

MEDIATING CONFLICTS, PROMOTING PEACE AND PRESERVING RELATIONSHIPS: LESSONS FROM TRADITIONAL AFRICAN JUSTICE SYSTEMS.¹

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Abstract

Why do Conflicts occur? Why do they recur? Why do conflicts escalate and why do they become protracted? These questions have been variously posed by scholars of conflict and there is a rich body of theory that answers them. Although these questions arise for those who intervene in African conflicts and the different conflict theories have been brought to bear trying to contain them, conflicts still occur, escalate, recur and sometimes become protracted. This paper is an attempt to understand why this happens, especially despite third-party interventions. It starts by looking at traditional African third-party conflict interventions and identifies the restoration of relationships as the most important objective of such interventions. It compares contemporary conflict intervention strategies with traditional African approaches and observes that their objectives are remarkably different. It argues that traditional approaches are more responsive to the ideals of society than contemporary approaches which place greater premium on curbing conflict behaviour. While acknowledging the shortcomings of traditional conflict intervention strategies, it argues that there are lessons to be learnt from traditional strategies especially as it relates to promoting peace and maintaining relationships.

Keywords: African traditional societies, conflicts, Ibibios (ethnic group), power sharing, relationships, third-party mediation

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Introduction

A fundamental problem of contemporary African conflicts is that they never seem to go away, despite the time and resources expended in the attempt to resolve them. Although one could point to the conflicts in Angola, Cote d' Ivoire, Djibouti, Gambia, Liberia, Sierra Leone and Uganda as examples of conflict that appears to have been definitively resolved, the experience in other African conflicts that presented similar characteristics but later resurfaced makes it sensible to view such a seemingly definitive resolution with caution. The Nigerian Civil War for example, which between 1967 and 1970 pitched the Nigerian state against secessionist Biafra and resulted in the death of over two million ended with what was seen as a definitive vanquishing of Biafra. But despite the Nigerian government declaration of “no victor and no vanquished” and several years of palpable peace, a resurgence of the conflict appears to be gathering momentum with regular commemorations of the Biafra foundation day, political agitation for the actualization of a state of Biafra as well as several Biafra-related violent unrests in different parts of the country². A similar example is the 1963-67 Shifta War in which ethnic Somalis in the Northern Frontier District sought to secede from Kenya and join other Somalis in a greater Somalia. The conflict appeared to have been definitively resolved with the vanquishing of the Somalis. Yet, despite the forced villagization programme of the government and persistent hounding of elements of the secessionist that had dispersed into bands of bandits and despite mediated peace talks in 1967 and a return to peace in 1969 the region has seen a resurgence of violence including the recent massacre of university students in Garissa. Even after 50 years, grievances from the Shifta War formed part of the submissions to the Kenyan Truth, Justice and

² Smith, Daniel Jordan. "Corruption complaints, inequality and ethnic grievances in post-Biafra Nigeria." *Third World Quarterly* 35, no. 5 (2014): 787-802.

Reconciliation Commission in 2008 and the agitation for Somali self-rule continues to be strong in the area with inhabitants generally seen to be sympathetic to Al-Shabaab, the militant Islamic insurgent group in Somalia³. Other examples exist of conflicts which went into long periods of hibernation but later resurfaced with even greater incidence of violence.

The experience with postcolonial conflicts in Africa gives the impression that peace agreements hardly ever guarantee peace, rather they mostly serve as stop-gaps within which the conflicting parties re-arm and re-group for an even fiercer conflict. This is despite the fact that various regional and international groups, including the United Nations, have been involved in the brokering of peace. The conflict in Cote d' Ivoire, for instance, survived the Kleber (Marcoussis) Agreement of 2004, the Pretoria Agreement of 2005 and the Ouagadougou Agreement of 2007 and still had to be resolved militarily. But even what appeared to be a definitive end to the conflict and the attendant ousting of Laurent Gbadgbo as president, may not have resolved it since his supporters are still voicing their dissatisfaction with the status quo⁴. In the crisis ridden Democratic Republic of the Congo, attempts at brokering peace have failed several times not only during the 1960 to 1965 crisis but also during the Mobutu and the post-Mobutu era. In the 1960 to 1965 crisis, the initial take-over of government by Mobutu, the defeat of Lumumba loyalists in Stanleyville, the routing of secessionists in Katanga and South Kasai and the defeating of the Simbas could not guarantee peace. Even the widely accepted Constitution of Luluabourg which was negotiated by all parties to the conflict and approved through a popular constitutional referendum did not bring the much desired peace to the region. In the post-Mobutu era, not only did several attempts at negotiations fail, but so also did the

³ Botha, A. "Assessing the vulnerability of Kenyan youths to radicalisation and extremism." 2013. Accessed July 7, 2014. <http://www.issafrika.org/uploads/Paper245.pdf>:15-16.

⁴ El-Khawas, and Anyu. "Côte d'Ivoire: Ethnic Turmoil and Foreign Intervention." *Africa Today* 61, no. 2 (2014): 15-16.

Lusaka Ceasefire Agreement of 1999 and the Pretoria agreement of 2002. Despite the best efforts of regional and international mediators, peace still eludes the country even until this day⁵.

