

African Family Business Conflicts; The Role of the Church in Providing Mediation as a Ministry to Family Businesses

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Abstract

Mediation has existed in Africa for millennia and is an integral part of African culture and heritage. Sadly, structured mediation through traditional mechanisms, e.g. tribal and clan leadership has not deliberately been passed on to modern generations; it is a skill that seems to be dying with the older generations. Even as the church embraces African cultural aspects such as Rites of Passage Experiences (ROPES) and programs specific to guide men/women to maturity, prepare congregants for marriage, parenting and other life stages, mediation does not regularly feature in adult education within the urban church; it seems to have been relegated to rural village. Study of available literature established that alternative dispute resolution (ADR) is preferred to litigation and rejection when settling disputes within family businesses given the close relationship of the disputants. A quantitative and qualitative survey of urban family business practitioners established that mediation is the method most preferred for resolving conflict in family businesses. The survey further revealed that the founders or leaders within these ventures are looked upon as the ones best placed to engage in conflict resolution even though they may not be the best-suited individuals for this task. The study concludes with suggestions on the urban church can do to raise peacemakers who have a passion for family business, equip them with skills for mediation and deploy them into the market place to meet the needs of family businesses that are struggling with conflict.

Key Words: Mediation, Alternative Dispute Resolution, Family Business, Peacebuilding

Introduction

Family businesses have grown in tandem with Kenya's recent economic growth from a Gross Domestic Product (GDP) of US\$791 million at independence to US\$13.148 billion in 2003 to US\$63.398 billion in 2015 (The World Bank, 2016) and given that research in the USA has established that family businesses contribute more than 64% of that advanced nation's GDP (Conway Center for Family Business, 2016), it is safe to assume that family business in Kenya has prospered immensely since independence. Yet, much as churches like Nairobi Chapel focus on matters of leadership – more than 30% of their sermons since 2006 have directly or indirectly addressed matters of national

and corporate leadership (Nairobi Chapel, n.d) while generally this church has a one month sermon series on money every year – there are few practical tools such as alternative dispute resolution mechanisms that are deliberately made available in the church as a way of ministering to the needs of ventures whose founders and stakeholders form part of the congregation.

Literature Review

Danco argued that family businesses are much more than just a business; that it is a “stew of family businesses based on love and resentment “and that the tendency for them to boil over arises from the mixture of opportunity with entitlement, jobs and benefits among other factors (Danco, 1980, p. 9).

Much as this view may apply to western family businesses, it is important to examine these ventures from an African perspective. According to Miriam Green, there is a tendency for African traditional societies and others deemed less technically advanced to be misrepresented because of the lack of reliable data especially because historians were unable to support studies with written data (Green, 2016).

Musopole argues that the African worldview supports kinship and community through extended family and relationship networks, which, in its very essence, creates bonds of belonging between individuals. This builds a sense of humanness among communities that is further emphasized by geological depth that provides historical rootedness (Musopole, 1994, p. 77). Mediation therefore offers a means by which communities can continue to exist in harmony.

Kapolyo argues that the African view of humanity is best expressed as *ubuntu* which he defines as the essence of humanness, i.e. the presence in one’s life of such

human characteristics as kindness, charity and love of one's neighbor (Kapolyo, 2005, p. 35). Kapolyo states that *ubuntu* goes further than virtue; that it emphasizes community over the individual; that its people can only be human (*abantu* i.e. people in community) when they express *ubuntu* in society (p. 41).

Kapolyo's work points out the weaknesses in certain aspects of African culture, specifically the tendency towards neglecting women and their views/contributions towards discussions that affect them and the danger of worshipping tribe, i.e. valuing communal relationships more than Christian fellowship and how this has contributed to the establishment of tribal churches that do not embrace other communities.

However, Green observes that African traditional practices are beginning to contribute to English legal practice, especially in the area of mediation where African communities that need to cooperate in order to survive are more likely to settle disputes in ways that secure cohesion rather than retaliation (Green, 2016). These arguments support the establishment of mediation as the preferable means by which disputes within African family businesses should be settled and, in addition, an alternative dispute resolution mechanism that ought to be promoted by the African church.

What influences outcomes of mediation in conflict?

Green (2016) argues that mediation is affected by (1) the nature of the conflict – levels of intensity/intractability; (2) the degree of the constraints/limitations placed by context; (3) the relationship between the parties; (4) the overt vs. the covert nature of the issues. Of these, Green argues that intensity is the most important situational characteristic and the one that must be dealt with before all others.

