

A MANUAL FOR UN MEDIATORS: ADVICE FROM UN REPRESENTATIVES AND ENVOYS

Compiled by Connie Peck from Interviews with UN Representatives and Envoys



unitar

United Nations Institute for Training and Research



Department of Political Affairs

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Published by:

**The Programme in Peacemaking and Conflict Prevention of
the United Nations Institute for Training and Research**

and

**The Mediation Support Unit of
the United Nations Department of Political Affairs**

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**United Nations Institute for Training and Research
Palais des Nations
1211 Geneva 10
Switzerland**

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I. INTRODUCTION

This manual is a first step towards identifying mediation practices developed by the United Nations in carrying out its past mediation activities. It is based on the UNITAR Programme for Briefing and Debriefing Special and Personal Representatives of the Secretary-General, which involved extensive interviews with UN representatives and envoys to determine lessons learned and best practices from their work. This culminated in the UNITAR book (published for in-house UN use only) entitled, *On Being a Special Representative of the Secretary-General*. The current manual is based on this work and its main purpose is to familiarize new UN mediators with the range of skills used by their predecessors to carry out third-party mediation. As the reader will see, this advice comes from some of the UN's most experienced mediators whose names appear in the acknowledgements section at the end of this text. The manual also draws on the Report of the Secretary-General on enhancing mediation and its support activities (S/2009/189) of 8 April 2009, which the author was asked by the Mediation Support Unit to draft, with input from colleagues throughout the UN system.¹

The manual will first describe the current context in which UN mediation and “good offices” is carried out; then offer advice and lessons from previous representatives and envoys; and finally suggest how the UN's Mediation Support Unit can help to support the work of UN mediators.

II. THE CONTEXT OF UN MEDIATION TODAY

Within the UN context, mediation or “good offices” are carried out by the Secretary-General or by his representatives and envoys² – at the request of

¹ As the drafter of this report, I have taken the liberty of using extracts from the report in the text of this manual with the objective of further enhancing UN mediation practice.

² “The United Nations Secretary-General uses his ‘good offices’ when he meets with world leaders, either publicly or privately, in an effort to prevent international disputes from developing, escalating or spreading. The Secretary-General may also assign others to act as his envoys or representatives to perform the same function on his behalf. These acts of good offices range from direct mediation to merely passing a message to one of the parties.” (from un.org/peacemaker)

the parties, on the Secretary-General's initiative, or upon a request from the Security Council or the General Assembly. Of the various peaceful means for the settlement of disputes outlined in Article 33 of the UN Charter, the United Nations has played a mediation or good offices role in resolving many inter- and intra-state conflicts throughout the world. Such mediation efforts have been helpful at all stages of conflict: before it escalates into armed conflict (through preventive diplomacy); after the outbreak of violence (through peacemaking); during the implementation of peace agreements (through peacekeeping); and during peacebuilding efforts, that seek to lay the foundation for sustainable peace and development.

For mediation to be effective, the parties must accept a mediation role for the UN, allowing the UN mediator to meet with and listen to all relevant parties in order to help them find solutions that will resolve the conflict.

UN mediation offers several advantages. Based on its more than 60 years of work in this field, the United Nations has more institutional experience in mediation than any other organization. In addition, it has extensive expertise in the implementation of peace agreements through the deployment of multiple peacekeeping missions, as well as UN agency support for peacebuilding efforts. Although implementation of any mediated agreement rests upon the commitment of the parties, such support can provide powerful assistance and incentives to parties struggling to sustain their efforts during the many challenges that arise during the implementation and peacebuilding phases.

The United Nations, however, does not have a monopoly on mediation. "Resort to regional agencies or arrangements" is another option outlined in Article 33 of the Charter and Chapter VIII urges Member States to resolve "local" disputes through these arrangements. Indeed, since the end of the cold war, there has been an expansion in the number and kind of international actors engaged in mediation – ranging from regional and sub-regional organizations to States to non-governmental organizations.

In Africa, the African Union (AU) and African sub-regional organizations, such as the Economic Community of West African States, the Southern African Development Community, the Intergovernmental Authority on Development and the Economic Community of Central African States have been steadily gaining experience in mediation. Elsewhere, the European Union, the Organization for Security and Cooperation in Europe and the Commonwealth have been increasingly engaged in mediation efforts, and the Organization of American States, the Association of Southeast Asian Nations and the Pacific Islands Forum have quietly offered assistance in their own regions. The Commonwealth of Independent States, the League of Arab States and the Organization of the Islamic Conference also have undertaken or supported mediation efforts among their members, and a number of other organizations are also building capacity in this area. Following the UN's lead, a number of these are in the process of establishing dedicated mediation support units of their own.

A number of States also have become involved in offering mediation services, sometimes in their capitals and, in other situations, by providing envoys or representatives in the conflict area.

A small number of non-governmental organizations is also now involved in offering mediation, typically in situations that have been neglected by others. Some of the best known include the Carter Center, the Community of Sant'Egidio, the Centre for Humanitarian Dialogue and the Crisis Management Initiative. These organizations are frequently able to support peace processes in ways that the United Nations cannot, including through facilitating informal processes that can feed into official mediation efforts. UN mediators should be aware of and, when appropriate, take advantage of these options.

The evolution of new global, regional and sub-regional mediators, which may be independent of or dependent on each other, presents both opportunities and challenges for the UN mediator. If coordinated

properly by a designated lead actor, a mediation effort can benefit from the strengths of each organization by dividing responsibilities, distributing burdens, increasing leverage and isolating spoilers. Too often, however, the competition and confusion created by multiple, uncoordinated mediators hinder the mediation process, diffuse responsibility and, in the worst cases, could even exacerbate the crisis. Regrettably, agreed rules on how multiple mediators should work together do not yet exist, nor do codes of conduct or standards for accountability.

To begin addressing these challenges, the UN Department of Political Affairs is currently working with African counterparts to articulate the nature of the relationship between the UN, the AU and African sub-regional organizations, including by examining their respective roles and responsibilities. In some situations, UN mediation may have a comparative advantage; in others, the regional or sub-regional organization may be in the best position to take the lead. In yet other cases, sequenced interventions may be a more appropriate form of engagement. Given the importance of building synergy in such situations, it is incumbent on UN mediators to coordinate their approach and activities closely with their regional and sub-regional partners.

III. LESSONS FROM MEDIATION EXPERIENCE

The next section covers the range of lessons learned and best practices in mediation derived from the study of mediation practice and from a series of in-depth interviews with experienced UN mediators whose names are provided at the back of the manual. Direct quotes from the interviews are used to highlight important aspects of the mediation process. For a more detailed discussion of these issues, UN mediators should consult Chapters 2, 5, 8, 9, 10, 12 and 13 of the UNITAR book, *On Being a Special Representative of the Secretary-General*.

The Importance of Resolving Disputes/Conflicts in a Timely Manner

It has been well-established that the most propitious time to resolve a dispute is at an early stage, before it turns into violent conflict, when issues are fewer and more specific; parties more defined; positions less hardened; relationships less damaged; and emotions more contained.

When the threshold of armed conflict is crossed, a multitude of factors (caused by the violence itself) transforms the dynamic. With the loss of life and property, there tends to be a dramatic increase in grievance on all sides. The actions of each party are seen by the other as provocation requiring retaliation and both gains and losses reinforce escalation – in the first instance, because of the hope of prevailing; in the second, out of a sense of injustice and desire to even the score. As violent conflict is prolonged, issues expand and become more generalized. The number of parties proliferates, as new groups join the fray and existing groups split into factions. Conflicts tend to spread geographically as alliances are formed and cross-border flows of weapons, refugees and rebels cause the conflict to spill over into neighbouring states. In the worst cases, what began as a local conflict quickly engulfs surrounding countries or an entire sub-region. The rapid transformation of a peacetime economy into a war economy, based on arms trade, plunder of national resources, black markets, smuggling, and trafficking creates new incentives for belligerents that make war more profitable than peace.

