

Post-Conflict Peace Building and Transitional Justice in Liberia

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Abstract:-The secession of hostility and ceasefire are among early formal steps in the conflict resolution process but genuine post-conflict peace building should address issues of justice and accountability for crimes committed by actors. Most states emerging from civil wars in Africa often ignore the issue of justice or treat accountability as one that opens old wounds. A notable consequence has always been a resurgence of conflict even worse than its early phase because justice was neither served nor forgiveness secured. This study examines transitional justice and post conflict peace building in Liberia. Using the constructivist theory, it examines the Liberian post-conflict justice regime and the pivotal role of the Truth and Reconciliation Commission (TRC) established to complement the country's weak and delegitimized justice system between 2005 and 2009. Thus, the study demonstrates that a weak and war ravaged state can construct regime, strengthen it weak institutions and refuse to rely on private or public foreign templates for justice and accountability. The study draws on both primary and secondary sources of data to conclude that the post-conflict peace building process entrenched peace in Liberia. It also argues that the process was initiated by the locale especially the conflict parties and supported by the international community. The study recommends Liberia's transitional justice regime to other African states in similar crises.

Keywords: Foreign intervention, Post-conflict Peace-building, Transitional Justice

I. INTRODUCTION

Liberia demonstrated that even weak and war ravaged states can construct regime for the purpose of peace building without necessarily and solely depending on intervention from foreign powers. The decision to address the issue of post-conflict peace building by the war ravaged state forestalls further erosion of sovereignty. The conflict in Liberia ended in 2003 with some levels of desperation due to the neared absence of a legitimate authority. It was not far from reality that the country could relapse into further crisis if the issues of justice and accountability for combatants differed at the Liberian National Dialogue (LND) were not properly handled. The passage of the Truth and Reconciliation Commission Act 2005 by the National Transitional Government of Liberia (NTGL) and establishment of the Truth and Reconciliation Commission (TRC) in 2006 however douse that tension. More so, kick starting the process meant an admixture of relief and anxiety. Both victims and perpetrators did not hide their interests to testify before the TRC. Over a decade after the TRC round up operation and

submitted its report, some persons continued to seek justice (Rouse, 2017).

Liberia thus provides a different experience from what was known of post-conflict peace building in Africa. Hitherto, the process was driven or dictated by foreign powers; participation was elitist denying a broad spectrum of those worse affected from expressing their ordeals or exposing the perpetrators. The justice system before now was not accessible to the ordinary man for obvious reasons. The cost of litigation, judicial technicalities, status of the perpetrators as well as deliberate efforts by post-conflict authorities to conceal certain acts or personalities may likely bottled up grievances. Even blanket statements by post-conflict authorities like the 'no victor, no vanquish' slogan come as a false representation of the true situation waiting to escalate. The experience of most African states in this situation particularly in the Democratic Republic of Congo since the 1960s, Somalia since the 1990s and Libya since 2011 remained conventional and the crises endemic with devastating effects as a result of early external handling of these crisis.

This paper espouses the proposition of "African solution to African problem" but through a process that is not only open but participatory (Albert 2011, p.1). It opposes a process that is imposed on the people by outsiders to perpetuate conflict. The paper begins with an introduction which conceptualizes post-conflict peace-building process, defines and applies the relevant theory and discusses the methodological approach. Part two of the paper discusses the peace-building process in Liberia from ceasefire and enforcement, and the comprehensive peace agreement, to a transitional justice regime through the Truth and Reconciliation Commission. The third part of the paper makes some far-reaching conclusions and recommendations.

II. PEACE-BUILDING PROCESS IN LIBERIA

The mood of Liberians from June 2003 was one of a society already wearied by long years of civil wars. Major parties in the conflict, and given international pressure, were pressed with the choice of ending the civil war. In early June 2003, representatives of the major warring parties were already in Accra, Ghana ahead of the peace talks (TRC Report, 2009). The dialogue lingered for over two months as negotiation continued among representatives of the warring parties/political parties in Accra, Ghana, in a renewed effort

by Ghana, Nigeria and South Africa to broker peace in Liberia. Somehow, the parties agreed to a ceasefire in June 2003, with knowledge of how previous ones were breached by the parties. They continued negotiation until an agreement accepted and signed by the participants was worked out and called the Comprehensive Peace Agreement (CPA) on 18th August, 2003.

Ceasefire Agreement and Enforcement

Article II of the CPA (2003) provides that:

The armed conflict between the present Government of Liberia (GOL), the Liberian United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL) are hereby ended with immediate effect. Accordingly, all the parties to the Ceasefire Agreement shall ensure that the ceasefire established at 0001 hours on 18th June, 2003, results in the observation of a total and permanent cessation of hostilities forthwith.