There are specific ingredients of many family conflicts. These include conflicts triggered by content or process. In the first case, family members' wants are incompatible or mutually exclusive e.g. the position of the overall leader/founder's favorite. In the second case, family members have different/incompatible goals, but are forced to use shared resources to achieve these objectives. The more intractable conflicts are triggered by ethics, values, principles and identity in which cases a family member feels diminished, damaged or unloved by either parents/siblings or by childhood resentment spilling over into their adult lives. Family businesses are particularly prone to conflicts generated by forced proximity particularly where members have incompatible personalities, where they have been unable to build trust, or have suffered from perceptions of unfairness. Finally, the tendency to offer members inequitable rewards based on family affiliation/birth rank/gender rather than on objective, agreed-upon performance measures has the potential to spawn conflict when it is clear that those who do not pull their own weight in the organization are rewarded the same as those who do (Gordon & Nicholson, 2008, p. 10).

Conflict in itself is not always bad; it can bring out good in mature believers (Sande & Johnson, 2011, p. 16) which is comforting to leaders in family business settings who often imagine that conflicts are the precursors of doom; that any sign of conflict points at fractures in either the family, the business or both. Reinforcing this with the statement that God requires unity (of purposes, mind and heart) rather than uniformity (mindless clones) (Sande & Johnson, 2011, p. 17) further strengthens the point that God values diversity in thoughts and opinions; that forced agreement to a course of action is

not necessarily pleasing to Him. Mediation is one of the processes that can bring the good out of conflict.

What should the foundation upon which mediation is laid?

However, even as mediation happens, it is important for it to be based on a godly foundation, which is the law as stated in scripture. Gordon Stuart argues that because the Deuteronomic laws were paradigmatic in nature, they are superior to contemporary statutory laws from which guilty parties can escape on the basis of technicalities i.e. because the punishments did not apply specifically to them or the exact crime they were purported to have committed (Stuart, Old Testament Survey; The Law, 2017). Stuart contends that while the laws in their entirety are less voluminous than modern constrictions and penal codes, their effect, when carefully applied, is far superior to man-made statutes and can be applied in any human situation. This makes them especially suitable when carrying out mediation.

Therefore, for mediation to work on this biblical foundation, all parties need to be aware about what the law stipulates, be agreed that the law applies paradigmatically rather than having provisions for every specific infraction and, most important, allow room for the Holy Spirit to influence the process of mediation towards full reconciliation.

What should the end product of biblical mediation be?

The desired end product of mediation in the family business is full reconciliation as demonstrated in Luke 15:11-24 in the parable of the prodigal son. In this parable, a wayward son demands his share of the family estate from his father who is still alive. This request (demand) would, in the context in which Jesus told this parable, have caused

an unreachable chasm within that particular family business. When he is granted his request, he moves far away, further emphasizing the rift between him and his family.

This complete collapse of the relationship between this son and his family could only be breached through mediation, i.e. a role that the father personally takes up. Even then, for it to succeed, it needed (1) for the son to come to the point of repentance, (2) for the son to turn this repentance to a specific course of action, and (3) for the father to be receptive to the son's entreaty for reconciliation.

The son's reconciliation with his father is touching; the father saw him from afar; that even though he was clad in filthy rags, was poor and emaciated, the father still recognized him as his son, had compassion on him, ran toward him (which was most unusual and undignified for a man of means such as he) even though the son came slowly and kissed him, a sign of reconciliation and affection (Barnes, 1983). This story is especially applicable to instructive parents whose children have been foolish and disobedient; that if they repent and submit themselves, then these parents should not be harsh and severe (Benson, 1854).

It is for family businesses like these, i.e. those that place a premium on cohesion and cooperation, that mediation is especially important. Because these are values that are close to the hearts of African family businesses, this recourse to dispute resolution ought to be widely available.

Gap in the literature

While there is abundant literature about the causes of conflict in family businesses, the findings which can be extrapolated for application, how these conflicts

should be resolved in a manner that addresses the conflicts and bears in mind the African cultural context is seldom specifically addressed.

Problem statement

While mediation is the Alternative Dispute Resolution of choice among family businesses and has been made mandatory for civil matters in courts, the manner in which this process is undertaken by family businesses in conflict is not clear. Further, the role of churches in providing mediation training and services to family businesses whose members form their congregations has not been clearly articulated nor taken up as an area of possible ministry.

