt and adverse reaction of family members towards one another is a reflection of the nature of resource-based conflict. Chafetz's (1981) indicates that the disbursement of scarce and valued resources is the cause of family conflict. Indeed, insults and abusive language are some of the various forms conflicts take in society (Ndushabandi *et al*., n.d). One of the consequences of such manifestations of conflict is that the closeness between people gradually gives way in favor of aloofness and disinterestedness. Carelessness about the other replaces fellow-feeling and emotional attachment for one another (Oyeshola, 2005: 114). The insults and verbal abuse further degenerate into a

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[95] M. M. Ibn Umar, responded on the 5th September 2019 and also confirmed by the opponent on the 13th September 2019.

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more severe form of inheritance conflict that comes in the form of physical violence. While it holds true that family conflict does not necessarily lead to family violence, both are interrelated. Thus, family conflicts lead to family violence (Ndushabandi *et al*., n.d).

Physical Confrontation and Assault

As indicated in the preceding headings, there are instances where the manifestation of inheritance conflict remains at the stage of non-greeting, avoidance of opponents and the use of abusive and offensive language against opponents. All that is due to perceptions and feelings about the inheritance situation. On the contrary, there are also instances where such manifestations degenerate into aggravated violence. In fact, when perceptions and feelings cause people to react to situations, a variety of reactions in the form of arguments and aggressive acts are possible (Adam, 2014). This succinctly describes the violent nature of some of the instances of inheritance conflict in the community. In depicting this state of affairs, Ibn A. Anuhu, an heir, states that:

> *When both of us could no longer contain the severity of the insults exchanged, we rushed and held each other by the neck. He hit me and I also hit him back. Then, we got into wrestling and people started shouting and wailing. A relative who tried separating us got entangled in the conflict. My uncle took the battle to him too*[96].

This account demonstrates not only the intensity of the parties' abuse of each other. It also depicts how such exchanges escalate into anger and a more

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[96] A. Anuhu, interviewed on the 5th September 2019. The opponent, M.M. Ibn Umar, confirmed this incident on the 18th September 2020.

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severe form of conflict. This mirrors the opinion of Deming and Lochman (2008) concerning the consequences of anger as an influencer of aggressive behavior. The response above describes the violent nature of the outcome of the insults. This marks the fact that an instance of inheritance conflict of a mild nature has the potential to lead to a more severe conflict.

In response to the wail of eyewitnesses to the violent confrontations, a peacemaker emerged and rushed onto the scene. He tried to separate and unlock the entangled parties. Ironically, he turned or was turned into a participant in the conflict. He has this to say about his experience:

> *Hmmm! In the course of trying to separate the two wrestlers, my finger slipped into the mouth of one of them [Ibn A. Anuhu]. He bit me so hard that it nearly decapitated the finger. Upon arriving at the scene, with an utter disregard of my ordeal, a brother attacked me. Thus, he questioned my neutrality and accused me of an alliance with their opponent. He did not care that his brother just bit me!*[97]

This not only depicts the ordeal of the separator. It also affirms inheritance conflict as an intergroup-based conflict. It is this intergroup character of the conflict that induced the biting incident. It is this intergroup nature of the conflict that led to the accusation and counter accusation of one supporting a side of the conflict against the other. This is further elaborated below. This intergroup character of the local experience corroborates the assertion of Brewer (2010) and Govier (2006) as cited by Jankowitz (2017). These scholars observe that intergroup conflict is a collective experience in which members of a group commit violence against their opponents not based

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[97] Y. A. Ibn Ismail, interviewed on the 11th September 2019.

on their individual qualities or identities but for their mere belongingness to the opposing groups. The wrestling with opponents and biting them, as presented above, also affirms the opinion that, in the struggle for limited resources, participants seek to cause harm and injury to their opponents (Kendie *et al.*, 2014).

On his part, Ibn Z. Anuhu, the purported ally of the biting party, confirms the wrestling situation presented above. He, however, gives a counter perspective of what transpired. He has this to say about the encounter:

> *I was in my room when I heard shout-outs in the compound. So, I came out and realized that my brother and one of our nephews were wrestling. I noticed that a third-party, in pretense of separating them, was supporting the nephew against my brother. I shouted and asked why he was helping the other wrestler against my brother? Then and there, I also joined in and lent my support to my brother!* [98].

These responses paint out the violent form of the conflict. It also shows the attempt of each conflict party to claim the status of being the victim and the other as the aggressor. According to Jankowitz (2017), the claim of the victim status largely goes with the denial of the harm experienced by the opponents and labeling them as a collective perpetrator. This reflects the position of the conflict parties as described above.

Furthermore, amidst the degeneration of abusive language into violent reactions, the above responses succinctly portray the role of individual opponents in the unfolding of the violent encounter. This hinges on their incompatible interest regarding inheritance property. The incompatibility

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[98] Ibn Z. Anuhu's reaction on the matter, 11th September 2019.

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brought about a subjective interpretation of the intentions and behavior of each side by their opponents. This state of affairs shapes the interpretation of the intention and actions of the other. Nevertheless, the issuance of threats in the course of the altercation "…your uncle too will leave the house…"[99] clarifies the extended implications of the conflict situation. This intended eviction is the consequence of group identity. As pointed out above, it is based on the party's mere belongingness to the opposing group and not based on their individual qualities or identities. Thus, it affirms the position of Brewer (2010) when he points out the fact that it is the individual heirs' identity as a member of the group that explains their victimhood (cited by Jankowitz, 2017).

It has to be noted that the above forms of inheritance conflict presented reflect the two brands of conflict in the Islamic conceptualization of conflict. These are the mild (*ikhtilāf*) and violent (*shiqāq*) forms of conflict (Adam, 2014; Cowan, 1960). Aside from this Islamic construction, the forms of the inheritance conflict in the community conform to the two-phase of mild and severe nature of conflict in the secular and another context as described (Donohue and Kolt, 1992; Kendie *et al*., 2014; Onigun Otite & Albert, 2001 cited by Ajayi & Buhari, 2014). These forms of inheritance conflict situations lead to various effects on family members and their relationship with one another.

Effects of Inheritance Conflicts

According to Kendie *et al*. (2014) and Ajayi and Buhari (2014), in the course of competition for scarce resources, participants not only seek to get the upper hand over their competitors. They also seek to cause harm and injury to

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[99] A.N. Anuhu, confirmed to have issued that threat, September, 2019.

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their opponents. This aptly describes the nature of the resource-based conflict. As a resource-based conflict, the struggle for inheritance resources leads heirs to try and get the upper hand over their competitors. In the course of that, various effects of socio-economic in nature emerge.

Social Effects of the Conflict

The social effects of the conflict are twofold. They destroy family relations and unsettle their homes. It also causes people to lose their shelter. The first of these effects under discussion is the disintegration of family.

The Disintegration of Family

Inheritance conflict disintegrates families. It sets them against one another. It also takes away togetherness from their social activities. In this situation, activities that are supposedly carried out as collective family activity tend to be carried out individually. According to Ibn Muhammad, an heir, "…since the conflict broke out amongst us, we have been living in the family house with defined boundaries with periodic confrontations. '*No one fetches fire from the other*'. We are no longer able to attend life-cycle ceremonies together…"[100] succinctly expresses the state of affairs in the family. Living in the family house with defined boundaries is a portrayal of the division and the otherness that has engulfed the family as a consequence of the inheritance conflict. In a similar context, a participant[101] confirms that:

> *Due to the fact that we pursued and won the case in court against our*
>
> *uncle, it severed ties between us. His children believe that we have*
>
> *disgraced their father. This brought in a gap between us. Now, we do*

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[100]Abdallah Ibn A. Muhammad, interviewed on the 29th August 2019.
[101] Ibn A. Rahman, interviewed on the 21st August 2019.

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not do things we used to do together before the conflict. We do not attend naming ceremonies, funerals and other social activities in the community together. 'And no one fetches fire from the other'.

This was an outcome of another inheritance conflict in the community. The added dimension here is the revelation of seeking redress in court. The defeat in that process to an uncle deepened the division in the family. The family is, therefore, no longer together in the performance of collective social activities as indicated in the case above. According to Bin Salih (2008) in the Waala community, participating in funerals, naming and marriage ceremonies together is highly cherished as a mark of belongingness and unity of the family. The disintegration as a consequence of litigation affirms the adversarial nature of this option (Yahaya, 2018). The state of affairs corroborates the views of Yahaya (2018) and Orero *et al*. (2007) when they portray the disorganization of households, loss of security and disintegration of relationships within the family as key effects of conflict in society. Indeed, the earlier proverb by Ibn A. Rahman[102] as "…no one fetches fire from the other" illustrates the destruction of social networks. This proverb is a popular conflict expression in the Waali language. It means that because of an existing conflict, one cannot cross the territory of the other or benefit from an opponent. Apart from division in the family, inheritance conflict also leads to eviction from homes.

Loss of Shelter

Inheritance conflict also exerts housing pressures on family members as a result of evictions. Many people of inheritance and non-inheritance conflict

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[102] Asserted on the 25th January 2020.

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parties become victims of evictions. In sharing such an experience with us, Ibn Mustapha [74] has this to say:

> *My uncle issued me with a 24-hour ultimatum to park out of the room. The next morning, he came again and was rather more aggressive than he was the previous day. 'Why are you that arrogant?' I will throw you and all your belongings out of the room. I will evict every appendage from the house' he further threatened. So, he forced me out of the house.*

The current response maps out an incidence of eviction. It was triggered by the conflict over the property as well as the identity of the evictee. For the evicting uncle, "the father of the evictee himself had been wrongfully residing in the facility"[103]. It is this consideration that positions the evictee as a default target of his uncle's aggression. The immediate trigger is the father's perceived 'appendage' (*fomaraa*) status to the estate in question.

Given this background, the eviction can be described as an act of displaced aggression. This is because of the fact that instead of the thwarting agent himself, the appendage father, the aggressor directs his aggression towards an associate of the impeding agent. As pointed out, when the thwarting agent who prevents the other from achieving his goal is strong enough for the aggression to be directed at, it may deflect to a weak target (Berkowitz, 1962). The response also contains an aspect of verbal aggression. For Straus (1979), any utterance that is made to threaten and hurt another person is a form of verbal aggression (cited by Stets, 1990). This is the situation when the uncle also threatened other 'appendages' with potential evictions. The wrongful and continuous stay of such appendage individuals in the house breeds frustration

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[103] Ibn Abdullah, interviewed on the 17th September 2019.

and anger in some heirs. Ibn A. Anuhu[104] describes it in such words as "…annoying that appendages enjoy the facility at the expense of rightful sisters. When all such appendages get evicted, our sisters could rent out the space for their economic upkeep. I am not fighting for myself".

This response echoes the rationale behind the evictions. It is premised on the belief that appendages utilizing the property trigger the frustration-aggression and relative deprivation postulations (Dollard *et al.*, 1993 as cited by Berkowitz, 1998). As he supports the justification, Ibn D.A. Anuhu[105] asserts that

> *If one considers the basis of the evictions critically, one realizes that my brother is fighting a just course. While some of the heirs have not gotten any rooms, some non-heirs have been allotted some of the rooms. Therefore, if such rooms are returned, they would go a long way to alleviate the economic difficulties of our sisters.*

This account rationalizes the evictions and the benefits female heirs stand to get from such evictions. From behind the scenes, like above, there are other heirs who lent their support to the evictions. This is because, "…their stay in the house is only temporary as we will soon take over our house…"[106] Bint A. Nuhu states. All two validate the notion of shadow stakeholders who from behind the scenes offer assistance to conflict participants against their opponents (Yahaya, 2018; Best, 2006). The responses also show the neglect of women in the traditional distribution of the estate in dispute. It is worth noting

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[104] Interviewed on the 13th September 2019

[105] He offered the justification in an interview conducted with him in 2019.

[106] Ibn Umar, interviewed on the 1st August 2019 and Ibn Y. Ismail, on the 13th February 2020.

that even these male heirs, who are against the traditional system, are not calling for the reallocation of the estate in accordance with Islam's system for the benefit of the female heirs. They are rather bent on evicting the non-biological heirs of the estate and giving the vacated spaces to their sisters. Apart from including non-biological heirs, who have been referred to as appendages by some, it largely disregards females as they are subsumed by their male counterparts. It is part of the scenario that is being fought here by brothers.

Furthermore, successful litigation leads to eviction. Some heirs indicate that "*...upon winning the case in court, we had to evict the occupants from it. We evicted wives, children and tenants of our opponent from it. We then moved into the property*"[107]. The eviction is more far-reaching as it exceedingly affected non-heir tenants. Other than the court dimension, the earlier and the current accounts are in harmony with each other. They present evictions as an outcome of the conflict between opposing parties over the scarce resources of inheritance, a place of abode. Of course, when conflicts break out as a result of competition for scarce resources, the conflict parties try to get the upper hand over their competitors (Kendie *et al*., 2014). This is why the said evictions have taken place and as a result of competition for estate properties. Not only this. One of the aspects of the effects of the conflict is economic in nature.

Economic Effect of the Conflict

The conflict also affects the sources of livelihood of members of the family. This sometimes comes in the destruction of opponents' source of income.

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[107] Interview of Children of A.G. Khalid, 2020.

Destruction of Property

One of the effects of inheritance conflict in the community is the destruction of opponents' property as a way of registering one's anger. Ibn Ismail[108]indicates that having "…informed our opponents before erecting a weaving structure for my wife on the portion of my uncle, to my surprise, whilst I was at work and away from home, he [name withheld] demolished it…" Having been demolished, now a sister of the demolishing agent has developed a new structure in place of the demolished one[109]. Certainly, the response of the demolisher"…If he or any of his brothers should put up any structure in or outside the facility, I will demolish it again…"[110] is not only admission to the said destruction. It is also a notice of many destructions to come. He and his consort premised the demolishing exercise on their belief in the unjust and improper nature of the process that granted part of the property to such people.[111] Indeed, among others, the destruction of properties is a common economic consequence of conflicts in society (Gagakuma, 2013). Indeed, the true identity of destruction is any behavior that threatens the security of conflict parties, including their economic security (Gasafari et al., n. d). All the above episodes of behavior, as the responses illustrate, not threaten the security of only the conflict participants but also the unity of the family. These effects of the conflict in the community are in tune with those that many scholars associate with conflict (Yahaya, 2018; Tonah, 2007 and Brukum, 2001). Therefore, the

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[108] Ibn Y. Ismail, interviewed on the13th February 2020.

[109] The respondent showed me where the said structure was erected, and the new one that will be replaced in 2019.

[110] The demolisher reacts on the 11th January 2020.

[111] The earlier responses of all of Ibn D.A.I. Anuhu, Interview with M. M. Ibn Umar, Ayos and Shakur 13th and 7th September 2019 confirmed this position.

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loss of social networks, infliction of injuries, destruction of property and loss of homes are some of the socio-economic consequences in which the literature and the conflict phenomenon in the community intersect. This illustrates the extent to which the conflict affects the socio-economic outlook of the families involved in inheritance conflict in the area of the study.

In line with the above responses, the question of fairness and justice features prominently in the minds and the judgment of beneficiaries. The inheritance conflict plays out the relative nature of what is or is not fair and just in the allocation of the estate. Indeed, Anderson *et al*. (1979) had long explained:

> Fairness can mean that something is divided equally, but fairness also takes into account various principles of deservingness or right; a division of an estate can be fair without being equal. Because fairness can be determined on many different bases, there may be many competing interpretations on what is fair (p.337).

This extract depicts vividly the situation under discussion. The relative nature of the interpretations of fairness and justice has left its practical impact on the inheritance situation in the community. What, therefore, may be fair to some may not be fair to others. The non-distribution of an estate in accordance with the beneficiary's view of fairness is partly responsible for the inheritance situation in the community. This situation breeds manifestations of relative deprivation and its associated theory of frustration-aggression. Indeed, Nnabuihe (2019) aptly observes that the important ingredient in the eruption of violent conflict is the deprivation and unequal distribution of resources among members of a group. The feeling of being deprived from the right to inheritance

resources is responsible for the reaction of members' heirs to the situation and hence the effects under examination.

