

What Went Wrong At Aburi: Interrogating the Gap in the Use of Good Offices and Mediation in the Nigerian Civil War

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ABSTRACT

Good offices and mediation are traditional means of dispute resolution. Both dispute mechanisms have been used in achieving truce and armistice unrivaled by any other known dispute resolution methods like arbitration, conciliation, and judicial settlement; this is possible because of its overlapping nature and for which distinction is now blurred. This study attempts to distinguish between good offices and mediation, use and abuse in practice and its consequences when improperly applied. Using the constructivist theory, the study interrogates the use of good offices in the conflict stage of the Nigerian Civil War where the Ghanaian Head of State Lt-General J.A. Ankrah had invited parties in Nigerian Crisis to Aburi, Ghana, early steps toward resolving the looming crisis by negotiation. This study identifies some elements of mediation in dearth to have averted the eventual Civil War. It argues that a good offices provider should equally arm self with skills of a full mediator maintaining that the tempo of a negotiation may require switching from providing good offices to full mediation and not necessarily calling off negotiation within negotiation. The study maintains that all that was required in the instance was Lt-General J.A. Ankrah's reappearance at the table to build consensus while interpreting messages. The study uses secondary sources of data and a qualitative research design. It concludes that negotiation may fail where it is laced with more stoppages as such tempo found to close negotiation may be lost in course of time. It recommends the overlapping skills of good offices and mediation in one breathe evidently lacking at Aburi.

I. INTRODUCTION

Although it is common for a good offices mission to turn into full mediation, the two activities remain distinct. In spite of being distinct activities, most mediation efforts have unfortunately been described as missions of 'good offices'. The employment of the procedures of good offices and mediation involves the use of a third party, whether an individual or individuals, a State or group of States or an international organization, to encourage the contending parties to come to settlement. Unlike the techniques of arbitration and adjudication, the process aims at persuading the parties to a dispute to reach a satisfactory term for the termination hostility by themselves.

Furthermore, It has been argued that the difference between good offices and mediation is shrinking so much so that classic works on the subject-matter including Satow's *Guide to Diplomatic Practice* is not spared given that a separate chapter on 'Good offices' and 'mediation' has disappeared from the latest edition of Satow's book. Orugbani (2006) observes how frequent, good offices mission turned into full mediation. Shaw (2009) argues that the dividing line between the two approaches is often difficult to maintain as they tend to merge into one another, depending on the circumstances.

The main distinction between Good offices and mediation is that in the case of good offices, the third party simply offers its services, and does not actively participate in the talks. Whereas, in the case of mediation, third party actively participates in the talks and makes suggestions so as to resolve the dispute between the States; in Shaw's view, technically, good offices is involved where a third party attempts to influence the opposing sides to enter into negotiations, whereas mediation implies the active participation in the negotiating process by the third party itself.

A litany of examples of good offices and mediation, and their points of departure in different instances exist. An instance of good offices is seen in the role played by the US President in 1906 in concluding the Russian-Japanese War, or the function by the USSR in assisting in the peaceful settlement of the India-Pakistani dispute in 1965. Another example might be the part played by France in encouraging US-North Vietnamese negotiations to begin in Paris in the early 1970s. A mediator, such as the US Secretary of State in the Middle-East in 1973-74, has an active and vital function to perform in seeking to cajole the disputing parties into accepting what are often his own proposals. It was his responsibility to reconcile the different claims and improve the atmosphere pervading the discussions.

In principle, The Hague Conventions of 1899 and 1907 laid down many of the rules governing these processes. The conventions stipulate that the signatories to the treaties had a right to offer good offices or mediation, even during hostilities, and that the exercise of this right was never to be regarded by either of the contending sides as an unfriendly act. It was also explained that such procedures were not binding. The Conventions placed a duty upon the parties to a serious dispute or conflict to resort to good offices or mediation as far as circumstances allow, before having recourse to arms. This, of course, has to be seen in the light of the relevant United Nations Charter provisions regarding the use of force, but it does point to the part that should be played by these diplomatic procedures.

