

The challenges facing mediation in Africa

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The African Union (AU) and most of the regional organisations on the continent have a mandate to engage in mediation and other forms of peacemaking.² In practice these organisations and their member states, at times with the support of the UN, non-governmental bodies and international bilateral partners, have undertaken mediation in many countries, including Burundi, Chad, the Comoros, the Democratic Republic of Congo (DRC), Ivory Coast, Lesotho, Liberia, Sierra Leone, Somalia, Sudan and Zimbabwe. The success or failure of these efforts is clearly a matter of great importance, especially where large numbers of people are killed, injured and displaced, where conflict leads to massive plunder and the dismantling of the state, and where it destabilises neighbouring countries.

Recent events highlight the need to distinguish between a peace agreement signed by the parties and a genuine and sustainable peace. Consider, for example, the peace agreements that were announced by mediators with much fanfare in the case of the DRC in 1999 and 2003, Somalia in 2004, Darfur in 2006, Burundi in 2000 and 2006, and Zimbabwe in 2008. In the course of 2008 it was apparent that none of these agreements had in fact achieved peace and stability, with dire consequences for the people of those countries.

The failure of mediation is not necessarily the fault of the mediator but it should prompt us to think seriously about the art and science of peacemaking. This paper seeks to contribute to strengthening mediation on the continent by outlining some of the key challenges, lessons and capacity-building requirements.

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² The relevant protocols include the *Protocol Relating to the Establishment of the Peace and Security Council of the African Union* of 2002; the *Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security*, concluded by the Economic Community of West African States (ECOWAS) in 1999; and the Southern African Development Community (SADC) *Protocol on Politics, Defence and Security Co-operation* of 2001.

The general goal of mediation is to enable conflicting parties to reach agreements they find satisfactory and are willing to implement. The specific goals depend on the nature of the conflict and the expectations of the parties and the mediating body. The UN, the AU and regional organisations typically seek to prevent or end violent conflict; in order to achieve a sustainable peace, the agreement must address the root causes of the conflict. If mediation ends without the parties reaching agreement, it can nevertheless help to build relationships and identify differences and common ground. Yet it is also the case that such mediation can lead to mutual recriminations and make further peacemaking efforts more difficult. Multiple failed mediation initiatives can devalue completely the peacemaking process.

The challenges of mediation in intractable conflict

Mediators who work on intractable conflict are confronted by a complex array of actors, issues, tasks and problems. The greater the number of parties and the greater the divisions within their ranks, the greater the number of concerns and perspectives that are brought into the mediation process, the harder it is to address the concerns to the satisfaction of all the parties and the harder it is for the mediator to facilitate decision-making by consensus. On the other hand, excluding parties from the negotiations heightens the risk that they will undermine both the negotiations and any resultant peace agreement. It is therefore imperative that negotiations are inclusive.

In every intractable conflict, moreover, the parties are intransigent and uncooperative. They regard each other with deep mistrust and animosity, believe that their differences are irreconcilable, consider their own position to be non-negotiable and fear that a settlement will entail unacceptable compromises. These psycho-political concerns are intense where large-scale killing has occurred and where identity, security and freedom are at stake. They are both a product of conflict and obstacles to its resolution. They give rise to a profound lack of confidence in negotiations as a means to achieving a satisfactory outcome.

These difficulties are heightened by the presence of other actors hovering in the wings: the 'gatecrashers' who want to join the mediation but have not been invited; the 'patrons' who influence the parties' decisions privately; the parties' members who see compromise as selling out; civil society, comprising a dazzling spread of groups and interests; the neighbouring states that behave in an un-neighbourly fashion; the donors and foreign powers that have their own agendas; and the media, hungry for controversy to the point of creating it. These actors can influence the course of the mediation but they are not bound by decisions made by the negotiating parties. The mediator must endeavour to get them to play a positive role and should be assisted by a group of 'friends of the mediator' that includes African states, international bilateral partners and non-governmental organisations.

