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## **Mediating international conflicts: Challenges and opportunities**

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**BRICS Policy Center** Centro de Estudos e Pesquisas - BRICS



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## **Executive Summary**

This paper provides a study of mediation experiences from different periodic and country contexts. It investigates elements that are key to mediation effectiveness. For the expert reader, it provides insights into the complexities of political mediation through four decidedly intricate cases. For the newcomer to the field of mediation, it provides an analytic and narrative account of mediation as an instrument of peacemaking.

The study is framed by an introduction, which defines the essence of political mediation as a means of conflict regulation; a description of the variables that distinguish conflict regulation from other means of conflict resolution; and lessons learned from four qualitative case studies. From the insights into the four cases, we can deduce that mediation is a skillful adaptation to clear ambiguity and flexible arrangements.

While appreciating the research done by Western driven quantitative assessments of mediation effectiveness, which tend to omit the meaning of social relations and trust and to underestimate the fluidity of the political space, this study offers a departing point from the canon by focusing on purely qualitative research questions: How does a mediator successfully and independently maintain his/her independence? And: What are the main variables in political mediation methodology?

# Mediating international conflicts: Challenges and opportunities

José Pascal da Rocha

## 1. Introduction

### 1.1 About mediation

Achieving peace, ceasing the violence, and bringing formerly belligerent parties to talk about a common future is a difficult task. One way to get parties in armed conflicts to talk again is through the means of mediation. It is a means of ending the violence through the intervention of a mandated and legitimate third party, while at the same time making the concerted effort to resolve the underlying issues to the conflict. Typically, these mediators are ‘outside’ a conflict and seek to open communication, to broker a dialogue, generate viable options, and reach workable and durable agreements between belligerents. At this point, and because violent conflicts are usually engaging many parties on many levels at the same time, we can distinguish between two types of mediators. On the one hand, we have the official mediator, either a state or a high-ranking individual, mandated by an international organization (such as the United Nations through a Security Council Resolution) or a regional security mechanism (such as the African Union or the European Union). On the other hand, we have the unofficial third party, also called insider or neutral mediator, such as an NGO, an academic body, the Church or a private person of high social ranking and acceptance, who may seek to facilitate contacts, promote confidence, advocate buy-in, and engage in dialogue. Mediation takes place on the international level when and if (1) the conflict in question takes a regional or international dimension, (2) the UN Security Council has been seized and issued a mandate to a third party to bring an end to the conflict, or (3) two or more states are involved in providing assistance to ending the violence.

## 1.2 Rationale of the study

This study on international mediation will focus on political mediation as a means of conflict regulation, whereby a violent conflict is terminated and the mandated third party assists the parties in finding new or alternative structures and mechanisms to address their underlying grievances. The third party makes use of the mediation mandate to extract concessions from the parties, provides incentives for peace dividends, keeping spoilers at bay, coordinates a multilayered peacemaking system and contributes to the foundation of peacebuilding. Learning from 4 case studies, the study will extrapolate how mediators have engaged into a mediated process to end violent conflict, who they engaged with, what strategies they used to adapt to changing contextual parameters, and how they generated an outcome that brings about peace. It will conclude with overall lessons and recommendations.

## 1.3 Defining the terms

The essence of mediation is to engage in a lengthy, often dangerous and stony process. It is a process led by a neutral and impartial third party, whereby the parties receive assistance determining the 'How' and the 'What' of resolving their factual or perceived incompatibilities. Political mediation belongs to the realm of peacemaking, complementing traditional state actions that impact on sovereignty (such as sanctions, good offices, embargos, diplomacy, shuttle diplomacy, etc.). It is a process of conflict regulation, whereby the mandated third party assists the negotiating parties to terminate the violent conflict and supports them on addressing the root causes of the conflict. Conflict regulation is a coordinated process of state action, through the instruments of state diplomacy with the aim to prevent, contain and end military conflict. In other words, the aim of conflict regulation is to provide a set of rules and incentives that, at distinct levels and in sequenced stages, provide political incentives or demand concessions from the parties to engage in non-violent processes of social and political change. Subsumed within the broader domain of conflict regulation, it is during conflict management that containment of violence particularly takes place, typically through the interposition of peacekeeping forces. Conflict regulation differs from conflict resolution. Where conflict regulation occurs at distinct levels and in sequenced stages, conflict resolution processes occur more comprehensively. It refers both to the intention to bring about changes and to the completion of the change process. Changing conflict attitudes and underlying structural contradiction may not always be the focus of conflict regulation and thus belongs more within the domain of conflict resolution. Issues such as justice or forgiveness may be dealt with at a deeper level.

## 1.4 Defining the process

Political mediation is initiated and played out at the highest level<sup>1</sup> of multilateral state diplomacy and integrates a wider array of peacemaking mechanisms<sup>2</sup>. It is a process of (consensual<sup>3</sup>) dialogue and (mixed-motives<sup>4</sup>) negotiation in which a third party assists two or more disputant

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(1) At times referred to as 'Track 1' or 'High powered mediation'.

(2) Other peacemaking mechanisms are: Good Offices, sanctions, embargos, shuttle mediation, regular diplomatic consultations and fact-finding missions, see for example: Article 6 (3) of the African Union Peace and Security Council PSC Protocol states that the PSC has the function of: "peace-making, including the use of good offices, mediation, conciliation and enquiry".

(3) The assumption hereby is that mediation is voluntary and conducted in confidentiality with the parties in the driver's seat.

(4) This includes bargaining strategies, such as seats in Parliament and integrative solutions, such as border demarcation.

parties, with their consent and without resorting to force, to stop or cease from violent conflict<sup>5</sup>. Political mediation has been used mostly to address issues related to territorial conflicts (including resources, land, etc.)<sup>6</sup> or power-based conflicts (including ethnicity, state vs. periphery, discourse of exclusion, structural violence, etc.)<sup>7</sup>. This can happen between states and within regions, but also more recently within states<sup>8</sup>. Typically, an (international) organization with the legal authority to address issues of international peace and security will be mandated to dispatch an individual, acting as a mediator or envoy<sup>9</sup>. In some cases, mandated states or organizations can also act as mediators when engaging in multilateral diplomatic initiatives of conflict resolution.

## 1.5 Clarifying the process-context-outcome trajectory

A mediation strategy is the roadmap approach to the regulation of the conflict, including the principles of (1) process design (*process*); (2) roles, views and expectations of local and international actors (*context*), coordination architecture; and (3) an indication of post-agreement requirements (*outcome*) to enable peace (*agreement*) implementation. A mediator needs to ensure that process-context-outcome are tightly interlinked and aligned to the multilayered peacemaking system in order to reach an effective outcome. These considerations will shape *mediation styles and strategies* to the extent that the process needs to be continuously adapted to contextual (and often situational) dimensions (of power, time, culture). Some of the process consideration might entail elements such as: representation at the negotiating table, agenda, venue-setting, additional funding and capacity-building requirements, synchronization and coordination with other peacemaking efforts and actors. Context considerations are such as cultural and religious context, institutional context, geopolitical context (balance of forces), consolidation or fragmentation of (armed) groups, gender norms, incentives and peace dividends for potential spoilers, the use of insider (partial) mediators, notions of 'ripeness', the need for confidence-building measures, and other contextual considerations. Outcome considerations are: support structure for peace implementations, guarantees, workable and durable agreement, aid and development, sequencing of Security Sector Reform (SSR)<sup>10</sup> and Demobilization, Disarmament and Reintegration (DDR)<sup>11</sup> issues, monitoring of mediated agreements, conditions of success for mediation, and others.

## 1.6 The political domain

What differentiates political conflicts from other social conflicts is that severity of disputes and rigidity of issues are closely related to *the quest for or the exercise of political power*. Conflicts in the political realm emanate and manifest themselves due to the fact that political and social groups conflict in the exercise of power and therefore do not respect the rules of the democratic games (in escalating order: resorting to protest, crack-down by the state, politics of exclusion, armed rebellion, terrorism, etc.). The root causes of conflict are diverse (territorial, regional, identity-based, economic, etc.), yet the common denominator is the degree of horizontal (between social groups) and vertical (between the state and political or social actors) violence and non-regulated modes of competition between stakeholders in the new dispensation of political space.

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(10) Security Sector Reform entails the overhaul of security services, such as the Armed Forces, but also police, paramilitary forces and the integration of rebel groups and armed factions into a national army.

(11) Disarmament, Demobilization, and Reintegration (at times a second 'R' is added, hinted to issues of rehabilitation as well) speaks to the demobilization of combatants, their registration, incl of their weapons, as well as cantonment of troops, handing over of heavy weaponry and the issuance of a financial package and eventually civilian training in order for former combatants to regain a civilian identity and to be part of society.

## 1.7 Mediation styles and strategies

In order to be effective, a mediator needs to make use of the whole range of styles available to him/her, from the most pacific to the most coercive means of such spectrum<sup>12</sup>. The variables that guide the degree to which a mediator is non-coercive or coercive are *dispute severity* and *issue rigidity*, which in return prime parties' behaviors, attitudes and orientations to conflict. While mediators thrive to reach peaceful outcomes, the hindrances and obstacles to such outcomes are often formidable, either posed by the conflict parties themselves, or by a sudden change that triggers the fragility of peace talks. Exerting any form of *leverage* over parties can be a challenging undertaking. Third parties need to have sufficient resources (international support and funding) at their disposal and the necessary power (mandate) to build coalitions and alliances and to overall increase the opportunity costs of peace. The use of 'carrots and sticks' can find its limits whenever the parties are not tied to aid or other benefits or if there is not sufficient external pressure to reach and enforce a settlement. The third party may also not be easily in the position to make use of 'carrots and sticks' since it may compromise his/her credibility or legitimacy in the process<sup>13</sup>. Therefore, mediators need to constantly assess context and actors' dispositions and negotiation agendas so as to consistently adapt styles and strategies conducive to settlement.

