

# Conceits and Callings: Conflict Mediation Comes of Age

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## Summary

*Mediation is seen as an increasingly successful means of resolving armed conflicts, and the growing number of actors involved testify to its popularity and emergence as a distinct field of international diplomacy. However, success may be exaggerated and mediation still unproven in the face of both intractable conflict and new wars, less amenable to liberal internationalism for their solution. The profession itself risks increasing disillusion (among its practitioners and constituents) as its core belief in dialogue is challenged and its imperfect tools fail to deliver results. Conflict mediators should be more active advocates for dialogue in order to win legitimacy and support, and address obvious shortcomings in practise.*

The Human Security Report, released in late 2005, presents data suggesting a marked decline in the number of armed conflicts in the last ten years. Further, the Report attributes much of this decline to an unprecedented international engagement aimed at cajoling belligerent parties to accept peaceful solutions. Other studies confirm this trend, and many informed observers point to increasing efforts by third party mediators.

These studies provide an empirical basis for the generally good press peacemakers have been getting. Conflict mediation received unprecedented attention in the UN Secretary-General's *In larger freedom* report, and his proposal to strengthen UN mediation capacity was warmly received by most states. The reforms too saw the creation of a Peace-building Commission to ensure the UN was better equipped to consolidate and sustain peaceful settlements. Although high profile wars continue in Iraq and elsewhere, in the past 5 years third party mediators have assisted in concluding peace agreements in Afghanistan, Burundi, Democratic Republic of Congo, Haiti, Indonesia (Aceh), Liberia, Macedonia, Sierra Leone, and Sudan, and in reaching and holding ceasefires in Cote d'Ivoire, Ethiopia/Eritrea, Sri Lanka, and Sudan. There have been failures too, but measured crudely more wars are ending than beginning and without a doubt mediation deserves some share of the credit.

There are many reasons, however, to guard against complacency. Success, like "peace" is a relative concept. The difference between *pre-* and *post-*conflict may have more to do with one's perspective than the actual situation. Many challenges in both the external environment and the internal *practise* of mediation are already apparent and others loom on the horizon. Externally, there is no guarantee that tomorrow's conflicts will be amenable to today's solutions. Some would argue that this is precisely the problem with those continuing "intractable" conflicts where mediation efforts repeatedly fail. Internally, the increased attention that accompanies success, and the growing sense of self-identification as *mediators* among those active in Track 1 peacemaking, carry their own challenges. More players enter the field, even as the field itself remains ill-defined, and no rule book exists to regulate play. Who can and who should mediate conflicts? What do conflict mediators do that is distinct from

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diplomacy? What do they share in common? In a world of increasing polarisation, mediators and others who claim credibility to speak across frontiers – both real and imagined – will need to be clear on such questions if they are to be effective.

This brief paper discusses both sets of challenges:

- in the external environment, deriving from the actual conflict situations where mediators are engaged; and
- internally, the challenges presented as a somewhat obscure, if glamorous, diplomatic task takes on the trappings of a distinct profession, and in doing so is called on to define itself and the standards successful practise requires.

### I. Mediation conceits

As would be expected of any activity largely reserved to well-connected international elites, conflict mediation is not without its conceits. Though natural, these assumptions and points of pride need to be scrutinised. There are three in particular that, when tested, lose some of their certainty: first, that negotiating peace agreements is the primary task, second, that mediation is enjoying a successful run, and third that current models are adequate to the task ahead.

#### *After the handshake*

In an era where the incidence of armed conflict is in decline and mediation is seen by many as a key factor, some smugness can be excused. But the supposed potency of the mediation tool is immediately cast into doubt when one examines the actual countries now at “peace”, and realises the precariousness of the achievement. Taking the last dozen or so peace agreements, almost all of the countries involved remain in the “alert” or “warning” categories on the Failed States Index, said to be a reasonably reliable indication of the likelihood of renewed conflict. In short, a peace agreement in itself guarantees little, and as any number of dignitaries at peace signing ceremonies have warned, such an agreement signals much hard work ahead, for many years to come.