Intractable conflicts are characterised not only by multiple parties. They also tend to attract multiple mediators. There are several elements to this problem: in any given conflict, several organisations might have a mandate to play a peacemaking role (e.g. the UN, the AU, a regional organisation and non-governmental bodies); there is often considerable tension and a competitive relationship between them; the organisations comprise states that might disagree on strategy or might themselves be parties to the conflict; the organisations often procrastinate,

leaving the field open to other would-be mediators; and some of the organisations are unable to mount and sustain an effective peacemaking process. The organisations might themselves have multiple mandates, such as for mediation, peacekeeping and peace enforcement.

Where mediation is a drawn-out affair and requires external funding, as in the cases of Burundi, Somalia and Darfur, the mediator might experience intense lobbying not only from the parties but also from the donors. Dependence on foreign funding gives donor governments undue leverage and reduces the mediator's control over the process. As discussed below in relation to the Darfur talks, this leverage can be extremely detrimental.

Adding to the burden of peacemaking, the mediator has to focus both on the deep-rooted causes of the conflict and on the crises that arise. The causes may be structural (e.g. the absence of strong institutions of governance); political (e.g. authoritarianism and discrimination); historical (e.g. the colonial demarcation of borders and divide-and-rule policies); and socio-economic (e.g. deprivation and underdevelopment). In Rwanda, Burundi, the DRC, Darfur and southern Sudan, these causes were present simultaneously. The deep-rooted problems are extremely hard to solve. Where countries in conflict have weak institutions of governance, the government might be unable to provide credible negotiators who can deliver on their promises, it might lack control over its security forces and it might be unable to implement the agreements it signs.

The limits of power-based diplomacy

It seems painfully obvious that deep-rooted conflict cannot be solved quickly or easily. Nevertheless, mediators and donor governments frequently make the mistake of seeking a quick fix. They have honourable intentions, wanting to stop the destruction and suffering and to provide safe space for humanitarian operations and reconstruction, but they underestimate the complexity of the conflict, overestimate their powers of persuasion and ignore the psychopolitical dynamics of violence. Flouting the imperative that the parties and their constituencies must own the settlement, they push hard for rapid results. This approach can be distinctly counter-productive.

By way of example, the Darfur peace talks conducted by the AU in Abuja in 2005/06 were driven by 'deadline diplomacy', with a steady stream of unfeasible deadlines emanating from AU headquarters, the UN and the foreign donors. In the final days of the talks, African and foreign leaders put immense pressure on the rebel movements to sign the DPA, berating them and threatening them with sanctions. One of the rebel leaders, Minni Minawi, succumbed but the other rebel groups held out. The manipulation and threats of the international partners undermined the AU's authority, compromised Minawi and intensified popular suspicion of the DPA in Darfur.³

The deadline diplomacy and pressure flowed from the commonly held perception that international mediation is nothing more than 'power-based diplomacy'. This conception of mediation leads to the appointment of mediators on the basis of their political status rather than their

³ Nathan, L, 2006, 'No Ownership, No Peace: The Darfur Peace Agreement', *Working Paper*, 2(5), Crisis States Research Centre, London School of Economics.

competence as mediators. Some of the dignitaries have a natural aptitude for mediation but many do not. In the Darfur peace talks, the AU mediators had markedly different levels of competence. The most skilful of them achieved the most progress, while the least skilful of them complicated matters by creating confusion and reducing the parties' confidence in the process.

The head of the AU team in Abuja, Sam Ibok, recognised this problem but was unable to find experienced mediators who could join the talks for an extended period. This problem, in turn, was a manifestation of the broader continental failure to view mediation as a specialist endeavour and to train top mediators accordingly. As discussed further below, the AU and the regional organisations should select their mediators on the basis of their mediation experience and expertise, build a cadre of expert mediators and provide technical mediation support to high-level envoys.

The challenge of confidence-building mediation

Whereas power-based diplomacy tries to pressurise the parties into a settlement, confidence-building mediation seeks to build the parties' confidence in each other, in negotiations and in the mediator. It entails a lengthy process of facilitated talks and negotiation in which a peacemaker helps the parties, in an even-handed manner, to engage in collaborative problem-solving and accommodate each other's concerns and needs. The parties' common trust in the mediator offsets their mutual distrust and raises their confidence in negotiations. Confidence-building thus captures the essential logic and utility of mediation.