## 1.8 Suitability of mediation as a tool for conflict regulation

The criteria to assess the suitability of mediation as a mode of engagement include *Who* to engage and *How* to engage, more specifically: (1) the expressed willingness of the parties to explore a negotiated settlement; (2) windows of opportunity for conflict resolution; (3) reasons for success or failure of ongoing or previous mediation engagements; (4) the intent and interests of current and potential spoilers; (5) the interests and influence of external players on a possible mediation process. Mediation may not be the only suitable process to halt belligerents in their armed struggle and it may have to be coordinated with other peacemaking activities. Mediation may not be appropriate where (1) parties are not genuinely committed to a resolution through dialogue or are only seeking 'to buy time'; (2) parties are seeking third party mediation to validate their grievances or are looking to exploit the mediation process for other ends; (3) conflicts are 'frozen', i.e., where the fundamental strategic factors that caused the conflict in the first place have not changed.

## 1.9 Challenges

Mediation is not a panacea of peace. There are 3 main obstacles for mediation to be conducted in an effective way leading to an implementable peace agreement: (1) Conflict context and parties have to be ripe and ready to engage into ceasing the violence. In most situations, and as we will see from the case studies, moments of ripeness are rather elusive and tautological. This is even more so when conflicts have an ethnic dimension, whereby the moment of ripeness has been reached as soon as the regular fighting over power or territory takes an identity twist as we can observe in Yemen or Syria. (2) As the world becomes more globalized, so do conflict contexts, in the sense that parties' agendas quickly change, external agencies meddle in internal affairs, and non-state armed actors proliferate and are now to be seen as viable partners at the negotiating table. Shifting balance of forces impact both context and outcome of the mediated process to such an extent that mediation needs to work together cohesively with a political strategy and military capacity

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(12) Very informative: Lewicki, Weiss and Lewin, 1992.

(13) Svenson, 2013, p. 20.



(peace enforcement). (3) Paramount to any peaceful outcome of a mediated conflict are political will and leadership. Political will makes it possible for the mediator to extract concessions from the parties and to convert these into confidence-building measures with the aim to secure important milestones in the mediated process. Leadership is key as parties often negotiate without popular support or without being able to transform spoilers into followers. Both dimensions are important to shift perceptions from war being favorable to the status quo toward peace being beneficial for transformation.

## 2. The exploration of 4 case studies

This paper aims to offer a comparison in order to extrapolate lessons learned from different contexts and to investigate the key elements of effective mediation. Firstly, the cases were selected based on the author's experience as political affairs and mediation expert. Second, and to enhance the learning, desktop research, semi-structured interviews and making use of process-tracing<sup>14</sup> allowed for better capturing the essence of the cases selected for the purpose of this paper. A third consideration for the selection of the cases lies in the dimension of culture and how it affected the contextual dimensions of the process: all cases are located in a context of intra-state violent warfare, the centrality of power held by the contested state, the proliferation of human rights abuses, the spill-over effect of the conflict on neighboring countries, a regional approach to peacemaking, the intervention by the UN based on a mandate, the activities of spoilers, the shift from ideologically driven struggles to a focus on human security, and a comprehensive peace agreement as outcome. Thus, the investigation and exploration will look at the following categories: (1) Key Lessons Learned; (2) Conflict background, including chronology of main event, causes of incompatibility and balance of forces<sup>15</sup>; (3) Pre-negotiation phase, including previous attempts to negotiate the issues and highlighting entry points for third parties; (4) Negotiation phase, including style and strategy, key issues, participation and inclusivity, special considerations; and (5) Assessment, including an appreciation of agreement, context, and outlook.

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(14) Collier, 2011, p. 823.

(15) We refer to the notion of balance of forces to illustrate the concept of relative and absolute influence over the process and the outcome of the mediation. This can be pertinent to intra- or infra-state actors but can also apply to external powers with an interest in the outcome of the mediated agreement.

## Case 1: Guatemala – The 1996 Peace Accords<sup>16</sup>



### Background

The signing of the Peace Accords took place in 1996 and marked the end of the last armed Conflict in Central America. The accords for lasting peace (after 36 years of armed conflict) between the government of Guatemala and the *Unidad Revolucionaria Nacional Guatemalteca (UNRG)* were widely celebrated, nationally and internationally. About 180.000 people had died, 40.000 people disappeared during the conflict timeline and over 400 villages were destroyed<sup>17</sup>. At least 100.000 became refugees in neighboring Mexico and approximately 1 million were internally displaced within the country. A series of factors and events helps explain the conflict: early accounts show there was already forced land expropriation in 1952; in 1954, there was meddling of external forces (CIA mercenary involvement); in 1962, there was the rise of armed rebellion and resistance against a national security state; and the total dispossession and politics of exclusion of the Maya led to a number of unaddressed grievances based on lack of constitutional guarantees, non-existent rule of law and lack of social equality. Eventually, disenfranchised communities became more and more politicized and grew until forming a national movement in 1979, receiving only limited outside support. The army’s response, on the other hand, was brutal: since 1978, all governments unleashed a vicious war of ‘scorched earth’ tactics to depopulate Mayan areas and to expose

(16) The Firm and Lasting Peace Accords can be found here: <https://peaceaccords.nd.edu/accord/accord-firm-and-lasting-peace> [accessed August 9th, 2015].

(17) <http://www.war-memorial.net/Guatemalan-Civil-War-3.205>, [accessed August 10th, 2015].

guerrillas and their operations. In 1982, the guerrilla groups and the *Communist Guatemalan Workers Party (CGT)* came together to form the Guatemalan National Revolutionary Unity (*URNG*), unified under a single command structure. Yet, the guerrillas were poorly armed and frequently lacked logistics, which made them unable to defend their followers and supporters against the brutality of the regimes. While the government seized many strategic key areas and centralized its power, rural villages were undergoing a process of militarization and the seizing of large tracts of land, i.e., the army's efforts to engineer Guatemalan societal fabric led to the exacerbation of the root causes of the conflict. Displacement and resettlement deepened an already existing land problem. Further, democratic space was non-existent due to the army's overbearing power in counter-insurgency tactics. The rule of law was consistently undermined through a process of increased centralization and absence of accountability. Returning to civilian rule, and after the *UNRG* severely weakened, successive social governments with stronger representation of indigenous people, the displaced, unions and other previously marginalized groups appeared to stem a new movement away from military oppression. Moving ahead, a regional effort rose in order to resolve issues in other neighboring countries, leading to the *Esquipulas* process. Starting in 1986, this new process led a fundamental change in Central American politics and took the first tentative steps towards a negotiated settlement in Guatemala.

### **Pre-negotiation phase**

The impact of *Esquipulas II* in 1987, while greater on El Salvador and Nicaragua than on Guatemala, did produce a framework for indirect talks between the government and the guerrillas in all Central American countries. Each country, including Guatemala, established a *National Reconciliation Commission (CNR)*, declared a general amnesty for those involved in the armed conflict, and began indirect talks between guerrillas and government. Monsignor Rodolfo Quezada Toruño - a Roman Catholic priest and Bishop of Zacapa - was appointed as chairman of the CNR and received the official title of "conciliador" (conciliator). After having a meeting with the insurgents in San José de Costa Rica in 1988, and with the support of the process of consultation that he had with different sectors of civil society in the years 1988 and 1989 (the national dialogue), Monsignor Quezada decided to initiate a round of "preliminary-negotiation" talks with the URNG. Thanks to the good offices of the government of Norway, a second meeting with the rebels took place in Oslo in March 1990. Monsignor proposed a mechanism that was a real innovation for third party intervention in peace processes. Preliminary negotiation talks were held with representatives of different sectors of civil society: leaders of the legal political parties, entrepreneurs and businessmen, religious priests and church members, trade union and popular organization leaders, scholars and professors from the academic community. The *URNG* accepted the mechanism, and on March 30, 1990, the "*Basic Accord for the Search of Peace by Political Means*" was signed. It is interesting to note that afterwards, when direct bilateral negotiations between the URNG and the Government were initiated and the Mexico Agreement was signed (in April 1991), the duties of the conciliator according with the Oslo Agreement were ratified and it was added that:

"As part of this context, it is also the duty of the conciliator, in addition to those contained in other paragraphs of this document to: a) call the meetings which have been agreed on; b) to be the keeper of documents produced as a result of the meetings and to issue certified copies of them to the parties; c) appoint his advisors, and d) provide for breaks during the meetings..."<sup>18</sup>.

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(16) The Firm and Lasting Peace Accords can be found here: <https://peaceaccords.nd.edu/accord/accord-firm-and-lasting-peace> [accessed August 9th, 2015].

(17) <http://www.war-memorial.net/Guatemalan-Civil-War-3.205>, [accessed August 10th, 2015].

(18) Acuerdo de Oslo (March 1990) and Mexico (April 1991) in: IRIPAZ: Cronologías de los Procesos de Paz: Guatemala y El Salvador, Vols. I & II, Iripaz, Guatemala, 1992, pp. 56-58: 113-116.

## Negotiation phase

*Inclusivity and participation:* In 1994 the *Assembly of Civil Society (ASC)* was formed on the basis of eleven different sectorial groups including the Mayan sectors. It was established to help gather the viewpoints of various civil society sectors and develop it into a consensus for presentation at the Peace Talks. At the ASC, the indigenous people's concerns were presented by the *Coordination of Organizations of the Mayan People of Guatemala (COPMAGUA)*. COPMAGUA drew up a set of proposals and this document served as the framework for the negotiations. Yet, the Indigenous Peoples' agenda was not welcomed by either the government or the *URNG* during the talks. In fact, both parties refused to allow any indigenous representatives to attend. And the documents prepared by the *ASC* that contained provisions on the identity and rights of Indigenous Peoples were also rejected<sup>19</sup>. The UN presented an alternative proposal that both parties agreed to, and in March 1995 the "*Agreement on the Identity and Rights of Indigenous Peoples*" was signed. The indigenous peoples, however, barely participated in the 1995 Indigenous Agreement, which was negotiated mainly between the Peace Commission of the government and key persons in the *URNG*<sup>20</sup>. In February 1996, The UN convened negotiations with the newly elected Guatemalan government head and the *URNG*. Ceasefires between the two opposing camps were declared and agreements like those on the agrarian situation, civilian power, and role of the Armed Forces were put into effect.

