



Centre for
Humanitarian
Dialogue



A guide *to* mediation

ENABLING PEACE PROCESSES IN VIOLENT CONFLICTS

114, rue de Lausanne
1202 Geneva | Switzerland
info@hdcentre.org

t: +41 22 908 11 30

f: +41 22 908 11 40

The Centre for Humanitarian Dialogue is an independent and impartial organisation, based in Geneva, Switzerland, dedicated to the promotion of humanitarian principles, the prevention of conflict and the alleviation of its effects through dialogue.

www.hdcentre.org

A guide *to* **mediation**

ENABLING PEACE PROCESSES IN VIOLENT CONFLICTS

© 2007 Centre for Humanitarian Dialogue

Reproduction of all or part of this publication may be authorised only with written consent and acknowledgement of the source.

Table *of* contents

- i* Introduction, Background,
Purpose, Terminology
- 1** Part one:
What is a peace process?
- 7** Part two:
What are the typical dilemmas
in a peace process?
- 15** Part three:
Values, principles and
standards in peace processes

Introduction

In recent years, more armed conflicts than ever before have been resolved by peace processes centred on talks and agreements.¹ The number of state and non-state organisations involved in mediation and peace-building has increased at all levels of society. Alongside this growth in organisations, a newly self-conscious discipline and profession of peace-making and peace-building is emerging locally and internationally across different cultures.

The potential role of mediation as a means of ending armed conflict makes it increasingly important that those who engage in peace processes do so in a way that is ethical, professional and effective. Several recent peace processes have seen a wide range of organisations and interests gathered around them. This has led several observers to talk of the risk of “overcrowding” in certain processes. In such a context, there is a need for consensus on what constitutes good mediation and good support for a peace process.

Third party mediation to resolve international and non-international armed conflict is a highly political, fluid and complex role. It involves careful and often long term engagement in situations where widespread human suffering is common and the lives of many thousands of people are at stake. Most armed conflicts are deep and protracted with painful histories of extreme violence, inter-group hatred, oppression, humiliation, profound political suspicion and the active involvement of other states.

In such conflicts, mediators and other peace process specialists and supporters have a range of moral obligations. They have personal and professional responsibilities to the political parties to the process, to the people affected by the conflict, to concerned and interested observers and to the wider mediation and peace-building profession.

To meet these responsibilities, mediators and peace process specialists need to operate to a high standard of professional conduct which combines certain essential attributes: awareness of the context in which they are operating; good insight into their distinct role as third parties, and high levels of knowledge and skill in key technical areas. Integral to this professionalism, is the need for mediators and peace process specialists to employ astute moral and political judgement to guide their choices in important matters of substance, process and relationships in peace processes.

¹ *Charting the Roads to Peace: Facts, Figures and Trends in Conflict Resolution, Mediation Data Trends Report 2007*, HD Centre, Geneva, pp12-13.

Background

This guidance booklet was originally written to guide staff at the Centre for Humanitarian Dialogue. It was developed in consultation with colleagues in Political Division IV of the Swiss Ministry of Foreign Affairs who had encouraged HD staff to write down some of our operational principles and to share them with others.

The booklet was prepared after initial consultations with a small number of mediators from HD Centre and other organisations as well as with peace process specialists. A review of literature on peace processes also informed the guidelines. Much of this useful literature can be found on the United Nations website at www.unpeacemaker.org. A comparative review was also made of widely recognized codes for mediation in the commercial, legal and social sectors, as well as with other codes of ethics from the fields of medicine and anthropology. An earlier version of the booklet was discussed by senior international mediators at the Oslo Forum in 2006.

What follows, therefore, is offered modestly as a possible resource for other third party mediators, peace process specialists, diplomats and technical advisers from interested states, multi-lateral organisations and non-governmental organisations who seek to lead, or constructively support, a mediated peace process. The booklet describes the main aspects of a peace process and offers certain standards of good practice in the mediation and support of a peace process.

HD Centre has also used some of what follows as a guide for conflicted parties in a number of different settings. By describing some of the key elements and desirable standards in mediation and peace processes, the booklet may also help to give the parties in a peace process a clearer sense of what they can expect of a peace process, its mediators and others seeking to support it.

Purpose

What follows is intended to serve as an easy-to-use and accessible resource to mediated peace processes.

The booklet offers general but practical guidance to professional good conduct in mediation and peace processes. They do not give precise guidance for specific situations but are intended to offer a simple frame of reference to support ethical, thoughtful and professional decision-making.

- **Part I** describes the main elements of mediated peace processes.
- **Part II** reflects on a number of typical difficulties and dilemmas in peace processes.
- **Part III** sets out a number of core values and operational principles for mediators, peace process specialists and supporters.

The description of the main elements of a peace process in Part One helps to set the scene for the types of process and agreements that people can expect. The next section on typical dilemmas of a peace process will allow people to anticipate certain difficulties before they reach them. The specific values and principles in Part Three are intended to contribute to the development of core values, operational principles and standards of good practice for mediators and other peace process specialists working for the negotiated resolution of armed conflicts.

Terminology

Mediation in armed conflict is understood as “a political process in which the two or more parties to a violent conflict agree to the appointment of a third party to work impartially with the parties to help them talk through options and voluntarily reach an agreement to end the armed conflict and secure a just and sustainable peace.”

A **mediator** is the person who plays the third party role.

A mediator usually heads a **mediation team**.

A **peace process** is understood as “any formal or informal, private or public political process which involves the parties to an armed conflict working together to plan and undertake a process of dialogue and to reach and jointly implement any agreement from it.”

A **peace process specialist** is any person officially brought in to support a peace process in a third party role as an expert advisor, facilitator, observer, monitor, reconstruction planner or funder.

