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Full Length Research Paper

## The over-indebtedness in action: An ethnographic research at NUDECON/Brazil<sup>i</sup>

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**This paper comes from an ethnographic study developed inside the Núcleo de Defesa do Consumidor - NUDECON, located at Rio de Janeiro's Public Defender's Office during April and May 2013. The aim is to understand legal categorization as a social construct, considered both in context and in action. To do so, we explore the interactions that produce over-indebted individuals who will be legally protected by the public defenders. In other words, they will become legally sanctioned. We conducted direct observations of the preliminary hearings and of internal, routine discussions in which the office members discussed and decided if one is "categorizable" or not. We intended to empirically demonstrate the actors' interactional effort to reflexively build the social sense of law by connecting native frameworks from economic and moral bases.**

**Key words:** Over indebtedness, social construction of law, NUDECON, interaction, legal categorization.

### INTRODUCTION

As the main goal, our research intends to comprehend the categorization process through which the social construction of law occurs, the end result of which is meant to produce persons considered as over-indebted, according to a legal model. Moreover, our focus is to demonstrate, in context and in action, how a legal category is born, as well as how this *categorization* imposes particular characteristics to the face-to-face interactions between jurists and laymen, in attributing senses to the Law and, specifically, when it bestows *objective sanctions* upon the categorized person. We intend to comprehend, therefore, how law 'occurs' as social phenomenon, during face-to-face interactions in institutional contexts.

Thus, our main hypothesis is that legal categories are economically and morally build, that means to place the legal activity itself as a filter between everyday life and the practical routines of the lawyers. We intend to investigate how a person is *labeled* as "over-indebted" through legal routines considering the economic and moral issues involved. The test of that hypothesis will be based on an ethnographic approach. We directly observed specifically the situations involving interactions between law professionals and their clients. Our goal is to retrieve objective data from the thick description of those interactions.

Our paper is organized in the following order: In the first section we treat the theoretical approach of Law as a

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social construct, according to sociological bases; secondly, we organize the discussion results; thirdly, we explain the methodology widely, fourthly, we approach the face-to-face interaction rites, as well as the way that the “first attendance” is conducted, between professionals and laymen; fifthly, we look for the categories that arise from face-to-face interaction, considering them to be legal categorizations which now take place between the Commission’s staff; finally, we show our conclusions.

### **How does over-indebtedness emerge as a legal category: the social construction of law**

Just like capitalism or socialism, over-indebtedness, as an empirical phenomenon, does not exist. What does exist are people, who through their relationships with other people or human artifacts such as either corporations or money, find themselves indebted. To some scholars, especially economists, an analytical set is necessary to allow them to identify and explain the aspects of this empirical phenomenon, and to do so, they create the category “over-indebtedness”. As a result, it becomes possible to categorize the empirical world in a theoretical way (i.e. who is over-indebted and who is not), and to understand and analyze it better. The phenomenon’s broader dimensions - as well as its economical treatment - do not constitute this article’s purpose. We intend to focus on the recently possibility opened by NUDECON, in relation to its legal treatment. Therefore, we will focus on a contextual demonstration; specifically determining how a legal category might emerge, and the means by which this process imposes specific features upon the interaction between legal agents and laymen. This paper will not cover the Public Defender Agency, as a legal institution, professional organization, or as part of the legal field. It appears here as the space where legal agents and layman interact, and where, through interaction, they will make sense of over-indebtedness as a new legal category. This paper is, therefore, about the social construction of law.

In the paper where Bourdieu has focused on the legal field, it is asserted that one of its characteristics is the ‘monopoly’ of its institution (2001: 225 – 235), established through linguistic artifices (grammatical, but also lexical). This monopoly, besides its function in hiding the aspects of political power that the law protects, helps to create an enormous market for legal services, aiming to mediate the relationship between laymen and a mental space that such people will not be able to completely navigate alone. It should be noted that their ignorance (*méconnaissance*) is that which, fundamentally, allows for a judge’s discretion to be considered legitimate, once that “*Les relations objectives existent indépendamment des consciences et des volontés individuelles (...) le réel est relationnel; ce qui existe, ce sont des relations, non des interactions*” (Bourdieu, 1992: 72). So, the thick description proposed by the ethnographic approach would be unable to replace

the sense that judges and laymen ‘give’ to what they do while they interact, because they are not capable of consciously perceiving the nature of their interactions.

Many researchers in legal studies are inspired by this approach. To demonstrate it, we have the following example: Garapon’s thesis (1997) that consists of a long essay about judicial ritual, where the author concludes that there are a huge amount of rites inside the courts (vests, discourses, buildings, time control, etc.), and that they come together to turn the court almost into an *anthropoemic* place, when regarded by those who are not legal professionals. The author gives us many examples that come from either his personal experience, or from literature and bibliographic sources – he tells us, for instance, the detailed history of judicial robes, since Roman times – to repay the ritual theme that sets his central subject. Although, during the long text, he never surrenders to his readers the detailed description of the real context, that ultimately he observes. Another review like this was realized by Mehan over Bourdieu’s work about reproduction. To Mehan, Bourdieu does not give us any ethnographic information detailed enough to demonstrate how schools depreciate the cultural capital of lower classes and enrich the cultural capital of the higher ones (Mehan, 1992).

In this paper, we intend not only to focus on the point mentioned above, but to do so through both the cognitive sociology approach and the ethnographic approach. As such, it is important to mention the linguistic conflict observed during our fieldwork, that is describable at least, in relation to the knowledge barrier between laymen and legal agents, that has happened, for example, through the use of a specific term, e.g. ‘compliant’. In this case, the term has the opposite meaning to “overdue”, which is used much more frequently. The legal agents tend to experience some difficulty in enabling the “destitute” to understand its implications.

Agent<sup>1</sup> – Here is the written “Casas Bahia” compliant.  
 Destitute – No, this one I pay regularly.

The anecdotal aspect of the dialogue above is inevitable, but there is another dialogue that can be noted in a detailed way, which also serves to reveal an interesting point:

Trainee<sup>2</sup> – The house where you live is paid for?  
 Destitute – Hum? Sorry?  
 Trainee – Do you pay anything to live there?  
 Destitute – No, no, it is my mother-in-law’s house.

In a very quick way, during the interaction, the “destitute” himself made the indexical correction in relation to the

<sup>1</sup> We use the term agent to mention the people who work inside the Public Defendant’s Office.

<sup>2</sup> Trainee refers to the law students who work in the Public Defendant’s Office. They are law students and they perform this particular role while they study, during the under-graduation course.

trainee; what happened through the asking of the pertinent replacement question, which induced the expected answer. The interaction then continued, once the “destitute” had come to the conclusion that their interest lay with contributing to the discussion in the best way to fit himself into the “over-indebted” category and, for the trainee’s part, the optimization of her job. Geraldo, who has critically worked with the idea of the *profane* inside French courts (2011a), uses the concept of cognitive familiarization to make sense of “misunderstandings” such as the type mentioned above. To him, such misunderstandings demonstrate the objective desire for understanding between profane and expert:

A l’audience, la familiarisation cognitive s’objective au travers des stratégies utilisées par les personnes afin d’avoir accès à un sens partagé avec les experts. Les malentendus rendent objective cette volonté de s’entendre avec l’expert. Les explications faites par les experts visent à satisfaire ce besoin manifesté dans les interactions pour répondre à deux nécessités : de la part du justiciable, comprendre ce qui se passe, parce qu’il a des intérêts en jeu dans cette interaction; et de la part de l’expert, car il a besoin de savoir ce que veut le justiciable pour accomplir son travail (2011b: 234).

One could say, however, that this is only a timely and isolated episode. If it was a sophisticated legal controversy, there would be no quick indexical correction, able to introduce the layman to the correct meanings for the terms that are used by the people who are interacting. This objection, however, is a false assumption.

Our assumption, then, is that people know how things work around them, and they know how to guide and arrange their interests and actions in a conscious way. The “destitute”, then, are not trying to understand the legal controversy about the technical aspects of “over-indebtedness”. Their interest is merely to contribute to the interactive process in such a way that they will be categorized as “over-indebted” people. We will try, then, to put ourselves in their shoes, as someone who sees the world from his or her own perspective, and not from the legal scholars’ view, as Znaniecki did: “*We must put ourselves in the position of the subject who tries to find his way in the world, and we must remember, first of all, that the environment by which he is influenced and to which he adapts himself is his world, not the objective world of science – is nature and society as he sees them, not as scientists sees them*” (Thomas and Znaniecki, 1920: 1846-1847).

Therefore, the first step is to assume that we, as researchers, will not list the central categories of our analysis. We will seek to report, through the detailed description of specific contexts – in the form of dialogues transcription – drawn from the main categories of this

paper, upon the native environment and interactions held between the Public Defendant’s agents and the “destitute”. We are not here to perform any ethno-methodology, but it is important to take into consideration the importance that Garfinkel gave to common sense, as an element able to convert everyday life into something describable:

I have been argued that a concern for the nature, production, and recognition of reasonable, realistic, and analyzable actions is not the monopoly of philosophers and professional sociologists. Members of a society are concerned as a matter of course and necessarily with these matters both as features and for the socially managed production of their everyday affairs. The study of common sense knowledge and common sense activities consists of treating as problematic phenomena the actual methods whereby members of a society, doing sociology, lay or professional, make the social structures of everyday activities observable. The “rediscovery” of common sense is possible perhaps because professional sociologists, like members, have had too much to do with common sense knowledge of social structures as both a topic and a resource for their inquiries and not enough to do with it only and exclusively as sociology’s programmatic topic (Garfinkel, 1967: 75).

Therefore, the ethno-methods developed by ordinary people during their secular life (in order to achieve their goals and perform their everyday tasks) are extremely revealing of the way they categorize their everyday life. The deterministic sociologist’s mistake was to believe that they were the only ones who were able to know and understand the way society works. For them, only professional sociology is able to do this. The cognition exercise is, first of all, the action whereby social order is organized from practical actions, and contextualized by a previous knowledge about the society in question, that is always reflexively rebuilt, as a real ‘lay’ sociology. The researcher’s task is to construct a description and interpretation in relation to his own experience; in other words, according to what he sees during the fieldwork, he will be able to produce a detailed description and transform it in analysis, and theory or assertion. In this way, Wagner (2012) talks about “the invention of culture” in relation to the anthropological work that is produced inside a given context when the anthropologist is living among natives; for that reason, it is people who shape their culture, by constantly manipulating conventional symbols, taken from a variety of codes, to create new meanings.

Therefore, to presuppose the central categories of social behavior means, objectively, to take for granted the specific instances of the real world, and to anticipate the actions of the ‘agents’ in their own context, with respect



of the meanings of their actions. Here, on the contrary, we have adopted a position which valorizes lay sociology one that originates from the context's assertion that central legal native categories will arise in relation to "over indebtedness". The idea, as such, will be that both the initiated and laymen are able to consciously give sense to this legal category. Or, as Cicourel once said:

I have stressed the problems of objectification and verification because sociologists seldom concern themselves with the properties of everyday social life, but take for granted the properties of daily life built into their identification and study of various collections of activities they label 'social problems', or the 'dynamics' of 'social systems', or the 'variables' crucial to the maintaining of a 'system of social stratification'. Both the 'natural' and 'laboratory' events studied by the sociologist are not established by asking first what a 'natural order' is like, and then what would it take to generate activities members of the society would label as 'unnatural' or 'natural'. Instead, the problems taken as points of departure are assumed to be 'obvious' instances of the 'real world'. Any sociologist, insisting that the study of social order and disorder, society or community, must begin with an examination of the properties of routine practical activities in everyday life, not likely to meet the approval of the colleagues who have already decided what the 'real world' is about, and they have been studying "it" for a long time (Cicourel, 1995: 3-4).

Before we continue, we want to make note of our first contribution to the idea of the social construction of law. We have clearly noticed that the "destitute" never arrive to the Public Defendant's Office without being able to make sense of "over indebtedness", and that, during all of the attendances that we have observed, they have actively participated during their own process of categorization as an over indebted individual. In the situation described above, there was an old lady, accompanied of her grandson, who started the attendance with the following statements:

Destitute's grandson – She is over indebted!

Trainee – Why?

Destitute's grandson – She got loans, got more loans, more loans...

As one may see, the interaction was started with the "over indebtedness" category already in use. The description of the behavioral characteristics that define this category was introduced subsequently, as a justification. As such, we believe that due to the particularities of the categorization process, it is not the description of the behavior itself that is at the heart of the categorization process, but the special protection given by the Public Defenders' Office to over indebted people, and the legal

agents ability to mobilize resources when they insert a profane into a penalties chain that either protects or punishes.

Dupret has studied, during his thesis, the criminal categorization process in Egypt (Dupret, 2006). He ethnographically demonstrated how defenders and witnesses without legal training, during criminal hearings, not only understand the practical consequences of the behavior of this categorization to be intentional or as implying culpability, but also actively participate in the categorization process. In another very similar, paper, Dupret expresses his backlog of experience in doing judicial fieldwork (Dupret, 2010: 100).

Following the methodological framing of this ethnographic work, we must say that not only were the "destitute" able to clearly announce the main category we mentioned above, but they also frequently demonstrated an awareness of the most important elements of the categorization. Their monthly income, for example, is only one of those elements. As we are going to describe in the next topic, one of the lengthier processes of the Public Defenders first attendance is the filling a computer's record. One of the sets of data recorded before the case analysis by the Public Defenders is the assessment of incomings versus outgoings: destitute's monthly income in relation to his debts. During one observed attendance, there was a slight thread between the destitute and the trainee, in relation to what amount to declare, as the energy bill:

Trainee – So I'll declare 200 *reais* as the light company payment, ok?

Destitute – No, declare a little more, this month was almost 210.

Trainee – Yes, some months it comes cheaper, 200 is an average.

Destitute – But this is during the winter, ok? [pointing to the bill's paper].

This dialogue demonstrates that the proportion of monthly income versus monthly debt is one of the most important standards in considering the categorization of a "destitute" as over indebted, and highlights how aware the destitute are of this particular point. What is being described, therefore, is their active participation in the construction, through cognitive sources of mobilization, of a record with the highest debt and the lowest income. During another situation that we followed, the trainee found that the income that the "destitute" had declared during the attendance was lower than the one that he had declared previously, during the "screening" process. The destitute, when this was queried, answered as follows: "I filled it wrong before. I had declared that I receive more than I really do. I was in a hurry and anxious to be helped by you".

Now that we have already mentioned the theoretical and methodological approach, we can continue to look closer at over indebtedness in context and in action.

