

“hd

Centre for
Humanitarian
Dialogue



Mediation

March 2010

ten years on

**Challenges and
opportunities for
peacemaking**

**Martin Griffiths &
Teresa Whitfield**

“hd | Mediation ten years on¹”

The Centre for Humanitarian Dialogue (HD Centre) is an independent mediation organisation dedicated to helping improve the global response to armed conflict. It attempts to achieve this by mediating between warring parties and providing support to the broader mediation community.

114, rue de lausanne
ch-1202 geneva
switzerland
info@hdcentre.org
t: + 41 22 908 11 30
f: +41 22 908 11 40
www.hdcentre.org

© Copyright
Henry Dunant Centre for
Humanitarian Dialogue, 2010
Reproduction of all or part of this
publication may be authorised
only with written consent and
acknowledgement of the source.

Contents

1. Introduction	3
2. Diplomacy and mediation in an ‘era of engagement’	4
3. The evolving landscape of conflict: five patterns	5
4. The changing field of mediation	7
5. Who does what, and when?	10
6. Talking to ‘terrorists’ and other rebel groups	13
7. Making it stick: from mediation to implementation	16
8. Where the HD Centre comes in	17

¹ This paper draws on unpublished work by Elizabeth Cousens, written in 2008 while she was Director of Strategy at the HD Centre as well as the introductory paper to the June 2009 Oslo Forum written by Teresa Whitfield. The authors would like to thank Andrew Mack and Tara Cooper of the Human Security Report Project at Simon Fraser University for their assistance in the paper’s preparation.

1 | Introduction

The Centre for Humanitarian Dialogue (HD Centre) celebrates its tenth anniversary at a critical time for the practice of mediation. After a period of confrontation marked by the ‘war on terror’, and the polarisation of international relations, there is renewed demand for diplomacy and negotiation. The arrival in office of President Barack Obama has seen a real change in the United States’ approach to its diplomatic engagement. The rising power, influence and diplomatic presence of China, India, Brazil and other sub-regionally pivotal states are creating multiple poles in the international system. Recognition of the benefits of dialogue and mediation, and the value of providing support to those best placed to conduct it, has never been higher.

Yet, in many respects the peacemaking enterprise faces crisis. From the Middle East to Afghanistan and Pakistan, Sudan and Somalia to the Democratic Republic of the Congo (DRC), Georgia and Sri Lanka, the prospects for durable peace and stability appear bleak. International cooperation, both within existing multilateral frameworks and outside them, is complex and difficult. Positive trends in the incidence and intensity of conflict in evidence when the HD Centre was founded in 1999 have not been consistently maintained. The recent global economic crisis has exacerbated conflict and sub-national violence and reduced the resources available to address them. Stark political, cultural and theological divisions erode trust and inhibit dialogue. Criminal and terrorist networks have fostered increasing fragmentation, complicating decisions by peacemakers about who to engage with, when and how, and what the consequences of such engagement might be.

Ten years ago, the HD Centre opened its doors as a meeting venue in Geneva, Switzerland, where discreet discussions took place among those who had a practical impact on humanitarian policy and practice. It has since evolved into a private mediation organisation engaged activities across the globe. Our aim is to help alleviate the suffering of individuals and populations caught up in both high-profile and forgotten conflicts, by acting as a mediator and by providing other mediators with the support they need to work effectively. Conscious that our own progression is but one part of a much larger picture, this paper looks at the challenges and opportunities facing mediation practitioners as we begin the second decade of the 21st century.

Diplomacy and mediation in an ‘era of engagement’

For much of the past ten years, the international climate was not favourable to diplomacy on the grand scale. It also complicated the practice of mediation, even as mediation activity has increased. The United States led serious diplomatic efforts in attempts to settle conflicts in Sudan and North Korea, and provided direct support to a variety of other processes, but a prioritising force in the most prominent of the United States’ international engagements, beginning but not ending in Iraq, exacerbated existing tendencies toward polarisation.

It is too soon to tell what the changes in tone and substance introduced by Obama in what he has termed a ‘new era of engagement’ will yield, but respect for the limits of American power, understanding of the legitimacy of interests of others, attention to conciliation with Muslims, and the hand held out in search of engagement with states such as Iran, Syria, Cuba and Myanmar represent a significant shift. They suggest a pragmatic multilateralism built upon a staunch defence of US interests. Force retains its place in US policy, as the robust path pursued in Afghanistan suggests, but a change in the balance of emphasis favours dialogue over confrontation when possible and a recognition of the benefits of a shared response to common threats to international peace and security.

There are clear limits to what this — or any — US administration can achieve on its own. The United States’ great power interests and heavy footprint will not always be welcome. While Republican voices chastise Obama as a ‘post-American president’ for his overt commitment to multilateralism,¹ other critics, including in the human rights community, view the administration’s inclinations for rapprochement with alarm. The strain of pursuing an ambitious foreign policy agenda on multiple fronts in parallel to profound domestic change, both at a time of economic crisis, is showing. Setbacks in Iran, resistance in the Middle East, the depth of the crisis in Afghanistan and Pakistan and persistent instability in the Horn of Africa all highlight the challenges that lie ahead. While some situations demand its direct engagement, an ability to work creatively with third parties, particularly those in a position to talk to actors beyond its reach, will be a critical component of the United States’ diplomatic success.