These effects manifest the nature of the outcome painted of the relative deprivation and frustration-aggression theories. The harm aggression causes come in the form of physical injury, hurt feelings, or damaged social relationships (Anderson and Allen, 2017). For Gur (1970: 36), frustrated persons have an innate disposition to do violence to its source in proportion to the intensity of their frustrations.

Conclusion

The chapter has examined the cause-from-effect associated with the development of inheritance conflict in the area of the study. It explained that while some of the causes of inheritance conflict predate the period of estate distribution and transition, others are postmortem and directly related to estate. The chapter further explained that despite the influence of Islam and its inheritance system in the lives of the people, yet still, inheritance conflict persists among its adherents. It established that internal family wrangling, structural issues and the greed for specific estate are the triggers responsible for inheritance conflict in the community. The other is persistence of the traditional inheritance and its employment in favor and deprivation of some heirs. These two streams of causes are traceable to perceived or real deprivation of entitlement to inheritance resources. The chapter indicated that this state of affairs has generally divided heirs into rival groups, with each seeing itself as the victim and the rival as the perpetrator. It argued that this sense of victimhood promotes collective solidarity, in turn encourages the perpetration of collective aggression against the opponent. The resultant effect of this situation is that all

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sides involved in the conflict caused and experienced losses, ranging from the disconnection of social networks, the suffering of injuries to the destruction of sources of livelihood. The chapter concluded that for the resolution of inheritance conflict, there is the need for such a perception and behavior towards the other to change.

Indeed, in dealing with conflicts, "…the real test…is whether the groups involved [in the conflict] eventually begin to see the contours of human beings on the other side of the fence, through the dark clouds of enmity that obscure them" (Bar-Tal, Chernyak-Hai, Schori, & Gundar, 2009, p. 258). With the current chapter examining the cause-form-effect of inheritance conflict, the succeeding chapter examines the role of society in contributing to mending the relationship the inheritance conflict rivals as one. In that vein, the chapter discusses the role of the conflict participants, elders, clerics and religious institutions in addressing the inheritance conflict in the community. It looks at the extent to which the many players attempt to settle the conflict among members of their communities.

CHAPTER FIVE

MENDING THE FRAGMENTS AND BROKEN TIES

Introduction

The preceding chapter looked at the cause-form-effects of inheritance conflict in the community under study. It exposed the remote and immediate causes of the conflict, which are a reflection of relative deprivation and frustration-aggression postulations. It explained that this state has turned various heirs into rival groups, with each considering itself as the victim and the opponent as the perpetrator. The chapter further argued that due to competition for limited inheritance resources and avoidance of being deprived of it, heirs fight and cause great socio-economic losses to each other. It concluded that any effective reversal of the situation will largely depend on heirs' change of perception about each other and behavior towards each other. Because the perception of each side about the other is very vital in dealing with such a situation.

The present chapter examines the resolution of inheritance conflict in the Waal Muslim community. In this vein, it discusses the role of society in contributing towards fixing and de-escalating the situation among the parties. In the light of this, the chapter discusses the role of the people involved in the conflict, elders, clerics and religious institutions in addressing the inheritance conflict in the community. It looks at the extent to which these players and institutions participate in mending relationships among the inheritance conflict parties in the community. It examines the extent to which the various efforts contribute to resolution.

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Efforts at Resolving Inheritance Conflict in the Community

Conflict resolution is a process that seeks to address basic incompatibilities between the conflict parties in a manner that engenders their satisfaction (Miller, 2003). Resolution can be attained by identifying and addressing the causes that are behind it (Mensa-Bonsu and Effah, 2003) as well as designing solutions through a cooperative approach that is focused on the sides of the conflict to maintain long term relationship between them (Yahaya, 2018; Miall *et al*., 2001).

According to Tonah (2015), when conflict takes place in a society, members of that society take steps to address it and deal with the escalations. Indeed, the community and its institutions resort to various strategies to mend emerging inheritance conflicts. Out of these mending efforts are the interpersonal negotiation for resolution by the parties themselves and third-party interventions. One of the strategies the conflict parties employ to address their conflict is the pursuit of forgiveness from and for each other.

Role of Forgiveness

As pointed out earlier, Islam is part and parcel of the identity of the people. Of course, "religious values and norms are central aspects of the cultural identity of many people involved in conflict dynamics" (Abu-Nimer, 2001). As a religious (Islamic) facility, forgiveness is invoked by conflict parties to resolve their conflict. These members of conflict sometimes initiate it without the intervention of a third party. Forgiveness is a mechanism that aims at satisfying the needs of participants in resource-based conflict (Auerbach, 2005) and hence its role in conflict resolution is very vital (Abu-Nimer and Nasser, 2013). As a religious instrument, forgiveness seeks to settle the contention

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between the offender and the victim. It also seeks to deal with the offense committed against the victim. It not only supplements the moral-spiritual state of affairs but also allows the victim to be compensated (Auerbach, 2005). Indeed, forgiveness is one of the ways in which the community, at the individual and group levels, attempts to resolve inheritance conflicts. Individuals appeal to forgiveness to settle their grievances with their opponents. A conflict party is recorded as invoking forgiveness to appeal to his opponent for settlement of their conflict. Ibn Osman[112] poignantly reveals his interaction with his late brother in the words below:

> *When he was brought from the hospital, I entered and greeted him. Just when I was about to leave, he called me back. He said to me that 'the way I am lying down; it is only Allah who knows whether I will survive my sickness or not. So, I ask you to forgive me for my offenses against you. I have forgiven you all'. Including the estate of our late father you and our cousin connived to deny us but appropriated yourselves?! I asked him. For that one, my siblings and I cannot forgive it. It was his last interaction with me.*

While presenting the failure to deliver its intended resolution, the above account plays out how the contemplation of death propelled an individual to ask for forgiveness and initiate reconciliation with his brother. Given the condition of being in a sickbed together with the contemplation of death as circumstantial evidence, one could observe that the late brother was not appealing for the forgiveness of any specific offense. Rather, lying in a precarious state of death-waiting, he sought to be forgiven and forgive all offenses committed before his

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[112] Interviewed on the 25th September 2019.

death. Despite the failure in this regard, the interaction in the account led to the disclosure of two issues. That the 'dying heir' has been accused of estate appropriation. Consequently, this alleged act of appropriation can only be forgiven if justice is done. Indeed, Bar-Tal et al., (2009) assert that forgiveness is an appropriate strategy of mending broken ties when justice is done for the victim and apology rendered by the offender.

On the other hand, it also reveals the participation of other heirs in the conflict from behind the scene. This makes them difficult to locate as participants. The clandestine nature of such parties is the reason why scholars refer to them as shadow stakeholders (Yahaya, 2018; Best, 2006; Collier, 2001). The brethren from behind the scene were all bitter and in pain for not getting their share of the estate due to the alleged appropriation in reference. This feeling of pain is a factor that impedes the operation of forgiveness as a conflict resolution strategy (Abu-Nimer and Nasser, 2013). The reaction "…*me and my siblings ... cannot forgive it*" suggest that it is only the restoration of their share that could change their position. This corroborates Rehman's (2011) inclusion of justice and faith in the Islamic framework of resolution. It is in that same sense that Auerbach (2005) proposes compensating the affected as a necessary ingredient for forgiveness to deliver its reconciliatory results. Indeed, the inadequacy of forgiveness here is clear from the position of the affected person(s). Therefore, despite the fact that forgiveness is a usable resolution facility, it does not fulfill its mandate without elements of justice and apology. Indeed, as will be confirmed soon, forgiveness as a stand-alone strategy has not been successful in resolving conflict between the parties. This is because of the insistence of victims on justice (as elaborated on hajj below). As indicated, this

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intervention is based on the interpersonal initiative of the conflict parties. Aside from that, third-party initiatives are also used to address the conflict. One of such third-party interventions is the role of elders in the community.

Role of Community Elders

In the African context, the society respects elders and sees them as trustworthy people in dealing with societal challenges including conflict. They are a repository of traditional knowledge with a vast degree of accumulated experiences and wisdom (Yahaya, 2018; Ademowo, 2015; Ajayi & Buhari 2014). Their age, wisdom, tolerance, uprightness and fearlessness are some of the qualities that distinguish them from the rest of the community (Bamikole, 2008 cited by Ademowo, 2015). These qualities combined with their ability to bring pressure to bear on conflict parties and make recommendations are the resources that enable them to participate effectively in conflict resolution (Bright-Brock, 2001, in Ajayi & Buhari, 2014). In the traditional society, elders help people reconcile their differences at the household, extended family, clan, or ethnic group, and village or town levels (Ajayi & Buhari, 2014). By tradition, elders are expected to resolve domestic conflicts between their wives, brothers and sisters (Bin Salih, 2008). In consonance with this, elders in the Waala Muslim community intervene in inheritance conflicts. Members of the community subject their conflicts to the intervention of their elders. On a resolution of a conflict concerning the inheritance of livestock, Bint Osman[113], a female heir, indicates that:

> …they [the opponents] accused us of appropriating the livestock and diverting it from one village into the care of a herdsman in another

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[113] Response of Bint Osman, 21st July 2019.

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village. They also alleged that the latter herdsman had communicated to an elder about the growth of the numbers of the livestock and that the said elder in turn communicated this to them [the opponents]. Once they mentioned the elder, we knew we could pursue the matter to its logical conclusion and clear our name. So, we summoned them before our elders.

This response accounts for both the genesis of the conflict and the subsequent summon. The accused side initiated the process, which achieved two aims. It subtly exposes its opponents before the elders, a step that has succeeded in bringing the role of the elders to bear on the situation. Indeed, on his part, Abu Anas[114], an elder, narrates that:

> We [elders] brought all the parties and their witnesses before us. In the sitting, the individual mentioned by accusing heirs as their principal witness denied knowledge of the case of the livestock. He also denied the increase of the livestock ever being disclosed to him by the said herdsman. After listening to all sides, we came to the conclusion that the bases of the conflict were not strong. So, we demanded an immediate apology from them. 'You are one person; so, bury your differences. It is a disgrace' we told them. We also warned that we did not want to hear anything about this matter anymore in the public domain.

The above account contains various elements. It consists of conflict parties, witnesses and elders. The elders listened to all sides. The process is also a fact-finding one as witnesses had been invited to give evidence to the claims. The final step was that of resolution. The facts the elders reached of the matter

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[114] Responded on the 23rd July 2019.

in the sitting warranted its dismissal. Per the account, the resolution intervention did not establish any case against the accused persons, rendering it more as an allegation-based conflict. This situation corroborates Oyeshola's (2005) position about conflicts being possibly rooted in people's beliefs and perceptions, whether right or wrong, rather than objective facts. This promotes the tendency for people to fight faithfully with all means possible for nothing. Be it as it may, it has portrayed the nature of elders' role in inheritance conflict resolution in the community.

In this intervention, the elders have highlighted the importance of the principle of 'unity of the family' as an important social connector and value to protect. The appeal to social connections in this regard is a common practice of elders' intervention in the African context (Bright-Brock, 2001 as cited by Ajayi & Buhari, 2014). Also, found in the elders' intervention under reference are fact-finding, forgiveness, apology and imposed settlement, all in one sitting. Notably, there was no reported adjournment or raising of objections in the process. This gives an advantage to the traditional intervention over state-based intervention (Oyeniyi, 2017). The elders' role, though uniquely traditional, is in consonance with an Islamic strategy of resolution. Oseni (2015) and Rashid (2004) indicate that one of the resolution strategies in Islam is socio-legal in nature, where various social actors resort to out-of-court approaches to address conflict among Muslims. In the data presented above, the elders who settled the conflict are attached to the conflict and conflict participants. In this case, as described by Moore, the elders controlled the process devoid of any confrontation between the parties (cited by Wilmot and Hocker, 2001). In describing their role in the resolution, Wolfe (2006) indicates that elders listen

to accounts of witnesses, which help them to be able to unearth the truthfulness or otherwise of the participants and lead them to an amicable resolution. This was what the elders did in the resolution.

The elders' role is a two-character intervention. It has the characteristics of mediation and arbitration. Mediation in the sense that its outcome is not enforceable in court. It shows the component of arbitration too because its outcome is enforceable in the community but not in court. Here, the interveners have shown not only considerable power and authority to resolve the conflict as indicated by Abu-Nimer (1996). The expression "*We also warned that we did not want to hear anything about this matter anymore in the public domain*" not only imposes an option on the participants.

It also shows the amount of authority the elders exercised in addressing the conflict. With its instructive and authoritative nature, the elders' intervention correlates with an Islamic strategy of resolution (Ahmad and Abdul Hak, 2010). This means that it corroborates the scholarly position of nonbinding nature of mediation (*sulh*) on one hand (Aida, 2005; Wilmot and Hocker, 2001), and the binding nature of arbitration (*tahkīm*) on the other (Oseni, 2015; Othman, 2007). The use of aspects of social attachment to the participants and exercise of power over them are some of the ingredients belonging to both indigenous and Islamic processes. All have played out in the sitting. It has to be noted that as successful as the elders are in the intervention in reference, they also experience failure in some instances. Some elders [115] share their experience of rejection in the words below:

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[115] A.A Yakubu, A Siraj and A Idisa responded in a group interview on the 17th January 2020.

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When we visited him and before we even voiced out the purpose of our visit, he said to us, 'if your mission here is to impress upon me to reconcile with my opponents, then do not even say a word. I will not also withdraw the matter from the police station. I will not listen to you'. He disrespected us. But we also told him if that was his decision, then henceforth, we would not participate in any of his naming, marriage and funeral ceremonies if he ever had one.

This response indicates that some conflict participants in the community can and do reject elders' efforts at resolving conflicts. Having said that, the immediate account, like the preceding one, contains disclosure of the power of the elders. This comes in their resolution not to participate in the rites of passage of the denier of their intervention. By this, the elders tried withdrawing their social influence as a means of compelling the recalcitrant party to yield to their resolution. Once again, as pointed out above, corroborates with Islam's use of forceful resolution (Ahmad and Abdul Hak, 2010) and the stress Islam places on communal solidarity in conflict resolution (Rehman, 2011). This forceful imposition of resolution is only viable in achieving negative peace (Tonah, 2015). Not only this. Religious institutions of pilgrimage also trigger an occasion of inheritance conflict in the community.

Role of Pilgrimage in Resolution

Pilgrimage, apart from being a pillar of Islam, doubles as an instrument of reconciliation in the Waala Muslim community. The devotees usually activate this intervention when the intended journey to Makkah is imminent. In their preparation for the journey, the prospective pilgrims approach their offenders and victims for reconciliation. It is the practice that the relatives of

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the prospective pilgrim encourage and support him or her to reconcile with his enemies before embarking upon the journey. With this, they seek to reconcile with members of the community before reconciling with Allah[116]. In recollecting his experience in this respect, Ibn Abdullah, a party to inheritance conflict, discloses that:

> *...because of the conflict between us, we never spoke for a very long time. But when I was embarking upon the hajj, I asked our cousins and some respected members of society to intervene for our reconciliation. They successfully did. This was what reconciled us*[117].

In this response, the intention to perform the pilgrimage served as the basis for the devotee's reconciliation with his opponent. Mohammed A. Aziz[118], an heir, corroborates this when intimates that:

> *...about seven people, including my cousins, came to meet me. On their arrival, I exchanged jokes with my cousins and then asked about their mission. 'Your brother is embarking upon the pilgrimage and therefore asked us to plead with you for forgiveness and reconciliation. For him, he has forgiven you, they indicated. I told them that but for their sake, I would not have accepted the plea for reconciliation. I also thought that it is reasonable to forgive to be forgiven if I also ever plan to perform the pilgrimage. They were grateful for this response.*

In the current account, it is realized that apart from the pilgrimage being the immediate trigger for the reconciliation, the account is also parked with other resolution processes. These are joking relationships, involvement of

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[116] *Bint Saeed,* interviewed on the *15th September 2019.*

[117] M. Ibn Abdullah, a trader, interviewed on the 29th September 2019.