A **peace process supporter** is any state, organisation or individual who commits themselves to support, actively and constructively, the peace process undertaken by the parties to the conflict.

PART ONE



What is a
mediated
peace process?

A peace process may take several forms.

Peace processes vary because of the type of conflicts they seek to resolve, the number and nature of the parties concerned and the type of mediator, specialists and supporters that are acceptable to the parties.

- A peace process may respond to a situation of international or non-international armed conflict or seek the resolution of particular social unrest, widespread civic disorder or protracted social conflict.
- A peace process may involve two or several parties to a conflict and so require bi-party or multi-party talks. The peace process may be confined to political and military leaderships of varying degrees of popular representation or actively include a wide cross section of society in a mechanism of “all-inclusive talks”. Or, it may proceed gradually from one to the other.
- A peace process may decide upon a single mediator or it may use a system of co-mediators. A mediator may use his or her own technical specialists to advise on complex problems – like

constitutional reform or disarmament - or draw on expertise from a range of other peace process supporters within the international or national community.

- Mediators may be *outsider* mediators with obvious impartial and third-party credentials or they may be trusted *insider* mediators from within the conflicted society who have a deep knowledge and perspective on the conflict that is valued and respected by all parties.

There are different views of what constitutes an acceptable role for a political mediator.

There is a range of opinion on how interventionist a mediator should be in armed conflicts. Other fields of mediation, like commercial and family mediation, only accept a single model of the disinterested, facilitating and non-coercive mediator. However, the worlds of war and politics tolerate and often demand a spectrum of mediating roles that exceed conventional notions of mediation practice because of the extreme human consequences and political ramifications of continuing armed conflict. Political mediation

frequently follows a power-based bargaining model and not a pure conflict resolution model.² Political mediators therefore range from the facilitating to the forceful as follows:³

- The *facilitating mediator* recognises an essentially enabling role of mediation which creates the conditions in which the parties can elicit their own solution at their own pace.
- The more direct *problem-solving* or *formulative mediator* recognises a need for the mediator to design and present certain solutions; to express preferences sometimes for particular outcomes, and to drive the process harder and faster than the parties might naturally do so themselves.
- The *power mediator* or *manipulative mediator* recognises a still more interventionist role which verges on coercion by leveraging political authority and military or economic power to pressure the parties towards an agreement.
- Mediators can work in pairs as *co-mediators*. This often allows mediators to cross-check their approaches with a colleague. At other times, a mediator

may draw on a co-mediator who does not play a role in the process but shadows it and advises and supports the mediator from a distance.

Different peace processes produce different types of agreement.

Not every peace process will result in a peace agreement which embodies an agreed political solution to the conflict. There are five main types of agreement which may emerge from a peace process which range from the most minimal agreements to the most comprehensive.

- An *agreement to talk* is usually the first step and results from an initial process of “talks about talks”. Usually unwritten and often confidential, this early form of agreement simply represents the consent of the parties to come to the table. Sometimes, a more formal *pre-negotiation agreement* sets out precise terms around the process and substance of the talks on which the talks will proceed.
- A *ceasefire agreement* is an interim measure whereby both or all sides agree to stop fighting for a specific

² For a longer discussion of this and other aspects of mediation covered in these guidelines, see Clem McCartney (2006) *Dilemmas of Third-Party Involvement in Peace Processes*, Conciliation Resources, London.

³ The different types of facilitative, formulative and manipulative mediation are from Beardsey et al 2006, *Journal of Conflict Resolution* 50(1).

duration - such as the duration of talks or for as long as both sides keep certain agreements of good conduct.

- A *cessation of hostilities* agreement goes beyond a temporary ceasefire and is a deeper agreement to refrain, completely, from using armed violence as a means to resolve the conflict.
- A *transitional agreement* sets out a further process of talks on the necessary political changes which will determine the ultimate nature of the political solution. In the meantime, it also usually agrees a provisional arrangement which will endure until final status arrangements are agreed. Transitional agreements adopt and create institutions and processes as instruments to work out a final settlement. As a result, they

are sometimes called *instrumental* – the agreement designs the instruments to make the final agreement.

- A *comprehensive agreement* sets out in detail the complete arrangements for a new or reformed polity. These full agreements state all the constituent parts of a final settlement and so are sometimes called *constitutive* agreements.⁴

Mediation and peace support activities take different forms at different phases of a peace process.

Typically, a peace process is divided into four phases: pre-talks; talks; agreement, and implementation. While activities

⁴ The distinction between instrumental and constitutive processes is from Jean Arnault, *Good Agreement? Bad Agreement? An Implementation Perspective*, Woodrow Wilson School of Public International Affairs, Princeton University, undated.

FIVE MAIN TYPES OF AGREEMENT

| | | | | |
|---|---|--|--|--|
| <p>Agreement to talk 1</p> <p>An early form of agreement that represents the consent of the parties to come to the table.</p> | <p>Ceasefire agreement 2</p> <p>All parties agree to stop fighting for a specific time e.g. during talks.</p> | <p>Cessation of hostilities 3</p> <p>All parties agree to refrain, completely, from using armed violence as a means to resolve the conflict.</p> | <p>Transitional agreement 4</p> <p>Outlines the necessary political changes, which will determine the ultimate nature of the political solution.</p> | <p>Comprehensive agreement 5</p> <p>Sets out in detail the complete arrangements for a final settlement.</p> |
|---|---|--|--|--|

like dialogue, analysis and relationship management are common to all phases, some activities are particular to different phases.