Beyond the changes in Washington, the new international environment is characterised by two related tendencies, both affecting responses to conflict. The first is the persistence of divisions at the United Nations. The atmosphere in the Security Council has been improved by the more cooperative stance assumed by the United States, but fissures among the five permanent members too often see China and Russia opposing France, the United Kingdom and the United States. In the General Assembly and Human Rights Council, the

¹ John Bolton, former US ambassador to the United Nations, described Obama’s 23 September 2009 speech to the UN General Assembly as ‘a post-American speech by our first post-American president’ (National Review Online, 23 September 2009).

North/South divide remains acute, particularly on issues that touch upon human rights and/or sovereignty. The second tendency is towards a diffusion of international decision-making. The new global reach of China, the increasingly assertive presence of Russia, Brazil and India, and the growing influence of other regional powers such as South Africa, Nigeria, Indonesia and Malaysia are all making themselves felt. Regional organisations are extending their reach and capacities, and other bodies, such as the newly empowered G-20, have emerged to counter the problems of the structures established in the aftermath of World War II.

3

The evolving landscape of conflict: five patterns

Numbers of negotiated settlements to armed conflict increased rapidly after the end of the Cold War, usually assisted by international mediation and various conflict-management tools such as peacekeeping and post-conflict peacebuilding. By the end of the 1990s, the result was a marked decline in global political violence in terms of both number and intensity of armed conflicts. The first years of the 21st century – despite critical exceptions like Darfur, Afghanistan, Lebanon, and the war in Iraq and its aftermath – saw continued reduction in armed conflict, particularly in Africa where many had lamented the intractability of civil wars.² Though the end of the Cold War itself largely drove this trend, most observers agree that a significant contribution was made by the rise and net effectiveness of international peacemaking.

2 See *Human Security Brief 2007*, Simon Fraser University, Chapter 2, 'Towards a New Peace in Africa'.

3 For 2008, 36 state-based conflicts are reported in Lotta Harbom and Peter Wallensteen, 'Armed Conflicts, 1946–2008', *Journal of Peace and Research*, vol. 46, no. 4, 2009, pp. 577–587. A further 35 non-state conflicts in 2008 are reported by the Uppsala Conflict Data Program in the *Human Security Report 2009* (forthcoming), cited by permission of the Human Security Report Project, Simon Fraser University.

4 Until 2008, and with the exception of 2005, state-based conflicts had led to around 17,000–20,000 battle-deaths each year during 2002–2007. In a similar period the non-state battle-toll dropped by 70%, only to begin rising again in 2008. (Data from the *Human Security Report 2009* (forthcoming), by permission of the Human Security Report Project, Simon Fraser University.)

Still, the world is far from pacific. Indeed, in 2008, there were 71 active armed conflicts, 36 of these involving one or more state actors (an increase from the historic low of 2003, with only 29 state-based conflicts).³ Until 2008, the rise in the number of conflicts masked a steady decrease in the intensity of political violence. During 2008, however, the escalation of conflict in Afghanistan, Pakistan, Sri Lanka and Somalia contributed to a rise in battle-deaths of almost 10,000, making it the bloodiest year since 2001.⁴ Meanwhile the prevalence of sub-national violence attributable to bandits or criminal gangs in countries emerging from conflict (such as the DRC), and in those struggling to combat organised crime (such as Mexico), presents a growing threat, resistant to traditional peacemaking.

There are five distinct trends or patterns that we can see in contemporary conflicts, as detailed below. All have implications for mediation today, and as we consider how to improve mediation in future.

First, where peace has broken out, most prominently in many African conflicts but also in other contexts such as Afghanistan, settlements are fragile and vulnerable to reversal. Early consolidation of peace in these situations will depend heavily on the efficacy of implementation, as well as on the stability of power-sharing deals in contexts of state-building. The durability of settlements

is increasingly recognised as *the* relevant standard for judging the efficacy of conflict-management interventions. Good news here is that, in those situations where a peace agreement has held for at least a year, there is evidence of greater durability over the next (critical) five-year period. Moreover, data to be published in the forthcoming *Human Security Report 2009* will show that peace processes have improved with practice. The percentage of peace agreements followed by a resumption of conflict within five years declined in the new millennium. Peace agreements are now the most stable form of conflict termination, despite continuing risks of reversal and challenges to implementation.⁵

5 Again, a conflict is not considered terminated until an agreement has held for at least a year. Under this criterion the Uppsala Conflict Data Program counted 12 conflicts as terminating in peace agreements between 2000 and 2006, of which only one restarted. (Human Security Report 2008–2009 (forthcoming), by permission of the Human Security Report Project, Simon Fraser University.

6 Crocker refers to this as ‘crises of modernization and state-building’. See Chester A. Crocker, ‘Peacemaking and Mediation: Dynamics of a Changing Field,’ *Coping with Crisis Working Paper Series* (New York: International Peace Academy, 2007).

A related point is that many contemporary conflicts are best understood as crises of the state, largely but not only in post-colonial contexts.⁶ This underlines the need for mediation to prioritise implementation arrangements (both in reaching an initial agreement and in defusing subsequent crises of implementation), as well as the value of deepening expertise in power-sharing, state-building, and transition. In some situations – such as in West Africa – the prevalence of drug-trafficking and organized crime erodes state capacity in already fragile post-conflict environments. In others the primary challenge may not be to accommodate ethnic or regional diversity, but to apportion power in largely dysfunctional (or weak) states. Experience in Kenya and Zimbabwe suggests that this will be distinct from, but not necessarily easier than, addressing conflicts contested on more familiar lines. The risks of facilitating the rotation of elites rather than a more profound transformation required for lasting peace are likely to remain high.

