

Third Parties, the State, and Communal Conflict Resolution: A Comparative Study of Evidence from Kenya

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Abstract:

How can durable peace be achieved in cases of local communal conflicts? Such conflicts, i.e. violent conflicts between non-state groups that are organized along a shared communal identity, often cause high casualties and severe disruption of livelihoods and may in the worst case destabilize entire regions or escalate into civil war. Despite a growing scholarly interest in these conflicts, we still know little about how they are resolved in a manner that promotes stable peace. Case study evidence and anthropological research points out strong advantages of locally driven conflict resolution practices in addressing local conflicts between communal groups. Such processes often draw upon customary and indigenous conflict resolution mechanisms, and ideally score high on legitimacy, community participation and consensus-building. However, local conflict resolution initiatives usually lack a strong ability to monitor and enforce agreements and to provide carrots and sticks, and they may be eroded by state policies of co-opting or replacing traditional structures. This paper uses systematic comparison of evidence from Kenya to analyse under what circumstances local conflict resolution processes and state strategies to address communal conflict can coexist in a constructive manner. The roles of state and local strategies provide new insights into communal conflict resolution, and the role of different third party actors in this context.

Introduction

Under what circumstances can different third parties complement each other and promote durable peace in cases of local communal conflict? Such conflicts, i.e. violent conflicts between non-state groups that are organized along a shared communal identity, often cause high casualties and severe disruption of livelihoods and may in the worst case destabilize entire regions or escalate into civil war. Conventional theory within the conflict resolution literature indicates the importance of third-party intervention and mediation in resolving violent conflicts. A significant body of research within this field has addressed the question of what type of actor is most suitable to play a third party role, focusing on aspects such as neutrality or impartiality and strength or leverage; however, these insights have not to any significant extent been applied to local communal conflict.

Recently, analysts have noted a resurgence of interest in local, traditional mechanisms (Buur & Kyed, 2007). Kenya's 2010 constitution contains provisions that may strengthen the role of local, customary conflict resolution in relation to local land conflict¹. NGO reports and anthropological studies of communal conflicts suggest that locally driven processes have characteristics that are conducive to resolving the conflict issue at hand. Such conflict resolution processes, which are often based on customary institutions and procedures, are usually conducted by a mediator or mediators relying on trust rather than leverage, and processes are often described as participatory, legitimate, and centered on facilitation and consensus. Such factors are deemed to be of high importance if the aim is to achieve durable, positive peace, rather than the mere absence of violence. Positive peace has been defined by Johan Galtung as "the integration of human society" (Galtung, 1964, p. 2) or "the absence of structural violence"; "social justice" (Galtung, 1969, p. 183). The concept of positive peace builds on Quincy Wright's definition of peace as "the condition of a community in which order and justice prevail, internally among its members and externally in its relations with other communities" (Wright, 1964, p. 174). Hence, when it comes to a post-conflict situation, it may be useful to think about positive peace as a state of positive interactions and integration, where neither party perceives the current arrangements as unfair, and where strong mechanisms exist for dealing with new conflicts in a peaceful manner.

It is argued in this paper that a peace process facilitated by local third parties has several advantages in terms of creating positive peace. However, local third parties involved in conflict resolution and mediation processes usually lack the kind of resources necessary to provide "carrots and sticks" and the institutional capacity to monitor and enforce the terms of an agreement. For this type of strategies, the resources and capacity of the central government are needed. Hence, this paper argues that local conflict resolution efforts are more likely to succeed when both local and governmental third parties take part. This is in line with research within the civil war literature which suggests a positive complementarity between different third party types. However, the conditions under which this argument holds, in the setting of local communal conflict, need to be investigated further. This paper first discusses communal conflict and how it relates to the state and government actions. The next section reviews previous research on communal conflict resolution, relating its findings to the broader literature on mediation and third parties in international conflict resolution. The empirical investigation gives a brief overview of communal conflict and conflict resolution in Kenya, and then uses two cases to investigate more closely the role of different third parties. The concluding discussion highlights key findings and points to future research agendas.

A third party is here broadly defined as an actor that helps the conflict parties resolve the conflict or regulate the level of violence² (cf. Pruitt & Kim, 2004, p. 227; UCDP, 2013a).

¹ The Constitution establishes a National Land Commission, and one of its envisioned functions entails "to encourage the application of traditional dispute resolution mechanisms in land conflicts" ("The Constitution of Kenya," 2010, p. §67:62:f). The National Land Commission has, however, yet to be established.

² For instance, Fisher & Keashly (1991) suggest that there are six main types of third party activity: conciliation, mediation, power-mediation, arbitration, consultation, and peacekeeping. In contrast to some definitions (e.g. Pruitt & Kim, 2004), a third party is not defined here as necessarily being an *external* actor. Many define mediation or third party activity as something carried out by actors external to the conflict (Bercovitch, 1997, pp.

Much of the literature on third party activity focuses on mediation, which following Touval & Zartman is here defined as “a form of third-party intervention in conflict for the purpose of abating or resolving that conflict through negotiation” and which entails “helping the adversaries communicate”, “endeavoring to change their images of each other” and often “suggest[ing] compromises” and “induc[ing] them to change their stance” (1985, p. 7). While neutrality or impartiality is an integral criterion in several definitions of mediation (Bercovitch, 2011, p. 18), this is not the case here, for reasons explored further below. Much of the theoretical discussion focuses on *who third parties are* – this is not meant to imply that *what they do* is less important. However, to a large extent the latter is shaped and constrained by the former, as suggested by an analysis of the relationship between the central state and communal conflict as well as by the case studies in this paper.

The state and communal conflict

Communal conflict is here defined as *violent conflict between non-state groups that are organized along a shared communal identity*³. Such conflicts may revolve around issues such as access and ownership of land or water sources, cattle raiding, or support for opposing political parties. They can become very deadly, killing hundreds or thousands of people; for instance, in 2012 communal conflicts in Tana River, Moyale and Mandera killed over 200 Kenyans (HRW, 2013, pp. 18, 40-41). Local violent conflict within a state’s territory can be seen as a challenge to that state’s authority, and governments should therefore have strong reasons to attempt to prevent and resolve communal conflicts. However, the central government’s role and relation to local conflicts is complex, and its potential to serve as a third party warrants some discussion.

Local communal conflicts are to varying degrees connected to national power struggles and conflicts at higher levels (Albert, 2001, p. 117; Kalyvas, 2003). Countries such as Sudan underline that in many cases, analysis of communal conflicts cannot be disconnected from analysis of conflict at the national or regional level (Brosché & Elfversson, 2012). However, many communal conflicts are first and foremost driven by local dynamics (Johansson, 2011; Smock, 1997, p. 16). Local conflict resolution processes are more likely to be relevant in the latter type of cases, whereas local conflicts that are mainly the symptom of a conflict at a higher systemic level will be very difficult to resolve only through a local peace process. In addition, local conflict resolution practices are probably less prevalent when the state and its

167-168), but the question of who is or is not an external actor is not always straightforward, and in many armed conflict situations third party roles have been played by secondary supporting actors, former warring parties, etc.

³ *Violent conflict* refers to the fact that the parties use lethal violence to gain control over some disputed and perceived indivisible resource, such as a piece of land or local political power. This follows a generally accepted conceptualization of armed conflict (see e.g. Galtung, 1965). The groups involved are *non-state groups*, meaning that neither actor controls the state and armed forces, although state actors may be involved as a secondary actor in a communal conflict. Finally, the groups are *organized along a shared communal identity*, meaning that they are not formally organized rebel groups or militias but rather the confrontation takes place along the line of group identities.

institutions are strong: in such cases the state will most likely be the main actor addressing these conflicts⁴.