Of course, this is nothing new. *Now-the-hard-part-speeches* are not only common but expected. Why is it, therefore, that so much public attention is focused on the drafting, and so little on the implementation of agreements? Part of the blame lies with the media, who understandably prefer the high drama of deadlines, midnight walkouts, and sudden breakthroughs. Is it not also the case, however, that *this is the part of peacemaking most appealing to mediators and other outsiders who are involved?* Indeed, some would reserve the title conflict mediation only to the negotiation leading to an agreement ending an armed conflict.

No one would under-estimate the difficulties involved in managing peace negotiation, or the frustrations of intransigent parties and wasted opportunities. But the pre-agreement phase is focused, the goal clear, and a constituency of support can usually be built to back the process. In the post-agreement phase, the high drama of the peace table is replaced by the daily grind of donor co-ordination, capacity building, electoral manoeuvring and law reform. High representatives and resident co-ordinators tasked with implementation are unlikely to be nominated, never mind win the Nobel Peace Prize. But *why not?* If we acknowledge the importance the UN or other outside 3<sup>rd</sup> parties play in

ensuring a peace agreement actually delivers peace, then when it is done well it should be applauded loudly.<sup>2</sup>

The creation of the Peace-building Commission and the entire post-conflict enterprise led by the UN and donors is, of course, recognition of the importance of implementation. Yet fame and fortune still attaches to those who clinch the deal, and one suspects the clinchers of peace deals do too little to expose this bias. Implementation no less than peace negotiation requires the mediator's skill. In both phases 3<sup>rd</sup> parties who are involved will find themselves cajoling groups with diverse and conflicting interests to work together and to accept compromise. In the post-conflict scenario, the goal is to sustain peace, whereas earlier on it is to end war, but surely the similarities are so many as to make nonsensical any hard distinctions. The conceits that prioritise the handshake and peace table mediation must be abandoned.

### *Intractable conflicts or mediation graveyard*

Beyond the precariousness of the result, a second reason for humility is the possibility that what today looks like a mediation winning streak may actually mark the high point of outside efforts to end conflict. Some might argue that mediators have yet to prove their mettle in the toughest conflicts. Ongoing wars in Colombia, Sri Lanka, Philippines, Palestine, and Myanmar, to name a few, have been extensively mediated, but without, to date, any successful and lasting result. Inter-state war or high, cross-border tension in South and East Asia similarly continues despite the efforts of mediators, and in other conflicts one or more of the parties refuses outside help altogether. In the trade, we refer to *intractable conflicts*, but this could be mere euphemism for failed mediation.

There are by most estimates approximately 30 current armed conflicts, above a certain minimum threshold of violence. Looking at the list, one is struck by just how difficult it would be to find a solution in most of these conflicts; they are not particularly new, and in many cases mediation has been tried and failed. Even with those relatively new conflicts on the list, such as the ongoing war in Iraq, only the foolhardy would place a bet for a mediated solution, unless given some very long odds. The uncomfortable fact is that some conflicts may be un-resolvable through negotiation, at least for the time being. If that is the case, then the recent mediation winning streak may only appear so because mediators have played out the 'B' team conflicts and have yet to take on the tougher ones.

Many continuing conflicts have very long histories and trajectories that defy whatever current paradigm has captured conventional wisdom, be it tribalism or terrorism. Such conflicts persist beyond paradigms, and do so for deep and difficult reasons that outsiders can rarely fully comprehend or treat. Some of these wars have been successfully mediated, but many have not and until they are it would be foolish to assume potency for a tool that in too many situations appears impotent.