Building confidence between the protagonists in a civil war is vital for several practical reasons: a negotiated settlement necessarily entails compromises and mutual accommodation by the parties and this will not happen while they are locked in enmity; the implementation of agreements necessarily requires the cooperation of the parties; the parties must be confident that their opponents will honour their promises; and stable governance in the long term depends on the ongoing cooperation of the parties. Given these factors, confidence-building is not a luxury or a distraction. It is a pragmatic imperative and should be a paramount goal of the mediator.

A fine example of a confidence-building approach was the mediation conducted in 1990-92 by Sant' Egidio, a Catholic lay community, in the Mozambican civil war. Cameron Hume summarises the essence of Sant' Egidio's approach as follows:

Both sides wanted to find an alternative to stalemate and destruction. The mediators helped the parties find that alternative. Because this conflict was essentially domestic, the solution had to be found in a new relationship between the parties. The mediators concentrated on developing mutual recognition and respect, rather than relying on outside leverage to push the parties together. Their first step was to begin a dialogue between the parties that could open the way to reconciliation. Eventually the parties could agree on their own solutions.⁴

⁴ Hume, C., 1994, *Ending Mozambique's War*, Washington DC: US Institute for Peace.

When is a conflict ripe for resolution?

William Zartman argues that deep-rooted conflicts are ripe for resolution at certain times but not others.⁵ This is a distressing but potent idea that resonates with mediators and diplomats working on intractable conflict. It is often the case that, regardless of the mediator's efforts, one or more of the parties steadfastly refuses to enter into talks or participates in talks with no genuine interest in forging agreements. As in the AU mediation for Darfur in 2005/06, the parties are simply going through the motions in order to avoid the impression that they are opposed to peace.

Two questions arise from the notion of ripeness. First, when is a conflict ripe for resolution? Zartman suggests that there must be a mutually hurting stalemate, in terms of which the parties have come to believe that they cannot win the conflict by perpetuating hostilities, that their situation is painful and that the pain is likely to get worse. The parties must also believe that negotiations are a viable option for solving the conflict to their satisfaction. Viewed retrospectively, both of these conditions were present in Mozambique and South Africa prior to the start of their successful negotiations. Neither condition was present in the Darfur talks; most of the parties considered the battlefield to be the strategic arena of conflict and saw the negotiating forum as merely a tactical arena.

It is hard to identify ripeness in a current case. The parties rarely admit to feeling pain as this could be interpreted as weakness and they are reluctant to disclose their innermost strategic thoughts to the mediator lest this information is passed on to their opponents. It is therefore essential that mediation teams have a good intelligence and analytical capacity, comprising a network of officials and analysts who are able to provide reliable information and insights about the positions held by the parties.

Particular attention should be paid to conflict between moderates and hardliners within each of the parties. As occurred in apartheid South Africa and former Rhodesia, these struggles might foreshadow either a breakthrough or a hardening of positions. In South Africa there was an internal power struggle within the ruling National Party in the late 1980s; FW de Klerk, supported by the National Intelligence Service and enlightened business leaders, dislodged PW Botha and engaged in talks with the African National Congress. Where parties are weak and insecure, as with the Sudan Liberation Movement during the Abuja talks, the hardliners might prevail.

Carrots, sticks and impartiality

The second question arising from the notion of ripeness is one that preoccupies the UN, the AU and the regional organisations in all intractable conflicts: how can a conflict be ripened so that it becomes conducive to resolution? What can be done to overcome the intransigence of President Mugabe, the Sudanese government, Abdul Wahid or the Lord's Resistance Army? What kind of pressure and incentives could usefully be applied in order to obtain a sustainable peace agreement? Regrettably, history offers no clear answers to these questions.

⁵ Zartman, IW, 2001, 'The Timing of Peace Initiatives: Hurting Stalemates and Ripe Moments', *The Global Review of Ethnopolitics*, vol. 1, no. 1.

Punitive action has spurred conflict resolution in some cases but retarded it in others. The sanctions against apartheid South Africa and former Rhodesia increased the pain being felt by the ruling minorities and thereby contributed to a hurting stalemate and the commencement of negotiations. Conversely, sanctions can make both the targeted party and its opponents more intransigent. For example, the sanctions imposed on Burundi after the coup led by Pierre Buyoya in 1996 emboldened Hutu hardliners, undermined Tutsi confidence in reconciliation and strengthened extremist positions within the army and minority community by heightening their sense of vulnerability and persecution.⁶

When attempting to predict the future effect of punitive action on peace processes, such as with the threatened International Criminal Court prosecutions against President El Bashir, experts have mixed opinions and the truth of the matter is that the short- and long-term impact cannot be gauged with any certainty.