The Sudanese civil war is another conflict that has outlived a large number of agreements. Such agreements include the Addis Ababa Agreement of 1972, the Koka Dam Declaration of 1986, the 1993 Nuba Mountain and Fashoda Agreements, the 1994 Declaration of principles negotiated by the Inter-Governmental Authority on Development, the 1997 Khartoum Peace agreement, the 2005 Comprehensive Peace Agreement that paved the way for the independence of South Sudan and the 2015 Addis Ababa agreement for South Sudan. Despite these agreements, tensions continue to exist between the Republic of Sudan and the Republic of South Sudan as well as between the belligerents in the internecine South Sudan Civil War⁶. These failed attempts at lasting peace, especially the failure of these various peace agreements should not be taken as an indication that Africans are conflict prone or that the position of the parties in African conflicts are insurmountable. Rather it should call attention to the supposition that perhaps something is wrong with the way such conflicts are mediated and as such, there is need to re-evaluate contemporary conflict intervention mechanisms in the hope that doing so might help to ameliorate the current situation. This paper attempts such a re-evaluation and observes that though, from hindsight, certain things that should have been done differently, such minor flaws do not entirely explain the persistence of the different conflicts. Drawing from stories from Africa's pre-colonial past, it observes that the restoration of relationships which used to be the corner stone of traditional third-party conflict interventions is not given the same pride of place in contemporary conflict interventions. It contends that the recurrence, protraction and persistence of such conflicts seem to have more to do with the failure of mediators to fully

⁵ Koko, Sadiki. "From Conflict to Ever-Eluding Peace." *Peace Review* 23, no. 2 (2011): 140.

⁶ Curless, Gareth, and Annemarie Peen Rodt. "Sudan and the Not So Comprehensive Peace." *Civil Wars* 15, no. 2 (2013): 104.

explore and repair relationship between the belligerents in ways that soothe their discontents. It argues that the preference in traditional African society for restorative rather than retributive justice is an indication that the restoration of relationships ranks very high in their conflict resolution. While not recommending any particular indigenous approach, the paper argues that the restoration of relationships which had been the focus of traditional conflict interventions should define the mediation effort of contemporary African conflicts.

Conflict Interventions in Traditional Society

The stories that form the basis of this discursive analysis emanate from the Ibibio of South-eastern Nigeria and date back to pre-colonial times when the judicial functions of the society were handled by a select group of elderly men who had retired from active economic and political pursuits. As custodians of culture and trustees of the community, these elders were held in very high regard and were vested with the powers to adjudicate on important disputes within their communities. The first story that informs this discussion took place during the Ekpo Nyoho season. The Ekpo Nyoho society was the enforcement arm of the village administration. Its masquerades, which were garbed to terrify even the bravest of men, were regarded as representatives of ancestral spirits⁷. The village government along with the Ekpo society went to great lengths to maintain an aura of mystery and trepidation around the Ekpo. Its costumes⁸ and the many restrictions that attended the Ekpo Nyoho season contributed to this aura. One of the Ekpo Nyoho season restrictions was the demand for utmost quiet and for harmony within the households of the community. Even nursing mothers were not spared the wrath of the Ekpo if their infant children disturbed the peace by crying exceedingly during this period.

⁷ Offiong, Daniel A. "The Functions of the Ekpo Society of the Ibibio of Nigeria." *African Studies Review* 27, no. 3 (1984): 77-92.

⁸ Akpan, Joseph J. "Ekpo Society Masks of the Ibibio." *African Arts* 27, no. 4 (1994): 48-53 & 94-95.

It was during one such season that a certain gentleman lost control of his emotions and beat up his wife for not attending to certain instructions that the man had given. The wife, claiming to be tired of mistreatment and seeking to teach him a lesson by putting him on the wrong side of Ekpo Society laws, caused bedlam, thus disturbing the peace. Disturbing the peace during the Ekpo season was tantamount to inviting the Ekpo into ones homestead and was usually followed by a ritual ravaging that destroys valuable economic trees and other properties located within the homestead of the offender. To prevent such a ravaging, the offender was required to tie young yellow palm fronds around the properties he wished to save and pay a fine for each item so draped⁹. Since the man in question had no money, he immediately sought the protection of the elders' council against the Ekpo. Seeking third-party protection when faced with sanctions for wrong-doing was an integral part of the justice system among the communities of South-eastern Nigeria and was one of the sources of the *Osu* (property of the gods) caste system among the Igbos¹⁰. Among the Ibibios, however, seeking third-party protection did not entail a downgrade in status for the person involved and was, therefore, highly favoured by the weak as protection against the powerful.

The elders welcomed the offender into their protection (which amounted to issuing a stay of execution on the punitive ravaging of his homestead by the Ekpo) but informed him that they had no powers to prevent the ravaging but offered to mediate a lesser punishment on his behalf with the Ekpo. After negotiating with Ekpo chieftains, the elders reached a settlement which involved the offender appeasing the Ekpo by feeding the society for a whole day. This translated into one he-goat, five tubers of yam, one bottle of local gin and as much palm wine as members

⁹ Ikpe, Mkpisong J.B, and Ibanga B. Ikpe. "Traditional Symbols in Ibibio Social Relations." *Anthropos: International Review of Anthropology and Linguistics* 110, no. 2 (2015): 538.