### *Beyond the liberal peace*

It is said that hard cases make bad law, and perhaps intractable conflicts similarly, when solved, produce a questionable peace. If an agreement is found that brings durable peace to the Israeli-Palestinian

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<sup>2</sup> One practical way to better link negotiation to implementation might be to insist in more cases that the lead mediator/facilitator in the first phase continue into the second, as did the UN SRSG Lakhdar Brahimi in Afghanistan, after overseeing negotiation on the Bonn Agreement.

conflict or Colombia or Chechnya, can there be any doubt that it will fall short of minimum human rights and democratic guarantees? If mediation is still unproven in the toughest of cases, then perhaps one reason is that our prescription for peace is too demanding. A politically incorrect thought, to be sure, but it is being increasingly voiced. Are we correct to demand liberal and democratic solutions in illiberal and profoundly undemocratic environments? Do the tough conflicts remain unsolved at least partly because the outside prescription for a solution is unrealistic?

### *Looking around the corner*

There is, further, the possibility, some would say probability, that new forms of war, expressing new forms of grievance, are emerging, or perhaps already upon us, and that the mediation tools and methodology commonly deployed are ill-suited to the challenge. International peacemaking copes very competently with *inter-state* warfare, and although the US-led invasion of Iraq in 2003 and the Eritrea–Ethiopia border war are prominent exceptions, international efforts led by the UN have largely prevented inter-state disputes from descending into warfare (even if a few border crises continue to defy resolution). Less success has been achieved in civil wars, but in such situations there is, nevertheless, familiarity, or at least common reference points, between the mediator and the mediated when the dispute centres on autonomy or secession claims for ethnic, religious or linguistic minorities, or on power and wealth-sharing arrangements, and/or new institutions to address inequities.

The familiar ground may slip away, however, when an apparently borderless insurgent force makes a claim to overthrow several governments, or to unite all Muslims under the power of a new Caliphate. Similarly, there may emerge (again) political ideologies that appeal across existing borders to unite poor against rich, north against south, etc., and who can tell what conflicts may emerge in the face of environmental degradation, scarce oil and pandemic disease. New religious movements are emerging that may espouse violence in the pursuit of goals that the secular world of states and earthly power cannot easily comprehend. Where claims backed by the gun aim not to redistribute power within the existing system, but to create a new system, then mediators who represent the status quo will be unwelcome. For system-smashers (and for many the system appears unjust), the United Nations is not a neutral body, and rich states, however well-meaning, are not seen as impartial.

Generals always fight the last war, meaning they learn the right lessons emerging from past events, but apply them to new wars without grasping that a changed context has rendered null and void prior operating assumptions. Hence in the wake of World War I an impregnable Maginot Line is built, the mother of all trenches, to withstand the mightiest combined artillery barrage and infantry assault imaginable, and is breached in a few days by a mobile, Panzer army. Might it also be the case that peacemakers mediate the last peace? Best practices and lessons learned exercises proliferate, but are future conflicts, and even some of those impervious to our current efforts, likely to unfold in predictable ways?

Easier to pose these questions, of course, than to attempt answers. Above all, in defence of the just and fair peace it should be said that there are good reasons for thinking such deals are more durable than unjust ones. But having made this point, peacemaking practitioners must be wary of assuming that existing models are universally valid, either now or in the immediate future.

The above points taken together suggest, perhaps, the ultimate conceit, namely the view that we stand in a golden age of international peacemaking, where our concerted efforts to end war bring us ever

closer to a Kantian perpetual peace. Even assuming we could see around the corner, and predict what may unfold in the next decades, this wishful thinking is objectionable for the simple reason that we've been through it before.<sup>3</sup> There have been prior golden ages for making and keeping the peace. The Congress of Vienna in 1815 and the ensuing Concert of Europe kept the peace for 40 years (until the Crimean and Franco-Prussian wars), and then again for another 30 years until World War I. Throughout this period, numerous potential, simmering and actual European conflicts were mediated in one way or another by the statesmen of the day. Imperial powers too have always mediated local disputes in far-flung corners of the empire, be it the Romans, Ottomans or British, and all justified extending imperial power in order to keep the peace and maintain stability. Some see echoes of this imperial, pacifying and stabilising urge among today's globalised political elites and their institutions. Imperial or not, the point is that we may similarly be in a golden age that is about to lose its shine. For those whose business it is to end wars peacefully, or prevent them erupting, this ought to be a sobering thought.