While the state can be expected to play a role in the prevention or resolution of conflicts within its territory, often it is also directly or indirectly seen as a cause of communal conflicts (Jinadu, 2007) – for instance through failure to alleviate local scarcity, redrawing of local borders, or unequal treatment of communal groups. Patrimonial political systems can cause communal conflict through increasing rent-seeking behaviour and violent competition for access to resources (Fjelde, 2009). Local and national political dynamics may cause the state to take sides (actively or passively) in the conflict; for instance, where the political system is characterized by patrimonialism and is strongly organized along communal identity lines, such bias is often rife and in turn affects the dynamics of local or national conflicts (Ikpe, 2009; Jackson, 2002, pp. 39-44; Le Billon, 2003, p. 415; Lemarchand, 1972; Steeves, 1997, pp. 27-29). Supporting a group involved in a communal conflict may be a way for the government of rewarding that group for political support (Allen, 1999, pp. 372-373, 378). In Kenya, the political system is strongly connected to ethnic identity and kinship, and many communal conflicts have taken place in connection to elections (Anderson & Lochery, 2008, p. 329; Klopp, 2001; Mueller, 2011).

The fact that the government may be seen as a direct or indirect cause of local communal conflict, and may be actively or passively supporting one side in the conflict, appears to create significant obstacles for its potential to serve as a third party and help resolve the conflict. However, the definition of third party activity adopted here does not preclude biased actors from playing a role in conflict resolution, nor does much of the research on mediation, where bias is often cited as a source of influence and necessary leverage (e.g. Carnevale & Arad, 1996, pp. 41-42; Svensson, 2007, p. 232). As long as the state has a sufficiently strong interest in ending a communal conflict, its previous role in relation to that conflict does not preclude it from playing a constructive role. However, it will most likely affect the *type* of role it can play, as discussed further below.

⁴ This expectation is based on the fact that the state normally holds a monopoly over the legitimate use of force (Weber, 1948 [1918]) and that violent conflict in its territory consequently can be seen as a challenge to this role, whether or not it is directed towards the state; hence, such occurrences are expected to be prioritized and addressed by the central government.

Analytical framework

Third-party activity in attempting to resolve local communal conflicts in Sub-Saharan Africa can be initiated by different actors: the central state, local actors (such as customary authorities or local civil society organisations), national or international non-governmental organisations (NGOs), and international government organisations (IGOs)⁵. The following section reviews previous research on communal conflict resolution, and the type of roles these different actors tend to play. Although systematic comparative studies are scarce, there is a wealth of ethnographic studies of local communal conflicts and peace processes addressing these, as well as case studies conducted by NGOs and other groups involved in practical action. Based on this review, this section concludes by outlining an analytical framework for studying if and how local and central third parties can complement each other in communal conflict resolution. This framework draws upon the previous research reviewed below, complemented by theoretical and empirical insights from the broader literature on third parties in conflict resolution.

Local conflict resolution and third parties

Numerous case studies and policy papers have in recent years pointed out advantages of locally driven processes in addressing local communal conflict in Africa, particularly in areas where national institutions are weak or absent. Much of this work focuses on indigenous or customary mechanisms and institutions, such as elders, chiefs or spiritual leaders mediating in conflict situations. For instance, many reports have documented successful cases of local conflict resolution based on customary mechanisms in pastoral areas of the Horn of Africa (see e.g. Chapman & Kagaha, 2009; Farah, 1999; Ibrahim & Jenner, 1997). In other cases, civil society actors such as religious organizations and NGOs play a key role in conflict resolution, while drawing upon similar conflict resolution principles (Chimaraoke, 2002; Frank, 2002; Imoghibe, 2003; Morton, 2008). However, few of the existing studies have taken a systematic comparative approach to analysing the conditions under which these forms of third party activity are more or less likely to succeed.

While local conflict resolution may encompass a number of different activities, most existing reviews and case studies relating to sub-Saharan Africa highlight processes encompassing, or drawing upon, customary or traditional mechanisms (Akinwale, 2010; Boege, 2006; Brock-Utne, 2001; Chimaraoke, 2002; Mac Ginty, 2008; Malan, 1997; Murithi, 2008; Zartman, 2000). Such mechanisms usually entail mediation or deliberation by elders or other customary authorities⁶. The Modogashe declaration, adopted 2001 in northern Kenya, provides an

⁵ The distinction between state and local actors is not always clear-cut, as the state operates also at the local level. For instance, locally elected governors can be argued to occupy an in-between position, as they represent the state but derive their support and legitimacy from the local level. This underlines the important relationship, noted in the introduction, between who actors are and what they do – in essence, the actions of local politicians may underline either their role as local parties or as central state representatives.

⁶ It should be noted in this context that what is defined as customary or traditional, as well as who is regarded as a customary authority or elder, is to a high degree socially constructed and flexible and varies across time and

example of how customary regulations are used to manage and prevent conflict between pastoralist communities. It was adopted following deliberations involving government representatives and elders from the different communities in northern Kenya, and among other things contains provisions regulating the movement of herders and specifies the level of compensation (in cattle) in cases of murder (Chopra, 2008, pp. 15-17; NSC official, interviewed 2013-03-15). The recently concluded Nakuru County Peace Accord, aimed at ending recurring hostilities between the communities living in Nakuru, is another example; here, mediation was conducted by an international NGO, the HD Centre, between teams of elders representing the two main communities in Nakuru, the Agikuyu and Kalenjin (The Nakuru County Peace Accord, 2012; NGO worker, interviewed 2013-03-14).

Customary conflict resolution processes are usually described as participatory⁷ and emphasizing consensus-making, reciprocity, restoration of relationships, and restorative rather than retributive justice. Mediation is carried out by a person or persons of high social standing, commonly chiefs or elders, who use their social legitimacy and facilitative skills rather than manipulation and sanctioning to reach agreement (Boege, 2006, pp. 7-9). However, as in the Nakuru case, mediation can also be carried out by other trusted actors within the civil society, drawing upon a locally accepted framework. Uniting these different processes is the fact that mediation is carried out by third parties who possess little leverage⁸, and whose role is more geared towards facilitation and integration than manipulation. This is important since there appears to be tentative consensus in the broader third party literature that although power and leverage may be more effective in terms of reaching formal agreement, facilitative/integrative approaches are more suited to resolving the conflict issue and promoting more long-term stability (Beardsley, Quinn, Biswas, & Wilkenfeld, 2006; Nathan, 1999; Werner & Yuen, 2005). In line with this, there is case study evidence that suggests that customary mediators are indeed better able than state-led interventions to address and resolve the causes of conflict (Akinwale, 2010; Choudree, 1999; Osamba, 2001) and that they may result in more popularly legitimate, and hence more sustainable, agreements (Farah, 1999; Mac Ginty, 2008, pp. 155, 158). Where the process is truly locally

space (Boege, 2006, p. 6; Buur & Kyed, 2007, pp. 22-24). For instance, the status as “elder” may be accorded based on other factors than age, such as knowledge, mediation skill or even economic status (Bradbury, 2009, p. 38; NGO worker, interviewed 2013-03-18). Rather than trying to define and conceptualise these actors and structures, then, the discussion here is to a large extent based on ideal-type descriptions of them; to what extent local third party actors within a customary framework actually fulfill these criteria is an empirical question.

⁷ However, despite the common emphasis on inclusiveness, customary institutions often exclude women from participation on the same basis as men; there may also be an age bias so that youths have a limited say. Probably, such exclusion of significant groups within the communities will lead to a less durable settlement in the longer run. Positive peace, as defined above, can hardly be achieved if not all segments of the communities are somehow involved in the process. Indeed, one noted case of successful local peacebuilding – the peace process in Wajir in northeast Kenya in the 1990s – appears to a large extent to have been so successful precisely because it involved all segments of society (women, youths, elders, local businessmen and so on). (see e.g. Ibrahim & Jenner, 1997.)