Drawing on the above diplomatic procedures, this study sets to discuss how and why the diplomatic conferences held to resolve the conflict which snowballed into the Nigerian Civil War failed. Specifically, the study picked on the Aburi Conference held at the instance of the Ghanaian Head of State Lt-General J.A Ankrah in 1967 in which representatives of the Nigerian Federal Military Government (FMG) sat side-by-side with representatives of the Eastern Regional Government (ERG) for two days. Notwithstanding, parties to the conflict returned to Nigeria with different interpretations to the "Aburi Accord". This study interrogates some elements of mediation lacking which could have been needed to avert the eventual Civil War.

II THEORETICAL FRAMEWORK AND CONCEPTUAL REVIEW

i) **Constructivist Theory**

The starting point of constructivism is the claim that interests and identities of actors are actually malleable (Viotti and Kauppi 2013, pp.39-40). Constructivist theory can assist in explaining how parties can achieve cooperation under anarchy (Reus-Smith 2005, p. 190). Viotti and Kauppi (2013, p.40), argue that as essentially subjective persons, human beings develop ideas among themselves thus constructing their knowledge of (giving meaning to) the external world around them. More so, States (agents or persons acting for them) can and do redefine their interests, objectives, and individual courses of action. Collectively, agents of states effectively 'construct' the norms that influence international relations or world politics. For instance, while realists continue to see states compete for power, influence and prestige, constructivists argue that states do not simply react to their environment but dynamically engage it...just as the environment influences the character of actors, so too do the actors or agents who over time do affect the environment that surrounds them (Viotti and Kauppi 2013, p.40).

The constructivist theory of international relations can thus be helpful in understanding the roles of personality traits, diplomatic skills and expertise in resolving or aggravating conflicts within and between states or parties.

i) **Good Offices and Mediation: Stating the Obvious**

ii) Mediation and Good Offices

Mediation has been commonly defined as the process or act of settling disputes through a neutral third party without resorting to use of force. According to Bercovitch, mediation is a process of conflict resolution, related to but distinct from the parties' own negotiations, where those in conflict seek the assistance of, or accept an offer of help from, an outsider (whether an individual, organization, group, or state) to change their perceptions or behaviour, and to do without resorting to physical force or invoking the authority of law. Once the parties have been brought together, the subsequent role of third party depends on a number of factors; among these are its own motives, its influences, diplomatic skill and its standing with the parties.

Mediation is yet another method through which efforts are made to settle international disputes. In the case of mediation, a third party State or individual not only offers its services but also actively participates in the talks to resolve the dispute. Article IV of The Hague Convention on the Pacific Settlement of Dispute, 1899 has described the role of a mediator as reconciling the opposing claims and the feelings of resentment which have arisen between States at variance.

The location of mediation must be perceived to be neutral and can be in one place of multiple places and can change from time to time. This practice is trite to accommodate the nature and dynamic of the conflict vis-à-vis the relations between the parties at the time of kick starting the mediation process. Mediation, thus, may not be appropriate in all disputes but when there is a profound lack of trust on the intentions of the parties; where cultural differences present barrier to communication; and where at least one of the parties has refused to recognized the other. Obuah identifies some essential characteristics of mediation as:

- a) An extension of the parties' own efforts to manage their dispute, hence a third party (mediator) is invited to resolve it;

- b) Involving intervention by an outsider who may be an individual, a group, a state or an organization;
- c) An intervention which is not coercive, not violent and agreement reached is not binding;
- d) Where the overriding interest in mediation is to reduce violence and achieve a peaceful outcome;
- e) Voluntary form of conflict management in which the disputing parties decide whether to begin or continue or not and retain their control over the outcome of the process as well as their freedom to accept or reject any aspects of the process or the ultimate agreement; and
- f) One operated on an ad hoc basis and once completed, the mediator departs the arena of conflict.