## II. Mediation comes of age

Those who mediate armed conflicts should question assumptions about success, and be sceptical regarding any set formula for achieving it. They will also need to prepare to operate in more difficult environments where dialogue is not necessarily assumed to be a good thing. As conflict mediation moves from *ad hoc* diplomacy to a distinct profession, new challenges emerge, ranging from the chaotic and rather unregulated nature of the field, to more fundamental questions about identity and purpose.

The literature on conflict mediation is of relatively recent vintage, and although the odd text can be found from the 1970s and 80s, it is in the last decade or so that conflict mediation has developed its own niche in the study of war and peace. The UN is in perpetual reform but only last year did it see fit to create a "Mediation Support Unit", and to explicitly identify conflict mediation as a key task (it is not explicitly mentioned in the UN Charter). Following Norway's lead, other governments have openly committed themselves to developing "mediation capacity", including Canada, Sweden and Switzerland, and there are increasing numbers of private organisations that are engaging in conflict mediation. In short, conflict mediation has come of age, and like any adolescent faces some existential angst.

The most basic question is whether it makes sense to talk about conflict mediation as a distinct profession. If it is, there ought to be some distinguishing features, values or standards that make it distinctive and give those practising it legitimacy. If not, then it would be hard to say those doing it were different in any enduring or profound way than any number of actors engaged in various forms of international diplomacy. After all, the bread and butter work of 3<sup>rd</sup> party mediation teams involves many tasks diplomats would find familiar – convening meetings, arranging protocol, building supportive networks, briefings, finding allies, etc. The substance of the work too covers familiar diplomatic ground – human rights, borders, development funds, international verification and monitoring etc. Similarly, even the more mysterious and discrete "back channel" efforts, though hardly run of the mill diplomacy, are not unlike much intelligence work which is, after all, a major component of every state's diplomacy. What distinguishes conflict mediation?

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<sup>3</sup> Hugo Slim, Comments at *Human Security Report – Realistic prognosis or misplaced optimism? Debate* at HD centre 19 December 2005, with Professor Andrew Mack, Dr. Hugo Slim and Professor Keith Krause.

*“Better to jaw-jaw than to war-war”<sup>4</sup>*

One clear way of distinguishing conflict mediators would be to identify core values or principles that they all, unreservedly, agree to uphold. This might, for example, be found in their commitment to peace. But conflict mediators are not (all) pacifists, so it is unlikely to be a principled opposition to war that unites them. Similarly, although the suffering caused by war is likely to exert some influence on all mediators, it would be presumptuous to assume that all place humanitarian concerns at the forefront of their endeavours. Perhaps instead what unites those mediating armed conflicts is a commitment to negotiation as a better alternative, in most cases, to continued fighting. In other words, *mediators hold a practical preference for dialogue*, a belief in the transformational power of direct and personal engagement with one’s adversary, and the belief that war is very rarely an effective means of resolving differences. This preference for dialogue is strengthened by the knowledge that even when war is inevitable or necessary, dialogue will be required in its aftermath. A second core value might be a commitment to *impartiality*, meaning that in entering as a 3<sup>rd</sup> party to find a solution, mediators undertake not to favour either party in the process.

Making such commitments might seem obvious, even banal, but in the “War on Terror” environment, and in the face of violence justified on religious, ethnic, or civilisational grounds, the value of dialogue is questioned and dismissed. Similarly, “War on Terror” rhetoric, and generally polarised international environment, allows little room for impartial actors, as it would appear taking sides is the primary duty of governments and, indeed, international organisations.