The second pattern is that, despite the sustained reduction in conflict seen since the peak of the early 1990s, a few regions stand out as conflict prone, notably Central/South Asia, the Middle East and the Horn and Central Africa. These areas are characterised by the increasing regional interlinking of their conflicts. This is not an entirely new phenomenon – we may recall concerns about conflict ‘spillover’ throughout the Cold War. However, there is increasing regionalisation of conflict in areas where borders are particularly permeable, states particularly weak, and where there are particularly uncontrolled flows of people, arms, commodities, resources and ideologies. A related factor in some regions is the activism of regionally assertive states (such as Iran, Eritrea and Libya). The high strategic priority of these regions, combined with the intertwined nature of their conflicts, creates mediation environments of extreme complexity.

Third, conflict related to resources and economic drivers may have a new prominence, driven by both global and local factors, including the price of oil, rising food costs, climate change, water scarcity, population growth and state policies. As relative power between resource ‘haves’ and ‘have-nots’ changes, resource-rich actors may be emboldened to assert themselves in destabilising ways; competition over scarce resources may create new flashpoints; and economic or resource shocks may create turbulence. This suggests partly an agenda for conflict prevention but also a need for expertise in managing shared and scarce resources and for linking the levers of financial, trade and economic policy to political instruments for conflict management.

7 See 'Dying to Lose: Explaining the Decline in Global Terrorism', Human Security Brief 2007 (Vancouver: Simon Fraser University, 2007), pp. 15–21.

Fourth, there is a salience of political Islam and Islamic groups across many conflict zones. This is far from a singular or monolithic phenomenon, however. Whether Islam presents as a 'language of opposition' to the state or an instrument of state power, its political expression needs to be carefully contextualised. Where radical groups are concerned, there is some evidence across Asia and the Middle East of increasing fragmentation in their political and social base as some communities reject more violent and extreme tactics.⁷ This indicates the need for especially close and fine-grained analysis of Islamist dynamics and actors, and the involvement of mediators with comparative advantages in such contexts.

Fifth, the US-led 'war on terror' encouraged a tendency to regard many groups and conflicts primarily through the lens of terrorist threat. The discourse of 'terrorism' has proved notably unhelpful as a tool to understand the motivation and other factors driving a particular conflict's dynamics. The terrorist label risks conflating diverse actors (Islamic militants, Colombian narco-guerrillas, Nepalese Maoists, Basque separatists, and so on) into a single demonised entity. Policies driven by the counter-terrorist imperative may not always contribute to possibilities of an eventual settlement. Beyond this, however, the war on terror created constraints for engaging with groups on official terrorist watch lists. Untangling the implications and legacies of this in the 'era of engagement' remains a particular challenge for mediation.

Taken together, these five patterns – fragile peace settlements and fragile states, regional centres of conflict and its increasing regionalisation, salience of resource scarcity, political Islam, and the conflation of conflict and terrorism – suggest a complex picture. This creates significant scope for third-party mediation, but also a dynamic and confusing terrain into which mediation is now deployed.

4 | The changing field of mediation

8 The School for a Culture of Peace in Barcelona documents negotiations on the basis of a definition of criteria less rigorous than those adopted by the Uppsala Conflict Data Program and followed by the Human Security Report. The 2009 yearbook analysed 'the status of 70 contexts in a situation of conflict, of which 57 (81%) have talks or formal negotiations underway' (not including confidential processes). Vicenç Fisas, *2009 Yearbook on Peace Processes* (Barcelona: Icaria Editorial, 2009), p. 13.

The last ten years have seen a dramatic growth in mediation, as well the emergence of an unprecedented diversity of mediators. This is at least partly a response to the increasing recognition that different conflicts and stages of conflict require different types of mediator and mediation; it also reflects a diffusion of the concept of mediation itself. In its classic form, mediation is a process of dialogue and negotiation in which a third party assists two or more conflicting parties, with their consent, to prevent, manage or resolve a conflict without recourse to force. The number of formally constructed mediations underway at any given moment is necessarily limited; but activities exploring or preparing for mediation, or the discreet facilitation of contacts and dialogue, are much more widespread. That mediation has become more elastic, with practitioners working with varying levels of discretion (and seriousness), contributes to the difficulty in developing data to track its incidence.⁸

9 United Nations, *A More Secure World: Our Shared Responsibility. Report of the Secretary-General's High-level Panel on Threats, Challenges and Change*, 2004.

By 2004, more conflicts had been settled by negotiation in the previous 15 years than in the last two hundred, mostly facilitated by third parties and driven by the comparative activism of the UN and regional organisations.⁹ The trend towards increasing numbers of peace agreements has continued since then, although not without persistent difficulties in their implementation.

The field of mediation itself has changed quite profoundly in several ways.