⁸ In the third party literature, leverage on behalf of third parties refers to the ability to apply carrots and sticks, i.e. to control and manipulate important resources in order to influence the conflict parties (Bercovitch, 2011; Touval & Zartman, 1985, pp. 7-8) Of course, local customary mediators may possess significant leverage for instance in the sense of moral authority or the ability to ostracize offenders from the community, but this type of power is less tangible, usually informal and very context-specific. Hence, “leverage” is used here mainly to refer to hard power, such as the economic, military and legal resources of the state.

driven, third parties may not only be better able to design a process suited to the local context, but may also be able to respond much faster than state-led initiatives (Imoghbe, 2003, p. 32).

In line with the discussion above, the effectiveness of third parties in local conflict resolution processes appears to hinge on their legitimacy and ability to foster trust between the conflict parties⁹. Hence, a first necessary requirement for such third party activity to be successful is that these aspects are indeed present. In other words, customary conflict resolution will not serve its purpose if it draws on traditional institutions which people no longer have faith in, which may be the case if they have been eroded due to processes of modernization and urbanization or if these institutions have been co-opted by national elites and politicians that are perceived as biased; similarly, if customary institutions or leaders have played a part in igniting or fuelling the communal conflict, or if the groups in conflict do not share the same views on what constitutes legitimate customary practices, these processes and actors will have less potential to help resolve the conflict. Similarly, NGOs and other actors involved in peace building may lose their credibility due to ineffectiveness, corruption, or perceived bias (Eaton, 2008b). Further, the level of inclusiveness – and thus, arguably, the durability of an agreement – is limited in cases where groups such as women or youths are excluded due to conservative traditions (see e.g. Boege, 2006, pp. 15-17; Mac Ginty, 2008, pp. 150-151). Such exclusion may also affect the legitimacy of the mediation effort (Nilsson, 2012) and excluded actors may try to disrupt the proceedings or challenge the emerging agreement at a later stage (Blaydes & De Maio, 2010; Stedman, 1997), resulting in a less stable peace.

State strategies to manage and resolve communal conflict

Due to its control over national resources and security forces, there is reason to expect the government of the affected state to be a key player in managing communal conflict (Ikelegbe, 2003, pp. 53, 64). States may respond to violent communal conflict within their territory in several ways (e.g. Abdulrahman & Tar, 2008, pp. 190-193; Johansson, 2011; Otite & Albert, 1999, pp. 339-340). Oftentimes, security forces are deployed in order to halt the violence; sometimes, such deployment comprises a longer-term operation to disarm the conflict parties and monitor the situation after calm has been restored. At other times, or in conjunction with security force deployment, state representatives mediate in the conflict or cooperate with local actors in arranging talks or peace conferences. The government may also address communal conflict by referring it to judicial channels, such as the court system or ad-hoc judicial panels.

As noted in the introduction, the state's relationship to local communal conflict is often very complex and at times highly problematic. Case studies suggest that in many cases the response of the state may aggravate the situation rather than help to resolve it. For instance, it

⁹ Of course, the literature on third parties, and on mediation in particular, mentions numerous other aspects that may be important for the outcome; e.g. the mediator's personality and skills, the mediator's rank and importance, the timing of the mediation effort and the type of strategy used (Touval & Zartman, 1985, pp. 15-16). The focus here is on legitimacy and trust, as these aspects have been highlighted in relation to local conflict resolution; however, personality/skill, rank and strategy all play into these concepts, and the question of timing will be raised in the discussion of the case studies below.

has been noted that the deployment of security forces in reaction to communal conflict is often associated with human rights abuses; this has also been the case in Kenya (Akinwale, 2010, p. 126; HRW, 2013). At times, the government is not at all an unbiased actor in search of peace; sometimes the regime may actually benefit from letting the communal conflict continue, and in other cases it is biased in favour of one of the conflict groups (Kahl, 1998; Kalyvas, 2003). In cases such as these, the government may refrain from intervening, or may do so only superficially, in order to create the external appearance of trying to address the conflict. Alternatively, it may actively promote a solution that is more beneficial to one side in the conflict; in such cases, the other side will be dissatisfied with the outcome and the risk of renewed violence will be high. In either case, situations such as these will hardly be conducive to the achievement of durable, positive peace. In Kenya, due to the highly ethnicized nature of politics, state actors are unlikely to be, or be perceived as, unbiased in most cases of communal conflict.

Based on these considerations, the state does not appear to be a suitable mediator/facilitator in cases of communal conflict, as it is unlikely to be able to create the trust needed for the parties to move beyond violence and towards integrative solutions. However, while local customary conflict resolution may provide a better framework for negotiation, additional resources may be needed for the conclusion of a successful peace process. Conventional theory within the field of intra-state conflict indicates the importance of security guarantees, material benefits of peace, and monitoring of agreements (Doyle & Sambanis, 2000; Ohlson, 2008; Walter, 1999). Such factors are likely to matter in the case of local communal conflicts as well. This type of third-party functions are mainly associated with more powerful actors who can rely on leverage to manipulate the dynamics of the peace process, e.g. through applying sticks and carrots, and serve a guarantor role after agreement has been reached. In international conflict resolution, these functions are often performed by major global or regional powers or organisations; in the case of local communal conflict, the state should arguably fulfil these roles, given its control over national resources and security forces.

If the conflict actors judge that the gains of continued or renewed conflict are larger than the benefits of peace, then the chance for stable peace will be slim at best (Doyle & Sambanis, 2000, p. 780; Werner & Yuen, 2005). In the case of communal conflict, the government could make continued violence too costly by forcefully separating the warring parties and increasing the cost of renewed hostilities through monitoring and punishing violent acts. On the other hand, as the desired end state is durable, positive peace rather than merely the absence of violence, it may be necessary to provide positive incentives as well (Ohlson, 2008, pp. 151-152). It may be difficult for local actors in an impoverished region to do anything to ‘increase the size of the pie’; hence, in most cases of communal conflict, the state is likely needed to step in to increase the payoffs from a peaceful settlement, for instance through investment in local development¹⁰. Another key obstacle to successful conflict resolution pointed out within the civil war literature is that the parties may be unwilling to demobilize and de-escalate due to security concerns: they fear becoming vulnerable to attack by each other, creating

¹⁰ Of course, such programs may also be funded and implemented by international organizations, but they would arguably be unlikely to succeed without at least minimum support from the national government.

incentives to cheat (Walter, 1999, p. 134). While they seldom feature the same degree of demobilization as DDR processes following civil wars, similar dynamics are likely to be present in communal conflicts. For instance, the spread of small arms across unstable regions has led to a high availability of firearms among groups involved in communal conflicts, and attempts to manage these conflicts often feature disarmament programs¹¹. In order to enable a durable agreement, the security concerns of both parties, and the balance of power between them, need to be taken into account during and after the conflict resolution process; given its security force apparatus and monopoly over legitimate violence within the country's borders, the state appears the best candidate to serve as a peacekeeping force. Indeed, Eaton (2008b) calls for stronger government involvement in communal conflict resolution for the sake of monitoring and ensuring peace.