Against dialogue, it is argued that there should be no discussion with those who pursue their ends, however legitimate, through illegitimate means, and that above all there can be no negotiation with “terrorists”. Many argue additionally that where the goals of armed actors are irrational or so extreme they can never be conceded by democratic governments, there is no point to negotiation. When, as is so often the case, one party to a conflict is an armed group, dialogue is seen as legitimising the group, and official actors will be wary of the implications of doing so. Scholars of *realpolitik* point to some uncomfortable facts in identifying the pitfalls of dialogue, namely that in some conflicts evidence suggests creating a peace table acts as an incentive for the taking up of arms in order to get a seat, or, along the same lines, simply to ensure the table is set up in the first place, or to buy time in order to re-arm. Where one side is able to achieve a decisive military victory, this may be preferable to years of inconclusive negotiations, with ongoing low-intensity conflict, that sustains the weaker party, allowing it to drag out the war.

None of these arguments are terribly new, though most are given new impetus and weight post 9/11, where it can fairly be said that the dominant mood is for attacking “terrorists” and isolating “rogue regimes”. All the more reason, therefore, for counter-arguments to be put forward, and in a credible manner. These can be principled and pragmatic, pointing to the perils, moral and otherwise, of demonising any group and to the weight of evidence showing that civil wars almost always end through negotiation. Such evidence shows too the extremely important role played by impartial 3<sup>rd</sup> parties in ending wars. Whatever the arguments, what better group to put them forward than conflict mediators? Just as we look to lawyers to defend the rule of law, especially when the mob would readily abandon due process, shouldn’t we look to peacemakers to defend mediated solutions precisely when dialogue seems least popular?

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<sup>4</sup> Quote attributed to Sir Winston Churchill, 1954.

### *Calling or contest*

Agreement on dialogue as a core belief would certainly give conflict mediators a strong sense of identity, and if they were advocates for dialogue they would have a foundation on which to win public support. This would distinguish their task, making clear that taking it on carried a certain moral responsibility above and beyond normal diplomacy, and that mediators were, if you like, pursuing a secular calling.

Beyond core values, the professionalisation of mediation might be helped too by a clearer shared understanding of the dilemmas faced by mediators and acceptable responses. While it might be too much (perhaps not?) to expect an ethics of conflict mediation, it is likely that a few key principles could be agreed, including the idea that the mediator acts neither for the parties nor his/her own advantage, but always to advance the best interests of the process.<sup>5</sup> Similarly, mediators should always be impartial. Such standards should not be a bureaucratic imposition, but rather should emerge from an honest debate on real-life dilemmas and the boundaries of permissible responses.

Looking at practise, competition among mediators might also need to be addressed. As noted above, those who clinch the peace deal capture the headlines (even if the hardest peace work is yet to begin), and human nature being what it is it should be no surprise that such a prize is pursued by an increasing range and diversity of actors. The UN has been the pre-eminent mediator, but increasingly regional organisations, including the EU, ASEAN, AU, OSCE and OAS are appointing representatives, often to the same conflicts, *resulting in a proliferation of envoys and envy*. More and more governments, particularly small and middle powers, are looking to play a role, following Norway's lead, and new governments of all stripes searching for foreign policy credibility and an increased international profile and clout claim a mandate to facilitate peace talks. Into this already confused *milieu*, step the private foundations, unconstrained by officialdom, but thus able to move nimbly.

It would seem churlish to complain about too many peacemakers! But there must be a saturation point, when awash with envoys, bilateral initiatives and back channels, peace processes simply cannot stay afloat. Regarding Darfur, some would argue mediation overkill was at least partly the cause of the two long years between the N'djamena Ceasefire Agreement and the recent agreement emerging from the conclusion of peace talks in Abuja. Who decides when enough is enough, or when a mediation effort should be left to fail or succeed on its own, or should be helped through additional initiatives? Leaving this choice to the belligerents is usually no solution at all, as tactically the urge for them to sow confusion by opening new channels will be difficult to resist. They will also naturally aim to find the mediator best placed to win the best solution for them, and their assessment on this point is almost certain to change over time.