*Mediation style and coordination:* The Guatemalan peace process can be characterized as being essentially a peace making process with the mediation of both (in different stages) an internal mediator or "conciliator" (the Catholic church) and an external mediator – "facilitator" (the United Nations). Under the auspices of Monsignor Quezada, parties made significant headway in signing a range of successive agreements. The credibility and legitimacy of the Catholic Church allowed Monsignor Quezada to nurture insider relationships with the parties (*insider mediator*)<sup>21</sup>. Yet, the UN took over the role of guarantor of the implementation of the peace agreements. In this context, the UN was called to take on the role of a formulator, providing support and assistance, but maintaining a strict adherence to neutrality and impartiality.

## Assessment

*Agreement:* The Firm and Lasting Peace Accord from 1996, including the necessary pieces of legislation, were prepared for congressional authorization within the first year of the Peace Accords, but it took until 1998 before a final agreement could be reached in Congress. An additional thirty-eight amendments were added to the list, some of which were not directly related to the Peace Accords, increasing the total from twelve to fifty. On May 16, 1999, the constitutional reforms were put to a vote in a National Referendum, but the amendments were eventually defeated with only a nineteen percent turnout of eligible voters. The defeat was also compounded by the failure to pass the necessary tax reforms needed to finance the accords, particularly the socio-economic provisions of the peace agreement. Political parties have remained divided over the implementation of the Peace Accords and as a result, Congress has left many proposals waiting to be approved. Therefore, the momentum around the Firm and Last Peace Accord encountered a lack of continuous support for its benefits.

*Process/Context:* The achievements that moved all parties towards the final peace agreement

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(19) Zapeta, 1994.

(20) Plant (1998), 13-14.

(21) See on the role of an insider mediator: Ropers, 2012, p. 193.

for security" (for the former combatants) became a crucial point to discuss and to resolve.

must be acknowledged as innovative and groundbreaking in the sense that the context in which the process took place was marked by a shift from the ideological and the political to security and human rights<sup>22</sup>. This posed tremendous challenges to a local context that wasn't prepared to take on these challenges from bottom-up and top-down perspectives. In spite of the institutionalization of a Group of Friends and the ASC, motivating all peace actors to play out for the benefit of a peace dividend, many societal groups were either left out of the talks or didn't participate at all. However, one advantage of reaching the final peace agreement was the short succession of framework and substantive agreements, that were finally included into a comprehensive peace agreement, followed by an implementation agreement. This achievement stands out, as we will see in upcoming cases, as one of the few in which parties did explore an ideal situation of roles and responsibilities of a guarantor, whereby the guarantor took the form of a peacemaker linking its activities and initiatives to peacebuilding processes.

*Outcome:* Each peace agreement needs to be checked against the following benchmark: Did society reap the benefits of peace vs. the costs of war? Or does the cost of war outweigh the benefits of war? Violence has not been eradicated from the general political discourse. Guatemala continues to be a case of grave human rights violation, largely based on escalated levels of street violence, the government's disregards for indigenous and women's rights, a lack of accountability and high level of impunity. However, the Peace Accords did put an end to 36 years of armed conflict. It consisted of 13 agreements and 300 commitments. Albeit not always implemented (either overly ambitious or contingent upon a referendum that failed to pass in 1999), it is thought as an innovative peace process due to the sequenced and staged approach to peace. The process is criticized for having overly high aspirations, which brings about the dilemma of whether to have a less ambitious but more realistic agreement or the opposite. Yet, it did put an end to the armed conflict and enabled an International Commission against Impunity to be created in 2006.

### **Key Lessons Learned:**

Regional pressure: The continuous engagement by the 'Contadora Group', spearheaded by Mexico, Venezuela, Colombia and Panama, leading to the *Esquipulas I and II agreement*, was crucial for generating a peace momentum in the region. Born out of fear that the conflicts in El Salvador, Nicaragua, and Guatemala may spill over, the initiative drew increased international attention to Central America's conflicts and pressure on the US stance in the region. While the *Contadora* process failed to ultimately forge a credible peace formula due to a lack of regional support, the Costa Rican President Oscar Arias forged the *Esquipulas* process which led to a strategic vision and remolding of Central American politics.

Favorable context: One of the key insights from the Guatemalan peace process is that the contextual shift from military to civilian power in 1985 with the election of President Cerezo provided an important window of opportunity. He was the first to make initial explorations of rebel's willingness to embark on a negotiation process, and albeit a failed encounter, this opening would provide a maturation process that was critical for the negotiations.

Group of Friends of Mediation: Establishing a mechanism, whereby all peace actors, including the negotiating parties, are included, and the international community plays a role in providing leadership and leverage, has proven to be critical for supporting and nurturing the peace process: the institutionalization of a Group of Friends. It included the US, Mexico, the *Contadora* group with

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(22) Human rights and the rule of law are closely linked to security, and, in the perspective of a peaceful conflict resolution -and the transformation of the URNG from a military actor into a political actor- it is evident that "guarantees for security" (for the former combatants) became a crucial point to discuss and to resolve.

Venezuela and Colombia, the European Group with Norway and Spain, and the ASC in terms of representatives of civil society. The Catholic Church’s involvement proved to be a critical factor bringing legitimacy and credibility to the process.

Third-Party as a guarantor of the agreement<sup>23</sup>: If a third party stays as a guarantor of the peace agreements, it needs to have access or the mandate to deploy compliance and enforcement mechanisms when and if the parties partially implement the agreements or not at all. This also implies that the coordinating and verifying body in such a mechanism may be different than the initial set up<sup>24</sup>.

## Case 2: 1997 Tajik Peace and National Accord (Tajikistan)<sup>25</sup>



### Background

After the dissolution of the USSR in 1991, political competition and conflict over the allocation of state resources escalated. The tensions saw the breakdown of public order and a succession of weak governments. The conflict became increasingly driven by ideological discourse and nationalist ideas, and soon enough, it turned violent. In the Fall of 1991, Islamic Renaissance Party (IRP) leaders initiated the transformation of the opposition alliance into a military-political organization and formed the military movement *Najot-i Vatan* (Salvation of the Motherland). The

(23) On the issue of mediation in post-agreement contexts, see Cousins, E. “It ain’t over ’til it’s over: what role for mediation in postagreement contexts?”, Centre for Humanitarian Dialogue, Oslo Forum, 2008.

(24) Very informative: Mitchell’s Three Phase Model: Mitchell, 2003, p. 84.

(25) [https://peaceaccords.nd.edu/sites/default/files/accords/Tajik\\_Final\\_Accord\\_with\\_annexes.pdf](https://peaceaccords.nd.edu/sites/default/files/accords/Tajik_Final_Accord_with_annexes.pdf), [accessed August 16th, 2015].

distributing of weapons among supporters of the ruling regime in the Spring of 1992 strengthened the willingness for an armed struggle among Islamic militants. In the Summer of 1992, violence spread to the southwest of the country. A pro-Soviet paramilitary force called the Popular Front attacked migrants from Garm and other mountain districts. In November 1992, the old Supreme Soviet (the former bicameral legislative body of the Soviet Union) re-convened in Khujand and chose a new government that excluded the opposition. The presidency was abolished, and the new Supreme Soviet speaker Emomali Rakhmanov, who was associated with the Popular Front, was nominated Head of State. In December 1992, the Popular Front, aided by the intervention of Uzbekistan military forces, captured Dushanbe, installed the new government in the capital, and embarked on a reign of terror against the opposition. In early 1993, the opposition started an armed insurgency, in particular from across the Tajik-Afghan border. To coordinate military and political actions, the IRP formed a united front, the Movement for Islamic Revival in Tajikistan, in Taloqan, Afghanistan. Neighboring countries, including Afghanistan, Iran, Pakistan, Russia, the Central Asian republics, and particularly Uzbekistan, provided significant support to the belligerent parties. Russia and other Central Asian countries supported the pro-government non-Islamist forces and sent peacekeeping troops to guard the Tajik-Afghan border. Islamist leaders from Afghanistan, Pakistan, and Saudi Arabia helped the IRP<sup>26</sup>. About 750.000 people were uprooted from their homes, more than 70.000 people were killed and the economy was devastated.

### **Pre-negotiations**

In August 1993, realizing that a political solution was the only way out of the ever-widening Tajik conflict, Russia began a diplomatic offensive. The Russian military deployed peacekeeping forces in Tajikistan in an effort to seal off the border with Afghanistan. The circle of concerned CIS members widened and leaders of Kazakhstan, Uzbekistan and Kyrgyzstan met with Boris Yeltsin and Rahmonov as well as the representative of the President of Turkmenistan in Moscow in early August 1993 to discuss the situation in Tajikistan. Neither side could achieve victory: The opposition could not topple a government that had the military and economic backing of Russia and Uzbekistan. The government was unable to secure effective control over large areas of Tajikistan. The parties were pushed to negotiate due to the military stalemate, Russian pressure to reach a settlement, and the advance of the Taliban in Afghanistan (who were feared by Tajiks of all political persuasions). The UN played a major role in harnessing the substance of initiatives taken up by various religious leaders. This practical support to the regional efforts of peace grew out of the concern with the Taliban movement in the region. In March 1993, the UN Secretary General's Special Envoy, Ramiro Piriz-Balon, started the "non-official inter-Tajik dialogue". The UN conducted more than a year of preparatory consultations and then facilitated the talks for about 3 years between the government of Tajikistan and the United Tajik Opposition (UTO).

