

AN ASSESSMENT OF CURLE'S MODEL IN KOFI ANNAN THIRD PARTY INTERVENTION IN THE KENYAN 2008 POST-ELECTION CRISIS

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ABSTRACT

This study examines the outcome of Kofi Annan third party intervention *in* post-election crisis in Kenya within the context of Curle's model of mediation as a conflict resolution strategy using historical based method on mid-range policy analysis and proper classificatory of events. The study also describes series of conflict resolution strategies and tools used by the Panel. These include the benefits of a single mediation fully supported by the international community; strong engagement by civil society; a division of issues to be negotiated into short- and long-term categories; a carefully orchestrated media strategy; a strong emphasis on pragmatism over politics; an understanding of peace as a process, rather than an event; and a high level of creativity and flexibility on the part of the mediators. Above all, the agreement which was negotiated reflected the desire of the Kenyan people to achieve peace in their country. Its sustainability, however, will depend on their *ability* to address the root causes of the conflict and to tackle the underlying and deep-seated issues which triggered the crisis in the first place. From the analyses, it shows that Kofi Annan employed systematically the Curle's model but the point of divergent is on the process itself. Annan adopted the power mediation while Curle adopted soft mediation. Based on these findings, the study recommended among others that: power mediation should be used in asymmetric conflicts, and the government of Kenya should restore faith and transparency in the electoral system.

Keyword: Curle's model, Conflict resolution, Civil society, Mediation

Introduction

Kenya 2007 post-election violence is rooted in the ethnic dispute between Kaleiins and Kikuyus and was fueled by the results of December 2007 elections. Kalenjjs believe that the Kikuyus have marginalized them for far too long by dominating the major sectors of the economy of the country at their own expense. The country of Kenya was ruled by the iron hands of two men in succession from 1963 to 2002: Kenyatta (1963-1978) and Daniel Moi (1978-2002). In 2002, there was a change: the ruling political party, the Kenya African National Union (KANU), that had ruled the country since independence, collapsed. It collapsed beneath a new political party comprised of an alliance that had formed between all of the major Kenyan tribes. This political stakeholder was named the National Rainbow Coalition (NAPE). The election victory was a landslide. Mwai Kibaki of the NARC won 62% of the vote on a platform of fighting corruption, forming a coalition government that shared power amongst the various tribes, and changing the constitution within 100 days of being elected to limit the executive power that had ballooned over the previous four decades (Mutua, 2008; Calas, 2008). People across Kenya from all tribes felt hope that the country's government was finally on the verge of a system of governance that would have accountability through shared power.

The disintegration of the MARC party and the broken promises of a shared government and new constitution left many citizens tasting what could have been and frustrated over what should have resulted from the new government coming to power in 2002. This frustration fueled the violence that took place after the election in 2007. The immediate cause of the violence was the announcement of the elections results while there are other inherent factors. Kenya land problems dates far back to pre-colonial period when powerful communities acquired the land of the less-privileged through conquest. It was a period like the Hobbesian state of nature where the most powerful takes all; the powerful groups dominated the weaker ones and appropriated the resources

The consequence of 2007 Kenya post-election violence's cannot be underestimated.

The violence claimed more than 1,000 lives like those that occurred in 1990s but its effects by displacing hundreds of thousands of people was more than the displacement that occurred in the 1990s. I shall briefly discuss the consequences but I will focus on the case of IDPs. 2007 post-election violence left hundreds of thousands of people displaced or uprooted from their home or place of habitual residence. The Kenyan violence was characterized by ethnic cleansing and this led to massive removal or displacement of some ethnic groups. For instance, the Kalenjins attack of Kikuyus and PNU supporters at the Rift Valley and other places after the announcement of 2007 presidential elections and this caused members of the attacked group to move. This kind of displacement also occurred in the violent dashes of the 1990s and not all the displaced persons have been able to go back home since then.