Mediators in contemporary international relations is divided into two broad categories namely official mediators and unofficial mediators; they are also technically referred to as ‘track one’ and ‘track two’ mediators. Obuah and Orugbani agree that ‘track one’ mediators refer to neutral States in the mediation process and that though mediation had been dominated by the powerful States for known reasons the middle power (State) or regional great powers can mediate for the protection of regional stability. For example, both Switzerland and Austria have provided ‘Good offices’ and mediation as States that are believed to be neutral. Similarly, small States can provide mediation to settle international crisis such as the role played by Algeria in the 1980s in the hostage crisis between the US and Iran. The hostage debacle ended when the US and Iran signed the Algiers Accord on 19th January 1981.

iii) Aburi Conference and the Aburi Accord

The Aburi Accord also called the Aburi Declaration was reached at a meeting between 4th and 5th January 1967 in Aburi, Ghana attended by delegates of both the Federal Military Government of Nigeria and the Eastern Region’s leader Lt-Colonel Emeka Odumegwu-Ojukwu. The meeting was billed as a last chance to prevent a full scale war. The Council collectively vowed not to use force to resolve the internal crisis while further agreeing to a law of collective responsibility which reasserted the supreme power of the Federal Military Government (FMG) in the Supreme Military Council (SMC); making a unanimous concurrence imperative.

Specifically, the Council agreed that appointments to senior ranks in the police, diplomatic and consular services as well as appointment to super scale posts in the Federal Civil Service and the equivalent posts in the statutory corporation must be approved by the Supreme Military Council. The Regional members felt that all the Decrees passed since January 15, 1966, and which detracted from previous powers and positions of regional governments should be repealed if mutual confidence is to be restored (Ojukwu, 1969)

The Conference also put forward that the Head of the FMG should assume the designation of Commander-in-Chief of the Armed Forces of Nigeria. Reportedly, the atmosphere of the meeting was cordial saving that Lt-Colonel Ojukwu did not participate in the humour side of the show. However, documentaries in the public space show the two main actors- Lt-Colonel Yakubu Gowon and Lt-Colonel Chukwuemeka Odumegwu-Ojukwu – toasted, drank and ate to the admiration of their host.

The conference agreed that the resolutions should be released within the framework of a Decree to be issued by the FMG with the concurrence of the Military Governors.

The Aburi Accord broke down in the face of diverse interpretations from the parties. The FMG had promulgated Decree No. 8, which was mainly an embodiment of the Aburi Accord. On March 17, 1967 the Supreme Military Council issued Decree No. 8 after the Council met in Benin-City a week earlier (10 March, 1967) to pass the draft, a meeting Lt-Colonel Ojukwu did not attend. It is worthy of note that the celebrated commentary by Chukwuemeka Odumegwu-Ojukwu, *Because I am involved* did not comment on such an all-important document. On why the Leader of the Eastern Regional Government rejected Decree No. 8, the contents of the draft speak:

The Supreme Military can also take appropriate measures against a Region that attempts to secede from the rest of the Federation and could take over the functions of that region...No region shall exercise its executive authority so as to impede or prejudice the exercise of the executive authority of the Federation or to endanger the continuance of the federal government in Nigeria (www.historyville.com)

One may surmise in the language of Akenzua's memo that:

Gowon had given too much away in Aburi ...that it would lead to the destruction of the country. Gowon had [by the decision at Aburi] "legalized" total regionalism which would make the centre very weak. Aburi was a big success but the interpretations of what transpired at Aburi conference devalued it (www.historyville.com).

The Nigerian Civil War broke out because the Aburi Accord broke down. The pedigree of Lt-General Joseph Arthur Ankrah led reconciliatory effort to resolve a "Brother Palaver" is queried. A full mediator should have done better in his stead.

III FINDINGS AND DISCUSSION

i) The Aburi Conference as a case of Good Offices

The main diplomatic procedure engaged in the above conflict was 'Good offices' when some African Statesmen notably the Ghanaian Head of State (at the time) Lt-General Joseph Arthur Ankrah attempted to resolve the brewing conflict between the 4th and 5th January, 1967 in Aburi Ghana. Apt to classify because the indices of 'Good offices' were present.

First, distrust existed between the two main actors in the conflict (Gowon and Ojukwu) so much so that Lt-Colonel Ojukwu as Head of the Eastern Regional Government didn't feel safe to attend proposed conferences to chart a course for peace anywhere on the soil of Nigeria outside his region. Ojukwu (1989, p.165) writes:

That Gowon and I did not see eye-to-eye on certain issues was as a result of our different perceptions of the situation at the time...In leading the war we both postured.