## METHODOLOGY

We carried out ethnographic fieldwork during April and the beginning of May 2013, when we could observe eleven “first assistances” sessions in the Over-indebtedness Commission, at NUDECON. As a result, we observed forty-five hours of its rites and human interactions through daily attendance. The three authors carried out the fieldwork in an intercalated way, aiming to keep up with the full program of assistance sessions, from its beginning to its conclusion.

It is important to highlight that the first attendance session at the Over-indebtedness Commission became our most privileged observation focus, although it is connected to and supported by a wider course that the attended person, or “*assistido*”, is meant to take at the Public Defender’s Office. The arrival of people who reach the Commission’s support begins from what they internally call “*triagem*”, or the moment when a person’s situation is preliminary analyzed by a trainee, in order to direct him/her to a specific support. This specific support could potentially be directed by the Over-indebtedness Commission, depending on the case characteristics.

This means, therefore, that this preliminary step informs some details which could integrate a person’s profile, considering their identification or not, with the Over-indebtedness Commission where our observations were made. The “first attendance” is generally conducted by a trainee within the Commission, who will raise questions about the person’s economic conditions. These questions consist of personal and economic information, usually based on official documentation, such as income statements, overdue bills, credit cards bills, loans statements, income tax proof, etc.

With these documents in mind, the trainee begins to develop questions about the person’s (“*assistido*”) financial life, while preparing to fill in an *Excel* based electronic form which requires, among other information, the total income data and the total value of loans. Using these questions, and followed by the answers, the first attendance sessions are carried out, for the most part, through the ritual of filling in the electronic form. This is intended to allow the Public Defenders to verify the total value of loans and, consequently, to define whether or not that person could, be considered to be in an over-indebted situation as defined within the Commission’s knowledge context.

As we have already said, the focus of our fieldwork was the “first attendance session” that is regularly scheduled from Mondays to Thursdays, starting at 2:00 p.m. After being authorized, we started to arrive at the NUDECON a little bit earlier than the beginning of the first attendance of the day. Subsequently, we were able to perceive the tangled corridors which make up NUDECON, inside the Public Defender’s Office, located in the Menezes Côrtes building in Rio de Janeiro’s downtown. In this specific place, we would find the Over-indebtedness’s Commission.

Our permanence during fieldwork was restricted to the Commission’s room, although we could, in a short manner, circulate within NUDECON’s space (constituted by many rooms for Defenders, civil servants and trainees<sup>3</sup>). This room is equipped with a work station for first attendance where you can find the trainee, and three more other work stations, where the secretary and the two defenders stand. For a better visualization, we invite the reader to take a look at the room’s plan, which is attached as the paper’s Appendix I, as well the room’s photograph (Appendix II).

It is important, therefore, to mention that we have not observed the preliminary attendance or “*triagem*”, and, furthermore, we have not observed the person’s moment of arrival at NUDECON, which is typically characterized by a waiting period whereupon the assisted

is issued with a protocol number, ordering the attendance. Moreover, we have not observed the institutional relationships between Defenders from different assistance’s sectors.

## DISCUSSION RESULTS: OUR METHODOLOGICAL FRAMEWORK

One of the analysis axes that we intended to do is related to the interactions between those who look for the Public Defender’s Office assistance, through the first attendance inside the Commission, and the clerks and trainees who attend them. As such, we wanted to observe and describe how the “destitute” or “destitute” applicants<sup>4</sup>, interact with those agents. In other words, what are the characteristics of that interaction and how do they interfere with, and order, the Commission’s operation. Moreover, how do they orientate the creation of over indebtedness as a category, during the interactional context that takes place inside those spaces?<sup>5</sup>

To understand the importance that we want to assign to the face to face interactions observed and described, it is necessary, at this moment, to deal with some central distinctions as indicated by Goffman. He was inspired by Durkheim’s idea that individual personality may be seen as a fragment of collective *mana*, (Durkheim, 1960: 343-390) and that the rituals developed to portray a sense of social community, may sometimes be done individually (Goffman, 1967, 47), and so we may be able to capture social phenomena through the study of human interaction. From this emerges the idea that individual connections are made up of rules, connect to each other, and also by behavioral considerations, that perform as a means to reinforce the connections. The direct nature of those rules has the same force as an obligation, establishing how individuals are morally obliged to behave; the indirect nature of the rules has the same force as an expectation, and establish how people are morally obliged to behave in relation to the others (*Idem*: 49).

Those approaches result in a methodological implication that is extremely important within this research context, based on the distinction, and also inspired by Durkheim (1924, 49-90), between substantive rules and ritualistic rules. Substantive rules are those that come about from expectations and obligations, in relation to important, interconnected topics; ceremonial rules are those that come from expectation and obligation, understood secondarily (Goffman, 1967, 53-54) such as *embarrassment, maintenance of poise, capacity for non-distractive verbal communication, adherence to a code regarding giving up and talking over the speaker role, and allocation of spatial position*” (Goffman, 1961: 11).

<sup>3</sup> Besides the Over-indebtedness Commission, the NUDECON, in its all, is characterized by supporting consumers in considering Collective as well as Individual Action.

<sup>4</sup> As we’ll describe during this session, only after the “first attendance” will the Defendant’s decision in relation to the case assistance take place.

<sup>5</sup> In relation to the case’s construction as “social problems” and as policy areas during contextual and bureaucratic routines, see: Ferreira, 2001.

What we intend to do here, then, is theoretically specify the kind of interaction we have observed, because they are different from the ones that we routinely observe in day to day life. Instead of simply treating them as something outside of the routine, we will use the focused interaction concept:

“Instead of dividing face-to-face interaction into the eventful and the routine, I propose a different division – into unfocused interaction and focused interaction. Unfocused interaction consists of those inter-personal communications that result solely by virtue of person being in one another’s presence, as when two strangers across the room from each other check up on each other’s clothing, posture, and general manner, while each modifies his own demeanor because he himself is under observation. Focused interaction occurs when people effectively agree to sustain for a time a single focus of cognitive and visual attention, as in a conversation, a board game, or a joint task sustained by a close face-to-face circle of contributors” (*Idem*: 7).

In a different form from what happens to us during our everyday life, the Commission attendance is deeply marked by the strong degree of institutionalization of its ritualistic interactions, and those small performing corrections, or order calls, from the legal agents to laymen, strongly operate as institutionalization features. Curiously, it is the existence of a computerized system, where a record has to be kept, which becomes the biggest artifact contributor during the attendance ordination ritual.

Thus, when considering the interactions between people and things, some situations are considered easier by those who operate the system, once the process by which the information is entered is made easier also. Such cases are considered faster, as we can see in the passage below, which highlights a conversation held between two trainees, expressing their desires in relation to the form of loans that the destitute individual may have. They hoped that the loans were of the “payroll sheet” kind, as they are simpler to register, and the system can accordingly calculate them faster. This moment was characterized by operational knowledge transmission with one trainee who was leaving her job in the Commission, explaining to her substitute how she should do the attendance:

Trainee 1 – I hope they are all “payroll sheet”.

Trainee 2 – So we register here and it’s over, it’s fast.

### **The first attendance: the interaction between NUDECON agents and the “destitute”**

The attendance often begins with the trainee’s brief presentation, wherein she explains how the Commission’s

work takes place, and asks the “destitute” candidate how he or she got there. She also clarifies the important point that the “over indebted” do not directly negotiate with the banks, or financial agents, letting the negotiation task fall instead to the Commission, through conciliatory hearings. During an observed attendance, the “destitute” grandson tried to intervene and quarrel, about the possibility of starting a lawsuit, and the suggestion was suddenly dropped by the trainee, when she made clear the Commission practices. Thus, we noticed that a stimulus occurs, as an effort to pursue conciliation, at the moment when the trainees demonstrate a more appropriate manner or process to deal with each situation, in order to guide the “destitute” in that way:

Destitute’s Grandson – Can we sue the bank?

Trainee – We don’t know if we can start the lawsuit because we can’t do it without the contract. We can only review the contract at this point and, in the meantime, we’ll evaluate the possibility.

Destitute’s Grandson – It won’t better suit the bank?

Trainee – Here, the rule is conciliation.

Destitute’s Grandson – I do not think conciliation will help [*vai embolar* – expression which means complicated situation]

The trainee is the one who conducts the first attendance, but sometimes the Public Defendant, who coordinates the Commission work, intervenes. We have observed cases when the Public Defendant went to the attendance desk and talked to the destitute, explaining both her own, and the trainee’s role. At the end of the information collection, the trainee would go to the Defendant’s desk to explain the data that had been collected, and to check if the information provided could, or not, categorize the defendant as “over-indebted”. At that precise moment, the category negotiation starts in earnest, during the interaction between the defendant and the trainee, when they may agree, or not, to give the destitute candidate the Commission assistance or not. Sometimes the attendance follows a rite that obeys speaking patterns shifts which are institutionally delimited, especially between the “destitute” and the trainee, as the latter will make requisitions of and demands for information from the former, in order to fill the excel spreadsheet where the data will be recorded, so that it may subsequently be used to follow and guide each case attendance. The “destitute” arrives to the meeting carrying all the papers needed to prove the exact position of his or her financial situation. Among those papers there are paychecks, payrolls where one may find payroll loans, bills (light company’s services, telephone company’s services) proofs of funds, rental payment, children’s school payments, bank statements, credit card bills, statements of income tax, and all documents that, from the “destitute” individual’s perspective, could prove his or her “over-indebted” situation.

The passage below, is related to a moment when the Defendant intervened during the attendance, while the “destitute” was showing the papers she had brought, and was answering the trainee’s questions. She was interrupting to ask some questions and make observations, repeatedly paralyzing the attendance ritual. The defendant’s intervention came to order the speech shifts, because the “destitute” was consistently interrupting, asking questions, and complaining about her financial problems. We observed also, the functions of the hierarchy during the interaction transcribed below, where the defendant’s position appears in the foreground, followed by the trainee and after by the “destitute”. As we have already said, the software is an important tool that appears throughout the attendance, and also commands the rite:

Defendant – Let me introduce myself here. I’m Doctor [Defendant’s name]. [Trainee’s name] is doing the attendance but I’m following it up from here. At the first moment, [Trainee’s name] will be asking and taking notes and after [Trainee’s name] opens the floor for you, then you can talk about whatever you want. I can hand you a paper and a pen to take notes, and she is going to ask you questions.

Destitute – I want the pen and paper, yes.

Defendant – Here is your paper, your draft paper; if at the end she hasn’t asked something that you want to bring to our attention, you will have the opportunity to do so, ok?

As we mentioned before, the attendance generally begins with the question “what brought you here<sup>6</sup>?” The answer emerges as an indication of the categories dominance, by the “destitute”, and will constitute the justification for falling into an over indebtedness situation, in the context of rights assignment and assistance by the Commission. The passage below also indicates the manner in which the speech shift is managed. In this case, the “destitute” grandson, who went along with her at the attendance, soon answers “she is over indebted”. Subsequently, when he had tried to talk during her speech shift, he was interrupted by the trainee, who, at that moment, commanded both the attendance and the speech shift:

Destitute’s grandson – She’s over indebted!

Trainee – Why?

Destitute’s grandson – She got loans, more loans, and still more loans...

Trainee – Have you had any problems?

[Destitute’s grandson tried to speak, but the trainee interrupted him, raising her flattened right hand toward him and saying]: Let her speak.

Destitute – I realized that all I earn wasn’t enough to pay for everything I wanted, the best things, when I left the bank there was always someone to offer something

better. I lost control. There were also lots of medicine based costs; I went on a thyroid surgery and I started to accumulate loans. They offered more and more loans and I thought it was good, at that moment.

According to the passage below, we noticed the following: first, the speech shift, identified by the initial speech, that asks the “destitute” candidate about the reasons why he is there; second, that the question made first looks for the chains of events that took the person this point; following this, we noticed that the category of “phobia” was used in the sense as a disease, in contrast to the consumerist idea. This is why, as we shall see in the next session, a “consumerist” does not act in a good faith and, therefore, this is important feature of the over indebtedness categorization is absent. This passage shows how much the candidate controls that distinction. The “phobia” appears here as a strategy, in order to become an over indebted individual, and to receive the Commission’s treatment:

Trainee – I forgot to ask you, but it is always needed: what brought you here?

Destitute - I hope you help me juridically, because I want to pay my debts. The problem is I can’t do it. The bank takes my money and I get no money even to buy the medicine I take. I put myself into debt in order to complement my incomes. I try to pay for what I need, and to eat. I’m a sick person, but I’m not a consumerist.

Trainee – We need to understand it, because there are some people who have consumer disorders.

Destitute – No, I walk away from shopping centers, I have a phobia.

Clerk – There will be a lecture, with a psychologist from UERJ [State University from Rio de Janeiro]. I want everyone here. It will be really helpful.

Destitute - I told them that I’m filing for bankruptcy, but they [the banks] are still calling me.

We also noticed that there is a reset over the expectations brought by the “destitute” candidates, in relation to how much they intended to pay to the banks, in order to negotiate their debts. According to the passage below, we can see the discussion that takes place between a defendant and the “destitute”, in relation to the amount of money that would be offered to the bank to pay a portion of the debt.

Defendant – Look, stop negotiating without our involvement. There are two points: the life assurance that comes out of your paycheck, is this important?

Destitute -This is to my daughter, I don’t give her anything.

Defendant - But this decision was made before, when you had money, now it is different. You don’t need to answer now, but think about it. (...) How much do you want to pay from those R\$ 1.200,00?

Destitute – How can I answer that?

<sup>6</sup> Author’s note: the question is always made using informal language, so we decided to translate it in the same way.

Defendant – Do you want a suggestion?

Destitute – One hundred *reais*?

Defendant – This is not well proportioned to your debts. I suggest R\$ 300,00.

Destitute – Oh my god...

Defendant – [turns to the trainee] – We'll offer 300 [Trainee's name]! BB [Brazilian Bank] 300. Now we shall see to Santander... 300 to Santander also, ok [Trainee's name]!

We have also seen the relationship between the trainee, who usually conducts the first attendance, and the Public Defenders Service Clerk, who can be invited to solve any questions in relation to the case, considering that she, herself, conducts the attendances that follow the first (the first one is considered lengthy and long-lasting by everyone) and, besides, because the clerk would be immediately below the public defendant, if we consider the hierarchical order of the Commission. Moreover, she would act to directly supervise the trainees as well.

In the passage that we transcribed above, the trainee asks for the clerk's help in order to understand the discounted values in the "destitute" individual's paycheck. At that moment we may notice that, beyond her intervention, the clerk reminds the destitute that, even though she is not able to access all of the money she receives, she does in fact receive an amount of money that remains connected to her debts. Then, one may see a frame that urges a "situation morality" (Eilbaum, 2012) as, during interaction, the correction of what was said takes place.