- There has been a move away from mediations exclusively led by the United Nations and towards regional organisations and states.
- A wide array of new arrangements for peacemaking and its support have emerged, most notably mini-coalitions of states known as 'friends' or 'contact groups'.¹⁰
- Particularly in the years of the new millennium, there has been a marked rise in the involvement of independent international mediators. These include private organisations, such as the HD Centre or the Community of Sant'Egidio. There are also prestigious individuals, sometimes heading their own organisations. Examples include the former president of Finland, Martti Ahtisaari of the Conflict Management Initiative, former President Jimmy Carter of the Carter Center, and former UN Secretary-General Kofi Annan with his own foundation. Such figures may also work in configurations such as the Elders or the Global Leadership Forum.¹¹

10 See Teresa Whitfield, *Friends Indeed? The United Nations, Groups of Friends, and the Resolution of Conflict* (Washington, DC: US Institute of Peace, 2007).

11 See Crisis Management Institute, 'The Private Diplomacy Survey 2008: Mapping of 14 Private Diplomacy Actors in Europe and America', November 2008.

12 Bruce Jones, Richard Gowan and Jake Sherman, 'Building on Brahimi: Peacekeeping in an age of Strategic Uncertainty', A Report by the NYU Center on International Cooperation, April 2009.

After 15 years of debate and demand, the United Nations still lacks full commitment for the peacemaking capacity it needs. Peacekeeping is unable to resolve most conflicts, and remains without the resources, staff and policies to do much more than stabilise crises. It faces an extended period of strategic uncertainty.¹² Meanwhile, although the UN remains the most prominent mediation actor, it struggles to meet the many demands upon it despite the strengthening of the Department of Political Affairs.

Notable interventions by senior figures, including former UN Secretary-General Kofi Annan in Kenya, and former President Olusegun Obasanjo of Nigeria in the Democratic Republic of Congo, reinforce the perception of mediation as a high art performed by the eminent. However, the proliferation of efforts by less prominent individuals within the UN, regional organisations, individual states, private peacemakers and NGOs brings widening recognition of mediation as an activity undertaken by professionals of differing levels and capacities in a rapidly evolving environment.

Today's track-one mediators – those who engage with conflict parties' leadership – can be broken down into four broad groups. Three of these represent official actors – the United Nations, regional organisations, and individual states – and the fourth group is the independent mediators, representing the private, non-governmental or 'unofficial' world. The rest of this section briefly assesses the relative capacities of these groups, before we turn to a closer consideration of comparative advantages (and disadvantages) in considering who does what, and when.

1. **United Nations**

UN mediators work with the advantages of the UN's legitimacy and operational breadth. Consequently, UN involvement in mediation is either especially appealing – particularly for non-state actors eager for recognition – or something to be avoided at all costs (by states sensitive about issues of sovereignty and/or precedent). The support of the UN's member states is a critical element of the organisation's efficacy as a mediator, and UN mediators are subject to pressures from individual member states on a range of issues. Moreover, the UN is currently in a difficult position. Re-engagement by the United States finds the UN at a low ebb in terms of credibility and capacity. The reasons for this span a lack of confidence in the performance of Secretary-General Ban Ki-Moon, as well as the strain on peacekeeping, open questions on peacebuilding, and the polarisation of elements of the UN membership.

2. **Regional organisations**

The global and regional politics of peacemaking is driving the shift towards regional organisations and actors in Africa, but also in Europe, Latin America and Southeast Asia. Most regional organisations still struggle to match capacity to demand, and their own engagements with those of individual states. They mediate with advantages of greater proximity to the conflict, knowledge of and sometimes leverage over the parties. This strength can also be regional organisations' greatest weakness, as they are vulnerable to pressure from member states, and to sensitivities on sovereignty. However, there remains considerable value in the multilateral cover given by regional organisations to the diplomacy of influential regional states.

3. **Individual states**

Many individual states mediate from positions of relative power and influence over the conflict parties (the United States at Dayton or in the Middle East; Nigeria, South Africa, and Malaysia in their respective regions, or the more recent efforts of Egypt and Turkey in the Middle East). New mediators – including Turkey, Qatar, Saudi Arabia, Indonesia, and Brazil – share with more traditional regional power brokers proximity to the conflict parties, but engage with differing levels of mediation capacity and resources. Some have the advantage of credible relations with both the United States and the Islamic world. The activities of several of these newer mediators can at times be difficult to distinguish from routine bilateral diplomacy. In this they differ from established facilitating states such as Norway and Switzerland which have placed peacemaking at the centre of their foreign policy on the basis of their impartiality within the conflicts with which they engage.

4. **Private mediators**

As 'weak mediators' independent peacemakers must borrow leverage from others. They have the advantage of being able to engage early and with discretion with conflict parties considered pariahs or reluctant to engage with more official mediators. This is borne out by the

HD Centre's experience in Aceh, Darfur and Nepal, for example. Neighbouring states and more distant powers may be suspicious of non-governmental initiatives, and so contact with them can be a delicate matter. Meanwhile, private mediators balance competing demands for total discretion from conflict parties with a broader desire for cooperation with other actors in the field. These include official actors and other NGOs engaged in second-track initiatives (such as Conciliation Resources, International Alert and the Search for Common Ground). The early stages of a privately led mediation can proceed with a degree of confidentiality; if such mediation is to advance, however, it will eventually require the support and cooperation of official actors to reach a lasting agreement.