¹⁰ Obinna, Elijah. "Contesting identity: the *Osu* caste system among Igbo of Nigeria." *African Identities* 10, no. 1 (2012): 111-21.

of the society could consume. The elders also reasoned that since the Ekpo had a lot of manpower under its command, they could use that manpower to do something beneficial while in the offender's homestead. They asked the man to identify a task which he would like the Ekpo to perform for him and then negotiated this with the Ekpo. The offender wanted a new hut and the Ekpo built it for him during the period. For the offence of beating his wife during the Ekpo season, he was also sentenced to work on the community farm for one week (a very light sentence for an offence committed during the Ekpo season).

In his defence the man accused the wife of insubordination and of wilfully provoking him so that he would lose his temper and disturb the peace during the Ekpo season. The elders informed him that as head of his household, he should have found ways of containing such problems without letting it boil over into the public sphere. He was reminded of the various options that were open to him, including reporting the matter to his family leaders or temporarily sending the wife to her parents for a lesson in good manners. Under Ibibio customary law, a conflict between a man and his wife does not fall within the jurisdiction of the elders' council but with the senior members of the husband's family or an ad hoc committee made up of leaders of the couple's families. The elders' council usually served as an appellate court if the families were unable to handle the case and there was a threat that their disagreement could be a source of friction in the community. Given the above, the elders referred her case of insubordination to the husband's family but in an uncharacteristic departure from tradition, the elders assumed jurisdiction over the case by regarding the woman as complicit in the husband's infringement on Ekpo laws. As punishment, she was asked to kill a cockerel each day and prepare a sumptuous meal exclusively for the husband for the time he was to work on the communal farm.

The second story that provides a glimpse into traditional African conflict intervention processes is a conflict between two sections of a community arising from an elder being accused by young children of stealing a hen. In pre-colonial times, the everyday costume of an elder included a hand-woven straw bag (about 70x35cm) which usually contained various symbols of his authority as well as his drinking urn. On the day in question, an elder was allegedly spotted by children wringing the neck of someone's hen and putting the carcass in his sack. The kids, who belonged to a rival section of the community, rushed off to inform their parents, who promptly confronted the elder about the theft. Supporters of the elder were also on hand to defend him and very quickly the community was split into supporters and accusers of the elder, along the lines of old disputes that had been latent in the community. Ordinarily, stealing a hen would not have divided the community but given the historical animosity between the two sections of the community, the dispute quickly escalated towards a violent confrontation. The elders of the community were immediately summoned to mediate in the dispute and as should be expected, their first task was to determine whether a case of theft could be established. In what has since then been hailed as an epitome of traditional wisdom, one of the elders was asked to look inside the sack of the accused "with the eye of an elder" and say whether there was a hen therein. The elder did as directed and returned the verdict that the sack contained no hen. The case against the elder was dismissed but both sections of the community were convicted of disturbing the peace and fined a goat each and several jars of palm wine. These were later used for a ceremony of reconciliation where there was a lot of eating, drinking and dancing. The ceremony was held two days later and members of both groups participated, putting aside the issue that brought about the feast in the first place.

Although it was only one elder who peeped into the bag to ascertain whether or not a case of theft could be established, the wording of the instructions given to the elder made it apparent to all the elders and other intelligent citizens that no hen was supposed to be discovered therein. This notwithstanding, no one in the crowd dared challenge the authority of the elders, nor dispute their handling of the case. The elders, despite growing up with the rivalries between the two groups and, perhaps, taking part in earlier clashes that defined that relationship, did not question the instruction given concerning the search of the bag, neither did they betray any curiosity as to what the bag contained. The story, however does not end here for although the elders appeared to have used their position to protect one of their own, they were not really acting on behalf of the particular elder but were acting to protect the integrity of the elders' council. Despite not formally convicting the accused elder, the council took steps to side-line him concerning its affairs. They ceased to invite him to meetings, ignored his opinion when he happened to be present and tactically excised him from the council. Everyone within the council, however, knew that he was so treated because he betrayed the confidence reposed on him as an elder and could easily have brought the elders' council into disrepute. Eventually, the offending elder lost the privilege of sitting on the council and it became apparent to everyone in the community that he was only an elder in name.

Of Conflicts and Relationships

An important characteristic of conflict which is immediately apparent from these two stories is that they only occur within relationships. Although this may be stating the obvious, it is so fundamental to conflicts that it cannot be overemphasized. It is only when parties are in a relationship that the potential for conflicts emerge. Such a relationship may be defined by the

physical proximity of the parties or by political, economic or ideological interactions which involve a different kind of proximity. Thus, a conflict relationship may exist between parties who have no physical interaction with each other but who regularly interact through other means. In the same way, a conflict relationship may potentially exist between two groups that are not aware of each other's existence but who subscribe to opposing ideas that generate conflict between them. Thus, whether we look at conflict as "a struggle between opponents over values and claims to scarce status, power and resources in which the aims of the *opponents* are to neutralize, injure or eliminate their rivals"¹¹ or as "an expressed struggle between at least two interdependent parties who perceive incompatible goals, scarce resources, and interference from others in achieving their goals"¹² there is an underlying assumption of a relationship between the parties. Also, whether conflict is seen as "perceived divergence of interest, or a belief that the parties' current aspirations cannot be achieved simultaneously"¹³, or even as "as a critical state of tension occasioned by the presence of mutually incompatible tendencies within an organismic whole, the functional continuity or structural integrity of which is thereby threatened"¹⁴, the assumption of a relationship between the parties cannot be discounted. It is this relationship that every third-party conflict intervention should attempt to repair and repairing it was the focal point of conflict resolution in traditional African societies.