We cannot banish competition among mediators, and some might argue we shouldn't try, pointing to the possible beneficial outcomes of a competitive market in conflict mediation services. If it is a market, however, it is of a very inefficient nature as it would appear continued failure does not necessarily result in diminished financing, nor do those in need of the service have anything close to adequate information or autonomy to make free and informed choices. Rather than the competitive free market, the more appropriate analogy for conflict mediation, or indeed peace, might be that it is a

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<sup>5</sup> See Hugo Slim, Towards Some Ethical Guidelines for Good Practice in Third Party Mediation in Armed Conflict, background paper prepared for Oslo Forum 2006.

public good – that benefits so many it cannot be priced – and as such should not be left to market forces. But if so, who apportions this public good?

### *Core competencies*

Are there core skills and competencies that should be required of any mediator? It would be a strange profession if charm, luck and statesmanship alone were its defining characteristics. But perhaps not; perhaps success defines competency. At present, however, lack of attention to this issue results in plenty of confusion. For example, there are accredited and recognised degree courses in both negotiation and mediation, which although of more general application do claim to be relevant for those involved in Track 1 peacemaking. But is the Harvard Negotiation Method important for a conflict mediator in the same way as an LLM is important for employment in the prosecutor's office at the International Criminal Court? Probably not, *but why not?*

Disdain for negotiation theory is all too common among senior conflict mediators, and, it must be said, so too is a certain contempt for theory generally. All fields present gaps between those who teach and those who do, but it must be acknowledged that in very few other professions is so much written by so many for so few, *who in any case do not read it.* The theory speaks of “ripe moments” “mutually hurting stalemates” and “spoilers”, of “facilitative” versus “manipulative” mediation, of “best alternatives to negotiated agreements”, of “sequencing” and much more, but there is little evidence to show those who engage belligerents for the purpose of making peace are guided in practise by such theory.

Some studies, recently published, show very strong correlations between the relative power of the mediator, the approach used, and the achievement of successful results in particular kinds of conflicts. Thus the weak mediator, with little leverage, is least successful in situations where there is a rough parity in the parties' military power, and purely facilitative (more passive, non-directional) mediation styles only rarely succeed in long-term intractable conflicts. Imposed solutions, or “manipulative” mediation is what is required to get results in these cases.<sup>6</sup> Such theory might have a very concrete use in deciding which types of mediators are best suited for certain mediators. Do mediators ignore it at their peril? Some significant portion of good mediation practise will necessarily derive from character, judgment and political skill, not easily transferable qualities.<sup>7</sup> But is there a portion too that is grounded in theory and professional knowledge?

Identifying core values, finding ways to ensure the comparative advantages of different mediators and their institutions are best deployed, determining the areas where we should expect mediation *practise* to be better grounded in theory – all useful exercises to give greater definition and clarity to the efforts of peacemaking. A fuller list would include attention to the substantive issues that habitually create obstacles to peace, including accountability for past crimes, accommodating ethnic diversity, wealth sharing and land reform, compensation, prisoner release, human rights and justice sector reform, DDR, etc. To be clear, however, there is a choice: *professionalisation* will demand such effort, but a respectable case can be made that it would be a mistake to formalise too much, or at least in

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<sup>6</sup> Jonathan Wilkenfeld, Kathleen J. Young, David M. Quinn and Victor Asal, *Mediating International Crises*, Routledge, New York, 2005.

<sup>7</sup> Antonia Potter, « Masters of the End Game – In search of the textbook mediator » in Harriet Martin, *Kings of Peace, Pawns of War*, Continuum, London, 2006, forthcoming.



ways that stifle the innovation, risk-taking and creativity that are so often a hallmark of successful mediation efforts.

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Conflict mediation is coming of age. The fact that people self-identify as Track 1 mediators, and that networks of practise, like the Oslo Forum, are developing is proof of an emerging profession of peacemaking. But rather than a triumphant arrival, and congratulatory speeches, let this development be driven forward by the cold realisation that there is an urgent need to defend the value of dialogue as the preferred solution to resolving conflict, and with humility so that those involved recognise the need to be prepared to confront new challenges in peacemaking. Meeting those challenges together might significantly enhance the prospects for success.