[118] Mohammed A. Aziz, interviewed on the 19th September 2019.

important personalities and forgiveness. The utilization of these elements in the resolution account reiterates voices that allude to the potency of resolution processes that contain such elements, especially the joking relations (Kalmijin,1998; Radcliffe-Brown, 1940) and the usefulness of cousins' intervention in small scale conflicts (Yahaya, 2018; Awedoba, 2011). The account also shows how immediately jokes between the cousins created a rapport between the two groups. This reiterates jokes as potent threads that strengthen the bond between playing mates in the African context (Galvan 2006, cited by Yahaya, 2018). It also supports the position of Bin Salih (2008) when he pointed out cousin-joking relationships (*puri-bīlung* or *aha-bīlung*) as a facility for conflict resolution in the area of the study. Therefore, parked with joking relationships, involvement of important personalities and forgiveness, pilgrimage is further strengthened as an effective strategy in inheritance conflict resolution in the community. And religious institutions have been considered as vital conflict resolution strategies in society (Yahaya, 2018). Indeed, estimating the impact of the pilgrimage on Pakistani pilgrims, Kremer, Clingingsmith, & Khwaja (2008) indicate that, among other benefits, the pilgrimage promotes a sense of unity and peace among pilgrims and other Muslims. There is, however, evidence to the point that as effective as the pilgrimage is in this respect, it has its failures too. An account of its failure has been offered by Bint Muhammad[119], an heir, in the words below:

> *For the mere fact that he is embarking upon hajj, he has come to ask for*
>
> *forgiveness and reconciliation. Hmm! I have no power to prevent him*
>
> *from embarking upon an important religious duty like the hajj. But I*

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[119] Bint Muhammad, interviewed on the 07th October 2019.

cannot forgive or forget how he abused me because of the estate. He cannot compel me to forgive him!

This response presents an instance where the pilgrimage has failed to impel a party to give in to resolution. To the respondent, her opponent's appeal to the pilgrimage-induced resolution is not acceptable while the abuse against her still lingers in her mind. So, it did not deliver the needed outcome. This corroborates the position of Bar-Tal *et al.* (2009) as they portray the sense of being the victim as a factor that prolongs the conflict and prevents its peaceful settlement. It also "…provides moral power to oppose the enemy and seek justice" (p. 254). In such cases, they propose the need to address the concern of the victim and also address issues of justice and truth, relative to the harm inflicted upon the victim (Bar-Tal *et al.*, 2009).

It has to be noted that while the above position is appropriate, there is more to the issue in the current context. Taking the elements that accompanied the application of pilgrimage in the former case into consideration, one could argue that if those elements had also come with the pilgrimage in the latter case, it would have also been useful.

In the earlier resolution intervention, the use of the pilgrimage was accompanied by a plethora of third-party interventions. These include joking relationships, important personalities and forgiveness. These are missing in the latter case under reference. These auxiliary components, therefore, have enhanced the case of pilgrimage as an effective strategy in inheritance conflict resolution. The role of the traditional resources, like joking relationships, where some group of people are play-mates of others, and opinion leaders herein, affirms the opinion of Abu-Nimer (1996) when he holds cultural resources as

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effective components of resolving conflict in the Muslim context. Therefore, given the degree of success realized in one of the cases of the pilgrimage, one could conclude that the intervention that pieces together the collective operation of social and kinship relationships within a cultural setting has the highest potential of success in resolving inheritance conflicts of its people. Apart from the Institution of Hajj, Muslim clerics also intervene in the resolution of inheritance conflict in the study area.

Role of Muslim Leaders and Clerics

Referencing Johnston and Sampson (1994), Abu-Nimer (2001) points out that people who work within the religious sphere are more able to reach out to people of different levels in society. Muslim clerics are of this category. Some African scholars have also pointed to this fact. Awedoba, (2011) and Yahaya (2018) have made reference to the role of the religious community in this direction. According to them, the religious community, the Muslim clerics and Shaykhs are more effective among members of the Ghanaian Northern communities among whom Islam is the dominant religion. Indeed, Muslim clerics of Imams and Shaykhs participate in resolving inheritance conflicts in the community under study. Sharing his experience in this regard, Shaykh M. Ismail[120], a Muslim cleric, has this to say:

> On intervening in the inheritance conflict between the father and his
> son, I met with each of them separately. Before this, I had interacted
> with other family members for more information on the matter. Through
> these meetings, I obtained the causes of the conflict. But as I tried to

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[120] O.S.I, interviewed on the 29th of August 2019.

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settle the matter, none of them compromised their positions. In the end, the matter ended in court and I condemned that on my minbar [sermon].

The current account not only describes the intervention of the cleric but also the processes he engaged in executing. The response presents a two-step resolution. In his attempt to address the conflict, the cleric met with the conflict parties and other members of the family for a better understanding of the issue. This gave him a clue about the reasons behind the conflict. This is in line with the position of Wolfe (2006) when he pointed to the collection of evidence and interview of witnesses as enabling the mediator to guide the parties to an amicable resolution (Wolfe, 2006). Although gathering background information about a conflict is believed to be an effective way of conflict resolution (Mensa-Bonsu and Effah, 2003), the cleric was not able to resolve the impasse. But considering the successes of some of the interventions discussed earlier, it appears that the reason behind his failure lies in the use of the intervention in isolation. It was not accompanied by auxiliary interventions. The result of a collective and many-sided effort could have been different. The response of Imam Ibn Idris [121] as noted below is evidence of the effectiveness of the multi-cleric intervention. He has this to say:

...he [an heir] asked me to intervene for the distribution of their estate, which had been locked up in our member's hand. So, with the help of a team of clerics and elders, I engaged our member, appealed to him and impressed upon him to allow for the distribution of the estate. We were able to deal with the issues at stake despite encountering some challenges at the initial stages.

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[121] Ibn Idris, interviewed on the 8th January 2020.

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The above response points out the clerical intervention. It also portrays the success achieved by their intervention. However, the phrase 'we…appealed to him…' shows the nature of their intervention. It has no exercise of authority over the member in question. This is in contrast to the role of the elders. Regardless of that, the intervention succeeded in persuading the member to release the estate for distribution. With the assistance of the personalities, unlike the preceding intervention, we find the efficacy of the role of the cleric in dealing with the matter. Therefore, the combined effort of intervention proves to be more useful than the isolated one. The ability of the clerics to bring in other parties to assist in resolving the conflict affirms their moral and religious propriety as well as their quality of interaction with members of their community as indicated by Hinkel and Traore (2020). Indeed, appealing to the intervention of the clerics and elders in the community by the conflict parties is an affirmation of the efficacy of Islam and its local authorities in shaping the tone of social interaction in the community (Hinkel and Traore, 2020, p. 413).

Muslim clerics use their expertise to intervene in inheritance conflict in both the private and public spaces. They mediate between conflict parties. They also use their public preaching to propagate adherence to the Islamic inheritance system as a solution to inheritance conflict. Their role in this regard converges with the existing scholarly perspective. The use of public preaching for this purpose affirms the role of clerics as agents of peace (Sulemana, 2009). It is also in tandem with the productive efforts of religious leaders in the restoration of peaceful relations between various groups of their community (Babalola & Onapajo, 2018; Yahaya, 2018, Awedoba, 2011).

The Muslim clerics are effective in conflict resolution among their members for the wisdom and rich experience they possess. Their connections and close proximity with the community and their knowledge of the nature of social interactions give them the leverage in this respect. According to Awedoba (2010), religious people acquire all the conflict resolution qualities out of the performance of their religious functions in society. All the interventions discussed above, as pointed out by Abu-Nimer (2001), affirmed the indispensability of kinship in the resolution of conflict in the Muslim community. They have all shown the place of social relationship in inheritance conflict resolution in the community.

Conclusion

The chapter examined the various strategies and efforts that the community makes to address the inheritance conflict. It pointed out the contributions of conflict parties, elders, Muslim clerics and pilgrimage as the key interventions in the community. It explained that not only did the personal qualities of the interveners were paramount to the exercise, but also social ties they shared with the inheritance conflict parties. The said interventions have had various degrees of success and failures in the resolution of the conflict. It was established that in situations where the interventions are used independent of the other strategies, they have failed to effectively address the situation. However, in situations where they have been used in conjunction with other auxiliary strategies, they succeeded in addressing the conflict to a very large degree. In view of this, it is argued that for the efficient resolution of the conflict in the community, the use of a multidimensional approach in this regard is

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inevitable. This would lead to more desirable results in the resolution of the conflict in the community.

The next chapter focuses on the connection between the findings and the theories as confirmed by the findings or otherwise. In doing so, it explains the inheritance conflict behavior in the community from those perspectives. It further looks at the shortcomings and contribution of the theories and perspectives to the study.

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CHAPTER SIX

WEAVING THE STRANDS: A THEORETICAL EXPOSITION OF

THE STUDY

Introduction

The preceding chapter examined the strategies and efforts various players and institutions of the community employed to address the conflict. It discussed the role of interpersonal and third-party in this regard. The chapter explained the intervention of these strategies in the resolution of the conflict is twofold: dependent and independent interventions. The dependent intervention is a situation where the strategy the community uses to settle the conflict makes recourse to elements of other resolution strategies for effective outcomes. On the other hand, independent intervention is the use of a strategy in isolation and without recourse to elements of other strategies as supporting ones in its operation. In the former case, the interventions have led to greater results in addressing the conflict. On the contrary, the latter has failed to deal with the situation. Given this state of affairs, the chapter argued that for the efficient resolution of the conflict in the community, the use of a multidimensional approach in this regard is inevitable.

The current chapter analyzes the data in light of the theories that underpin the study. It examines the extent to which the theoretical underpinnings and perspectives are in congruence with the findings or otherwise. In so doing, it seeks to explain the operation of inheritance and inheritance conflict behavior in the community from those perspectives. Not only this, but it also discusses the contribution of these theoretical perspectives

to the study. It also discusses the explanatory efficiencies and deficiencies of the theories regarding aspects of the study.

Application of the Theories in the Study

The primary task of theories is to provide guidance for studies and provide explanations for phenomena. Accordingly, the better theories are those that are more explanation of phenomena and human behavior (Shoemaker *et al*., 2011). In the preceding sections, the study pointed out the interactions between the Islamic and traditional systems in the community under study. Broadly speaking, the study portrayed the outcome of that interaction to be dominated by Islamic influence on the socio-cultural life of the people (Levtzion, 1968). Islam's influence on the festivals, marriage and naming ceremonies of the community is indelible. The festivals have become largely Islamic. In officiating lifecycle events in the community, Muslim clerics play a major role. They preside over the processes and recite sermons and blessing-seeking litanies to conduct the events. In the case of marriage, Arabic is the language of its sermon, known in Islamic circles as the sermon of need. The local version of the sermon under reference varies substantially from the original sermon in Islam. In the context of the naming ceremony, they recite the 'naming text' in the local language (Waali) (page 78).

Despite Islam's influence in this aspect, there exists a reverse influence of the traditional system on Islam too. Particularly, the people have influenced the content of the marriage sermon. The community has introduced into the sermon prayers for their aspirations and against their fears in marriage. This mutual influence, though tilted in Islam's favor, represents the nature of Islamic-traditional interaction in the African context. It also corroborates

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existing scholarly opinion, which portrays cultural mixing as one of the products of Islam's encounter with the African people (spice digest, 2009). Indeed, Jennings (1991, p. 1) indicates that the result of Islam's encounter with African people in many cases "…has been a syncretic combination of religions and cultures". The mixture of Islamic tradition with indigenous culture among the Waala people in some aspects is so deep that "…none of the two could maintain its original form" (Bin Salih, 2008, p. 313).

The study reconstructs the contact of Islam with the traditional space in three phases. Thus, Islam is either adopted in its original form (like the daily and occasional devotions), or inputs are made into the Islamic practice (like the local additions to the marriage sermon) (page 70) or a traditional practice is completely repealed or replaced with an Islamic one (like the content of the talismanic shield for pregnancy) (page 73). This is the nature and result of the contact between the two traditions. This corroborates the perspective of Rogers (2006). Rogers posits that "…the use of a culture's symbols, artifacts, genres …rituals, by members of another culture is inescapable when cultures come into contact…" (p. 1) with each other. Consequently, a blend of local culture with Islamic tradition emerged, producing a hybrid religio-cultural system in the community. While the syncretic merger causes a loss of an original texture for both the Islamic and indigenous traditions, it has conformed to the characteristics held responsible for the success of Islam in Africa (Owusu-Ansah, 1987; Abdul-Hamid, 2017). The interaction between the Islamic and the local culture in many aspects displays a peaceful mixing in the Waala Muslim community. In chapters two and three, the study mapped out the various systems of inheritance that operate in the community. These are Islamic and the

customary systems of inheritance. Notwithstanding sharing the idea of custodianship, the contention between the Islamic and indigenous systems lies in how each system applies it. The findings showed that the contention emerged from some heirs, elders and clerics, who connive to set aside the Islamic inheritance, despite professing Islam as their religion. Such applications have potential and real effects on some heirs. This state of affairs presents the operation of both systems on a parallel axis thereby causing friction in the community instead of harmony.

Competing Practices

The Islamic inheritance system (Qur'ān 4: 11-12) was enacted for the distribution of Muslims' estate. The Prophet applied it to distribute the estate of his companions to their legitimate heirs (Sunan Abū-Dawūd, Hadīth No.2885). His caliphs also did that after him. It is in line with this that Ibn Rushd (2006), Ibn Qudāmah (2005), Al-Qarrāfī (1994), Coulson (1971), Alma'amun (2010), Zuleika and Desinthya (2013) and Lim and Sait (2006) and many other scholars offered insights into the theoretical and practical application of the system in Islam.

The system and its application in the said generations uphold the primacy of the Qur'ānic heirs, *ashābul-furuūd*, over all other heirs. The presence of the *ashābul-furuūd* disinherits the substitute, secondary and all other distant heirs. The heirs so disinherited could get a portion of the estate only if the deceased, while alive, had bequeathed a portion of the estate to such people he may desire. This corroborates the position of At-Tabarī (d. 310/923CE), Az-Zajjāj (d.311/924CE), Az-Zamakhsharī (d. 528ah), Al-Qur'tubī (d.671ah) and Ibn Kathīr (d.774ah). It is also the view of many jurists

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including Ibn 'Abdil-Barr (d.463ah), Ibn Rushd (2006), Ibn Qudāmah (2005) and Al-Qarrāfī (1994) and many others.

The findings have also shown the role of the clerics in implementing the rules of the system in estate distribution in the community. In the same vein, clerics of the Muslim community apply the system in their distribution of the estate and the Waala are not an exception. The role of the local clerics in this respect converges with El-Badawi's (2019) construction of scriptural authority. This, according to him, is where clerics extrapolate teachings and guidance from their interpretation and study of scriptures for their communities. In their opinion on and practice of estate distribution in Islam as noted earlier, this category of clerics has extrapolated their inheritance teachings from their interpretation and study of the Islamic textual sources. They not only advocate for the use of Islamic inheritance system in the distribution of Muslims' estate, they also apply it in distributing it when they get the opportunity to do so.

Having said that, it has to be noted that the category of clerics who adhere to the application of the Islamic inheritance system is a relatively younger generation, who have had their initial clerical training from the local scene and further training from Egypt, Lebanon, Jordan, Lebanon and Saudi Arabia.