Under what circumstances can the state be expected to fulfil these roles? Firstly, while bias – in the sense of previously having supported an actor in the conflict – does not preclude third party involvement, continued active bias is likely to undermine a peace process (for instance, if deployed security forces overlook hostile actions by one of the conflict parties). Aside from an active bias, state actions may also be hampered by a lack of capacity to fulfil the roles of monitoring, peace enforcement and provision of peace dividends. Hence, the institutional and economic capacity of the state matters. A minimum requirement is that the government has effective control over the state territory, since establishing a strong security force presence may be needed in order to increase the cost of further violence and to assuage the parties' security concerns. Local government structures, with a better knowledge of the local context, may also be important throughout the conflict resolution process. Thus, in addition to having the necessary institutional resources, the central government's reach must extend to the area affected by conflict. With a highly dispersed population, and due to the costs of consolidation as well as the nature of boundaries and of the state system in Africa, border areas and areas located far from the capital often lack local government structures and are more difficult to monitor and patrol (Herbst, 2000). Many of the pastoralist conflicts in Kenya, Ethiopia and Uganda take place in the border areas, with groups moving across the state borders following raids and clashes, complicating security enforcement (Frank, 2002, pp. 72-74; Mkutu, 2008, p. 100; Osamba, 2001). In such circumstances, it is difficult for the government to try to monitor and enforce a peaceful settlement between communal groups.

Analytical framework: A complementary role?

The theoretical argumentation and case study evidence outlined above suggest that the type of third party role associated with local, often customary conflict resolution processes has a

¹¹ However, such campaigns have often resulted in uneven disarmament, exacerbating tensions rather than alleviating them; for instance, several attempts by the government to disarm pastoral groups along the Kenya-Uganda border have failed because the collection of weapons has not been coupled with a clear strategy to address the security concerns of the groups, and people have quickly acquired new arms (Bevan, 2008, pp. 54-60; Mkutu, 2008). Eaton (2008a) argues that NGOs involved in peacebuilding in the same region often fail to understand and address the dynamics of revenge and counter-attacks, resulting in the failure of their conflict resolution efforts despite strong attempts to resolve the underlying causes of conflict.

strong potential for building trust and reaching durable peace agreements. However, the lack of leverage may mean that agreement is only reached in the “best” cases and that security concerns of the conflict parties may hinder negotiated settlement even in cases where both parties see settlement as the preferred option. As pointed out by many scholars on peacekeeping, credible security and enforcement guarantees may be necessary for peace to be possible.

Several analysts of mediation have argued in favour of a combination of different actors, playing different roles, in the peace process (Beardsley et al., 2006; Doyle & Sambanis, 2000, pp. 791,795; Svensson, 2007; Wehr & Lederach, 1991, p. 97). Fisher & Keashly (1991, pp. 33-34) advance a stage-model of third party intervention, suggesting that different third party intervention types, when sequenced correctly, are complementary. While Fisher & Keashly focus on the type of intervention and not on third party characteristics, their discussion also suggests some conclusions along these lines: For instance, they argue that conciliation should be performed by a third party that is trusted by the parties, and consultation/problem solving requires a skilled, knowledgeable third party or third party team (Fisher & Keashly, 1991, p. 33). The types of intervention required at higher levels of escalation - power mediation and peacekeeping – on the other hand rest on leverage and military capacity (pp. 33-34). Along the same lines, Svensson (2007, p. 230) argues that while power mediators are able to pressure the disputants towards agreement and regulate their military relationship, ‘pure mediators’ are better able to help the parties resolve their conflict and address underlying interests. Nathan (1999) suggests that mediation and enforcement should be performed by different actors; while the mediator should not be biased or use leverage, actors displaying these characteristics can be instrumental in pushing disputants towards negotiation, and providing different types of aid during a peace process and in the implementation phase (pp. 5, 12). Kriesberg (1996) argues that powerful mediators are especially important in the implementation phase (p. 230).

While these arguments have mainly been developed in relation to international conflict resolution, it is argued here that they should be applicable in the context of local communal conflict as well. Case study evidence of communal conflict and local conflict resolution processes appears to yield some support for this. Numerous authors have noted the potential of locally driven processes but called for their integration or coexistence with actors capable of providing peace dividends as well as monitoring and enforcement capacities, often highlighting the state as the most suitable actor to fulfil this role (Abdulahi, 2004; Chapman & Kagaha, 2009; Grahm, 2005; Ibrahim & Jenner, 1997; Masinde, Adan, & Pkalya, 2004; Menkhaus, 2005; Ndegwa, 2001; Ofuoku, 2009). The remainder of the paper uses evidence from Kenya to assess these arguments.

Communal conflict resolution in Kenya: Complementary third parties?

Each year, several violent communal conflicts take place in Kenya. In 2012, conflict over access to land and pasture between the Orma and Pokomo in Tana River caused around 150 deaths; meanwhile, conflicts between Degodia and Garre in Mandera and between Borana and Gabra in Moyale each caused around 30 deaths (UCDP, 2013b). In addition, several conflicts took place at a lower level of violence. Responses to these conflicts included security force deployment, mediation by state, local and NGO actors, and symbolic peace ceremonies (Elfversson, 2013). Below, an overview of third party activity in Kenyan communal conflicts is presented, based on UCDP data and a unique dataset on third party activity in communal conflict in Kenya compiled by the author. Subsequently, in-depth analysis of two cases – the Marakwet-Pokot conflict in Kerio Valley and the Garre-Murule conflict in Mandera – yields some insights regarding the potential complementarity of different third parties.

Communal conflict and third party activity in Kenya 1989-2011: an overview

During the time period 1989-2011, Kenya experienced 48 communal conflict years (with 26 unique conflicts)¹². As can be seen in Figure 1 below, there are significant variations over time; some of the peaks coincide with election years (most notably the 1992 and 2007 elections). Meanwhile, in 1990-1991 and 2002-2004 there were no communal conflicts reaching the intensity level for inclusion in UCDP data. The apparent variation in the occurrence of communal conflict is indicative of the fact that while they are connected to national-level politics, these conflicts also have important local dimensions and drivers.

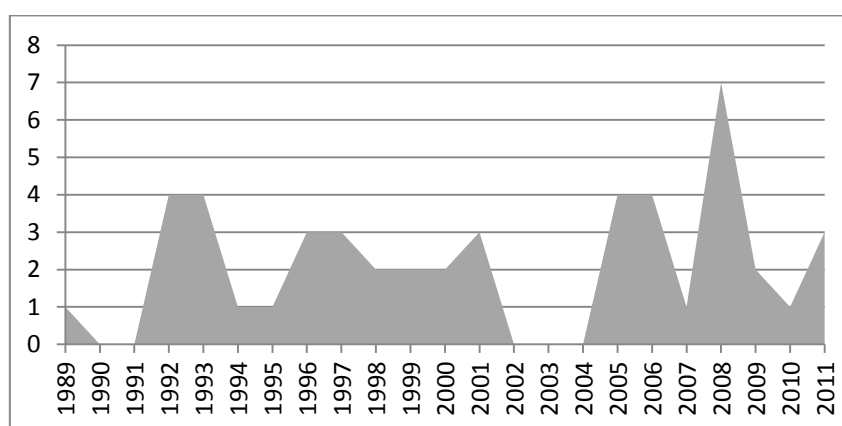


Figure 1. Number of active communal conflicts, Kenya, 1989-2011. (Sundberg et al., 2012)

¹² The data used is a subset of the UCDP Non-state conflict dataset (Sundberg, Eck, & Kreutz, 2012). “Communal conflict” corresponds to Organizational level 3 in the dataset, i.e. “groups that share a common identification along ethnic, clan, religious, national or tribal lines. These are not groups that are permanently organized for combat, but who at times organize themselves along said lines to engage in fighting”. A conflict is coded as active if it results in at least 25 battle-related deaths in one calendar year (Pettersson, 2012).

In order to resolve conflict, third parties need a good understanding of the issues over which groups are fighting. While these issues are often complex, several analysts have noted that discrepancies and injustices concerning the land tenure system in Kenya represent underlying causes for many violent conflicts (Boone, 2012; Klopp, 2002; Umar, 1997); indeed, one of the main aims in working out the new constitution was to find ways to address the historical problem of land (ICG, 2013, p. 42). The high salience of land is reflected in Figure 2 below, which illustrates that most communal conflicts in Kenya revolve around territory, and the remainder around territory and/or cattle¹³.