This provision gave effect to the June 17th 2003 ceasefire agreement signed among parties. In congruence with the preamble to the Ceasefire Agreement, parties undertook concrete actions that would restore normalcy within Liberia by ensuring the safety and security of peoples through a peaceful settlement of the crisis. Convinced that the cessation of hostilities in Liberia will usher in negotiations relating to the establishment of an appropriate political arrangement for Liberia, parties signed a twelve point demands on 17th June, 2003. One significant concern of the Ceasefire Agreement was expeditious enforcement. The Ceasefire Agreement provides inter alia that "...parties shall ensure that the terms of this ceasefire agreement and written orders requiring compliance are immediately communicated to all their forces" (Ceasefire Agreement, 2003).

The reality of the situation at the LND particularly the ceasefire got to combatants in camps and the rest of civilian population in Liberia via print, electronic and other media. Parties at home reportedly continued with wanton destruction of lives and property unabated. The mediating states encouraged negotiators to respect terms of the ceasefire agreement. It remained a step towards negotiations. The fighting on the streets of Monrovia raged on, the ongoing peace talks in Accra, Ghana, notwithstanding. The attacking armed forces demanded Taylor's resignation before an actual ceasefire. Opposition MODEL overran Buchanan, Grand Bassa County, as talks continued. Another shipment of Taylor's consignment of arms which reached Buchanan port of entry was ceased by MODEL. Earlier, two fresh supplies of supposed Taylor's arms were confiscated by Nigerian contingent with UNMIL at the Robert International Airport (TRC, 2009).

President Charles Taylor was also indicted at the time by a UN, US and British backed Special Court for Sierra Leone (SCSL). The indictment was unsealed on June 4, 2003 just as negotiation commenced in Ghana bordering on war crimes

and crimes against humanity for complicity in the blood diamond trade in the West African sub-region and for supporting the activity of Revolutionary United Force (RUF) led by Fodeh Sankoh in Sierra Leone. The timing for unsealing the indictment was done to keep Taylor out of the negotiation (Geis and Mundt, 2009). The ICC Chief Prosecutor expected the Ghanaian authority to make arrest and handover President Taylor to the SCSL but this was not complied with. Taylor was allowed to return home to Liberia.

The non-participation of Taylor in the negotiation extinguished his future role in Liberian politics, though, his representative continued to stand in for the GOL: Hon. Daniel L. Chea Snr. as Minister of National Defence of the Republic of Liberia signed for the GOL, Mr. Kabineh Janneh signed for the LURD and Mr. Tiah J.D. Slinger signed for the MODEL. General A. Abubakar (Former Head of State of the Federal Republic of Nigeria) as Mediator; Dr. Mohamed Ibn Chambas (Executive Secretary of ECOWAS); Mr. Abou Moussa (Representative of the Secretary-General and Head of the United Nations Peace-Building Support Office in Liberia) for the United Nations; Ms. Adwoa Coleman (for the African Union); Ambassador Giancarlo Izzo (Representative of Mr. Hans Dahlgren, the European Union Co-Chair of the International Contact Group on Liberia); and Hon. Nana AkufoAddo (Minister of Foreign Affairs of the Republic of Ghana and Co-Chair of International Contact Group on Liberia) all signed as witnesses (Ceasefire Agreement, 2003).

Comprehensive Peace Agreement (2003)

ECOWAS presented names of potential facilitators of the Peace Conference to be held in Accra, Ghana, and a former Nigerian Head of State, General Abdusalami Abubakar was picked to mediate at the Conference. TRC Report (2009, p.137) mentioned that Taylor chose General Abubakar to mediate peace talks scheduled for June 2003. The Conference was convened on June 4, 2003 with the hope of an early end. A ceasefire agreement was signed on June 17, 2003, allaying all fears that the war will be taken to the door steps of the Executive Mansion in a bloody struggle for power. The Ceasefire Agreement called for a transitional government that excluded Charles Taylor.

Another two months passed, June –July 2003, with nothing concrete to hold. Negotiation-between-negotiation was held to persuade parties to reach agreement. Daily, delegations from Liberia and the diaspora converged at the venue of the hotel where the conference was holding to press for quick resolution of the crisis. A group of Liberian Women was at the conference in mid-August 2003 uninvited and threatening to go nude if something was not done to end the crisis. Last minute pressure came from the impatient host country and the ICGL. The mediator General A. Abubakar called off negotiation many time to reach agreement within the process. All parties negotiated their interest at the peace conferences/peace agreements. The TRC Report (2009, p.127) summed up areas of interest as, "...territorial occupation;

lucrative positions in government; access to state resources and coffers; and unhindered access to natural resources”.