- In the *pre-talks phase*, initial bilateral contacts with each party are established in delicate and confidential assessment missions by the mediator or a peace process supporter. Early communications between the parties are often enabled by confidential message-carrying or back-channel communications between an official point person or semi-official members of the two parties. Agreements on certain confidence-building measures are also often enacted as a proof and gesture of good faith before full dialogue begins.

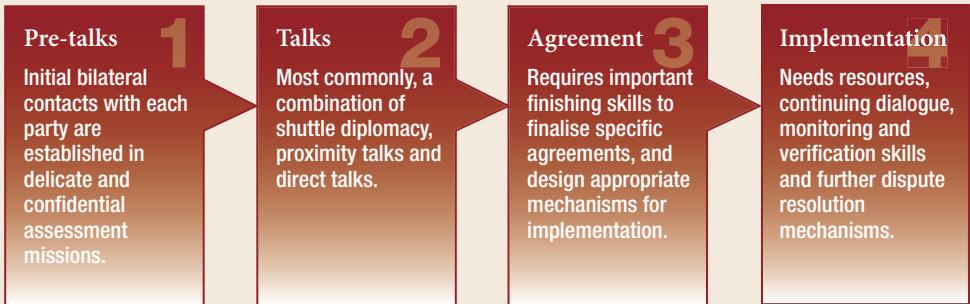
- The *talks phase* can use different formats for dialogue – most commonly, a combination of shuttle diplomacy, proximity talks and direct talks. The talks phase also involves a range of additional roles for the mediator and peace process supporters, such as: logistics, security and venue management; agenda setting and meeting management; the offer of technical expertise to assist in specific problem-solving; capacity-building work with one or more parties to

correct for asymmetry and enable their fair participation in a peace process, press and media management. Much capacity-building is done in a spirit of impartiality. Sometimes, however, states and non-state organisations choose to do such work in an explicitly partisan spirit of active solidarity with one preferred side in a peace process.

- The *agreement phase* requires important finishing skills to finalize specific agreements, design appropriate mechanisms for implementation and judicious design of appropriate ceremonies to politically inaugurate, acknowledge and launch the agreement into action.

- The *implementation phase* needs continuing dialogue, monitoring and verification skills and further dispute resolution mechanisms. Implementation also requires significant expertise, commitment and resources to set up new political, legal, economic and social institutions, or for the reform of existing institutions.

FOUR PHASES OF A PEACE PROCESS



There is seldom just one dialogue.

There are often a variety of simultaneous mediated dialogues being offered and pursued within a single conflict. This requires a multi-track perspective in any peace process.

- Dialogue takes place at different levels of society, across divided communities or between civil society organisations. Many of these are local dialogues or dialogues between specific social groups like women, professionals, religious or business people. These dialogues seldom have a direct purchase on political power and are described as Track Two processes. The number and type of these dialogues can also differ geographically from one area of a country to another and can move well beyond national borders to regional or *diaspora* discussions.

- Many of these different dialogues are non-competing and can be complementary within a wider, unified peace process. Different dialogues can serve particular purposes and their ideas and results can usefully inform and inspire the wider political process of Track One negotiations on specific issues like inclusion, gender, land-rights or reconciliation.

- But some dialogues - at track one and track two - are competitive and seek to gain ascendancy as the dominant approach to peace. Competition between different mediators or different political interest groups within civil societies can create opposing forms of dialogues and competing processes. Sometimes this competition is creative - the parties have a better choice of mediators and a range of dialogues throws up a variety of ideas for peace. At other times, such competition is destructive and becomes part of the conflict itself as different tracks to peace battle over professional or political turf.

What are the
typical dilemmas
in a **peace process?**

PART TWO



Peace processes are not simple and many of them throw up a common set of difficulties and dilemmas for mediators, peace process specialists and supporters.

Asymmetry of intention and ability between the parties are common problems in many peace processes.

The parties are not always at the table for the same reason, with equal measures of good faith or with similar capacities to develop a constructive dialogue.

- One or more parties to a peace process may be using the process more in the logic of war than of peace. Talks may be engaged in for many reasons other than a peaceful solution: to save face; to gain or keep international prestige; to stall while continuing or preparing wider military activities, or to beat the opponent at the table while he is weak on the battle field. As such, a peace process is often dealing with parties that are not equally intent on a just and peaceful resolution.
- Although at the table, one party may continue to deny any discussion of the ultimate desire of the other while, in response, the other party may continue

to hide its final goal. In this way, a peace process can oversee a scenario in which everything is talked about except the most important thing. This typically happens around the question of independence and disarmament in secessionist conflicts.

- Some of the most intractable conflicts emerge within parties rather than between them. These intra-group conflicts can sometimes disrupt a peace process more than the inter-group conflicts with which the peace process is apparently concerned.
- Even without splits within its group, one or more parties may be physically, intellectually and technically weaker as a negotiator so that the peace process is essentially skewed towards the strong.
- Charismatic and erratic political personalities from any party can capture and disrupt the talks, so denying them a reasonable dialogue and a logical outcome. Relatively small parties can prove to be disproportionately large spoilers of any process or agreement.

Every peace process involves different configurations of external political interests and attracts different levels of concern from other states and non-state organisations.

The politics of a civil war or an international armed conflict are never solely a matter of the politics of the groups or states directly at war. A complex configuration of different interests, or disinterest, affects the wider politics of any conflict and any peace process to resolve it. The outside interests of other states and group can often be significant blocks to peace.

- Each party to the conflict will have allies, supporters and sympathisers beyond its borders. In the same way, it will also have enemies and detractors in the wider regional and international political spheres. Depending on their interests, these other powers will attempt to support, undermine or influence a peace process in their favour. As such, they can work as partisan supporters, sources of pressure or outright spoilers in any peace process.