Both the growth in demand for peacemaking evident in the patterns of conflict and the growth in supply suggested by this broad array of mediators are likely to drive a trend toward more 'hybrid' mediation efforts. Examples of these include the painfully negotiated type in Darfur (joint AU and UN), the more efficiently mobilised team around Kofi Annan in Kenya (AU, UN, HD Centre), as well as the more formally constituted, but practically complicated, 'joint mediation' effort seen in Madagascar (AU, SADC, UN and Organisation de la Francophonie). Often, this will be about linking the UN and regional organisations, but the constraints on official institutions (operational as well as political) also indicate the value added by independent organisations that can mobilise staff, expertise, logistics, and other resources quickly.¹³

13 An interesting recent innovation is the International Contact Group formed to support the peace process in the Southern Philippines in late 2009. This has a hybrid composition of official (Japan, Turkey and the United Kingdom) and unofficial (the Asia Foundation, Conciliation Resources, HD Centre and Muhammadiyah) actors.

14 See Lakhdar Brahimi and Salman Ahmed, 'In Pursuit of Sustainable Peace: The Seven Deadly Sins of Mediation,' in *Annual Review of Global Peace Operations 2008*, A Project of the Center on International Cooperation (Boulder and London: Lynne Reiner Publishers, 2008), pp. 9–20.

Finally, it is important to note that many mediation efforts continue to suffer from generic weaknesses,¹⁴ which may worsen as the field expands. These include: superficial understanding of a given conflict; lack of coordination among mediators; inconsistent standards and strategies that are easily manipulated by conflict parties; lack of diplomatic unity and other sources of leverage behind mediation; confused regional diplomacy; poor-quality agreements that cannot be implemented; and an overall disconnect between mediation and broader strategies for resolution of a particular conflict.

Three key issues are discussed in the next three sections: the question of comparative advantage and coordination; the difficulties of talking to those labelled as terrorists; and the continuous challenge of implementation – the true measure of success for any mediation.

Who does what, and when?

Who mediates what, and when, is difficult to quantify, being a combination of strategic choice based on the balance of forces on the ground and among the involved international actors, comparative advantage, and opportunity. Even for the United Nations, the choice of mediator will depend on the relative space permitted for its mediation, which varies widely. Most conflict theatres involve a mixture of external actors, with distinct capacities, interests and relationships to the parties. When a big crisis develops, the tendency towards ‘mediator pile-on’ can reach daunting, if not absurd, proportions. Nearly 30 envoys (including one from the ‘Regione Toscana’) attended the Goma peace conference in the eastern Democratic Republic of the Congo (DRC) in January 2008.

All mediators recognise the challenge presented by cooperation. They know it is desirable, and speak eloquently to the benefits of strong leadership and a single negotiating effort. Yet most have a sorry tale to tell of competition, ‘poaching’, or at least the damage done to a particular effort by the opportunities presented to conflict parties for ‘forum-shopping’. Effective coordination may be elusive in many situations, but more can be done to explore strategies for minimising the risks of peacemakers working at cross-purposes or being mutually uninformed. Such strategies might include:

- efforts to forge or facilitate strategic alignment of objectives among key actors in specific conflicts;
- work to develop shared or complementary support systems and tactical ‘interoperability’ among mediators;
- development of shared standards of performance, professionalism and ethics;
- the exploration of arrangements and mechanisms to encourage unity of effort beyond the obvious groups of ‘friends’ (whose effectiveness has varied considerably).

For the moment, however, there remains a messy and unstructured field of activity in which numerous factors counter tendencies towards collaboration. Among these are the need for discretion; individual relationships of trust with the conflict parties; the entrepreneurial, and at times egotistical, tendencies of many mediators; and the widely varying practices and cultures of their different governments or other organisations. Nevertheless, there are five reasonably consistent patterns that reflect general comparative advantage, particularly between official and private peacemakers.

1. **Official actors tend to dominate peacemaking in inter-state conflicts** and crises, where their power, influence, relationships, and interests make them comparatively useful, attractive or simply

unavoidable. In internal conflicts, by contrast, bilateral actors may avoid visible involvement either on principle (not getting involved in the domestic affairs of another state) or for lack of compelling interest, and multilateral actors like the UN are often kept at arm's length in order not to 'internationalise' a domestic dispute. (There are, of course, many exceptions, as evidenced by the multiple internal conflicts on the UN Security Council agenda.) Where states or organisations of states do get involved in internal peacemaking, they tend to relate more easily to governments than insurgents, and they face constraints in dealing with groups listed as terrorist.

2. **Independent mediators tend to focus on internal conflicts**, where their engagement carries little symbolic weight, they can be invited in (and, of course, thrown out) with little cost to the parties, and they consequently enjoy more space for involvement. Where independent mediators come from the humanitarian or human rights world, they often have networks among opposition groups that give them comparatively greater access to and facility with non-state parties to internal conflict. Independent mediators are also far less subject to the constraints of official actors in dealing with those labelled as terrorist or other pariah groups.
3. **Independent mediators tend to engage at earlier stages of peace processes**, before official actors mobilise or interests coalesce sufficiently to produce an international response. Whether or not they start with official engagement, however, peace processes nearly always conclude that way, not least because of the resources and instruments (such as peacekeeping) required for implementation. Independent mediators are vulnerable to being sidelined once official actors engage, but the value of readying a process for official engagement can be considerable.
4. **Independent mediators generally have more access to conflicts of lower strategic priority**, although this is not clear-cut. A case of initial low strategic priority may rise dramatically and quickly on the international agenda. New concerns about counter-terrorism are also redefining the boundaries of what counts as strategic – as are discoveries of oil, gas and other resources. Independent mediators may also find openings in high-priority cases where these encounter constraints, gaps or dysfunctions in official engagement, or through partnership or collaboration with official mediators.
5. **Between independent mediators, the respective comparative advantages are much less clear or consistent**. There are implicit niches based on a combination of their personal characteristics (personality, nationality, language, style), the nature of their access and relationships to official actors, and the range of parties with whom they are willing to work – but these distinctions are fairly fluid.