Another important insight into the nature of conflicts that is apparent in the above stories is the extent to which conflicts are indicative of the health of the relationship between the parties involved. In the first story, the woman involved wilfully disturbed the peace during the Ekpo season, not because of the particular beating that she received on the day in question but because

¹¹ Coser, Lewis A. *The functions of social conflict*. London: Routledge, 1998: 8.

¹² Pruitt, Dean G., and Sung Hee Kim. *Social Conflict: Escalation, Stalemate, and Settlement*. Boston: McGraw-Hill, 2004: 7-8.

¹³ Hocker, Joyce L., and William W. Wilmot. *Interpersonal conflict*. Dubuque (IA): Brown, 1991: 23.

¹⁴ Singer, J. "The Resolution of Conflict." *Social Research* 16, no. 2 (1949): 230.

the underlying relationship between them had soured over time and the woman appears to have been actively soliciting a beating at a time which would cause the most problem for the husband. Again, the theft of a hen by the frail old man in the second story should ordinarily not have been sufficient to pitch one section of the community against the other. If the relationship between them had been healthier, the theft would probably have been ignored (especially as it involved a member of the elders' council) and the children chided for accusing an elder. But even if the case was taken up by adults in the community, the other party would not have come out in defence of something that is so obviously wrong. It is only when this is considered in the context of the existing sour relationship between the two parties that the origin and escalation of the conflict makes sense. Indeed, both parties appear to have been waiting for an opportunity to spar with each other and the stealing incident merely provided that opportunity. What the above scenarios show is that, where relationships are healthy, conflicts rarely get out of control. This is not to say that there are no disputes between people in such communities, rather that such disputes are settled and the parties normally return to their pre-conflict relationships. On the other hand, where relationships are not healthy, ordinary disputes are more likely to degenerate into violent conflicts and the parties are more likely to adopt belligerent attitudes that further escalate and perpetuate the conflict. Traditional African societies had realised that, to prevent the persistence and recurrence of conflicts, the repairing the relationship between the parties should be part of conflict and they went to great lengths to ensure that this was achieved during conflict mediation.

The two stories above demonstrate importance that traditional conflict resolution placed on the restoration of relationship between conflicting parties. In the family conflict that boiled over during the Ekpo season, both parties were given some form of punishment. The husband was punished separately for disturbing the peace and for beating his wife, while the woman was

made to share the blame for what happened. Feeding the Ekpo society for a whole day is the usual punishment for disturbing the Ekpo season. But the elders sort to repair the relationship between the man and the Ekpo by making sure that the man got something in return, even though he was the one in the wrong. The understanding here is that the man's interaction with members of the Ekpo in the course of building the hut will ameliorate any ill-will that he may harbour for feeding the society. Also, in making the wife to cook special meals for the husband, the elders sought to placate the husband concerning his punishment and also help rebuild the husband and wife relationship. Punishing the wife was meant to remind her of her traditional role within the household and deter her from gloating over the husband's punishment.

In the second story, the elders noticed a strained relationship between the two groups and decided to repair it by creating a social occasion where both parties could relax and enjoy themselves. Also, the offending elder was punished in such a way as not to make his supporters lose face and thereby hold a grudge against the community and its elders. In both cases, the elders recognized that a dispute settlement where the "winner takes all" does not promote harmonious relationship between the parties but may actually create bitterness in the losing party. Thus even when it is clearly apparent that one party is in the wrong, every attempt is made to assuage the ego of the party while complete restitution is made to the other party.

Interventions and Contemporary African Conflicts

Third-party interventions in contemporary African conflicts differ from these traditional forms in quite a number of ways. The first has to do with the timing of intervention. In the two cases in traditional society discussed above, the elders were quick to intervene and in doing so truncated the conflict escalation process. This was meant to forestall the hardening of positions

and ensure that both parties do not engage in acts that will make reconciliation difficult. In contemporary African conflicts, on the other hand, intervention usually takes a much longer time; resulting in a further deterioration of the relationship between the parties. A typical example is the Casamance crisis in Senegal, which did not attract any third-party interest until 1982 when the arrest of the leaders of a peaceful demonstration precipitated a crisis¹⁵. This is despite the fact that the Mouvement des Forces Democratiques de Casamance (MFDC), the umbrella organization for the troubled region, had been in existence since 1947 and had done all in its power to attract international attention to its dispute with the Senegalese government. The same appears to have been the case in the Somali crisis. Although opinion is divided concerning the exact cause of the crisis; Laitin¹⁶ and Lewis¹⁷ classify it as emanating from value, especially those that are associated with clan loyalties, whereas others like Samatar¹⁸ look at it as structural, having primarily to do with the transition from communitarian pastoralism to peripheral capitalist pastoralism (aggravated by the emergence of a non-producer class of consumers). A study of the origin and escalation process of the conflict shows that inter-clan tensions had been evident long before independence in 1960. Violent conflict only emerged because these tensions were not attended to, leading to a souring of relationships between the clans and their increased negative perception of one another. Also, whether we see the hidden hand of Ethiopia in the crisis¹⁹ or attribute it to tensions between Italian and British Somaliland²⁰, there is no doubt that an early intervention could have made a difference in the Somali situation. Similar argument