- Regional and international powers will support a peace process for different reasons. Some will favour an outcome

TYPICAL DILEMMAS IN A PEACE PROCESS

Asymmetry

One or more parties may be using the peace process more in the logic of war than of peace.

Discussion denial

One party may deny the discussion of the ultimate desire of the other while, in response, the other party may continue to hide its final goal.

Intra-group conflicts

The peace process is interrupted because of conflicts within parties rather than between them.

Stronger/weaker negotiators

One or more parties may be physically, intellectually and technically weaker as a negotiator, the outcome favouring the stronger negotiator.

Disruptive personalities

Charismatic and erratic political personalities from any party can capture and disrupt the talks.

of order, stability and “an end to the violence” over a genuine resolution. Neighbouring states will often be prioritising their own preservation and stability. Others will have more impartial interests in a genuine process of conflict resolution and the creation of a just and sustainable peace.

- Every armed conflict is the object of different levels of international political concern and attention. Some receive high levels of continuous international engagement. Many receive uneven and inconsistent political attention, while a few are the object of relative neglect and disinterest.

Talking with individuals responsible for particularly gross human rights violations or those who hold to widely unacceptable ideologies can be very controversial.

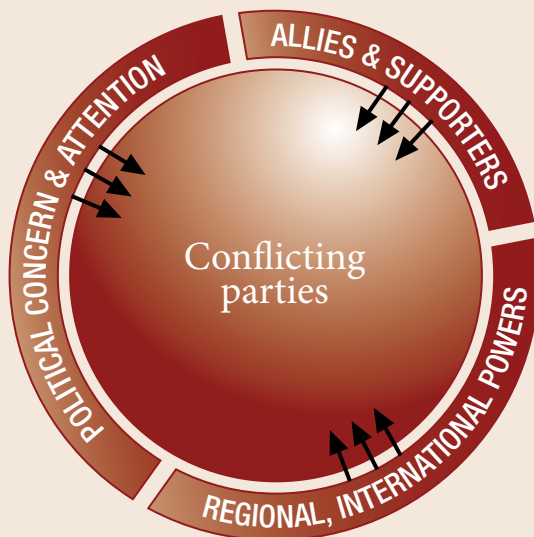
At any moment in history, there are usually individuals and groups who are labelled as political pariahs, and placed beyond the limits of acceptable dialogue by states and other groups. Talking with them can be morally, politically and legally sanctioned.

- Emotionally, pariah status is often imposed on groups and individuals because of genuine revulsion and pain at the suffering they cause. In most conflicts, many people suffering on one side find the idea of talking to their enemy immoral and repugnant, a way of granting status and dignity to a group that deserves no such recognition.

- Politically, imposing pariah status can be used strategically to marginalise and weaken such groups, or to compel political extremists towards a more moderate position at which point they will be rewarded with talks.

- Mediators routinely reach out to “pariahs” and need to do so if their positions are to be understood and peace processes are to be set in motion. More often than not, such people and such groups will prove to be part of the solution. But, such contact can often mean breaking a taboo or even breaking a law. As such, talking with pariahs requires sound judgment, an unofficial blessing of some kind and every effort not to allow the contact to be used opportunistically by the pariah group for non-peaceful strategies of intelligence gathering, publicity or increasing their legitimacy.

EXTERNAL PRESSURES ON CONFLICTING PARTIES



Several important difficulties in peace process practice arise from the necessity of sequencing different aspects of the peace-building process.

Unable to make peace in all its forms and fullness simultaneously in a single agreement or institution, every peace process is required to make difficult choices about the priority and precedence it gives to different aspects of peace.

- In armed conflict, the most fundamental area of moral tension in a peace process is between saving lives and reaching agreement. When war is still raging, a mediator may well be required to make a hard choice between working for an immediate ceasefire, which could save lives now, or staying focused on establishing wider political talks which, at a more opportune moment in the months ahead, could make more fundamental progress towards long term peace. But, the

choice between ceasefire negotiations and deeper political talks is not always a stark choice. Often, a ceasefire is an important and incremental confidence-building measure in the longer politics of peace. Sometimes, a search for a ceasefire is fruitless anyway, as parties are not willing to become “diverted” by ceasefires until a more developed agenda for political talks is on the table. At other times, one or more parties will opt for a ceasefire only to use it cynically to stall, re-arm or look good temporarily so that lives may have been saved briefly for even more to be lost later.

- The frequent need to sequence other equally important aspects of peace often creates a tension between order and justice. A peace agreement may bring stability to a state so that life can “return to normal” in some ways. But “normal” may not be fair and may now also involve outstanding wartime violations that remain without redress. In many peace processes, a political trade-off between the parties means that, for many ordinary people, the question of past violations are deferred in promises of future redress or over-ridden in amnesties. In effect, justice issues can be relegated as subordinate priorities to the importance of ending violence, setting up a new political

system and reconstructing the economic infrastructure of the country. How much a peace process can prioritise justice for past violations alongside political progress is often a difficult choice for third parties in the process. However, every peace process must pay due respect to international legal norms and human rights standards. At other times, the subordination of restorative justice is not a matter of political trade-offs but resources. Even if justice is given equal priority in a peace agreement, the sheer cost in time and money of building legal institutions and getting round to every case may inevitably mean that it lags behind other aspects in the sequence of implementation.

- Sequencing problems can also arise from things happening too quickly as well as too slowly. The rush for multi-party elections that flows from many agreements can often mean that the subtle political process of party formation, voter awareness and freedom from intimidation is demanded too fast without the requisite democratic maturity. Such haste is often deliberate on the part of negotiating parties eager to capitalise on their current political ascendancy. This speed may not be good for peace and simply see new political arrangements captured and abused by old enemies.

Inclusion is a challenge for every peace process.