The United Nations has demonstrated the capacity and patience to stick with intractable conflicts over the long haul, to good effect in a case such as East Timor in the 1990s. The slow development of a ‘good offices’ role in Nepal in the mid-2000s was also testimony to its patience and persistence. Beyond the UN and dedicated peacemakers such as Norway and Switzerland, however, official mediation is often limited by an inability to sustain attention in the face of competing priorities. The attention that US President Clinton gave to the Middle East Peace Process in 2000/2001 – or indeed that Kofi Annan gave to Kenya in 2008 – could be sustained for only a short period. Indeed it is generally accepted that no institution can adequately handle more than a few high-intensity peace processes at once, whether it is the US government, the UN, or anyone else. This is a persistent weakness of mediation, but also suggests scope for creative ways to sustain processes through partnerships and handovers.

Indeed, despite the complexities, the current moment is one that offers significant potential for greater cooperation through divisions of labour according to comparative advantages. Greater state involvement – by the US or other bilateral mediators with pronounced interests of their own – is likely to shift the roles played by the traditional impartial mediators. More collaboration has been achieved where it has been possible to find either a consensus among the outside powers, as in Kenya, or a degree of neglect, as in the Central African Republic. It could be argued that such examples have little bearing on the multiple actors pressing for involvement in Sudan, the Middle East or Afghanistan. However, the new directions in US foreign policy, an increased disposition by regional actors to engage directly in mediation, and the growing sophistication of non-governmental actors are all reasons for cautious optimism.

6

Talking to ‘terrorists’ and other rebel groups

Peacemaking was an early casualty of the war on terror. The perception of armed groups as potential or actual terrorist organisations, and the listing of many of them as such by individual governments and multilateral organisations had several consequences for mediators. Engaging, or not, with these groups became a weighted issue, and policy on this within governments and multilateral and non-governmental organisations rapidly deteriorated into incoherence.¹⁵

¹⁵ Robert Ricigliano (ed.), ‘Choosing to engage: Armed groups and peace processes’, *Accord*, Issue 16 (Conciliation Resources, London, 2005).

¹⁶ Kristina Thorne, ‘Terrorist’ lists – A brief overview of lists and their sanctions in the US, UN, and Europe’, Working Paper, HD Centre, June 2006.

The terrorist lists impose no uniform limits on contacts with and assistance to listed groups or individuals (although there are greater restrictions for US citizens or those who fall under US jurisdiction).¹⁶ However, in some cases, the lists continue to represent a direct obstacle to engagement. The

list established by UN Security Council resolution 1267 concerning Al Qaida and the Taliban is a case in point: any credible political process will have to involve some of those named and sanctioned. Beyond their legal consequences, however, the lists have contributed to an environment in which contacts with proscribed groups have become much more complicated for official actors. Vacillations by the UN have highlighted its vulnerabilities as a mediator – most notoriously in its acquiescence to pressures from the US to isolate Hamas after its 2006 election victory. Outside the UN, the rapid expansion of the peacemaking field has been most evident among private actors and states not restricted in who they could talk to. Contacts of all sorts proliferated, if at times without due attention to the possibility of adverse consequences.

In this new era, official actors, notably the United Kingdom and the United States, are struggling to recalibrate the whole question of contacts and negotiations with proscribed armed actors. The British government, with an eye to the success it reaped from early engagement with Sinn Fein, and through it the IRA, has assumed a more forward-leaning position on this issue. But, as within the US government, a variety of positions remain evident with regard to individual cases. A clear shift in international attitudes towards the possibility of talking to the Taliban emerged during the London Conference on Afghanistan held in January 2010. However, as of mid-February 2010 individual state positions on the benefits of promoting reconciliation between the Afghan government with mid-level Taliban and/or the feasibility of higher level political negotiations remained opaque, even as the willingness of the Taliban itself to engage in such processes was questionable. Moving forward from some of the policies and rhetoric that took root during the years of the Bush administration will be a complex process, particularly with respect to groups linked to Al Qaida (Al Shabab in Somalia, in addition to the Taliban).

The costs of not talking to those labelled as terrorist organisations have nowhere been higher than in the Middle East. Some of the organisations isolated – Hezbollah and Hamas above all – are social and political movements deeply entrenched in their respective societies. Peace without them is inconceivable. The United Kingdom's decision to renew diplomatic contacts with the political wing of Hezbollah indicates belated recognition of the need for engagement by a number of influential figures within the foreign policy establishment. Individuals from a variety of states have pursued quiet contacts of their own with militant groups, as well as with Iran and Syria, in unofficial capacities, and this may help to pave the way for formal processes. Direct engagement by the United States with Hamas still seems a distant prospect, but a more pragmatic approach could at least shift the US objective from ousting Hamas to modifying its behaviour and encouraging engagement by other third parties.¹⁷

The Middle East provides examples of the critical role played by regional mediators (Turkey in facilitating talks between Israel and Syria, Egypt between Hamas and Fatah, Saudi Arabia between the Afghan government and the Taliban) and private peacemakers in bridging gaps left by the absence of

17 US/Middle East Project, 'A Last Chance for a Two-State Israel-Palestine Agreement', Released March 2009.

others. Private and non-governmental entities have particular advantages in pursuing quiet contacts with armed groups that others find politically and practically impossible, but it is still a delicate task. A desire to engage with those responsible for political violence is complicated by difficulties in identifying who to talk to, and how.