### **Negotiations**

*Regional effort:* Intra-Tajik peace talks took place mainly under the leadership of Russia, with the United Nations playing a mediating role. Between 1994 and early 1997, eight major rounds of official talks were held in several different cities sponsored by the United Nations and aided by Russia, Iran and Central Asian countries, while parallel Track II diplomacy<sup>27</sup> meetings known as the Inter-Tajik Dialogue were organized with the help of a US civil society initiative. Several smaller-scale meetings also occurred directly between representatives of both sides, including President Rahmonov and the United Tajik Opposition (UTO) leader Sayed Abdullo Nuri.

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(26) Akiner and Barnes 2001.

(27) Track II diplomacy, see Strimling, 2006, p. 93.

*Mediation expertise:* The UN provided a range of experts and continuous mediation support, which played out in two different ways. First, there were the regular plenary sessions, without the press or observers, and usually used as a venue to announce results or to apply public pressure onto the parties. Secondly, there were also small cluster meetings between UN mediators and delegations, whereby the most important or outstanding issues would be dealt with and compromises would be reached. In these instances, UN mediators would act as formulators, drafting the initial texts of agreement, submitted to the cluster or technical experts of the delegations and approved by the parties under slight amendments to the drafted texts. This strategy allowed for the UN to build a synchronized effort and momentum, thus avoiding heated debates and positional bargaining. In times of impasse, the UN mediators would make use of the regional observers and envoys in order to exert pressure or to ensure that concessions were made which would not hurt the delegations' position in the negotiations. This mixed method strategy allowed for observers to be involved, neutralized potential spoilers with hidden agendas, and built a sense of ownership and legitimacy.

*Mediation roadmap:* In April 1994, the first round of negotiations in Moscow dealt with an inclusive agenda (political agreement, refugees and state consolidation). In June 1994, a second round of negotiations ensued in Teheran, followed by a consultative meeting ending in a preliminary ceasefire agreement. A ceasefire was signed in October 1994, which was to take effect as soon as UN observers arrived in Tajikistan to monitor the truce. In December 1994, the UN Mission of Observers of Tajikistan (UNMOT) was established to monitor the Agreement. In May 1995, the fourth round of talks dealt with the situation of prisoners' exchange and repatriation of refugees. Thereafter, and between 1995 and January 1997, the negotiating parties (Rakhmonov and UTO leader Nuri) followed the mediation roadmap established by the *Protocol on the Fundamental Principles for establishing Peace and National Accord in Tajikistan*. The two sides first agreed to a joint communiqué in which they reaffirmed their "commitment to political dialogue as the only means of achieving national reconciliation". This agreement approved a mutual forgiveness law and a draft amnesty law that was approved by the Tajik Parliament. However, the Agreement suffered a number of serious setbacks until June 27<sup>th</sup>, 1997, when Rakhmonov, Nuri, and the UN Special Representative of the Secretary-General, Gerd Merrem, signed the "*General Agreement on the Establishment of Peace and National Accord in Tajikistan*"<sup>28</sup> in Moscow, de facto ending the war.

## Assessment

*Agreement:* The General Agreement aimed to address military, economic, political and humanitarian concerns. The Peace Accord included commitments by the parties on the return of refugees, demobilization and reintegration of UTO fighters into governmental structures, the reform of the armed forces, police and security apparatus; and modifications in the democratic processes in the country, leading to elections and the formation of a new government. The parties requested the assistance of the United Nations in the implementation of the Agreement<sup>29</sup>.

*Process/Context:* By the time official negotiations ended, ten inter-governmental and governmental representatives participated in the peace process as mediators, observers and guarantors of peace: the Special Envoys and Representatives of the UN Secretary-General, observers of the Organization on Security and Cooperation in Europe (OSCE), the Organization of Islamic Conference (OIC), the Islamic State of Afghanistan, the Islamic Republic of Iran, the Republic of Kazakhstan, the Kyrgyz Republic, the Islamic Republic of Pakistan, the Russian Federation, Turkmenistan and

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(28) <https://peaceaccords.nd.edu/accord/general-agreement-establishment-peace-and-national-accord-tajikistan> [accessed August 9th, 2015].

(29) Abdullaev & Barnes, 2001, p. 64.



the Republic of Uzbekistan<sup>30</sup>. In this regard, the peacemaking efforts and initiatives undertaken by various actors achieved the principal goal of establishing peace in Tajikistan. Moreover, this breakthrough proved to be sustainable, which is an outstanding example in comparison to many other conflict areas around the world that had signed peace agreements but subsequently slipped back into war.

*Outcome:* Tajikistan remains a distinctive case in the post-Soviet landscape and in the Central Asian region in general. The case poses several important questions for further inquiry by conflict resolution practitioners. Is the principal goal of peace processes and other peacebuilding interventions to stop violence and conclude the peace treaty as soon as possible, and at any cost? In this case, the first step – which was officially declared and successfully implemented – was the cessation of violence and military confrontation. The second step – which was not declared but was accomplished – was the promotion of political victory of one side (the Tajik Government) through consistent disregard of numerous violations of the rights of the other side (the opposition). The latter effectively led to the preservation of the existing and traditional system of power sharing. As a consequence, issues of governance and durable peace have not been successfully transformed and the rise of Islamic fundamentalism remains a constant threat for peace in the region.

### **Key Lessons Learned**

Regional concerted effort: A range of conflict resolution initiatives were shaping the foundation for intervention on different levels. Especially the regional interest of Russia and Iran and their quest for peace provided a critical contextual backdrop to support the mediation process. The continuous and coordinated peacekeeping efforts of the CIS countries provided further conducive contextual backdrop to move the parties toward a negotiated outcome.

Leadership and political will in mediation: Personal relationships between the leaders of the delegations are crucial for momentum to be built, provide trust and confidence-building measures to guide the process and to show the political will and ability to end the violent conflict and to foster peace.

Using power-brokers: While the use of insider (partial) mediators can be useful, it depends largely on the context in which they operate and on the degree of influence they can exert on stakeholders. A mediator needs to understand the network of actors and to seize the power-brokers position and situation in order to leverage on his/her political ties.

Gradual coordination of peacemaking efforts: A mediator needs to make sense of the range of observers, external geopolitical actors, regional and domestic stakeholders. Only thorough coordination will allow the mediator to be able to neutralize competing and disruptive influences by interested stakeholders. Being able to stop duplication of efforts is a key managerial skill a mediator needs to employ if he/she wants to bring movement into the negotiations.

Drafting of agreements before approving: A few aspects proved to be key to success: the provision of mediation expertise by the UN Department of Political Affairs; confidential consultations; thorough agenda-setting; sticking to the roadmap; and the preliminary drafting of agreements before submission and approval by the negotiating delegations.

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(30) Nazarov in UNTOP, 2007.

## Case 3: 1999 Lusaka Agreement<sup>31</sup> and addendum: 2013 Kampala Dialogue, Democratic Republic of Congo (DRC)<sup>32</sup>



### Background

The Democratic Republic of Congo (DRC) (previously Zaire) is a resource-rich, predominantly landlocked country in the heart of Africa and is host to about 71 million people and 200 different ethnic groups. This diverse nation is at the center of what has been coined “Africa’s First World War”<sup>33</sup>. Though there are many different factors that contributed to the constant violence in the DRC since gaining independence in 1960, corrupt leadership is one of the most direct causes. Col. Mobutu Sese Seko seized power and declared himself president in the 1965 coup. Decades of mismanagement and economic stagnation left Zaire in collapse by the 1990s. Dissatisfied with his leadership, and afraid that Mobutu’s inadequacy would compromise regional growth, regional actors Uganda, Rwanda and Burundi aided in Mobutu’s forced removal and provided for Laurent Kabila’s rise to power in 1997. This transition was not flawless, as many citizens thought he was merely a regional pawn, questioning the legitimacy of his governance. However, it was not until Kabila’s expulsion of the Rwandan military and government officials from their offices, that tension rose and violence was reignited. Not having accomplished much more than renaming Zaire to Democratic Republic of Congo, Kabila’s government was threatened by a rebel insurrection in 1998. Rwanda supported the Congolese Rally for Democracy (RCD), while Uganda backed the Congolese Liberation Movement (MLC). Burundi joined them in the effort to oust Kabila. On the other side, troops from Angola, Chad, Namibia, Sudan, and Zimbabwe and the Mai-Mai and Hutu-aligned forces intervened to support Kabila’s regime. Thus the Second Congolese War began<sup>34</sup>.

(31) The 1999 Lusaka Agreement for the DRC is available at: <http://www.ucd.ie/ibis/filestore/LUSAKA%20AGREEMENT%20CEASEFIRE%20AGREEMENT%20PREAMBLE.pdf> [accessed August 10th, 2015].

(32) [http://www.sadc.int/files/8813/8718/4199/COMMUQUE\\_ENGLISH0001.pdf](http://www.sadc.int/files/8813/8718/4199/COMMUQUE_ENGLISH0001.pdf), [accessed August 17th, 2015].

(33) Solomon and Swart, 2004.

(34) The First Congo War began in November 1996 and ended with the toppling of President Mobutu Sese Seko in May 1997. In this war, Angola, Rwanda and Uganda formed a coalition against the DRC forces.

## Pre-negotiations

The Organization for African Unity (OAU), the Southern African Development Committee (SADC), and the United Nations (UN), were the primary intervening forces of a formal peace process. The OAU was committed to promote unity and solidarity between African states, to foster international cooperation, to defend sovereignty, and to preserve their territorial integrity and international borders<sup>35</sup> hence the OAU could not viably remain outside of the conflict. Nevertheless, due to inadequate resources, the OAU could not independently provide support for conflict settlement and delegated initiatives to SADC. The OAU acted primarily as a coordinator and provided support through and after the Lusaka Agreement process. An emergency summit in Pretoria in August 1998 of SADC leaders called for an immediate ceasefire and on September 13<sup>th</sup>, 1998, they mandated Zambian President Frederick Chiluba to head the African peace initiative for the DRC. January 1999 marked the beginning of cooperation as a summit was held at which the presidents of Rwanda, Uganda, Namibia, Zimbabwe and Angola agreed to a ceasefire. The absence of DRC President Laurent Kabila and the exclusion of the primary rebel parties left the negotiations, inadequate<sup>36</sup>. Another influential step on the road to a settlement was the Sirte Agreement mediated by Colonel Muammar Gaddafi. Signed by the DRC and Uganda in April, it called for a ceasefire, peacekeeping troops and a national dialogue. Although not totally effective, this accord was considered a “breakthrough” and later recognized by President Chiluba when drafting the Lusaka Agreement<sup>37</sup>.