Moreover, the longer a conflict persists, the more intractable it becomes, making its resolution ever more difficult; its impact on people, communities, institutions of state and the sub-region ever more devastating; and the cost of rebuilding ever more expensive. Thus, even when disputes turn into armed conflict, the sooner mediation is initiated, the better. However, as one envoy notes: “ ‘Too little, too late’ has been a major criticism of Security-Council mandates as well as the planning and deployment of UN operations. Such delay has greatly impeded effectiveness and sometimes resulted in

a situation deteriorating beyond the point where it can be pieced back together again. I always use the analogy that a conflict is like a broken pot: if you have four pieces, you can put it together again, but when it's broken into 100 pieces, it is much more difficult.”

The Usefulness of Skilled Third-Party Mediation

Self-perpetuating dynamics and the cycle of mutual grievance and desire for revenge make most conflicts very difficult to end. Persuading parties who have been involved in violent conflict to come to the negotiation table and engage in peace negotiations is, therefore, a major challenge.

Even when parties say they are ready to negotiate, most tend to view negotiation as a competitive, zero-sum bargaining process, rather than a cooperative, positive-sum problem-solving one. Many processes break down even before they begin, when one or more of the parties imposes unacceptable demands as pre-conditions for entering negotiations. Even when negotiations do get started, without a skilled third-party to guide the process, the parties tend to simply transform their power struggle from the military arena to the negotiation table and become entangled in adversarial debate that can result in a break-down before much is achieved.

In such cases, each party advances positions (its advocated solutions to *its* view of the problem) and each argues in favour of its own positions/solutions and against those of the other. In pursuit of winning at the bargaining table what they were unable to win on the battlefield, parties often employ a range of coercive tactics to attempt to force the other party to make concessions. These coercive tactics include: blame for past atrocities or injustices, recrimination, insults, threats, ultimatums and walk-outs. But, in fact, such tactics often backfire – causing the other side to react in kind and bringing the whole process to a standstill. The involvement of an acceptable, skilled third-party mediator can help to transform this adversarial approach into one of problem-solving.

A Problem-Solving Approach

In contrast to a traditional bargaining approach, a skilled third-party mediator can use a problem-solving approach (also called an interest-based approach) to engage in an analysis of the conflict before seeking a solution. This involves helping each party to better understand its own core interests/concerns, as well as those of the other party, so that they both can move away from entrenched positions to explore innovative options that might address their concerns and provide a tailored solution that can help reconcile their interests. New ideas are gradually introduced and, in some cases, international standards, practices and models examined. The more promising of these are refined by the mediator with feedback from the parties and gradually pieced together until a mutually-acceptable peace agreement is achieved that satisfies enough of the parties' core interests that they are willing to sign. Throughout the negotiations, the mediator helps to guide the process by ensuring that procedural rules are established and followed in order to create a constructive process and keep emotions under control.

The main features that distinguish this approach are:

- 1) an in-depth understanding by the mediator and the parties of each side's core interests/concerns which must be addressed to achieve a sustainable settlement;
- 2) the interposition of the mediator as an impartial third party – who, in effect, becomes the negotiating partner for each side – and who, through shuttle or proximity talks, probes interests and explores innovative options with both parties. This allows each party to have a constructive partner as its interlocutor and overcomes the difficulty of parties having to deal directly with those with whom they have a bitter adversarial relationship;

3) an exploration with the parties of innovative options for addressing key interests which move beyond each side's positions and identify new possibilities that may *not* have been considered before, but which might be gradually pieced together into mutually-acceptable agreements. These are built from ideas presented by the parties, the mediator, experts, NGOs and civil society or they may be derived from international standards, models and best practice. After a series of consultations with the parties, these ideas are gradually refined until agreement is ultimately reached;

4) the gradual building of confidence and the subsequent improvement of the atmosphere between the parties that comes from sequential successes in reaching agreement. Eventually this can provide the basis for the mediator to bring the parties into direct talks;

5) the encouragement and support of other influential actors (such as Groups of Friends) that can reward progress and nudge reluctant parties towards accommodation, agreement and gradual reconciliation.

One envoy explains the problem-solving, interest-based process as follows: "Going into any negotiation, a mediator is faced with positions, sometimes publicly stated by the parties to a conflict. A position is usually an artificial articulation of desires, set precisely for the purpose of negotiation. So, a mediator should make it his/her business – as quickly as possible – to try to find out what interests, concerns, fears, aspirations, dreams, and nightmares, led to setting those positions. If you can identify interests rather than positions, you're already a long way in the direction of finding the key to the solution of the conflict, especially if you do that with both sides."

"When you are dealing with an internal conflict, if you work solely with the positions as stated by the parties, it will be difficult to address the underlying causes of the conflict. It is only by identifying the underlying interests and the institutional problems that are frequently attached to them that you can go beyond a glorified cease-fire to build peace that will be durable because

you have identified the causes. You have to build the necessary institutions and avenues so that issues can be resolved in the future by peaceful means, rather than by resorting to arms.”

“Identifying underlying interests – going beyond positions – involves finding out the sources of grievance. Frequently, these may be exclusionary policies based upon exclusionary institutions. They may be economic, in order to entrench the interests of a certain sector of society; they may be simply for the preservation of the status quo; sometimes they are of an ethnic character. But these are the problems that have to be addressed.”

The Ripeness Issue

The term “ripeness” is sometimes used to refer to parties’ calculations of the cost-benefits of entering mediation versus continuing the conflict. As originally understood, conflicts were considered “ripe for resolution” when parties reached a “mutually-hurting stalemate”. Regrettably, this led some to conclude that the international community should wait for a “hurting stalemate” to develop before offering mediation; but this turned out to be costly for all concerned, since opportunities for early resolution were lost and a stalemate sometimes led, instead, to intractability. While a “hurting stalemate” may be one factor that leads to peace talks, other factors, such as a change in leadership or a change in the regional or geopolitical environment, can also do so. This concept has now been reformulated to take into account the role that third parties, such as the UN, can play in cultivating and fostering ripeness at an early stage through the introduction of new ideas, skills, resources, and creativity.

As one UN mediator argues: “From a moral point of view, there’s a lot to be said for UN involvement at an early stage. When the Organization becomes involved, it brings hope. It’s remarkable the hope that people have that the UN will eventually do the right thing. So, we should seek to persuade the parties to accept a modest role for the representative of the Secretary-

General as a facilitator or observer. In many cases, we need to be patient and wait for a window of opportunity to present itself; then, when it does occur, we need to move quickly, because windows rarely stay open for long.”

Confidence-Building Measures to Help Ripen a Situation

Confidence-building measures (CBMs) can also be used to help ripen a situation. CBMs are unilateral or bilateral positive gestures designed to improve the relationship/atmosphere between the parties. As one UN mediator states: “Confidence-building measures are indispensable for the peace process and they’ve been neglected for too long. What we had was a political process without preparing the societies on both sides for a political solution. They remained in a war mentality. So, what is necessary is to make certain gestures, to create confidence, particularly among the younger generation that did not go through the war, to prepare the ground for a political solution.”