Moreover, a general determination that dialogue is a good and necessary prelude to a process towards political settlement rests on a number of assumptions that require rigorous attention in each case. As outlined by David Petrasek in 2005,¹⁸ these include :

¹⁸ David Petrasek, 'Armed Groups and Peace Processes – Pondering and Planning Engagement', Background paper, Asian Mediators' Retreat, 21 November 2005.

1. engaging armed groups is the preferred means to bring an end to armed conflict, not least because military options against insurgents rarely succeed;
2. armed groups will actually negotiate, that is they will articulate demands that lend themselves to rational, or at least reasoned, debate;
3. through engagement, armed groups can be made to moderate their behaviour and demands and, through international exposure, they can be encouraged to be more amenable to a transformation from the military to the political struggle;
4. the risks arising from engaging armed groups are outweighed by the prospects of achieving an end to the armed conflict.

Since mid-2008, the first of these assumptions has been directly challenged by several situations in which force was chosen: the short yet costly conflict between Georgia and Russia, Israel's devastating response to Hamas' provocations in Gaza, and Sri Lanka's bloody victory over the LTTE. All of these actions ignored the political processes of the past. They raise serious questions about what political arrangements – indeed what kind of peace – the future may hold, and about how, when and whether outside mediators or facilitators might helpfully re-engage.

Private and non-governmental entities have particular advantages in pursuing quiet contacts with armed groups that others find politically and practically impossible.

Whether force is a better option is a question that few mediators care to ask. With superior military force and the legitimacy of self-defence against 'terrorists', states may be confident in their abilities to force brutal insurgents to an unconditional surrender or even to defeat them. Yet, in the long term, assessing whether a military solution 'works' is more complex.

Georgia's provocation in South Ossetia and Russia's military involvement changed the status quo, but deepened animosities and introduced a new set of impediments to a peaceful resolution of the country's conflicts. In Gaza, the war inflicted immense suffering, altered none of the underlying factors that had triggered it, and left behind it an unsustainable situation in which Gaza remains a tinderbox. Sri Lanka's victory over the LTTE offers a yet starker example of the power, but also limitations, of force. The nature of the military action – with estimated casualties of more than 7,500 killed and 15,000 between January and early-May 2009, even before the final offensive of mid-May 2009 – and the Government's reluctance to begin political reconciliation, will only hinder

efforts to assure a more peaceful country. A viable agreement on power-sharing may be a distant prospect.

The second and third assumptions rest on difficult judgements about the motivations and capacities of individual groups. Most groups, of course, seek external involvement principally as a means to enhance the legitimacy of their struggle and strengthen their own hand. Some will remain implacably opposed to negotiated solutions. They may place a higher value on continuing access to natural resources, or be simply unable to contemplate a future for themselves within any formal framework. Regarding the fourth assumption, negotiations conducted from a position of weakness with groups of fluid identity and opaque internal structures – whether jihadi groups in Afghanistan and Pakistan, or rebels and insurgents in Central Africa or Southeast Asia – will always be fraught with risks. However, options remain for engagement of different kinds. It may be helpful to hold talks on humanitarian issues, or to establish channels of communication for other purposes. These may not develop into full negotiations, but there are many situations in which the potential benefits of judicious engagement will far outweigh the likely costs of doing nothing.

Those who engage with armed groups on the basis of these four assumptions have the responsibility to do so in a principled manner, and with due regard for the political and humanitarian imperative not to make things worse. This involves careful analysis of the armed group itself, with attention to its leadership, ideology, patrons and capacity, but also a clear-eyed assessment of the mediator's own capacities and comparative advantage.

7

Making it stick: from mediation to implementation

A sense of futility on the part of international peacemakers relegated to the sidelines by conflict parties' choice of force is an extreme manifestation of a perennial challenge: external mediators cannot get parties to act over time against what they perceive as their core interests. These may relate to a loss of power, prestige or access to economic resources, as well as concerns – more pressing in the era of the International Criminal Court – regarding justice and accountability. Confusion on this point may be particularly acute in the intensity of negotiations. However, a range of recent experience, including in the DRC, Kenya, Sudan and Nepal, has confirmed that reaching an agreement is a considerable but not sufficient achievement. The real work begins as implementation is tested by hesitation on the part of the signatories, deficiencies in national capacities, failings on the part of international actors, and the frequent presence of a complex array of spoilers.

A perception of a crisis in implementation in Africa has been fuelled by the proliferation of peace agreements reached but then almost immediately breached, neglected or distorted, even if not necessarily fully breaking down. Indications of frustration with this situation were evident among participants in an African Mediators Retreat held in Zanzibar in March 2009. Concerned that theirs may be a ‘band-aid’ solution that falls apart as soon as outside attention shifts elsewhere, mediators questioned the precedent set by power-sharing agreements reached after elections, the assumption that the interests of national elites responsible for implementing agreements align with the interests of the nation as a whole, and even the role and purpose of mediation. Are mediators indeed helping to resolve conflicts? Or are they saving lives in the short term, while postponing or even perpetuating the conflicts in the longer term? They agreed that Africa’s capacity to manage its crises had improved, but the evidence suggested that this did not always lead to the durable resolution of conflicts.¹⁹

¹⁹ Centre for Humanitarian Dialogue, Meeting Report, ‘African Mediators’ Retreat 2009, Zanzibar, Tanzania, 24–27 March 2009’.

