Teaching Package for GSUM course on

CONFLICT RESOLUTION AND MEDIATION AS A FIELD OF STUDY AND PRACTICE

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GSUM

The Global South Unit for Mediation (GSUM) is a learning, research and training platform focused on international mediation. The Unit will promote the diffusion of knowledge and expertise among scholars, diplomats, governmental officials and non-governmental actors from the Global South.

The GSUM is the result of a partnership between the Institute of International Relations of the Pontifical Catholic University of Rio de Janeiro (IRI/PUC-Rio), the BRICS Policy Center, and the Royal Embassy of Norway in Brazil.

Teaching packages are comprehensive teacher´s guides prepared by renowned specialists addressing important topics of the contemporary international mediation agenda. Each Teaching Package covers five lessons and aims to assist academics and professionals interested in teaching classes on the following topics:

• Conflict Resolution and mediation as a field of study and practice
• Actors and Processes of Mediation
• Mediation and the United Nations System
• Mediation and the Global South
• Gender and Mediation
• Elements and Reflections on Success, Failures, and Lessons Learned

The opinions expressed herein are the sole responsibility of the author and does not necessarily reflect the position of the institutions involved.

About the Author

Dr. Laurie Nathan is Director and Professor of the Centre for Mediation (CRM) at the University of Pretoria, and member of the United Nations Mediation Roster and the United Nations Roster of Security Sector Reform Experts. His research focus is on Southern Africa and South African conflicts. More specifically, Professor Nathan is interested in exploring the causes, prevention and resolution of civil wars in Africa. This entails studying the structural causes of state crises, regional security regimes and dynamics, mediation and other forms of peacemaking. In addition to that, he has extensive experience as a policy adviser to the South African government and other governments in this region.

1. Course Description

Context

International mediation has been widely practiced for many decades, particularly since the end of the Cold War. There is scarcely a major intra- or inter-state conflict in the contemporary era that has not been subject to mediation by the UN or a regional organization, and often also by states and non-governmental groups.

The stakes of peacemaking endeavours are very high in deadly conflicts: the success or failure of the mediation determines whether the country remains locked in strife or is able to embark on a path of reconciliation and reconstruction. In the case of Rwanda, for example, the negotiations mediated by Tanzania in 1992-3 broke down and were overwhelmed by the genocide. In Kenya, by contrast, the 2008 mediation led by Kofi Annan on behalf of the African Union prevented a descent into protracted violence. In Syria, mediation has failed to stem the killing of thousands of civilians and the destruction of large parts of the country.

Where mediation in civil wars is successful, the content of the peace agreement has a major bearing – for better or worse – on justice, security, power, governance and the potential for violent conflict in the post-war society. Mediation and negotiations are thus the bridge, sometimes tenuous and sometimes robust, between war termination and long-term peacebuilding and statebuilding.

Definition

Mediation can be defined as a process whereby a third party assists parties in conflict, with their consent, to reach agreements they find acceptable and are willing to implement.

Academic and policy literature

There is a rich academic literature on international mediation. This literature includessingle volumes (e.g. Stedman 1991), edited volumes (e.g. Crocker, Hampson & Aall 1999) and top journals such as the *Journal of Peace Research*, the *Journal of Conflict Resolution* and *Negotiation Journal*. The literature encompasses reviews of the scholarly debates (e.g. Kleiboer 1996; Wallensteen & Svensson 2014); comparative studies around specific themes, such as co-ordination among different mediators (Lanz & Gasser 2013); theoretical perspectives on particular problems, like the ripeness of a conflict for resolution through negotiations (e.g. Zartman 2001); case studies that explore specific mediation endeavours (e.g. Nathan 2006);and quantitative studies that seek to ascertain the relationship between designated variables, such as mediator bias, and the outcome of mediation (e.g. Svensson 2007).

In addition to the academic literature, there is a large policy literature that is intended to draw out positive and negative lessons from prior mediation experiences (e.g. United Nations 2012; Lanz & Siegfried 2012).

Course overview

Although the literature referred to above covers a wide range of topics and questions, it can be characterised as revolving around a single overarching question: what factors account for the success and failure of international mediation? This is the primary question addressed by the current Course.

The question is hard to answer because the outcome of mediation is strongly influenced by contextual and idiosyncratic factors, which inhibits generalising across diverse cases, and because the outcome depends on many variables that continuously interact with each other. The Course will explore the major variables in this regard: the history and features of the conflict;the status, style and strategies of the mediator; and the character and actions of the conflict parties and their patrons and allies.

The Course will cover the different phases of the mediation cycle. These phases encompass the following: a) mediation preparations, which include conflict analysis, appointing the mediator and determining the mediator's mandate; b) developing plans, strategies and processes for the mediation; c) getting the parties to agree to negotiations that will be facilitated by the mediator; d) conducting the negotiations and helping the parties to forge agreements; and e) assisting with the resolution of disputes that arise during the implementation of the agreements.

As described more fully below, the Course seeks to find a balance, and develop synergy, between theory, knowledge and skills. It will highlight the fundamental terms and concepts related to international mediation and conflict resolution; present an overview of the academic literature on international mediation and consider some of the key debates; analyse case studies of international mediation; and practice skills related to preparing for mediation.

2. Prior Knowledge Requirement

The Course is designed so that the students do not have to be familiar with the practice of international mediation or the academic literature on this topic. An academic background in International Relations or Peace and Conflict Studies would be beneficial but is not essential. Students who read carefully the required readings prior to the start of the Course will be sufficiently well prepared (see Section 7 below).

3. Course Aims, Knowledge, Skills and Relevance

Aims

The Course has the following aims:

- Toprovide students with an overview of the academic literature on international mediation and an understanding of the key academic debates on this topic.
- To engage students in critical analysis of high level mediation cases.
- To equip students with the skills of conflict analysis, strategizing and process design for international mediation.