To do this, the UN sponsored a series of Conferences on Confidence-Building Measures. “What came out of these conferences were agreements, signed by both sides – and by the mediators – recommending concrete measures for confidence building that covered the whole classical spectrum, beginning with the creation of a more favourable climate in the media; a mutual exchange of information and news; an exchange of journalists; internet access; data banks; and things like that. In the political field, the measures included bringing together political actors, parliamentarians, NGOs and university people. In the cultural field, it involved bringing together the directors of libraries. . . We also developed measures in the field of economic exchange, for example in the area of wineries.”

In another situation, when the parties were unwilling to consider confidence-building initiatives towards one another, the UN mediator asked that confidence-building measures be undertaken *as a gesture to the Secretary-*

General. He suggested a series of possible measures that were ultimately accepted and allowed negotiations to begin.

While confidence-building measures are typically considered to be something that the parties direct towards one another, it is also possible for the third party to build confidence through its own actions. In Guatemala, El Salvador and Nepal, for example, UN human rights monitors were deployed to build confidence during the peacemaking process. As one UN mediator notes, the establishment of human rights monitors in Guatemala created a sense that “the peace process was bringing something tangible for the parties. Yesterday, a colonel from the army could do anything and now there was an office of MINUGUA in the area, staffed with five police observers and five human rights monitors. That was a very important confidence-builder.”

Multi-track Diplomacy to Help Ripen a Situation

Multi-track diplomacy can also be used to help ripen a situation. As one envoy states: “Sometimes we can build internal pressure for a mediation process through Track II Diplomacy, which is a very important dimension of peacemaking where you bring people together from both sides – civil society groups, community elders, spiritual leaders, women and so on – so that they can air grievances, speak about the background of the problem and exchange views. Often the discussions are very tough, but if the people managing the discussion are capable of recognizing the common ground that emerges, bridges can be built.”

“In Ethiopia and Eritrea, we brought together the religious leaders of both countries – the patriarchs of the Orthodox church, the Catholic bishops, the Evangelical leaders, and the Moslem imams. They met in Norway in a remote place one hour north of Oslo, where they were totally isolated. In the beginning, they didn’t talk to each other; they only talked with their national compatriots – the Eritreans on one side and the Ethiopians on the other. We were amazed that even leaders of the same religion wouldn’t

talk to each other. They would just shake hands politely, but no more than that. So, we began the discussions. There were, of course, all kinds of bitter arguments and accusations. But, gradually, they were able to talk more reasonably. This process turned out to be very helpful for us in bringing the political leaders to talks. Religious leaders command great respect within the population and, when they went home, they were able to use that to influence the political leadership.”

Deciding on the Most Appropriate Mediator

Entry points for mediation vary. In some cases, parties seek assistance from the UN, a regional or sub-regional organization or another entity with which they have an association. In others, mediation is offered and parties are helped to understand its merits.

It is now widely acknowledged that, for mediation to be successful, it must be guided by a single lead actor. Multiple actors competing for a mediation role create an opportunity for forum shopping, as intermediaries are played off against one another. Such a fragmented international response reinforces fragmentation in the conflict and complicates resolution. As one UN envoy argues: “The worst enemy of mediation is the appearance of confusion as to who is the mediator. Mediators can easily be played off one against the other.” Careful consideration is, therefore, required as to who has the comparative advantage for the lead role. This is especially important since evidence suggests that failed mediation efforts further intractability, as options for resolution become discredited and parties come to doubt the utility of mediation, making the UN’s task, when it does become involved, more difficult. Thus, a key consideration in selecting the lead actor is who has the right combination of attributes, so that failed mediation attempts do not accumulate, making the conflict ever more difficult to resolve. Once a lead actor has been chosen, there is a need for other international actors to support the process in a coherent, well-coordinated manner. How

partnerships should be structured depends on the unique characteristics of each situation.

Once a decision has been made as to which organization is best to lead a given mediation process, it is also important to find the right person to act as the mediator. Mediation skill, experience and knowledge, as well as extensive political skill and judgement are essential. Relevant languages are important, as are personal characteristics suitable for the cultural context. An in-depth understanding of all aspects of the conflict is necessary (although this can be attained on the ground through rigorous consultation). Mediators should be perceived as trustworthy, impartial (while adhering to the principles of the Charter) and authoritative. Good listening and problem-solving skills are indispensable, as is the capacity to understand parties' motivations/concerns. The ability to communicate effectively and to give honest feedback is crucial, as are patience, persistence, creativity and willingness to take the initiative. Mediators should have a high tolerance for criticism and stress. Skill at handling the media and the ability to build a network of political and financial support for the process are also important, along with an understanding of the importance of working closely with the rest of the UN system so that a mediator's efforts are part of a broad approach to the country and region.

Selecting the Mediation Team

Mediators also require support from a highly skilled professional team that possesses similar skill sets to those listed above. Team members should be qualified to prepare background briefings and proposals; identify experts on key substantive issues; offer advice on legal matters; draft agreements; talk with parties (at the mediator's request); prepare logistics; and assist with a communication strategy and media relations. Women should be appropriately represented at decision-making levels. It is also useful to include specialized expertise in human rights, gender, child protection, refugees and IDPs, security arrangements, constitution-making, elections,

power-sharing, rule of law, transitional justice, and wealth-sharing, so that these issues are properly reflected in the agreement. If the agreement is to be implemented by a UN field presence, the team should consult with the Department of Political Affairs and, if a peacekeeping operation is to be involved, with the Department of Peacekeeping Operations, to ensure that the agreement is implementable. As the agreement is drafted, liaison with the Office of Legal Affairs and other relevant departments or agencies, such as the Office of the High Commissioner for Human Rights, ensures that the peace accords are legally correct and in compliance with UN principles and practice.

Choosing Who Should be Included in the Peace Process

Once a decision has been taken by the parties to engage in mediation, deciding whom to include in a mediation process and how to include them is fundamental. In general, most mediators and scholars urge that all parties who are stakeholders in a situation should be included in the peace process and warn that those left outside of it will have a greater motivation to act as spoilers and sabotage the process. As one envoy states: “It is important to look ahead and ensure that no major party that could wreck the agreement is left out.” As another puts it: “Leaving a warring party out of a negotiation is a recipe for failure.” Including extremists groups in a shaky political environment does, of course, present risks, so the mediator should be aware that he/she cannot accede to demands that are contrary to the principles of the UN.

One means of balancing such groups is to involve a broad-based group of widely-respected nationals, such as religious leaders, leaders of women’s groups, elders or scholars. By associating such persons with the peace process, it is more likely to be seen as a source of domestic empowerment. But since mediation becomes more complicated as the number of parties at the table expands, this poses a dilemma for the mediator. Innovative approaches and the use of best practices from other peace processes are

needed to ensure that civil society voices are fully heard and their concerns included in the process and reflected in the agreement.

Security Council Resolutions 1325 (2000), 1820 (2008) and 1889 (2009) call for an increase in the participation of women at decision-making levels in peace processes. In fact, most processes still involve only the male representatives of warring parties. The absence of women and the resultant failure of peace agreements to deal with women's issues leads, however, to perpetuation of discrimination against women, their continued marginalization in the post-conflict society, and de facto impunity for abuses such as sexual violence during conflict. Peace processes, therefore, need to ensure not only adequate representation of women as participants and observers, but also gender expertise in agenda setting, substantive talks and implementation, in order to redress past inequalities, so that new institutions can be built to provide greater social justice for all.