Whether or not to focus on a limited deal made by political elites or to encourage a process to include as many parts of society as possible is a difficult choice in every peace process. In peace jargon, this difficulty is often talked about as the challenge of linking Track One and Track Two peace-making and peace-building.

- Often, being broadly inclusive involves a strategic decision to use the peace process itself as a means of transforming the society in conflict by exposing its political elites to wider social forces. The peace process itself then becomes an actual force for social change, transforming society as it works, and not just a forum in which to make a deal about subsequent change.
- Gender is a key area where both morality and evidence argue for the increased inclusion of women in peace processes. However, any success in involving women in peace processes is usually dependent on the extent of the patriarchal mindset of the parties themselves and the peace process team. If this mindset is low, women's inclusion is relatively easy to achieve and can be

quietly encouraged and modelled by mediators and peace process specialists and supporters. At other times, the inclusion of women meets strong neglect or outright resistance. In such situations, it may be hard enough to secure women's needs and rights in any agreement without risking the process itself by arguing for their inclusion at the table.

- Political inclusion is not always easy. Some conflicts occur between armed political elites in societies with highly authoritarian political cultures which have very few alternative and representative civil society movements. The possibilities for widening peace talks are few and the risk of any peace process continuing to reward gun-carrying elites is high.
- In other conflicts, particularly protracted ones, broadly representative pro-peace civil society movements have developed on all sides over time and are well placed and willing to be involved constructively in a peace process.
- In different situations, there can be real practical difficulties in any strategy of all-inclusive dialogue. Civil society may be highly developed, but also be deeply divided and antagonistic, so

requiring enormous investments of time and resources with uncertain results. In such a context, the choice for the peace process can be between focusing on an achievable deal between political elites which could begin a longer process of political inclusion or the risk of a peace process becoming bogged down in a more complex inclusive dialogue.

Judging success and failure in a peace process is not obvious.

Signature and ceremony is not everything. Peace processes can collapse and “fail” having made real progress. They can also “succeed” but reach deeply ambivalent agreements which create difficult new facts on the ground or overlook key groups and fundamental problems. Agreements are also only as good as the implementation that follows them.

- Peace talks which break down can leave vital foundations for future initiatives. They may have created important precedents for dialogue; new cross-conflict relationships; accumulated important international political capital in favour of peace, and more political space for pro-peace civil society movements.

- Apparently successful agreements may have within them the seeds of future conflict in contested land settlements, embittered victims, incomplete disarmament or “frozen” political issues around self-determination and justice.
- Effective implementation is the key to even the best agreement. Good implementation is dependent on active support from the conflict’s key constituencies and the political and economic resources provided by national and international political leaderships. An agreement does not just unfold. Implementation has to be driven and success requires extraordinary vision, energy and tolerance from all parts of society. The final judgement of a good peace process must be an assessment of its implementation.



PART THREE

Values, principles
and standards
in peace processes

PEACE PROCESS VALUES

Impartial mediators and peace process specialists in armed conflict have their own particular moral interests. These need to be made known to the parties to a conflict as early as possible as the core values and fundamental concerns of the mediator, the peace process specialists and their supporters. These values often include:

An intent to alleviate human suffering

- an immediate concern in ending armed conflict is to ensure the end of all kinds of human suffering from war.

A preference for dialogue over violence

- where talks are held fairly, in good faith and with a reasonable possibility of success, peace processes have an intrinsic preference for a process of dialogue to that of violence as a more moral means of resolving disputes. This moral preference for dialogue over violence is a given amongst impartial mediators.

Obligations to the parties and the people

- mediators and peace process specialists have a primary moral obligation to the parties they are working with but have important secondary moral obligations

beyond the immediate parties to all those people who may be affected by a peace process. Representing, including or anticipating their views and experience is fundamental to the process.

A focus on a just and peaceful solution

- the ultimate concern for a peace process is for the parties to reach an agreement which begins to secure a just and sustainable peace in the best interests of society at large. A good agreement, and its implementation, takes all people's interests into account. It finds ways to build on common interests and also to understand and tolerate significant differences. An incremental agreement which may be an imperfect step in this direction can be a useful, if intermediate and incomplete, agreement. But an agreement which favours one faction unfairly and arbitrarily, which unjustifiably excludes others, or actively condones a new or continuing pattern of human rights violations must be considered a bad agreement.

A voluntary agreement

- a mediated peace process sets out to achieve a mutually determined agreement. Mediation believes that agreements which are truly co-generated and

PEACE PROCESS VALUES

1 Alleviate human suffering

Ending armed conflict ensures the alleviation of all kinds of human suffering from war.

2 Dialogue over violence

The intrinsic preference for dialogue over violence as a more moral means of resolving disputes.

3 Obligations to parties and people

As well as to the parties they deal with, mediators have moral obligations to all other people who will be affected by a peace process.

4 Focus on a just and peaceful solution

For the parties to reach an agreement, which begins to secure a just and sustainable peace in the best interests of society at large.

5 Voluntary agreement

Agreements which are truly co-generated and owned by all parties are most likely to be acceptable to all parties, be most effectively implemented and last longest.

6 Acceptable mediator

An important aspect of the voluntarism and joint ownership of a peace process is that the mediator should be acceptable to all parties and not imposed upon any on them.

7 Impartiality

The best way to help the parties to elicit and reach a mutually determined and peaceful solution is by remaining a genuinely disinterested third party and not favouring one side over the other.

owned by all parties are most likely to be acceptable to all parties, to be most effectively implemented and to last longest. To this end, a mediator is not best advised to use force or coercion to impose a solution. But, restraint on influencing matters of *substance* does not preclude a mediator from using firm pressure to push forward the *process* of talks. This is often an important part of a mediator's role.