Forsyth (1977) stated that at a time when popular pressure increased that the Regional Military Governors should meet to sought for solution, a view strongly shared by Colonel Ojukwu...there was nowhere within Nigeria (which in Ojukwu's view) he could go in personal safety (the reason why) it was agreed the meeting should hold in Aburi, Ghana, under the auspices of Lt-General J.A Ankrah.

In the words of Achebe (2012, p.85) "Aburi, in Ghana, was chosen as the venue , as a concession to Ojukwu, who had asked for a neutral site outside Nigeria for the meeting, but also to impart a sense of impartiality and credibility to the summit". So the indices of a provider of good offices being chosen by the parties; for providing an acceptable venue and its security as the meeting lasted; and for working out a workable date for the parties qualified the Aburi Conference in the conflict phase of the Nigerian Civil War as good offices rather than a full mediation.

Secondly, it does appear Lt-General J.A Ankrah did not do more than gather the parties and making less inputs, of influence on the 'manner of discussion' at the meeting which is a strong index for facilitating effective 'good offices'.

The provider of good offices in the instant case appeared to have left the venue never to return after the parties entered the venue as no role of his' in speech or action could be seen beyond the stated in any Nigerian-Biafran literature. Lt-General J.A. Ankrah had given his opening remark at the Conference by welcoming the visitors to Ghana and expressed delight that Ghana had been agreed upon by the Nigerian Military leaders as the venue for the crucial meeting. He considered the whole matter to be the domestic affair of Nigeria, and as such, refrained from dwelling on any specific points. Lt-General J.A. Ankrah, however, expressed the belief that the Nigerian problems were not such that cannot be easily resolved through patience, understanding and mutual respect. Throughout history, he said, "There has been no failure of military statesmen" and that "the eyes of the whole world were on the Nigerian Army".

The official record of the minutes of the meeting of Nigeria's military leaders held at Aburi, Ghana stated that Lt-Colonel Gowon invited the Nigerian leaders to say a joint thank you their host, and all said thank you in unison in response to Lt-General Ankrah's address. More emphatically the record states, "At this point the General vacated the conference table".

Point twenty (20) in the recorded minutes captures the host closing remarks thus:

...the Chairman of the Ghana National Liberation Council expressed his pleasure at the successful outcome of the meeting and recommended the decisions taken to the Nigerian leaders for implementation...Lt-Colonel Gowon on behalf of his colleagues thanked the Ghanaian leader for the excellent part he played in helping to resolve the issues. The successful outcome of the meeting was then toasted with champagne and the Nigerians took leave of the Ghanaian.

Third, the matrix of the Nigerian conflict required much more than providing 'Good offices' given the issues involved. A full mediation should have been leveraged upon by Lt-General Ankrah once the meeting in Aburi got on the way. This is because the context of 'mediation' (unlike Good offices) could have permitted the active involvement of the mediator and given the desperation of the parties to resolve the impasse allowed the mediator to influence the positions

of the parties toward ending the conflict. All the grey areas in the ‘Aburi Accord’ which parties have interpreted to their own advantage could have been ironed out perhaps revisited at a future date. Forsyth and Wigwe saw this in the light of Ojukwu’s diplomatic savvy as the FGN delegation was adjudged to have come to the Aburi Conference unprepared. According to Forsyth (1977, p.88):

A study of these records leaves no doubt that only one man had a clear idea of the single way in which Nigeria could be preserved as a political entity, and that was the Military Governor of the East. Gowon’s performance reveals that he wished the Federation to stay together, but beyond that had little or no ideas...

Mediation, by its standard, should produce a win-win outcome not one where a party scores diplomatic points against the adverse party. It is a diplomatic plunder to say that the Head of the FMG and his retinue of officials did not understand the concept of “confederation” where it clearly placed on the table and not implied in the discussion and least to say only Ojukwu had recorded the proceedings of such an all-important conference as documented by Forsyth (1977, pp. 88-89):

Intellectually Ojukwu towered above the rest, and they seemed to know this. To make sure that there were no later misinterpretations as to what had been decided, a complete stenographic record and a tape recording was made of the entire discussion. Later when Gowon reneged on the agreements, Ojukwu released the entire text of the two-day discussions as a set of six gramophone records.