Even as negotiations continued in Ghana, whenever an occupied territory or factional position in government was threatened or altered the peace process was threatened. The call for accountability which limited access to natural resources, the state coffers or power, wealth and authority that comes with being in government, as new process of negotiation or re-negotiation strengthened the grip of factions in no less measure. The CPA (2003) allocates headship of ministries as part of the power sharing arrangement in the proposed NTGL to warring parties who shall put down their guns. All warring factions which took part in negotiating the CPA had fair share of the spoils of government on power sharing/ allocation of government ministries.

Relief came with Taylor’s pronouncement that he would resign once peacekeeping troops arrive Liberia. Peace was in view on August 11th 2003 when Taylor resigned, decorated Vice President Moses Blah and left Liberia for political asylum in Nigeria. On 18th August, 2003, in three original texts including English and French languages (each text being equally authentic), the anticipated Comprehensive Peace Agreement 2003 was signed by representatives of the GOL, the LURD, the MODEL, and 18 political parties in the presence of the mediator and representatives of Liberian Bar Association, the Inter-Religious Council for Liberia (IRCL), The Mano River Women for Peace Network (MARWOPNET), the Liberian Diaspora, Liberia Leadership Forum, Civil Society Organization in Liberia, ECOWAS, AU, United Nations, the European Union Co-Chair of the International Contact Group on Liberia, and the Republic of Ghana Co-Chair of the International Contact Group on Liberia (CPA, 2003).

The signing of the CPA (2003) cemented the ceasefire initiative. The exit of Charles Taylor and the signing of the CPA put off the shooting and other vestiges of war on the streets of Monrovia (George-Taylor 13:01:18). With the agreement signed, parties returned to Liberia to enforce it. The agreement contains provisions that purport to suspend part of the 1986 Liberian Constitution. Article XXXV (1) (c) on Special Provisions provides that “...relevant provisions of the Constitution, statutes and other laws of Liberia which are inconsistent with the provisions of this agreement are hereby suspended”. This specifically affected provisions of laws that relate to the establishment, composition and power of the Executive, the Legislature and Judiciary in Liberia as provided in Article XXXV (1) (b). The need for this extra-constitutional arrangement was meant to facilitate the formation, establishment and proper functioning of the entire transitional arrangement as provided under subsection 1(e): “...Shall be deemed restored with the inauguration of the elected Government by January 2006...and all legal obligations of the transitional government shall be inherited by the elected government” (Article XXXV (1) (e)).

The enforcement of other key provisions of the CPA (2003) threatened the course of peace in Liberia. For instance, the contentious issue of amnesty was left to be decided by the NTGL. Article XXXIV of the CPA (2003) that deals with amnesty provides that “the NTGL shall give consideration to a recommendation for general amnesty to all persons and parties engaged or involved in military activities during the Liberian civil conflict that is subject to the agreement”. This was not adhered to, rather, the TRC thought otherwise: “The TRC believes... that amnesty for heinous crimes is unacceptable, immoral and promotes impunity. The TRC therefore refrains from granting amnesty to any individual involved in the commission of such crimes in Liberia” (TRC Report 2009, p.288).

Furthermore, a Statute establishing the Extraordinary Criminal Court for Liberia was established which provides for a court that shall not recognize any amnesty granted to a person falling within the temporal jurisdiction of the TRC and the criminal jurisdiction as listed in Articles 11 to 13 of the Statute (Article 17). Perpetrators including Prince Johnson queried the double standard of the TRC on the issues of amnesty. Johnson accused the TRC handlers of trying to use the testimonies given at the TRC as evidence for criminal prosecution against testifiers. This, according to Johnson, was in contravention of the choice made in favour of a Truth and Reconciliation Commission in place of the former.

Also, Article XIII of the CPA (2003) on Truth and Reconciliation Commission gave the framework for establishing the TRC by post-conflict Government in Liberia. In the words of the CPA (2003): “...a forum that will address issues of impunity, as well as an opportunity for both the victims and perpetrators of human rights violations to share their experiences, in order to get a clear picture of the past to facilitate genuine healing and reconciliation (Article XIII, Subsection 1 of CPA, 2003). Subsections 2 and 3 of above provision also obliged the TRC to deal with the root causes of the crises in Liberia, including human rights violations while tasking the commission to recommend measures for the rehabilitation of victims of human rights violations in Liberia. The Supreme Court of Liberia in *Tah v. Williams* (2011) has voided relevant provisions of the TRC Act 2005 which influenced the TRC to make recommendations that were in conflict with the 1986 Constitution of Liberia.