Clerk – How much do you receive from INSS?

Destitute – I don't receive anything.

Clerk – Yes, you do receive something.

Destitute – It comes, yes.

Clerk – You do not have access to your money, but you do receive it. Register the gross salary and the net salary, the one she really can access.

We mentioned before, the intervention that the Defendant, who coordinates the Commission's work, performs during the attendances. She assumes an important role, as she represents the highest hierarchical position in the interaction context. When she enters the interaction frame, it is normally to solve a problem, to order the speech shift, to set the situational framework as "over indebtedness" or not, and, then, to grant the "destitute" the protection of the Commission. Therefore, we transcribed below one passage that illustrates one of the Defendant's interventions, as we have seen during our fieldwork. At that time, they were talking about a loan that had been announced in newspaper adverts, one which could be applied for over the phone. Although the "destitute" had deposited the money in the informed bank account, she had not received the allegedly advertised value. At the moment the speech was pronounced, the

defendant invited the "destitute" to sit at her table, at the end of the room, modifying the attendance order and starting a conversation about the mentioned loan:

Defendant – Miss [Destitute's Name], we are going to talk a little bit, sit here. The trainee told me your history and I realized that you have a daughter who helps you too.

Destitute – Yes, a lot!

Defendant – And how old is she?

Destitute – She is 34, she sold her car to help me.

Defendant – How did you become over indebted?

Destitute – My father died at the end of 2009, and he had a disability in his legs; my sister quit her job to help him, and she had to live with our brother. I tried to help her and I wanted to do the legal proceedings of heritage -it was at that time I walked into trouble.

Defendant – What trouble?

Destitute – This one, all the documents are with my nephew.

Defendant – When did it begin to complicate?

Destitute – Now, at the beginning of October, 2009.

Defendant – Only in October 2009?

Destitute – Yes.

Defendant – But what happened for you to take all your Money from Banco do Brasil Bank to Itaú Bank? (...) Tell me everything.

Destitute – I can bring everything.

Defendant – Tell me like this "I have called..."

Destitute – I called and the person asked for R\$ 150, then I could borrow 20 thousand *reais*.

Defendant – Who made the phone calls, you or your nephew?

Destitute – Me.

Defendant – And your nephew?

Destitute – He came after, because he had friends from the police.

Defendant – How much Money did you lose?

Destitute – Almost ten thousand *reais*.

Defendant – But if you were asking for money, why did you deposit?

Destitute – I don't know, don't ask me how.

Defendant – How many times did you deposit?

Destitute – Many.

Defendant – Many? How much? 20? Thousand?

Destitute – I have the deposits [slips].

Defendant – I'd like to talk to your nephew, can he come here?

Destitute – I think it won't work, the Itaú's manager already knows it and he called the guy who said he was going to return the money.

Defendant – How did you get the money? Did you make deposits?

Destitute – There is the day when [usurer] called.

Defendant – I didn't understand one point, that's why I wanted to talk to [nephew's name]. There is a small part of this story that you're not remembering to tell me.

Destitute – I don't know what happened, I'm not lying.

Defendant – I believe you, but there is one point I don't understand. They told you that you must deposit the money in order to...?

Destitute – To release the money.

Defendant – Did you always talk to the same person?

Destitute – [Name] was his name.

Defendant – Did your daughter know this story?

Destitute – She knows.

Defendant – Can you bring her along with you, next time?

Destitute – She can't come because she works.

Defendant – I understand, but bring her.

Destitute – She didn't understand that story.

Defendant – I didn't understand it either.

Destitute – I don't know how I got myself in trouble.

After the “destitute” answered the questions transcribed above, the defendant informed them that one of the conditions to be attended and receive the Commission's assistance, was not to take out any further loans. As we saw during our fieldwork, this condition was often highlighted in all attendances that we follow. The dialogue below shows us the emphasis on the importance of there being no assumption of other debts by the “destitute” and the reinforcement of their commitment to solve their “over indebtedness framework”:

Defendant – When the person wants to get loans, she'll do it even if her name is subscribed in the restrictive credit entries, so it's not enough to have it in your hands - I want to hear from you, I want you to say “I won't get more loans”.

Destitute – I won't get more loans!

Defendant – Once again.

Destitute – [turning to the trainee] – [Trainee's name] I won't get more loans!

Defendant – Once again.

Destitute – [turning to the author, Izabel Nuñez] – Izabel, I won't get more loans!

Defendant – Once again.

Destitute – I won't get more loans!

Another detail of the Commission's attendance is the attempt to comprehend the reasons that the person ended up within the “over indebtedness framework”. Even though the member's account is, in a sense, to recompose the frame; through the effort to comprehend the process of “over indebtedness”, the interactions that we followed demonstrated a kind of psychology of causality, expressed by the constant attempts to isolate, in time and space, the trace that caused it. This search for the truth reminds us of Kant de Lima's (2004) description of a systematic position of suspicion, adopted by government agents, over the people, and it appears as well during the *Inquérito Penal* (criminal inquiry), done by *Polícia Civil* (civil police), legal procedures. During the dialogue we have transcribed below, the “destitute” explains the causes that took him to the over indebtedness framework. This kind of questioning was frequently

repeated during the attendances we followed as a recurrent practice, which undertook to cross examine the “over indebted” individual in relation to the causes that resulted in their over indebted position, in such a way as to make it possible to confirm his or her “good faith”. We also see a categorization process, moving towards the creation of a classificatory grid, dividing the justice system into the “good part” and the “bad part”, with the Public Defenders job being included in the former:

Trainee – How did this indebtedness start?

Destitute – The credit card was easy to use. I don't have any control. I always had many debts, but I have always paid them. I would ask myself shall I travel? Yes, then I divide it in three installments. I like to go out for dinner with my wife. New cards are arriving now and I'll have to use them... What do I do?

Trainee – The defendant will talk to you, to advise you.

Clerk – We are the ‘good’ part of judicial system, the judges are the ‘bad’ part.

As we mentioned, there are moments when the trainee, the defendant and the “destitute” interact simultaneously, especially when the defendant becomes involved in the analysis of the case, and is included within the conversation, exercising therefore, a higher role in the hierarchy. The dialogue transcribed below shows a distinction between the loans categorized as “female” ones, which are normally related to the use of credit cards. Another characteristic of the attendance rite, that we can see during this dialogue, is the review of the physical papers brought forward by the “destitute” individual. These papers are analyzed by the members, in order to evaluate the destitute individual's position within the over indebtedness framework<sup>7</sup>.

Defendant – Do you remember the payroll debts?

Trainee – Precisely 30%. He got loans to buy stuff, the seduction. I think this is a financial education case.

Defendant [looking at the papers brought by the “destitute”] – I'm here and I'm meeting Mister... [to the clerk] – Did you explain about the loan cycle interruption?

Trainee – He has more credit cards.

Defendant – And they were for him? These loans seem to be female ones.

Trainee – I think they are his things, too.

Afterwards, the defendant turns to the “destitute” and starts to interact with him, asking about what led him to take on so much debt, and how did his financial situation come to be like this. One may see his reference to the idea of ‘gorging’, when the “destitute” individual puts

<sup>7</sup>Guedes (2013), who have worked with workers and people affected by dams in the north of Goiás (a Brazilian State), the papers play a key role as mechanisms to prove and justify individual claims against the State, as well as to grant a narrative cohesion to this people history.

himself in the position of “good faith”<sup>8</sup>; in other words, he was explaining the chain of events, those that are considered to be good and fair, that led to him becoming over indebted. The passage below shows the “destitute” individual’s desire to make clear his intention to pay his debts, and to avoid defaulting.

Defendant – Was it shopping that brought you to this situation?

Destitute – The simplicity.

Defendant 1 – What do you mean?

Destitute – I think it was mostly eating out. Sometimes to go to a restaurant like Bob’s. We are a little gluttonous.

Defendant 1 – You must not take out any further loans. We are counting on your efforts in this respect. I’d like you to come to a lecture for... EEF (...) It won’t happen in an overnight.

Destitute – I took out some loans to pay others.

Defendant 1 – Your will to repay them is very important.

Defendant 2 – Moreover, I want to demystify all of this. You may, as you say, have your name registered; but I want to demystify everything in order to avoid any more of those loans.

Destitute – They are not going to take my home?

Defendant 1 – No, this is your safe haven. Keep calm.

Defendant 2 – You must attend financial management school, and listen to ‘Doctor Finances’. As I see it, you don’t have enough money to negotiate the debts. Doctor Finance will help you to organize your budget. The debts you aren’t able to pay, just don’t pay.

Destitute – How does it affect me, juridicially?

Defendant 1 – They will call you and launch legal proceedings against you. Then you will be summoned to court, and a defendant will be named to work on your case. However, they won’t arrest you and they can’t take your home. We are not talking about defaulting. We are talking about interrupting this cycle. (...) The reconciliation comes from convenience and possibility.

Destitute – My name will be dirty, but I’ll have money.

Defendant 1 – Everyday survival. Live according to that money, if it remains, and keep at it.

The passage above demonstrates a common practice during the first attendance, which is to enroll the destitute into the Financial Education School, which is a project organized by Rio de Janeiro’s State Government, and which is located in the Vila Isabel neighborhood. It has a multidisciplinary team, and seeks to help people to reorganize their financial lives. During the first attendance, we noticed that there was an evaluation process with respect of whether or not to send the “destitute” individual to the school, in a way that they could organize

their budgets and start paying their debts. Even when the destitute was an elderly person, the agents used to suggest that a family member should go there, in order to reorganize the family’s budget. Therefore, the school appears during our research as a “technique of power”, and those who go to NUDECON for assistance are often referred to it, in order to organize their consumption habits in a continuous and permanent way (Foucault, 1990). In a way, this affirms the importance of its contribution to the indebtedness framework’s success, in that the level of NUDECON assistance provided can be tied to the destitute individual’s attendance to the Financial School Program.

Presented briefly in the passages transcribed was a common use of that we called ‘indexical filtering’, utilized as an effort to restore the sense of certain, fundamental legal categories. *bem de família* (“porto seguro”), *a impossibilidade de prisão por dívida* (“não dá prisão”) e *a inadimplência* (“calote”). The answer to “how does it affect me juridically?”, for instance, results in the response that the destitute individual must adhere to the relevant Commission advice. Beyond the semantic mediation, translation, or ‘mental spaces’ conversion between legal and secular, we have a real categorization process, that both creates law and makes it real, every day, through context and action.

We will go, now, to the analysis of this phenomenon, starting by looking at the interactions between the commission members, through to reviewing the necessity to categorize every single destitute as over indebted or not.

### **Around the “first attendance”: interactions held between the Commission’s members**

The interaction held between the trainees, the secretary and the public defenders with a view to supporting people who have requested the Over Indebtedness Commission’s assistance – “*assistidos*”, as we have already outlined, is elaborated upon in the sense of attributing a socioeconomic condition which could or could not perform as a support for a legal categorization for protection. We have perceived that the process is made up of interactional contexts that involve not only the Commission’s servants, but also, and intensively, the “*assistidos*”, who act as perceivers of a ‘categories universe’ where they are meant to be included.

The next step for the “over indebtedness” comprehension and description, in both context and action, will not focus on describing the face-to-face interactions between trainees, servants and public defenders, as we did in the last section, but will instead conduct a process geared towards showing, relating and confronting indexical high densities, which are supposed to categorize the over indebted person one way or the other, taking into consideration his/her causal aspects.

We have perceived that the effort which the “*assistidos*”

<sup>8</sup> The term “good faith”, according to what we saw during fieldwork, means a native category used and repeated by the Public Defendant’s Agency to frame, or not, the “destitute” in the “over indebted” category. Although we highlight that this category is used by legal scholars who study legal phenomena. As such, it emerges also through the dialogue between the Field and theory.

take when looking for the Commission's assistance has, as part of its main strategy, a good deal of cognitive tensioning, which is supposed to identify patterns and guidelines for their practical behavior. These actions are considered from their reflexive potential and, therefore, from an intense daily re-elaboration within the Commission's process context. Through the contextual face-to-face interactions, our challenge will be to identify the categories and disputes which are related to the Commission's efforts to produce some abstract categories from a global notion of "over indebtedness". In this sense, we believe that a sequence of contrasts, premises and findings from the attendance's contingency would imply social constructions of legal realities which are comprehended – in action - around the category "over indebtedness". As could be perceived on the following interaction description, that construction debate shows itself in a full dispute and, therefore, highlights that we are far from an internal consensus:

Trainee – I don't know if she is over-indebted.

Public defender 1 – It is the questionnaire which confirms this (...) You must take it to the meeting.

Secretary – It would have a criteria list.

Public defender 1 – It is not the trainee who is supposed to check this. It must be the public defender. It is more complicated than this. It is a complicated process. It must be scheduled for an attendance, to look for many things.

Public defender 2 – You must see her income tax statement, in order to ascertain if the person has an income to spend. Only considering the paycheck is not enough.

Public defender 2 – Because it might be...

Public defender 1 – But, it could not be.

Public defender 2 – And sometimes it seems that it is not.

Public defender 1 – And sometimes it seems that it is not, but it is!

As we can see from this conversation between a trainee, two public defenders and one Public Defender's secretary, there is an intense complexity during the process of attributing the over-indebtedness category. Beyond the constraints applied by evaluating the proving documents (income and monthly expenditure), it seems to exist in some other instances within the categorization process, which would be high determinants. So, an apparent tension arises between the effort to objectify native realities and what is ultimately a subjective process, which relies heavily on the personal experiences of the Commission's servants. These experiences are, as we see, confronted with a *categorical activism* that is considered from the "assistidos" perspective, and which is taken in context.

On the composition of that dialogue, the debate moments in which give rise to over indebtedness as a category, or as an indexer of legal contexts, were observed in three different forms of action. The first one

takes place when the "assistido" provides his/her social economic data to the trainee. In this moment, the trainee and the public defender meet each other in the back of the assistance room, with the intention that the former could reveal to the latter, the data obtained from the "assistido". This data had been consolidated by the trainee on a digital form. Then, both individuals deliberate about the people who had requested the Over Indebtedness Commission's assistance characteristics, focusing on some diagnosed causalities. This attendance step aims to guide the "assistido" toward some internal practices and solutions, that are recognized by the servants as routine methods.

Beyond that step, some face-to-face interactions were identified in backstage contexts, when there was not any ongoing assistance, which were caused by delays or absences, as well as cross-interactions, which were perceived to be doubts and misunderstandings.