Some processes have been structured to include concentric circles of interested parties with the mediator and the warring parties in the inner circle, surrounded by civil society groups in the outer circles who bring pressure to bear on those at the table to consider the interests of the wider society in the ensuing peace agreement. One such innovative practice was instituted during the peace process in Guatemala, where an Assembly of Civil Society, composed of a wide range of Guatemalan civil society groups, was formed as a mechanism to accompany the peace process. The Assembly did not participate directly in mediation between the government and the guerrillas, but it did provide background texts for discussion by the parties and it had the right to review and express views on all agreements reached in the talks. Although its opinion was not binding, it did exert pressure on the parties to take into consideration a broader range of interests. "Nothing about us without us" has become the slogan for ensuring that peace processes find adequate methods for incorporating all stakeholders into the process.

Building a Good Working Relationship with the Parties

One of the first undertakings for mediators is to develop a working relationship with the leadership of the major parties to the conflict, as well as those who surround and influence the decision-making process. As one UN mediator explains: “You have to try to work with those who are the most influential on either side. It is often a mistake to seek contact with those who share your opinions because it’s easier to deal with them. If you do that, you end up with a deal that can’t be realized, because those you dealt with have no clout on their respective sides. So, you should try to deal with the leaders – or the direct representatives of the leaders. It’s important to influence the leaders through moderates and others, but try to have those who rule sit at the table – or at least send people who can make decisions.”

UN mediators also caution that advisers or aides do not always accurately convey the mediator’s messages to the leader. This emphasizes the importance of meeting directly with the leaders on a regular basis and, in some cases, meeting with the leaders without their advisers or aides present. Mediators need to have a personal relationship with the leaders themselves – to be able to listen to them and to be heard by them.

In the case of the leadership of a rebel movement, it is important to ensure that it remains unified and doesn’t break into factions, since the difficulty of resolving the conflict increases as the number of parties increases. In dealing directly with guerrilla leaders, UN mediators often attempt to discourage younger lieutenants from creating break-away factions.

The issue of dealing directly with leaders who have committed human rights abuses is often debated and tends to create friction between those working in the human rights field and those trying to bring about a peace settlement. The familiar argument levelled against establishing such contacts is that these individuals should be prosecuted for their crimes, not rewarded by recognition. Meeting with them, it is maintained by human rights advocates, legitimizes their leadership and gives them additional publicity, prestige

and even respectability. But most peacemakers argue that unless a peace process involves all major parties, it cannot be successful – and ultimately that is the only way to bring about an end to human rights abuses and institute a system of greater justice. Most peacemakers take the view that face-to-face discussions are essential to understanding the motivation of these leaders and the kinds of influence that might be effective in bringing about a change.

As one envoy puts it: “A mediator does not possess the convenience of selecting interlocutors and must deal with the prevalent incumbents.” Another comments: “You must take the leaders as they come. They are the product of their political, social and historical circumstances. It’s hard with some of them, who are disgraceful characters, but you have to listen in order to understand them. You can’t ignore them – whatever your private opinions.” Another envoy recalls that he felt it would be very difficult to shake hands with a particular leader of a guerrilla movement, having read of all the horrors that his group had committed, but he notes: “You have to forget this. Your purpose is very simple: You must consolidate and preserve the peace.”

The Importance of Careful Listening and the Need to Understand Parties’ Interests

One of the essential elements of relationship-building is, of course, listening to the parties in order to *understand how they see the situation*. Informal discussion aimed at understanding what the parties believe they have been fighting for (or against), how they see the situation and their aspirations/concerns is very important, since the very act of listening begins to establish a relationship between the conflicting parties and the mediator. As one envoy describes the process: “You have to do a lot of listening. When you listen, you create trust. Being listened to creates a psychological catharsis. People know when you have listened to the way they have expressed their positions, their nuances. It is important to take notes, to be fully appreciative

when people are speaking – and to ask questions – to go deeper into their thinking, into their views, into their apprehensions, into the way they came to these positions. I think that is absolutely fundamental.” With enough listening, one can begin to understand the complex nuances of parties’ perspectives. Engaging in this kind of in-depth discussion also allows the parties themselves to take stock of the situation and the possibilities for resolution.

The ability to understand parties’ interests and motivations also involves a particular kind of listening that includes trying to see the situation from the parties’ perspectives – *as they themselves see it*. This kind of empathetic listening deepens understanding for the mediator of what the key concerns are for each of the parties. One mediator explains it this way: “You must have empathy. You must be able to relate completely, totally and without reservation to each party’s agenda. You must understand what they want, why they want it and why they want it so much – and, to some extent, you have to want it so much too. It’s not easy. The parties may hold positions that you disagree with. They may do things that you disagree with. The history of the parties may be full of things that you disagree with. But you still have the duty to understand what lies behind this behaviour and to understand where all their mistrust and suspicion comes from.”

“To do this, you have to spend a great deal of time with them. It’s partly for psychological reasons: the more they see you, the more you are present, the more the peace settlement becomes part of their daily calculations. The other reason is that, if you are one hundred percent empathetic and constantly on the look-out for opportunities to achieve a peace settlement, it’s likely that the chemistry will work in favour of your understanding what the essential issues are for them. I spent days and nights talking and talking and talking with the two parties.”

Empathetic listening also engenders trust in the mediator, since parties can see that the mediator is trying to understand their concerns and is taking

these seriously. A number of mediators pointed out that listening does not involve judging. As one mediator put it: “When you’re listening, you can’t be arrogant. You can’t listen for ten minutes and say, ‘Oh, but that’s wrong. Why do you want that? You should want this instead.’ There has to be a measure of humility. You have to respect, even if you don’t agree with what they’ve done – you have to understand *why* they’ve done it. In French, we say, ‘*Entrer dans les vues de quelqu’un.*’ It doesn’t mean that you share their views – but that you understand them. You get into their shoes. You don’t have to stay there, but at least you know what it’s like. Doing that imposes the discipline of being simultaneously empathetic with contradictory views.”

Another envoy noted that, even when he knew the region, whenever he met with the parties, he would listen as if he were totally ignorant of the situation. “People want to know that you have received the message as they meant to send it. You can ask questions to make it clear that you have listened carefully or to clarify points that you didn’t quite understand. Then they are reassured that, when you go to see the other side, you will have a good knowledge of their interests. In other words, it’s a mistake to give them the impression that you already know their point of view or to try to dismiss it.” He suggests that one can build trust even by the way you report the *other* side’s concerns, by being objective and showing that you are going deeper into the root causes of the difficulties. “That’s how people understand that you are sincere and sensitive to their problems.” After listening, he then tries to reassure the parties by saying: “OK, I understand that we must work together to try to do something to make the situation less dangerous for you.”

However, as one UN mediator cautions: “What they tell you may not be exactly the truth. Sometimes they want you to be their propagandist, so you have to try to find out what is in the back of their heads. Once you have been able to do that, over time, you sort of develop sensors and you can even predict developments. For example, once the agreement was signed,

I already could tell which conditionalities the leader would implement immediately and which ones would take more time – until enough pressure was placed on him. So, it's playing by ear. Like a violinist, you must use your ears.”

The scholarly literature on this subject suggests that the most important and deep-seated interests that people are willing to fight and die for are their basic human needs. Threats to security for oneself and one's group; physical well-being for oneself and one's group; participation in decision-making that affects oneself and one's group; access to economic opportunity for oneself and one's group; and freedom of cultural expression (including the ability to use one's language, practise one's religion, etc.) are all major sources of grievance and must be addressed if conflicts are to be resolved.