The announcement of the disputed Kenya 2007 elections results on December 27th, 2007 led to what could be described as the worst political crisis in her history. This massacre claimed over 1,000 lives of children, men, and women, and left around 600,000 Kenyans internally displaced (Obonyo, 2008). The immediate and remote causes of the crisis have been analyzed by authors. Thus, it is argued that the violence and displacement began with the establishment of multi-party politics in the 1990s and it took different forms in different parts of the country. Although exacerbated by political feuds, the violence had its roots in ethnic rivalries and struggle for ancestral lands. The internal feud had been brewing for decades and the election results were the catalyst and immediate cause that finally ignited the conflict. (Obonyo, 2008; Bayne, 2008). This essay undertakes a cause-effect analysis of the conflict with focus on the forty-one-day mediation process in Kenya with a view to determining the place of Curle's model of mediation in the process of managing the crisis.

Overviews of Curle's Model

The theoretical framework underlying this study is Curle's model of the process of resolving conflict (mediation), the progression from limited power and awareness to a sustainable peace is represented as a balanced linear expression. Curle considers two variables: awareness and balance. Awareness *refers* to the degree to which relevant actors are Adam Curle is an English

Quaker and peacemaker. He has worked around the world, helping people find just and peaceful resolutions to a broad array of conflicts, from familial to international. Reflecting on his wealth of experience, he developed a model for proper sequencing of conflict-resolution and nonviolent-action processes. Curle's work (1971) built on Galtung's approach. He traces how asymmetric relationships can be transformed, through a shift from unbalanced to balanced relationships achieved through a process of conscientisation, confrontation, negotiation and development.

Curle avoids the word "power" and names his other key variable "balance." This distinction has the advantage of avoiding the many conscious and subconscious connotations of the word power. It also helps us to focus more fully on the relationship between the parties and on the resources, they bring to bear on the particular issue(s) in contention. In a balanced relationship, neither party is able to impose its will on the other. This does not mean that they are identical in their sources of power. The resources which each bring to the relationship may be different. Parties may vary substantially in levels of control over any given commodity (e.g., wealth, arms, popular support). In relation to the issues in contention, however, the sums of their individual assets are relatively equal when weighed against each other. Neither side is likely to be successful in acting on the issue without the support or at least acquiescence of the other.

Four processes are integral to Curle's model: education, confrontation, bargaining, and conciliation.

Education: Education involves effort to increase the awareness of parties relevant to the conflict. Education is likely to take different forms, depending on the nature of the party. In the case of members of the aggrieved group, people may need further information on the sources of the conflict as well as training in the discipline of nonviolence.

Confrontation: While education is geared to all groups with any stake or interest in a conflict, confrontation is directed only at the adversary. Confrontation tactics are designed to make it uncomfortable, if not impossible, for the adversary to proceed with business as usual. They

highlight and help build the strength of the aggrieved group, so that any power imbalance begins to be equalized.

Bargaining: Bargaining refers to efforts between parties to work out a resolution to the conflict which both find acceptable. In some cases, the parties may be able to fashion an agreement with no external assistance through negotiation. More likely, they may need a third-party to help them reach a mediated resolution. In either case, it is important that parties do more than simply reach an agreement.

Reconciliation: During the course of the conflict, parties tend to develop negative, mistrustful feelings toward one other. This is particularly likely if the conflict has lasted for a long time and if people have died or been irreparably injured as a result of it. Curle underscores the importance of conciliation, which is a technique dependable. It is important that the parties work together to re-knit their frayed relationship.

This study deals with analysis and discussion of Curle's Model of Mediation to determine whether the conflict resolution strategy adopted by Kofi Annan in the post-election crisis in Kenya exemplified the Curle's Model of Mediation.

Curle's Model of Mediation

	Unpeaceful Relations		Peaceful relations
Balanced		3) Conciliation	4) Development and Restructuring of the formerly unpeaceful Relations.
Unbalanced	1) Education (Conscientisation)	2) confrontation	
	Lower Awareness of conflict	Higher Awareness of Conflict	

Source: Culled from Curle (1971) and Lederach (1995).