We understand that the common characteristics of those interaction moments are a contingent action. Through the specific characterizations from assistance contexts, the debates around the construction of a legal status have arisen and have created multiple semantic arrangements, in which the attribution of an economic and legal situation is the main target. In the following conversation, held between a public defender and a trainee, we could perceive some central aspects related to the categorization effort. This debate has occurred after data collection:

Public defender – How is the lady ["assistida"]?

Trainee – She came with her grandson and her daughter is outside. She told me that her loans are long dated and that her daughter is schizophrenic.

Public defender – I know who she is. Does she live in Madureira [Rio's neighborhood]? I know who she is. In fact, most of her debts are in the name of her granddaughter, aren't they?

Trainee – Yes. There are some debts that she pays normally. The telephone bill she usually helps to pay.

Public defender – I hadn't known that her pension and other incomes were so high.

Trainee – Her daughter is outside.

Public defender – I didn't meet her daughter. How many creditors does she have? [verifying the trainee's notes]. Wow!

Trainee – It is 50% of her income.

Public defender – It is already under execution?

Trainee - No, because her account is at Itaú [bank] and before she used to receive her salary at Bradesco [bank]. She has changed to Itaú in order to be released from execution.

Public defender – Oh, good!

Trainee – She cried during the assistance.

Public defender – I get the impression that she does not have the right profile for the Finance School. She can't reach it.

Trainee – I think that everybody could go to the Finance



School, because it can help a little.

Public defender – Her Banco do Brasil's loans are not so high.

Trainee – She has resolved the execution situation by moving her bank account.

Public defender – Let me reach her month spending.

Trainee – There are credit card bills too.

Public defender – It is not so high too. Her bills are well adjusted.

Trainee – She told me that she spends so much on taxis, drugs, and at the supermarket.

Public defender – I don't think that we could suggest a limitation proceeding [for payroll loans] in this case, because it is just overcoming 20% of her income. For living day to day, she needs three thousands *reais*.

Trainee – The problem is Banco do Brasil. We could not verify Crefisa [credit agency] because we don't have the contract and she doesn't know how much she owes.

Public defender – Banco do Brasil. I want to schedule a conciliation meeting: offering approximately eleven thousand *reais*.

Trainee – Credit cards with fifteen and sixteen thousand.

Public defender – But she doesn't have money to offer to Banco do Brasil. She must reduce her spending (...). Spending money on a dog?

Trainee – She told me that she couldn't wash her dog.

Public defender – She must reduce her spending.

Trainee – I don't know how she could do that.

Public defender – She has almost nothing. She is already overdue. I believe that the conciliation is the best solution for her. But you should schedule her conciliation meeting. Her presence will not be necessary in the second assistance meeting. Call her grandson. He does not seem to be exploiting her.

Trainee – I remember. He is over there. He brought everything for her.

Public defender – I felt that she is taking him as a support. I felt a collaborative spirit on him. She said "so I would have a dignified old age". I think this is a case for the Finance School. But she would spend money to get there, so send her grandson. It will be good for her, for him and for everybody. The re-evaluation of the limiting procedure [payroll loan], we can consider further ahead.

Trainee – Ok.

Public defender – Have you thought about other things that I haven't considered?

Trainee – No. Crefisa will wait.

Public defender – She seems to be conscious about not taking out any further loans.

Trainee – I told her that she must stop it.

Public defender – According to my feelings, in this moment, if we start with the limitation procedure, while she is not conscious about her problems, she might carry on with getting more loans. All right? Tell her that I will talk to her in a while.

This conversation suggests that the attended trajectory is an important way to diagnose him/her problems, toward

identifying the best way of "treating" them. The conversation between the public defender and the trainee is not simplifying the over-indebtedness identification through sticking to the hypotheses normally considered by the Commission. In this sense, "financial education" comes out as a common category for interpreting the cases. When it does not appear as one of the possible resolutions for an over-indebtedness case, it serves instead as a mediation source, between the economic behaviors perceived, and the future of the personal finances in which the effort is made to "reduce" the monthly spending.

We could observe during the attendances, that the debate with respect of identifying an over-indebted person is mostly constructed under an idea of "awareness". This process takes its causes generally from his/her household characteristics, considering its impact upon his/her social necessities. In this attendance step, his/her spending is correlated with his/her incomes, and is looking for a causal element which could be used to qualify and also orientate the case comprehensions. When they (public defenders and trainees) talk about spending, the "amount of debtors" is frequently highlighted, as well as the percentage of payroll loans, and is considered against its impact in the "assistido's" monthly income. Beyond the public defender's sentiment, or subjective impressions, these aspects are considered as objective evidence, which is meant to elaborate upon the over-indebtedness category, in context and by action.

Therefore, we have perceived that there is a continuous effort from the Commission's servants to confront the causal effects of over-indebtedness by listing a series of criteria which are, in context, considered in their normative nature. These criteria materialize through the assistance form ("fichinha"):

Public defender [to the researcher] – There are some people who don't know that they are over-indebted. Other people arrive here saying that they are under-indebted. Here there is a "*fichinha*" for each problem. For example: when we see three Banks's listing criteria the red light turns on.

The form in which the criteria are listed is the basis for organizing and summarizing the main objective aspects of the consumers who seek the Commission's assistance. As we see in the last speech transcribed, the form is supposed to be a determinant source for categorizing the "*assistido*" as "over-indebted" or not, entirely separately to their own personal diagnosis of their situation.

However, the potentialities in using objective criteria in the categorization process are frequently demonstrated before the servants' subjective impressions, which arise during face-to-face interactions which consider the idea that each personal story has its peculiarities:

Public defender – According to everything you talked

through with her, what do you feel? Why does she spend so much money? Health problems?

Trainee – I think that it is a problem with her husband's health, as he had to stop working.

Public defender – But she told you that?

Trainee – No.

Public defender – Did she tell you about her expectations of our Commission?

Trainee – No.

The trainee's, the employee's and also the public defenders' perceptions are made up of a set of observations that are generated during the assistance. This process is constituted by a relationship between the applied data ("papers") and the semantic and narrative context of the personal views, within the assistance context, which is considered by its dramatic aspects.

We understand that the personal assistance context, when correlated to a descriptive and causal narrative, is a central aspect of conceiving over-indebtedness. From this point of view, the narrative has as cognitive motto; the efforts of turning some subjective feelings into expressive data. According to Goffman, this exercise would imply that turning those visible costs into invisible ones, aiming to conceive the activities in their factual dimension, as well as considering the expressions of social roles in the specific context of face-to-face interactions (Goffman, 1985:39).

When an "assistido" is absent in the assistance room, it is common for the Commission's members, on considering his/her personal narrative, to establish a connection between a *virtual social identity*, by which we mean retrospective imputation, and a *real social identity*, attributes that could be effectively arranged (Goffman, 1963, 2-3). This connection is able to identify, as well as exponentiate, some characteristics of the person who is seeking the attendance at NUDECON through some efforts to categorize him/her as an over-indebted consumer. Moreover, it would create some ways of inducing categories on a pre-determined universe of problems, which frequently inform the nature of the Over Indebtedness Commission.

The interaction below happened between a secretary, a public defender and a trainee, before the first attendance, when a scheduled "assistido" was late. The delay made possible a debate between them.

Employee (secretary) – This is a person who has higher spending than income: 70, 80 and 90%. He is able to pay his daughter's studies and he has a car. To me, he is not an over-indebted person. The car is a problem for me, but it is alienated. The bank would not want to renegotiate. They will see his salary with a debt of 7000 and maybe it will be enforced. When it exceeds 3000, they will come in.

Public defender – How many payroll loans does he have?

Trainee – Four.

Employee (secretary) – It left seven hundred, but he uses

it in general spending.

Public defender – He is not over-indebted!

Employee (secretary) – The money that is left, he uses for living.

Public defender – We could tell him about the Finance School in order to suggest to him that he equates his spending with his incomings. He was joking a lot. This is not an over-indebted person's psychology profile. You should explain to him the difference between indebted and over-indebted and, therefore, ask him to return to the first assistance for orientations and conciliation.

Again, it is evident that the consolidation of an over-indebtedness case has an attributive feature. A detailed comprehension of the person's economically meaningful life necessities arises as a central strategy to identify the extent to which they could offer to renegotiate their debts. During the assistance contexts, this local policy uses the maintenance of what they call "vital minimum", the amount of money that a person needs for a basic living, as a general reference point. Hence, in the first place, they try to calculate this "vital minimum" in order to determine what the following actions will be; for example, reordering debts and reducing spending.

According to that interaction, we can perceive a hybrid character on establishing the basis, and the criteria, to categorize over-indebtedness in context. Thus, after requesting the values and percentages, and subsequently identifying the person's financial situation, some personal impressions, from what we understand as intuitional and evidentiary grounds, are highlighted in order to create an "over-indebted person's psychology profile", which is preconceived by the Over Indebted Commission members. Since the establishment of the relationship between those two analytical axes, the over-indebtedness could be translated into categories: in essence, the difference between "much indebted" and "over-indebted".

From the described context, a person who is qualified as "much indebted" has all the categorized economic attributions, but, not the moral ones. The "psychological profile" is a native effort to translate this perspective. Such characteristics, that the "assistido" did not have because he was "joking a lot", are a product of what we call *situational morality*. We believe that this condition is a requirement for effective categorization which, now, arises as a *social construction of good faith*. In many of the observed face-to-face situations, embarrassments, anger, shame and suffering were demonstrated as objectifying elements, for a moral perception of the over-indebtedness. As such, we have verified that the categorization process for over-indebtedness seems to be "informed by various moralities that result in a legal consolidation process connected to pre-determined moral values, while eliminating others. This is closer to what Eilbaum (2012) has found during her research. These moralities are not constrained narrowly by the laws; on the contrary, they inform some rules which are kept in

place while face-to-face interaction occurs between the people who are under assistance and the public defenders.

So, in this path whose narrative arises from a permanent debate around imputations, the empirical reference, taken by the Commission's servants, are the causal aspects. This causality, in context, is turned into a coordination strategy through the interpretation of a person's narrative. However, the potentiality of this data's interaction has its reasons, not only in the preliminary identification of an over-indebtedness *type*, but also as a central aspect for a personal categorization, toward the sort of resources that aim to do what the Commission's servants call "way back" – the "financial health" recovery.

Trainee – In his case, there are not so much payroll debts, but there are many credit card debts.

Public defender – What did you see? What was the cause?

Trainee – He had to stop working, so his income decreased.

Public defender – He began to use credit cards as a supplementary income. In fact, we must identify how much money is left for his living.

We persist with the assertion that *causality psychology* is a determinant aspect for coherent ordination of the Commission's social reality upon facing over-indebtedness. The "*assistido*" is, therefore, turned into a *social construct* in order to be interpretable in a "multiplicity of realities", in which he/she will be characterized by some subjective meanings. According to Berger and Luckman, this "multiplicity of realities" has as a primordial base the everyday life which is, *per se*, a reality. Only then, with the actions and thoughts in context, does the "real" emerge in its relationship with the knowledge (1966: 19-20).

So, according to some causal sources (illness, income decrease, unemployment) the "*assistido*" will be considered as a part of the NUDECON's over-indebtedness realities. The contact of this perception with objective data will, then, propitiate him/her to reach the NUDECON's legal support, which is generally constituted by conciliations between the over-indebted person and his/her creditors (banks, credit agencies and stores).

Public defender – The most important thing is to know that we are going to support you. According to my personal experience, you are able to receive the Commission's support. As I see, your problem is to complement the income. Using a credit card to complement income is the same of making loans. However, the interest rate is higher. So, it doesn't work. You have gone down that path, and now we should make the way back. Traditionally, we make it through conciliation sessions. My point is to schedule the conciliation sessions by assigning lower values, but I request that you to bring the exact values that you can offer for paying. Remember that you are not obliged to accept their proposal.

## Conclusion

We have observed from the Commission's assistances, a series of face-to-face interactions which were described in order to demonstrate "over-indebtedness" as a narrative indexer. Its common aim is to assign categories. We perceived that the construction of those narratives generally comes from contingent situations. This has allowed us to identify the Commission's daily practices, which are closer to a permanent process of both living and producing the law's context. So, we believe, those categorization processes are mediated by the contingent, which brings a tension between mimetic, repetitive and innovator actions, as Lefebvre has characterized in his concept of *praxis* (Lefebvre, 1966: 43). We have seen that these settings arise according to the present and/or imagined realities that are established by face-to-face interactions, between the Commission's members. Therefore, there is not any specific profile for an over-indebted person at NUDECON. What we can perceive is that, on the other hand, there are imagined profiles that suit the members' experiences in the institutional context, following a classificatory system (Durkheim and Mauss, 2009) which is meant to distinguish the consumer as either "active" or "passive"; "over-indebted" and "much indebted"; "good faith" and "bad faith".

We tried to demonstrate, through the transcription of interactions (some of them defined by a speech turn, others considered in crossed-interactions), that the empirical phenomenon of the over-indebtedness strives, ultimately, to structure a knowledge order which, through practical contexts, aims to establish permanent connections between the comprehensive outline of economics and morality. This knowledge base, while still in development, realizes the accomplishments of the law, taken as they are from the proposed solutions (for instance, limitation action for payroll loans), along with the conciliation sessions.

Looking at the people in question ("*assistidos*"), we have perceived that they possess a basic grasp of the categories which are related to the over-indebtedness. This fact allows us to say that the assistance contexts are guided by a consensus which is established between the involved actors, and which can generally be identified by the common use of conciliations sessions with debtors.

We highlighted, therefore, the "*assistidos*" *categorical activism* who, intuitively, have – in a conscious limit of their interests – the capacity to mitigate, or even to produce, references and symbols with the aim of supporting their over-indebtedness framework and, ultimately, to become holders of the NUDECON's *tutelage*.

We have also perceived that in amongst those face-to-face interactions, there are moralities which we have been characterized as *situational* (Eilbaum, 2012). We are carrying these interactions out in person, and so, certain practices and decision influencers arise in a situational way. Consequently, such morality oscillates according to the objective and subjective characteristics

and demands.

Following these observations, we have found that the causality in each given case generally orders the face-to-face interactions, in the sense of forcing narratives, of which the intention is the “over-indebtedness” categorization. In fact, we can identify a *causality psychology* that informs the real psychological state of over-indebted people at NUDECON. In contrast to the claimed *process* of over-indebtedness, the debt causing fact searching aspect situates its empirical features in a pathological universe, considering that the construction of meanings for the situation is always an important requisite. These meanings will suit as structuring elements, for a daily categorizing of the NUDECON’s “over-indebtedness”.