Foundational knowledge and skills

The Course will cover the definition and goals of international mediation; the different phases of the mediation cycle;and the main variables that determine the success or failure of mediation. These variables include the nature, duration and intensity of the conflict; the issues in dispute; the character and goals of the parties and their relationship historically; the external political and security environment that impacts on the conflict; and the status, competence, resources and strategies of the mediator.

The Course will pay particular attention to two major debates in the literature, namely the question of whether mediators should be non-partisan and the question of whether mediators should apply leverage against intransigent parties. It will also explore a theoretical approach to the question of when a conflict is ripe for resolution through negotiations and mediation. Against this background, the Course will analyse case studies of the Organization of American States (OAS) as a mediator, the 2005-6 African Union mediation in Darfur, and the current mediation for Colombia.

The Course will present and enable students to practice the skills that are required during the preparation for mediation, namely conflict analysis and designing strategies and processes for peacemaking.

Relevance

The topic of international mediation is extremelyimportant in foreign policy and international relations. As noted above, most of the major inter- and intra-state conflicts in the modern world are subject to multiple mediation efforts by international actors, especially where the conflict has a high level of violence. Mediation is successful in some instances and a failure in others. If it fails, thousands of people might continue to be killed, injured and displaced from their homes. Where mediation succeeds, a platform for enduring peace and security can be established.

Mediated peace agreements are significant not only because they bring an end to hostilities but also because they shape the core features of the post-conflict society, including its constitutional arrangements, political system,distribution and control of power, respect for human rights, dealing with the past, security institutions and more.

This Course is relevant to all the other GSUM courses on mediation since it provides a general foundation and understanding of the key concepts and debates. The other GSUM courses provide more in-depth coverage of particular themes, such as mediation and the United Nations, and gender, religion and culture in mediation.

4. Course Breakdown: Topics and Questions

Day 1: Introduction, overview of literature and key debates

Session 1

Topics: Introduction to Course; aims and schedule of Course; key concepts and definitions regarding mediation and conflict resolution; the psycho-political dynamics of conflict; and the mediation cycle.

Key questions: What are the defining characteristics of mediation? Where does mediation fit in the spectrum of peacemaking and peacebuilding activities? What is the utility of mediation? What are the different phases of the mediation cycle?

Session 2

Topic: Overview of the academic literature on international mediation, highlighting the key variables and debates.

Key questions: What the main variables that determine the success or failure of mediation? How is mediation success defined? What is meant by mediator leverage? What is meant by mediator non-partisanship?

Session 3

Class debate: Must mediators always be non-partisan?

Day 2: Conflict ripeness: from theory to application

Session 4

Topic: William Zartman's theory on conflict ripeness for resolution through negotiations and mediation; application of theory to the Israel-Palestine conflict

Key questions: When is a conflict ripe for resolution through negotiations and mediation? What can be done to ripen a conflict when the parties are not yet ready to commence negotiations?

Session 5

Class debate: Should mediators exercise leverage in order to bring intransigent parties to the negotiating table?

Session 6

Topics: The methods and elements of conflict analysis for the purpose of mediation; the importance of intelligence for conflict analysis.

Key questions: What should a mediator seek to understand when analysing a conflict? What are the methods for analysing conflict and discerning ripeness?

Day 3: Simulation exercise: conflict analysis for mediation

Session 7

Simulation exercise: analysing a conflict for the purpose of mediation.[1]

Key question: What factors and dynamics are significant when analysing a

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[1] This is a 3-hour simulation exercise developed for the UN High Level Mediation Course.

high intensity conflict for the purpose of mediation?

Session 8

Simulation exercise contd.

Session 9

Simulation exercise contd.

Day 4: Simulation exercise: designing strategies & processes for mediation

Session 10

Simulation exercise: strategizing and process design for mediation.[2]

Key questions: What are the appropriate mediation strategies and processes in a given conflict? What can be done to ripen a conflict that is not yet ripe for resolution?

Session 11

Simulation exercise contd.

Session 12

Simulation exercise contd.

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[2] This is a 3-hour simulation exercise developed for the UN High Level Mediation Course.

Day 5: Organizational and country case studies

Session 13

Topic: Case study of the OAS as a mediator – critical assessment led by two students.[3]

Key questions: How often does the OAS mediate in conflicts in the region? Is it an effective mediator? What are its characteristics, strengths and limitations as a mediator?

Session 14

Topic: Case study of the current mediation for Colombia – critical analysis led by two students.[4]

Background questions: What are the key causes and dynamics of the conflict? Who are the conflict parties? Who are the mediators and what are their strategies and processes?

Analytical questions: Does the conflict appear to be ripe for resolution? What are the main obstacles to progress? Are the mediators doing a good job? Have they made mistakes?

Session 15

Topic: Case study of the2005-6 African Union mediation for Darfur – critical practitioner reflections by the Course Convenor.

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[3] At the start of the Course I will ask for two volunteers to make these presentations. Readings on the OAS appear in the Required Readings section. For all the student presentations, I will provide support to the presenters outside the hours of the Course.

[4] At the start of the Course I will ask for two volunteers to make these presentations. No readings on the Colombia mediation have been included in this document. The presenters must find their own material.

Background questions: What were the main causes and dynamics of the conflict? Who were the conflict parties? Who were the mediators? How was the mediation conducted?

Analytical questions: Was the Darfur conflict ripe for resolution? What were the mediation strategies? What mistakes were made by the mediator? Were lessons learnt for subsequent mediation endeavours for Darfur?

5. Extra-Course Topics and Questions

The following controversial topics, linked to the theme of the Course, will not be covered because of time constraints:

- The peace versus justice debate. Are peace and justice in tension with each other during negotiations to end a civil war? Should peace agreements avoid granting amnesty to the perpetrators of human rights abuses and crimes against humanity? Should the International Criminal Court refrain from issuing indictments against party leaders while peace negotiations are underway?