¹⁵ Evans, M. "Briefing: Senegal: Wade And The Casamance Dossier." *African Affairs* 99, no. 397 (2000): 649

¹⁶ Laitin, David D., and Said S. Samatar. *Somalia: nation in search of a state*. Boulder, CO: Westview Press, 1987,

¹⁷ Lewis, I. M. "Visible and Invisible Differences: The Somali Paradox." *Africa: Journal of the International African Institute* 74, no. 4 (2004): 489.

¹⁸ Samatar, Abdi Ismail. "Destruction of State and Society in Somalia: Beyond the Tribal Convention." *The Journal of Modern African Studies* 30, no. 04 (1992): 625.

¹⁹ Yihun, Belete Belachew. "Ethiopian foreign policy and the Ogaden War: the shift from "containment" to "destabilization," 1977–1991." *Journal of Eastern African Studies* 8, no. 4 (2014): 677-91

²⁰ Huliaras, Asteris. "The Viability of Somaliland: Internal Constraints and Regional Geopolitics." *Journal of Contemporary African Studies* 20, no. 2 (2002): 158.

could be made concerning the conflicts in Liberia, Sierra Leone, Niger, Mali, Kenya (Shifita), Rwanda, Burundi, DRC and many others where grudges arising from the conflicts still linger but could have been avoided and the relationship between the parties restored by an early settlement.

Although it is usual to criticize third parties for not responding as quickly to contemporary crisis as did the elders in the above story, it is important to keep in mind that the operational environment of contemporary African conflicts are a lot more complex than those of traditional society. Whereas in traditional society, the elders were held to be above reproach and were therefore recognized as legitimate arbiters, mediators in contemporary conflicts because of being interested in specific outcomes²¹ do not enjoy the same level of legitimacy and as such need to negotiate their intervention. It is the length of such negotiations that sometimes account for a delay in mediation and the unpleasant consequences that follow. But even if there were such a legitimate authority, their ability to function would be severely hampered by international laws and agreements regarding interference in the internal affairs of sovereign nations. Thus even when it is clear that, events within a particular country are leaning towards violent conflict, there is usually some hesitation by third parties to intervene. While one could argue that such international laws and agreements are man-made and should be modified to allow interventions that may potentially ward off great calamity, it is important to note that such laws also protect weak countries from being preyed upon by the more powerful nations.

A reason that is often cited for the delay in third-party interventions in contemporary African conflicts is that it is often difficult to find neutral third parties that are acceptable to both sides of the conflict. This is sometimes because potential mediators are perceived by one or both parties to have recognizable interest in the outcome of the mediation. They may be seen to

²¹ Zartman, I. William, and Saadia Touval. "International Mediation: Conflict Resolution and Power Politics." *Journal of Social Issues* 41, no. 2 (1985): 27-45.

actively support one of the parties or perceived to have a stake in the protraction or resolution process. In many such conflicts even regional blocks (as the Southern African Development Community, SADC, the Economic Community of West African States, ECOWAS, Economic Community of Central African States, ECCAS and the East African Community, ECA), to which the parties belong, are sometimes not recognized as legitimate mediators. The intervention of the ECOWAS in the first Liberian civil war, for instance, was seen by some parties in the conflict as an attempt by regional leaders to perpetuate the deeply unpopular government of Samuel Doe especially given rigidity of the position adopted by the Nigerian government against the main rebel leader in Liberia, Charles Taylor²². The fact that the military force that intervened in the conflict was hastily put together by the Standing Mediation Committee of ECOWAS at the height of the conflict based on the 1981 ECOWAS Mutual Defence Assistance Agreement fuelled this suspicion. Adebajo's view that "the establishment of ECOMOG did not conform to the constitutional legal requirements of ECOWAS"²³ was not lost to the combatants who simply ignored mediation until their objective of eliminating Doe had been achieved. The larger international groupings are also not so readily accepted by conflicting parties as impartial mediators. The African Union and the United Nations are sometimes seen as merely endorsing the initiative of regional blocks or aligned to the agenda of its more powerful members who may have interests that are at variance with that of the nation and of the major players in the conflict. It is the perceived partiality of mediators that energizes the parties and leads them to act or make utterances that makes the restoration of relationships difficult.

²² Arthur, Peter. "ECOWAS and Regional Peacekeeping Integration in West Africa: Lessons for the Future." *Africa Today* 57, no. 2 (2010): 17.

²³ Adebajo, Adebayo. *Liberia's Civil War: Nigeria, ECOMOG, and Regional Security in West Africa*. Boulder, CO, CO: Lynne Rienner/International Peace Academy, 2002: 64-65.