An acceptable mediator - an important aspect of the voluntarism and joint ownership of a peace process is that the mediator should be acceptable to all parties and not imposed upon any on them.

Impartiality and the best interests of the process - mediation believes that the best way to help the parties to elicit and reach a mutually determined and peaceful solution is by remaining a genuinely disinterested third party and not favouring one side over the other. In all their considerations and actions, mediators should be free from bias or prejudice regarding any party. At all times, the mediator should make decisions that are based on *the best interests of the process* and not the interests of one or other party or of one or other particular solution.

OPERATIONAL PRINCIPLES FOR MEDIATORS

1. Trust

The need for a mediator to enjoy the sufficient trust and confidence of the parties is essential to a successful and ethical mediation. Gaining and keeping this trust requires the mediator to combine personal confidences with transparency in his or her dealing with all parties. Certain standards of conduct can help to ensure that the mediator maintains the role of a genuine, trusted and impartial third party in the process:

- a) The mediator must operate with appropriate and equal levels of contact in its relations with the parties. A certain level of separate contact and confidences with each party is necessary to appreciate their particular situations but this must in no way lead to a real or perceived sense of unequal treatment or favouritism within the process. Before, during and after the process, the mediator must avoid any conduct which could give the appearance of partiality.
- b) The mediator must always be as consistent, predictable and reliable as possible with both parties throughout the peace process. This means always doing what has been agreed as matters

of *procedure*, holding a consistently impartial position on different options raised in the *substance* of the talks, and taking due care to have similar kinds of *relationships* with individuals in each of the parties.

c) The mediator must be as transparent as possible with each party about his or her relations with the other party and with any other interested parties to the conflict and peace process. If in doubt, a mediator should always tend towards transparency with the parties.

d) The mediator must have no personal or professional conflicts of interests which may actively influence his or her role, or be perceived to do so. These may include material interests with one or more parties. Nor must a mediator's personal ambitions ever trump the best interests of the process so that an agreement is secured primarily in the interests of his own personal renown and professional advancement rather than in the interests of the parties. The mediator must always declare any relevant interests at the outset of a peace process or immediately they arise during the process.

2. A focus on the whole process

Mediation needs to focus on all aspects of a peace process and so pay constant attention to four critical ingredients: substance; relationships; process, and results.

a) A mediator must be sufficiently informed and understanding of the *substance* of a process - the needs, interests, perceptions, positions and options of the parties - and be able to engage actively and creatively in discussions about them.

b) A mediator needs also to be in tune with the various *relationships* within a conflict and its peace process (both inter-group and intra-group) and to develop judicious and appropriate relationships of his or her own to improve these relationships and drive the process effectively.

c) Mediation needs to enable the best possible *process* for substantive issues to be addressed, relationships to be improved and results to be achieved. This involves: careful and creative convening; the careful inclusion of appropriate participants; timely and progressive agenda-setting, and the well judged tabling and sequencing of

difficult issues which may too easily be avoided, to the ultimate detriment of the process.

d) From the outset of a peace process, mediation requires consistent forward-thinking about *results and implementation*. Long-term substantive issues like constitutional reform, disarmament, dealing with the past and reconstruction need to be recognised, identified and shaped-up from the start so that the general direction of a process is clear and difficult issues cannot emerge as surprises further down the line. The consequences of short-term decisions taken now, and their possible effects later in the process need to be constantly anticipated. The ultimate feasibility of, and support for what is being agreed for implementation needs continual review.

3. Due deliberation

A mediator must expect to face dilemmas and complex choices at every stage of a peace process. As such, it is a constant responsibility to anticipate and prepare for difficult choices as much as possible in advance or to engage with them as soon as they become an issue. Such due deliberation of all difficult issues – current and anticipated - should

be a hallmark of professional mediation and include:

a) Anticipation and engagement with inevitable dilemmas requires mediators to employ a conscious and accountable process for the careful consideration of difficult choices and options. Wherever possible this should include active consultation with others in and around the process.

b) A mediator could be deemed negligent if he or she were not able to show that they had given due consideration to any such matters arising in or from a process.

4. Confidentiality & information sharing

The careful management of information within a peace process is a critical responsibility for mediators. It concerns both private information sharing between the mediator and the parties *within the process*, as well as *outside the process* to the public, media and other interested parties. In all matters of information-sharing, mediators must judge between the needs for confidentiality and transparency that are both integral to trusted and effective peace work.

a) Mediators need to distinguish between *general process information* which informs and enables the talks and *process-critical information* which is highly strategic information that has the potential to make or break the process, or concern a major violation of international law or human rights.

b) Within the process, the mediator needs to know as much information as possible about each party's needs, interests, positions and capability to help make the most of any dialogue. However, information about one party, when shared with another, can be abused by another or create an unfair advantage of some kind. Any sharing of information between the parties by the mediator must, therefore, usually be done with the informed consent of the party concerned. In exceptional circumstances, the mediator may judge that some information, which a party seeks to keep confidential, is in fact *process-critical information* and so may deem it necessary to pass on such information without consent in the best interests of the process.

c) Outside the process, the best interests of the process require that the mediator must be free to make his or her own relationships with other representatives

of the public not present inside the talks and with other state parties or international agencies interested in and supportive of the process. In all these dealings, the mediator should not breach confidences agreed by the parties to the talks and only share information from within the talks with the informed consent of the parties. In exceptional circumstances, in the interests of the process or to prevent significant violations of human rights, the mediator may also use his or her discretion to share process-critical information without consent.