- The content of peace agreements. Should peace agreements be highly detailed, with the risk of delaying the completion of negotiations because consensus among the parties cannot be reached on every detail? Or should peace agreements tend more towards a minimalist approach, with the risk of unresolved disputes subsequently derailing the implementation of the agreement?

6. Teaching Methods and Materials

The Course will be presented in a variety of creative ways. In addition to inputs by the Convenor, there will be the following:

- Class debates in which students argue for and against a given proposition on mediation (sessions 3 and 5).

- Simulation exercises and skills training based on a fictitious case study and followed by critical reflections and learning lessons (sessions 7-9 and 10-12).

- Critical analysis of organisational and country case studies, presented by students (sessions 13 and 14).

- Critical reflections on a mediation case, presented by a mediator (session 15).

In addition to academic material, a number of short hand-outs will be distributed. The hand-outs were developed for the United Nations High Level Mediation Course. Drawn from both the academic literature and practitioner experience, they distil key lessons and mediation skills in a concise and useful manner. The hand-outs will guide the students during the simulation exercises.

7. Required Readings

Day 1: Introduction, overview of literature and key debates

Kleiboer, M. 1996, 'Understanding success and failure of international mediation', *Journal of Conflict Resolution* 40(2): 360-389

Nathan, L. 2013, 'Where does mediation fit in? Background note on definitions

and categories of peace interventions', prepared for the UN High Level Mediation Course

Wallensteen, P. and I. Svensson, 2014, 'Talking peace: international mediation in armed conflicts', *Journal of Peace Research*, published online 8 January 2014

Zartman, I. and S. Touval, 2007, 'International mediation', in C. Crocker, F. Hampson and P. Aall (eds), *Leashing the Dogs of War: Conflict Management in a Divided World*, Washington DC: US Institute for Peace, pp. 437-454

Day 2: Conflict ripeness: from theory to application

Nathan, L. 1999, 'When push comes to shove: the failure of international mediation in African civil wars', *Track Two* 8(2), Centre for Conflict Resolution

Zartman, I.W. 2001, 'The timing of peace initiatives: hurting stalemates and ripe moments', The *Global Review of Ethnopolitics* 1(1): 8-18

Day 3: Simulation exercise: conflict analysis for mediation

Nathan, L. 2013, 'Briefing note on conflict analysis and ripeness for mediation', prepared for the UN High Level Mediation Course

Day 4: Simulation exercise: designing strategies & processes for mediation

Lanz, D. and M. Siegfried, 2012, Mediation Process Matrix, swisspeace.

Nathan, L. 2013, 'Briefing note on mediation process design', prepared for the UN High Level Mediation Course

Nathan, L. 2013, 'Briefing note on developing a mediation strategy', prepared for the UN High Level Mediation Course

Day 5: Organizational and country case studies

Herz, M. 2008, 'Does the Organisation of American States matter?', *Working Paper* 2(34), Crisis States Research Centre

Isacson, A. 2012, 'Conflict resolution in the Americas: the decline of the OAS', *World Politics Review*, 22 May (http://www.worldpoliticsreview.com/articles/11979/conflict-resolution-in-the-americas-the-decline-of-the-oas)

Nathan, L. 2006, 'No ownership, no peace: The Darfur Peace Agreement', *Working Paper* 2(5), Crisis States Research Centre

8. Additional Readings

Bercovitch, J. (ed), 1996, *Resolving International Conflicts: The Theory and Practice of Mediation*, Boulder, CO: Lynne Reinner Publishers

Bercovitch, J., V. Kremenyuk and I.W. Zartman, 2009, *The Sage Handbook of Conflict Resolution*, Los Angeles: Sage Publications

Bradbury, M. and S. Healy (eds), 2010, *Whose Peace Is It Anyway? Connecting Somali and International Peacemaking*, ACCORD Series 21, Conciliation Resources

Brahimi, L. and S. Ahmed, 2008, In Pursuit of Sustainable Peace: The Seven Deadly Sins of Mediation, Center on International Cooperation, New York University

Crocker, C., F. Hampson and P. Aall, 2005, *Taming Intractable Conflicts: Mediation in the Hardest Cases*, Washington DC: US Institute for Peace

Fisher, S. (ed), 2000, *Working with Conflict: Skills and Strategies for Action*, Zed

Books

Lanz, D. and R. Gasser, 2013, 'A crowded field: competition and coordination in international peace mediation', *Mediation Arguments* 2, Centre for Mediation in Africa.

Mares, D. 2012, *Latin America and the Illusion of Peace*, Adelphi Papers 429, International Institute for Strategic Studies

Salem, P. 1993,'A critique of Western conflict resolution from a non-Western perspective', *Negotiation Journal* 9(4):361-369

Stedman, S. 1991, *Peacemaking in Civil War: International Mediation in Zimbabwe*, 1974-1980, Boulder: Lynne Rienner

Svensson, I. 2007, 'Bargaining, bias and peace brokers: how rebels commit to peace', *Journal of Peace Research* 44(2): 177-194

UN Secretary-General, 2012, *Guidance for Effective Mediation*, New York: United Nations

Wehr, P. and J.P. Lederach, 1991, 'Mediating conflict in Central America', *Journal of Peace Research* 28(1): 85-98

Weiffen, B. 2009, 'Regional organizations and conflict resolution: the case of the Organization of American States', paper prepared for the IPSA World Congress, Santiago, July, available at http://paperroom.ipsa.org/papers/paper_439.pdf.