But even where there are acceptable mediators, conflicting parties sometimes refuse mediation when they believe that they can muster sufficient military force to subdue the other party. In such cases, mediation to them, appear to be a distraction from the achievable objective of vanquishing the enemy. Mediators, thus, have to wait till the parties are war weary before approaching them with a mediation agenda. In the 1998 DRC armed conflict for instance, the government of Laurent-Désiré Kabila and the Congolese Rebels ignored mediation because each party felt it could prevail militarily over the other. Rwanda, for whom the rebels were fighting a proxy war exhibited ‘a great deal of illusion and arrogance in believing that the stunt of the first Congolese rebellion could be re-enacted, i.e. that Kabila could be overthrown in the same way as Mobutu back in 1996’²⁴. Kabila on the other hand requested and received support from Angola, Namibia and Zimbabwe to bolster his flagging army. Efforts by regional continental groups to intervene in the conflict went unnoticed. Even the 1999 Lusaka ceasefire agreement which resulted from such mediation was largely ignored. Daley²⁵ observes that it ‘was essentially a ceasefire agreement without a peace agreement which led to neither a ceasefire nor peace.’ A peace summit organized in Lusaka in August 2000 and aimed at containing the conflict ended in failure as the parties and their supporters continued their search for a military solution. It was only the assassination of Laurent Kabila in 2001 that changed the dynamics of the conflict and resulted in a move towards peace.

But even where the parties accept mediation, mediators rarely make the restoration of relationships part of their mediation agenda. Their primary aim is usually to curb conflict behaviour and prevent further destruction of life and property. In furtherance of this, mediators

²⁴ Reyntjens, Filip. "The privatisation and criminalisation of public space in the geopolitics of the Great Lakes region." *The Journal of Modern African Studies* 43, no. 04 (2005): 591.

²⁵ Daley, Patricia. "Challenges to peace: conflict resolution in the great lakes region of Africa." *Third World Quarterly* 27, no. 2 (2006): 312.

sometimes preside over agreements which are obviously wrong for the country but which in their opinion are likely to curb overt violent behaviour by the parties. Most of such agreements focus on satisfying the demands of those that are recognized as major players in the conflict. To this end, leaders of armed groups are often rewarded, with the leader of the most belligerent group being asked to lead a government of national unity. The interest of the wider but silent citizenry is often ignored or erroneously regarded as represented on either side of the conflict. In the 1998 agreement between the Government of Guinea-Bissau and its military, for instance, article 4 provided for the inclusion of representatives of the military into a government of national unity. In the long run, this was found to be counterproductive as Ansumane Mané, the head of the military and leader of the rebellion, used this elevated position to further destabilize the country. Mané not only made himself the guardian of Guinea-Bissau's democracy but also the unofficial chaperon of President Kumba Yalá; preventing him from visiting Senegal and insisting on accompanying him on a visit to Nigeria.²⁶ Brigadier Mané continued to destabilize Guinea-Bissau until his death in November 2000, thus confirming that article 4 of the 1998 agreement was a mistake.

Similarly, the various peace accords that were negotiated in the course of the Liberian Civil Wars did not address the repair of relationships and as such were either unsuccessful in curbing violence or incapable of uniting the country. As it is often argued, the primary cause of instability in Liberia had always been the perception of marginalization by the different ethnic nationalities in the country. Sawyer makes this point when he argues "that sustained marginalisation and state-supported injustice have created conditions for the crisis and collapse

²⁶ Ostheimer, Andrea E. "The Structural Crisis In Guinea-Bissau's Political System." *African Security Review* 10, no. 4 (2001): 48.

that have become commonplace in post-colonial Africa”²⁷. The 1980 military coup by Master-Sergeant Samuel Doe was largely popular because it was meant to end the marginalization of the indigenous population by Americo-Liberian and create a more inclusive political and economic climate. This popularity waned and triggered a rebellion when the end of Americo-Liberian domination merely marked the beginning of Doe’s ethnic Krahn domination. This vexing issue remained a source of soured relations between the different nationalities of Liberia. This soured relationship was neither addressed in the final communiqué which established the interim government of Amos Sawyer, nor the 1995 Abuja Accord that facilitated the post-war elections, or even in the 2003 Comprehensive Peace Agreement that ended the Second Liberian Civil War. The perception of political and economic marginalization was not addressed during mediation and the discontent has merely returned to its dormant state to await another incentive for civil strife. Thus despite the end of the war, Liberia still remains a fractured country with its ethnic nationalities looking upon one another with suspicion.

The crisis in Cote d’ Ivoire also has serious relationship issues which have not been attended to. Bah for instance observes that “while the issue of citizenship was evident in the discourses surrounding the conflict and peace process, the internationally mediated agreements did not pay sufficient attention to it. ...The details of the internationally mediated peace agreements weighed heavily on power sharing, ceasefire, and election modalities at the expense of creating a mechanism to resolve the citizenship issue”²⁸. Even the 2005 Linas-Marcoussis Agreement which paved the way for elections did not make provisions for the repair of relationships fractured by the citizenship issue. This resulted in the 2010-2011 post-election

²⁷ Sawyer, Amos. "Violent conflicts and governance challenges in West Africa: the case of the Mano River basin area." *The Journal of Modern African Studies* 42, no. 03 (2004): 438.

²⁸ Bah, A. B. "Democracy and Civil War: Citizenship and Peace-making in Côte D’ivoire." *African Affairs* 109, no. 437 (2010): 599

violence in which the same parties as in the First Ivorian Civil War were the major players. The ouster of Laurent Gbagbo from the presidency and the ascendency of Alassane Ouattara did not entail a repair of relationships. The militant support that Gbagbo continues to enjoy from his followers is an indication that the conflict has merely gone into hibernation.

