



**Mediators' Retreat  
Oslo, June 26<sup>th</sup>-27<sup>th</sup> 2005**

**Public Report**

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## **1. Introduction**

The retreat was the third in a now annual series. A core of active mediators has been able to attend each of the three years, but each year new participants have joined. The retreat remains unique in the fact that it is the only meeting of its kind to bring senior conflict mediators from across the range of institutions (UN, international, regional, governmental, non governmental etc.). This year a small number of resource people were included, whose active participation was welcomed by the mediators. Another innovation this year, responding to feedback from the previous year, was a session based on case study presentation and discussion. Efforts were made to maximise informal time where mediators could continue discussions begun during formal sessions, and network together.

A set of background papers were provided which had in some cases direct relevance to specific sessions, and in others, broader bearing. The papers were considered to be useful, but with the exception of the paper on the media, tended to feed more generally into the discussions, rather than being specifically addressed in the debate.

This public report is intended as a summary and information document for public consumption. The details and confidentiality of the discussions have been respected.

## **2. Summary**

The Mediators Retreats do not aim to draw specific conclusions or to make recommendations, but to draw out themes. This year they included:

- Concerns about insufficient collaboration and cooperation in the field of conflict resolution; interest in the UN's possibly increased role in this regard through a "Mediation Support Office", but questions over resource and capacity issues;
- the development of the international human rights framework is perceived as an objective good with constructive normative power, but it remains an operational complication for mediators, and one that has yet to be assimilated, or even fully exploited by them;
- An emphasis on the need for patience not just in peace building but also peace making
- the identification of a need to seek out and include the next generation of mediators – to look beyond "the club". In this regard, the lack of women mediators was noted and discussed. Regrettably, two female participants were unable to attend at the last minute (Betty Bigombe and Heidi Tagliavini). The HD Centre has tabled the question of why there are so few women working as senior mediators, what they

might bring to mediation practice and how this lack might be addressed, for a potential policy paper<sup>1</sup>.

### **3. Session One: Conflict Mediation today - problems and prospects**

*What are the main international developments affecting conflict mediation today?  
What can be done to increase support for negotiated solutions to conflict?*

Four challenges for practitioners were raised:

1. The increased number of actors creates the need to make a virtue of their abundance through some enhanced form of coordination. Competition is not helpful, but a clearing house to perform the coordination function would be. This could, of course, always be the UN.
2. Respecting the pace of peace: time is not wasted in achieving a good agreement, and the process matters. The strongest pushes often come from outsiders, and these may need to be resisted.
3. Respecting the structure of peace: we have progressed beyond the false conviction that elections alone are not the aim of peace processes. Elections will only produce useful dividends for peace if they come at the right time in the process as they did in Mozambique.
4. The knowledge gap: we are faced with learning from examples either where there was no conflict prevention, or where our efforts failed. Also, given the nature of these situations, it is hard to take a totally scientific approach to mandate design, resource planning and operations management: we never know enough at the time that we need to. Therefore, should we devise an interim learning period during negotiations, which will allow us later to correct and improve mandate, resources, plans etc.?

In a post Cold War world of increasingly internal conflicts with non state actors, the UN is perhaps no longer as welcome as it was. Experience suggests the higher an issue on the international agenda the more tenuous the UN lead, or the chances of such a lead. But it is hard to be simply a convenor. It is also a problem when the UN is asked to implement an agreement it had no hand in negotiating. Furthermore, it is always a struggle to keep implementation on the Security Council's agenda.

On timing, it was noted that peace takes time; however the point was made that while the military approach fails to address root causes, it can also create opportunities for negotiated settlement. The pressure on timing comes more often from international

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<sup>1</sup> Since the retreat, the HD Centre has produced an Opinion Piece on this subject, entitled "We the Women: why conflict mediation is not just a job for men", available at <http://www.hdcentre.org/datastore/We%20the%20Women.pdf>

actors (particularly ones from neighbouring states) than from parties themselves. The outsiders are less sensitive to the pressures the parties feel (or should feel) to sell any agreement to their constituencies, which will be key to success in implementation. The constituencies of an armed group may have also been underground for some time, and have lost touch with a way of life not lived in secret; this will require its own response. But the outsiders' role is crucial in the transition to implementation where lack of will, pressure and resources can cause even a solid agreement to founder. Another challenge of the mediator is keeping on top of the observer states, who may be making relevant, influential decisions in foreign capitals away from the scene of the negotiations.