Zartman, I.W. 1989,*Ripe for Resolution: Conflict and Intervention in Africa*, Oxford University Press

Handout

WHERE DOES MEDIATION FIT IN?
BRIEFING NOTE ON DEFINITIONS AND CATEGORIES OF UN PEACE INTERVENTIONS[5]

The aims of this document are to contribute to a common understanding of terminology and to show how mediation fits into the broader spectrum of UN peace interventions. The document defines the main categories of UN peace interventions, lists the main strategies associated with each category and makes brief comments about the place of mediation in this range of interventions.[6]

Conflict Prevention

Definition

Conflict prevention entails diplomatic efforts to prevent intra- or inter-state disputes and tensions from escalating into violent conflict and to limit their spread when they do occur.

Main strategies

Early warning and early action; fact-finding; preventive diplomacy; 'good offices' of the UN Secretary-General; mediation; confidence-building; preventive deployment of UN missions.

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[5] Initially prepared by Laurie Nathan for the UN High Level Mediation Course 2013.
[6] The document draws on UN, 1992, An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-keeping, A/47/277 – S/24111; UN, 2012, Guidance for Effective Mediation; and UN, Peace and Security webpage (www.un.org/en/peacekeeping/operations/peace.shtml).

Facilitation of dialogue

Comment

There is considerable overlap between mediation and facilitation of dialogue. The latter tends to be less formal and less directive than the former. In some circumstances, the parties may regard facilitation as less threatening than mediation. Nevertheless, facilitation of dialogue is one of the main functions of a mediator.

Good offices

Definition

In the context of the UN, 'good offices' refers to the role of the UN Secretary-General, drawing on the unique prestige, symbolism and responsibility of his/her post, in helping to prevent, manage and resolve conflicts. This role may include facilitation and mediation, often through the appointment of a special representative or envoy.

Mediation

Definition

Mediation is a process whereby a third party assists two or more parties, with their consent, to prevent, manage or resolve a conflict by helping them to develop mutually acceptable agreements.

Main activities

Pursuing shuttle diplomacy when the parties will not talk directly to each other; building the parties' confidence in negotiations; designing and convening mediation processes and preparing agendas; facilitating dialogue and

negotiations among the parties; identifying common ground and generating options for overcoming deadlocks; helping the parties to forge agreements; creating opportunities for civil society to contribute to peace talks; liaising with and providing information about the peace process to relevant actors, the public at large and communities in the country in conflict; etc.

Peacebuilding

Definition

Peacebuilding is a long-term and multi-faceted process aimed at addressing the underlying causes of conflict, creating the conditions for sustainable peace and thereby preventing the outbreak or relapse of violent conflict.

Main strategies

State-building; DDRR; security sector reform; promotion of human rights; promotion of gender equality and empowerment; promotion of political participation; financial, economic and agrarian reforms; etc.

Peacekeeping

Definition

Peacekeeping entails operations with military and civilian components, typically in order to support the implementation of a ceasefire or peace agreement but also at times to support peacemaking or peacebuilding.

Main strategies

Support for facilitation of peace processes; protection of civilians and humanitarian assistance; assistance with demobilisation, disarmament,

reintegration and rehabilitation (DDRR); support for the organization of elections; etc.

Peacemaking

Definition

Peacemaking entails efforts to manage, de-escalate and resolve violent conflict and usually aims to facilitate a negotiated agreement among the conflict parties by peaceful means.

Main strategies

'Good offices' of the UN Secretary-General; facilitation of dialogue and problem-solving; mediation and negotiations; humanitarian assistance; multi-party national dialogue.

Peace enforcement

Definition

Peace enforcement entails the use of coercive measures, subject to the authorisation of the UN Security Council, with the aim of compelling one or more of the belligerent parties to halt hostilities.

Main activities

Sanctions; arms embargo; use of force.

Tracks 1, 2 and 3

Definitions

Track 1 entails formal processes of interaction among the leaders and officials of the conflict parties; Track 1.5 refers to informal interaction among these leaders and officials; Track 2 covers interactions among non-governmental actors; and Track 3 encompasses interaction among grassroots actors.

General comments

The peace interventions listed above rarely take place in a linear fashion. Several of them are typically undertaken simultaneously. This gives rise to the challenge of complementarity and coordination of peace interventions.

The interventions are typically undertaken by a range of national and international actors, giving rise to the challenge of complementarity and coordination of peace actors.

More specifically, in accordance with the UN Charter and affirmed in numerous resolutions of the UN General Assembly and UN Security Council, the UN frequently undertakes peace interventions in cooperation with regional organizations. One of the challenges in this regard is the question of who takes the lead in peace endeavours in a given country.

Mediation is mainly associated with conflict prevention and peacemaking but it can also usefully be done in the contexts of peace enforcement and peacebuilding. It is undertaken by the UN, regional organizations, other external mediators and local peacemakers. This reinforces the challenge of complementarity and coordination of mediators.

BRIEFING NOTE ON MEDIATION PROCESS DESIGN[7]

There is no formula for designing a sound process for dialogue, negotiations and mediation. The process should be based on the mediator's analysis of the situation, the extent of ripeness for resolution, the parties' views on negotiations, the extent of progress as the process unfolds, and lessons drawn from previous peacemaking.

This Briefing Note looks at steps for bringing the parties to the negotiating table; direct versus indirect dialogue; varying the process in order to make progress; a list of additional process issues; and mediation in the broader context of peacemaking. The document should be read in conjunction with the Briefing Note on Developing a UN Mediation Strategy.

1. Steps for Bringing the Parties to the Table

Presented below are key steps in bringing the parties to the negotiating table. Although these steps are arranged sequentially, some of them might take place concurrently. The mediator does not have to include every step and might identify additional steps. It is possible that different actors play the mediator role at different stages of the process.

Steps

Mediator convenes discussion forums of proxies (e.g. academics, business leaders, religious figures who are close to the parties). Seeks to overcome mistrust & enmity, encourage understanding & empathy and promote viability

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& utility of negotiations.