A similar process was also demonstrated through an application of the ethnographic technique called *shadow writing*, at some legal hearings involving convicted criminals and social workers in Scotland (Halliday et al., 2008). When the emotional and moral dimensions of the objectification process of narratives are highlighted in a written report, the authors found that this task contributed towards the normalization and codification of moral judgments, as well as for the elaboration of persuasive narratives. Komter has used ethnomethodology in order to approach the reflexive aspect of producing some witness testimony minutes at police departments (Komter, 2001). The author has demonstrated that the content of those documents - produced by testimonial takers - had been orientated to the future operators and users of the documentary evidence. Similar conclusions of ours are not, however, necessarily recent. Sudnow (1965), in an ethnographic study at a Californian Public Defendant’s Office, has put to his sociologist colleagues the impossibility of using an analysis based on the direct confrontation between the defendant’s narrative and the written law. The public defenders’ “representation” role does not dispense with the elements of the social structure, knowledge of criminal behavior, community ecological characteristics, standards of a daily life in suburbs and also the defenders’ psychological and social biography.

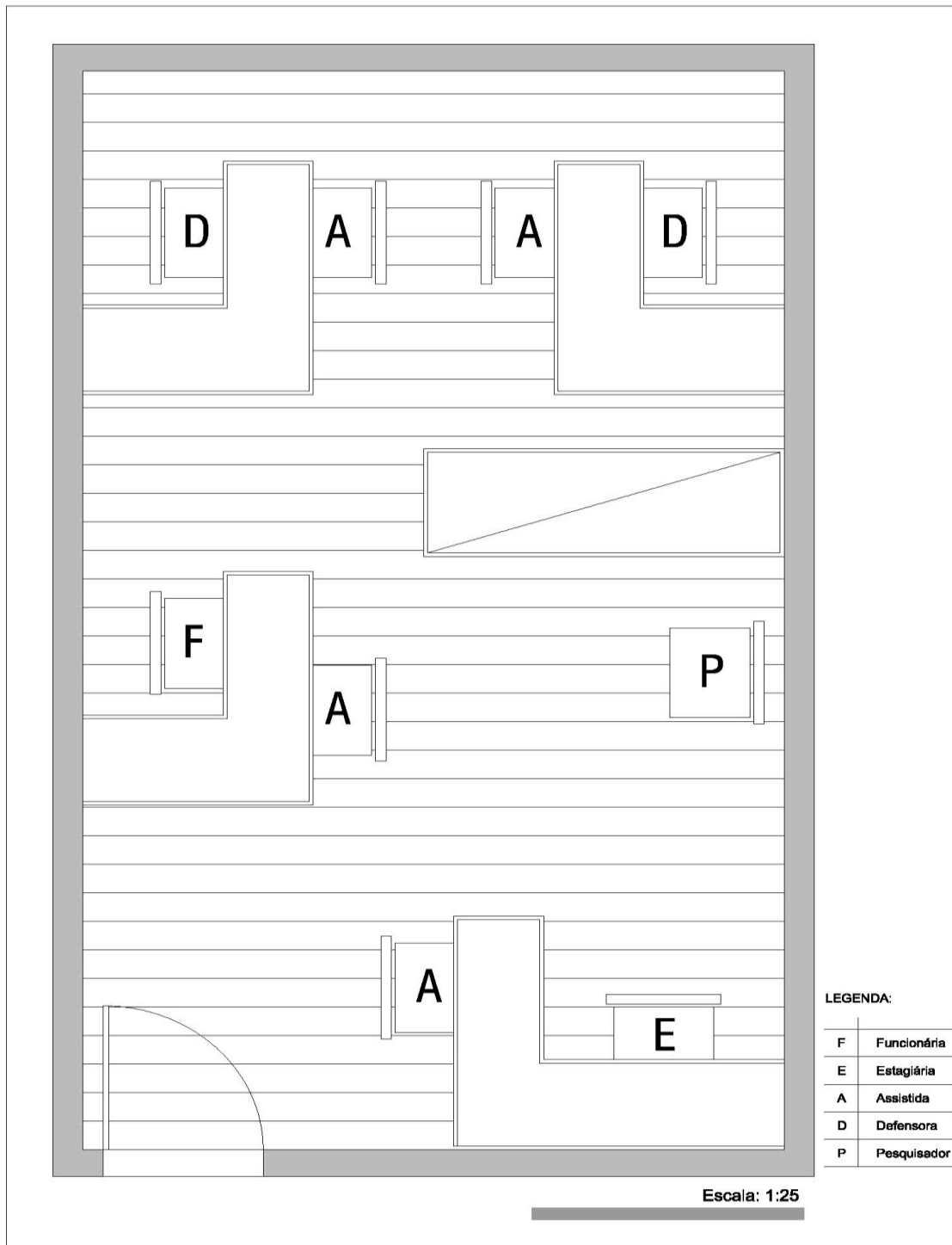
What we, ultimately, want to say, is that the categories which arise from face-to-face interactions in the assistance observed contexts, are constituted by moralities and their connections with causal *nexus*, that can appear as objective and/or subjective individual/social aspects. When merged, both moralities’ categorization process and its causality turn into what we call *situational comprehension of the good faith*, considering its quality as a social construct. Moreover, we were able to correlate a plethora of problems and socio-economic relationships, with their potential for institutionalization through moral categorization. So, when the assistance is happening, the “assistido” will be considered while using as a categorization base, the objectification of the subjective elements of his/her narrative. As demonstrated by Fassin (2009), the economy and economic exchanges are also informed by moralities, when objective and subjective

aspects are considered in a system of render and exchanges. At NUDECON is evident that what is intersubjective is the closing good faith evaluation as a final categorization aspect. This evaluation has a moral burden. We know, therefore, that this process demonstrates the (re)construction of Laws in context and in action.

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Appendix 1. Commission's Room Floor Plan.<sup>9</sup>



<sup>9</sup>We must thank the precious aid of the architect Renata Tavares, who drawn this plan based on our drafts.

**Appendix 2.** Comission's room Picture.

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<sup>i</sup> This paper is a component of an ongoing research project named “The over indebtedness in Brazil”, developed by the Getulio Vargas’s Centre for Law and Economics, in Rio de Janeiro – CPDE/FGV Direito Rio, and coordinated by professor Antônio José Maristrello Porto. Following Antônio Porto’s invitation, we started our paper thankful for the challenging opportunity, the autonomy we had to develop our work, and also the support received. Moreover, we’d like to thank the Rio de Janeiro’s Public Defender’s Office through its members Alessandra Bentes Teixeira Vivas, General Coordinator of the Center for Consumer’s protection – NUDECON, and Patrícia Cardoso Maciel Torres, the Over-indebtedness Commission’s Sub-coordinator, who has gently authorized our physical presence in the field in order to undertake the ethnography research. In assuring the actor’s anonymity, we will not mention their names or any other information that could be used to identify them.

Full Length Research Paper

# Keeping religion out of a conflict: Learning from the Kenyan Church

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Religion can be argued to be back into the public sphere of society casting doubt on the secularization theories. Though religion is said to be largely ambivalent, when involved, it complicates conflicts. In our modern multi-religious societies, keeping religion out of the conflict can be of benefit. Kenya's involvement in the war against terror in Somalia was initially against the militant group, Al-Shabaab but the conflict got complicated when the group started attacking churches in Kenya in retaliation. Their target was to cause animosity between Christians and Muslims in Kenya and draw a religious angle into the conflict. However, the Christian victims of the attacks did not fall into the trap of the terrorists by choosing not to retaliate. They chose not to be part of the conflict. Factors that helped the church achieve this tolerance include open channels of communication between the two religious communities, interreligious forums and communication, government intervention, religious leadership, faith based counseling and doctrine. This research article is based on a study done in Kenya on the response of the church to the Al Shabaab attacks.

**Key words:** Religious conflict, tolerance, terrorism, communication across borders, interreligious forums and communication, Al Shabaab, Kenyan church.

## INTRODUCTION

In handling conflicts where religion plays a part, it has been argued that since religion is ambivalent, its positive attributes should be explored and the negative ones negated. This article explores the possibility of keeping religion out of a conflict all together as an option.

Soon after the Kenyan Army launched an operation against the terror group Al-Shabaab, it reiterated the incursion by bringing the war to the Kenyan soil and started attacking churches (Hansen, 2013:131). This happened especially in the Northern part of Kenya and some parts of Nairobi and Mombasa. Odhiambo et al,

(2013), in their article, *The Reprisal Attacks By Al-Shabaab Against Kenya*, have given a detailed account of the attacks that Al-Shabaab carried out in Kenya since the Kenya army started carrying out its operation in Somali in 2011.

It seemed like the conflict was being turned from a war on terror to a religious one. With the help of radical Muslim Clerics, Al-Shabaab used a tactic of using converts from Christianity especially from Christian dominated areas of Kenya to attack churches, killing people including a 9-year old boy attending Sunday

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school within church premises (Osanjo, 2013:14). Their claim was that the "Christian" Western nations were using the "Christian" Kenya army to fight Islam in Somali and convert the Somali people to Christians (ibid). This change of tact by the Al-Shabaab and potential transformation of the conflict largely depended on how the church reacted to the attacks.

This article looks at how the church reacted which mainly centered on keeping religion out of the conflict. It is based on a study carried out to find out how the church in Kenya responded to the Al-Shabaab attacks caused by the Kenya army's operation in Somali. In the study, a total of nine interviews were carried out that involved 17 interviewees. The interviews were done in three different institutions: 2 churches and the National Council of Churches of Kenya, which is the largest umbrella organization of the mainstream churches in Kenya. The interviewees varied from victims, youth groups, and local lay and senior leaders in the churches and the national church leaders.

The first part of the article gives a brief review of the role of religion in our society today. This is followed by background information about the development of the conflict involving Al-Shabaab, Kenya and the Christian community in Kenya. The last part explores how the Kenya church responded to the Al-Shabaab in an attempt to keep religion out of the conflict. Finally there is a conclusion.

### Role of religion in modern society

The theories of secularization predicted the decline of religion in the public space. The French sociologist Emile Durkheim declared that "the old gods are growing old or already dead" (Casanova, 1994, p. 18) and in this regard he was not alone. He was supported by other notable figures of sociology like Max Weber, Karl Marx and Herbert Spencer (Casanova, 1994, p. 17).

Religion was seen as anti-modern and the "enlightenment proclaimed the death of religion" (Juergensmeyer, 2003, p. 229). There was an expectation that since modernization made religion "invisible" in Europe, the same will happen as it spread to other parts of the world. China and Japan have proved that this may not be the case. Japan is highly modernized yet it has not fallen to westernization. It took its own path of modernization but still religion remains an important social force in the country (Blasi, 2011, p. 117). China has developed without the "western democracy" but it has an autocratic rule.

On the other hand, United States of America has maintained its religiosity visible at the same time being a super power. Other emerging economies like Brazil, South Africa and India are relatively religious. Perhaps those who predicted the decline of religion in public sphere in the face of modernization applied the western European case generally and too soon without taking into

account the complexities of societies as they develop.

But today, many will argue, "Religion is back." The significance of religion in the society today can be said to be "increasing" thus casting a doubt at the secularization theory (Demerath, 2001, p. 6). The role of religion in the society today should not be taken for granted. The reality today is that the population of the world is generally religious (Koeng et al., 2012, p. 53). In many parts of the world today, religion acts as the anchor that holds life, defining individuals, communities and even nations. In such societies the definition of conflict and peace cannot exclude the religious understanding.

### Al Shabaab and the Kenyan church

Stig Hansen, a Norwegian historian and expert on the conflicts in the Horn of Africa, describes in detail the development of the relationship between Al-Shabaab and Kenya (Hansen, 2013, p.126-132). His research puts 10% of the membership of Al-Shabaab to be of Kenyan origin. He traces the link between Al-Shabaab and Kenyan Islamic charities and radical clerics such as Sheik Aboud Rogo Muhamed to date back to mid-1990s. He further points out that sympathy, financial support and recruitment for Al-Shabaab were done through these charities and clerics who portrayed the Kenyan Government especially the police department as joining United States of America (USA) and European Union (EU) in fighting Islam all over the world. Al-Shabaab started recruiting youths from non-Somali origin and took them to Somalia for training. Most of the recruits were jobless youths who were promised scholarships and jobs in Somalia only to be forced into the group military training (ibid).

To make its influence felt, Al-Shabaab started cross-border attacks and kidnapping of European tourists and other foreign aid workers from the coastal and northern areas of Kenya, harming the Kenyan tourism industry, which is one of the main income earners of the country (International Crisis Group, 2012). This led to a decision by the Kenyan Government to deploy its army to secure the borders and interests of the country. In October 2011, the Kenya Army set foot on the Somali soil to pursue the Al-Shabaab militant group in an operation dubbed *Operation Linda Nchi* translated as 'protect the country' (Gettleman, 2011). Though the Kenyan soldiers were initially fighting Al-Shabaab on their own, they later joined the African Union Mission in Somalia-AMISON (International Crisis Group, 2012).

Daley (2013) has written extensively about the question of the legality of the 2011 Kenya incursion of Somalia. His conclusion is that Kenya handled the case legally. He argues that the incursion as an initial step was permissible under the international law as a form of self-defense under Article 51 of the UN Charter, which was then followed by the Kenya army joining the UN, backed



AMISON forces later.

After the Kenyan army was deployed in Somalia, the Al-Shabaab declared jihad on Kenya that was accused of playing puppet to the western powers in their `global struggle against Islam` (Hansen, 2013, p. 130-131). This confirmed the worst fears of Kenyans of being targets of the religious extremists (Allison, 2013). Al-Shabaab attacks on Kenyan soil has since taken diverse faces which include killing police, abducting government officials, killing aid workers, attacking bus stops, restaurants and lately the Westgate Mall attack that killed over 70 people (Miller, 2013).

The author's interest developed when Al-Shabaab reiterated the Kenyan army incursion by bringing the war to the Kenyan soil and started attacking churches. This happened especially in the northern part of Kenya and some parts of Nairobi and Mombasa. Odhiambo et al. (2013) have given a detailed account of the attacks that Al-Shabaab has carried out in Kenya since the Kenya army started carrying out its operation in Somali in 2011.

A good number of the attacks were on churches. A grenade attack at Garissa's Pentecostal Church on November 5, 2011 left two people dead and five seriously injured. One person was killed and 11 other hospitalized when God's House of Miracles Church at Ngara Estate in Nairobi was attacked on 29th April, 2012. A simultaneous attack on two churches in Garissa on 1 July 2012 left 17 people dead and 50 injured. Those dead included nine women and 2 children. On July 21, 2012 police in Kitale (town in Western Kenya) arrested two terror suspects, who were on a mission to allegedly bomb the Umoja Catholic Church, a busy parish in the Eastlands area of Nairobi. On 20 September, a 9-year-old boy was killed when a grenade was hurled to Sunday school children at St Polycarp Anglican Church along Juja Road in Nairobi. It seemed like the conflict was slowly transforming from a war on terror to a religious one.