Transitional Justice in Liberia

As it were, the course of peace in Liberia weighed heavily on access to justice beyond access to courtrooms; it bordered on the need to create an atmosphere that will encourage people to speak out against pastimes victimization, to crash social barriers of wealth and opulence so that no matter how highly placed a perpetrator was, his/her victim was entitled to say it to his face before others what truly transpired. This was not feasible even in a pre-war court. The conventional justice system to say the least was not available for victims to seek redress even. Article XXVII of the CPA (2003) sedated the

Liberian Judiciary as agreed by the negotiating parties at the LND. It was stated that, "...immediately upon the installation of the NTGL, all members of the Supreme Court of Liberia i.e. the Chief Judge and all associate Justices shall be deemed to have resigned".

The Judicial arm of the NTGL was structured to please the parties as the country grappled with the challenge of rebuilding its inchoate institutions compromised by long years of war. Most institutions to enforce resolutions reached to end the crisis were either non-existent or weak. The Judiciary in post-conflict Liberia was one drenched in fear so that the normal justice system could not function to address injustices/related issues emanating from the country's civil war for obvious reasons. The police could not provide safety for judges and the courts and so was their capacity to apprehend and bring suspects to court. This was a direct challenge to the implementation of the peace building process in Liberia where amnesty was left to be addressed at a future date by the NTLG. This obligation was sensitive such that any poor handling of the fate of combatants (and other civilians involved in the crisis) could have been implosive hence a transitional justice approach which placed premium on reconciliation and national healing.

Liberians adopted a justice system that brought perpetrators and victims together on terms for the sake of peace and unity. Access to justice for Liberians and national healings for the country have continued to guide policy decisions ever since. For instance, TRC recommended sanctions for crimes abated or committed during the civil war in Liberia could have plunged the country into another round of crisis but the action of post-conflict authorities towards the report is indicative that justice that entrenches peace should be democratized. Whereas public sanctions, Lustrations, debarment from holding public office and trial for persons accused of killing, gang rape, multiple rape, forced recruitment, sexual slavery, forced labour, exposure to deprivation and missing were recommended by the TRC, the NTGL and successor government did not give there port an expeditious consideration. The action of the Parliament and the filibuster of Members of Parliament (MPs) stalled the enactment of the TRC recommendation into law. In fact, Liberia's experience with TRC was a success given its context driven approach against 'check-list', or template approaches which ensured what was done correspond to an informed understanding of the conditions in the country (Fomba, 2017). The indices are TRC report has not been passed by the legislature as judicial pronouncements and judgments from the Supreme Court of Liberia continued to vitiate aspects of the report. The celebrated case of Tah v. Williams is one of such judgments:

it is even more important that the TRC process adheres to every constitutional provision and mandate, especially in ensuring that all rights, including the right of even those we believe to have committed offenses, are scrupulously guarded and protected...The TRC Act in certain sections, recognizes

that due process of law warrants respect and adherence to by the TRC...Wherefore and in view of the foregoing, it is the considered opinion of this Court that the portion of section 48 of the TRC Act directing mandatorily that the President implements all of the recommendations of the TRC is unconstitutional, of no legal effect and therefore unenforceable, and it is hereby so declared.

The court interpreted that for the TRC Act to adjudge the petitioner guilty of certain criminal offenses and imposing a thirty year ban on him from holding any public office, elected or appointed, without according the petitioner and all persons named in the TRC Report and subject to the ban, relying on section 48 of the TRC Act as the basis for the decision, is unconstitutional and of no legally enforceable effect". In the end, Liberia's justice regime proved to be a success because a comprehensive transitional justice approach was adopted and implemented.

III. CONCLUSIONS

The transitional justice approach towards resolving the conflict in Liberia was significant to the entrenchment of peace in that country. The Liberian state recognized the peculiarities of the Liberian society/crisis and took practical steps to resolve it. For instance, Liberians given their approach literally took the initiative and refused any foreign input that was capable of derailing the process.

Secondly, this approach was comprehensive and acceptable to all Liberians thereby democratizing justice to ensure no legislative instrument or administrative body acted unconstitutionally. Post-conflict Liberian Governments, both intra and inter-governmental agencies, gave concurrence to policy decision that peace has no alternatives in the country as they strove to rebuild Liberia. Hence, Liberia's peace process was a comprehensive transitional justice model because the political, social and legal conditions in the country dictated that kinds of things could be done when. Institutions of government acted cooperated knowing fully that what the country had was a fragile situation that did not require the full conventional concept of accountability for redress. Liberians turned off many private and public actions that could back-track the country into another round of crisis. The experience of Liberia has shown that Peace is a process; a phenomenon to be constructed not imposed.

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