Mediator meets separately with party leaders& representatives. Seeks to learn about their interests, needs and reservations or fears regarding mediation. Seeks to establish trust and obtain mandate for mediation.

Mediator engages in shuttle diplomacy, facilitating indirect dialogue between party leaders. Seeks to build support for mediated negotiations and initiate discussion on agenda, venue, process & participation.

Mediator convenes informal and/or formal meetings of party leaders or officials. Seeks to obtain agreement on negotiations agenda, venue, ground rules, process & participation.

Mediator convenes formal negotiations.

Phases

> **Confidence-building**

> **Preparing for negotiations**

> **Negotiations**

2. Direct or Indirect Dialogue?

In most protracted conflicts, particular lyintra-state conflicts, it will be necessary at some stage to convene multi-party negotiation sat which each party is represented by a delegation. This form of negotiations has a number of potential benefits:

- It can build confidence in the negotiations because the process is transparent, reducingany suspicion that leaders are 'selling out' or being manipulated by their opponents or the mediator.

- It can build a more solid and enduring consensus since agreements are reached by the parties' members and not only their leaders.

- It can lead to greater ownership of the process and agreements among party members and constituencies, making the agreements more sustainable.

Formal multi-party negotiations also have a number of potential disadvantages:

- The parties tend to grandstand at large plenary meetings. Tempers flare as they exchange insults and recriminations.

- Party leaders might be less flexible and less likely to agree with their opponents since this could be perceived by party members as weakness and betrayal.

Given the potential benefits and disadvantages of formal multi-party negotiations, a mediator might want to have a mixture of formal and informal processes (see below). Some mediators like to use shuttle diplomacy and caucusing at the early stages of the conflict resolution process, when the parties are least ready for fruitful face-to-face talks. When enough momentum and confidence has been generated, the mediator will convene multi-party negotiations.

3. Varying the Process in Order to Make Progress

Given the high level of enmity and suspicion between the parties to violent conflict, negotiations frequently experience stalemates and deadlocks. Mediators therefore use a range of different processes, sequentially or concurrently, to ease tensions, generate creativity and facilitate consensus. These processes

include the following:

- Keep the parties separate and undertake shuttle diplomacy (or caucusing) between them.

- Convene talks with only the party's leaders.

- Convene technical working groups with party officials to explore specific issues.

- Arrange for technical experts to advise the parties on relevant issues and comparative experience.

- Organise training workshops or seminars on relevant issues.

- Consult civil society groups on the conflict and the negotiations.

- Support peacemaking efforts by civil society .

A mediator seldom undertakes the above activities on his/her own. There is invariably a support team in the field, as well as back-up at Headquarters. The mediator might assign some of the activities to members of his/her team.

4. Additional Process Issues

The mediator will need to consider the following additional process issues, some of them in consultation with the parties:

- Rules on confidentiality

- Communication with the public

- The structure and sequencing of the talks

- The use of deadlines

- The use of resource people and technical experts

- Decision-making modalities

- Co-ordination within the UN system

- Co-ordination with other actors, including regional organizations

5. Mediation in the Broader Context of Peace Interventions

Mediation may or may not be the appropriate strategy at any given time in the evolution of a conflict. The UN and regional organizations might therefore undertake other peace interventions, and some of these can usefully be undertaken at the same time as mediation (c/f Briefing Note on Definitions and Categories of UN Peace Interventions). The mediator can play a useful advisory role in relation to the other interventions. Since more than one organisation might be involved in peacemaking, the challenge of coherence, complementarity and coordination is critical.

6. Further Reading

A Manual for UN Mediators: Advice from UN Representatives and Envoys, 2010, compiled by Connie Peck, Geneva: UNITAR and UN Department of Political Affairs.

Crocker, C, F Hampson and P Aall (eds), 1999, *Herding Cats: Multi-Party Mediation in a Complex World*, Washington: US Institute of Peace Press.

David Lanz and Matthias Siegfried, 2012, Mediation Process Matrix, swisspeace.

BRIEFING NOTE ON CONFLICT ANALYSIS AND RIPENESS FOR MEDIATION[8]

"It can be daunting challenge for SRSGs and other international mediators to [develop a detailed political map] when they are deploying to regions unfamiliar to them, with an insufficient complement of seasoned regional specialists on their political staff... The odds are that it will take far longer than they might wish to alleviate their ignorance... As a result, they may end up in the position of making misinformed and misguided choices early on, only to then spend much of the remainder of their tenure trying to recover from them. Arguably, this ignorance-based decision-making process is the norm rather than the exception in post-conflict environments and is the original sin of mediation" -

Lakhdar Brahimi & Salman Ahmed, 2008,In Pursuit of Sustainable Peace: The Seven Deadly Sins of Mediation

This Briefing Note provides an overview of the key questions that should be addressed when analysing a conflict for the purpose of mediation. Section 1 presents a basic set of questions; Section 2 presents an additional set of questions derived from William Zartman's theory of conflict ripeness; Section 3 provides guidance on methods for gathering information and insights; and Section 4 presents the questions for analysis identified by the UN Office in Mali in February 2013.

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[8] Initially prepared by Laurie Nathan for the UN High Level Mediation Course 2013.

1. Basic Set of Questions for the Purpose of Mediation

Conflict analysis for mediation must be systematic and comprehensive and must therefore cover a range of questions. A list of these questions appears below. They are grouped into seven categories: actors; issues in dispute; causes of the conflict; escalatory, stabilising and de-escalatory dynamics; power dynamics; peacemaking; and contextual factors. This list is illustrative and not exhaustive. The main focus of the analysis depends on the circumstances.

Actors

- Who are the primary parties (i.e. the parties directly engaged in the conflict)?

- Who are the allies and patrons of these parties?