## Negotiations

The Lusaka Agreement appears to follow a “classic conflict resolution strategy” encompassing a ceasefire, peacekeeping reinforcement and plans for additional settlements<sup>38</sup>. However, fostering peace in this highly volatile region may require more than a ceasefire that relies on the belligerents to follow through. The first thing to consider is the goal of the mandate. Was Chiluba supposed to create a panacea or merely stop the violence at any cost? The Lusaka Agreement outlined ways to implement a ceasefire, ending violence, and set the stage for national dialogues and reconciliation, opening a mandate to rebuild the government. However, it failed to resolve the conflict. After the Agreement was signed, Chiluba’s involvement ended and responsibility was placed back onto the OAU, SADC and UN to carry out the listed initiatives in the agreement. An additional actor, the former president of Botswana, Sir Ketumile Masire, was appointed to facilitate the inter-Congolese dialogues (ICD) outlined in Chapter 5, Annex “A”. Kabila was not keen on Masire as a facilitator and was thus considered one of the biggest spoilers for any post-agreement progress. To make matters more complicated, Masire had been out of the peace process up to this point, creating a greater rift between what was going on and the push for results. Chiluba’s support to the peace process should have continued in order to maintain consistency and legitimacy when holding the warring parties accountable to the Agreement. Although it would have been unconventional for a mediator, Chiluba could have extended his mandate within the Lusaka Agreement in respect to facilitating the dialogues.

## Assessment

*Agreement:* The Lusaka Ceasefire Agreement outlined provisions for a ceasefire in Article 1, addressed regional and domestic security concerns in Article 2, and summarized the principles with respect to disarmament, removal of foreign troops and UN peacekeeping aid in Article 3.

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(35) Smis and Oyatembwe 2002.

(36) Solomon and Swart, 2004.

(37) Smis and Oyatembwe, *ibid.*

(38) Smis and Oyatembwe, 2002.

Additionally, the 13 Chapters of Annex “A” reinforced the planned implementation through the establishment of a Joint Military Commission and a detailed outline for National Dialogue and Reconciliation. Annex B set an explicit timeline and Annex C defined the terms used throughout the document (Lusaka Agreement 1999). The production of this Agreement was a crucial step in the peacemaking process as it was the first time “all the parties had met and agreed on establishing processes that would lead to the peaceful resolution of their differences and possible political reconstruction of the Great Lakes region”<sup>39</sup>. Unfortunately, the claims made in the Agreement were almost immediately violated and within a month the ceasefire collapsed.

*Process/Context:* The failed attempts at peace agreements prior to the Lusaka Agreement did provide valuable lessons for the Agreement’s completion. For example, the rebel parties and Kabila’s exclusion in January did not yield a sustaining agreement nor did Gadhafi’s Sirte Agreement, which targeted only two of the actors. Without fully analyzing both attempts, the Lusaka Agreement took into consideration the rebel parties and Kabila, in addition to all the other countries involved. This inclusive scope approach theoretically should have aided the process. So what else went wrong with this period? Perhaps it was the UN’s weak response and timid intervention - it could have exerted more power. Additional arguments could be made for the timing of intervention from SADC. Theory suggests “the most propitious time to initiate mediation is roughly halfway through the life cycle of a conflict, and certainly after the parties’ own efforts have failed”<sup>40</sup>. At this stage the possibility of settlement is the highest, this is considered the ripe moment. While Kaliba immediately sought help, was he seeking a peaceful resolution or did he want more military support to attain his goal?

*Outcome:* The Lusaka Agreement underscored the existence of an internal and external dimension in the conflict but neither fully addressed the issue nor clearly separated the two dimensions when it came to propose mechanisms and solutions<sup>41</sup>. This aspect can arguably be directly related to the continuation of violence post-agreement as Kabila’s authority over his country was placed on the same scale as Uganda and Rwanda’s support to the rebels. Perhaps Chiluba could have investigated this dimension further, and addressed this grievance within the Agreement. Though there are many other recommendations such as this, an additional flaw was the lack of mediation support post-agreement. Furthermore, it has been argued that the Lusaka Agreement’s weakness plagued the ICD process. It has been postulated that a strong leader, one with the capacity to take a hard line on diplomacy through coercion and the “sticks and carrots” strategy, could have supplemented the lack of jurisdiction the Agreement possessed. However, there is not one specific factor that contributed to the failings of the Lusaka Agreement and the ICD. Both were attempts to rebuild a nation within an unpredictable region with weak leadership on both sides of the negotiation table.

*Outlook:* Though the Lusaka Ceasefire Agreement fell short of effectively ending the conflict, it is not to say it did not accomplish anything. To begin with, it was the first time all warring parties agreed to sign one document (one text procedure). Additionally, the response to the DRC crisis was dominated by the concept of “African ownership” as the most influential supporting organization was SADC and the mediator and facilitators were African. It has also been argued that the Lusaka Agreement “constitutes the only basis for peace in the DRC”<sup>42</sup>. The Agreement depended on all warring parties to immediately respect the ceasefire and begin implementation. In order for progress to have been a reality at the signing, more facilitative work needed to be

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(39) Koko, 2007.

(40) Bercovitch 2007, p. 183.

(41) Smis and Oyatambwe, 2002, p. 419.

(42) Smis and Oyatambwe, *ibid.*

completed, with mediator Chiluba taking a holistic perspective toward the belligerents and drafting a more comprehensive peace agreement. Mediation should have continued after the Agreement was signed, with Zambia playing a stronger role in the DRC after 1999<sup>43</sup>. In the case of the DRC, Chiluba was given the opportunity, through his SADC mandate, to influence the outcome of the DRC.

### **Addendum: The 2013 Kampala Dialogue**

The conflict broke out as claims were made that important provisions of the Lusaka agreement have not been met, marking the beginning of Third Congolese War. On March 23<sup>rd</sup>, 2009, the CNDP and the DRC government signed a peace agreement that granted the CNDP the status of a political party in exchange for the release of imprisoned members. The transition process, like many before it, was short-lived. On April 4<sup>th</sup>, 2012, the M23 rebel group – named after the date of the 2009 peace deal – was created after 300 mainly ex-CNDP soldiers mutinied against the DRC government, arguing that the government had failed to live up to the terms of the peace agreement and protesting the poor treatment in the DRC army<sup>44</sup>. M23 were to emerge as one of the most formidable armed groups in DRC. It reached its height with the fall of Goma in November 2012. The Head of States of the ICGLR<sup>45</sup> issued a declaration requesting the Government of the Democratic Republic of Congo (GoDRC) to listen, evaluate and resolve the legitimate grievances of M23, and for M23, in turn, to stop all war activities. The “Kampala Dialogue” (KD) commenced on December 9<sup>th</sup>, 2012, and concluded a year later. Initiated under the auspices of H.E. Yoweri Museveni, President of Uganda, in his capacity as ICGLR Chairperson and mediator, the latter, in turn, appointed his Minister of Defense, Mr. Crispus Kiyonga, to facilitate between the GoDRC and M23. The agenda for the talks and rules of engagement were set in January 2013 and discussions on listed issues started in February. At the same time, the UN and the AU, together with the regional conference and economic communities, ICGLR and SADC, convened the Peace, Security and Cooperation Framework, including 4 special envoys to tackle the broader issues of Eastern Congo and the region. During the talks, a top leader of the M23 presented himself to the ICC, causing a fragmentation of the group. Supported by the robustly mandated Intervention Brigade of SADC, attrition and strategic gains by the FARDC brought M23 to its knees. Between June 2013 and September 2013, a range of talks led to a military defeat of M23. Kiyonga, in his role of a facilitator, approached the talks with sensitivity, facilitating when contentious issues arose, but leading the negotiations to the technical committees. At times of deadlock, the facilitator would call on the Ugandan President to move the parties beyond obstacles. Allegations of Rwanda fueling the conflict by supporting M23 with weapons and logistical support, and an alleged lack of tackling the root causes of weak governance and state authority in the DRC, posed major obstacles to legitimacy and credibility of the dialogue to achieve a sustainable outcome. The exclusion of civil society and NGOs from the process eroded the trust in the political mediation process, thereby weakening the outlook for durable peace in the region to take place. From the start, the process was less about mediation than about the neutralization of one of many (at least 27) armed movements, without any substance as to how to address the underlying root causes of the conflict. Despite the neutralization of the M23, the situation in Eastern DRC remains dire and continuous to make headlines due to grave human rights abuses, lack of governance and natural resources plunder by multinational companies.

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(43) Bercovitch, 2007, p. 166.

(44) UN Group of Experts, 2012, Report S/2012/843. 12 November 2012, p. 143 Annex 46.

### **Key Lesson Learned:**

The use of a coordinated and mixed mediation strategy: Mediators need to bring together external mediators and insider (partial) mediators<sup>46</sup> to sustain the peace efforts. Though equipped with a mandate, mediators need to adopt a range of mediation styles and strategies, ranging from low-intrusive to high-powered mediation, in order to foster consensus, concessions and confidence in a gradual effort to come to a successful outcome.

Context matters: In the case of the DRC, repeated and protracted conflict and instability have made it especially difficult for outsiders and locals to fully understand the characteristics and motivations of armed groups. Continuous monitoring and assessment of armed groups is key to make sense of the different agendas and entry points for talks.