It has to be pointed out here that the principle of closer heirs precluding distant ones from inheriting in the Islamic system of inheritance in itself is an expression of the theory of deprivation. The relative deprivation theory postulates that people agitate and fight when they see a discrepancy between what they are entitled to and what they really get (Gur, 1970; Berkowitz, 1962). With this consequence, the application of the Islamic system of inheritance

deprives a section of heirs who, though not entitled to estate in Islamic law, feel entitled to the inheritance. As a result, a section of the heirs who feel deprived of their entitlement by the Islamic system resorts to the traditional inheritance system. They do this in order to circumvent the deprivation and privileges installed upon other heirs by the Islamic inheritance system. This also implies that a section of the clerical community loses control of their responsibility as they give in to the demands of such heirs. I have indicated on page 26 that based on unequal responsibility Islam assigns to male and female members of the Muslim family, the Islamic inheritance system (Qur'ān 4:11-12) gives unequal shares to males and females accordingly. Those who are given more responsibilities, the males, get more of the estate. This is to say that from whom much is expected, much is given. Therefore, while the relative deprivation theory is a secular one, it explains a social experience that is not limited to one context. It is applicable in the Muslim community too. Indeed, it appropriately explains the cause of dissonance between heirs on inheritance in the Waala Muslim community.

Contrary to the Islamic system of inheritance, therefore, some participants point to two procedures upon which the application of the traditional system hinges. It either commits the estate into the 'custody' of the elder son, brother of the deceased or distributes it. When it distributes the estate, as explained in page 92, the traditional system allocates to heirs in accordance with the number of the wives of the deceased. In fact, a custodian of the traditional system referred to the Islamic estate distribution as dissipation of estate rather than distribution. With such clerics distributing the estate in the name of the traditional system, Islam loses its seeming monopoly of the affairs

of the community in the area of inheritance. Pursuing estate or more of it within these parallel systems, therefore, brings the interest of the various heirs into conflict with each other. Indeed, according to Behr and Amelia (2009), when personal interest pursued by individuals comes into conflict with the interest of others, the emergence of conflict is inevitable.

Furthermore, in the traditional system, the male children of a widow get to have control over the portion allocated to the mixed group of heirs. This is because of the fact that the estate is not redistributed to give females their shares of it. Operated on a mother-widow basis, childless widows face the risk of missing out on the estate. Indeed, participants indicated that such widows of young age sometimes are asked to get married and move out of the family.

This situation is not peculiar to the community under study. Cooper (2010), making reference to this as a sub-Sahara African experience, poignantly indicates that upon the death of her husband, a childless widow faces the risk of losing her claims to the home she had lived in together with her late husband. This deprivation is one of the challenges associated with the application of the indigenous system of inheritance in the community. This was one of the situations that the intestate succession law (PNDC Law 111) was enacted to solve. It was enacted to grant inheritance to widows when their husbands die intestate. It also sought to deal with manipulations of family members (Gedzi, 2014) and bring equity in the inheritance regime of spouses (Assanful, 2017).

The irony is that it is also a section of clerics who lead the application of the traditional system in the community. Their role in this regard is an expression of a 'clerical authority'. According to El-Badawi (2019), clerical authority points to the religious power and ability conferred on individuals to

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regulate the practices and policies in society. In the case in question, such clerics use their power to apply the traditional system in the community in contrast to the Islamic inheritance system. These are largely the locally trained scholars. While the responses accused them of conspiracy to set aside the Islamic law and deny legitimate heirs of their right, the training such clerics have received from the community appears to be having an effect on them. Again, because they are also of the older generation, that also makes them susceptible to maintaining local norms of the old.

Moreover, according to Abdul-Hamid (2017), the influence of clerics in the Muslim community is so strong to the extent that Muslims accept their rulings on religious matters even when such rulings contravene clear textual evidence of Islam. This state of affairs is what is at play here. The cleric's distribution of the estate along the traditional line has revealed their power as agents of cultural syncretism in the Waala Muslim community. The subscription to and application of the traditional system on estate distribution also affirms the people's cultural hybridity. It points to the fact that being Muslims, clerics or laity, has not led to a complete abandonment of indigenous cultural norms of the community. Jennings (1991) describes this as a general characteristic of the African experience of Islam. The use of their 'clerical authority' has not gone without questioning. Some heirs have accused clerics of conspiring with elders and leading heirs to allocate estate to wrongful people. This accusation of conspiracy theory may seem to protect an interest of a group and escape blame. Indeed, Douglas, Sutton & Cichocka (2017) suggest the desire to maintain a positive image of oneself and the in-group is one of the motivations of accusing others of the conspiracy tag. This is because of the fact

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that accusing others of conspiracy valorizes the self and the in-group and allows blame for negative outcomes to be assigned to others. It presents the self and in-group as competent and moral, which is obstructed by powerful and unscrupulous others. While this can be true in some contexts, it is not the case that pertains in the current context.

The charge of conspiracy here is noticeably well grounded. On the one hand, the imposition of the traditional system on the estate distribution supports the accusation. On the other hand, allocating estate to distant relatives in the name of tradition supports it. Since such people are not qualified to inherit either in Islam or indigenous tradition, it also leads to another form of deprivation. This makes the emergence of conflict inevitable amongst the heirs.

The analysis of the situation reveals that the greed for estate or more of it is the motivation behind the appeal to the traditional system of inheritance. This is not entirely a novel experience. It is comparable to the challenge that faced the nascent Muslim community in terms of Islamic inheritance. I have established in chapter one that even though Islam adopted some elements of the traditional system (Coulson, 1971), there was still a challenge. Because some members of the nascent Muslim community could not come to terms with the new inheritance reforms Islam had introduced. According to ʿAbd al ʿAtī (1982), these reforms introduced were "…so fundamental that it caused resentment and dismay, even among some Muslims" (p.252). The resentment and tension were not a result of protest to the enactment of the system per se. It was rather due to the loss of the quantum of the estate they had hitherto enjoyed in the customary arrangement. Therefore, the abandonment of the Islamic system by some local Muslims has not much to do with adherence to the

religious faith. It largely has more to do with the degree of deprivation such heirs stand to the experience of the estate. The common denominator lies in both systems having the potential and real power to deprive inheritors of their desired quantum of inheritance. In the Wa Muslim community, therefore, like the historical times, both the Islamic and customary system of inheritance have caused dissatisfaction and resentment among various heirs whose shares depreciate with the application of one system or the other.

Concisely, therefore, the situation as in the community conforms to the situation that pertained in the Islamic historical past. Therefore, the conspiracy pointed out above is largely to avoid the effects of the operation on a particular group of people. In addition to these systems, other factors, including interference and incompatibility of goals, contribute to inheritance conflict in the community.

Interference and Incompatible Interest

Respondents identified various strategies of estate annexations that take before its distribution as a presage of inheritance conflict in the community. The claim of the estate in the name of gift by heirs from the deceased prior to their demise is reported as one of the estate annexation strategies in the community. Yes, the property right theory argues for the freedom of individuals to transfer, during their lifetime, property to people of their choice including their heirs (Assanful, 2017; Bell & Parchomovsky, 2005). However, the individual who claims such rights must back their claim with evidence. Without the production of Islamic and traditional evidence, such claims carry the quality and tag of weak and dubious authenticity. The annexation and its corresponding resistance

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constitute cross-interference and incompatibility between the goals of the heirs. This is a trigger of conflict in society (Wilmot and Hocker, 2001).

Similarly, competition for control of resources and rivalry in polygynous homes, though remote, constitute another ground for inheritance conflict. For instance, as an indirect trigger of the conflict, some respondents recalled their resistance to and fight against their stepmothers and control of the children of such stepmothers of their fathers' property during his lifetime transitioned into the conflict. Such attempts to control and corresponding resistance to and fights by heirs, as recalled, over their late father's property continued into the postmortem period. Fighting to control or to prevent another family member from controlling, in either pre mortem or post mortem period, is a manifestation of incompatibility and competition for limited resources among the family members. It mirrors the competition that had existed between the heirs for the estates. This validates the position of Wilmot and Hocker (2001) who see the presence of competition and incompatible goals as a trigger of conflict in society.

Furthermore, the refusal of a son to sponsor his stepmother's pilgrimage as demanded by his father also corroborates the issue of incompatible goals as a cause of conflict in society as espoused by Wilmot and Hocker (2001). Explaining the case in question, participants indicated that the disagreement with the father triggered a ground for resentment and hostility in the family, which resulted in inheritance conflict upon the demise of the father (page 136). In this case, the incompatibility between father and son lasted in the family and even beyond the lifetime of the father. On their part too, in consonance with the state of affairs herein, Clingingsmith *et al*. (2006) hinge the inevitable outbreak

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of conflict in the family on the presence of opposing and incompatible needs among members. Accordingly, disagreements and conflict become inevitable as long as people pursue conflicting interests in society (Otite, 1999 as cited by Ibrahim *et al*., 2019). The existing conflict in the family as a result of incompatibility and interference from other members spills over into inheritance conflict.

The attempt of stepmothers and their children to control on one hand, and the corresponding resistance indicated above on the other hand is a clear case of incompatibility and interference. This also exposes the existence of competition for scarce and limited resources, including inheritance, especially in polygynous settings. Accordingly, the impact of such a situation is that it transitions and reinvigorates the hostilities into the inheritance period. Indeed, according to Ihinger (1975) and Sussman *et a*l. (1970 as cited by Anderson *et al*., 1979), competition for limited resources is responsible for the tension over inheritance properties between children of different mothers and step relations. In such a situation, as Hall (1997) alludes, the family becomes polarized to an extent that members consider each other as opponents of binary extremes. Therefore, despite the fact that these rivalries predate the period of allocating inheritance resources to the various heirs, they constitute grievances that affect the inheritance situation in the community.

Relative Deprivation and Frustration-Aggression

As indicated earlier, the relative deprivation theory postulates that people rebel and fight when they see a discrepancy between what they are entitled to and what they really get (Gur, 1970; Berkowitz, 1962). There are various manifestations of deprivation in the inheritance regime in the

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community. For instance, the admission of many inheritors into its operations, as alluded to earlier, plots the indigenous system on the relative deprivation axis. Not only is it opposed to the Islamic system. The traditional inheritance regime is also applied to inherit people outside the network of heirs. In contrast, limiting inheritors to the primary heirs also brings the Islamic system along the line of relative deprivation. In Islamic law, heirs who are closer to the deceased preclude and disinherit their distant counterparts (Almamun, 2010; Abdallah, 2005; Coulson, 1971).

In the case of the former, the expansion of the network of heirs reduces the quantum of shares of legitimate heirs and thereby causes them deprivation. Such deprived heirs, therefore, realize that what they get due to the increase in the number of heirs in the traditional system is less than what they would have gotten in the Islamic system of inheritance. In the case of the latter, because it considers heirs on their individual merits and disinherits distant relatives, such heirs also see a deprivation in the Islamic system of inheritance. It is in avoidance of the impact of the Islamic system that both secondary and some *ashābul-furūd*, especially children who are fewer in number belonging to a wife or widow, would take refuge in the traditional system. With the help of the traditional agents, they also try to avoid the application of the Islamic system on their estate. This is to prevent the large chunk of the estate going to the widow with many children of the deceased. This is a struggle between two groups to achieve peculiar and irreconcilable inheritance goals. Therefore, each party stands to lose a quantum of estate by the achievement of the other. Accordingly, it corroborates the description of conflict as a situation where two

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or more social entities notice that they have mutually incompatible goals (Abdalla, 2002; Brush, 1996).

With each group considering the other as impediments to their expectations of inheritance, they get frustrated by that. Thus, they react to this situation with aggression against the thwarting agent or source as a result of the relative deprivation experienced (Berkowitz, 1962). This is the component of the frustration-aggression hypothesis.

In the same context, the committing of the estate into the hands of uncles and elder brothers by the traditional system leads to estate appropriation at the expense of legitimate heirs. This leads to conflict because of the desire of the heirs to inherit their property as opposed to the resistance of the custodians. Embedded in such an appropriation of the estate is the feeling of entitlement by the custodians, which is a legacy of the collective-acquired property that was in operation in the community in the past. While this is contrary to the Islamic inheritance law, it is in consonance with the practice in other African contexts. According to Cooper (2010) although children in patrilineal culture inherit their fathers' property, a brother of the deceased can be transferred to a property of his late brother. This prevents the devolution of property or diminishes its transfer from the deceased to his children.

In the community, participants indicated that attempts by heirs to get their right of such estate ignites conflicts between them and their uncles, the holders, and heads of family. The conflict here emanates from the interference caused by the appropriators of the estate. This triggers frustration-aggression response from the thwarted and agitated heirs. Heirs consider this practice as inimical to their plight and therefore resist it (page157).This state of affairs

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between the two groups is hinged on incompatibility of goals (Mitchell, 2002), struggle for scarce resources and interference from others in goals achievement (Wilmot and Hocker, 2001), differences in individual needs and interest and interference in each other's goal accomplishment (Donohue and Kolt, 1992).

Implicit in relative deprivation is the issue of fairness. With this state of affairs at play, the study does not only corroborate the relative deprivation postulations. It also exposes how people conceptualize fairness and justice. Indeed, Anderson *et al*. (1979) argue that fairness is something that "can be determined on many different bases, [as] there may be many competing interpretations on what is fair" (p.337). Of course, respondents indicated that in the sight of the appropriator, who is either an uncle, or an elder brother, it is not fair for them not to be apportioned estate of their deceased relative. However, in the eyes of the children of the deceased, it is not fair for such people to deny them the estate. It all boils down to deprivation. This relative nature of the interpretations of fairness and justice in the inheritance situation is a basis of manifesting aggression against depriving agents, especially elders of the family who work out such arrangements. Whilst Islam also recognizes custodianship of the estate, it does so in the case of immature heirs (Q: 4:6). Islam does not allow its exercise over the estate of mature heirs, contrary to the traditional practice.

With these discussions, therefore, we find alignments between the theories and the data. The theoretical components of competing for limited resources, being deprived of resources and intervening impediments are the primary axis upon which the relative deprivation and frustration-aggression theories operate. In the data too, the competition for inheritance resources,

feeling deprived of an expected inheritance or quantum and desired property and getting impeded by other heirs are some of the components the inheritance conflict situations share with the theories. These issues bring the findings into alignment and congruity with the theories. The inability of heirs to obtain some estates to the exclusion of their rival heirs causes the fomer to express feelings of unfair deprivation of their right. It is such a frustrating situation that Berkowitz presents as a trigger of aggression against the agent of deprivation. In other words, people who are believed to be the impediments to and cause of deprivation of the attainment of the desired inheritance property become targets of aggression.

In view of the assertion above, the relative deprivation elements resident in the application of the traditional and Islamic system of inheritance breeds frustration-aggression against inheritance opponents in the community. Thus, the finding on the attack of a witness perceived as defaulting to attest for one's right to inherit an expected property is a manifestation of the postulation of relative deprivation and frustration-aggression. Also, the capture of a large chunk or bulk of the estate prior to its distribution is another piece expressing the manifestation of the relative deprivation and frustration-aggression theories.

Respondents' reports on the holding of opponents and choking them by their neck, wrestling, causing injuries and brawls are behaviors of aggression emanating from the situation. Others like, forced evictions, destruction of opponents' property and lack of greetings in the community are also consequential behaviors that further connect the findings to the postulations of relative deprivation and frustration-aggression postulations. The findings here affirm the connection between the relative deprivation and the frustration

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hypotheses. As Berkowitz alludes, relative deprivation explains the locus from which frustration-aggression emanates. Therefore, while relative deprivation is a major trigger of inheritance conflict, embedded in it is the expression of frustration-aggression postulation. This is to say that the feeling of being relatively deprived of inheritance resources or particular estate brings about frustration-aggression. The disinheritance of some inheritors in the community, as the Islamic system does, constitutes deprivation.

On the other hand, the expansion of the network of heirs, as in the case of the indigenous system, overcrowds the estate with many heirs. Hence, it diminishes the shares of the heirs of the Islamic system. These components of deprivations are some of the nexuses that explain the rationale behind the various manifestations of inheritance conflict in the community. The display of overt aggression from inheritors towards one another in this direction validates the position of Gasfari et al. Gasfari et al., (n.d) indicate that the nature of family conflict manifests in psychological or emotional acts of teasing, ridiculing, insulting and threatening of the other family members. Indeed, the insults and issuance of threats of evictions to opponents directly and in absentia, as found in the community (page 158), are also forms of verbal aggression (Straus, 1979 cited by Stets, 1990) that are manifested against opponents as a result of feelings of deprivation. Thus, these forms of verbal aggression in the community are also in congruence with the theories that underpin the study. It is in line with this that Sabet (1998:8) reports Lerner (1981) to have succinctly pointed out that the "…reaction to a perceived discrepancy between entitlements and benefits" remains a strong risk factor in the emergence of conflict in its various forms in society.