From the figure above, stage 1 represents Education, Curle (1971) stated that education or conscientisation involves efforts to increase the awareness of parties relevant to the conflict. Education is likely to take different forms, depending on the nature of the party. He argues that in a situation of gross power unbalance, the weaker party might not even realize the injustice that is being done to him. In this case, education is needed to generate awareness of the inferior position of the lower - power party. Lederach (1996) in his adoption of Curle's model opined that it is power that is balanced and unbalanced. Abdi and Williams (2003) posited that Adam Curle model has been used by many in the peace building field to show how relations can move from unpeaceful to peaceful through a process of increasing awareness of the conflict and the relationship balance between the parties, ultimately leading to no conflict.

Stage II represents confrontation: Curle (1971) stated that Awareness leads to a desire for change that often can be attained only through confrontation, and then a balance of power might be achieved, as well as legitimization of the weaker party's needs and interests. Only then can negotiation (or mediation bring a desirable change in relationship. In affirming Curle's model Galtung (1996:112) suggested that peacemaking aims to change the attitudes of the main protagonists, peacekeeping lowers the level of destructive behaviour, and peace-building tries to overcome the contradictions which lie at the root of the conflict. Dugan (1982) asserted that education is geared to all groups with any stake or interest in a conflict, confrontation is directed only at the adversary.

Stage III represents conciliation (negotiation). Woodhouse (2010) posits that during the course of the conflict, parties tend to develop negative, mistrustful feelings toward one another. This is particularly likely if the conflict has lasted for a long time and if people have died or been irreparably injured as a result of it. Curle (1971) underscores the importance of conciliation, which is a technique through which parties overcome feelings of antipathy, hatred, distrust, and resentment. Without overcoming these feelings and building a new base for a relationship, the agreement may not be durable or dependable. It is important that the

parties work together to re-knit their frayed relationship. It is conciliation that sets the stage for moving toward what Curle calls development, "the restructuring of unpeaceful relations to create a situation, a society, or a community in which individuals are enabled to develop and use to the full their capacities for creativity, service, and enjoyment." Lederach (1995) argues, the two strategies complement each other. Negotiations are possible after a balance of power has been established, and interests and needs have been identified and recognized. This is achieved through nonviolent advocacy.

Bargaining: Bargaining refers to efforts between parties to work out a resolution to the conflict which both find acceptable. In some cases, the parties may be able to fashion an agreement with no external assistance through negotiation. More likely, they may need a third-party to help them reach a mediated resolution. In either case, it is important that parties do more than simply reach an agreement.

From The Analysis Curle (1971) stated that there are four elements of good practice mediators should aim to achieve. These elements are:

- Provide Information on the facts so that conflict parties are not misled by rumor, prejudice, or misunderstanding.
- Build, maintain and improve Communications between the mediators and the protagonists to the conflict.
- Befriend, *referring* to the relationship between mediators and those with whom they are dealing with.
- Engage in Active mediation: mediators help the conflict parties to see possibilities for a solution that they might not otherwise have perceived.

He further expressed that before engaging in face-to-face negotiations, mediators should move from one conflict party to the other in an effort to see if there is common ground for a meeting.

Kofi Annan Conflict Resolution Strategy

Lindenmayer and Kaye (2009) highlighted strategies adopted by Kofi Annan and his team in

the mediation process of the postelection crisis in Kenya. These strategies are:

- i. Single mediation (Track 1);
- Inclusion of pressure group (Civil Society);
- iii. Separating the short-term from the long-term issues;
- iv. Media strategy;
- v. Pragmatic mediation and
- vi. Making negotiation a process and not an event

First, fostering the conditions for a single mediation process-with international support where possible - Annan (2008) is an essential step to begin pursuing solutions meaningfully. In Kenya, Annan assured that, first and foremost, he had the African leaders behind him and that he also had the support of the International Community and in particular the United States-which stepped in at pivotal moments to put pressure on the parties. While the process began with multiple mediator options, the panel managed to assert authority over the process, and to generate enough worldwide support in order to ask the parties to accept its mediation as the only one they would engage in.