Gradual Inclusivity: When faced with issues of governance and multiple sources of power, mediators need to make full use of their mandate and adopt a holistic perspective that brings belligerents, civil society and other peace actors to the negotiation table in a sequenced manner. In most cases, the CSO sector needs to be reviewed, revamped and re-imagined in order to find sound engagement and contribution to peace processes in the region.

Putting Security Sector Reform and DDR processes on the agenda: Mediators need to ensure that security arrangements are properly and tenuously worked out so that the post-agreement phase builds on the momentum of the confidence-building measures hashed out in details during the ceasefire negotiations.

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(46) See: Maiese, M. Insider-partial Mediation, 2005: <http://www.beyondintractability.org/essay/insider-partial> [accessed August 28th, 2015].

## Case 4: 2006 Inter-Sudanese Talks and the Darfur Peace Agreement (DPA)<sup>47</sup>



### Background

The historical causes for the conflict in Darfur include increasing clashes between pastoralist and nomad communities as a result of population growth, desertification, increased soil depletion, and the over-taxation of traditional land and conflict management systems. The historic tensions between these groups were exacerbated by regional and national conflicts that have played out in Darfur, as well as proxy wars between Sudan and its neighbors. Finally, the rebellion was fueled by region-wide frustrations about Khartoum's economic and political marginalization of Darfur. In 2001, a group of *Zaghawa* who had received military training in Chad went to *Jabel Marre* to train members of local armed *Fur* self-defense groups who had been fighting against Arab militias over the area's natural resources since the 1990s. As it had done with any conflict in Darfur, the government sided with the Arab militias. Attacks by these militias on *Fur* villages increased in 2000. The *Zaghawa* militants trained the *Fur* until 2002, at which point the collaboration had turned into an armed rebellion against the government. In March 2002, a conference officially created the new movement distributing leadership positions among tribal affiliations. The chairman *Abdel Wahid* was a *Fur*, the military commander *Abdullah Abakar* was a *Zaghawa*, and the deputy

(47) <http://www.un.org/zh/focus/southernsudan/pdf/dpa.pdf>, [accessed August 17th, 2015].

chairman *Mansour Arbab* was a *Massaleit*. *Abdullah Abakar* died in 2004 and was replaced as military commander by *Minni Minawi*. There quickly developed a division within the movement between the *Fur* dominated branch in Jabel Marre and the *Zaghawa* dominated branch in Northern Darfur. *Minawi* led the *Zaghawa* dominated branch and it grew rapidly, benefiting from the support of Chad. In 2003, the movement became the *Sudan Liberation Army/Movement (SLA/M)* and officially launched its rebellion with an attack on a government outpost in Jabel Marre. The rebel movement grew rapidly and had early successes that alarmed the government, which sought to squash the rebellion in its totality, focusing on destroying the base of civilian support for the rebels. Government forces and government supported Janjaweed militias destroyed and buried villages and homes, displacing over a third of Darfur's population. *The Justice and Equality Movement (JEM)*, which had been around since the 1990s, also played an active role in the conflict, although militarily they were not as effective as the SLA.

### Pre-negotiations

Since 2003, Sudan's neighbouring countries, the *African Union (AU)* and the *United Nations (UN)* have worked to bring armed movements and the *GoS* to the negotiating table<sup>48</sup>. Chadian President *Idriss Deby* led the first peace initiative in September 2003 largely because he feared a spill-over effect into Chad if the conflict in Darfur escalated. In April 2004, the *Government of Chad* and the *AU* mediated a ceasefire agreement to allow humanitarian access to Darfur. Further Chadian mediation efforts failed because the armed movements felt that they could not trust President *Deby* as a mediator due to his relations with the *Government of Sudan (GoS)*<sup>49</sup>. In May 2004, the *AU* assumed leadership of the process. Through resolution *S/RES/1556* (July 2004)<sup>50</sup>, the *UN Security Council* adopted a range of priorities for international action, including supporting the *AU* mediation. The *AU* mediation led to the *Agreement on the Modalities for the Establishment of the Ceasefire Commission and Deployment of Observers* that was signed April 8<sup>th</sup>, 2004 in Addis Ababa, Ethiopia<sup>51</sup>. The Agreement formed the basis for the establishment of the *African Union Mission in Sudan (AMIS)*. The *AU* converted *AMIS* to a full-fledged peacekeeping force in July 2004. After the Addis Ababa Agreement, direct negotiations between the *GoS*, the *JEM* and *Sudanese Liberation Movement/Army (SLM/A)* started in Abuja (Nigeria) in August 2004, with President *Obasanjo* as the mediator<sup>52</sup>. Similarly, the agreement did not hold. Finally, in December 2004, the armed movements suspended their participation in the negotiations due to a full-scale offensive by the *GoS* forces against the rebels on the ground. The peace talks did not resume until June 2005. Key Western countries, such as the USA, Britain, and Norway did not involve themselves in the Darfur peace process. Instead, they supported the negotiations between the *GoS* and the *SPLM* to end the conflict between Northern and Southern Sudan. The negotiations held in the *Abuja* process culminated in the *May 2006 Darfur Peace Agreement (DPA)*<sup>53</sup>. However, only the *Minni Minawi* faction of the *SLA* signed the *DPA*; the other two main rebel groups, *SLA/Wahid* and *JEM* refused to sign the agreement. Their reasons for decline include the hurried and flawed negotiation process, lack of security for the IDPs, and disagreement on the amount of financial resources needed to compensate the victims of the conflict. Thereafter, the armed movements continued splitting into smaller and smaller factions to such an extent that by mid-2007 there were 18 factions. The focus of mediators then turned to reconcile these factions to a common position

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(48) Flint, 2007.

(49) Tubiana, Jerome and Victor Tanner, 2007.

(50) [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/1556\(2004\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1556(2004)), [accessed August 6th, 2015].

(51) <http://www.peaceau.org/uploads/reportdarfur-12th.pdf>, [accessed August 6th, 2015].

(52) International Crisis Group (ICG) Africa Briefing, 2007.

(53) For more details on the DPA see <http://www.gsdr.org/go/display&type=Document&id=2025> [accessed August 5th, 2015].



from which they could engage the *GoS*.

## **Negotiations**

Negotiation issues and agenda: Originally disputed issues of the Darfur conflict have included: (1) the return of the lands (*Hawakeer*) that have been occupied by the mercenary militias from the neighbouring countries and allied to the government; (2) individual and collective compensation for those who were affected by the Darfur conflict, power sharing, wealth sharing, and security arrangements, along with (3) the return of Darfur, administratively, to one region as it used to be prior to dismantling it into three unrelated states. Given the agreement over four chapters, the mediators determined the pending issues as: the administrative status of Darfur; the scope of the powers of the Darfur Regional Authority and its link with other levels of Government; the participation of rebel groups in the various institutions of power, permanent ceasefire and final security arrangements; and the mechanisms and guarantees for the implementation of the peace agreement.

### Key negotiators and their strategies:

*Majzoub al Khalifa Ahmed:* The lead negotiator for the GoS was Majzoub al Khalifa Ahmed, an advisor to President al-Bashir who took charge of the Darfur political file in 2004. Majzoub believed that Vice-President Ali Osman, who had been in charge of negotiating the 2005 Comprehensive Peace Agreement (CPA)<sup>54</sup>, had conceded too much to the SPLA and when given full responsibility by the GoS to negotiate a final deal in the Abuja peace process, Majzoub was stubborn in his refusal to make concessions. Majzoub's strategy for negotiations over Darfur was to buy off each person representing the opposition groups with money or political positions. After walking away from a deal with Majzoub, Abdel Wahid said, "Majzoub's interest was competing with Ali Osman. He was not interested in Darfur. He wanted to tell Bashir: "Ali Osman cost you a lot in Naivasha. I am bringing you a very cheap deal."<sup>55</sup>

*Abdel Wahid:* Abdel Wahid was the chairman of the SLA before the split and remained chairman of the SLA/Abdel Wahid. He enjoyed strong support amongst the Fur and Khartoum viewed him as the most important rebel leader to get on board with an agreement. Wahid was known for being indecisive and inconsistent, often promising to do one thing and then doing the opposite. He regularly made important decisions on his own, an approach that increasingly stirred discontent within the SLM as the Abuja Peace Process wore on. Additionally, there was also a growing fear in the SLM and amongst observers that Abdel Wahid was only concerned about bringing down Minni Minawi and was considering forming a pact with Khartoum against the Zaghawa<sup>56</sup>.

*Minni Minawi:* As leader of the Zaghawa (many of whom had received military training in Chad) dominated SLA/Minni Minawi that received support from Chad, he appeared to control the most effective rebel force. However, by the end his forces were struggling and he had little power in relation to the other rebel groups. Minawi rose to power with the help of support from Libya and Chad. By 2006, however, Idriss Deby considered Minawi unreliable and forged his allegiance with the JEM. Minawi's primary goal at the time of the Abuja talks was to emerge as the internationally recognized leader of the SLA; therefore, Abdel Wahid and other SLA rivals were more of a concern to Minawi than the GoS itself.g

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(54) More on the 2005 CPA: <http://www.usip.org/publications/peace-agreements-sudan>, [accessed September 2nd, 2015].

(55) Flint and De Waal, p. 202.

(56) Flint and De Waal, p. 203.

*Khalil Ibrahim and JEM:* The JEM is an Islamic movement that was militarily weaker than the SLA factions; however, it had a more strongly articulated political vision, which focused more on the whole of Sudan and not just Darfur. JEM called for the nation to be restructured along the lines of the six original regions (South, Darfur, Kordofan, Eastern Sudan, Central Region, and Northern Region), with a rotational presidency. The JEM also maintained support from eastern rebels. Khalil Ibrahim, the leader, was a member of the government in the 1990's and was suspected by some Darfurians of using the movement as a way to gain power in Khartoum.