- Who are the secondary parties (i.e. parties that are not directly engaged but nevertheless influence the conflict)?

- Who are the relevant external actors (e.g. neighbouring states; regional organisations; foreign powers; etc)?

- Who are the affected groups (e.g. ethnic or religious communities; women; children; IDPs and refugees; etc)?

- What are the current and historical relationships between the various parties?

- What are the goals, positions, interests and needs of the various parties and groups (c/f Briefing Note on Positions, Interests and Needs in Mediation)?

- Who are the parties' leaders and how strong and unified is the leadership?

Issues in dispute

- What are the main issues in dispute from the perspective of the various parties?

- What is the relationship between these issues?

Causes of the conflict

- What are the main dynamic causes of the conflict (i.e. current and relatively recent events that are driving the conflict)?

- What are the main structural causes of the conflict (i.e. root causes embedded in the institutions and structures of the society)?

- How are the domestic, regional and international causes of the conflict related?

- How do the parties view the causes of the conflict?

Escalatory, stabilising and de-escalatory dynamics

- Is the conflict escalating in intensity, scope and/or number of parties, or is it stable or de-escalating?

- What current factors, interests and needs are contributing to escalation, stability or de-escalation?

- What factors are likely to contribute to escalation, stability or de-escalation in the future?

- Which domestic and/or external actors are driving escalation?

Power dynamics

- Which actors hold formal power in the society and which actors hold informal power?

- Do these actors have a strong grip on power and how is their power constrained?

- What sources of domestic and external power could be used by the mediator?

- Which actors have the power to block negotiations and/or a settlement?

Peacemaking

- Have there been any recent or historical peacemaking efforts, and with what results?

- What are the local practices of peacemaking and reconciliation?

- Who are the actual and potential domestic peacemakers?

- Who are the actual and potential external peacemakers (e.g. UN, regional body)?

- Who are the actual and potential friends of the mediator?

- Who are the spoilers?

- What is the actual and potential common ground between the adversaries?

- What are the mediator's entry points?

Contextual factors

- Historical (e.g. what is the history of the conflict? are there antecedent conflicts?)

- Political (e.g. how is power distributed, exercised and overseen? What is the level of respect for human rights, women and the rule of law?)

- Governance institutions (e.g. what is the legitimacy and capacity of governance institutions? What is the role of the security forces?)

- Social (e.g. what are the ethnic, religious and class cleavages in the society? what is the status of women?)

- Economic (e.g. what is the level of development, poverty and inequality?)

- Environmental (e.g. is the conflict affected by natural circumstances like drought?)

- Psycho-political (e.g. what are the effects of trauma, fear, insecurity, hatred?)

In addressing the questions listed above, the mediation team must not simply provide descriptive answers but must also conduct a thorough analysis. A thorough analysis is one that achieves depth; captures the complexity of the conflict; shows the relationships between relevant actors as well as between structural and proximate causes; has some predictive value; and is useful for peacemaking. A number of conflict analysis tools are available for this purpose[9]. The following section presents the theory of conflict ripeness as a tool for analysis.

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[9] See S. Mason and S. Rychard, 2005, Conflict Analysis Tools, Swiss Agency for Development and Co-operation (www.isn.ethz.ch/isn/Digital-Library/Publications/Detail/?lng=en&id=15416); and Simon Fisher (ed), Working with Conflict: Skills and Strategies for Action, Zed Books.

2. Ripeness Conditions, Questions and Implications

Conditions

William Zartman argues that a conflict is only ripe for resolution through negotiations and mediation when three conditions are present[10]:

- There must be a mutually hurting stalemate. When the parties find themselves locked in a conflict from which they cannot escape and which they cannot win, and this deadlock is painful to all of them, they might be willing to consider an alternative strategy, a way out of the conflict through negotiations.

- The parties must see negotiations as a viable way out of the conflict. They must believe that a negotiated solution is possible and that their opponent has the same outlook. They do not have to feel certain that mediated negotiations will definitely succeed but they must be convinced that negotiations have the potential to end the conflict through the conclusion of a mutually satisfactory agreement.

- Each party must have a sufficiently strong and unified leadership that is able to represent the party, negotiate on its behalf and ensure its compliance with agreements.

These conditions for ripeness generate a set of penetrating questions that provide a basis for designing mediation strategies and processes:

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[10] I.W. Zartman, 2001, The Timing Of Peace Initiatives: Hurting Stalemates and Ripe Moments, The Global Review of Ethnopolitics, vol. 1, no. 1, pp. 8-18.

Questions

Perceptions of a hurting stalemate

- If a party rejects negotiations, does its intransigence stem from the perception that there is no hurting stalemate and that the balance of power is in its favour or likely to change in its favour in the future? Alternatively, does the party feel that it is weak and lacks the bargaining power to achieve an acceptable deal at the negotiating table?

- What forthcoming events does the party expect to have a major impact on the conflict, and with what implications for its own prospects and those of its opponent?

Way out through negotiations

- Does a recalcitrant party believe that there is a mutually hurting stalemate but that negotiations do not offer any hope of achieving a satisfactory outcome?

- Is the party convinced that its adversary will not make the necessary compromises or cannot be trusted to abide by an agreement? Or is the party resistant to negotiations because it doubts the competence or impartiality of the mediator?

- How have the parties' attitudes towards negotiations been shaped by prior peacemaking initiatives?

Strong leadership

- Is a party unwilling to engage in negotiations because it does not have internal cohesion and a strong enough leadership to maintain unified and consistent bargaining positions?

- Is the enemy of such a party averse to negotiations because it does not

have a credible bargaining opponent?

Divisions and debates within the parties

- Is the party divided between a faction that favours a negotiated settlement and one that rejects negotiations? What are the different interests and ideologies of these factions?