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It is worth noting that the findings not only intersect with the existing secular perspectives on conflict but it also intersects with the Islamic conflict perspectives of *Ikhtilāf* and *shiqāq*. The *Ikhtilāf* phenomenon constructs conflict in such terms as taking a different position, course of opinion, utterance, or action different from that of another person (Cowan, 1960; Adam, 2014). Expressed in this manner, the response concerning the mild stage of the conflict, as in the lack of greetings and avoidance of contact or communication with opponents, is a manifestation of inheritance conflict behavior that is affiliated with the *Ikhtilāf* phenomenon.

Given that the *Ikhtilāf* connotation of conflict is mild, it generally tends to be latently expressed in the breakdown of communication with the opponents as indicated above. This latency of the *Ikhtilāf*-based conflict is in consonance with one of the two constructs of the nature of conflict proposed by Donohue and Kolt (1992). They categorize conflict behavior into latent and overt ones. The violent aspect of inheritance conflict in the community, however, conflates with the *shiqāq* vocabulary of conflict in Islam. The *shiqāq*, which means to break apart violently, is depicted as the violent type of conflict (Cowan, 1960). In the *shiqāq* form of conflict, like its secular counterparts, the only concern of the participants is to get the better part of the opponent (Cowan, 1960; Adam, 2014). Of course, when conflicts break out of competition for scarce resources, participants seek to get the upper hand over their competitors and even seek to cause them harm and injury (Kendie et al., 2014; Onigun Otite & Albert, 2001 cited by Ajayi & Buhari, 2014). The *Ikhtilāf* and *shiqāq* divide of inheritance conflict, together with their cognate theories of relative deprivation and the

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consequential aggressions, are confronted with various interventions, which also intersect with various resolution perspectives as portrayed below.

Interventions of Resolution

According to Miller (2003), conflict resolution is a process that looks for a solution to the basic incompatibilities between the conflict parties in a manner that engenders their satisfaction. It can be attained by identifying and addressing the causes that are behind it (Mensa-Bonsu and Effah, 2003) as well as designing solutions through a cooperative approach that is focused on both parties and maintaining long term relationships between them (Yahaya, 2018; Miall *et al*., 2001). Noted for upholding in high esteem family and community ties, the African resolution strategy pays particular attention to restoring these ties between members of the society (Brock Utne, 2001, cited by Burnet and Mandefro, 2018). Therefore, the objective of conflict resolution in the African context is to "mend the broken or damaged relationship, and rectify wrongs, and restore justice" (Brock-Utne, 2001, cited Burnet and Mandefro, 2018).

As a matter of duty, Islam too lays emphasis and proffers measures on its adherents to reconcile and deal with conflict situations in the Muslim community. The Qur'ān states:

If two groups of believers fight each other, reconcile between them. But if one group aggresses against the other, fight the aggressing group until it complies with God's command. Once it has complied, reconcile between them with justice, and be equitable. God loves the equitable (Q.49:9).

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Also, in promoting resolution within the family, Islam encourages amicable settlement of conflict among couples. The Qur'ān states:

If a wife fears cruelty or desertion on her husband's part, there is no blame on them if they arrange an amicable settlement between themselves; and such settlement is best; even though men's souls are swayed by greed. But if ye do good and practise self-restraint, Allah is well-acquainted with all that ye do (Q.4:128).

The emphasis here is on the interpersonal level of resolution, referred to as negotiation. It is where the conflict parties try to resolve their conflict directly without intermediaries (Bello and Adewale, 2016). Accordingly, respondents pointed to instances where inheritance conflict parties try to restore their relationship with their opponents. Participants pointed out the intention to embark upon the pilgrimage as a factor that persuades imminent pilgrims to initiate the process of resolution with their adversaries. They approach their rivals to make peace with them before the journey. This corroborates the finding of Kremer et al., (2008). Among other benefits, Kremer and his colleagues found pilgrimage as a promoter of the sense of unity and peace among Pakistani pilgrims. While using pilgrimage in this regard may portray a local Waala experience, pilgrmage's component of forgiveness is universally applicable. Because, forgiveness, in the words of Ettang and Ogunnubi (2018), is a universal resolution facility.

Notwithstanding the universal application of forgiveness in resolution, its activation in the particular case of making the intention for pilgrimage is a unique combination in resolving inheritance conflict in the community. In fact, Abu-Nimer and Nasser (2013) describe forgiveness as a virtuous strategy for

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conflict resolution in Islam. According to them, however, there is a challenge associated with its application in some situations. In their study, they found victims of conflicts demanding justice rather than opting to forgive their opponents. The situation in the referent community resonates with this finding by Abu-Nimer and Nasser (2013). Participants pointed to the existence of the two scenarios in the community. It was realized that some victims of inheritance conflict have readily forgiven their offenders when they were asked to do so. There was also the insistence on compensation by some victims for the loss they experienced in the course of inheritance conflict. The latter was a situation where victims insisted on the repair or restoration of their lost material as a condition precedent for reconciling with their opponents (page 187). Notably, these positions (forgiveness and compensation) resonate with the dual character of the finding of Abu-Nimer and Nasser. In the process of resolution, Abu-Nimer and Nasser argue that in the process of resolution, interveners can seek justice for victims and forgiveness for offenders concurrently. Contra-wise, the latter findings corroborate the position of the literature, which argues for the possibility of achieving justice and forgiveness at the same time. Ettang and Ogunnubi (2018) also argue that forgiveness takes place only after the victim has attained justice and the offender admitting his wrong. In line with this, Mani (2005) also indicates that the objective of rectification and justice is to address an abuse caused by conflict and set an unjust situation aright.

Given these submissions on the possibility of the coexistence of the two (forgiveness and compensation), the insistence on justice or compensation by some victims is not a contradiction. They can forgive their opponents after obtaining justice and compensation. Therefore, justice in this context is to be

sought before forgiveness. Moreover, based on individual peculiar experiences between the victims, one understands why they displayed different attitudes towards their offenders. In the case where the victim has forgiven the offenders without hesitation, one realizes that the former did not complain about experiencing and suffering any losses at the hand of the prospective pilgrim, the offender. With no losses, therefore to complain about, it becomes easy for such a victim to forgive the rival. On the contrary, in the case of the victims being reluctant to forgive the offender until justice is done, there was a complaint about some harm and loss experienced at the hand of the offender. Thus, both positions hinged upon different experiences members go through at the hands of their rivals. It is in the light of this that Mensa-Bonsu and Effah (2003) emphasizes the need to address the root causes of conflict in the course and pursuit of resolution.

Beyond the interpersonal strategy of negotiation, the role of third parties in the resolution of inheritance conflict also came up. Pointing out their role, respondents mentioned the role of Muslim clerics in the public and private domains. In the public domain, the clerics use their public preaching to propagate the Islamic inheritance as the solution to inheritance conflict. In the private domain, they also mediate to resolve inheritance conflicts between rival heirs. This function of the clerics portrays two assertions. It affirms the clerics as agents of peace in the Muslim community (Sulemana, 2009). On the other hand, it echoes the productive nature of the intervention of religious leaders in the restoration of peaceful relations between various groups of their community (Babalola and Onapajo, 2018; Yahaya, 2018, Awedoba, 2011). The usefulness of the role of the religious community in general and the Muslim clerics, in

particular, is due to their wisdom and the rich experience they possess. This is due to their close proximity to the community and their knowledge of the nature of social interactions. They acquire all of this in the course of performing their religious functions in society (Awedoba, 2010). Thus, personal and social qualities count greatly in this direction. In this vein, Hinkel and Traore (2020) add the moral standing and relationship between the clerics and their society as reasons for the effectiveness of their role. They state:

> [t]heir ability to act across … interfaces is derived from their organic ties to, and moral legitimacy with, a cross-cutting matrix of ethnic and social groups that often find themselves in conflict with each other, yet nonetheless mutually acknowledge the moral power of Islam, and its local authorities, to set the terms of social interaction (p. 413).

Indeed, the success of the clerical intervention in inheritance conflict in the community is not only based on their religious propriety but also on how they present themselves and relate with members of the community. It is in the light of the qualities outlined by Hinkel and Traore (2020) that the clerics ably attend to inheritance conflict among members of the Muslim community.

Furthermore, gerontocracy, the rule of elders, is another third-party intervention strategy used in inheritance conflict resolution in the community. As responsible for the social wellbeing of members of their family and community, elders try to ensure that peace prevails among their peoples (Yahaya, 2018; Mbagwu, 2015). In consonance with Ajayi's and Buhari's (2014) description, respondents portrayed the role of elders in inheritance conflict resolution as adjudicatory in nature. This adjudicatory nature has a semblance of the court system and therefore is in tune with the view expressed

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by Al-Qass (1989), Al-Khassaf (1978) and Al-Māwardī (1971) all in their works dubbed *Adabul-Qādī*. The binding nature of the outcome is a common feature shared by both proceedings. However, while proper adjudication is binding in the law court, enforcement of the directives of gerontocracy is community based.

Respondents pointed out elders summoning the conflict parties with their witnesses before them (elders) in a sitting for settlement. At the end of the interrogation, the elders passed their ruling. While asking the guilty parties to render an apology to their opponents, the elders asked the victims too to forgive. Finally, they also instructed the conflict parties to stop expressing sentiments of the conflict in the public domain or face sanctions. This also affirms the perspective of Yahaya (2018) when he portrays the practice of gerontocracy as one that makes offenders render an apology to their victims. It also makes the victim accept the apology of the offender in order to be able to navigate a true reconciliation.

As pointed out above, respondents pointed to coercing by a threat of sanctions as a component of the resolution strategy of gerontocracy in the community. This corroborates the existing scholarly perspective of the practice as Ajayi and Buhari (2014) depict elders' intervention as authoritative in nature. This coercive quality of their intervention sets gerontocracy apart from the western mediator. In the western domain, the mediator presides only over the process and does not have substantial power or authority over the parties (Wilmot and Hocker, 2001). It, however, agrees with the Islamic resolution paradigm. In the Islamic scheme, mediators can exercise their power over disputants. In that context, the authority to resolve a conflict is typically

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surrendered to the third-party (Abu-Nimer, 1996). Islam admonishes the Muslim community to compel the recalcitrant to peace (Q.49:9). In this vein, Az-Zamakhsharī (1995: 4) and Ibn Kathīr (1998: 7) maintain that refusal of a party or parties to heed to resolution constitutes a reasonable ground for the entire community to fight and compel it to peace. Thus, the intervention of gerontocracy reflects the position of Ahmad and Abdul Hak (2010) and Abu-Nimer (1996). They describe the Muslim community's intervention as a directive in nature, where the actors impose their choices on the conflict participants. In its prescription of the coercive resolution, however, Islam is silent on the specific ways or steps by which the Muslim community could exercise such a coercive power on the recalcitrant. In the case of gerontocracy, however, as happened in the community, it invokes a specific social element of withdrawal from all life-cycle activities to compel the recalcitrant to heed to resolution. This is to suggest that in the community the traditional strategy of resolution brings specificity to bear on the Islamic open prescription of the coercing of the recalcitrant.

In the same context, participants have pointed to cousins as some of the agents of inheritance conflict resolution in the community. They make their intervention through the instrumentality and activation of their joking relationship with the relevant conflict parties. This cousins' intervention echoes various scholarly assertions. It affirms Burnet's and Mandefro's (2018) postulation of its prudence on the restoration of family and social relationships. The usefulness of the joking strategy in the community further verifies Yahaya's (2018) and Awedoba's (2011) construction of it as an effective instrument in the resolution of small-scale conflicts. As a unique indigenous

resolution strategy in its emphasis on the restoration of family and social relationships, cousin-joking intervention portrays the vitality of the role of social ties in conflict resolution.

Given its activation of social relations in the resolution of the conflict, cousin-joking relations mutate with the Islamic value of mutual knowledge as a resolution strategy in society. In Islam, humans were created into different groups of people so that they know one another (Q: 49:13). This 'knowledge of one another' hinges on the relationship that promotes social interaction. It is the value that a cousin joking relationship is established when it promotes peaceful coexistence among inheritance conflict parties in the community. Indeed, respondents pointed to its efficacy in reducing tension between the parties. Respondents also portrayed it as a strategy that has reestablished communication between the conflict parties to dialogue and resolve their differences. Invoked to settle inheritance conflict, joking relationship, as Brewoo and Abdallah (2015) indicate, also fulfills its character as a useful resolution strategy in African society. Indeed, Bin Salih (2008) intimates that when it comes to conflict resolution in the community, cousin relations serve as "avenues for mature reflection, dialogue, and consensus-building" (p.32) among the conflicting parties.

With these discussions, it is realized that the role of the elders, Shaykhs, and cousins is crucial to inheritance conflict resolution. This is due to their personal qualities and the close connections they have with the conflict parties and various segments of society. Therefore, one of the common denominators that bind the interventions of these actors is the existence of kinship ties

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between them and the conflict parties. On the other hand, they share the Islamic modes of resolution, even the indigenous ones.

The characteristics of the interventions are persuasion, forgiveness and coercion and compensation or justice. The presence of social relationships in the current resolution strategies distinguishes them from the secular proposition of resolution. The secular intervention dismisses relationships from the scheme of operation (Wilmot and Hocker, 2001). With the strong respect for social ties in the community in reference (Bin Salih, 2008), the presence of kinship ties in the above resolution strategies makes them fitting and more suitable for application in the community. With that apart, the theories and perspectives have contributed to the study in many ways.

Contributions of the Theories to the Study

The theories adopted have contributed to the study from two main areas. Theoretically, the scholarly perspectives have helped tease out the domains of Islamic-Indigenous interactions in the community. They have also helped explain how the traditional and Islamic systems have merged in those domains to form one whole culture. The theories also helped sharpen our knowledge and understanding about the syncretic outcome of the said encounter in the community. This also aided in teasing out the areas where the local experience converges with or diverges from the theoretical perspectives. Out of this, the theoretical perspectives have contributed to the exposition of the nature of the relationship that exists between the Islamic and the traditional inheritance regimes in the community. In line with the perspectives, the study depicts the Indigenous-Islamic encounter as one of accommodation, appropriation and replacement or repeal.

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From the behavioral point of view, the relative deprivation and frustration-aggression theories have aided with the interpretation of the causes, nature and effects of inheritance conflicts in the community. On the one hand, the theories have adequately helped explain the inequalities in the systems of inheritance. On the other hand, they also helped with the understanding of how such inequalities trigger conflict and its associated consequences in the community. In this regard, they contributed to the study by highlighting the role of socio-economic inequalities at play in the conflict situation. Therefore, as long as there is inequality or the perception of it in the allocation of inheritance resources, conflict is inevitable.

In the same vein, the Islamic conflict perspectives of *Ikhtilāf* (disagreement) and *shiqāq* have also contributed to the study. Like their secular counterparts, the *Ikhtilāf* and *shiqāq* contributed to the portrayal and construction of the degree of severity or overt or covert nature of the conflict that broke out. Hence, they helped the study explain how parties, out of these types, negotiate their inheritance conflict in the area of the study.

From the resolution point of view, the theoretical perspectives have also given an insight into the activities of the interveners. They accounted for how religious personnel and institutions, the traditional strategies and prominent members of the society prudently helped in addressing the conflict in the community. In doing so, they expose the extent to which the personal and social qualities of the interveners contribute to the resolution of the conflict. It, therefore, helped gauge what propels them as effective means of suppressing aggression between members of the community. This is also helpful in predicting the fact that the personal and social capital of interveners contributes

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to the efficacy of their resolution. It has to be pointed out that, despite their contribution to the study in the stated aspects, the theories and perspectives were also deficient in other areas of the study.

