Mediators' Retreat
Meeting Report

I. Introduction

The Mediators' Retreat, Oslo, 18-19 June 2003, was co-hosted by the Foreign Ministry of the Government of Norway and the Centre for Humanitarian Dialogue. The objective of the meeting was to bring together eminent mediators' in an informal and confidential environment that would facilitate the sharing of experience on the processes, skills and tactics of mediation. (Annex A: Participant list).Some of the most important issues that mediators have to contend with in order to bring about peace were also raised.

Selected participants presented four subjects which were then followed by a short individual commentary and then discussion among the group. The subjects included perspectives on mediation, the role of human rights in peace building, the effectiveness of different types of mediators, and institutional support to mediators. (Annex B: Agenda)

This paper will briefly summarise the main issues that arose during the meeting.

II. Report

A. The Actors

1. Peace Architect

There was a recognition that a role often absent in conflict and post-conflict situations was that of ensuring an oversight of all the various interventions that contribute to a sustainable peace – in the words of one participant, a "peace architect". This person or institution would be able to discern the necessary sequencing of the different elements, drawing from generic experience to inform the particular. Such an institution, functioning outside the UN System, might be a valuable source of support for the mediator(s).

2.   The Mediator

The "How": The discussion revealed issues common to the experience of all mediators. This reinforces the notion that, although each situation has its own specific character, they all share certain characteristics. For example, the re-establishment of justice and the often-vexed issue of impunity for past crimes. These are issues all mediators face, and must judge how and when they might best be addressed.

Most present confirmed the value of humanitarian assistance as a confidence-building measure, while sensitive to the principles which define its delivery. Most accept the need for agreements at the highest level to be general in nature, to allow for detailed interpretation subsequently, thus also providing for flexibility in implementation.

There was no consensus, however, on the necessity or otherwise of agreement on an end-state. Some situations may benefit from this, and others may only be amenable to agreements on process. This will depend upon the confidence between the parties. The mediator, however, must have a vision of the future while retaining the short-term flexibility to adapt to changing circumstances.

Success in mediation is elusive. One may be congratulated for immediate achievements which, later, turn out to be illusory or subverted by subsequent events. Most would agree with the hard requirement that a peace is successful when conflicts may be managed peacefully through existing or new institutions.

The "Who": *"Personality is as important as method"*
Mediators are 'eccentric loners'. The strength of their personality is often a determinant as significant as more structural factors. They are required to balance both the strength of character required to convince doubters and the modesty to allow others take credit for achievements. At once someone with a dominant sense of strategy, the mediator must also be a master of tactics, not planning beyond the curve of events.

A central challenge facing the mediator is to subordinate his/her ambition to the process, and not to go beyond events. It is the parties, with all their strengths and weaknesses, doubts and hopes, who must determine events, and not the mediator. Turning this around, it is equally important that the mediator avoids being complicit in a fraudulent or valueless process. Yet to make that judgement is always difficult as the mediator's exit invariably has a substantial impact upon the peace process.

One participant emphasised the distracting impact, more common in recent years, of a plurality of envoys each asserting the right to contribute to the process. Ensuring that this is avoided is neither easy nor obvious, but it emphasises the professional ethnic that prohibits a mediator from offering his/her services when another is already engaged.

3. **Institutions:** *"The 'burden of proximity' and the 'luxury of distance'."*
There was an acknowledgment that multilateral, bilateral and private (ngo) initiatives all had their place in the mediators world. The international community of States, with its commitment – eroded but intact – to sovereignty can present difficulties when one of the parties claims a separatist agenda. In these circumstances a private initiative maybe more appropriate, although not of necessity.

Bilateral mediation (e.g. Norway in Sri Lanka) can be effective in managing relations with separatist groups, and has the added advantage of providing the conflicted Government with an assurance of respect for sovereignty – a matter less easily deduced from a private mediator.

Certainly, multilateral and bilateral mediations are more effective in dealing with inter-state disputes, or those intra-states disputes of high strategic importance. NGOs – and this remains a truism – may be better equipped to respond to civil society, and are typically associated with Track 2 mediation. Yet, as the experience of HDC shows, private (ngo) mediators may also be effective at the Track 1 level, where their low profile is also more soothing to the sovereignty of the State in question.

4. **The Parties:** *"We are dealing with dysfunctional leaders"*
All participants recognised the common challenge of inequality between the parties. Typically an insurgent group lacks the political maturity, resources and contacts of its interlocutor, the conflicted State. This inequality inevitably bedevils negotiations, and the mediator often needs to compensate through a greater support for the insurgent group. This leads to accusations of partiality.

To overcome this inequality, it was recognised that providing the insurgent group with negotiation support was of considerable value. Yet it is often opposed by the conflicted State and this opposition usually functions as a veto. The problem of asymmetry remains.

5. **Other Stakeholders:** *'Seek the friends of the leaders'*
As one participant put it: "…it's essential to identify who is your international community…" i.e. those States which have a particular interest in this conflict. The group will vary between conflicts perhaps with a member common to all: the United States. Usually, the States are those in the region of the conflict as well as those with strategic interests. It is one of the mediator's tasks to marshal these States into a supportive and informed alliance, and to recognise the specificity of each of their interests, and to deploy their diplomacy at opportune moments. This often must be achieved in a context where internationalisation of the conflict is strongly opposed by one of more State.

A further challenge is how to balance the need to inform – and thus sustain the support of – these key States, while at the same time preserving the confidentiality of much of the information to which the mediator is privy. Another example of the mediator's need for balance.

The example of International Advisers was also adduced – as in the Aceh conflict. This may serve as a surrogate for the formal involvement of States.

B. Post Agreement

Participants recognised that mediating Agreements, albeit significant achievements, is only the first step. Implementing the Agreement's provisions is more complex, involves more actors, and is usually where failure is to be discovered. It is at this stage that the skills of the Peace Architect, or meta-mediator, are most needed.

Rapid access to flexible funding was accepted as a crucial, and often absent, determinant in building local confidence in an Agreement. It is central not just for the needs of reconstruction after conflict, but also to provide livelihoods for those who have profited from the conflict or were employed by it.

Monitoring the provisions of the Agreement comes in many forms. The mediator is not always best placed to carry out this judgemental task. The involvement of civil society in the monitoring systems is always of benefit, if acceptable to the parties.

The mediator's principal concern in the early stages of implementation must be to assist the parties in 'selling' the Agreement to their constituencies, and to ensure that through, accurate dissemination it is widely understood. This is a time of considerable fragility when many Agreements falter and may fail.

C. Some issues of concern: *"It is those who make war with whom we must make peace"*

- Participants expressed concern about the possible impact of the International Criminal Court on their work; the possibility of being summoned as a witness was discussed, with the implication for breaches of confidentiality.
- In addition, concern was expressed about the possibility of the United Nations developing a list of named terrorist organisations, an initiative which might constrain the System's political work with all parties.
- Much discussion was devoted to the need for the inclusion of human rights provisions in Agreements and during their implementation. Ways in which this might be achieved were discussed, and there was a general consensus that such mechanisms were fundamental to the success of achieving sustainable peace.
- One participant introduced the idea of a European Institute for Peace, similar to the US equivalent. Although the discussion was informal, some recognised that there is an institutional gap, particularly with reference to post-conflict management (cf. the Peace Architect)

Conclusion

The meeting deliberately avoided conclusions. There was a sense, however, that an annual Retreat of this nature was useful as a (rare) means of exchanging experience, sharing dilemmas, and identifying even if informally issues of concern. The organisers, with assistance from some participants, agreed to put together a proposal for just such a loose network-based project.