5. Competence & qualifications

The mediator has a personal and organisational responsibility to be good at his or her job and to offer a service of the highest possible technical and professional standards to the parties concerned.

a) The mediator must be appropriately qualified and competent in mediation techniques. S/he should also directly possess, or have immediate access to, the particular knowledge and skills necessary to the peace process in which s/he is engaged or offering a service. Such qualifications and competence must come from sufficient and

relevant experience and/or appropriate professional education and must be represented across the whole mediation team.

b) Integral to a mediator's competence must be an ability to evaluate - consciously, self-critically and regularly - their own performance and to learn from and apply the lessons of previous experience within current and previous mediations.

6. Quality of the process

An essential part of a mediator's competence is an ability to run a high quality mediation process which is in line with the values and principles of these guidelines and which is representative, transparent, understood and agreed by all parties. A quality process should meet the following specific requirements to ensure that the process is run smoothly, fairly, consistently and efficiently:

a) At the outset, the mediator should make a firm agreement with the parties which defines the purpose and structure of the talks. This should include agreeing terms about: the desired outcome; the mediator's role; whether this process is the sole track; terms of

confidentiality within and beyond the process; the appointment of a legitimate spokesperson for the process; the format, venue, agenda and spirit of the talks; certain acceptable procedures to get through blocks and obstacles if they emerge; agreeing common deadlines, and a system of minutes or record of the process.

b) The mediator should also work with the parties to clarify what constitutes appropriate and representative levels of participation in and around the talks: who qualifies as an appropriate participant; how the views and needs of men, women, children and minorities are fairly represented in discussions, and the handling of any protocol concerns around particular participants.

c) The mediator must use her/his influence, in the best interests of the process, to ensure that an optimal size of meetings is agreed. This must ensure that the frankness and efficiency of a smaller group are not lost in favour of the inclusion of a wider range of participants, or that a focus on small group efficiency does not work against the inclusion of other key groups.

d) These terms may usefully be set out in a single "Declaration of Purpose,

Principles and Procedure” for the process.

e) The mediator is responsible for securing and enabling a good working environment for the process which takes account of participant safety as well as providing efficient administrative and logistical support. The mediator should ensure that the working environment gives no unfair advantage to one side over the other and fosters an atmosphere of mutual respect.

f) As convenor, moderator or chair of the meetings, the mediator should ensure that the process of talks and any implementation of agreements are: well managed; keep to time and deadlines; are procedurally fair, and also sufficiently flexible to allow for the unexpected.

7. Respect for the profession

Mediators have an obligation to enhance the reputation of the wider mediation profession. They should not engage in conduct which damages the integrity and reputation of the mediation profession or compromises the current work or future opportunities of other mediators in armed conflict.

a) Mediators should always seek to operate in a way which advances the practice of mediation by exemplifying the highest standards of principle and practice in all their work.

b) Mediators from different organisations should, wherever possible and appropriate, keep each other informed of their contacts, intentions and experience within the same armed conflicts. This is to avoid conflicts of interests and the risk of undermining an existing peace process by seeking to establish a new or parallel track which may be abused by one or more parties to the conflict. When a competing process is embarked upon, there must be good grounds to show that this is primarily in the interests of peace rather than organisational self-interest. The new mediator must then share his or her plans and progress with existing mediators as soon as possible.

c) Mediators should refrain from generalised or ill-informed public criticism of fellow members of the profession in situations where they are unlikely to be in possession of all the facts of a process. Criticism should be evidence-based and in the interests of a particular process or for wider learning.



d) Mediators should share experience and research across the profession, and beyond it, so as to develop good practice and improve the performance and reputation of mediation in armed conflict and also to generate greater understanding of its purpose

and potential within national and international society. In particular, mediators should explore the particular role of women mediators and negotiators in enabling effective peace processes.

TEN OPERATIONAL PRINCIPLES FOR MEDIATORS

6

Quality of the Process

Mediators must be able to run a high quality mediation process in line with the values and principles of these guidelines and which is efficient, representative, transparent, understood and agreed by all parties.

7

Respect for the Profession

Mediators have an obligation to enhance the reputation of the wider mediation profession and should not engage in conduct which damages the integrity and reputation of the mediation profession.

8

Marketing Mediation

Mediators must not exaggerate or misrepresent their services and skills in their marketing and public relations or unfairly denigrate the services of other mediation organisations.

9

Withdrawal

A mediator may decide to withdraw from a peace process when events dictate an unworkable mediation scenario.

10

Accountability

A mediator must assume ultimate accountability for his or her choices, actions and decisions throughout a peace process.

e) Mediators should seek to increase diversity within mediation organisations wherever there is evidence to suggest that this will make a positive difference to the process by enabling a more appropriate culture of mediation which has greater affinity with different groups

represented, but which still holds to the values and principles of these guidelines.

f) The profession should enable more women to become mediators wherever evidence suggests that gender diversity is critical to a more positive mediation

process and could encourage important reciprocal participation by women from the parties to a conflict.

8. Marketing mediation

Mediators must not exaggerate or misrepresent their services and skills in their marketing and public relations or unfairly denigrate the services of other mediation organisations.

- a) Mediators should always give an accurate description of their aims, competence and capacity.
- b) Mediators should always gain the informed consent of any parties to a conflict before referring to them in their public relations information.
- c) Mediators should never seek new business in a way which suggests their partiality for one party over another and so undermines the integrity of any eventual peace process.

9. Withdrawal

A mediator may decide to withdraw from a peace process when, for example:

- a) The process is obviously being pursued in bad faith by one or more parties.

b) The process is leading to a solution which the mediator deems to be wholly unworkable, illegal or profoundly at odds with mediation's core values of a humanitarian intent or a peaceful solution.

c) The mediator finds it impossible to continue to operate impartially or is unable to secure a sufficiently high quality process.

d) When an alternative track or different approach promise better results.