Theoretical Deficiencies and Limitations

Scholars explain that the outcome of the encounter between the indigenous and Islamic traditions is that of accommodation in the form of syncretism and mixing (spice digest, 2009; Bin Salih, 2008; Jennings, 1991). In view of this, each of them is inescapably appropriative of elements and practices of the other (Rogers, 2016). One could also completely replace a practice of the other (chapter two). While this is true about the situation of the two traditions in many respects, it does not adequately explain the nature of the relationship between the two traditions in the area of inheritance. The findings illustrate that the outcome of the contact between the Islamic and traditional systems in the area of inheritance is that of competition and conflict. This situation in turn plays its tentacles out in how members of the community negotiate their inheritance relations in the community.

In the same vein, while explaining the existing inequalities and their role in the conflict, the relative derivation and frustration-aggression theories have not been sufficient enough to explain the equal shares apportioned to some heirs by the Islamic system of inheritance (Q:11-12). Both the relative deprivation and frustration-aggression theories also lack the explanatory power for funeral expenses as an Islamic ideal, which strictly deals with expenses regarding shrouding, grave digging, conveying the corpse and all such things that concern the burial of the body (Khan, 1989). However, the agitations expressed by heirs against the depletion of their estate on the 3rd, 7th, 12th, 40th days up to one

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year of elaborate funeral rites have the effect of deprivation and therefore have an adequate and reasonable explanation in the theories. The performance of these rites causes a reduction in the shares of heirs and are, therefore, explainable by the theories in this regard.

From the resolution point of view, scholars like Abu-Nimer and Nasser (2013), Awedoba (2011), Aida (2005), Rashid (2004) and Abu-Nimer (2001, 1996) have pointed to the vitality of religious and indigenous actors in conflict resolution. While this is true in some instances, it is not the case in other instances. The intervention of some religious and indigenous actors proved futile to address some incidence of inheritance conflict in the community. This failure is, however, due to two things. They failed to pay attention to and address the root causes of the conflict. On the other hand, their exclusion of other stakeholders and strategies is partly responsible for the identified deficiency. The findings illustrate that where each of the clerics, elders and religious institutions, like candidature to pilgrimage and forgiveness has gone solo, they failed to resolve the inheritance conflict in the community. In other words, the effectiveness of the interventions lies within their collective usage rather than their individual efficacy. Therefore, the intervention that pieces together a collection of socio-cultural relationships and elements of others has the highest rate of success in resolving inheritance conflicts in the community. Hence, the effective contribution of the elders, Shaykhs and cousins towards the successful resolution of inheritance conflict is not based only on their individual efficacy or socio-personal qualities. It is also based on their combined efforts with auxiliary strategies in addressing the conflict.

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Conclusion

The chapter has discussed the synergies between the findings, perspectives, and theories that underpinned the study. The theories, though not necessarily Islamic, explain a common human social experience and behavior that is applicable in other contexts, including the Muslim community. The explanation of the cause of dissonance between heirs in the Waala Muslim community makes the application of the theory appropriate for the study. With this, the chapter has negotiated between the findings and the theories, exposing the contours with which the two find rapprochement with each other. This has led to the exposure of the explanatory efficiencies and deficiencies of the theories for the pieces of the study. While the scholarly perspectives have enriched the discussions on the Islamic and traditional inheritance perspectives, frustration-aggression and relative deprivation theories have helped with the understanding and interpretation of the behavioral aspects of the conflict situation in the community. In so doing, the chapter teased out the role of the scholarly perspectives in constructing the nature of the interaction that has been going on and still goes on between the Islamic and traditional sphere. It explored where the local experience converges with or diverges from the theoretical perspectives. It constructs the outcome of the Indigenous-Islamic interaction as that of accommodation, appropriation and replacement or repeal of various degrees. In view of this, the chapter explains that both traditions borrow from each other.

Furthermore, despite agreeing with the perspective of mixing and intercourse between the two traditions, the chapter portrayed a relationship of a different kind in the area of inheritance. It depicts the nature of their relationship

as that of contention and conflict in the area of inheritance. The chapter also explained the efficiencies of the theories as well as their deficiencies in contributing to the understanding the interpretation of the various segments of the study. The theories have helped understand and explain the existing deprivations and inequalities that underlie the conflict situation in the community. They have equally assisted with the exposition of the consequence that naturally manifests the effects of the conflict in the community. Whilst agreeing with early opinions on the efficacy of the socio-personal qualities of interveners in the resolution of the conflict, the chapter pointed out the incidence of failure in this regard. It attributes such incidences of failure to the overreliance on the strength of individual interventions and without attention to root causes. The chapter, therefore, contends that as remote and immediate grievances conspire to cause inheritance conflict; it is the same way that the collection of sociocultural elements congregate together to manage the conflict. The chapter further argues that the participation of the Muslim clerics in the operation of different systems of inheritance has to do with generational and orientational contestations, which in turn play a part in the inheritance conflict situation in the community.

The next chapter sums up the study by summarizing it, pointing out its major findings, drawing conclusions and offering recommendations. It also shows the areas that further research could explore in this regard.

CHAPTER SEVEN

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

Introduction

The preceding chapter focused on the theoretical exposition of the work. It weaved between the data and the theories, which underpinned the study. It also looked at the areas in which the findings and theories find rapprochement with each other. This has led to the exposure of the linkages and disconnections between the theoretical and practical pieces of the study. The chapter explained that whilst the scholarly perspectives have aided the discussion on the traditional and Islamic inheritance perspectives, frustration-aggression and relative deprivation theories have helped with the understanding and interpretation of the inheritance conflict situation in the community. In doing so, the chapter argued that a combination of remote and immediate grievances, which are socio-economic in nature, caused the conflict. Similarly, it portrayed integrated interventions as more effective in addressing the conflict in the community than the isolated ones. The chapter further argued that despite the fact that the theories underpinning the study have helped with the explanation of inheritance conflict in the study, they lack the explanatory power for the dimension of equality for some segments of the findings.

The current chapter brings the study to an end by summarizing the various chapters and the major findings on the subject matter. It also provides a conclusion for the study. Finally, the chapter offers recommendations for addressing the issues that contribute to the development of the phenomenon in the area of the study.

Summary of the Study

The study examined factors that are responsible for inheritance conflict and the various interventions that are carried out to address such a conflict in the Wa Muslim community. To achieve this objective, the study used the phenomenological design of the qualitative inquiry, underpinned by the frustration-aggression and relative deprivation theories. This inquiry has been done in seven chapters. The current chapter, as indicated above, is the concluding part of the study. This section summarizes the various chapters.

Chapter one provided an introduction to the study. It looked at the background to the study, statement of the problem, the significance of the study, literature review and methodology. With this, the study situated the phenomenon within the pertinent issues that have a bearing on and give guidance to engaging the subject matter.

Chapter two examined the social context of the study with the objective of understanding the contours on which the Islamic and local traditions interact and their mutual influence. In doing so, the chapter teased out the extent to which such an intercultural interaction and influence between the two traditions have affected the inheritance situation or otherwise in the community. In line with this objective, the chapter explored the Islamic-traditional intercourse in the life of the people. Thus, the chapter explained festivals, rites of passage and inheritance as the areas within which the discussion took place. It is in these areas that the two cultures interact in the community.

Moreover, the chapter explained that the interaction of Islam with the indigenous tradition has led to the former mixing with the traditional culture in the community. It affirmed that the quality of its mixing and mutability with

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local cultures has long been alluded to as the reason behind the successes of Islam in the African context (Abdul-Hamid, 2017; Jennings, 1991; Owusu-Ansah, 1987). This situation in the community re-echoes the fact that Islam's interaction with the African context is syncretic in nature (spice digest, 2009). It is in line with this syncretic question that the relationship between the two in some aspects is so deep to the extent that another form of culture, which is neither purely indigenous nor purely Islamic is formed (Bin Salih, 2008). In view of this, the chapter exposed the existence of intercultural influence between the two traditions. However, even with this, Islam's influence is more palpable and manifest in the life of the people. The chapter went a step further to demonstrate this dominant Islamic influence in the areas of Arabic names the people give their children and the Arabic sermons that are read during the conduct of their marriages and their festivals. Yet again, the performance of their naming ceremonies on the seventh day and the Islamization of the *Dumba* festival (Abdul-Hamid, 2017) are other indicators of this influence.

The chapter, however, showed that the traditional system has also influenced Islam in some respects. The introduction of the traditional and vernacular sermon into the outdooring procedure, the interpolation of local aspirations and needs into the marriage's 'sermon of need' (*khutbatul-hajah*) are indicators of traditional influence on Islamic practices in the area of the study. On the other hand, while affirming that Islam adopted local traditions into its fold from the community, the chapter argued that when it did so, it reconstructed and repealed or replaced components of the adopted culture and made them its own. Hence, the chapter concluded by describing the nature of

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the relationship between the Islamic and traditional systems as that of accommodation, appropriation and replacement or repeal in the community.

Professing Islam as their religion, members of the community would manifest the Islamic identity in their socio-cultural practices, including inheritance. Therefore, there was the need for the examination of how they apply Islam in devolving their inheritance in the community. This was also done so that we understand the extent to which Islam was involved in estate distribution and conflict resolution. Therefore, chapter three examined the Islamic inheritance system as the legal framework that regulates estate distribution among Muslims. Using Qur'ān (4: 11-12) and the prophetic precedence (like Bukharī, Book 58, Hadīth No. 237) the chapter identified four elements as the mainstay of the Islamic inheritance. These include the settlement of the burial expenses, debts, bequests of the deceased and the distribution of his or her estate among the legitimate heirs. On the mode of operation, the chapter explained that the Islamic inheritance system apportions estates to heirs based on their individual relationship with the deceased. It treats every individual heir as a separate entity in accordance with the strength of their relationship to the deceased and by extension the extent of their claim to the estate. It allots to individuals rather than to groups.

The chapter further pointed out that Islamic inheritance gives differential treatment to heirs based on their gender. Husbands and sons for instance get more of the estate than their female counterparts. It has been explained that for some scholars, the apportionment of more shares to such male heirs is to compensate them for the corresponding responsibilities Islam imposed on them in the family (Bello, 2016; Khan, 1989; Shinqītī, 1979). For

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other scholars (like Ramadan, 2009 and Ali, 1989), however, the observable social changes that have occurred in contemporary times and the role of women in the family today demands that women be given equal treatment and equal inheritance shares like their male counterparts.

Notwithstanding the responsiveness of this opinion to the plight of women, it is argued that the current view does not demonstrate gender equality in Islam. It is not as clear in terms of fractions as that of the traditional Islamic system of 'inheritance inequality'. The inequality in the Islamic system, nonetheless, reiterates inheritance in general and Islamic inheritance in particular as a reproducer of inequality in society (Szydlik, 2004). It also echoes the position of relative deprivation theory (RDT), a precursor of conflict based on an individual comparing and realizing a discrepancy between what one actually gets and what one expects. In spite of the contrasting position between the traditional, Islamic and the contemporary notions over the rationale behind the gender inequality, the chapter explained that no reason whatsoever has been held responsible for the aspects of gender equality (eg. father and mother of deceased) in the Islamic inheritance system.

Chapter four finds out why the inheritance conflict among heirs; a group of people whose inheritance regime has been spelt out and regulated by the religion they confess. It also pointed out the role of Muslim clerics in the application of the Islamic inheritance system in the community as explained. In the same vein, the chapter explored the pre mortem and postmortem issues and their place in estate distribution in the community. The chapter pointed out that existing grievances particularly in polygamous families, estate annexation and appropriation and greed for particular estate-property are causes of inheritance

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conflict in the community. On the role of individuals, the chapter exposed the contribution of heirs, elders, and clerics to the devolution of estate in the community. It explained that a section of these players distribute estate in the name of the traditional inheritance system.

The traditional inheritance system distributes the estate among heirs in accordance with the number of wives the deceased leaves behind. By this 'wifely' distribution, the estate is allocated equally to each wife and her children regardless of the number of children each one has. In other words, each widow or wife with a small or bigger number of children of the deceased is allotted the same quantity of inheritance property. Even with this, however, the chapter pointed out that some heirs, elders and clerics conspire to expand the network of heirs by bringing in other inheritors, who are external to the traditional system. The chapter argued that while the traditional system has succeeded in eliminating inheritance conflict among children of each wife, it has not addressed the conflict between the stepchildren. The implication is that it reduces the quantum of shares of some of the *ashābul-furūd*. On the other hand, without the onward redistribution of the wifely allocations, female heirs lose out on their shares to their male counterparts. These trigger protests from some heirs. Indeed, the chapter reported this as a reason why some heirs fight their opponents to ameliorate the hardship of their disinherited sisters.

The chapter further examines the forms and effects of the conflict on the various participants. It concluded that the conflict ranged from mild to severe forms. In all these forms, it has negatively affected the relationship between the participants and has resulted in various effects on family members in the community.

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Chapter five assessed the strategies that are applied and the role of various players in the resolution of the inheritance conflict in the community. The chapter explained that the resolution strategies applied to resolve the conflict lie within the confines of tradition and religion (Islam). The chapter identified Muslim clerics, elders and cousins as the main players in inheritance conflict resolution in the community. The chapter also pointed out that these players largely rely on their personal qualities and social connections to intervene in the conflict. These are useful interventions in this respect. The chapter explained that despite their usefulness in mending the inheritance conflict, their degree of success is very limited. Nevertheless, the chapter concluded that when these players used integrated and multifaceted strategy (using cousings, elders, joking relations and clerics together), they succeeded in managing the inheritance conflict situation. Indeed, the chapter has shown an enhanced functionality of the multifaceted approach in addressing the conflict in the community. The chapter went a step further to note that, even when such a multifaceted approach had been used, what was achieved was management and not the resolution of inheritance conflict in the literal sense of the word. It, therefore, contended that as remote-immediate grievances conspire to cause inheritance conflict; the same way that a multifaceted approach of sociocultural elements congregate together to manage the conflict.

Chapter six weaved up the data and the theories. The objective of this was to examine not only the synergies between the data and the theories. It explored how the theories contributed to the study. In view of this, the chapter pieced segments of the various chapters highlighting therein the reflections of the theories underpinning the study. In so doing, the chapter examined how the

various scholarly perspectives helped construct the nature of the interaction that has gone and been going on between the Islamic and Indigenous spheres. The chapter explained that the outcome of the Indigenous-Islamic interaction is of various degrees of syncretism. This syncretism is of the forms of accommodation, appropriation and replacement or repeal. Beyond this, the chapter also examined the extent to which the relative deprivation and frustration-aggression theories have aided with the interpretation of the findings on inheritance conflict in the community. In this vein, the chapter pointed out that the theories highlighted the extent to which issues of deprivation and inequality trigger inheritance conflict in the area of the study. When such a conflict occurred, it took various forms and effects on the conflict parties. Notwithstanding their contribution to the study in this regard, the chapter noted that the theories were not adequate enough in explaining a segment of the phenomenon. In view of their focus on inequality and deprivation as the causal factor, the theories failed to explain the equal shares apportioned to some male and female heirs by the Islamic system of inheritance (Q: 4:11-12).

Furthermore, from the resolution point of view, the chapter also emphasized that while many scholars hold high the vitality of religious and indigenous actors in conflict resolution (Abu-Nimer and Nasser, 2013; Awedoba, 2011; Aida, 2005; Rashid, 2004; Abu-Nimer, 2001), this is not always the case. The intervention of some religious and indigenous actors proved futile to address some incidence of inheritance conflict in the community. However, those that took the root causes into account and intervened with strategies integrative of many elements were more adequate in

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managing the conflict. Out of the discussion on the various issues, the study came out with the findings below:

Major Findings

The study found that:

- The influence of Islam permeates every aspect of the socio-cultural life of the people under study. This was found to manifest itself in the Arabic language. It is part of conducting their social activities. The adoption of Arabic names and the recitation of Arabic sermons during marriages and the officiating of their naming ceremonies are commonplace in the community. The Arabic language is a unique influence of Islam in the community. It is through Islam that the language has made such inroads into the community. Apart from the above pieces of influence, names of the days of the week are in Arabic. Of course Monday and Thursday fasting as prescribed by the Prophet are all known by their corrupted Arabic names and have no equivalence in the local language. There is also a demonstrable Islamic influence in the domain of festivals. The study established that in spite of the rice-picking and the circulation around the cow together preserving the indigenous identity of the Dumba festival, Islam has introduced the chanting of the praises of Allah and that of the Prophet into these events. Notwithstanding this, it was also realized that the indigenous tradition too has influenced Islam. It introduced the recitation of the vernacular text into the proceedings of its naming ceremony and made substantial inroads and additions to the Arabic and Islamic transcript of the marriage sermon, the 'sermon of need' (*khutbatul-hājah*). These intercultural exchanges provide a

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symbiotic interdependence by which the indigenous and Islamic traditions find mutual support with each other and thrive in the community.