In addition to talking to the parties, many mediators consult widely with a range of individuals and groups within the society, both official and unofficial. As well, reading and talking to other third parties who know the situation well can be very helpful. As an analogy, one mediator suggests: “in real estate, the secret is ‘location, location, location;’ in mediation it's ‘homework, homework, homework.’ ”

The Need for Reliable Interpretation

In some mediation situations, interpreters are required. In such cases, having the right kind of interpreter is very important. As one personal representative explains: “A translator is useful even when you speak the local language because it gives you the ability to maintain distance and correct what is said. Even if you speak the language fairly well, you are unlikely to have the subtlety sufficient to fine-tune your words to the point that you are sure they won't cause a misunderstanding or that you won't inadvertently make an offensive remark.” He goes on to say: “I cannot underline enough how important it is to choose the interpreter carefully. The selection and control of that person is vital. Ideally, the selection should

take into account the accent, because those whose mother tongue it is can immediately detect certain loyalties and linkages, as well as religious and ethnic background. Your interpreter is your face and voice. When you are having a private negotiation and you meet with a senior official, you need the translator to have the appropriate attitude of respect, including his or her dress code, because this is the person that your counterpart is going to look at more than you! If I speak slowly and carefully in order to stress a certain point or a certain word, his or her translation needs to be the same and not just monotonous or automatic. Summaries will not do. Translation must be sentence by sentence. Every word counts, every pause counts, every hesitation or hint of hesitation counts. That is essential.”

“I strongly recommend rehearsals since you can’t afford to make a mistake. Before every meeting, you should go through what you plan to say or how you might have to respond. You should explain the type of approach that you will be taking. For example, you might say, ‘At the beginning, I am going to be silent and make no comments. But at the same time, we need to be firm and make no excuses or apologies, not even courteous apologies, because we are here to protest.’ Then I ask my translator to practise with me. If it isn’t right, I say, ‘I didn’t hear any enthusiasm in your voice,’ or ‘I didn’t hear any assertiveness.’ Or I might say, ‘No, your tone has to be stronger and you have to look neutral because I am going to be neutral. I am not going to show emotion.’ You may need to go through it two or three times. That kind of thing has to be fine-tuned every time.”

Being an Honest Broker and Providing Honest Feedback

Mediators also advise that those in this role should strive to deal with the parties in an honest and fair manner. As one envoy notes: “It is important to tell the truth – the same truth – to all.” Another comments: “Be fair, be honest. Never try to trick anyone. Never say: ‘Listen, I’m on your side here.’ It sounds sanctimonious, but if you reach side-deals, or you express understanding, or wink or nudge and say, ‘Listen, we’ll settle for that; you

and I have an understanding,' it will only come back to haunt you, quite apart from blemishing your record. It's a cardinal rule, at least for me, that one should tell parties what the situation is, as it truly is, not as they would like to hear it. One should not try to varnish things. Certain truths are unpleasant, but a good negotiator will accustom the parties to the fact that frequently the news that they are going to hear is unpleasant."

It is also important to deal with tough issues. As one UN mediator recalls: "We always tried to combine being cordial and friendly with being principled in our stands and this is not easy. In most conflicts, all the parties have been involved in so many atrocities that they have blood not just on their hands but up to their elbows. You cannot come into a situation where the main purpose of your contact is becoming their friends and confidantes, only wining and dining and not bringing up issues. You have to be able to bring up the kidnappings, the atrocities, the lack of progress in the peace process, but without burning your relationship with them."

Perhaps paradoxically, such an honest broker role helps establish a relationship of confidence with the parties. Once parties know the mediator is being transparent, they tend to trust the mediator and be more likely to accept his/her advice.

Mediators should also ask for transparency from the parties in return. In some cases, mediators have made this an explicit agreement with the parties. In one situation, the mediator said to the leader of the guerrilla movement: "Let's establish a rule – we won't play games. I'm ready to understand your point of view, but tell me your *real* point of view, because if you start telling me stories, we'll waste a lot of time."

Mediators may also assist in the exchange of honest feedback between the parties, helping each to understand the interests of the other and improving the atmosphere by saying things like: "That's interesting – the other side is equally worried about that." Finding points of common interest can also be important for increasing understanding and communication between the

parties. Sometimes mediators have found it helpful to share what the other side's reactions are. One mediator called it "retelling without interpretation or prejudging." If there was emotion or hostility, he simply said, "There is strong feeling about this."

Maintaining Impartiality

UN mediators are expected to be impartial but not neutral, i.e., they should be constant advocates for the principles of the United Nations, as embodied in the Charter, the human rights conventions and the resolutions of the Security Council and other UN bodies. Within this context, UN mediators should be seen to apply these principles to all parties without favour, in order to earn their trust for the UN's role as an honest broker.

But the issue is not always so straight-forward. With monotonous regularity, UN mediators face the accusation of bias and the use of this accusation by the parties to try to manipulate the process towards some perceived advantage. One or both sides may accuse the mediator of being partial, in order to test or pressure the mediator. As one mediator stated: "You have to realize that accusations of bias are part of the jockeying for position that goes on in a peace process. You need to differentiate between genuine concern about bias and using an accusation to discredit the mediator or to try to score points. Accusations of bias are part of the game they play."

Impartiality can also be difficult for the mediator when one side is being obstructive to the process and when the mediator feels that he/she needs to point this out. As one mediator comments: "Impartiality is in the eye of the beholder: if you do what he wants, then you are impartial; if you do not, then you are biased and not to be trusted. There is a very fine line to be drawn by any mediator. The best test perhaps, is when one is attacked by both sides, and every mediator must accept the inevitability of becoming

an easy scapegoat, who will be blamed by either side when it suits it, regardless of the facts.”³

Conversely, it is also important to avoid parties implying that the mediator is on their side. If a mediator is praised by one of the parties for backing its policies, he/she may lose credibility with the other side. Keeping direct, privileged lines of communication open can help prevent this kind of problem.

Resisting Pressure

As stated above, inevitably, parties attempt to exert pressure on the mediator. In cases of principle, not bending to this pressure can be important and may even earn respect. The best response to pressure is to be direct and to explain that the mediator can be more useful to the parties by remaining objective – even if the mediator is not doing what the parties would like. One mediator’s response to pressure was to explain: “If I did what you are asking me to do, I would immediately be considered biased. I would be de-legitimized. My usefulness and effectiveness depends on my complete impartiality. By being objective, I am ultimately more useful to your agenda – even if I am not doing what you would like me to do right now. In other words, my integrity and objectivity are an insurance policy for your interests, because, one of these days, I could well turn out – through my objectivity – to be useful to you.”

Another suggests that putting problems and issues in writing can be helpful, including statements of fact and refutation of accusations made against the UN or the mediator.

³ M.J. Anstee, “The United Nations in Angola: Post-Bicesse Implementation,” in C.A. Crocker, F.O. Hampson and P. Aall (eds.) *Herding Cats: Multiparty Mediation in a Complex World* (Washington D.C.: United States Institute of Peace Press, 1999), pp. 609-610.

Building Trust in the Third Party

Listening to the parties, being an honest broker and providing honest feedback are part of the process of building trust in the mediator and the mediation process. “The parties must come to trust, if not like, the mediator,” says one envoy. “Trust means believing that the mediator will be impartial, professional and straightforward with each side and that the mediator is not going to lie or play games with them. Without telling each side what it wants to hear, the mediator has to assuage the fears of the two sides and, in particular, of the side that is more mistrustful.”

“Often in internal conflicts, the government is resistant to a visible UN role because they fear that international organizations will interfere in their internal affairs. So, you have to explain to the government that the involvement of the Secretary-General is a *service* that the UN offers to its members – it’s not outside interference. You have to make it very clear that the fact that the Secretary-General is involved does not mean that the Security Council will become involved.”

Developing a trusting relationship with the parties may involve considerable time. In addition to formal meetings with the two sides, mediators often make a point to call on the leaders in their offices, frequently without aides present. One envoy explains that he also met with the leaders informally, having breakfast with one of them who was an early riser and dinner with the other.