### **How the Kenyan church attempted to kept religion off the conflict**

Our world is becoming increasingly interconnected and one thing that we cannot avoid is meeting and living with people from different religions. In their article, *Are religious tolerance and pluralism reachable ideal? A psychological Perspective*, Waillet and Roskam (2013) attempt to explain why religious tolerance is a more than welcome outcome in the world today and how it can be achieved. They start by distinguishing between pluralism and tolerance. They argue that pluralism is to acknowledge diversity and openly engage in a dialogue with it even if it means challenging and reconsidering one's views. On the other hand, they see tolerance as "putting up with something that one disapproves of or is prejudiced against" (Waillet and Roskam, 2013, p. 71).

They identify four obstacles to religious tolerance and pluralism: developmental psychology, social identity, terror management and personality. They argue that

though adults have cognitive capacities to understand these concepts than children, not all achieve them because of other factors including their cultural environment (Waillet and Roskam, 2013). Religion as part of culture gives people a sense of identity and discrimination against those of the out- group. Using the terror management theory of Solomon, Greenberg and Pyszczynski, they see religion as a real obstacle to tolerance because it gives people a world view to deal with fear of death and give meaning to life. Since this is core to life, people find it hard to embrace or take seriously those who hold to a different world view. Personality traits predispose people to varying degree of ability to change and be open to a different other.

In this light, the relationship between Christians and Muslims in Kenya can be said to be tolerance rather than pluralism. There is mutual respect and neither seeks to antagonize the relationship. They have learnt on how to put up with one another's differences choosing to focus on what unites them rather than what divides them. Respondents in the study observed that this has helped foster the mutual relationship, a factor that helped stop the conflict from changing from terror related to religious related.

The study also found out that open channels of communication between the Christian and Muslim communities helped foster unity when it was threatened by the terror attacks. For example, in one church, the youths had engaged their Muslim counterparts earlier in common games and picnics. They had even shared resources like borrowing chairs from one another during functions. When the terror attacks occurred, it was easier for the two communities to talk around the suspicions that one community was responsible. Through the talks they were able to discover that the attackers were coming from outside the community. Appiah's (2007) concept of "Conversations across boundaries" in cosmopolitanism befits this narration. Different religious communities can agree to disagree on details of their respective faiths but lines of communications must be open especially on common areas. These are handy in drawing common understanding during potential threats to peaceful coexistence.

The case under study is a good example of tolerance in the face of a provocation into conflict. The Al-Shabaab failed in their attempt to cause animosity between Christians and Muslims in Nairobi mainly because of the way the Christians responded. Listening to the respondents, several factors were identified that contributed to this tolerance. These factors include interreligious forums and communication, government intervention, religious leadership, faith based counseling and doctrine and lastly spiritualization of the conflict. Below is a detailed discussion of the factors.

### **Interreligious Forums and Communication**

The concept of multiculturalism seems to be a disaster in

Europe (Iverson, 2001) but in Kenya, people from more than 40 different ethnic communities confessing more than five different religions have lived alongside each other relatively well. The two largest religious communities are Christians and Muslims making up about 80 and 10% of the population respectively. The Muslims mostly dominate the coastal and northern parts of Kenya. The former Pope, Benedict XVI, encouraged people of different religions to have dialogue by advising that religions need “to learn to accept the other in his otherness and the otherness of his thinking” (Benedict XVI, 2012). Kenya is a good example of a country that has walked the path of the words of Sen “the promotion of diversity as a value in itself” (2006, p.150). Dialogue between the different religious communities in Kenya played a crucial role in calming tensions between Christians and Muslims during the Al Shabaab attacks on churches.

One of the respondents for the study was a representative of the largest umbrella organization of Christian churches in Kenya, NCKK. He shared his thoughts about the role of interreligious forums in promoting coexistence among the different religious identities in the country. NCKK is part of a forum called Inter-Religious Council of Kenya, which brings together all major faith communities in Kenya. Its purpose is “to deepen interfaith dialogue and collaboration among members for a common endeavor to mobilize the unique moral and social resources of religious people and address shared concerns” (IRCK, 2014). Members of this forum held a press conference immediately the churches were attacked and condemned them. They labeled the attacks as criminal acts not identifiable with any religion.

The fact that Kenyans and especially victims of the attacks were able to see united leaders from both Christian and Muslim communities together helped in calming the situation. Apart from making press statements, the leaders also visited the victims of the attacks in hospitals together and later on visited the affected churches in solidarity. These actions quelled the rumors that were spreading fast that the Muslim community carried out the attacks. The press conferences and visits clarified that not all Muslims were behind the attacks but only a terror group using the Islamic faith to justify and propagate their ideologies through violence. Though some respondents accused the interreligious forum of not doing enough to curb the terror attacks, they nevertheless agree and appreciate the role played by the quick action taken by the forum to calm the situation.

### **Government’s intervention**

When the churches were attacked, they chose to turn to the government to deal with the issue instead of taking the law in their own hands. According to the respondents in the two churches, the police responded swiftly and

took charge of the crime scene after the attacks happened. They made preliminary arrests and opened investigations into the attacks to find out the perpetrators of the crimes. The government went ahead and assisted churches on training on how to secure their meetings.

The author has been following the terror attacks by the Boko Haram militants in Northern Nigeria, which has led to the death of more than two thousand people this year alone, destruction of properties especially churches and kidnapping of more than two hundred school girls (Associated Press, 2014). The people of northern Nigeria reportedly feel abandoned by their government. There are claims that the security forces were tipped that the Boko Haram was preparing to take hostage the girls but the Nigeria army did not take any preventive measures. There was worldwide outrage when it was reported that there were no attempts by the Nigerian forces to recapture the girls even after three weeks hence the international pressure dubbed, “bring back our girls” (Abubakar and Levs, 2014). Iro et al. reveal that lack of confidence by the citizens that the Nigerian Government can offer then adequate security has led to the rise of vigilante groups that take retaliatory attacks targeting the members and sympathizers of Boko Haram (Aghedo and Osumah, 2014). This has led to a cycle of revenge attacks, which have taken a religious angle.

In the Kenyan case under this study, it was noted that people’s confidence in the government to deal with perpetrators of the violence greatly contributed to the prevention of retaliation attacks. Though most people interviewed had a perception that the attackers were from the Muslim community, they did not consider or agree with those who wanted to revenge. They rather called on the government to arrest and prosecute the attackers and scale up security. The fact that the churches took the attacks as criminal acts and allowed the government to deal with the situation helped prevent retaliatory actions. However, it is worthwhile to note that the respondents’ confidence in the government security machine is declining. This is particularly since the investigation results have never been made public. The respondents expressed disappointment that they have not seen justice for the loss suffered.

The Kenyan Government needs to take measures to build on the citizens’ confidence by being relatively transparent in its security operation and being keen in concluding investigations. One respondent noted that the government was holding back the results of the investigations for fear of singling out any group. The understanding was that the government feared that if it named the suspected Al-Shabaab militant group as the perpetrators of the violence, then people might find legitimate reasons to attack the Muslim community. This fear seems to have counterproductive effects. One respondent who was a victim of the attacks and was involved in the government criminal investigations of the attacks is still waiting for the report and looking forward to

see justice done. The fact that it was over one year since the attacks took place and there were no signs of the report coming out were frustrating him. It was hindering his healing process. Truth telling is a very important element is healing of memories, which are a prerequisite to sustainable reconciliation (Schreiter, 2008). The Kenya Government should not deny victims of the attacks their rights to know who hurt them and for justice to be done.

### Religious leadership

Kenya is largely a religious country with over 80% of the population professing Christianity and about 10% professing Islam. Most of the other 10% affiliate to one or another religious group (US Department of State, 2010). Spiritual leaders are highly respected in the society especially in churches and mosques. Grant Ferret reported of a survey done in Africa that showed that three quarters of the people trusted their religious leaders compared to all other society leaders (Ferret, 2005). This gives them great influence in the society on decision-making. Religious leaders have a huge responsibility to give right leadership to their followers especially when it comes to relating to people of other faiths.

It is recommendable that the religious leadership in Kenya took a stand of unity in the face of the terror attacks on churches. Both Christian and Muslim leaders came together and condemned the attacks calling for calm and peace. They exposed the strategy of the attackers to cause religious animosity in the country. Back in the churches, the leaders urged their followers to be peaceful and allow the government to carry out investigations. They preached peace and encouraged their members not to revenge in any way. This exemplary leadership helped the victims and members of churches respond positively to the attacks. The religious leadership also made the members to understand that the attacks were not a war between Christians and Muslims.

### Faith-based counseling

The church leaders also carried out counseling program immediately after the attacks to help victims and members of their churches to come into terms with what had happened. Most respondents expressed that these counseling sessions helped them particularly in their response to the attacks. Koenig et al., (2012) in their monumental work identify positives inputs of religions in people's lives point out that spiritual leaders usually encourage religious devotion and practice which not only benefits the spirit but also the general well-being of one's life. It brings joy, courage, peace confidence and other positive health attributes (Koenig et al., 2012, p. 56). They also note that professional counseling can be based on religion as a resource in coping with problems.

Another positive aspect they observe is the fact that all the main religions have a place for faith healings where people experience physical and emotional healings (Koenig et al., 2012, p. 57). Roemer also reports that in his study on religion and health in Japan, he found out that those that have a "devotion" to a religion reported higher levels of life satisfaction and happiness (Blasi, 2011, p. 122). According to the same report, religion helped the respondents in coping with life's challenges like unemployment and feelings of belonging to "low class".

By helping members make sense of the attacks, the church made them feel better about themselves thus avoiding negative thoughts about their attackers who they perceived to be Muslims. The church leaders also gave them a platform to express their frustrations, anger and opinions about the attacks. Misconceptions were corrected at this forums and anger rechanneled towards the individual attackers and not the Muslim community from where they were suspected to have come from. In one church, the Sunday school department ran a series of teachings about forgiveness. The children who were victims of the attacks were taught on how to forgive those who attacked them.

### ROLE OF FAITH AND DOCTRINE

James Griffith, a professor of psychiatry and neurology argues that religion can be "either humankind's greatest gift or its greatest curse" (Griffith, 2010, p. 3). In his book, *Religion that heals, religion that harms: a guide to clinical practice*, Griffith (2010) discusses from a wealth of 38 years of experience the ambivalence of religion in psychological matters. He observes that it can harm or heal, damage and protect as well. He shares stories about how people's religiousness aggravated their illnesses. One prominent example is of one young woman who suffered depression to a point that even antidepressants could not help her. Upon keen observation it was discovered that the cause of the depression was her belief that God was angry and punishing her for her promiscuous teenage life (Griffith, 2010, p. 5). All she needed was to resolve issues with her God.

Attachment to God is an important factor in the life of religious people. Griffith discusses how people's relationship with God either draws them close or away from him when they are under stress (Griffith, 2010, p. 105). Those who cannot feel the presence of God in their ill health tend to be insecure, despair, feel lonely, dirty, "sinner" or under punishment, attributes that negatively impact their recovery. Kenyan Christianity especially in charismatic churches is highly sensitive spiritually. When something happens, people will always try to explain the cause in spiritual terms. The fact that the attacks happened in the church troubled some of the respondents. Some saw it as a message from God rebuking them.

One respondent confessed that before the attacks, she was not so strong in her faith but the attacks acted like a wakeup call for more commitment to religious life. On the other hand, this inward reflection in trying to make sense of the attacks helped some respondents become more tolerant. Their focus was not on the attackers and how to revenge but on themselves and their religious life. In one way, this response to the attacks contributed to the prevention of retaliation. Faith led the respondents to blame themselves for the hurt suffered instead of blaming others. The danger with this kind of response is that people may not physically express their feelings about the attacks but may manifest in other ways. Griffith also discusses the negativity of the suppression of one's feelings due to religious beliefs (Griffith, 2010, p. 147).

The author has interacted with many of my friends who belong to the so called "faith churches" that teach that confession of reality is lack of faith. For example, one will be having a sickness but if you ask them how he feels, he will say that he is well in Jesus' name. Such people easily avoid seeking medical attention or even admitting that they have problems. This may directly affect their health or indirectly build up stress within.

It was also notable from the respondents that church teachings and practices contributed greatly in shaping their response to the attacks. Most of them quoted the teachings of Jesus Christ from Luke 6 about not taking revenge when unjustly treated. In this passage Jesus taught his followers to give in to those who demand things from them without harboring hatred or trying to retaliate. This teachings together with other revolutionary teachings of Jesus like loving ones enemy (Matthew 5) and unlimited forgiveness (Mathew 18) helped respondents not consider revenge in the face of the attacks. The fact that Jesus forgave those who killed him even without them asking for forgiveness challenged the victims to emulate him. They were further challenged by their leaders to observe these teachings especially in this time of conflict. The Christian church has a long tradition of silent suffering in the face of persecution in following the example of their founder Jesus Christ who suffered without raising his voice. This became a rich resource for the victims to draw strength for tolerance in the face of the attacks.

Church symbols like Eucharist and regular worship services also helped Christians respond favorably to the attacks. In the Bible book of 1 Corinthians 11, Paul the author instructed the Corinthian Church that before they partook of the Holy Communion, they were to search their hearts. If they had anything in their hearts, they were to face it and solve it before taking part in the celebration. In the same manner, Jesus taught his followers that:

"Therefore, if you are offering your gift at the altar and there remember that your brother or sister has something against you; leave your gift there in front of the altar. First go and be reconciled to them; then come and offer your

gift (Matthew 5:23-24 New International Version).

These two central teachings of the Bible played a critical role in shaping the respondents' response to the attacks. They attended church meetings at least twice a week and were confronted with these two cardinal teachings preceding the Christian rituals of Eucharist and offertory. They had to practice forgiveness of the attackers to have peace to join in the Christian celebrations. This clearly illustrates how Christian teachings and rituals play a role in peace and reconciliation. Since these are personal decisions, they helped the victims make individual resolutions on how to respond to the hurt influenced by the tenets of the community in which they shared identity, which was the church in this case.