Secondly, civil-society actors have a vital role to play in the dialogue Annan (2008); even if involving them and intimately in the negotiations around the table is not-always practical, their consultative involvement early on helps shape the process in a way that ensures that the people have a voice and that the necessary pressure is put on the government during the implementation phase. In Kenya, the active involvement of the media, religious groups, business communities, and peace activists was crucial for creating an atmosphere that was conducive to fruitful negotiations and for generating that vital link between an elite-level process and the grass-roots realities, to avoid disenchantment or dangerous disconnect.

Civil Society engagement can be fostered and encouraged actively by mediators willing to take the time to listen to their views and engage them in the process where possible and appropriate.

Third, separating the short-term from the long-term issues Annan (2008) when drawing up a Road Map can prove essential in creating the much-needed nonviolent space for dialogue to proceed, as well as getting the parties used to agreement at a time when agreement with "the enemy" can be seen as a weakness. Putting the emphasis on ending the violence,

over and above seeking "truth" about the elections, meant that Kenyan lives rather than political power were put at the heart of the peace process. Given that ending the violence and addressing the humanitarian situation also involved apolitical, or at least nonpartisan, discussions, it was easier to encourage the parties to agree, and to generate a sense of teamwork and compromise. rapid agreement on the shorter-term agenda items, one and two, of the roadmap, was without doubt an important building block for the more difficult, long-term agenda items to follow.

Fourth, a carefully thought-out media strategy Annan (2008) is essential both to ensure that the process within the room is not derailed by political-point scoring outside the room and to keep the people fully on board and correctly informed; it can also prove to be a useful tool in moving the process in the right direction. In Kenya, the panel asked the parties early on to avoid making inflammatory statements to the press about the details of what was going on behind closed doors; when it seemed that they were not keeping their promises and that press statements risked sowing the seeds of failure, the decision to take the parties to an undisclosed location, where the media could no longer play a role, may have actually prevented the talks from deteriorating into exchanges of accusations and finger-pointing

Fifth, an emphasis on Pragmatism Annan (2008) can help overcome political differences, turning political questions into technical ones, postponing divisive debates over appellations, and focusing on practicalities rather than the "big picture" can all be useful strategies in helping negotiators to work as a team and to put peace before political aspirations or concerns. In Kenya, the use of technical experts-be they humanitarian, electoral, legal, or political-was an essential part of helping the parties to understand which solutions were feasible given the explosive environment in which they were operating; they also helped orient the parties to a problem-solving framework and away from adversarial negotiation strategies.

Sixth, understanding that negotiations are a process, rather than an event-and that the process is owned by the parties themselves-is integral to a holistic approach to peacemaking Annan (2008). Expectations can be managed more fruitfully if dialogue is engaged in as part

of a process, rather than simply a political exercise or event; the process has its own inherent worth, and trusting that the process will be constructive also means being patient. The panel reminded the parties to have patience when they appeared frustrated, and reminded them of progress already made when they were despondent; similarly, the panel was flexible and open enough to see the talks as a process, one which needed their full engagement if they were going to succeed.

Annan's decision to stay was part of this realization and certainly helped the parties to realize he was certainly not in transit, but as much a part of the process as the parties, that said, while the mediator is a part of the *process*, the process always belongs to the parties. This was essential in the final stages of the peace process in Kenya: suspending the talks was the mediators' decision, but it was based on actions by the parties; and the ability to save the talks from collapsing lay with the parties, not the mediator.

Comparism of Curle's Model with Kofi Annan Strategy of Mediation in Post-Election Crisis of Kenya

Conflict Resolution Techniques, Comparism between Curle's Model and Kofi Annan Conflict Resolution Strategy in the Post- election crisis in Kenya.	
Curle's Model	Kofi Annan mediation strategy
Provide Information on the facts so that conflict parties are not misled by rumour, prejudice, or misunderstanding.	Annan provide information by informing the conflict parties that the mediation process would be a single mediation
Build, maintain and improve Communications between the mediators and the protagonists to the conflict.	Annan build, maintain and improve communication by the media strategy he devised the media was a very useful tool to put pressure on the parties, when necessary, to add momentum or to plant the seeds of desirable outcomes in the minds of the government, the people of Kenya, and the International Community.
Befriend, referring to the relationship between mediators and those with whom they are dealing with.	Understanding that negotiations area process, rather than an event-and that the process is owned by

	the parties themselves-is integral to a holistic approach to peace making.
Engage in Active mediation: mediators help the conflict parties to see possibilities for a solution that they might not otherwise have perceived.	Pragmatic mediation was an essential part of helping the parties to understand which solutions were feasible given the explosive environment in which they were operating; they also helped orient the parties to a problem-solving framework and away from adversarial negotiation strategies.

