

Nes Commentary no.8



July 27, 2007

Title: It is No Longer my Way or the Highway: Build from Traditional Mediation a Strategy of Comprehensive Reconciliation

1. Inspiring Quotes

“Since anyone who criticises the entire systems of others has a duty to replace them with an alternative of his own, containing principles that provide a more felicitous support for the totality of effects to be explained, we shall extend our meditation further in order to fulfil this duty.”

G. Vico, La Scienza Nuova, 1725 quoted in the book by Erik Reinert, How rich Countries got Rich... And Why Poor Countries Stay poor, Constable, 2007

““I dream of the realization of the unity of Africa, where its leaders combine in their efforts to solve the problems of this continent.”

Nelson Mandela

‘Everything that is really great and inspiring is created by the individual who can labour in freedom.’ **Albert Einstein**

“It is the mark of an educated mind to be able to entertain a thought without accepting it.”
anonymous

2. Introduction

The success of traditional mediation emerges from the rule of engagement that is not predicated on the conceptual frameworks of punishment or reward, winning or losing, on who is right and who is wrong, who is just or unjust, who broke the law or defended it. Moreover mediation is not to free one party or censure the other, rebuke one or praise the other, to make one lose face at the expense of another, to make one a supplicant and another a victor, to make one the dispenser of pardons and another the grovelling receiver of forgiveness, and finally to make one 'hero' and another a 'saint'. It is none of this.

The main concept of traditional mediation, to our understanding, is to bring the parties out from a state of conflict into normal communication by asking them to refrain from pursuing their grievances by such means as threats, legal action, courts, violence, and imprisonments. It is to bring contrarian parties to come, negotiate and accept the principle of dialogue and give and take free from the temptation of subduing opponents to solve outstanding disputes and find workable settlements by submitting to the wise counsel that emanates from the mediation effort and processes. In some cases mediation can be so successful that enemies can turn into partners, but this is not always the case. It is more a case of 'antem tew, antem tew' which means stop pushing your maximum demand on the case and settle for the average or the golden mean.

In a country like Ethiopia where litigation is plentiful where poverty, ill-being and deprivation encourage conflict and fighting, and where there is insufficient number of judges and courts, nearly 90 % of all disputes, if they have to be handled, had to probably fall in the domain of traditional mediation. The creation of justice requires perhaps more traditional mediation than formal courts. In the

context of societies like Ethiopia, conflict resolution, reconciliation, delivery of justice and such like require that traditional mediation remain to be critical to meet as much as possible the redress of justice and the needs of conflict resolution by the society and population.

There is thus a lot to be gained by not ignoring our tried and tested methods of traditional mediation. There is a need to try to develop traditional mediation by providing procedures and resources to reach and expand the justice sphere in our society. In fact this alternative method of traditional mediation can be the most appropriate mechanism for dealing with all the intractable difficulties that our country, region and indeed Africa has been suffering from the times of the colonial encounter.

Let us be bold enough to suggest traditional mediation as the alternative to war, violence, endless court wrangling from imitated legal ideas and discourses from the Euro-American jurisprudence that may not work for all cases and instances in the difficult contexts that our societies and people find themselves in existing as they do largely as peasant societies and peoples.

Perhaps intractable and killer problems that have defied solution such as the chaos in Somalia would be resolved not by mounting invasion to support warlords that the people find despicable but by supporting traditional mediation amongst the peoples.

Also the problem of settling the difficulties between Eritrea and Ethiopia cannot go on by each side using the refugees from the other for the purpose of turning them into political opposition, but by engaging in mediation including the vital issue of why such an unjust settlement has been reached in 1991 that denied Ethiopia its historic right of access to the sea.

The problem of the ONLF, OLF, EPRP and others can also fall under this method of traditional mediation. If it can be seen as the alternative or as an integral part of other methods of conflict resolution, it would be promoted, supported and fully resourced by all who genuinely wish to help solve problems and not aggravate it endlessly and problematically. The Government should use the success with CUDP to invite all these forces into the process of traditional mediation and engage with them rather than forcing them to fight it with non-peaceful methods.

We believe traditional mediation should be seen as a more realistic and appropriate method of conflict resolution that can be used to address even all kinds of difficulties our country, the region and Africa have faced for generations.

3. The Significance of settling major political dispute through mediation

The submission to a traditional mediation process of the prisoners of conscience and the Government sends a good signal which can mean the following: that left to ourselves we Ethiopians are capable of dealing with any problem however intractable it may be by using local imagination, local arbitration tools and local ideas of fair-dealing and fair play. This is a generous way of reading the outcome and it is always useful to glean a positive side to what took place.