One key lesson from history is that punitive action should not be taken by or associated with the mediator. For example, the sanctions imposed on Burundi in 1996 were endorsed by former President Nyerere of Tanzania, the official mediator for Burundi. While the Buyoya regime pursued negotiations and forged a partnership with some of its internal opponents, it resisted the external peace process led by Nyerere. It called repeatedly for his resignation as the mediator on the grounds that he was anti-Tutsi. The tension between Buyoya and Nyerere, and the controversy around the embargo, threatened to overshadow the conflict in Burundi itself.⁷

A mediating body that resorts to coercion will be mistrusted by the targeted party as surely as a soccer team mistrusts a biased referee. It sacrifices its status as an 'honest broker' and becomes a party to the conflict. Enforcement and mediation functions should therefore be performed by different actors; it is possible, for example, for the UN Security Council to play the role of 'bad cop' while the UN Secretary-General plays the 'good cop' role as a mediator. The mediator's job is to build the parties' confidence in negotiations as a means of meeting their needs. Given the parties' fears and mutual hostility, their trust in the mediator is crucial. Above all, they expect the mediator to be non-partisan and fair.

In practice, strict adherence to non-partisanship has been a core feature of successful mediation. According to Father Romano, Sant' Egidio's strength as a mediator in Mozambique 'was exactly not having to defend any vested interest in the country but the one of a solid peace'.⁸ The importance of Sant' Egidio's impartiality has been stressed by officials who participated in the peace talks on behalf of Frelimo and Renamo. The same point applies to the successful mediation undertaken in 1971/72 by the World Council of Churches and the All African Council of Churches in the Sudanese civil war. Conversely, former President Mbeki's mediation in Zimbabwe was hampered severely by his perceived bias in favour of the ruling party.

⁶ Mthembu-Salter, G, 1998, 'A Policy Passed Its "Sell-By" Date: An Assessment of Sanctions against Burundi', report prepared for Action Aid, December; International Crisis Group, 1998, 'Burundi under Siege: Lift the Sanctions; Re-launch the Peace Process', *Burundi Report*, no. 1, 28 April.

⁷ Mthembu-Salter, G, 1998, 'A Policy Passed Its "Sell-By" Date: An Assessment of Sanctions against Burundi', report prepared for Action Aid, December; International Crisis Group, 1998, 'Burundi under Siege: Lift the Sanctions; Re-launch the Peace Process', *Burundi Report*, no. 1, 28 April; Van Eck, J, 1997, 'Brokers in Burundi: Broadening the Nyerere Mediation Initiative', *Track Two*, vol. 6, no. 1, Centre for Conflict Resolution.

⁸ Romano, A, 1998, 'Peace is Possible: Lessons from the Mozambique Peace Process', paper presented at Learning from Conflict Resolution in Africa: Workshop on the Experience of Individual and Institutional Mediators, Mwalimu Nyerere Foundation and the Tanzanian Ministry of Foreign Affairs and International Co-operation, Arusha, 21–23 January.

While much has been written about the impact of sanctions and mediator bias, less research has been done on incentives as a means of ripening a conflict and expediting an agreement. 'Carrots' are more positive than 'sticks' but they have their own complications. For example, is it appropriate and feasible to provide a rebel movement with financial support to become a political party (as was done with Renamo in Mozambique)? Or to offer members of the government and security forces amnesty from criminal prosecution (as appears to be the case currently in Zimbabwe)? Or to provide rebel armies with material support when they relocate to assembly areas after a ceasefire (as the Darfur rebels requested during the Abuja negotiations)? It would be fruitful to study the impact of incentives in various peacemaking processes.