*African Union Mediators – Salim Ahmed Salim, Sam Ibok, President Obasanjo:* Salim Ahmed Salim was appointed by the AU to be the chief mediator for the Darfur conflict in 2005. He had served as Secretary-General of the Organization of African Union (OAU) for 16 years and beyond being a qualified diplomat, he was considered a good choice because he was an African Muslim, possessed good listening and communication skills, and was known to surround himself with first-rate colleagues and delegate responsibilities well. However, Salim was not a proactive mediator such as General Sumbeiywo (IGAD mediator for the Comprehensive Peace Agreement), to whom he was often compared. Salim made just one visit to Darfur and avoided the vortex of Khartoum politics. For him, the task of the mediator was to facilitate the parties coming together, not to pursue them and corral them into agreement<sup>57</sup>. Salim had a history of supporting African liberation movements and was sympathetic to the rebels. Yet, at the same time, Salim was devoted to the idea of state sovereignty and did not expect the government to make concessions that would be taken as a violation of sovereignty. Darfur was an opportunity for the AU to walk the talk in terms of 'African Solutions to African Problems'. The GoS hoped that through a more assertive and supported AU intervention, Western powers would stop interfering in the Darfur conflict and allowing the UN to enter the battlefield, which wasn't an acceptable choice at that moment. Therefore, and though the AU lacked 'muscle', it was the "least bad alternative" for the GoS and thus acceptable as a mediator.

#### Mediation initiatives and coordination:

*2003-2005 Mediations:* Just months after the conflict escalated, talks between the conflict parties started. The Chadian government mediated the first ceasefire agreement, signed by the government and the Sudan Liberation Movement/Army (SLM/A) in September 2003 in Abéché. This agreement was never implemented. The GoS favored the Chadian government as a mediator, because at the time Bashir saw Deby as a loyal ally.

In April 2004, the Chadian government, together with the African Union, began mediations in N'Djamena. The SLM/A, the Justice and Equality Movement (JEM), and the GoS signed the N'Djamena Ceasefire Agreement, which was never implemented. The agreement did, however, establish the Ceasefire Commission as well as the AU Mission in Sudan (AMIS). The progress of the IGAD-led talks between the Sudanese government and SPLM took attention away from the Darfur talks and both the government and the rebel groups avoided participating in serious discussions<sup>58</sup>.

In August 2004, shortly after the N'Djamena negotiations, the Abuja negotiations started. The negotiations were co-mediated by Chad and the AU. The African Union was working to establish itself as an effective conflict manager, and the GoS wanted to prevent the influence of Western

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(57) Flint and De Waal, p. 208-9.

(58) Brooks, 2008, 418.

powers on the Darfur conflict. The style and strategy of the mediation resembled the negotiations between North and South Sudan in Kenya that produced the CPA: a respected African statesman, who represented a regional organization, chaired the talks and was supported by the international community and a team of experts. The talks were slow and “aimed at reaching small confidence-building agreements with the mediators focused on getting any deal that would prove a step forward.”<sup>59</sup>. Yet, any substantive agreement continued to be hampered by the lack of cohesion amongst the rebel groups and therefore their inability to articulate a unified political vision. Once the CPA was achieved, international attention focused heavily on the Darfur peace process. The rebel groups attempted to leverage international scrutiny to increase its bargaining hand at the table and began linking their conditions to the demands of international actors<sup>60</sup>. In June 2005, mediations began again in Abuja with the goal of producing a declaration of principles; a month later, the document, which included 17 points to guide future negotiations, was produced. These talks (June 2005) marked the seventh round of the Inter-Sudanese Peace Talks on the Conflict in Darfur.

Later in 2005, the SLA fractured into two different groups – the SLA led by Minni Minawi (SLA/MM) and the SLA led by Abdul Wahid (SLA/AW). This split was a huge blow to the peace process because it meant that Abdul Wahid and Minni Minawi began to compete for control over the entire SLA instead of focusing on common points to bring to the negotiation table. The tensions between Wahid and Minawi were noticeable early on and grew from the divide between the two branches of the SLA – one largely Fur and based in Jabel Marre, and the other largely Zaghawa and based in North Darfur, and later, after a major Janjaweed offensive in the north, South Darfur. Even before the official split, the division between the two leaders affected the mediations. They regularly submitted separate lists of delegates to mediators and at the June/July 2005 talks, delegates siding with Minawi tried halfway through the talks to remove Wahid as head delegate. In 2005 there were several efforts by international actors – Chad and Libya for example –, as well as within the movement, to reconcile the divisions.

The split also meant that mediators had to reconsider under what conditions a peace agreement would be built. In November 2005, AU security experts working with the mediations team devised a plan to negotiate a ceasefire that was sensitive to the new divisions within the SLA. The proposed plan would have been carried out over nine months starting with a period of assessment of conditions on the ground, training and confidence-building exercises with parties, and finally negotiations. The mediation team dismissed the proposal because of the timeframe it called for and focused instead to pursue a peace agreement.

*Final Mediation:* The sixth and final round of mediation extended into 2006 and it became apparent to mediators that international sponsors and funders would hold the parties to deadlines. The talks took place at the Chida International Hotel in Abuja. The atmosphere was tense, every room was taken by the Sudanese delegations, mediators, support and office staff, foreign diplomats and observers. The government and rebel delegates bumped into one another all the time, in the corridors and at breakfast, yet the delegation leaders hardly ever met to negotiate. The talks resembled proximity talks in which the mediator shuttled between the sides with proposals, seeking to fashion consensus on key points. For a brief moment in February, it appeared as if Majzoub and Wahid were ready to strike a deal. Mediators had put the lead negotiators for the parties in adjacent rooms in Abuja, hoping to spur private talks, and Majzoub and Wahid appeared to be making their own progress towards outlining a deal. Yet, ultimately Wahid walked away.

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(59) Brooks, 2008, 418.

(60) Brooks, 2008, 419.

Another development in February that was an important piece of the foundation for the last stage of the talks in April was an attack of one of Minawi's contingents on Wahid's forces. The Minawi contingent deceived an outpost of Wahid's forces asking to be let into the Wahid-controlled area to care for some wounded. Once inside, the contingent sparked a fight and captured and killed one of Wahid's commanders. The AU and international actors said nothing about the attack, likely because they were working on wooing Minawi into a deal. Their silence soured Wahid's regard of the peace process and its sponsors.

### Three Mediation Commissions:

In the final 2006 round of the Darfur talks in Abuja, the mediation team split the work of drafting proposals for wealth-sharing, power-sharing, and security into three different commissions to address each issue. The *Wealth-Sharing Commission* made the most progress. The most contentious issue that the wealth-sharing commission discussed was whether individual victims in Darfur should be compensated by the GoS. The GoS negotiator *Lual Deng* argued that the funds agreed to for reconstruction and rehabilitation could cover the needs of individual victims, but Wahid stuck to his position that every war-affected family should receive compensation, ostensibly because he had made such a promise to his constituency. Lual and Wahid compromised to propose a compensation commission that would examine individual cases and a short-term compensation fund that could make quick payments to the neediest.

*The Power-Sharing Commission* made little headway on any of the issues it was meant to discuss; indeed, in six weeks it did not even put on the table important issues such as the control of the local government. Majzoub was uncompromising, rejecting all of the rebels' proposals. The rebels were equally uncompromising. The commission was facilitated by a member of the mediation team, Berhanu Dinka, a former Ethiopian ambassador. As soon as AU Mediator Salim asked for a final proposal, Dinka, exasperated with his commission, compiled all of the commission's proposals into a final document of his own making without holding more plenary sessions with the GoS and rebels. Dinka's proposal resulted in an intra-mediation team compromise for a referendum on Darfur's status and a transitional regional authority.

The *Security Commission's* efforts were hampered by the comings and goings of Chris Garuba, the member of the mediation team chairing the commission, as well as those of the US security advisors involved. Security advisors for the AU argued that a ceasefire agreement had to be taken to the commanders in the field, but as the AU had earlier, the commission did not take this argument seriously. All parties rejected the ceasefire that the commission proposed on March 12<sup>th</sup>, forcing the mediators to resort to parallel discussions with the government and rebels. Representing the GoS at the Security Commission was General Ismat, who the mediators judged to be practical, though tethered to the demands of his superiors in Khartoum. Over time, despite much back and forth, the mediators were able to move Ismat away from Majzoub's rigid positions and towards compromises such as the reform of paramilitaries and the creation of an international security advisory team.

*The Final Countdown to a Deal:* When Majzoub was not able to cut a deal with the rebels, the mediation team brought in Ali Osman, hoping that if he met privately with the rebel leaders, as he had with Garang (South Sudanese leader) in the talks leading to the CPA, he would be able to reach a deal. Ali Osman arrived in Abuja on April 7<sup>th</sup> and stayed until May 1<sup>st</sup>. Initially it appeared as though he and Abdel Wahid built considerable rapport. Nevertheless, Wahid walked away from Ali Osman's offers. As negotiations continued throughout the first half of 2006, different reports were given about their effectiveness. Some mediators apparently said that they were at a stalemate, while others reported that they were on the brink of a major breakthrough. The AU mediators Salim

Ahmed Salim and Sam Ibok both expressed enthusiasm for a breakthrough. Under pressure from international actors to set April 20<sup>th</sup>, 2006 as a deadline for a peace agreement, Salim consolidated the proposals from the three commissions into one 87-page document to be the Final draft over which parties would negotiate. The mediators presented the document to the parties on April 25<sup>th</sup> and gave them five days to read, understand, debate, and ultimately approve the document. The parties, however, did not initially think that the deadline would indeed be enforced; all subsequent deadlines had passed without any consequences for failures to meet them. The mediators had hoped that the document would serve as the basis of a final negotiation between the parties. The GoS foiled this plan when Majzoub quickly accepted the document, thus closing down the possibility for last minute negotiation. The rebel parties were unhappy with the document because its power-sharing provisions would have split power in Darfur 50/50 between the government and the rebels collectively, meaning that the ruling party in Khartoum would have a majority. The Transitional Regional Authority in Darfur that the document created also lacked the strength that the rebels envisioned for it.