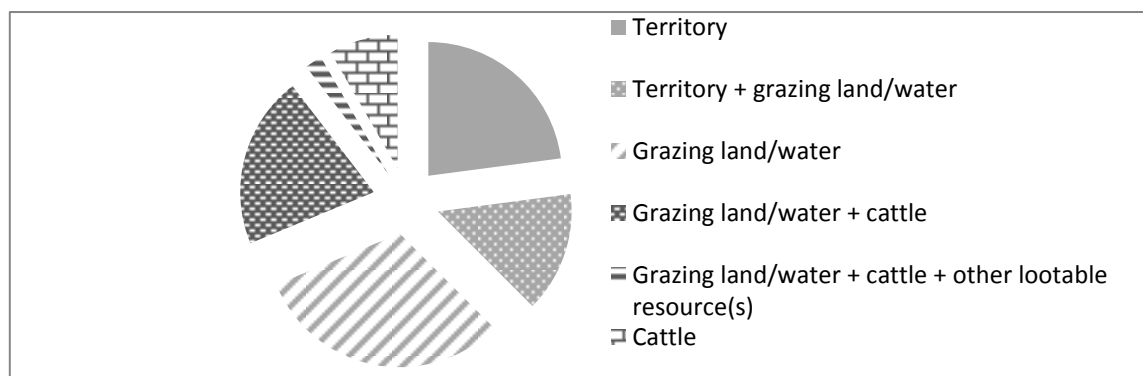


Figure 2. *Incompatibilities, communal conflicts, Kenya, 1989-2011.* (von Uexkull & Pettersson, 2013)

Out of the 48 years of active communal conflict, 33 resulted in some form of third party activity on behalf of the government¹⁴. In 21 cases, the government deployed security forces to halt violence and restore order. Meanwhile, local actors, NGOs, and international organizations were also involved in third party activity, as illustrated in Figure 3 below. As can be seen, in several cases there were multiple third party actors; for instance, the post-election violence between Kalenjin and Kikuyu in several locations 2008 resulted in government responses through security force deployment and reconciliation meetings; locally led conflict resolution processes mediated by elders and civic leaders; NGO involvement in mediation and other peace activities; and international involvement in the form of mediation in the national-level dialogue (Elfversson, 2013).

¹³ The UCDP dataset on conflict issues in non-state conflicts, covering Africa 1989-2011, codes conflict issues along three categories: authority (conflicts concerning “competing claims over who of the warring parties exert control over the other group through the state apparatus or informal power structures”), territory (conflicts concerning “control or use of the land for the own group, but not authority over the other warring party through the state apparatus or informal hierarchies”), and lootable resources (where conflict actors “focus on taking the belongings of another group”) (von Uexkull & Pettersson, 2013). “Grazing land/water” is a sub-category of “territory”, and “cattle” a sub-category of “lootable resources”.

¹⁴ As noted in the introduction, a third party is here defined as an actor that helps the conflict parties resolve the conflict or regulate the level of violence; specifically, security force deployment (beyond regular policing), mediation, or other forms of facilitation have been coded as third party activity.

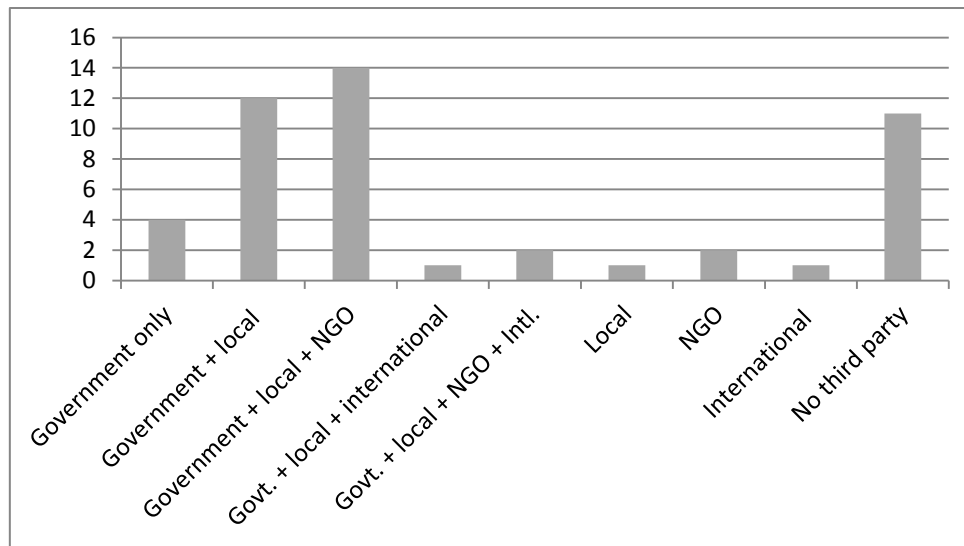


Figure 3. Third party activity by actor, communal conflict, Kenya, 1989-2011. (Elfversson, 2013)

In 23 cases, there was what can be described as a joint local and government process. This may entail, for instance, local negotiations followed by government endorsement of an agreement, or a government-sponsored peace conference involving customary conflict resolution mechanisms and locally selected community representatives. In both cases analysed more closely below, District Peace Committees (DPCs) played a role in the peace process. These conflict management bodies have been of growing importance in Kenya since the 1990s, drawing upon the success of such a body in addressing long-standing conflict in Wajir. District Peace Committees are hybrid bodies that incorporate local customary conflict resolution while also drawing on formal structures and connecting to government institutions. Membership of the peace committees is made up of locally elected elders as well as women, youth, civil society organizations and government representatives (Adan & Pkalaya, 2006). Their main purpose is to resolve conflicts and promote peace among the different communities in a district and its neighbouring area. In 2001, a National Steering Committee (NSC) was established to coordinate the work of DPCs and other peace building bodies in Kenya and link these formally with government and development activities.

Case study 1: Marakwet-Pokot, Kerio Valley

The Marakwet and Pokot are subgroups of the Kalenjin language group, and inhabit neighbouring areas in Kerio Valley in Kenya's North Rift (NCKK & SNV, 2001, p. 1). The communities compete over limited water and grazing resources. Both groups rely for subsistence on a mixture of agriculture and pastoralism. The communities have a history of conflict over cattle rustling and raiding, but in the early 1990s the conflict escalated due to

political dynamics related to the advent of multiparty democracy¹⁵. Simultaneously, increasing availability of small arms and the commercialization of cattle rustling made raids more frequent and deadly (Cheserek, Omondi, & Odenyo, 2012; Kamenju et al., 2003, pp. 40-41). The high degree of marginalization of the area and the communities further contributed to the conflict dynamics. While the Pokots felt particularly neglected in terms of education and other services, the Marakwet who were less well armed than the Pokot suffered strongly from the lack of sufficient security provisions. In lieu of substantial policing, the government used volunteer police reservists who were issued with guns, but were ill-trained and did not receive a salary; such reservists were easily corrupted and further aggravated the problem of availability of small arms (Kamenju et al., 2003, pp. 41, 72-73, 83-85; NCKK & SNV, 2001, pp. 9, 12).