Issues, Relationships and Conflicts

The above discussion attempts to show that conflicts protract and recur because, rather than focus on improving the post conflict relationship between the adversaries, mediators are wont to consider their efforts to be successful once they have achieved a cessation of hostilities. But repairing relationships involves understanding and addressing the important issues in the conflict and making it apparent to those involved that justice has been done. In the two examples of third-party conflict interventions in traditional Africa, the elders, despite their effort at repairing relationships, do not appear to have paid sufficient attention to the underlying issues in the conflict. In their intervention in the Ekpo Nyoho case, the elders, appropriated the adjudicating powers of the couple's families but failed to investigate the source of incessant quarrels between the couple as should have been done by their families. It assumed that the relationship between the man and his wife as well as between the man and the Ekpo could be repaired by assuaging the ego of those involved in the conflict and ensuring that their punishments do not leave any permanent scars on them. Although the story does not go far enough to enable us to validate this assumption, it is likely that couple returned to their conflict ridden relationship after the Ekpo season and would perhaps find more ingenious ways of acting out their contempt for each other.

Again in the case of the offending elder, intervention appears to have ignored the underlying hostility between the two sections of the community and concentrated on the immediate manifestations of that hostility. It assumed that a good dose of merrymaking would restore the relationship between the two parties and ease tensions within the community thus ignoring Busumtwi-Sam's²⁹ view that "even when overt fighting has apparently ended, underlying structures that generate conflict may continue to reproduce conditions for further conflict." Thus, despite following the traditional believe that conflict interventions should aim at restoring the relationship between the parties, it assumed that this can be achieved even when there are unresolved issues. While it is possible that in the course of their feasting, the two sections of the community may discover that there is more that binds than separates them and thereby develop new friendships that eclipse their earlier hostilities, there is also an equal chance that such a coming together may generate fresh hostilities that further polarize them. The elders would have served the community better by probing the source and resolving the issues that gave rise to the initial hostilities before staging the party as a celebration of reconciliation. They should have kept in mind that "sustaining peace is ...an on-going process of reform and adaptation designed to institutionalize new rules of the game that reproduce and reinforce new collective identities and interests, structure choices towards certain behaviours and not others, and specify acceptable ways of making decisions"³⁰. Thus, such a ceremony of reconciliation should not signal an end to the peace process but should merely constitute one of its steps.

Although the elders in these stories could be accused of glossing over the issues that defined the conflicts, one cannot but commend their attempt to restore the parties to their pre-conflict relations. Contemporary mediators in African conflicts not only gloss over important

²⁹ Busumtwi-Sam, James. "Sustainable peace and development in Africa." *Studies in Comparative International Development* 37, no. 3 (2002): 99.

³⁰ *Ibid.* 106

issues that define particular conflicts but also fail to do extensive work on the post mediation relationship between the parties. They sometimes consider the underlying issues as internal to the parties and therefore, better tackled by them on their own. Their primary focus appears to be curbing conflict behaviour and restoring a semblance of normalcy in the conflict area. But “if the intention of conflict settlement is the promotion of peace, this cannot be limited to merely stabilizing order by settling disputes and controlling violent behaviour”³¹. It has to move beyond engendering a cessation of hostilities and address the underlying issues that gave rise to the conflict. Merely acknowledging such issues and encouraging the parties to address them in their post-conflict engagements does not amount to attending to the issues. African mediators need to fashion out a mediation agenda which goes beyond controlling overt conflict behaviour to address the structures that underlie the conflicts.

Resolving the underlying issues in a conflict should not be too difficult, since Africans generally value relationships and communities are often willing to forgo some things that are due to them for the sake of reconciliation. A Zambian proverb encapsulates this saying “an ounce of favour goes further, or is worth more, than a pound of justice.” An indication that those that are wronged would rather favour their offenders with forgiveness than demand restitution or retribution. This would explain the levity with which the elders treated the underlying issues in the conflicts they attended to and further explains their desire to avoid leaving permanent scars on the parties. They appear to have understood that despite the desire by all to see that issues are resolved in a just and equitable manner, the mediation process is only expected to produce restorative justice and not retributive justice. This understanding is encapsulated in the Swahili proverb that “justice is exercised in proper prevention, rather than in severe punishment.” Metz also captures this view when he observed that more often for Africans than for Westerners, “it is

³¹ Auvinen, Juha, and Timo Kivimäki. "Conflict transformation in South Africa." *Politikon* 28, no. 1 (2001): 69.

uncontroversially *pro tanto* immoral to make retribution a fundamental and central aim of criminal justice, as opposed to seeking reconciliation”³². The Rwandan genocide trials that used the traditional Gacaca court system offer a practical demonstration of this and shows that the restoration of relationships is highly valued, even by the victims of conflict. Their traditional concept of *ubwiyunge* through which “damaged relationships within a family or between families, due to criminality, inappropriate or abusive behaviour, or conflicts over property”³³ is also a further confirmation of this. “The participatory and accessible nature of the gacaca proceedings therefore, much more than in ordinary criminal proceedings, delivered justice and a roadmap to reconciliation to the people who actually went through the genocide”³⁴. It is such desire to reconcile and restore the relationships of the parties that is missing in contemporary conflict mediation.