- The Islamic inheritance system apportions estates to heirs based on their individual relationship with the deceased and the strength of their claim to the estate. The study established that in line with this, the Islamic inheritance system apportions to individuals rather than to groups. The application of the Islamic inheritance system is supported by the overwhelming majority of clerics and heirs in the community.

- Islamic inheritance system is an amalgam of gender equalities and inequalities. While treating some male and female heirs equally, it allocates more estates to male children and husbands than their female counterparts. The study revealed that in the case of inequality, the behavior of some heirs towards the application of the Islamic system of inheritance confirms the postulations of the relative deprivation hypothesis.

- In the presence of primary heirs, the application of the Islamic system deprived members of the extended family from inheriting. However, some clerics made distant heirs to inherit in the presence of the primary heirs. The study revealed that the overwhelming majority of the Muslim clerics and other stakeholders adhere to the principle and the regulations of the Islamic inheritance system in estate distribution in the community.

- The customary inheritance system is still in operation to a certain degree. It apportions estates to primary heirs of decedents, allotting

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estate to them as a collective entity and not based on the strength of their individual claim to the estate or relationship with the deceased. This is done equally in accordance with the number of the wives the deceased leaves behind. Each widow or wife with her small or bigger number of children is allocated the same quantity of inheritance property.

- A section of heirs, clerics and elders expand the network of heirs by apportioning estate to distant relatives in the name of the traditional system. This is not consistent with the traditional system. The study established that the traditional system could appoint a custodian for the estate from outside the primary heirs. Yes, this did lead to appropriation of the estate by such custodians. The system does not, however, apportion estate to them. The study established a collusion between clerics and elders with some heirs to distribute estate in the way that befitted such heirs in the name of tradition. The study revealed that this group of people apportion estate to unqualified heirs under the cover of tradition and in the name of protecting the rights of others. With this, they set aside the Islamic system and give estate to distant relatives who had served the deceased for many years without commensurate pay.

- There was an arbitrary selection of the clerics who distributed the estate. The elders and lead heirs who selected the clerics to distribute the estate in the community did not consult other heirs for such a selection. This study established that this was one of the reasons that grounded the tag of conspiracy on such players and brought the credibility of the process, the clerics, elders and the result of the exercise into question and disrepute.

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- There was also a generational and training gap between the clerics on the application of the inheritance systems. The study revealed that clerics, who were relatively young and have received their training locally but furthered their study in the Arab land, applied the Islamic inheritance system on estate distribution. The study revealed that their age and context of training appear to have influenced their inheritance orientation. The section of the clerics who adhered to the traditional customary inheritance system for estate distribution were an older generation of clerics. Their training is only from the local scene. With both their age and training setting too, this category has close proximity to the legacies of the traditional norms and commitment to it.

- A section of clerics served as agents of mixing the Islamic and traditional practices in the community. They also served as vessels of the cultural clash that took place between the two traditions in the aspect of inheritance.

- There was remote as well as immediate courses of inheritance conflict in the area of the study. The study found that the existing grievances among and between family members, which were originally not necessarily based on inheritance, contributed to the inheritance conflict situation in the community. In the same vein, some of the triggers of the conflict directly and immediately contributed to inheritance conflict.

- Beyond the fiefdom of religion and tradition, some heirs resorted to unauthorized strategies of appropriating and annexing inheritance properties prior to its distribution. The study also established a forceful

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occupation of estate, claim of gift from the deceased and hiding the estate by some heirs beyond the reach of other heirs.

- Lack of (proper) documentation was a major challenge associated with jointly owned or jointly managed legacy estate. This was a situation where heirs and elders took different positions on who exactly, among the deceased benefactors, exactly owned the co-managed properties of the estate. The study revealed that heirs fought over properties of this character as they attributed exclusive ownership to those deceased relatives they sought to inherit from.

- Experts of valuation of properties are not brought in to value the estate properties. This makes heirs wanting to inherit or prevent others from inheriting a particular property because of its strategic nature. If the properties are valued, properties of equal value could be apportioned to rivals to reduce dispute in this direction.

- The Islamic and indigenous interventions played a substantial role in managing the conflict. The socio-personal qualities of elders and clerics were very useful in this regard. Cousins intervened and used their joking relations with their counterparts to address inheritance conflict in the community. The characteristics of the resolution strategies of these actors gravitated around persuasion, encouraging forgiveness, coercion and compensation or justice. It also found that a blend of the strategies is more effective in managing the conflict than the use of isolated resolution strategies.

- The intention to embark upon the journey to Makkah for the performance of pilgrimage had triggered the pursuit of forgiveness and

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reconciliation with some inheritance rivals in the community. The study found that some prospective pilgrims, who were parties to inheritance conflict, had personally taken the initiative to reconcile with their rivals before their journey to Makkah for the performance of the hajj.

- In all the sessions and sittings of reconciliation, participants prayed for the intervention of Allah at the beginning and the end of the proceedings. They offered prayers to Allah and salutations to the Prophet Muhammad, the Muslim's usual protocols. This further marked an Islamic influence in the life of the people.

Conclusion

Although Islam prescribes a system of inheritance for Muslims, conflict over inheritance still takes place among the Waala Muslims of Wa, Ghana. Estate executors also find it difficult to administer an estate to the satisfaction of the heirs involved. The study therefore investigated what accounts for the situation in the community in question. In doing so, the study traced the development of the conflict to two main issues. These are the socio-economic and cultural grievances that are at work in the study area.

In the socio-economic aspect, the study explained that the existence of grievances on one hand and deprivation and inequality within the family on the other hand contributed to the development of the conflict in the community. Socially, rivalries in the polygynous family settings have created an in-group and out-group identities between heirs, promoting antagonism towards one another. This state of affairs served as an indirect factor, which transitioned into conflict over inheritance and led heirs to perpetuate aggression against one another. Furthermore, as an economic resource, inheritance provides a fertile

context for conflict among heirs in the community. The study pointed out that the media of estate distribution and heirs' expression of greed and annexation of estate prior to its distribution promoted inequality and deprivation among heirs and members of the community. This deprivation causes dissent and aggression against the depriving agents. Based on these, the study concluded that as long as people, perceived or real, experience inequality and deprivation of their expected entitlement to estate, manifestations of inheritance conflict are inevitable.

Moreover, from the cultural point of view, the study pointed out the existence of intercultural exchanges as something that has worked and still works for the benefit of the Islamic and the indigenous tradition in the community. There is conviviality that characterized the Islamic-indigenous encounter in many domains of the community including their life cycle events. On the contrary, the study argued that the nature of the encounter between them in the aspect of inheritance was/is frictional and conflicting. This introduced a break into the intercultural exchange that dominated the two traditions for a very long time. It has also led to a split within the ranks of the Muslim clerics in the administration of estate and has led to inheritance conflict in the community. Some of such conflicts end up in court, the pendency of which cases on trial leaves estates hanging without devolution. Thus, the study concludes that for an amicable solution to the inheritance conflict, apart from addressing the socio-economic grievances among heirs, there is the need for education on and strict application of the Islamic inheritance system on the execution and administration of estate in the community.

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Furthermore, for the amicable resolution of such conflict, not only must attention be paid to its root causes. There is also the need for the application of multifaceted strategies for the resolution of the conflict in the community. Having said that, the frequency and intensity of the inheritance conflict situation could be reduced to the barest minimum if attention is paid to the recommendations below:

Recommendations

Drawing from the findings, acting upon the points below could contribute substantially to the reduction of instances and intensity of inheritance conflict in the community if not completely eliminate it:

- To deal with the Indigenous-Islamic inheritance divide, the clerics should begin to apportion a percentage of the estate in their distribution to relatives, who are not necessarily heirs, but commit their lives serving and working to acquire the estate for the deceased. This could be done within the spirit of Qur'ān: 4:7in mind. It states "…if at the time of division other relatives, or orphans or poor, are present, feed them out of the (property) and speak to them words of kindness and justice". If these categories of people are to be given a share of the estate for the mere fact of their low economic status and presence at the time of distribution, then those who contribute to the acquisition of the property for the deceased should not be denied at all. At least, such relatives, though not heirs in the Islamic system of inheritance, should be apportioned some property as compensation for their labor. This recommendation is not to propose their equal treatment with the Qur'ānic primary heirs as the indigenous inheritance system does. On

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the contrary, their apportionment, in whatever quantity, should not be equal to that of the primary and Qur'ānic heirs. The application of the primary Inheritance text (Q: 4:11-12) combined with the analysis of Q: 4:7 in the current manner represents a kind of Islamic-indigenous mixing that is missing in the area of inheritance.

- Members of the community, who have distant relatives serving them without commensurate compensation, could also make bequest to such a category of people before their (benefactors) death. They could use the instruments of Islamic estate planning of *wasiyyah* (bequest), *waqf* (endowment) and *hibah* (gift) to address this aspect of inheritance in the community. This could help reduce potential inheritance conflict in the area of the study. In line with this, members of the community should also consider making wills, spelling out the system to be used in distributing their estate after death.

- Where parents or propositus have the intention to or transfer (a part) of their property to an heir or a member of the community, such an intention or transfer must be rectified in the form of documentation, witnesses or both to avoid disagreements over claim of ownership of such estates after the death of benefactors.

- Before estate distribution, clerics must always explain the Islamic inheritance system and its implications to the heirs. This could help reduce the emergence of conflict as to who of the heirs is more entitled to a particular inheritance than others are. This can also reduce some of the gender inheritance inequalities in the area of the study.

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- In situations of joint business, members of the community should ensure that ownership of property and businesses are well documented to forestall future conflicts between their children over ownership and inheritance of such properties after the death of the original owners.

- Senior and other heirs should desist from procrastinating and delaying estate distribution, stop grabbing it or parts of it before its distribution to reduce grievances that contribute to inheritance conflict in the community.

- Stakeholders must value every property of the estate in order to avoid a situation where one heir wants to be apportioned some properties to the exclusion of others.

- Elders, clerics, cousins and all stakeholders should respond early to conflicts and disagreements among members of the community before they degenerate into post-mortem conflicts. They should make the devolution processes very transparent by involving all parties in the selection of the clerics of distribution and all stakeholders who have a role to play in the distribution.

- Interveners in inheritance conflict resolution must make sure that they address the effects and root causes of the conflict before invoking Indigenous-Islamic modes of persuasion, forgiveness and apology, and compulsion to address it.

- The chieftaincy institution should also be involved in the resolution of the conflict. This could help prevent the adversity associated with adjudication. With all other social actors and institutions having limited successes in their interventions in inheritance conflicts, the participation

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of the chiefs could elicit a more effective resolution by a way of bringing social pressures to bear on the parties of inheritance conflicts in the community.

- The state could intervene by passing detailed laws that would address issues concerning Islamic law of inheritance to avoid misappropriation of estate at the expense of the vulnerable and reduce the incidence of the conflict in the Muslim community.

- The limitation of the study was the lack of access to court documents on the litigation and adjudication of estate conflicts in the community. In this regard, further studies could be conducted into how such conflicts are addressed in the light of courtroom litigation.

- There is the need for further study to be conducted on the Islamic inheritance system and gender in the Waala Muslim community of Wa, Ghana. This could take into consideration how the socio-economic context of the nascent Islamic influenced and influences inheritance and gender in the Muslim community today.
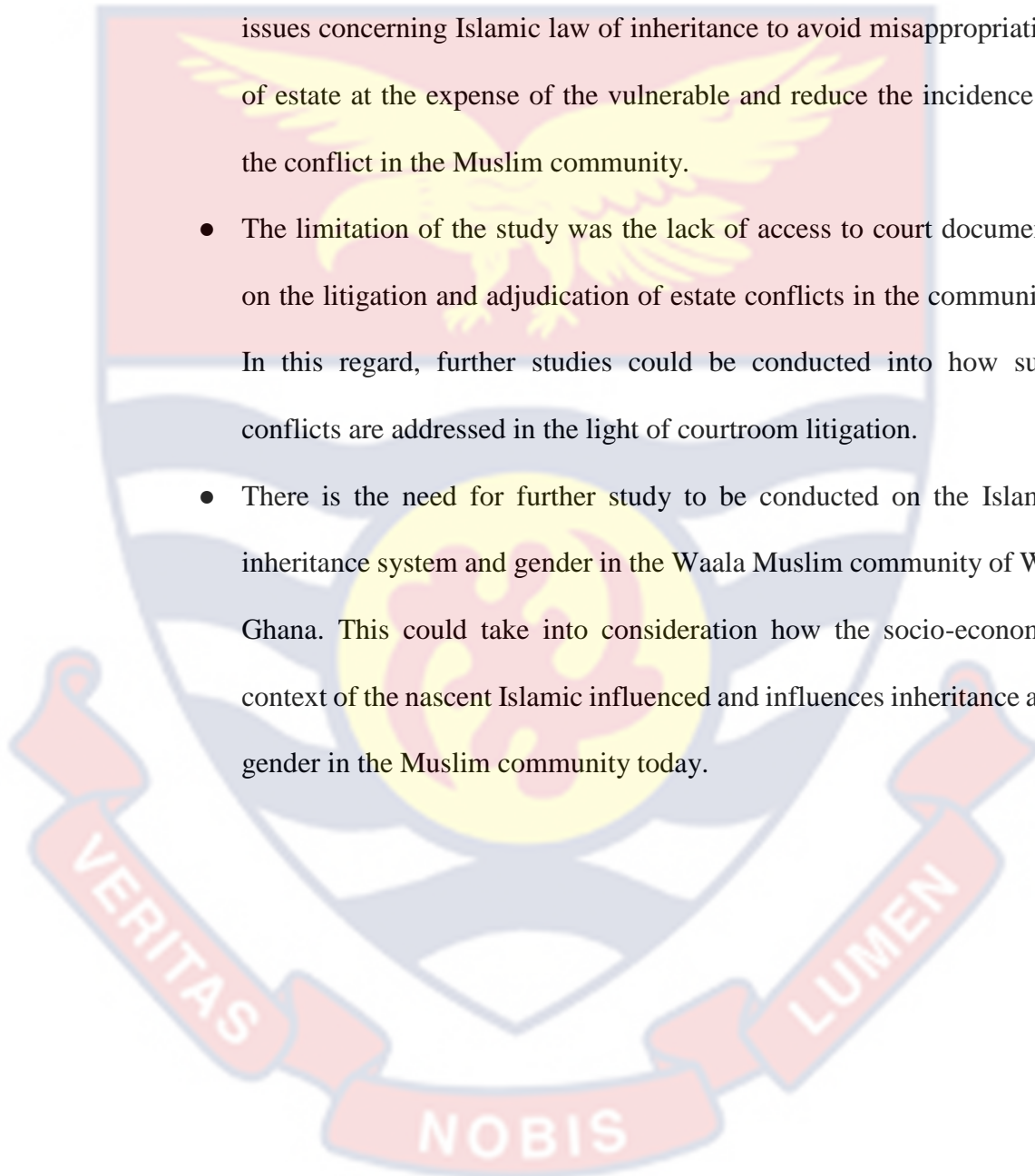
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APPENDICES