Notwithstanding, Point twenty (21) of the official record of the minutes is at variance with the above argument by Forsyth. The minute reported that “the proceedings of the meeting were reported verbatim for each regional government and the Federal Government by their respective official reporters and tape-recorded versions were distributed to each government”.

In an ideal mediation, logistics such as writing materials, recorder, and interpreters where necessary are provided by the mediator. The fact that parties provided for themselves show how ill-prepared and uncomely the meeting at Aburi had been organized. Thus, Nigeria was plunged into a 30 month Civil War because a situation which called for full mediation was improperly handled as one of good offices.

IV CONCLUSIONS

There are a number of conclusions to be drawn from this study. First, that ‘good offices’ and ‘mediation’ belong to the broad category of diplomatic method of traditional dispute settlement in international law as opposed to the broad category of adjudicative methods like arbitration and conciliation. The difference between diplomatic and adjudicative categories is seen majorly in procedure/process of arriving at decisions, manner of discussion, powers of the arbiter and the effect of its decision on the conflict parties.

Thus, while good offices and mediation provide an arbiter with a restrictive role which allows parties to a conflict to reach decisions by themselves and only in the case of full mediation can the mediators cajole or threaten the parties to reach a decision; such decisions are usually from

the parties themselves. The purpose of mediation is for a third party to convince the disputing parties to change positions in a way they both find acceptable, so that they can resolve the dispute themselves.

Secondly, good offices and mediation in spite of their common category have both evolved into two distinct methods. A good offices provider withdraws once the parties enter the venue of negotiation and may occasionally resurface when the parties are unable to reach an agreement but a mediator plays an active role in the process of arriving at a decision. He or she must be present at the negotiation table to guide the manner of discussion and to show the parties why they have to modify or in extreme cases abandon their long held posture on issues ancillary to such conflict resolution.

Thirdly, the study concludes that with good offices and mediation, there are no set terms on which disputes are resolved. It requires the parties to cooperate with the mediator as good offices (and mediation) do not succeed otherwise. In practice, successful mediations frequently depend on timings, and the particular personality involved because parties submit to an arbiter to mediate very likely because the dispute has reached a point whereby a change in the parties' position is required. Sometimes, socio-political factors such as local and international pressure can alter the long held position of the parties to submit to a mediated settlement. Liberian parties (the GOL, LURD and MODEL) bowed to both local and international pressure to reach both agreements (ceasefire agreement and comprehensive peace agreement) in Accra, Ghana in June-August 2003. The Nigerian situation failed because of the absence of those forces; the Ghanaian authorities couldn't say more than urging the parties to seize the moment to settle their differences. Without prejudice to the place of Ghana in regional affairs, one queries the pedigree of the State and her leadership in brokering peace between the parties given the deteriorating situation in Nigeria and the atmosphere of distrust that pervades since the first military coup in January 1966.

IV Some General Observations and Recommendations

Significantly so, good offices and mediation should be prioritized among disputes resolution mechanisms because of its 'parties-centred' nature and the effect that parties are most likely to stick to agreement reached by them. Liberia is a good example whose endemic crisis was resolved by mediation in 2003; the country not only enjoys uninterrupted peace but those ethno-social factors which birthed Liberian crisis no longer count in national discourse.

Secondly, every provider of good offices should equally be equipped with mediation skills to enable such person(s) maintain the tempo of negotiations in transition from good offices to mediation. The Nigerian Civil War could have been prevented if Lt-General Ankrah of Ghana who provided good offices within the framework of the Aburi Conference (1967) promoted the national discourse in Aburi beyond his good offices posture. Lt-General Ankrah was conspicuously missing at the table to know the moment of transition. Were the issues addressed within the framework of mediation, the mediator could have been saddled with the responsibility of assisting with the interpretation of messages as well as being able to show one or both parties how the style and content of a message from one party can be made more palatable to the other.

This is so as the Aburi Conference and the Aburi Accord have been interpreted without clarity by the parties to promote their respective positions.

Finally, providers of good offices and facilitators of mediation must seize the spur of the moment in the launching both good offices and mediation as timing is crucial to a successful mediation. Parties in their choice of a chief mediator must arrive at one based on consensus, a personality rooted in character, integrity and experience.

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