10. Accountability

A mediator must assume ultimate accountability for his or her choices, actions and decisions throughout a peace process. At any time before, during or after a peace process, a mediator must be ready to account for and justify his or her actions to the parties to the conflict, society at large, to other concerned parties to the conflict and to the members of the wider mediation profession.

- a) Such accountability should be in a variety of media and be circulated as widely as possible in the interests of transparency and learning, but not if this is detrimental to the interests of the process.

b) When confidential information makes it impossible to give a full account of a mediator's decision-making, this must be made clear. However, confidentiality must never be abused as a reason for not being accountable.

PRINCIPLES FOR CONSTRUCTIVE SUPPORT TO PEACE PROCESSES

Beyond the mediation team itself, many other state and non-state parties have interests in peace processes. Sometimes, states come together to organise themselves formally into a group of "friends" of a particular process. At other times, states, UN organisations, corporations, NGOs and influential *diaspora* organisations gather around a process more informally to fund, lobby, pressurise, encourage or offer technical and political support to a mediated process.

The right kind of support to a peace process can make a big and positive difference. The wrong kind of support can have a negative effect.

The following principles are suggested to guide the single and combined approach of any organisation that seeks to support a peace process constructively.⁵

1. Common aims for a just peace

All peace process supporters need to share a common aim for a just and sustainable peace in the conflict concerned. Despite their own particular political interests and alliances, state and non-state supporters need to agree and work towards a just peace and its implementation that offers a fair solution to all parties and respects international legal standards. At no time should the individual interests of peace process supporters over-ride the interests of a just and practicable peace.

2. Serving the process

All peace process supporters should aim to work in the best interests of the process and to serve the process rather than manoeuvre or negotiate directly for their own preferred outcome. State and non-state supporters can use their political legitimacy, power, resources and technical assistance to support the process but not to take the process over or undermine it. Supporters can serve the process by building the negotiating capacity of the parties, bolstering the political equilibrium of the process and ensuring the resources for implementation. They should not use the process for their own ends, apply undue pressure on it or set out to spoil it.

⁵ Several of the following principles are drawn from Teresa Whitfield's analysis of the role and effect of Groups of Friends supporting peace processes, as well as Alex de Waal's reflections on the Darfur Peace Process.

PRINCIPLES FOR CONSTRUCTIVE SUPPORT

1 Common aims for a just peace

All peace process supporters need to share a common aim for a just and sustainable peace in the conflict concerned.

2 Serving the process

All peace process supporters should aim to work in the best interests of the process and to serve the process rather than manoeuvre or negotiate directly for their own preferred outcome.

3 A unified approach

All supporters to a process should aim to agree on a unified approach to the ends and means of the process.

4 Fit for purpose

The form of any support to a peace process should follow the function required by the process itself and not be dictated by the services that supporters are ready and able to give.

5 Patience and accompaniment

Peace process supporters must be ready to be patient and to work to a timescale determined by the needs of the process and not one based on their own sense of urgency.

6 Follow-through

When an agreement is made by a peace process, the most important thing supporters can do is to see it through by actively supporting its implementation.

7 A fair spread of commitment across all conflicts

Wherever possible, peace process supporters should seek to spread their political and economic resources fairly between different peace processes to avoid flooding some and neglecting others.

3. A unified approach

All supporters to a process should aim to agree on a unified approach to the ends and means of the process. In particular, supporters need to own the same clear desired outcome for the process. A constructive unified approach should involve: clarity of objectives around a single process; the offer of coherent, complementary and transparent contributions, and accepting the lead of the mediator and the autonomy of the parties.

4. Fit for purpose

The form of any support to a peace process should follow the function required by the process itself and not be dictated by the services that supporters are ready and able to give. In other words, support should be process-led not donor-led. If the process requires a large group of supporters with diverse forms of support, then a wide grouping of supporters should configure themselves appropriately around the process and coordinate accordingly. If, on the contrary, a process requires only a precise and limited outside contribution, then supporters should be discrete and refrain from over-involvement that might flood or distract the process. Peace process support should be

determined by its genuine utility and not the desire of supporters to be there, or to be seen to be there.

5. Patience & accompaniment

Peace process supporters must be ready to be patient and to work to a timescale determined by the needs of the process and not one based on their own sense of urgency. Supporters must be ready to resist pressure from their own political constituencies which may not appreciate the intricacies of the process. So-called “deadline diplomacy” can backfire if a process is hurried and forced to a conclusion too early. A quick, bad deal for the cameras, which collapses into months of further violence, can be a high price to pay if a better deal was just a few more weeks away. Nevertheless, urgency is often real and delay can be wrong when people are suffering outside the process or when one or more parties may be deliberately stalling. The best way to accompany a process is to give it time and urgency. This uses political insight, patience and creativity to combine good use of the break and the accelerator.

6. Follow-through

When an agreement is made by a peace process, the most important thing supporters can do is to see it through by actively supporting its implementation. This means staying true to earlier pledges of resources, continuing to coordinate with others and maintaining a strong political focus on the process in its implementation phase. Support to a process needs to continue to be equally committed when the spotlight comes off the more high profile phase of talks.

organisations could usefully coordinate their resources to ensure sufficient and constructive support to all peace processes.

7. A fair spread of commitment across all conflicts

Wherever possible, peace process supporters should seek to spread their political and economic resources fairly between different peace processes to avoid flooding some and neglecting others. The temptation to be seen at high profile peace processes needs to be tempered by a desire to support less newsworthy processes. National interest is bound to dictate certain priorities but wider concerns for less strategic conflicts are also to be encouraged. Where possible, states and non-state

Notes

Notes