With their plans damaged by Sudan's quick approval of the document, mediators had to find a way to convince the rebel groups to sign with as few changes as possible. On May 1<sup>st</sup>, 2006 a group of international diplomats, including U.S. Deputy Secretary of State Robert Zoellick, British Secretary of State for International development Hilary Benn, Canada's UN ambassador John Rock, and the EU's envoy for Sudan Pekka Haavisto, arrived at Abuja to put pressure on the talks for an agreement, and took over the mediation process. This international team saw their job as enhancing the document put forth by the AU mediation team and worked to negotiate small changes with the parties. But their main focus was on corralling the rebel parties to sign. May 4<sup>th</sup> was given as the very last deadline, and the international team of diplomats worked into the night and the following morning trying to convince the parties to sign. The JEM's Khalil Ibrahim refused to sign, and the diplomats and mediators gave up on his signature. In fact, Minawi and Wahid's signatures were of most importance to them. Yet, the mediators and international diplomats misread the dynamics on the ground in Darfur and believed that Minawi controlled the most effective force and that securing his signature would force Wahid to follow suit because of the rivalry between Minawi and Wahid and the international condemnation that Wahid would risk if he refused<sup>61</sup>. Minawi finally gave his signature at 9am on May 5<sup>th</sup>, while Wahid refused.

## Assessment

*Agreement:* The Darfur Peace Agreement's provisions were divided into three parts, which were the same as the subcommittees of the Abuja talks: wealth-sharing, power-sharing, and security. On wealth-sharing, the DPA's provisions include the following: the creation of a Darfur Reconciliation and Development Fund with funding coming from the government; a Joint Assessment Mission to determine the region's reconstruction and development needs; a Fiscal and Financial Monitoring Commission to manage the funds transferred from the national government to Darfur's states; and a Compensation Commission to work with the UN to assist IDP. Distribution and sharing of wealth was addressed in terms of the parties involved (the government and rebels) and regional interests.

*Process/Context:* Two of the main reasons for the failure of the DPA were deadline diplomacy and misalignment of peacemaking efforts by the international community. This also led to a lack of ownership and accountability to uphold the agreement. Another contextual source of failure was that Darfur became a proxy conflict between the GoS and Chad and the general distrust of all sides in the process. Furthermore, the government in Khartoum was led by hardliners whose

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(61) Brooks, 2008, 429.

strategy was to keep the status quo in Darfur and to maintain power over territory and legislature.

*Outcome:* The DPA failed due to a visible lack of political will from all groups. Throughout the negotiations, fighting continued on the ground in Darfur. After it signed the DPA, the GoS resisted the deployment of UN and AU peacekeepers to the region and an effective ceasefire was never reached. The DPA faced resistance at the local level in Darfur as well. The UN Secretary-General's Special Representative in Darfur, Jan Pronk, said in June 2006 that although the DPA was a fair compromise between the parties at Abuja, "it did not resonate with the people of Darfur and was meeting growing resistance from internally displaced persons in particular", who believed the agreement had been forced upon them<sup>62</sup>.

### **Key Lessons Learned**

Fragmentation of parties: The continuous splitting of groups - either depending on their stance towards the Government of Sudan (GoS) or due to the fact that in most cases internal cohesion was non-existent from the beginning - poses a challenge to the mediator as he/she has two choices: (1) non-recognition of the group; and (2) recognition, in case the previous option heavily impacts negotiations.

Lack of coordination: The Darfur Peace Agreement (DPA) has been riddled with procedural hurdles, starting with a lack of coordinating efforts between the many different mediators involved and engaged in talking and addressing the parties. A multiplicity of mediators and conflicting agendas has allowed the government and armed movements to appear to cooperate without in fact doing so. A mediator needs to exert leverage onto joint mediators in order to streamline the process and respond to challenges to credibility.

Complex dynamics: The interaction between the broader political, social and economic context has a severe impact on the mediation process. Deteriorating relationships between Sudan and Chad in 2006 hampered the mediation efforts as well as deteriorating support for both the DPA and the Doha process later in 2010. Although the failure of the DPA has been widely blamed on 'deadline diplomacy', neither international, nor regional, nor internal circumstances were conducive to a settlement. This remains the case today.

Strategic mix of inclusivity and exclusivity: Mediators need to understand how the context of the mediation relates to the intended outcomes. On the one hand, mediators should have acted as 'One' when engaging the parties in the ceasefire negotiations, thus using exclusion and 'muscle' mediation as a means to drive concessions. At the same time, mediators needed to build up support from the bottom-up, including civil society representing Darfur as a whole and conducting a strategic public information campaign. This would have allowed for broader support, including the IDP (Internally Displaced Persons) and refugee camps, and allowed the mediators and the negotiators to better 'sell' the concessions.

Lack of political will: Neither the government nor the armed movements have relinquished the military option and committed fully to peace. While international management of the peace process has been flawed, the absence of will among the Sudanese themselves is the key reason for the failure of peacemaking efforts. Insincere motives are always a cause for failed mediation processes.

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(61) Brooks, 2008, 429.

## Overall lessons learned

(1)Mediation strategy - The nexus between peacemaking and peacebuilding: In all 4 cases, political mediation needs to transform the power-sharing system in the affected country. Failing to address the issue of structural violence leads to unjust peace. Under condition of war and occupation, the state cannot take on its proper role. Unless it can do so, peacebuilding will not be successful and thus peace implementation hampered by pitfalls in the legitimization process. Therefore, power-sharing deals need to be part of the peacemaking efforts early on.

(2)Mediation strategy - Security is key: All cases show that it is the state that has to provide security for its population in the broader sense of human security (the use of force for stability, welfare for development, and transparent processes for protecting human rights). For success in peacemaking, legitimacy has to be established through providing guarantees for wants and rule of law. National dialogue processes are key to enable this type of state legitimacy (based on a new negotiated political, social and generational contract with citizens).

(3)Mediation style – Political mediation through leadership: Whilst ownership of the process is critical for implementation of the agreement, cases also show that mediators must act as leaders, often employing coercive tactics, leverage and manipulation, in order to break a deadlock or to push parties to resolution. Mediators are required to overcome communication and substantive gaps, but they also need to apply pressure in order to make the conflict environment more conducive to peace. In the Sudanese case, mediators used a formidable array of mediation styles and strategies, however lacking clear political vision and complementarity. Leadership in joint mediation initiatives is key to an effectively cultivated process.

(4)Mediation style – Inclusivity driven by context: As all cases show, participation and support are two different assumptions and inclusiveness may complicate negotiations without improving the outcome. Negotiating a deal at any cost may not be the best way to promote peace while the commitment of the signatories and the support of constituencies may be more important than the full participation of all in peace talks. Mediators should make use of media and public diplomacy to rally up support.

## 3. Conclusion

From the lessons learned, we can deduct that mediation is a skillful adaptation to clear ambiguity and flexible arrangements. Through all the intricacies of the 4 cases, either based on political will, fragmentation of parties, or the availability of resources and shifting balance of forces, the main insights of effectiveness are linked to the process-context-outcome trajectory and the role played by the mediator in these contexts. In order to be successful, the common elements to be gathered from the lessons learned lead to reflections on notions of independence, impartiality and the absence of absolute power. Looping back to the process-context-outcome trajectory, we can make a few concluding observations: (1) Mediators need to be culturally competent in the sense that they need to apply cultural sensitivity to the situation at hand. Adapting to the cultural resources, to be able to tap into local resources, link the local to the global community, and thus bring about legitimacy of insiders and external actors to bring the peace process to fruition.

(2) Mediators are engaging into a 'dangerous' zone (Cloke, 2001) in the sense that without recognition of the Other, without sharing values, and without respect, mediators cannot bridge the tensions between peace and human rights. In this sense, one can positively speculate about the Colombian case, whereby the agreements regarding victims and regarding special courts to tackle the issue of atrocities and impunity committed during the civil war are of symbolical value, beyond the mere material value of a peace agreement. (3) Power play and social relations are typically the dynamics experienced and observed in all the 4 cases. Thus, mediation is always political as a mediated effort cannot be initiated independently of the balances of power and forces that shape the socio-political sphere of a given context. Therefore, successful mediation needs to cohesively tackle the macro, meso- and micro-level ranges of leadership.

We need to get a better grasp of a still young discipline. Despite the validity of quantitative efforts to assess the effectiveness of mediation as done by a range of American and Western-based researchers (which tend to overlook the importance of social relations and trust and to place political interplay in silos rather than fluid dynamics), there are two main questions that only qualitative research can answer: (1) How does a mediator successfully and independently maintain his/her independence? And (2): What are the main variables in mediation methodology? These questions have been highlighted and discussed by a high-profile gathering of practitioners, academics and scholars at the Oslo Forum in June 2015 without any real guidance but calling upon the need of the mediation community to rethink the concept of mediation in a new global and political environment. This study has attempted to further this aim.



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## About the author

**José Pascal da Rocha** is lecturer with the M.S. program on Negotiation and Conflict Resolution at Columbia University, in New York, and a political adviser and mediation with expertise in cease fire mediation, security arrangements, national dialogue and gender and inclusion. He has provided mediation support to, among others, the Kampala Talks between the Government of the DRC and M23 movement, mediation expertise to UN Women working on the Geneva II peace talks for Syria and to the African Union High Level Implementation Panel in the talks between the Darfur Armed Movements and the Government of Sudan. He has written on issues such as “Social conflict resolution and intercultural dialogue” in: Ricomporre Babele – Educare al Cosmopolitismo, La Biblioteca della Fondazione, Vol. 6, (2011) and the African Union Mediation Support Handbook, AU Press, 2014. Pascal is of Cape Verdean nationality and lives in New York, USA and Durban, South Africa.



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