Recognizing and Dealing with Actors Behind the Scenes

Mediators are sometimes hindered by a lack of contact with the real power brokers and may not even know exactly who they are. In such cases, UN mediators have suggested that it is important to discover the identity of these individuals, although, in some instances, it may be unproductive to meet with them “because the fact that they are behind the scenes means that they won’t want to show their hands. . . So, it is best to simply be aware

of them, but to act as if they are not there and make those who are up-front accountable in your discussions.”

Some mediators have found ways to engage such behind-the-scene actors informally, in order to sound them out and to offer UN input to their attitudes and discourse. As one UN mediator recalls: “In Burundi, there are 35-40 families that we call ‘the Holy Families.’ They are the people who run the country. They are the people who, if they wanted to, could make a coup tomorrow. During the negotiations, although they never showed up, we knew they were advising everybody. So, we had to be in touch with them and try to persuade and convince each of them – because we knew that, in the night, they were holding their meetings, and we wanted to have the peace process perspective reflected in those meetings.” The mediator used his team members to make initial contact with these individuals and to explain the UN perspective and the benefits of supporting the peace process and the peace agreement. The team members would then suggest a dinner with the UN mediator, who would listen carefully to their concerns, try to alleviate them and explain the benefits of the peace process.” He adds: “You might only be able to persuade five out of ten people you talk to, but they will then become a kind of pipeline to the others.”

Agreeing on a Venue

Finding a venue for peace talks can be a highly contentious issue since the location itself can take on a symbolic meaning for the parties. As a result, a peace process can become stalemated even before it gets started by a dispute over where the talks should occur. “This is something you need to discuss at a fairly early stage,” concludes one mediator. “In an internal problem, the government will usually say, ‘The talks must be inside the country,’ but the opposition normally doesn’t want that because they feel that they would not be as free as their counterparts, either because they fear for their security or because they fear there will be listening devices. So, the mediator needs to say to the government, ‘Let’s not make a big issue of

that. The most important thing is for people to feel relaxed when they talk to one another.’ ”

In many cases, talks are held in a third country. In such cases, it is important not to choose a venue that is identified with either of the parties. Good communication facilities are also important, as is the consent of the host country, which, in some cases, may be asked to cover the local costs. Finally, it is crucial to select a country where the government will not interfere with the proceedings.

One mediator’s method for identifying such a venue is to start by asking each side separately where it is *not* willing to go. Thus, by the time he proposes a location, the selection has been narrowed down with both sides. In some situations, mediators have even resorted to holding talks on a ship off-shore, as the only neutral location to which the parties would agree.

Sometimes a suitable setting has to be created from scratch. In Cyprus, the UN mediator had to arrange a venue for the talks on short notice. The local head of UNOPS suggested that they use part of the old Nicosia International Airport which had been unused since the war of 1974. In five weeks, UNOPS recruited Greek and Turkish Cypriot workmen and worked on the building around the clock. On the date the talks were to begin, the smell of paint was still fresh, but there was a large conference room, a small conference room and a large sitting room where the UN mediator could huddle with the two leaders. There was an office for the mediator and offices for his core staff, all equipped with computers. The UN mediator designed the table in the shape of a U and the UN team sat at the base of the U while one delegation faced south and the other north.

Establishing a Framework for Negotiations

Once a decision has been taken to engage in a mediation process, full agreement on the structure and procedural rules of the process – often called a “framework agreement” – is an important step before commencing

substantive negotiations. Time and effort invested in this preparatory phase of peace talks are well spent, as far too many processes have faltered because of the lack of agreement on basic procedural issues.

Framework agreements normally include a clear statement regarding who the negotiating teams will be; who the mediator will be; his/her right to talk to any group deemed helpful; and details about how the mediation process will be conducted (through direct or indirect talks or both). It also normally commits the parties not to abandon the talks unilaterally and contains agreements on the venue, agenda, and timelines, as well as procedural rules for handling the media.

In El Salvador, the UN mediator carried out shuttle diplomacy over a period of eight weeks to work out a framework agreement in order to avoid the procedural wrangling that had bogged down previous efforts. Following agreement by both parties, The Framework Agreement for El Salvador was initialled in a plenary session and signed before the Secretary-General in a solemn ceremony designed to give sufficient weight to the undertaking.

Identifying Issues and Ordering an Agenda

In order to know what general topics will be the subject of negotiation, the mediator needs to bring the parties to agreement on an agenda of issues to be discussed. It can be important to explore the agenda even before a framework agreement is negotiated so that the two sides can have some idea about what they are going to negotiate. Sometimes, however, the agenda can be problematic because one side will want to include issues that the other does not want to discuss.

Mediators advise that it may help to express each agenda item in a neutral manner so that the item itself does not imply commitment to something that hasn't yet been negotiated. Rather than using, for example, "constitutional reform," the mediator might wish to phrase the issue as "constitutional issues." Instead of calling an agenda item "disarmament," he/she may wish

to reframe the issue as “a definitive end to hostilities” or “the future of the fighters.” The agenda should also address all of the important grievances on both sides so that the parties can see that their legitimate fears have been taken into account and formulated in such a way that they can be accepted by the other side – so that neither party will see any kind of provocation in the formulation.

The mediator should also consider making suggestions for issues to be considered, since the parties will seldom come up with certain issues, such as “human rights” or “verification.” The mediator may need to persuade the parties to put these on the agenda to strengthen the agreement and to satisfy the international community and future donors who might facilitate reconstruction assistance.

With regard to ordering the agenda, the mediator will need to clarify with the parties that the items are not necessarily sequential and that, although one item may be considered ahead of others, it does not mean that this item needs to be agreed upon before moving on to the next issue. One approach is to put the items that both sides want to discuss first, followed by the items that only one side wants to discuss. It’s often best to start out the negotiation with an issue upon which progress is likely, because that gives the negotiations “a sense of dynamism and the parties feel that negotiations are worthwhile. It also demonstrates to the public and to the international community that there is real progress.”

Finding the Best Balance Between Direct and Indirect Talks

When faced with the problem of structuring a negotiation process, mediators have two basic choices – to bring the parties face-to-face in direct talks or to meet with the parties separately in indirect talks. There are clear advantages and disadvantages to each approach and most mediators use a combination. Indirect talks tend to be either shuttle diplomacy or proximity talks. In the former, the mediator shuttles back and forth between

parties that are not in close physical proximity to one another. Shuttle talks, however, put considerable strain on the mediator, so many envoys prefer the option of proximity talks, where parties are located in the same locality (e.g., the same hotel or the same floor of the UN building) and the mediator can more easily move back and forth between them, with the option to bring them together easily, should that appear useful.

By contrast, plenary sessions, where the parties meet face-to-face tend to be confrontational (especially early in the process), as parties are tempted to rehash the past, restate and justify their positions and engage in tit-for-tat exchanges. As one mediator explains: “In face-to-face talks, the parties tend to speak for propaganda purposes, so they reiterate their well-known positions all the time for the sake of the other party. They love to remind the other side of what they did wrong and what their own position is. So you waste a lot of time.”

“It is also difficult in plenary sessions for the mediator to offer a proposal because the danger is that one party will accept it and the other will not – and then the mediator looks as if he/she is closer to one side. Further, if one party offers a worthwhile proposal, the other side is likely to object because it comes from the other. If the mediator later brings up these ideas, the other side will say that since these are my opponent’s ideas, the mediator has sided with the other party.”