From the table Kofi Annan employed systematically the Curle's model but the point of divergent is on the process itself. Here Annan adopted the official mediation. Harris (1998) emphasized that building on pure mediation, power mediation (or "mediation with muscle") employs a powerful third party who uses incentive and punishments ("carrot and sticks") to persuade the parties yield inflexible positions and move towards agreement. Movement is based on the power relations between the mediator and each party, rather than on the inter-party relationship. This form of mediation is often associated with official mediation (Track 1).

While According to Curle (1986), mediation is an extension of the negotiation process, which occurs on many different levels, from inter-personal to international. To him, mediation involves the intervention of a third party, who may be more effective in getting the conflict parties to re-examine their positions, interest and needs. It is a voluntary process in which parties retain control over the outcome and the mediator merely acts as impartial facilitators of the process of communication. The mediator, unlike a judge or arbitrator, has no power outside the mediation situation and cannot make or impose binding decisions. The mediator's role is to facilitate direct negotiation on the subtractive issues, with the aim of producing a lasting settlement. This soft mediation or "pure mediation" which is most often associated with unofficial mediation (Track 2). The mediator is concerned with all parties, including other third parties and the relationship between them. Harris (1998) emphasized that building on pure mediation, power mediation (or "mediation with muscle") employs a powerful third party who uses incentive and punishments ("carrot and sticks") to persuade the

parties yield inflexible positions and move towards agreement. Movement is based on the power relations between the mediator and each party, rather than on the inter-party relationship. This form of mediation is often associated with official mediation (Track 1),

Griffiths (2009) Kofi Annan deserved much credit for his negotiation skills and for keeping the public well informed through the media and by engaging with civil society, faith-based groups, the private sector and other stakeholders. That engagement had given Kenyan stakeholders' space to express their views and provide inputs into the process. The openness was appreciated by all and provided a platform for international support to the Kenyan process. Lindenmayer and Kaye (2009) also commended the tactic of extracting parties from their usual environments and enclosing them somewhere neutral where they are forced to spend time together is not an unusual one: Jimmy Carter used it in the Camp David Accords and many other negotiators have used it across the world. It is most useful in highly intractable conflicts where the parties to the discussion do not know each other personally, and the time can be used to build up trust and a certain level of understanding of the other party's position and perspective.

Woodhouse (2010) posits that Curle's later work in the 1990s revealed that much of his involvement took the form of supporting the activity of the Osijek Centre for Peace, Nonviolence and Human Rights. Osijek, a town in the Eastern Slavonia province of Croatia, was, with the adjacent town of Vukovar, the site of the most violent fighting of the Serb Croat War. His involvement with the people of Osijek, who was trying to rebuild a tolerant society while surrounded by enraged and embittered feelings caused by the war, motivated a considerable amount of reflection by Curle on the problems of practical peacemaking. It was apparent, for example, that the model of mediation specified in his book, *In the Middle*, and distilled from his experiences in the conflicts of the 1970s and 1980s was very difficult to apply on the ground, in the confusion and chaos of the type of conflict epitomized by the wars in former Yugoslavia. It was still the case that the use of mediatory techniques would be much more likely to produce the shift in attitudes and understanding necessary for a stable peace, a