While it is difficult to establish a clear account of the number of people killed in the Marakwet-Pokot conflict during the 1990s, significant raids reportedly took place in 1991, 1992, 1995 and 1997 (Kamenju et al., 2003, p. 41; Church official, interviewed 2013-03-20). By 1997, it was reported that more than 400 Pokots and Marakwets had so far been killed in the conflict (Reuters, 1997-05-06). The raids and the high level of insecurity left many displaced, with livelihoods and socio-economic activities in large parts of Kerio Valley disrupted; trading centres closed down and agricultural production suffered, resulting in compounded vulnerability of the affected communities as well as further aggravating polarisation (Cheserek et al., 2012, pp. 177-178; NCKK & SNV, 2001, pp. 15-18). In March 2001, a particularly deadly raid took place, with a Pokot raid on Murkutwo village in Marakwet District leaving at least 40 people killed (Xinhua, 2001-03-13).

Over the course of the conflict, various actors tried to find a formula for its peaceful resolution. Reportedly, in several cases customary conflict resolution meetings were convened by elders, but such initiatives were largely unsuccessful or short-lived due to complicity of other community leaders in fuelling the violence (NCKK & SNV, 2001, p. 20). In effect, this undermined people's trust in these initiatives and the authority of traditional leadership. Meanwhile, other community-based conflict resolution initiatives have been spearheaded by religious groups, notably National Council of Churches of Kenya (NCKK) and Catholic Justice and Peace Commission (CJPC), as well as the international Christian NGO World Vision (Kamenju et al., 2003, pp. 89-90). Initially, these projects emphasized peace education and advocacy, but also increasingly featured dialogue and mediation (Church official, interviewed 2013-03-20).

Around 2002, several things happened which appear to have made the conflict more conducive to resolution. First, there are indications that the conflict had reached a level of intensity and destruction that communities felt was no longer bearable; partly, this may be related to the fact that the Marakwet, initially much less well armed than the Pokot, had by now acquired substantial numbers of AK-47s (Kamenju et al., 2003, p. 73). Further, following

¹⁵ Although both communities were overall KANU supporters, under the Moi regime the Marakwet were seen as opposition due to their support for multipartyism, and perceived they were targeted for this reason (Kamenju, Singo, & Wairagu, 2003, p. 41; NCKK & SNV, 2001, p. 1)

the March 2001 raid, the government responded strongly and President Moi announced that there would be a thorough disarmament operation (Xinhua, 2001-04-17), which may have increased the pressure. Secondly, the political climate changed: Locally elected Members of Parliament (MPs) and District Commissioners (DCs) strongly advocated peace and spearheaded new initiatives for dialogue, and the 2002 elections resulted in a change in government from KANU (Kenya African National Union) to NARC (National Rainbow Coalition) which appears to have changed the national political dynamics so as to open up for conflict resolution (AllAfrica, 2002-10-16; Weiss, 2004, p. 95). Finally, the Catholic Church initiative, at the request of the communities, changed its approach from workshops to facilitating direct talks between community representatives (Korir, 2009, p. 2).

The Catholic Church, from 2002 onwards, facilitated direct talks between Pokot and Marakwet representatives. At first, both communities selected one spokesperson, who were both customary authorities, and these met with mediation by Catholic Bishop Cornelius Korir. The first meetings were held on neutral ground, but as the process broadened, the negotiations moved to a location on the border between the communities. Initial meetings focused on venting of anger and formulation of the causes of conflict, later moving on to how these issues could be handled in a constructive way. More members of the communities were brought in, as well as government representatives (Church official, interviewed 2013-03-20; Korir, 2009, pp. 2-3). Simultaneously, local politicians – MPs and DCs – supported the peace process through communication and endorsement of agreements reached, and the central government deployed additional security personnel and demobilised reservists. In October 2002 a peace meeting was held at Kolowa, chaired by the Provincial Commissioner for Rift Valley, and elders and politicians representing the communities reached an agreement specifying that 40 cows should be paid if members of one community killed a member of the other side. Interaction and dialogue between elders of the two communities was formalized through the establishment of District Peace Committees, responsible for addressing new cases of conflict (AllAfrica, 2002-10-16, 2003-05-02).

Meanwhile, NGOs and government agencies engaged in the Kerio Valley began to sponsor development programmes that would strengthen cooperation between the Pokot and Marakwet while at the same time addressing some of the underlying causes of conflict. One Marakwet politician who became a Cabinet minister under the new NARC government, Linah Jebii Kilimo, was at the forefront of such peace and development activities, gaining strong local support and the nickname “Mama Amani” (“Mother Peace”) (AllAfrica, 2003-06-09, 2004-02-06). Mixed school and jointly managed cattle dips were among the initiatives spearheaded by the Catholic Church (Korir, 2009). In July 2003, World Vision launched a development programme aimed at decreasing the dependency on cattle and promoting alternative livelihoods (Weiss, 2004, pp. 95-96). Similarly, a Kenya Red Cross project focused on irrigation to improve farming conditions, leading to an agreement between the communities on management of water resources (Star, 2012-11-01). There were also initiatives promoting trade and joint markets as a way to promote cooperation and interaction (AllAfrica, 2012-02-03).

According to the information at hand, the relation between the groups has remained peaceful since the initiation of the peace process in 2002. There have been some instances of raiding and violence, but such events appear to have been handled quickly within the local conflict resolution framework put in place during the peace process (ITDG, 2003). For instance, the killing of a Marakwet man by a group of Pokots in 2012 resulted in a flurry of activities at local and District Commissioner level, which appears to have made sure the situation didn't spiral into further violence. The elders of the district peace committees, at a meeting attended by local government representatives, eventually decided on a fine of 172 goats to be paid as compensation (Standard, 2012-09-03). Apart from the absence of serious violence, there are also other indicators that the relationship between the groups has improved significantly. There has been substantial cooperation over development projects and increasing trade between the communities, as well as continuous symbolic celebrations and peace festivals (AllAfrica, 2011-12-01, 2012-02-03; ITDG, 2003). There was also a revival of intermarriages between the communities (AllAfrica, 2004-02-02). Reportedly, delegations from other troubled areas of Kenya came to Kerio Valley to learn from this relatively successful peace process (Church official, interviewed 2013-03-20). On the other hand, it has been pointed out that there has not yet been complete disarmament and demobilisation, and that while peace has held between Marakwet and Pokot the communities have been involved in conflict with other groups (Conflict resolution consultant, interviewed 2013-03-13).

Case study 2: Garre-Murule, Mandera district

The Garre and Murule are Somali clans inhabiting the Mandera triangle where Kenya, Somalia and Ethiopia meet. Both groups are traditionally pastoralist and they have a long history of conflict and clashes over pasture and water (IRIN, 2005-03-17; Menkhaus, 2005, p. 27). The groups live in an area in Northeast Kenya which is characterized by severe marginalization, as well as proliferation of firearms following the collapse of the Somali state as well as conflicts in Ethiopia. The borders in this area are porous, and see cross-border movement both by pastoralist groups herding cattle and by militant groups involved in communal violence as well as smuggling and other criminal activity. Together with the influx of Somali refugees and political manipulation by Kenyan politicians, these factors have created conflict and heightened tensions between the Garre and Murule (Menkhaus, 2005, pp. 27-28). As a result of violent conflict between the groups, in 1988 local administrative borders were redrawn so as to create separate political constituencies for the two clans in Mandera district; however, these measures had the unintended consequence of intensifying clan-based competition and animosity, resulting in ethnic cleansing of the respective constituencies. These processes were further fuelled by the creation of new administrative sub-units out of previously community-held land (ITDG, 2005; Menkhaus, 2005, p. 28). Under the Moi regime, the Garre perceived that the Murule were being favoured economically; meanwhile, local leaders and politicians manipulated and thereby exacerbated tensions to further their own goals; for instance, it was reported that two local MPs made

public agitations against the “encroachment” of Garre territory by “foreigners” (AllAfrica, 2005-01-31).