We wish to go beyond the politics and propaganda of the Government and try to highlight what crystallised as something new and original in the culture of traditional mediation that the settlement brought out between the prisoners of conscience and the Government. Regardless of how the regime wished to capitalise on the release of the prisoners of conscience, which its courts threatened with death penalty and its judges passed a life sentence upon, we ask the question: does its action to go beyond its own courts to get the prisoners of conscience released betray and expose it to the reality that it may have broken from its fast-held and

worn-out politics of my way or the highway? Or this a pre-mature illusion, that it is a fact its nature remains unchanged despite its engagement with the mediation process and even its acceptance of the consequences.

The only way we can admit proof that it has changed its politics of my way or the highway is if and only if Meles and his Government are prepared to see traditional mediation as an alternative model of conflict resolution, that they would commit themselves very deeply to beyond the contested episode of what transpired between them and the prisoners of conscience. If they stay where they are now and do not move beyond what was settled between the prisoners of conscience and them, and moreover, if they are not prepared to engage with traditional mediation for all the other problems in the country and region, it is fair to conclude they have no commitment to traditional mediation.

The Government has to demonstrate its acceptance of traditional mediation only when it has conceptualised and committed itself by choosing traditional mediation as an alternative and critical method for laying the cornerstone of broad and comprehensive national reconciliation as a sure and tried approach to ensure the resolution of all major conflicts.

While it is an encouraging thought that the Government might consider traditional mediation as a key alternative to perpetual conflict, it is not easy to ascertain whether it is converted to this model of conflict resolution for reasons of conviction or tactics. If we go by the way it behaved in the preceding and aftermath of the release of the prisoners of conscience, what we see is a regime eager to capitalise on the fact that it had to play politics using the carrot of pardoning after administering wilfully the stick of court punishment.

However, for the prisoners of conscience they never recognised the court or the charges against them. Thus entering into traditional

mediation to resolve the dispute has been natural to them and we know some of them openly have advocated in various forums the value of traditional mediation for a long time. As the Government insisted all along that the case against the prisoners of conscience has been a 'crime' only the courts can settle, its submission to traditional mediation is a true and real climb down from such a publicly held position. The Government stuck to 'the political is legal and criminal position' and insisted on doing the court thing whilst all along it was talking to mediators according to one of them for 18 months. Eventually it gave in to the mediation and by its action, if not by its words, bolstered the traditional mediation system of conflict resolution above and beyond its courts, and in fact by doing exactly the opposite of what the Government seemed to want to achieve through the courts.

The acceptance in principle of a mediated model of conflict resolution is indeed a new flexibility that we have not seen before to be one of the characteristics of this regime judging by its words and actions over the last sixteen years. We have to recognise and encourage such flexibility when we see it even from this regime that has created so many problems for the country to date.

Solving such major national conflicts through traditional mediation by Government and opposition is indeed a new phenomenon regardless of what motive this regime had in doing it and the subsequent barrage of propaganda it used to bolster its image for entering and honouring such an outcome. For a regime which has been stuck in a dogmatic time warp of sticking to the mindless position of: either it is the politics of my way or the highway, its latest stance have to be acknowledged as indeed as new.

4. How genuine is the Regime in Submitting to traditional mediation

Judging by how it played the pardon politics, it is hard to be inspired that this regime has accepted in principle that traditional mediation is an important method for designing solutions to all sorts of conflicts that the country has been suffering from... It had to play the

usual save facing politics by claiming what it did was give total 'pardon' to those who confessed after they admitted guilt by signing. That it had to resort to such gimmick is deplorable. Its stance does not however eclipse the significance and importance of the emergence of traditional mediation as a new domain to solve many of our major problems in the country, the region and in Africa more widely. Traditional mediation has been ignored by elites often too seduced by the trappings of western legal notions that very often did not help create sustainable resolutions to our intractable conflicts and troubles. The very fact that traditional mediation is being used again, and is seen also to produce results is hugely significant for trying to resolve complicated and varied conflicts in Ethiopia, the region and Africa.

The partner group headed by the Canadian ambassador appeared to have also facilitated the traditional mediation efforts. If indeed traditional mediation is supported and resourced both by citizen, opposition, Government and partners, our country, region and Africa may move faster from a pervasive conflict community into a security and development community much sooner than later.

4. Broadening the domain for traditional mediation

Now that the prisoners of conscience are released, and traditional mediation has played a significant role in the process, it is above all the prisoners of conscience, the mediators, and all who submit to the process including Ethiopia current Government and the partner groups specially Canada that deserve our acknowledgment.