Cecelia Clegg rightly pointed out that for sustainable peace to exist; individual's capacity to heal and embrace "forgiveness and compassion" must not be sacrificed at the altar of political or community peace deals (Clegg, 2008, p. 61-79). She continues to build her thesis that sustainable peace depends on the individuals "will to co-exist" as he quotes Harold Saunders who holds that it is "citizens who make or break peace". This is played out very well in the study. Many of the respondents who were victims of the attacks emphatically narrated how the faith as practiced through church teachings and rituals had helped them respond with love instead of hate for the attackers. The Islamic community who was suspected to housing the attackers also reciprocated accordingly. This created an atmosphere of tolerance between the two religious communities, a fact that helped calm the situation and prevent retaliation.

## **SPIRITUALIZATION OF THE CONFLICT**

Most of the respondents turned to faith to make sense of the attacks in a reflected reaction. The most common reflected response to the attacks was the spiritualization of the conflict. Most of the respondents interviewed said that they saw the attacks as the work of Satan whose motive was to challenge the work of God. In this regard, they did not see the attackers as Muslim-affiliates but as ordinary men just used by Satan. Some respondents expressed their sympathy for them as being under illusion and need help. Spiritualization of the conflict on one hand helped calm the situation by preventing physical retaliation.

Peter (2011) proposes seven models in which spirituality can be used to promote unity in the society. One of them is the "wider-context model" in which he argues that if a conflict is viewed from its historical and cosmic context it "would start looking smaller and smaller, fostering a feeling of greater relaxation thereby giving us better opportunities at resolution" (Peter, 2011, p. 2). The study showed that the church was very instrumental in helping the victims of the attack in reflecting and

responding appropriately. They were able to put the attacks in a wider perspective of cosmic fights between God and Satan thus helping believers heal from hatred and avoid retaliation, which would have worsened the situation.

On the other hand, spiritualization of a conflict may possess the danger of ignoring the facts of the attack, the physical pain caused and holding responsible the perpetrators. This may hinder or corrupt the healing process. During the interviews, the author had an interaction with a group of youths from one church who were victims of the attacks. When asked about their response to the attacks, they all responded "spiritually" by telling how they saw the attack as a spiritual one and had left everything to God and moved on. Later on in the interview, they were asked whether they would be willing to meet the attackers if given opportunity and what they would say or do to them. One of them categorically said that he would not want to meet them and if by chance he met them, he would do something bad to them.

Rick Langer observed that there is "a dualistic tendency to value spirituality at the expense of the material world" mostly among the Christian evangelical movements that affects how they relate to the communities in which they are situated (Langer, 2012). The study was carried in two churches one charismatic and their other mainstream protestant. The observation was that the respondents from the charismatic church were quick to relate the attacks to the spiritual causes and effects compared to the other church. They were also quicker to express that they had forgiven the attackers and moved on with life. But on further probing, this was not explicitly expressed. For example, when asked if they would meet their attackers if given opportunity, their words did not seem to match their actions. Most of them expressed anger and bitterness.

The interpretation was that they were yet to enter the healing path. The spiritualization process may have hindered a true entry into the path of healing by suppressing feelings at the expense of being true to self. The respondents from the mainstream protestant church were more composed and in the path of healing. Their church had invested in professional counseling of the affected members and this was bearing fruit.

## Conclusion

Violent conflicts are not new in the world but the late trend is that religious conflicts are on the rise. In Africa, conflicts in Central African Republic, the Sudans, Boko Haram menace in Nigeria, Somalia conflict, Al Shabaab attacks in Kenya, the religious motivated Lord Resistance Army menace in Northern Uganda and the crisis in Egypt all have a religious angle. Central governments need to strategize on how to deal with these religious conflicts. One of them is the promotion of the unity between the different religious communities. For example, the open

communication channels and interreligious forums in Kenya were identified as a key factor that helped prevent the Christians turning against the Muslims as the Al Shabaab hoped.

The government ought to be a religiously neutral player and encourage dialogue among the religious communities and involve them more in the fight against terrorism. However, they should not compromise on issues of justice where atrocities have been committed. Criminal acts should be investigated and prosecuted without fear or favor irrespective of the religious background of the perpetrators. When citizens have confidence that the government is religiously neutral, they can trust it to deal with a potential criminality in a religious conflict. The recent violence in Central African Republic escalated because the government seemed to take sides (CNN, 2012). Some people of Northern Nigeria also accuse the government of not doing enough to stomp the Boko Haram because of religious reasons (Premium Times, April, 2014). There is need to do more study on the role of government in religious conflicts especially in Africa.

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*Full Length Research Paper*

# Gender inequality in reproductive health services and sustainable development in Nigeria: A theoretical analysis

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If policies for the promotion of gender equality are to be realizable their goals must include equitable distribution of health related resources in line with MDG goals 3 and 5 which focus on promoting gender equality, empowerment of women and family planning. This requires careful identification of the similarities and differences in the use of family planning as a component of reproductive health. It also necessitates an analysis of the gendered obstacles that currently prevent men and women from participating or using family planning. Reasons for inequalities in the use of family planning include patriarchal culture, religious beliefs and sex preference manifested in discrimination against female children in health and general care. This paper examines gender inequality in family planning practice and sustainable development in Nigeria, using Patriarchal theory as the framework. The paper strongly argued that socio-cultural factors as well as gender roles influence the use of family planning and affect health and sustainable development in Nigeria. It outlines some measures for change which include policies to ensure universal access to reproductive health care, to reduce gender inequalities in access to resources and to relax the constraints of rigidly defined gender roles. The paper recommends that strategies to improve true sustainable development will depend on the empowerment of women in Nigerian through education and access to socio economic opportunities. The paper further recommends policy initiatives to include men in family planning programmes in Nigeria to engender equity in health and sustainable development.

**Key words:** Gender equity, family planning, patriarchy, sustainable development.

## INTRODUCTION

Over the past few decades, global research has shown that gender inequalities can give rise to health inequities between men and women and between boys and girls. In developing countries of the world, differentials in morbidity and mortality between men and women arising

from sex and gender have been established across diseases and health conditions (Jamison, 2006). The differences in morbidity arise largely from pregnancy, complications from child birth such as severe bleeding, and abortion which are results of challenges in

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reproductive health services utilization. Again, the mortality rate amongst child bearing women is often high in developing nations. For example, the maternal mortality ratio of 630 deaths per 100,000 births in Nigeria is among the 10 highest of such rates in the world (WHO et al., 2012). Scholars are in agreement that there are some inevitable differences in the reproductive health needs and status of men and women in these nations. Unfortunately, many health systems and interventions have failed to respond to these different needs, typically disadvantaging women over men (Jamison, 2006). Indeed, research shows that all aspects of the reproductive health of men and women – including family planning are influenced by gender inequality. In many communities, women tend to have less access to the resources that could help them overcome existing vulnerabilities. These gender differences appear to be greater where women have relatively lower socio-economic status than that of men (WHO, 2011, Nelson, 2011). Gender inequality intersects with other social determinants of health, such as race, ethnicity and socio-economic status, to produce health disparities between men and women that are similar to social divisions within society (WHO, 2008). In other words, gender is an important factor in the promotion of health equity. The point being made here is that gender determines production and social relations as most productive resources are controlled by men and this in turn affects health disparities between men and women (Ezeah, 2004). These health disparities tend to reflect the underlying distribution of roles and power between men and women in society, resulting in constraints on the ability of men and women to influence their own health outcomes, and thus are considered unfair and unjust. Therefore, promoting gender equality has become a global concern, prompting the emergence of a globally accepted strategy referred to as ‘gender mainstreaming’, which acts as a means to achieving gender equality (WHO, 2008). Gender mainstreaming considers the concerns and experiences of men and women as an integral dimension of all phases of programme and policy development. In the context of health, gender mainstreaming can be summarized as reducing inequities in health status and access to health care between men and women. Both men and women must have the same chances and opportunities from health policies and programmes. This is referred to as gender equality, and acts as a prerequisite for health equity (WHO, 2009), and aims to ensure equal conditions for both men and women to realize their full rights and potentials to be healthy, contribute to their community health development, and be able to benefit from the results. Sexual and reproductive health and rights are fundamental human rights and ethical imperatives that lie at the core of advancing women’s empowerment and gender equality; and investing in them is central to achieving broader social, economic and sustainable development goals.

Specifically in this paper family planning as a component of reproductive health is used to demonstrate the linkages between gender inequality in health among men and women and sustainable development in Nigeria. Family planning has been identified by the World Health Organization (WHO) as one of the six essential health *interventions* needed to achieve safe motherhood and by United Nations Children Emergency Fund (UNICEF) as one of seven strategies for child survival (Hyeladi et al., 2014). In Sub-Sahara African as a whole only 27 % of married women are using contraceptives (UNDESA, 2004). Male involvement in family planning makes up a relatively small subset of the above prevalence rates although data for men are not available in literature (WHO, 2013). In other words throughout the ages, the use of family planning between men and women has never been close to equality. Even in the most advanced countries, gender equality in family planning use has however remained a top priority issue (Cleland et al., 2006). In Africa, there are many obstacles that impede people from using contraceptives ranging from cultural, social factors and structural factors like less access, availability and affordability of contraceptives.

In Nigeria, it can be observed that men are not included in family planning programmes (Ijadunola et al., 2010). This is probably because the family unit in Nigeria is; essentially patriarchal and patrilineal, with all the important decisions taken by the male head while the woman’s fundamental social role is to bear and raise children and engage in productive tasks within the household. The patriarchal nature of the society, traditional beliefs, religious barriers and a general lack of male involvement have weakened family planning interventions in Nigeria. Inequality results from the denial of family planning services as culture requires that married women must obtain their husbands’ consent among other restrictions. Again, women are usually socially and economically dependent on their husbands (Ijadunola et al., 2010). This may have contributed to Nigeria becoming a country in Africa with the fastest population growth averaging 5.2 births per woman and with attendant high maternal and child mortality. Furthermore, rapid population growth makes it difficult for the Nigerian economy to create enough jobs particularly for women and youths to lift large numbers of people out of poverty, maintain healthy living conditions and protect the environment (Ityai, 2000, World Population Data Sheet, 2013). This underscores the need to step up family planning practices in Nigeria which is presently affected by gender imbalance as a result of non involvement of men. Unfortunately, gender inequality in reproductive health (family planning) and sustainable development in Nigeria has not received adequate treatment in literature. Thus, the focus of this paper on gender inequality in family planning aimed at theoretically analyzing the nexus between gender equality and reproductive health equity in Nigeria to redress the population challenges in the



country. The point is that high fertility and low family planning practices occasioned by gender inequity strongly affect sustainable socioeconomic development in Nigeria (NDHS, 2008). According to NDHS (2008), the contraceptive prevalence rate for Nigeria was 14.62% for any method and 9.7% for modern methods in 2008. This scenario is largely due to a culture that is highly supportive of large family size, misconceptions about family planning methods, and male child preference. Other major factors include inadequate access to family planning services, poor quality of services and inadequate demand creation efforts (UNFPA, 2012). Igbudu et al. (2007) observed that the desire by most individuals and couples for a large family size is as a result of the positive value which the Nigeria society attaches to marriage, family life and procreation. It is a deep-seated traditional value which is supported by the dominant religious beliefs of Christianity, Islam and Traditional religions to the extent that all the religions abhor barrenness.

We therefore argue in this paper that gender inequality in family planning practice in Nigeria has far reaching consequences on the reproductive health of women and sustainable development in the country which must be critically analyzed and understood. This will help to deal with the population challenges in Nigeria. Family planning practice should be particularly beneficial to developing nations like Nigeria that are trying to achieve demographic transition from high to low fertility. This is because fertility level is a critical index used in measuring socioeconomic development and underdevelopment between nations. This paper is therefore a theoretical analysis of gender inequality in family planning practices and sustainable development in Nigeria.

## CONCEPTUAL ISSUES

The following concepts are clarified for proper elucidation in this paper.

### Gender

According to Ezumah (2003), gender refers to characteristics that are socially constructed for women and men such as roles, attitudes, behavior, and values. Most people are born with a defined sex, but they learn respective appropriate norms and behaviors from their societies, including proper interactions with individuals of the same or opposite sex, within households, workplaces and their communities (Ezumah, 2003). Gender characteristics are assigned to men and women during their childhood and are expected to be followed; and they vary across cultures and over time; they thus are amenable to change.

For Ezumah (2003), gender consists of two categories, feminine and masculine. Masculine, the male gender is perceived to be tough and strong, while the feminine or

female gender is soft and weak (Oakley, 1980; Oyewumi, 2002; Germov, 2010 cited in Ngum, 2012). Gender can be best described as both a psychological and cultural term, widely used to rationalize the subordination of women globally (Oakley, 2005 cited in Ngum, 2012). Gender is not biological nor genetic; rather gender and the roles one plays within their families and society are assigned to them, and are shaped by the societal beliefs in which the person is born into or lives in (Oakley, 1980 cited in Ngum, 2012).

### Gender equity

According to Ngum (2012), gender equity is the process of being fair to both women and men. To ensure fairness, measures must often be available to compensate for historical and social disadvantages that prevent women and men from otherwise operating on a level playing field. Equity can be understood as the means, where equality is the end. Equity leads to equality.

### Gender Mainstreaming:

#### Gender roles

Gender roles are those behaviours and activities that men and women are to play or do within their families, relationships and communities because of their gender (Shearer et al., 2005; O'Sullivan et al., 2006; Boileau et al., 2008; Dlamini et al., 2009 cited in Ngum, 2012). Men and women bring different values and expectations into the relationship, shaped and influenced by different roles assigned to these individuals at birth. These roles affect women and men differently and at varying levels, with women often disproportionately affected. These levels include the relationship level and the actual sexual enactment level (Shearer et al., 2005 cited in Ngum, 2012).

Gender-based roles are the roles men and women are to play within their families and subsequent relationships because of them being of male or female sexual category (Maticka-Tyndale et al., 2005 cited in Ngum, 2012). For example, some gender-based roles assigned to women include doing the housework, cooking, cleaning, fetching water, sewing, doing needlework and caring for the children. Conversely, gender roles assigned to men include men doing paid work out of home, splitting wood, dress up in suits and ties, attend and preside over special traditional ceremonies, dressing up in suits and ties, requesting or asking the woman's hand in marriage. Some cultures and religious organizations expect women to wear veils and dress conservatively (Boileau et al., 2008 cited in Ngum, 2012).

In some societies, gender-based roles extend beyond what women can do and wear to what they can eat, where they can go, and with whom they can interact. Such gender roles imposed on women may inhibit or

deprive women of their freedom and liberty, foster poor self-esteem, lower levels of achievements, and may result in poor health outcomes (WHO, 2007). In more traditional societies where gender roles are re-enforced through cultural practices, the level of school attainment and completion, positions held by women in political office and decision making within organisations are considerably lower compared to societies where roles are shared (Boileau et al., 2008 cited in Ngum, 2012). When women have low or poor participatory rates this affects their health and that of their families negatively. For teenage girls and women this could mean low self-esteem, or engaging in transactional sex for livelihood (Wamoyi et al., 2011 cited in Ngum, 2012). The consequences are poor health decision making, poor outcomes for the girl and her family (Westercamp et al., 2010 cited in Ngum, 2012).