If a conflict is not ripe for resolution, it is pointless for the mediator to convene a high-profile negotiating forum with a large number of party delegates. As in Abuja during the Darfur talks, the parties simply use these forums to grandstand and indulge in mutual accusations. The better options for the mediator are:

- engaging in low-profile shuttle diplomacy with the aim of identifying common ground (as was done in South Africa)
- bringing the parties' leaders together in informal settings (as was done in Mozambique and during the Somali peace process)
- providing the parties with training in negotiation skills (as the parties requested in Abuja)
- empowering the parties by arranging opportunities for them to learn from peace processes in other countries
- encouraging the parties to make unilateral confidence-building moves (e.g. release of prisoners and temporary ceasefires).

Enhancing mediation capacity in Africa

Given the complexity of intractable conflict, the corresponding difficulty of peacemaking and the deadly humanitarian cost of protracted hostilities, it is essential that mediators are highly skilled and proficient, that they receive adequate institutional support and that the AU and the regional organisations enhance their capacity to undertake mediation and preventive diplomacy. Each of these imperatives is discussed below.

Mediators who are skilled and experienced will not always be successful but they are more likely to succeed than are inexperienced mediators. They are more familiar with mediation strategies and tactics, giving them a wider range of options and tools, and they are less likely to make mistakes. It is surely inappropriate that states and international organisations that would not deploy untrained soldiers or doctors in conflict zones are willing to use untrained mediators.

The appointment of mediators is undoubtedly a political exercise and must take account of a range of factors, such as the nature of the parties, their culture, language and religion, and the location and dynamics of the conflict. Mediation teams might have to include high-profile dignitaries in order to liaise with government leaders and it may also be helpful to include former members of liberation movements who can empathise with the concerns of rebels. It is therefore inevitable that some members of a mediation team might have little experience in mediation but the team as a whole must have sufficient expertise in this regard.

Mediation should be regarded as a specialised activity with a set of skills and techniques that can be learnt and mastered. The relevant skills and techniques relate to: diagnosing the causes of the conflict; identifying opportunities and methods to build the parties' confidence in negotiations; pursuing shuttle diplomacy when the adversaries refuse to talk directly to each other; designing and convening mediation processes; preparing agendas and conducting meetings; identifying common ground between the parties; generating options for resolving deadlocks; and facilitating dialogue, cooperative problem-solving and the drafting of agreements. Expertise in these areas derives from training, experience and familiarity with the case studies and other literature on conflict resolution.

In any protracted peacemaking process, mediators need extensive support. Their support teams should have the following capacities: deep knowledge of the history, causes and dynamics of the conflict; familiarity with the parties and their leaders and factions; intelligence and analytical expertise in order to track and analyse developments and advise the mediators on options, opportunities and dangers; thematic expertise on topics like constitutions, ceasefire arrangements and wealth-sharing; and communications expertise so as to communicate effectively with the UN and the AU, with communities in the conflict area and with the general public. As noted above in relation to the Abuja process for Darfur, the most important need is for expertise in mediation.

Conclusion

Although every conflict has unique features and there is no recipe for perfect mediation, peacemakers would benefit hugely from a sustained effort to record and reflect critically on the experiences of their peers and predecessors. The peace agreements for the DRC, Somalia and Darfur failed to achieve peace but we do not know whether there are common reasons for this. As yet, there is no systematic attempt to review mediation cases, identify lessons and then apply the lessons. Without the gradual accumulation of knowledge, mediation will not get better over time and mediators will continue to make the same errors.

In order to enhance the prospects for successful peacemaking, the AU and the regional organisations should set up mediation units with the following functions: provide expert analysis, advice and support to senior mediators and decision-makers; undertake mediation and preventive diplomacy in situations of actual and potential conflict; provide early warning for the purpose of peacemaking; identify and facilitate participation in mediation-skills training courses; establish and maintain an information repository; undertake or commission research on mediation; identify lessons from peacemaking endeavours and ways of institutionalising the lessons; and maintain a database of experts who could be called on to play various roles in peacemaking initiatives.⁹

Compared with the human and economic costs of violent conflict, and the financial costs of peacekeeping operations, establishing mediation units and building mediation capacity and expertise in Africa would be inexpensive. Yet the benefits might be enormous, improving the chances of ending wars that claim thousands of lives.

⁹ Over the past two years, discussions on building mediation capacity have been underway in SADC, ECOWAS, IGAD and the AU. None of the organisations has yet established a mediation support unit.