On respecting the organic nature of the process, various points were made. South Africa was cited as an example where inclusion and transparency were emphasised and paid off. Macedonia was cited as a positive example of how an agreement which addressed root causes was inclusively negotiated and effectively stopped a war before it started.

On the knowledge gap, it was felt that not enough use was made of existing resources – and especially for the UN, of resources external to it (like experienced diplomats, NGOs etc.), but that the gap undoubtedly existed. While an interim period is attractive, it does have inherent problems of tending towards entrenching problems, and giving the impression that the process is in stasis, which can be damaging.

The utility of a strong sub-regional lead by a state, with appropriate external support, was put forward as a winning formula. However, the problem of how to achieve inclusiveness and pay attention to legitimacy of representation has not become any simpler.

The war on terror rhetoric born of 9/11 has made it much harder for anyone to engage with terrorist groups – even while the increasing incidence of terrorism, alongside a growing effort to understand what causes it, make it all the more imperative to do so.

There was also a sense that while competition among mediators was not exactly desirable, it did mean that the “clients” have more choice. The real issue is not about competition, however, but about co-ordination and ensuring, as is so often needed, that one peace facilitation team can effectively pass the baton to another.

#### **4. Session Two: Mediators and the Media**

*How can mediators manage the power the media represents? What approaches and strategies can be used to ensure, as far as possible, media coverage supports, or at least does not undermine, the peace process?*

It is fundamental to know when to protect a process with secrecy – perhaps provided by anodyne cover stories, and recognising the media's different appetite for stories relating to prenegotiation, negotiation, deal-making and implementation. It is hard to keep the press interested in implementation. Symbolic events (like signings on the White House

lawn) are important and can provide added impetus to the process. Labelling or naming an event or agreement in the media can be a way of confirming or underlining a verbal agreement made in a meeting.

The modern media is clearly perceived to be a different beast from its pre-internet, pre-globalisation predecessor, and especially that it is less responsible, with more and more space it is compelled to fill. The traditionally respected outlets are still perceived to operate more ethically, even while there is some concern over the possibility that some may have a disproportionate influence on international affairs. Mediators should not be cowed by fear of a bad story, but should attempt to manage the press, as the background paper suggests.

Differences between local and international media need to be better appreciated, with local media tending to be more partisan, and in some cases (Sri Lanka, Kosovo) significantly more powerful. An important limitation exists in the international community's tendency only really to access English-language media. There was agreement that accusations of impartiality were practically inevitable.

In multi-faceted organisations like the UN, you can face the problem of different organs speaking to the press on subjects relevant to the mediation (human rights offices being the most obvious example raised). This can also be an opportunity where mediators can distance themselves by offloading the burden of communicating difficult facts to another body, like a UN-appointed Special Rapporteur on human rights.

Imagination in employing different spokespeople for different constituencies was one ploy suggested. There can also be value in posting spokesperson in key capitals away from, but closely involved in, the process. It was noted that the media might have a positively transformational role.

## **5. Session Three: Case Studies**

*What have been the most intractable problems of the process under discussion, and what approaches have been used or might be used to solve them? How and in what ways does the international context impact on the process? From the mediator's perspective, what are the strengths and weaknesses of his approach, including his institutional setting?*

Case studies were presented on Aceh and Sri Lanka. A range of common issues was identified, including but not limited to:

- the disproportionate importance of politics in the capital of the state party to conflict, as compared to provincial or regional politics;
- what tools can legitimately be used to put pressure on armed groups;
- the difficulties of reintegrating or transforming armed groups who are dominated by military not political leadership;
- the challenges of pursuing a process while conflict continues on the ground;

- the challenges of ceasefire monitoring without power to respond meaningfully to violations of the ceasefire;
- the different effects of the presence or absences of spoilers or guarantors;
- the continuing concern that by monitoring implementation, mediators lose crucial freedom of manoeuvre, and thus they should avoid it;
- unarmed monitoring is seen as today's "in thing" because belligerents, constantly sensitive to a whiff of imperialism, react badly to the imposition of peace keeping troops, and because it is cheaper and less logistically demanding than a military response;
- the impression that while there was increasing interest in the idea of broader civil society education campaigns, that not enough had yet been done on this issue;
- both mediators and monitors must expect an absence of ideal national institutions to work with.