A common mistake of African mediators is in thinking that the conflicting parties will repair their relationships in the course of time and that continuous interaction in the form of a power sharing government will assist this process. Although, there is no doubt that the mediators have good intentions in proposing such power sharing, the proposal appears overly optimistic given the conflict and the underlying current of distrust between the parties. An example of this is the power-sharing transitional arrangements designed in Lome and Abuja for Liberia and Sierra Leone. Commenting these, Sawyer observes that the assumption that the leaders of the National Patriotic Front of Liberia and the Revolutionary United Front were ultimately interested in exercising power through institutions of democratic governance was too optimistic. He argues that democratic exercise of power did not present sufficient incentive to blunt their greed and

³² Metz, Thaddeus. "Toward an African Moral Theory." *Journal of Political Philosophy* 15, no. 3 (2007): 324.

³³ T. Longman, "Trying Times for Rwanda: Re-evaluating Gacaca Courts in Post-Genocide Reconciliation.," *Harvard International Review* 32, no. 2 (2010):.49

³⁴ Brouwer, Anne-Marie De, and Etienne Ruvebana. "The Legacy of the Gacaca Courts in Rwanda: Survivors' Views." *International Criminal Law Review* 13, no. 5 (2013): 973.

ambition³⁵. Again in reviewing the power sharing agreements struck in Rwanda (1993), Somalia (1997), Angola (2002), and the 2003 agreements in Burundi, Comoros, DRC and Liberia, Jarstad observes that power-sharing seldom solves the issues at stake, since these states continue to be unstable. It often means deadlock, inefficient governments, and an institutionalisation of polarisation in already divided societies.³⁶ These examples show that the repair of relationships should not be undertaken under a power sharing relationship but should either be taken outside the governance structures or nurtured prior to the power-sharing deal. To this end, it is also important to note that the person who ends up as the leader of a rebellion may not necessarily represent the wider views of the conflict. Sometimes, such leaders merely hijack popular discontents to further their political and economic ambitions. Jumping into an agreement with such leaders divert focus from the wider issues in the conflict and disappoint those with legitimate discontent. Such discontent may further sour the relationship between the parties and lead to a resurgence of hostilities after mediation or merely return the conflict to its latent state until some other opportunistic individual decides to exploit it for his personal benefit. Taking steps to repair the relationship removes this probability and creates a genuine opportunity for peace between the parties.

One could argue that the traditional conflicts referred to above are very simple and that the contenders had strong interpersonal relationships and as such is quite different from contemporary conflicts which are broader, more widespread and may involve many ethnic groups. Also, that the high stakes in modern conflicts such as ethnic cleansing, regime change and succession agendas make it inappropriate to transfer to them the resolution mechanisms from

³⁵ Sawyer, Amos. "Violent conflicts and governance challenges in West Africa: the case of the Mano River basin area," 451.

³⁶ Jarstad, A. K. "Prevalence of Power-Sharing: Exploring the Patterns of Post-Election Peace." *Africa Spectrum* 44, no. 3 (2009): 42.

traditional conflicts. Although the above observation is valid, it does not defeat the primary claim of this paper, viz. that third party mediators in African conflicts need to spend time to understand and repair the relationship between the contending parties rather than the current practice where mediation leaves the parties with fractured relations and the likelihood for the resurgence of the conflict. There is no doubt that a complex environment such as characterize modern conflicts is more difficult and therefore will require more time and resources than was expended on the community conflict referred to above. This, however, does not mean that the repair of relationships cannot be achieved or that foisting an imperfect agreement on the parties is a viable alternative. Peacebuilding should not be “a short to medium-term strategy aimed at consolidating a cessation of hostilities”³⁷ rather it should be a painstaking engagement with the parties for the purpose building trust and promoting reconciliation. The process should address the primary issues in the conflict and guard against forcing the parties to make concessions on issues that are so pivotal to their discontent as to force them to precipitate another conflict in a bid to correct the mistakes of the agreement.

Conclusion

This paper started out trying to understand why third-party interventions in African conflicts fail to achieve the envisaged results in African communities. It started by looking back at examples of traditional conflict interventions and observes the distinctive role accorded the preservation of relationships in traditional conflict mediation. It argues that since conflicts thrive on broken relationships, the restoration of relationships should be paramount in contemporary conflict mediation in African. It observed that contemporary interventions in African conflict merely aim at curbing conflict behaviour and in most cases this exercise overlooks the primary

³⁷ Busumtwi-Sam, James. "Sustainable peace and development in Africa 101.

issues of the conflict. It identified this new approach as the primary reason for the protraction and recurrence of conflicts noting that it is the failure to attend to such issues that makes the parties re-enact their conflict behaviour. It argued that, while ameliorating the loss incurred and resolving contentious issues in a conflict may sometimes be useful, it had never been a necessary condition for peace. This is to say that, a just and equitable resolution of conflicts need not necessarily entail punishing the culprit and restoring to the innocent but may actually consist in mere acknowledgement of wrongs. It concluded that the repair of relationships should be paramount in every conflict mediation if the recurrence of conflicts is to be avoided and lasting peace achieved.

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