Problems in implementation lead to questions about peace agreements themselves. Do they set up unrealistic expectations? What kinds of mechanisms exist to further implementation? If such mechanisms have been resisted, to what extent does this indicate implementation problems to come? A telling comparison can be made between the widely praised agreement reached under Kofi Annan’s auspices in Kenya in early 2008, which left little leverage for the mediation itself beyond the agreement’s signing, and the much more unsatisfactory agreement reached on the eastern DRC in March 2009. Former President Obasanjo was excluded from the original negotiation of this agreement, but extracted a commitment to create an International Follow-Up Committee as a condition for his signing on the UN’s behalf.

Such difficulties are by no means limited to Africa. In Nepal, the resignation of the Maoist prime minister in May 2009 plunged the country’s transition from war to peace into confusion. The immediate crisis stemmed from a failure to move forward on commitments in the 2006 peace agreement on the integration and rehabilitation of Maoist army personnel and the democratisation of the Nepal army. However, as in Kenya and elsewhere, Nepal’s process has suffered from a lack of robust implementation architecture, as well as the tendency of political leaders to let partisan political competition cloud their vision of the big picture.

The range of challenges encountered in numerous post-conflict situations highlights the predominance of vital local concerns – rooted in immediate considerations of political power and resources – over broader preoccupations. They force mediators to consider whether agreements themselves could be improved, and how mediators may work more productively with local partners (including women, still systematically excluded from many peace processes) to generate and sustain domestic pressure on elites. The failure to do this suggests the inadequacies of links between official mediators and more grassroots efforts to build constituencies, and pressure for peace at the national level.

These experiences underline that the essential task of any peace process is to foster domestic ability to lead and manage sustainable political processes after a conflict's end. This means that mediation is required long after the signing of a peace agreement. Issues requiring mediation at this stage may include: difficult questions not addressed, or not sufficiently addressed, in the initial mediation; disputes over interpretation of an agreement and questions of timing; new issues that arise after an agreement is reached; and engagement with parties excluded from the earlier process as well as with external actors.

8

Where the HD Centre comes in

The HD Centre seeks to improve the response to armed conflict through direct or indirect mediation and through its support for global strengthening of mediation capacity. This translates into several main forms of engagement. As an unofficial actor, the HD Centre is well placed to explore possibilities for dialogue with non-state groups that may help to 'ripen' a situation for mediation. This may involve identifying the essential partners for a negotiation and opening a channel to them or, where the main actors are already recognised, facilitating broader dialogue. Depending on the level of confidentiality and the number of parties involved, it can include consultations of considerable delicacy over an extended period, as well as an effort to link non-state actors 'upwards' to other actors with the credibility and leverage to move the process forward.

Dialogue does not confer legitimacy, compromise principles or strategic interests, or presume any outcome.

The point of departure for the HD Centre is that dialogue does not confer legitimacy, compromise principles or strategic interests, or presume any outcome. It simply recognises interlocutors as parties to a conflict and dialogue as a process for identifying whether it is possible to move towards agreements that might help to end the conflict. The HD Centre approaches its engagements from a position of political independence and impartiality between parties. On that basis it will engage with anyone, provided only that there are grounds for believing that engagement will lead to a substantive exchange on the issues at hand.

In addition, the HD Centre undertakes Track One mediation in specific conflicts where it can bring added value to the process, either alone or in partnership. It also assists mediation by other, mainly official, actors by giving advice, seconding staff members and providing operational support, including by ensuring that mediators have the necessary expert and analytical resources. This may involve sustained in-country operations, as the HD Centre now undertakes in the Philippines, or facilitating public dialogue processes, as in the Central African Republic. It can also involve joining the

team that supports an individual mandated to mediate, as in the process led by Kofi Annan in Kenya in 2008.

As a small organisation, the HD Centre has a capacity for rapid and flexible response, but it also has convening power, an ability to conduct mediation at the level of leadership among parties to conflict, and extensive networks of contacts, regionally and professionally. It exits a project when it has achieved its objective or if the context changes to such a degree that there is no longer an achievable objective within reach. The HD Centre worked for more than four years in Nepal developing contacts with the Maoists and facilitating communication with the Government, but pulled back when the field became crowded with other actors and an agreed UN role began to take shape.

A key strand of the HD Centre's activity is conducted through a mediation support team. In addition to providing support to its own operational activities, this seeks to contribute to the professionalisation of mediation by working with regional organisations, notably in Africa, to identify and develop the skills needed for mediating conflicts. It undertakes or collaborates in analysis of mediation processes to extract lessons learned from specific interventions. It also works to build relationships among the global network of mediators and across different institutions to share experiences and identify best practice. The HD Centre actively pursues both the broader representation of women at the peace table and gender-sensitive approaches to conflict resolution.

Such engagement reinforces the general view that the practice of mediation is becoming more skilled and effective. Yet the challenges that arise in mediation itself, as well as in the implementation of peace accords, underscore the complexity of peacemaking. Constant and critical evaluation of what peacemaking seeks to achieve, and of the strategies pursued in its name, will continue to be required.