resolution of conflict, than the use of conventional diplomacy alone: "solutions reached through negotiation may be simply expedient and not imply any change of heart. And this is the crux of peace. There must be a change of heart. Without this no settlement can be considered secure." However, Curle (1990) realized through his involvement with the Osijek project that the range of conflict traumas and problems was so vast that the model of mediation based on the intervention of outsider-neutrals was simply not powerful or relevant enough to promote peace. He made an important revision to his peace praxis, as follows: "Since conflict resolution by outside bodies and individuals has so far proved ineffective (in the chaotic conditions of contemporary ethnic conflict - particularly, but not exclusively, in Somalia, Eastern Europe and the former USSR), it is essential to consider the peacemaking potential within the conflicting communities themselves." (Curle, 1995: 96) Curle came to see the role of conflict resolution in post-cold war conflicts as providing a variety of support to local peacemakers through an advisory, consultative-facilitative role with workshops and training in a wide variety of potential fields which the local groups might identify as necessary.

Wainaina (2009) affirmed that Kenyan civil society had played five roles during the mediation process: first, it had responded to the emerging humanitarian crisis by ensuring domestic contributions to assistance that was channeled through the Red Cross with the support of the United Nations. The face of the humanitarian response had been Kenyan, a unique and unusual feature. Second, Kenyan civil society had generated the internal demand for peace - citizens' gatherings such as the Concerned Citizens for Peace and the Concerned Kenyan Writers had created the space and enabled the initial brokering between the parties. Seasoned domestic negotiators had begun to "break the ice" between the parties, laying an important foundation for the Panel's work. Third, Kenyan civil society had helped to generate the internal demand for truth and justice as preconditions for a sustainable peace - electoral truth as well as accountability for the violence. That had been a difficult challenge given the assumptions around the political affiliations of civil society organizations. Civil society had also worked to monitor and document the elections and the violence. As a result, one private

prosecution was currently under way on the basis of such monitoring. Civil society had provided important analysis on the patterns of the violence. The protection of human rights workers had become a serious issue and several had been obliged to flee as a result of their work. Fourth, civil society had generated domestic pressure for a political settlement by disseminating its data and analysis to the AKenyan public through the media. Civil society had also organized regular briefings with the diplomatic corps, members of the AU Panel, the Africa Leaders Forum, etc., helping to provide a degree of "domestic legitimacy" for the international positions on the crisis.

The study thus finds that Kofi Annan strategy exemplified Curle's model of mediation through the following ways: i. Providing information; ii. Friendship with the conflict parties; iii. Building, maintaining, and improving communications and iv. Engaging in active mediation which Annan referred to as pragmatic mediation

However, Annan (2009) noted that the rapid and effective response to violence by the international community showed that the responsibility to protect could work and the extensive consultations undertaken with different stakeholders had enabled the mediation to come up with the proposed agenda, including Agenda Item 4 that deals on the long-issues and each conflict had its own particularities, which had to be taken into account. But that did not nullify the existence of general mediation principles. One such principle was that both negotiation and implementation required the participation of stakeholders. Similarly, the study found that while Curle's model of mediation was Soft Mediation which is unofficial meaning Track 1. Annan strategy was the Power Mediation which is official meaning Track 2.

Notwithstanding, the study revealed one major short-corning in Kofi Annan mediation process that is Impunity and accountability were not dealt with as extensively as they could have been during the mediation, and that remained the major issue constraining the implementation of agreements today.

Conclusion

From the study, it can be concluded that the effectiveness and creativity manifested by the

Kofi Annan intervention led to the containment of the crisis and institution of functioning governance in Kenya. This landmark achievement opens new vistas in terms of the amenability of other succession-oriented conflicts in Africa to third party intervention and resolution. Also, this could provide new insights into new models of conflict resolution strategies as an approach towards peace-building in post conflict societies/communities in Africa.

The post-election violence in Kenya is deep-rooted. Seemingly, its causes can be traced as far back as during the colonial and independent Kenya history before December 2007. The violence that occurred in Kenya between December 2007 and February 2008 cannot simply be wished away. Concerted effort in 'cleaning' the political, economic, and social domains of the Kenyan society should seriously be undertaken for the benefit of all concerned. Politicizing the postelection violence in Kenya shall only worsen the plight of the already wounded persons. It will heighten ethnicity segregation and vulnerability of all the affected everyone in the future of the State.

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