## **6. Session Four: Deploying Human Rights in the Service of Peace Making**

*What threats and opportunities does a new action-oriented approach to human rights protection present to mediators? What positive examples are there in this regard and how might they be built on?*

It is easier to discuss the problems of human rights protection than ideas for how its implementation could be used to the benefit of peacemaking.

Examples like El Salvador and Guatemala can show how a human rights agreement can be used as a confidence building measure – although the relevant histories and cultures made this much more possible than in other country contexts. It was pointed out that human rights issues have a differential impact on the different layers or constituents in any peace process, but that it can look at the outset like a winner for all parties. Implementation is always the sticking point, either because the conflict still persists, and/or because state institutions are destroyed or too weak to act effectively for the protection of rights or the provision of redress. In this case, a human rights agreement can serve as the precise opposite of a confidence building measure, by strengthening the hardliners' position, building up scepticism in society at large, and undermining international support. If it is to work you also need a workable mechanism for reporting back to the people, the government and the donors on progress. On the positive side, the deployment of a civilian mission to monitor human rights compliance does have the potential to change the environment in which parties negotiate, and to undertake a range of constructive functions.

The discussion responded to some of the issues raised, noting in one case that mediators could be more nuanced in approach, and use human rights monitoring in conflict in the context of fostering a particular objective. It was also pointed out that human rights missions get into trouble where there is no progress on the political front, but also that

they can assist in this regard by, for example, providing a legitimate basis for dialogue with armed groups.

The point was made several times that ceasefire is not necessarily an end to the war, while the architecture of rights and verification for them as umbrella, remains the most effective instrument for finding and implementing a solution; but this seems to remain more a matter of conviction than of empirical fact, as citable examples seemed few and far between. There was also mention of the fact that there is no clear hierarchy of human rights values. As in many matters, it was felt the UN had less freedom for manoeuvre here than other institutional mediators.

The discussion also looked at the constitution-making aspect of peace processes as an explicit development of social contract, and as a new form of a peace treaty which must therefore take the common lack of societal homogeneity into account. The post-colonial model has always been to assume a level of homogeneity which did not in fact exist. Mediators must thus be aware of the full range of constitutional options. Starting off with agreement on fundamental constitutional principles allows for confidence building, pre-agrees some outcomes and allows the process to develop much more multilateral nature. A caveat was that it is often the case that the method for agreeing or changing the constitution is often too complicated for it to be used. In the case of constitution-making, an honest appraisal of national institutional capacity for implementing it is critical, alongside a realistic plan to strengthen them in order to undertake such tasks.

The implications of the ICC for mediators, discussed at last year's retreat, still clearly remain a cause for concern for mediators. There was no disagreement that international human rights law, alongside humanitarian law, provides a framework with useful normative power; but the sense that the language of IHRL had yet to be well exploited by mediators persisted throughout the discussion.

## **7. Session Five: Wrapping up**

There are a cluster of issues which would be expected to come up in any serious discussion on mediation, as they did here. These include the challenges of monitoring, the contrasting roles of mediator and monitor, coping with asymmetries between parties and dealing with accountability questions. One perhaps less predictable issue that received a good deal of discussion is that of insufficient coordination between mediators.

Given the inefficiencies arising in the imperfect "mediation market", is it not the UN's role to professionalize and make it more consistently effective and ethical? Even at its most minimal (and non interventionist) a centralized UN office of mediation support could be a useful repository of experience and knowledge.

On the knowledge gap question, it seems the building blocks of a peace process are well known, but the art of managing them to make progress to peace is still evolving. We



could usefully do more work on learning how to identify and respond to trigger points for particular interventions.

The increasing reach of international legal standards (including issues such as the impact of the ICC, the potential legal liability of mediators, developments in national legislation responding to the, growth and impact of terrorism) is a fact and, no doubt, an objective good, but much work remains to square this with operational realities.

On the value of this meeting, a positive spin off has been an increase in this kind of practitioner gathering in general. This one is unique for being pan-institutional, at a very senior level and determinedly informal. As before there were calls for tailor-made help for mediators, possibly even provided *in situ*.

The HD Centre confirmed its plans to hold a retreat for mediators in and from the South East Asian region in Singapore in November this year, to follow up on the expressed interest in looking at mediation issues from a regional perspective. Together with the Royal Norwegian Ministry of Foreign Affairs, the Centre will continue to work on new, and practical ideas for mediators to exchange information and experience, provide advice to each other, and if possible, mentor their successors in the informal and direct manner of this Retreat.

Geneva, August 2005