In late 2004, violent conflict again erupted between the Garre and Murule in Mandera district, continuing and escalating during early 2005. The fighting broke out over disputed land, as the Garre attempted to use pasture that they had access to in the past but which now belonged to the Murule constituency (IRIN, 2005-08-01). Initially isolated killings soon led to a spiral of revenge attacks, and the violence resulted in more than 60 deaths, with many thousands fleeing the areas affected by violence. The worst single incident took place on 16 March 2005 when Murule raiders attacked El Golicha village, leaving 22 dead, with many children among the victims (IRIN, 2005-03-17). The clashes also had cross-border dynamics, with both communities building alliances with their kin in Somalia and Ethiopia and accusing each other of harbouring foreign militants (ITDG, 2005).

Prior to the 2004-2005 clashes, local peace structures existed and were credited with having achieved stability in Mandera district. A network of local peace committees, led by women groups as well as local elders, initiated and coordinated mediation, early warning information sharing, conflict resolution training and similar activities, and secured support from local government structures. These peace committees also had strong ties to similar bodies on the Somali side of the border (Weiss, 2004, p. 82). Meanwhile, at the district level, the Mandera District Peace Committee was formed around 2000 and was led by the District Commissioner who was seen as a neutral party by the Garre and Murule, neither of which was eager to see a person from the other community lead the DPC (Adan & Pkalaya, 2006, p. 27). There were also several NGOs active in promoting peacebuilding in the district (Gordon, 2009, p. 10).

The escalation of clashes in early 2005 prompted action by both central government and local bodies (Gordon, 2009, pp. 10-11; Ibrahim Abdi, 2009; IRIN, 2005-08-01). In January, the District Commissioner mediated between clan elders who agreed on a ceasefire, declaring that continued killings would result in steep fines of 100 camels per person killed¹⁶, but the truce quickly collapsed and violence continued (AFP, 2005-01-21; AllAfrica, 2005-01-24). President Mwai Kibaki visited Mandera to appeal for calm, and security forces were deployed to separate the warring parties. Meanwhile, a local arbitration committee was formed, incorporating local elders and politicians and led by religious leaders. A team of Islamic leaders both from Mandera and from other parts of Kenya, drawn from the Supreme Council of Kenya Muslims (SUPKEM), led the mediation effort (Menkhaus, 2005, p. 27). The negotiation process entailed both intra-community meetings to vent emotions and agree on the main issues, and inter-community dialogue (Ibrahim Abdi, 2009). There were also public barazas (meetings) to spread the message of peaceful coexistence to the broader communities. The process was supported by NGOs and women’s groups, which provided humanitarian and support and related assistance (Gordon, 2009, p. 10). As a consequence of the El Golicha

¹⁶ In fact, the blood payment that was specified, and which was restated in the later Umal Accord, was 100 camels (or a corresponding sum of money) for each man that was killed, but only half of that if a woman or child was killed, as was pointed out by critics of this arrangement (AllAfrica, 2005-03-25).

massacre, which had led to widespread attention and condemnation, the government was strongly involved in pushing for a peaceful resolution of the conflict (Menkhaus, 2005, p. 27).

Following a month of mediated talks, the two communities in April 2005 signed the Umal Accord, which drew on customary conflict resolution mechanisms and determined “blood payments” to be made for losses incurred by the two sides during the conflict. The agreement also contained provisions for settlement of IDPs, return of illegal firearms¹⁷, release of captives taken during the clashes, and continued negotiations regarding sharing of pasture. The Umal Accord was endorsed by the government, and it was stated in the agreement text that “if any community fails to honour or breaches the agreement in whole or in part, the government shall take stiff action”. Following the signing of the agreement, the mediator team left Mandera, and the District Peace Committee was given the main responsibility of overseeing the implementation of the accord (Gordon, 2009, p. 10; IRIN, 2005-08-01).

Despite an apparently rigorous peace process and initial optimism regarding its outcome, peace did not hold between the Garre and Murule. Shortly after the conclusion of the peace process, analysts noted that the underlying causes of the conflict remained unresolved, and that there was insufficient support for monitoring and implementation (Menkhaus, 2005, p. 29). During the fall of 2008, fighting again broke out between the Garre and Murule, triggered by dispute over the drilling of a borehole in an area still disputed by the two clans. The violence left around 30 people dead. This time the government responded more forcefully, deploying a heavy-handed disarmament operation that was heavily criticized for its human rights abuses (HRW, 2009). Meanwhile, one of the members of the 2005 mediation team argued that durable peace between the Garre and Murule would not be reached until the 2005 agreement was fully implemented (DailyNation, 2008-10-29).

Discussion

In many ways, the two conflicts are similar to each other, and saw similar conflict resolution processes. In both cases, the groups had a long history of conflict, mainly related to their pastoralist livelihoods. Both conflicts took place in areas that were marginalized, that bordered on regions and countries characterized by instability and violent conflict, and that had a high degree of small arms accessibility. In both cases, the conflict resolution processes involved local actors and drew on local customs; the groups involved had similar customary conflict resolution mechanisms, being subgroups of Kalenjin and Somali respectively. Mediation in both cases was led by religious actors and involved customary leaders (elders) as the main negotiators, with government representatives such as local Members of Parliament also key stakeholders in the process. Finally, both cases resulted in peace agreements leaning on customary mechanisms, with District Peace Committees tasked with overseeing and coordinating implementation. Despite these similarities, the Kerio Valley case saw an end to

¹⁷ The government issued an amnesty for the return of illegal firearms during a certain time period, which was extended upon signing of the agreement. Some weapons were collected, but skeptics noted that communities were “very adept at hiding firearms” (AllAfrica, 2005-03-21, 2005-05-02).

violence and some progress towards stable, positive peace, while in the case of Mandera, clashes again broke out a few years later. Can differences in third party engagement explain these different outcomes?

It was argued in the theory section that the potential for success of third parties in local conflict resolution processes is related to their legitimacy and ability to foster trust between the conflict parties. It is difficult to give a clear judgement from the information available to what extent this was the case in the processes studied here. However, one important difference is that while the Catholic Church became involved as a mediator in Kerio Valley upon request by the conflict groups, the religious mediation body formed in the Mandera case was largely the result of a government initiative to promote dialogue (Gordon, 2009, p. 10). This may have affected the perceived legitimacy of the mediators. Similarly, it appears that there was more pressure in the latter case to reach agreement quickly (Menkhaus, 2005, p. 29). This also may have affected trust-building and the ability of the mediators to allow the process of reaching agreement to take its time. There is also the question of the legitimacy of the elders that, in both cases, represented the conflict parties in the negotiations; however, here it is difficult to see any clear differences between the cases. In both Kerio Valley and Mandera, analysts have noted that the legitimacy and capacity of elders has been eroded, in the former case due to complicity of elders in fuelling the violence and failed attempts to resolve the conflict (NCCK & SNV, 2001, p. 20) and in the latter case due to complicity as well as political manipulation and erosion of customary institutions, both during the colonial area and during the subsequent emergency rule of the North-East Province which ended only in 1992 (Menkhaus, 2005, p. 11). Still, in both cases elders seem to have had sufficient legitimacy among their communities to be chosen by their constituents to represent them in peace talks.

The type and extent of involvement of the central government differed in some interesting ways between the two cases. In the Kerio Valley case, it appears that support from the government (particularly through local government authorities) was mobilized for what was essentially a local process; meanwhile, local and central government authorities were more active in launching the Mandera peace process. Also, as noted, there was a higher degree of pressure from the government for an agreement in this case. This recalls the argument by Svensson (2007, p. 230) that power mediators are able to pressure the disputants towards agreement and regulate their military relationship, whereas 'pure mediators' are better able to help the parties resolve their conflict and address underlying interests. In Mandera, agreement was reached, but did not prove durable; perhaps part of the explanation lies in this involvement by central government in the mediation process. At the same time, the use of customary conflict resolution mechanisms in Mandera was questioned publicly by President Kibaki, who argued that rather than blood money, murder must be punished according to the Kenyan national judicial system (AllAfrica, 2005-01-31); irrespective of the merits of such a claim, it may to some extent have undermined the local effort and the legitimacy and respect of the ensuing agreement.