APPENDIX A

LIST OF INTERVIEWEES FROM THE COMMUNITY

No	Name	Sex	Age	Status	Date(s)of interview Place
1	Abubakar Ahmad Iddris	Male	61	Imam & heir	15th June,7th August 2019, 15th May 2020 &29th January 2021 Wa
2	Abdul-Ghaniyyu A. Muhammad	Male	53	Heir	17th July 2020
3	Abdul-Rahman Osman	Male	59	Heir	25th August 2019
4	Abdul-Salam Haroon	Male	57	Heir	25th august 2019
5	Abdul Nasr Nuhu	Male	56	Heir	13th September 2019
6	Alhaji Abdullah Musa	Male	73	Elder	7th April 2020
7	Alhaji Abubakar Yakubu	Male	65	Elder	28th August 2019
8	Alhaji Yakubu Mohammed	Male	71	Elder	17th January 2020.
9	Ahmad Adamu	Male	58	Elder	3rd March 2020

10	Ajarata Mahamud	Female	47	Heir	07th October 2019
11	Busa Bise's chief, Wa	Male	53	Chief	15th May 2021
12	Muhammad Gaws Dawud	Male	58	Cleric	10thSeptember, 18th July 2019, & 29th January 2021
13	Mohammed Mustapha 'Umar	Male	31	Tenant	1st January 2020
14	Alhaji Ali Muhammad	Male	61	Elder	16th August 2019
15	Alhaji Khalid Ahaji Razak,	Male	55	Heir	17th January 2020
16	Abdus Shakur A. Nuhu	Male	53	Heir	17th August 2019
17	Abdul-Kareem Yahya	Male	43	Tenant	26 August, 2019
18	Alhaji Abdul- Razak Musa	Male	59	Heir /elder	15th October 2019
19	Shaybah M. Siddiq (Ph.D)	Male	48	Cleric	17th September 2020
20	Abubakar Abdullah Nuh	Male	47	Heir	23rd July 2019
21	Adnan A. Malik Saeed	Male	51	Cleric	25th September 2019
22	Abdul-Rahman Ahmed	Male	43	Family friend	15th June 2019
23	Hamza Ahmed Idris	Male	33	Heir	7th August 2019

24	Abdun. N. A Nuhu.	Male	57	Heir	5th & 12thSeptember 2019
25	Abdallah Ibn A. Muhammad	Male	49	Heir	29th August 2019
26	Alhaji A. Siraj, Idisa Abdulai, Alhaji Yakubu Bogolo	Male	51-67	Elders	17th January 2020
27	Hamza A. Idris Sena	Male	52	Heir	27th June 2019
28	Halimatu Yakubu	Female	47	Heir	9th August 2019
29	Hassan Siddik	Male	53	Cleric	10thSeptember 2019
30	Hussayn A. Khalid	Male	49	Heir	26th August 2019
31	Haja Alijara Osman	Female	61	Heir	21st July 2019
32	Hawawu Alhaj Sulayman	Female	43	Heir	29th July 2020
33	Siddiq A. Gaws	Male	68	Elder	15th September 2019
34	Abdullah Abdul-Aziz	Male	49	Heir	13th August 2019
35	Zakariyya A. Nuhu Ishaq	Male	40	Heir	5th &11th September 2019

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36	Khalid A. Rahman	Male	59	Heir	21st August 2019 & 25th January 2020
37	Ishaq Nuhu Dodo	Male	47	Heir	6th August 2020,13th October 2020 &16th March 2021
38	Mallam Umar Zongo	Male	58	Cleric	24th July 2020
39	Ma'sum Muhammad Khidr	Male	46	Heir	15thSeptember 2019
40	Salih Alhaj Muhammad	Male	49	Heir	9th July 2019
41	Muhammad Ismail Ishaq	Male	52	Heir	28th July 2019
42	Muhammad M. Sidik	Male	47	Cleric	13th January 2020
43	Mohammed Mustapha 'Umar	Male	38	Heir	1st January 2020
44	Alhaji Abubakar Yakub	Male	57	Elder	15th August 2019
45	Nnabaali Sidiki	Male	49	Family friend	14thNovember 2019
46	Nadra S. Abdullah	Female	35	Family friend	3rd September 2020
47	Nuh Abdul-Haqq Bayanteri	Male	54	Heir/cleric	13th January 2020
48	Ibrahim Muhammad	Male	50	Elder	13th Much 2020
49	Sufyan Ahmed Kunatey	Male	45	Cleric	12th Much 2020

50	Yakubu Idris	Male	51	Cousin	15th August 2019
51	Ummul Khayr Mohammed	Female	48	Heir /widow	14thNovember 2019
52	Osman. S. Abu Bakr	Male	51	Cousin	13thSeptember 2019
53	Usman Saeed Abdulmoomin	Male	61	Cleric	29th August 2019, 25th July &19th December 2020
54	Mallam Ibrahim Watara	Male	88	Imam	27th, 29th August 2019, 8th January 2020 &17th March 2021
55	Yusuf Alhaj Ismail	Male	54	Heir	20th August 2019
56	Yahya Ismail Ishaq	Male	33	Heir	20th August 2019
57	Ahmed Y. Siddiq	Male	52	Cleric	17th October 2020
58	Khadija bint Saeed	Female	83	Elder & Historian	27th July 2020
59	Mohammed Abdullah	Male	77	Elder & Historian	13th August 2019
60	Shaykh Yakubu Idris	Male	68	Elder & cleric	15th August 2019
61	Ahaji Muhammad	Male	67	Elder	16th August 2019
62	Alhaji Y. Muhammad	Male	63	Imam	7th January 2020

APPENDIX B

INTERVIEW GUIDE

Introduction

These open ended questions in this protocol are meant to guide the researcher to seek information from heirs, elders and Muslim on the conflict as they constitute the pivot of the impasse. The nature of the questions allows them to express their views freely and without limitations.

SOCIO-DEMOGRAPHIC CHARACTERISTICS OF PARTICIPANTS

1. What is your name?

2. Sex: Male [ ] Female [ ]

3. Age

4. Occupation

5. Social status

6. Community

SECTION A: HEIRS AND DISTRIBUTORS

7. How many children survived the deceased?

8. How many were the male and female children?

9. How many wives survived the deceased?

10. What properties constituted the estate?

11. Has the property been distributed?

12. Who distributed it and how did you arrive at the distributor?

13. Did you agree or disagree with the mode of distribution? Why?

14. Where did you take the matter for redress and what was the outcome?

15. What was the reaction of other heirs?

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16. What was the role of elders and Muslim clerics in the distribution of the state?

17. How did you/ they distribute the estate among the heirs?

18. How did the heirs react to your distribution?

19. If any, how did you respond to their reaction?

SECTION B: CAUSES AND EFFECTS OF THE CONFLICT

20. How did the inheritance conflict emerge?

21. Who or what do you think was the cause of the conflict?

22. Who were the main parties to the conflict?

23. How did you or any other party manifest their participation in the conflict?

24. What was the outcome of the conflict?

25. How did the conflict affect you or any other participant?

SECTION C: INTERVENTIONS ON RESOLVING THE CONFLICT

26. How do you think the conflict can be resolved in the community?

27. What role did the elders and clerics play to resolve the conflict?

28. Apart from the above, who also intervened in the resolution of the conflict?

29. What was the outcome of these interventions?

30. What do you think accounted for such an outcome of the intervention?

31. What do you think could be done better to prevent or resolve the conflict?

APPENDIX C

INTRODUCTORY LETTER

UNIVERSITY OF CAPE COAST
COLLEGE OF HUMANITIES AND LEGAL STUDIES
FACULTY OF ARTS
DEPARTMENT OF RELIGION AND HUMAN VALUES

Tel/Fax: 03321: 30943   University Post Office,
E-mail: religion@ucc.edu.gh   Cape Coast, Ghana.

Our Ref: RHV/I/8   14th June, 2019

TO WHOM IT MAY CONCERN

LETTER OF INTRODUCTION

The bearer of this letter, Mr. Mohammed Abubakar Abdulmoomin, is a PhD. Student with Registration No. AR/RHD/17/0003 in our Department. As part of his academic work, he would like to collect data on the topic **"Inheritance Conflict among the Wala of the Wa Muslim Community of Ghana."**
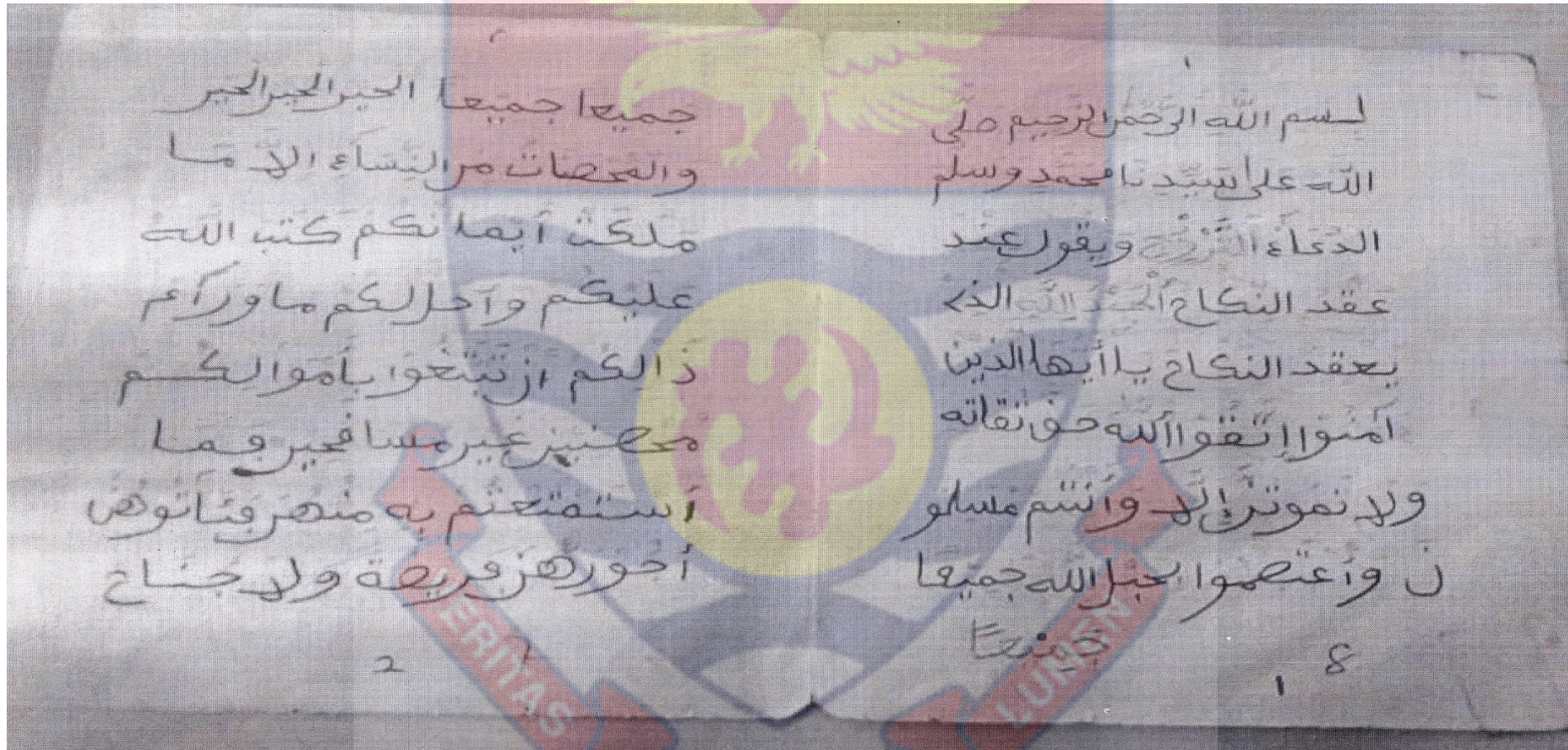
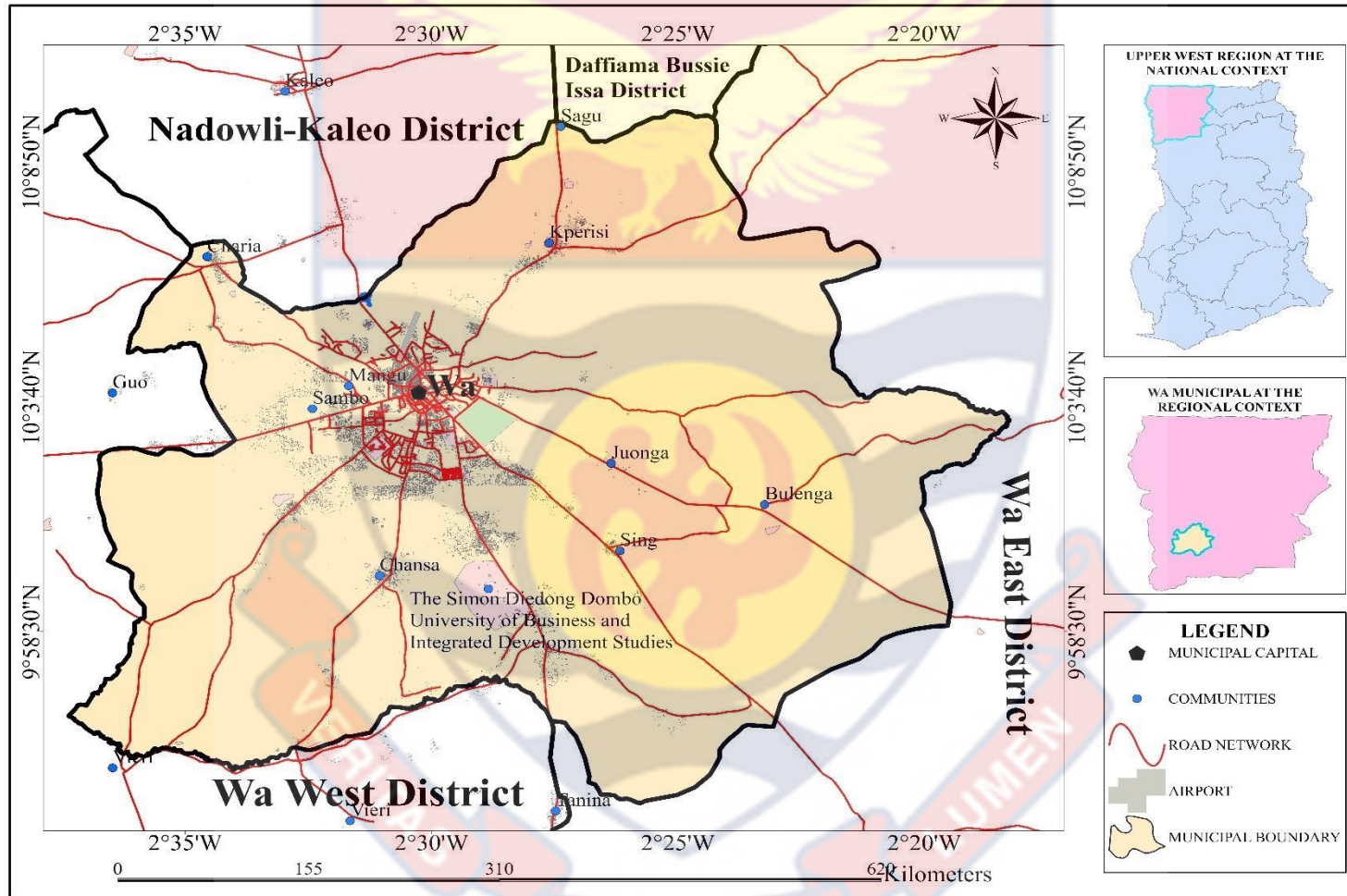We shall be grateful for any assistance you can offer him.

Thank you.

Prof. Sameuel Awuah-Nyamekye
(HEAD OF DEPARTMENT)

DEPT. OF RELIGION & HUMAN VALUES
UNIVERSITY OF CAPE COAST
CAPE COAST

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APPENDIX   D A PIECE OF MARRIAGE SERMON FROM THE STUDY AREA.

A portion of a sermon read by some presiding
clerics during the conduct of marriages in the

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Source: Cartography, GIS and Remote Sensing Section, University of Cape Coast, Cape Coast, Ghana.