Method

This study used the mixed methods research approach using a concurrent transformative research design. The target population comprised individuals known to be operators or stakeholders in family businesses. The sample was selected using a combination of purposive, quota and snowball sampling methods in order to arrive at a sample that was as representative as possible.

Results

The respondents' demographics

Of the 131 respondents, 46 (35.4%) were between 46 – 55 years of age, 56 (43.1%) between 36 – 45 years of age, 14 (10.8%) between 26 – 35 years of age. Of the rest, 10 (7.7%) were over the age of 55.

Respondents' religious backgrounds

Of the 131 respondents, 107 (82.5%) of the respondents were Protestants, 16 (12.3%) Roman Catholics while 6 (4.6%) indicated that they subscribed to neither of these denominations.

Respondents' gender

Of the 130 respondents, 73 (56.2%) of the respondents were male while 57 (43.8%) were female.

Response to the question: "Should religious beliefs influence decision-making in the family business?"

Eighty-one (62.3%) indicated that religious beliefs should influence decision making, 41 (31.5%) that such beliefs should not influence decision making. Four (3.1%) indicated that they don't know, while the remaining 4 (3.1%) indicated that this would depend on the nature of the business, i.e. if it was initially set up on a faith foundation, preferred morals/ethics/values to religion (with one indicating that such a foundation would be more palatable to non-believers) while one saw the business as an outreach tool.

Response to the question "Who is involved in the successful family business?"

Seventy-one (54.6%) indicated that successful family business involves only those who desire to be a part of it, 42 (32.3%) that it involves all family members, 10 (7.7%) that it involves no family members, and 3 (2.3%) that it involves only the founders.

Response to the question "Who can best deal with conflict in the family business?"

Seventy-eight (60%) identified the founder, 22 (16.9%) outside mediators/arbitrators, 16 (12.3%) the founder's spouse, 8 (6.2%) the children, and only 1 (0.8%) identified lawyers.

Response to the question “What is the main cause of conflict in family businesses?”

Fifty (38.5%) indicated roles and responsibilities, 31 (23.8%) indicated succession, 24 (18.5%) income disparities and 21 (16.2%) favoritism. The remaining 4 (3.1%) balanced between perceptions of favoritism/sibling rivalry, different perception of success, lack of clear rationale for distribution of money/roles, lack of consultation for non-involved members and unstable (sick) employees.

Response to the question “How should conflicts in family businesses be addressed?”

Forty (46.2%) favored mediation, 23 (17.7%) preferred to do nothing about the conflicts, 15 (11.5%) chose mediation, 10 (7.7%) chose counseling, 2 (1.5%) chose to eject the source(s) of conflict while 1 (0.8%) selected lawsuits. The remaining 19 (14.6%) balanced between interpersonal discussion/consensus building/negotiation, family conferences and allowing the conflicts to “sort themselves out with time.”

Response to the question “Who can best deal with conflict in the family business?”

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Discussion

The majority of the family businesses surveyed believe that religious beliefs should influence the decision-making process within the ventures. This means that they would, by and large, be open to following scriptural direction, especially in the resolution of conflicts within the business.

Most of the family businesses also see the venture as an organization that involves multiple stakeholders and not just the founders themselves. Even though the data seeks to indicate that there should be preferential treatment for those who are directly involved in the venture, very few wish to see family members completely removed from it.

Virtually all the conflicts within the businesses sampled arise from roles and responsibilities with succession and income disparities coming in second and third. This was surprising because these are issues that are better addressed through governance and administration than mediation. Nevertheless, they could be the “high intensity” issues alluded to by Green (2016) that must be addressed before other areas of conflict can be uncovered.

A large number of the family businesses hold founders and their spouses responsible for resolving conflicts within the family business. While this does not tie in with the definition of a mediator as a person uninvolved in the conflict they have been charged to resolve, it ties in with the biblical model presented in Luke 15 that presents the father (parent) as the one who bears the burden of mediation.

Conclusion

It is clear that there is a need for the church to provide training for biblical based mediation that appreciates the African culture and the family businesses that operate within that setting. While the mediators raised through such a process may not be able to

intervene in their own ventures, they can, at the very least, be deployed to mediate conflicts in other family businesses while those from outside their own ventures offer their services to them.

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