It was argued in the theory section that while it may be less suited to act as a mediator in cases of local communal conflict, the government can provide security guarantees, material benefits of peace, and monitoring of agreements. In both cases, there was deployment of security forces and some attempts at disarmament, in both cases yielding limited results. The continued easy access to small arms cannot in itself account for why violence did or did not recur. However, monitoring and enforcement of the peace agreement reached appears to have been more problematic in the case of Mandera. From the outset there were limitations regarding follow-up and implementation (Menkhaus, 2005, p. 29) and, indeed, most provisions of the Umal Accord were neither respected nor implemented (Gordon, 2009, p. 10). Notably, the specified blood money was not all paid, whereas in the Marakwet-Pokot case the return of stolen cattle and paying of compensation in cases of killings reportedly functioned in line with what was agreed (ITDG, 2003). While District Peace Committees were in both cases charged with overseeing implementation, there appears to have been more engagement from local government representatives in the case of Kerio Valley, and renewed tension was quickly addressed, as illustrated by the case of a murder in 2012. In the Mandera case on the other hand, the renewed fighting was triggered by action taken by the provincial administration (regarding drilling a borehole in a disputed area) – against local warnings (HRW, 2009, p. 15).

Aside from security and monitoring, there also appear to be significant differences in terms of the provision of “benefits of peace”. Although it has been noted that there has been increasing emphasis on promoting development in North-East Kenya following the installation of the unity government in 2008 (HRW, 2009, p. 14), there appears to have been few clear peace dividends following the 2005 agreement. In Kerio Valley, on the other hand, several development programmes were launched, explicitly connected to the peacebuilding process between Marakwet and Pokot. Many of the projects required cooperation between the communities, or enabled them to interact (e.g. joint schools), thus clearly manifesting the relationship between peaceful coexistence and the fruits of these projects. The government, particularly local government representatives, played a key role in this, but Kenyan and international NGOs were also important in these efforts. Many of these projects in effect did three things; act as peace dividends, i.e. increasing the rewards of peace; address some of the underlying causes of conflict, thus decreasing the need for violence; and promote interaction and cooperation between the communities, integral in (re-)building trust. Indeed, local actors strongly highlighted the role of development programmes in the attainment of peace (AllAfrica, 2004-02-06, 2012-02-03).

Of course, these differences between the two cases in terms of third party activity may not be the only, or even the main, explanation for the different outcomes. One highly plausible alternative explanation is that the conflict between Marakwet and Pokot had reached a point where it was “ripe for resolution” (Zartman, 2001) whereas the conflict between Garre and Murule had not. In the former case, it was noted that both sides had become so well armed that the conflict was no longer bearable, signifying a mutually hurting stalemate; the fact that the impetus for the peace process appears to have come to a large extent from the conflict actors themselves supports this interpretation. In the latter case, the peace talks came about

under external pressure. Furthermore, although this conflict too had reached a high level of escalation, the cross-border dynamics and alliances may have worked against the perception of a mutually hurting stalemate in the sense that it obfuscated the real strength of the parties. This latter point also connects to another potential alternative explanation, namely the existence of spoilers, i.e. actors that feel threatened by an agreement and therefore try to undermine it through the use of violence (Stedman, 1997). It may be that the Mandera peace process did not involve all relevant actors, and that the renewed violent conflict in 2008 can be attributed to spoiler behavior. However, although both these alternative explanations are plausible, they do not rule out the importance of third parties; indeed, the theories behind them respectively point out that third parties can help the parties recognize, or even create, a ripe moment (Zartman, 2001, pp. 14-15) and that third parties should identify and devise appropriate strategies for managing spoilers (Stedman, 1997, p. 6). For instance, the lack of sufficient monitoring and enforcement in Mandera appears to explain at least partly the spoiling behaviour, e.g. lack of implementation and eventually the collapse of the agreement.

Another main possibility relates to the role of elections and changes in political leadership. It was highlighted that the Marakwet-Pokot conflict had such political dimensions, and that these changed with the defeat of the KANU government in the 2002 elections. Perhaps this is the main explanation for the achievement of peace in that case. However, even if this is the case, it seems from the analysis above that such an effect likely came about at least partly due to its effect on the third party role of the government in relation to the conflict. It appears from the information available that this change in power allowed politicians at both local and national level to begin to play more constructive roles in relation to the conflict. Meanwhile, although the recurrence of violence in Mandera happened in 2008, it was not part of the post-election violence but rather occurred later in 2008, apparently unconnected to national-level politics.

Conclusions

This paper has argued that under certain circumstances, the government and local actors can play a complementary role in the resolution of communal conflict. Drawing from theory on international mediation, it was argued that mediators in local conflict resolution processes are better placed than government representatives to build trust and foster agreement between conflict parties. Meanwhile, it was argued that the central government should play a third party role by ensuring security, monitoring agreements, and providing peace dividends. Two cases were studied, one of which achieved an end to violence and some progress towards positive peace, while in the other case, violent conflict re-erupted a few years down the line. The case studies underlined that pressure to reach agreement quickly may be detrimental, and that post-agreement monitoring is key in ensuring stability. Furthermore, to go beyond negative peace and foster positive relations, development projects – especially ones that require cooperation between the conflict groups – appear to be a fruitful avenue. Durable peace requires the (re-)establishment of cooperation and trust, as well as the perception that something is being done to address the root causes of conflict.

A number of circumstances were raised in the theoretical section that could strengthen or weaken the capacity of different third parties in communal conflict resolution. Regarding mediators, it was argued that their legitimacy and ability to foster trust between the conflict groups was key. The case studies appear to reflect this. However, the main difference between the two cases was in the role played by the government. In the case where violence returned, the government was engaged in pushing for an agreement, at the same time undermining the legitimacy of the on-going mediation process; after agreement was reached, the government appears to have done little to monitor implementation or to provide benefits of peace. The failure of monitoring may in turn at least partly be due to the fact that the region is very remote and marginalised, bordering on Somalia and Ethiopia with people moving easily across these borders. An apparently strong response in terms of deploying security forces to hotspot areas and convening peace talks may be less costly than a sustained presence covering the entire area. Conversely, in the other case, there appears to have been little pressure during the peace process, whereas after agreement was reached, local government representatives were active in both monitoring and promotion of development and cooperative projects. It should be noted that NGOs and international development agencies were highly involved in these projects, underlining that in cases where the central government lacks sufficient willingness or capacity to provide peace dividends, other actors can help fulfil this role.

The findings in this paper point toward the usefulness of further research on the role of different third parties in communal conflict resolution. This is so for practical reasons, since these peace processes often tend to see third party involvement by several different actors; and for theoretical reasons, given the interest in third party complementarity. Furthermore, as has been pointed out, the lack of systematic study of mediation in the context of local communal conflict makes this a promising arena for developing new insights into the dynamics of third party activity and conflict resolution. For instance, the District Peace Committees established across Kenya represent an interesting phenomenon as in their ideal

form, they embody both local custom, drawing upon historically developed and tested mechanisms; democratically selected membership, involving not only elders but also women, youth, disabled persons, and civic groups; and an institutionalized connection to local and national government authorities, enabling activation of different government bodies in cases necessary. In practice, of course, DPCs have often been fraught with practical and institutional difficulties, but they have been credited with significant achievements. The apparently successful role of many DPCs in managing local tensions and preventing large-scale violence during the 2013 elections may be a cause for optimism, and warrants further attention.

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