Since mediators usually wish to assist parties in moving away from entrenched positions to explore innovative options, indirect talks are often more productive, at least in the early stages, until a greater level of mutual confidence is achieved through a series of successes. As one envoy explains: “Proximity talks are a device that requires a third party to conduct a negotiation in a situation where the parties to the conflict are not on speaking terms or where being confronted with one another may be counter-productive because the chemistry is bad.” In such cases, it may be preferable not to have specific proposals conveyed back and forth so

that the parties are not faced with counter-proposals. For this reason, many mediators are opposed to the parties exchanging proposals in writing, since the other side is likely to reject them out of hand and this can undercut worthwhile ideas that the mediator might be able to put to good use. Instead, mediators sometimes suggest that, if the parties have ideas, they should be given to the mediator and his/her team and the team can decide what to take from them. As one envoy comments: “In proximity talks, if the parties have a good idea, it is easier to use if that party gives it to the mediator to present – not as the idea of the opposing party, but as the mediator’s idea.”

As another mediator argues, “The major advantage of proximity talks is that you can replace something which is not a dialogue – that is, the two parties talking *at* each other – with something that *is* a real dialogue, which is the mediator talking to each of the parties separately.” With the latter approach, mutual trust is built as the parties come to see that they can agree on substantive issues and that the process is not a waste of time. “This prepares the ground for future face-to-face negotiations, where the two parties will be confident enough about the motivation of the other to engage directly with one another. In Guatemala, 80 percent of the work was done by discussing separately with each party what they wanted, whether another formula could be found, and whether what they wanted could be replaced by something else that they hadn’t thought of but that could be valuable to them.”

In some situations, however, the parties request a plenary session because they feel that they need to confront one another. When this occurs, the mediator can help guide the parties by asking, “What do you want out of this particular discussion?” If the mediator fears that the atmosphere will worsen as a result, he/she may caution the parties to delay or abandon the idea.

Indeed, some mediators use plenary sessions only when agreement has been worked out on an issue and they are bringing the parties together for the signing of an accord. As one envoy recalls, “When the parties were brought together, it was almost always because there was good news. That’s how you build confidence.”

Other mediation processes have, however, usefully employed formal plenary talks in conjunction with joint technical or working groups of experts who flush out more creative and detailed proposals for the consideration of those sitting at the table. This approach was used in the Cyprus negotiations in the lead-up to the referendum, where 12 working groups with up to 300 Greek and Turkish Cypriot lawyers and other experts worked constructively around the clock to produce the largest peace treaty ever developed.

Making Progress by Changing the Negotiating Format

Some mediators suggest that one way to overcome a stalemate is to change the negotiating format. Parties can interact in a variety of ways, in plenary with their advisers; in direct face-to-face negotiations; in more private fora with just the leadership of the two parties; or in one-to-one talks with just the leader or the spokesperson for the two parties. These interactions can take place in a formal setting or in an informal setting, through proximity talks or through correspondence. “So”, as one envoy explains, “if you multiply the type of interactions by the number of arrangements, you have a vast array of possible formats. When things are not moving, one tactic is to constantly change format in search of the easiest path. On the same day, I might go from a closed meeting with the two leaders, to a mid-sized meeting, to a large-sized one, and then come back to a mid-sized meeting. Sometimes by jumping from one format to another, you can build consensus. Using this variety of formats to advance your case with the core issues is an essential technique.”

Unravelling the Linkage Between Issues

Because issues in a negotiation are usually linked in complex ways, many experienced mediators adopt the rule of “nothing is decided until everything is decided,” meaning that, even when agreement has been reached on one agenda item, it is put on hold until agreements have been achieved on all agenda items, i.e., until a comprehensive peace agreement has been concluded. At that time, a commitment is made to implement the full set of agreements according to a schedule which is worked out and included in the comprehensive agreement.

The problem remains, however, of understanding the often complex linkages between issues so that these can be dealt with in a logical manner. In some cases, the linkages become clearer as the different agenda items are addressed. In such cases, mediators may need to work back and forth between issues in order to make progress. As one envoy describes the linkage of issues in the situation in Bougainville: “Having signed the Loloato Understanding on the Question of the Referendum, we had to work out the details of what an autonomous government would look like. The complexity of these details became increasingly apparent as the negotiations progressed. Without progress on autonomy, there was not going to be progress on the referendum; without progress on the referendum, there was not going to be progress on autonomy. So, we laboured along one month after the other.”

Balancing Asymmetrical Power Between Parties

Parties in conflict are seldom equal in power. Sometimes there is a strong government and a weak insurgency; in other cases, there may be a weak government and a strong insurgency. This asymmetry can lead to a dilemma because, if one side is stronger, the agreement may end up more favourable to that party.

As one special envoy cautions: “There is a tendency for mediators to appease the strong and put pressure on the weak, because it is easier. Pressuring the weak causes fewer problems for the mediator than putting pressure on the strong. However, applying pressure to the weaker party may well lead to an unjust solution to the problem. . . and if you end up with an outcome that’s not fair, that’s not just, you are not only cheating one of the parties, but this outcome probably won’t last very long. So, my advice is: avoid the tendency to appease the strong and lean on the weak.”

In such situations, mediators need to realize that there is no equidistance between the parties. “If one side has three cards in its hand and the other has fifty, you can’t very well say ‘If you give up three, the other side should give up three as well. That is, you can’t ask the two sides to make an equal number of concessions, because, if you do, you will soon deprive the weaker side of the few cards that it’s holding. Therefore, at least for a period, more concessions will have to come from the stronger side.”

When parties are unequal and when the weaker party has a valid case, the mediator may need to find ways to even the power balance. This has been done by building coalitions with civil society or international and national NGOs in order to strengthen public opinion in support of the peace process or by establishing Friends of the Secretary-General to help even the balance.

Another envoy suggests that, when dealing with the leaders of stronger parties, “One should always stress the effects of the continuing crisis on society: the destruction of institutions, of infrastructure and the resulting great hardship on the people. Leaders should be made to feel responsible for that. Sometimes it may even be important to tell them that, if they continue to behave in certain ways, they might one day be brought before an international court. The mediator also needs to help them see that, whatever short-term advantage they may have, it won’t last, because there are other factors that will come into play, such as how the people of the region feel, because they might be jeopardizing the interests of neighbouring

countries, or discriminating against a minority, which will create a reaction from a neighbouring country, and so on. One has to ‘relativize’ these things and help them see the long-term consequences of their actions.”

Mediators also typically advise that the parties should be given equal status in negotiations, with equal treatment in terms of arrangements and equal status in the peace process itself.

Introducing New Ideas

Mediators sometimes find it useful to introduce, on their own initiative, new ideas that neither party has previously considered. This can require considerable imagination. For example, the Ad Hoc Commission to Evaluate the Officer Corps of the Armed Forces in El Salvador was a proposal made by the mediator to overcome an impasse between the FMLN (which had called for the expulsion of a number of officers) and the Government (which opposed expulsions). Members of the Commission were appointed by the Secretary-General (in consultation with both sides) and tasked with evaluating the officer corps to determine which members might have to be transferred or which services should be eliminated because of human rights violations or because they were no longer deemed appropriate within the reformed armed forces that were to emerge from the peace agreement. This led to a fundamental change in the staff of the armed forces, as well as a major reduction in their numbers, including the dismantling of special battalions that had been created during the war years. The creation of the Commission on the Truth for El Salvador also developed out of a proposal made by the UN mediator.

Mediators may also gather new ideas from NGOs, academics, governments, or diplomats. In some cases, mediators have organized meetings of such individuals or organizations, as was done in the case of El Salvador, where the mediator brought together a group of independent human rights specialists, Salvadorans and personnel from the Centre for Human Rights

and asked: ‘What can be done?’ As the mediator recalls: “We even asked the hypothetical question: ‘If there were a human rights agreement between the parties, what should it address?’ Over the course of the two day conference, a number of very useful suggestions were made, many of which were used in the subsequent human rights agreement.”