- Do the parties' constituencies support or oppose a negotiated solution and to what extent are the leaders motivated or constrained by their constituents' preferences?

Patrons and allies

- How do the parties' allies and patrons view the balance of power, the trajectory of the conflict and the potential of negotiations? Are any of them experiencing pain as a result of their involvement in the conflict?

External pressure on the parties

- Where the UN Security Council or other external actors have threatened or applied pressure on a party, such as through sanctions or ICC indictments, has the pressure altered the party's strategic reckoning? Has it bolstered the party's hardliners or moderates? Has it made the non-targeted parties more or less receptive to negotiations?

3. Methods[11]

Mediators commit the "sin of arrogance" when they fail to undertake a thorough analysis because they believe "I have seen this all before" and "we already know what works and what doesn't"

- Brahimi & Ahmed, In Pursuit of Sustainable Peace

UN mediation teams should have dedicated analysts and, in the context of complex and protracted conflicts, might benefit from having a monitoring and analysis unit. The main functions of the analysts would beto gather, analyse and present critical information in a manner that is beneficial to planning, strategizing and decision-making by the mediator.

In order to fulfil these functions, the analysts should have a comprehensive focus that covers the questions raised above. They should include regional and country specialists who speak local languages, and they should have expertise in both collecting and analysing information on conflict dynamics. They should have adequate facilities and funds for travelling.

According to senior UN staff, lessons can be drawn from the experience of the Joint Monitoring and Analysis Centres (JMACs) that are part of UN peacekeeping missions. JMAC weaknesses sometimes include insufficient country expertise; a failure to 'put the pieces of the mosaic together' through proper collation and synthesis of data; and a high staff turnover, emanating from short-term contracts, which inhibits the attainment of 'deep analysis'. A positive lesson from the JMACs is that they are most effective when they enjoy the support and attention of the senior mission management.

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[11] This section draws on L. Nathan, 'The Intelligence Requirement of International Mediation', Intelligence and National Security (www.tandfonline.com/doi/abs/10.1080/02684527.2013.799368?journalCode=fint20); M. Ramjoué, 2011, 'Improving UN Intelligence: Lessons from the Field', GCSP Policy Paper 19, Geneva Centre for Security Policy; and the author's interviews with members of UN and AU mediation teams in 2009-2010.

The mediation analysts should engage with a wide range of sources that collectively enhance the depth and accuracy of the mediator's knowledge of the parties' positions. These sources include the parties themselves; interlocutors who are close to the parties' leadership; the diplomatic corps; country experts in governments, the UN and other international bodies; high calibre policy institutes like the International Crisis Group; and civil society organisations, journalists and researchers in the arena of conflict.

Members of UN mediation teams report that the most valuable sources include the parties' allies, confidants of the parties' leaders and seasoned ambassadors. Useful information is rarely obtained through one-off conversations between the mediation team and these sources; it usually emerges only when a relationship of trust has been built.

> "The people of the country concerned – the educated and the illiterate, the governors and the governed, the suspected perpetrators of the violence and the victims, the men and the women, alike – understand their own country far better than the foreign mediators who have just arrived on the scene. They will have to live with the consequences of the political process long after the mediator has departed. They also can help the mediator to identify where a potential course of action could lead to a dead-end, fail to command domestic support, or worse, exacerbate political divisions in the country and potentially provoke violence. It is therefore not only a question of shrewd diplomacy, but good sense and basic respect to listen to a diverse range of views in the host country"
>
> - Brahimi & Ahmed, *In Pursuit of Sustainable Peace*

4. UNOM Conflict Analysis Questions

What follows below is a non-official version of the questions identified by the UN Office in Mali (UNOM) during strategic planning in February 2013. The questions provide a real-life example of the need for information and analysis to be tailored to each situation.

The political system. Who's who on the political scene? Who has power? Who are the spoilers? Who are supporters of peace and negotiations? What are the positions and interests of the different political groups? What shapes their decisions? What are their relations with other groups and who are their allies?

Dynamics within security forces. What is the state of morale, cohesion and discipline within the security forces? What are their capabilities and preparedness in relation to their constitutional mandates? Are they aligned politically? Is their leadership united? What role is being played by the coup leaders? How do the coup leaders view the transition to democracy?

Past peace agreements. What lessons can be learnt from the content and process of previous peace initiatives? What accounts for the failure and/or the partial success of previous peace agreements? To what extent have previous agreements been implemented?

Root causes of the crisis. What are the fundamental political, economic, social and cultural causes of the crisis?

General security situation. What is the security trajectory and how is it changing over time? What are the main trends and patterns? What is the risk of deterioration? What are the opportunities for de-escalation? What are the main threats to the security of people? What are the main threats to the security of the state?

Rebel groups. Who are the different rebel groups? What are their interests, demands and agendas? Who are their allies and what are their sources of weaponry? What is the extent of their community support? Which of them are interested, or potentially interested, in negotiations with the government?

Drug-trafficking. Who is involved in the drug trafficking? What is the impact of the drug trafficking?

Regional dynamics. How does the Mali crisis impact on neighboring states? How does the situation in neighboring states impact on the Mali crisis?

Elections. How do the political authorities view the timing of and preparations for elections? What are the political conditions required for free and fair elections and to what extent are these conditions present or absent? What is the likelihood of violence around the elections? Which groups are opposed to having elections in the current circumstances and what protest action are they likely to take?

Gender. Cross-cutting in relation to all of the above.

BRIEFING NOTE ON DEVELOPING A UN MEDIATION STRATEGY[12]

"While not predetermining the outcome, [mediation] preparedness entails the development of strategies for difference phases (such as pre-negotiations, negotiations and implementation), based on comprehensive conflict analysis and stakeholder mapping, including examination of previous mediation initiatives"

– UN Guidance for Effective Mediation, 2012

This Briefing Note presents an approach to developing an effective mediation strategy; a strategic planning framework; and strategic options based on ripeness theory. The document should be read in conjunction with the Briefing Note on Mediation Process Design.