We must follow this up by a further demand and not stop at the first success. We must draw from this success inspiration for more success.

Let us all vow to create a new alternative rule of the game where all the conflicts in our country, region and continent can be dealt with by similar methods of traditional mediation. The only way we can truly appreciate the significance of changing the methods of conflict

resolution with traditional mediation is not only when it is used like a one off measure, just once as we saw in the release of our prisoners of conscience, but also when the mediation is applied to all domains of intractable conflict in our country based on a sustainable and consequential strategy.

The generation of a positive energy and spirit for the millennium requires nothing less than a situation where all political prisoners since May, 1991 are released.

Everything and anything must be done to seize what the millennium moment provides to get all prisoners released and open the opportunity for all those who suffered to forgive those who did so much harm to disrupt their lives by killing their loved ones. At least the opportunity to use the millennium for them to forgive if they can should be offered. If the families refuse to forgive, it is understandable, but Government, political parties in the opposition and traditional mediators must do all they can to encourage the concept that, what those who killed others probably may not be able to handle is being forgiven by those whom they hurt.

5. Launch the Era of Productive Politics

We must realise that role of politics in our country, region and in Africa has been for the most part destructive since the post war period. A number of productive moments have also existed but they have not been sustainable. There is a need to find an alternative system of doing politics where conflict is managed through debate and conversation rather than always by all kinds of lethal or non-lethal fighting. Fair dealing and fair play and the attenuation of grievance thresholds everywhere must be a clear objective to create the context where people feel secure to carry on normal lives. The very fact that the regime, which has been so adamant in refusing to enter into any form of dealing with political opponents conceded and accepted a mediation process, is a break with the kind of politics that the TPLF pushed over the last 30 years. The question is whether this new engagement in mediation can be

generalised and is made to provide the framework for a broad based national reconciliation strategy and even regional reconciliation strategy from the Red Sea to the Indian Ocean.

We think that we should encourage this traditional mediation model as a realistic alternative where mediation can be used as a strategic resource to create a radically new political environment by all those in conflict no matter how intractable and difficult the particular conflict is. Only then would it be possible for the era of destructive politics to end leading to a new era of productive politics in the country and more widely in the region and Africa. Traditional mediation empowers the local and accords agency to the local stakeholders. It bolsters national self-confidence and creates learning and local competence. It is hugely beneficial in many respects and requires total commitment to back it to help solve many local, national, regional and African-wide conflicts.

5. Concluding Remark: Let us go for A Fresh and Empowering Start! What we would like to see is a generalised and comprehensive application of traditional mediation and full political support for it by all concerned inside and outside the country to solve all the major political conflicts inside the country. We would like to see full amnesty and the release of all political prisoners arrested since 1991. The only proviso is that those who enjoy generalised amnesty must commit to one and only one condition: to carry out any politics without resorting to any form of violence by agreeing fully to engage in debate and a political culture of reason and argument. Let all the prisoners come out and perhaps this may not be the most difficult thing to do for them and others provided all with a stake are fully informed and their prior understanding secured on how they wish to deal with them legally after Government releases them.

The most significant achievement of the millennium is if traditional mediation as an alternative or an integral part of conflict resolution

and harbinger of comprehensive reconciliation is accepted and extended from the Red Sea to the Indian Ocean. Nothing would come as the biggest gift ever in this millennium except for all the armed and non-armed political forces to accept and enter voluntarily with Government facilitation to a rule of the game to silence the gun and choose to put forward their programmes and argument peacefully by getting the people to vote freely and choose the party they support.

We would like traditional mediation to be extended between the Ethiopian Government and all its oppositions from Eritrea to Oromia, Somalia. Inside the country we would like to see all the multi national parties and self-determination seeking parties, armed and non-armed parties to also enter into traditional mediation to create a favourable environment to create a tolerant rule of the game for free debate and competition so that those whom the people vote for can only come to power. We also hope they also know even more how to leave power when the people choose alternatives to them.

What is needed is the courage by all to stop fearing losing the comfort of their current position. They should realise there is no comfort in continuing destructive conflict. There is all to gain in creating a peaceful environment by conquering the fear that in the current position what each feels able to defend with arms and verbal assault is no longer productive. It becomes productive only when it is pursued within legitimate rules of the game that all have agreed to promote for peaceful and civilised competition. Let us hope the millennium spirit pulls all together to see sense and overcome fear and spread reconciliation comprehensively in the breadth and depth of Ethiopia, the Horn of Africa and indeed wider Africa. Let us hope the coming millennium catapults the nation to climb the great wall of peace, stability, security and prosperity at least for the next 1000 years!!!

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