Gender-based roles do change as the society develops and this affects women's attitudes towards traditional gender roles (Boileau et al., 2008 cited in Ngum, 2012). An example of a gender role that has evolved and changed significantly is women gaining paid work outside of their homes (Ngum, 2012). This means that women get up in the morning, dress up for work outside of the home; their husbands, or another paid individual or institution take the responsibility to care for the children, clean the house, do the ironing, and cook the food for the family (Ngum, 2012).

Are behaviors that are expected from men and women. Gender roles are learned and vary across cultures and over time; they are thus amenable to change.

## Health

In the preamble of the WHO (1948, p. 100), health is defined as a state of complete physical, social and mental wellbeing of an individual and not merely the absence of disease or infirmity. Health is not just about one's physical health but includes the social, emotional and physical health. The social and cultural context in which, including their identities and the constraints they afford affect their health. Further, the environment from where the persons come from, their health beliefs and socio-economic status all affect their health directly and indirectly. Public health and population health is concerned with understanding health and disease occurrence in the community, and improving health and wellbeing (Ewles, 2005; Baum, 2008; Greiner and Edelman, 2010 cited in Ngum, 2012). Health gains are achieved through prioritizing health approaches and addressing the inequalities in health status that exist between social groups (Lin et al., 2007 cited in Ngum Chi, 2012).

A recent World Health Organization (WHO) report on 'Trends in maternal mortality: 1990-2013' classifies

Nigeria as of the 10 countries of the world that contribute about 60 per cent of the world's maternal mortality burden. Though Nigeria currently has a maternal mortality ratio of 560 per 100,000 live births, the ratio improved slightly moving from 630 per 100,000 recorded in 2010 (World Population Data Sheet. (2013).

Health experts explain that 1 in 4 maternal deaths are caused by preexisting medical conditions such as diabetes, HIV, Malaria, and Obesity. These health conditions are usually aggravated by pregnancy. Other identified causes of maternal deaths include severe bleeding, pregnancy induced high blood pressure, infections, and abortion complications (Ezeah, 2004).

## Reproductive health

Reproductive health is defined as a state of physical, mental, and social well-being in all matters relating to the reproductive system, at all stages of life. Good reproductive health implies that people are able to have a satisfying and safe sex life, the capability to reproduce and the freedom to decide if, when, and how often to do so. Men and women should be informed about and have access to safe, effective, affordable, and acceptable methods of family planning of their choice, and the right to appropriate health-care services that enable women to safely go through pregnancy and childbirth.

## Sustainable development

According to the classical definition given by Brundtland Report (1987), the term sustainable development is usually understood as "intergenerational" equity which would be impossible to achieve in the absence of present-day social equity, if the economic activities of some groups of people continue to jeopardize the well-being of people belonging to other groups or living in other parts of the world. In other words the concept of sustainable development as defined by the Brundtland Report (1987) is the development that meets the needs of the present without compromising the ability of the future generations to meet their own needs of development (WCED, 1987). This suggests that the principal goal of sustainable development is meeting present human needs in such a way that will not jeopardize the potentials of posterity to meet their needs. Viewed from a holistic perspective, Wiedenhoef (1981) and Padisson (2001) noted that sustainable development entails the attainment of equilibrium among three contending sub-systems—economic, social-cultural and environment

According to the more operational (practice-oriented) definition used by the World Bank, sustainable development is "a process of managing a portfolio of assets to preserve and enhance the opportunities people face". The assets that this definition refers to include not just

traditionally accounted physical capital, but also natural and human capital. To be sustainable, development must provide for all these assets to grow over time—or at least not to decrease.

Sustainable development includes economic, environmental, and social sustainability, which can be achieved by rationally managing physical, natural, and human capital. Thus, sustainable development could probably be otherwise called “equitable and balanced,” meaning that, in order for development to continue indefinitely, it should balance the interests of different groups of people, within the same generation and among generations, and do so simultaneously in three major interrelated areas—economic, social, and environmental. Therefore, sustainable development is about equity, equality of opportunities for well-being, as well as about comprehensiveness of objectives. Obviously, balancing so many diverse objectives of development (economic objective: growth efficiency and stability; social objective: full employment, equity, security, education, health, participation and cultural identity; environmental objective: healthy environment for human, rational use of renewable natural resources and conservation of nonrenewable natural resources) is an important criteria for any nation on the road to sustainable development. Thus, to ensure that future generations inherit the necessary conditions to provide for their own welfare, our present day values must be educated enough to reflect their interests as well

More recently, the United Nations has popularized the multi-dimension term called sustainable development. This is defined as development that not only generates economic growth but distributes its benefits equitably; that regenerates the environment rather than destroys it; that empowers people rather than marginalizing them. It gives priority to the poor, enlarging their choices and opportunities, and provides for their participation in decision affecting them. Sustainable human development is pro-poor, pro-nature, pro-jobs and pro-women (Padişon, 2001). It stresses growth, but growth with employment, growth with environmental friendliness, growth with empowerment and growth with equity.

### Theoretical Framework

This study is anchored on patriarchal theory.

Sir Henry Maine is the chief advocate of the patriarchal theory. He defines it as theory of the origin of society in separate families, held together by the authority and protection of the eldest male descendant (Retrieved from <http://oll.libertyfund.org/titles/2001>).

A patriarchal family is one in which descent is traced through males. Father or patriarch occupies a dominant position in the family. Patriarchy is the prime obstacle to women’s advancement and development. Despite differences in levels of domination the broad principles remain the same, i.e. men are in control. The nature of this control may differ. So it is necessary to understand

the system, which keeps women dominated and subordinate, and to unravel its workings in order to work for women’s development in a systematic way (Retrieved from <http://oll.libertyfund.org/titles/2001>).

In the modern world where women go ahead by their merit, patriarchy there creates obstacles for women to go forward in society. Patriarchal society gives absolute priority to men and to some extent limits women’s human rights also. Patriarchal theory provides a framework for this study. This is because patriarchal institutions and social relations are responsible for the inferior or secondary status of women in relation to reproductive health of women.

On the other hand, the word ‘patriarchy’ literally means the rule of the father or the ‘*patriarch*’, and originally it was used to describe a specific type of ‘male-dominated family’ (Sultana, 2011). In contemporary times it is used more generally “to refer to male domination, to the power relationships by which men dominate women, and to characterize a system whereby women are kept subordinate in a number of ways” (Bhasin, 2006:3).

Different scholars have also defined the concept of patriarchy in different ways. Mitchell, a feminist psychologist, uses the word patriarchy “to refer to kinship systems in which men exchange women” (Mitchell, 1971:24 cited in Sultana, 2011). Walby defines “patriarchy as a system of social structures and practices in which men dominate, oppress and exploit women” (Walby, 1990:20 cited in Sultana, 2011). She explains patriarchy as a system because this helps us to reject the notion of biological determinism (which says that men and women are naturally different because of their biology or bodies and, are, therefore assigned different roles) or “the notion that every individual man is always in a dominant position and every woman in a subordinate one” (Walby, 1990:20 cited in Sultana, 2011).

Patriarchy, in its wider definition, means the manifestation and institutionalization of male dominance over women and children in the family and the extension of male dominance over women in society in general. It implies that “men hold power in all the important institutions of society” and that “women are deprived of access to such power”. However, it does not imply that “women are either totally powerless or totally deprived of rights, influence, and resources” (Lerner, 1989:239 cited in Sultana, 2011).

Thus, patriarchy describes the institutionalized system of male dominance. So we can usefully define patriarchy as a set of social relations between men and women, which have a material base, and which, though hierarchical, establish or create independence and solidarity among men that enable them to dominate women (Jagger and Rosenberg, 1984 cited in Sultana, 2011). The patriarchal system is characterized by power, dominance, hierarchy, and competition. Thus, patriarchy is a system of social structures and practices, in which men dominate, oppress and exploit women (Sultana, 2011).

## **GENDER EQUALITY IN FAMILY PLANNING PARTICIPATION AND SUSTAINABLE DEVELOPMENT IN NIGERIA**

The high rate of population growth in Nigeria is driven by high fertility rates. Researchers have suggested various reasons to explain why, despite the high fertility rates, acceptance and utilization of modern family planning methods remain low (Isiugo-Abanihe, 1994; Ijadunola et al., 2010). Family planning has beneficial effects in terms of sustainable socio-economic development and protection of the environment. Through family planning, individuals can obtain greater prosperity and security for the family because they can have a better chance of receiving an education and devoting more time in earning an income (Bayray, 2012).

Thus, the importance of family planning can be realized through active involvement of both sexes. This is because reproductive health requires active involvement of the entire family and society at large (Berhane, 2006). Furthermore, the 1995 World Women conference in Beijing reinforced the shared responsibility between men and women in reproductive health matters to improve women's health. This underscores the importance of male participation in family planning. Participation of men in family planning is not limited to the use of family planning methods, but also includes the supportive attitude that men have towards their wives in using family planning and motivation in sharing responsibility in reproductive health matters.

However, achieving the objective of men's participation in family planning is faced by many obstacles in Nigeria. In the traditional Igbo socio-cultural setting for example, family planning as a programme of reproductive health was not accepted as people believed that children were gifts from God. Even in the contemporary Nigerian society, most family planning programmes are exclusively female based (Isiugo-Abanihe, 1994; Ozumba, 2010). Women are usually the target groups while men are removed from family planning. The participation of men in family planning is constrained by cultural norms, tradition, values and religious beliefs.

A man that participates in roles socially defined for women is regarded as weak or lazy (Nwoko and Oguttu, 2010). Men are also recognized to be responsible for the large portion of the ill reproductive health suffered by their wives (Isiugo-Abanihe, 1994). Also, traditional social norms often require men to maintain the honor and position of their extended family, village, religious group or social organization. Therefore, men feel responsible for the behavior of their wives, and think that they have no right to make decisions for themselves (Tuloro and Deressa, 2006). Moreover, certain cultural practices like the preference of male children over their female counterparts influence a man to have as many children as possible especially when it comes to getting a male child. Some men fear that family planning may make their wives have sex with other men if they are no longer

at the risk of pregnancy. Some others think that large family size reflects their masculinity or their wives faithfulness in serving them (Bayray, 2012). This culture is deeply rooted and seems unchangeable. These ideas remain part of the social structure and hinder men from participating in family planning. Again, some religious organizations see family planning as evil (Bayray, 2012). The participation of men in family planning is crucial for successful family planning programmes and empowerment of women in Nigeria. When men participate in reproductive health services, as equal and responsible partners, there will be increased outcome in reproductive health indicators, safer sexual behaviours, use of reproductive health services, and a reduction in reproductive mortality and morbidity (Bayray, 2012).

The inequality between men and women in family planning participation in Nigeria tends to undermine the quality of life of women and sustainable development in the country. The fundamental cause is patriarchal culture which gives rise to the unequal access to socio-cultural resources between men and women in the country. As a result of patriarchy, certain rules and practices of society have kept women in a subservient role and the institutions of society, run by men, have continued this practice over time. Women are overburdened and subordinated by gender roles. It is strongly argued that women have a right to enjoy quality reproductive health status which they are bound to lose when there is inequality in the participation of men in family planning. The non participation in family planning by men has continued to pose tremendous challenges on their reproductive health and well-being. Consequently, women are thus debilitated by the effects of reproductive ill health, disempowerment and crushing poverty which adversely militate against sustainable development in Nigeria.

### **Conclusion**

There are obvious nexus between gender inequity in reproductive health and sustainable development in Nigeria. Gender differences in access to and control over key material and social resources result not only in inequalities of health and wellbeing, but also inequalities in power, knowledge, making independent decisions relating to sexual and reproductive decisions and to act on them in health seeking behaviour (Oakley, 1998). According to Walby (1997), gender norms and values and the resulting behaviours are affecting reproductive health in a negative way. The fundamental cause is patriarchy and the unequal distribution of socio economic resources between men and women in Nigeria. Compared to men, women tend to have fewer resources to cope with health related issues which in turn affect their wellbeing and sustainable development in Nigeria. Women are unfairly discriminated and subordinated on the basics of their sex. Much of this discrimination is based on custom of the society and is the product of

gender roles. Since, the 1994 International Conference on Population and Development (ICPD), and the 1995 World Conference on Women, interest in men's participation in reproductive health has increased (Oyediran et al., 2002). In spite of this, the belief that family planning is largely a woman's business, with the man playing a peripheral role has continued to persist (Ijadunola et al., 2010). The inequality in reproductive health services between men and women engenders reproductive ill health, well-being of women and sustainable development in Nigeria

## RECOMMENDATIONS

To promote gender equality in reproductive health in Nigeria, the following specific recommendations are put forward in this paper:

1. Free and compulsory education for the girl child must be sustained in Nigeria. This will help eliminate female illiteracy because good quality education is the bedrock of progress, enabling ideas and livelihoods to flourish. Sustainable development cannot be achieved when young girls' opportunities are stripped from them by not allowing them to go to school and close gender gaps.
2. Family planning service providers in Nigeria need to create adequate awareness through meetings, seminars and workshops with married couples, opinion and religious leaders to signify the importance of male participation in family planning.
3. Family planning services providers in Nigeria should develop a definite and detail work plan on the processes of male participation in family planning.
4. The government should develop policies that will reduce the disproportionate and increasing burden on women who have multiple roles including the child bearing roles within the family by providing them with adequate support and programmes in health and social services and encourage men to share equally in child care and household work.
5. The government should encourage women have universal access to quality, comprehensive and integrated information on reproductive health rights and services.
6. Education is important in equipping men with adequate knowledge regarding family planning, reduce the culture and tradition of patriarchy and also enhance the status of women in Nigeria.

There is need to include men in family planning programmes for this purposes, the following measures are recommended:


1. Family planning service providers in Nigeria need to create adequate awareness through meetings, seminars and workshops with married couples, opinion and religious leaders to signify the importance of male participation in family planning.

2. Family planning services providers in Nigeria should develop a definite and detail work plan on the processes of male participation in family planning.
3. Government should properly equip family planning centers in Nigeria with material for use by men
4. Family planning service providers in Nigeria should act as both motivators of men and their confidant to enhance their participation in family planning.
5. Family planning service providers in Nigeria should provide precise information to men on the various family planning methods and how they help to prevent child birth.

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