1. Developing an Effective Mediation Strategy

Any mediation involving multiple parties and complex issues requires a strategy that is systematic and comprehensive. The strategy enables the mediator to be proactive and purposeful, anticipate and manage risk, and heighten the chances of success. In an environment characterised by uncertainty and volatility, mediators who do not have a sound strategy might lack a clear sense of direction, be reactive and inconsistent, miss opportunities for progress and generate confusion among the parties.

For the strategy to be viable and useful, the following conditions must be met:

a) The strategy must be based on a sound analysis of the causes and dynamics of the conflict; the motives, interests, needs and internal debates of the parties; and the ripeness of the conflict for resolution (c/f Briefing Note on Conflict Analysis). During the planning exercise it might be necessary to identify areas where the mediation team's knowledge is lacking and then determine how the gaps will be filled.

b) The strategy should also be informed by lessons from any previous peace initiatives and peace agreements in the country (or countries) in conflict; the mandate of the mediator; and relevant norms of the UN.

c) The mediation team should have the personnel, expertise, funds and other resources that are needed to implement the strategy.

d) The implementation of the strategy should be assessed on a regular basis and it should be updated in the light of the assessment, new developments and changing dynamics.

e) A senior official in the mediation team should be the 'keeper' of the strategy, responsible for ensuring that all members of the team stick to the strategy and for reviewing and revising the strategy periodically. This official could be the chief mediator, his/her deputy or the chief of staff of the mediation team.

f) Substantially different strategies will be required for the pre-mediation phase; the mediation phase; and the implementation phase.

g) There is no general answer to the question of how detailed a mediation strategy should be. It should be as detailed as is necessary for it to be useful and to be used. The mediator might want to have an overarching strategy and an operational plan (c/f UN Mediation Start-up Guidelines, 2011).

The strategy should not be viewed as a recipe to be followed in a mechanical and formulaic manner. It is a tool to guide action, the success of which depends on sound knowledge, political judgement and mediation expertise.

2. Strategic Planning Framework

Developing the mediation strategy should proceed systematically through the following questions:

1. What is the mandate of the mediation (c/f session 4 of the Course)?

2. What are the goals of the mediation?

3. What is the most desirable outcome of the mediation? What is the most acceptable 'second-best' outcome?

4. What are the objectives of the mediation in relation to each of the following:

   a) Political parties and movements, including rebels (c/f session 10 of the Course)

   b) Government and relevant statutory bodies, including the security forces

   c) Civil society and non-governmental bodies, including women's groups and relevant religious and traditional leaders (c/f session 10 of the Course)

   d) The UNSecurity Council and key member states (c/f session 7 of the

Course)

e) The relevant regional organisation(s) and its key member states (c/f session 8 of the Course)

f) Other external actors (c/f session 8 of the Course)

5. What are the main obstacles to achieving each of the objectives?

6. What are the main strategies and processes in relation to each objective (c/f Briefing Note on Mediation Process Design)?

7. What is a realistic timeframe for implementing these strategies and processes?

8. Are there any risks attached to any of these strategies?

9. What resources are required to implement the strategies and processes in terms of:

a) Expertise

b) Personnel

c) Equipment

d) Funds

10. What organisational structures, systems and staffing are required to implement the strategy?

11. What steps should be taken to ensure co-ordination within the UN system and co-ordination with other actors, including regional organizations?

The Strategic Framework is intended to facilitate planning in a logical sequence. It does not make sense, for example, to make decisions on organisational arrangements if there is no clarity on objectives and strategies. However, the

planning process is invariably iterative. For example, a discussion on strategy might prompt a reconsideration of the way in which the objectives are formulated.

The mandate and goals might be specified in, or can be derived from, high level UN resolutions. Whereas the mandate and goals tend to be fairly abstract and aspirational, the objectives should be concrete and specific. The precise formulation of the objectives is of great importance in laying the basis for developing strategies.

3. Strategic Options Based on Ripeness Theory

Ripeness theory does not imply that the UN and other peacemakers should do nothing until a conflict is ripe for resolution (c/f Briefing Note on Conflict Analysis). The table below presents a list of 'ripening actions', distinguishing between those that can be taken by the mediator and those that can be taken by the UN Security Council (UNSC), regional organizations and member states.

Ripening a conflict for resolution

Possible actions by the UNSC, regional organizations and states

Aims of action (linked mainly to 'mutually hurting stalemate' & 'mutually enticing opportunity')

To shift the balance of power

To increase the costs of the conflict

To provide incentives for negotiations

To build the parties' confidence in negotiations

Inducements

Offer technical support and/or security guarantees related to a ceasefire

Offer honest-broker facilitation and/or mediation

Offer financial and technical support for negotiations

Offer financial, electoral and other support for implementing a settlement

Pressure

Condemn human rights abuses

Suspend a country's membership of an international organization

Make referrals to the International Criminal Court

Impose an arms embargo and sanctions

Take peace enforcement action

Possible actions by the mediator

Aims of action (linked mainly to promoting negotiations as a viable way forward and preparing the ground for negotiations)

To build the parties' confidence and trust in the mediator

To build the parties' confidence in negotiations

To promote and support local peacemaking

Facilitate dialogue between the parties

Facilitate informal talks between party leaders or proxies

Facilitate conflict analysis or scenario planning by the parties

Awareness-raising and training

Inform parties about successful negotiations in other countries

Inform parties about the logic, utility and non-threatening dynamics of mediation

Offer negotiation skills training to the parties

Organize lessons learnt workshops on ceasefires, DDR etc.

Other activities

Encouraging unilateral and multilateral confidence-building measures by the parties

Support local peacemakers