Another mediator concludes: “If you, as the mediator, have an objective in mind in keeping with the Charter and the principles and objectives of the UN, my advice is: do not be afraid to make bold proposals and aim high; you may be amazed at what the parties will accept.”

Reframing

Sometimes reframing an issue or solution or simply altering terminology can lead to progress. As one UN mediator comments: “In the case of the referendum in East Timor, we did not call it a ‘referendum’ because, after years of opposing a referendum, Indonesia would have lost face if it had suddenly accepted one. We called it a ‘popular consultation.’ But the elements for the consultation and the method were exactly the same as a referendum: one person, one vote – with only the Timorese voting.”

As another envoy notes: “The same applied to the Historical Clarification Commission in Guatemala. We all sensed that the army had committed incredible atrocities in the previous 20 or 30 years and we felt strongly that it was important for Guatemalan society to know what these violations were, so they would not be repeated. We were surprised when we unexpectedly succeeded in getting the President of Guatemala to accept the idea, by changing the name from ‘the Truth Commission’ to ‘the Historical Clarification Commission’, thereby making it clear that it would not cover the particular period when he was President.”

Introducing International Norms, Standards and Models to Build Agreements

One important way to anchor agreements is for the mediator to introduce international norms and standards. In Guatemala, for example, the mediator brought in ILO staff to explain that the Indigenous and Tribal Peoples Convention mandated respect for indigenous rights as part of international law.

It may also be helpful to provide model solutions from other countries, such as various models of autonomy, federalism or power-sharing used by others to resolve their conflicts. In East Timor, the personal representative commissioned an expert on autonomy arrangements to provide models from other situations. “I gave the delegations two papers: the first one outlining the major features of various successful and unsuccessful arrangements that could have relevance to the East Timorese situation. The study featured nine cases: Bhutan and India; Hong Kong and China; Macao and China; Catalonia and Spain; Eritrea and Ethiopia; the Åland Islands and Finland; Puerto Rico and the US; the Federation of St. Kitts and Nevis; and the Autonomous Region in Muslim Mindanao. The second paper summarized the main elements drawn from these cases and, in submitting it, I emphasized that these were merely ‘food for thought’ and not meant to be ‘proposals’ in any sense.”

Finding Solutions that Satisfy Interests

It is self-evident that parties are more likely to accept proposals that address their core interests. The agreement for policing in Bougainville, as described by the UN mediator, illustrates the point: “The sensitivities with regard to the police were great, because, while the war was prosecuted mostly by the Papua New Guinea Defense Forces, the PNG police were living in Bougainvillean communities on a day-to-day basis. According to the Bougainvilleans, the police were guilty of more atrocities than the defense

forces. For the National Government, the police were seen as an institution that they wanted to maintain without dividing it between Port Moresby and Bougainville. But the Bougainvilleans were not ready to tolerate an arrangement allowing the same kind of police presence as before, in an autonomous Bougainville. So, the agreement was that Bougainville would have its own police force. It would have its own head who would not be called a commissioner; they agreed to find another title. He would be appointed by a commission that would include Bougainvilleans, as well as the Commissioner of Police in Port Moresby. The standards of policing would be the same for both and the arrangement would be such that the police could move freely between Bougainville and Port Moresby. It would be one force, in the sense, that there would be consultation and cooperation between the police in both places. This was a clever and very creative solution that met the concerns of the Government on the one hand, that the institution of the police be seen as one, and not fractured, and the concerns of the Bougainvilleans on the other, that the police arrangements would not be a constant reminder of the atrocities they suffered at the hands of the police during the crisis. With that agreement, we took another giant step towards the conclusion of the agreement on autonomy.”

Using a Single Negotiating Text

UN mediators often find it helpful to employ a single negotiating text. After sufficient exploration and probing of interests and options, mediators introduce a single negotiating text to both parties who are invited to suggest changes. Following further discussion to clarify concerns, the mediator then revises the draft and again presents it for comment, until, in an iterative manner, the text evolves into something that all sides can accept. Ample time is required to ensure that the parties feel a sense of ownership over the process and the outcome. Although, as mentioned earlier, separate accords may be reached on various agenda items, most mediators adopt the rule

of “nothing is agreed until everything is agreed” in order to ensure that latitude for trade-offs on priority issues remains throughout the process.

One mediator explains: “I always built the text from four sources: 1) the interests of party A; 2) the interests of party B; 3) the interests of the Assembly of Civil Society; and 4) expressions of international legitimacy and best practices. So, for example, if the issue was fiscal reform, I would get one party’s vision, the other party’s vision, civil society’s vision, and basically what the World Bank and IMF could teach us on this. Once you have that, you more or less have your final product. But, I didn’t try to sell it to the parties, because the worst mistake you can make is to try to sell the parties something for which they have developed no sense of ownership. You have to walk them from where they are to the final product.” In some cases, when the parties are close to agreement, the mediator may consider doing the final drafting in a trilateral meeting, with the two parties and the mediator working together on the text.

Using Friends of the Secretary-General

Member States of the UN can also play a role in supporting mediation, as Friends of the Secretary-General or Friends of the Process. At the request of the UN mediator, they can do many useful things, including: hosting rounds of talks; encouraging parties to be creative and flexible in finding innovative solutions that address parties’ core interests; reinforcing progress; providing new ideas, financial assistance and technical expertise; helping to “level the playing field” when the parties’ power is asymmetrical; showing international support for agreements by being present at signing ceremonies; and providing resources for implementation. Experience suggests that the selection of Friends is best undertaken by the mediator and that it is wise to keep the number of Friends small and manageable. Friends need to be trusted by the parties and should possess good political instincts, creativity, and support the mediator’s agenda. It is also best if they have experience in the country and can provide credible advocacy for

the process and for the agreement – with leaders, constituents, and the international community. Finally, it is important that Friends believe that peace is possible and are willing to stay the course.

Eschewing Artificial Deadlines

Most mediators caution against setting deadlines. As one mediator puts it: “Let the mediator beware of conjuring up deadlines not anchored in reality. Calls to settle by a given date ‘or else’ frequently put the mediator’s credibility at risk and devalue the coin.” Sometimes, however, a deadline may occur naturally. In this case, such “real deadlines” – those that are not in the power of the mediator or the parties to change – can and should be seized by a mediator to foster progress in a negotiation.

One natural deadline occurred when Secretary-General Perez de Cuellar was leaving office at midnight on 31 December 1991. The full high command of the FMLN and President Cristiani were in New York with the Secretary-General and the UN mediator in last-ditch negotiations. After the Government of El Salvador consulted and was advised by the incoming Secretary-General-elect that they should finalize a deal under Perez de Cuellar, the parties finally reached agreement a little after midnight.

Using Influence/Leverage Wisely

Leverage can be useful in mediation, but only if exercised in a way that advances the process rather than being counter-productive. The key to effective leverage is understanding the parties’ interests and providing incentives that address their aspirations and concerns. Involving parties as partners in a mutual exploration of incentives increases the chance of success and leads to a greater sense of ownership and increased likelihood that they will accept responsibility for necessary changes. Essentially, the better one understands the parties’ motivations, the more likely one is to be able to influence the process. One special representative sums it up this

way: “It is useless to ask people to do things that you know they will never do because they are not consistent with their interests!”

In the UN mediation context, the most effective leverage is often the mediator’s relationship with the parties, his/her moral persuasion, and intangible incentives, such as recognition, assistance or the conferral of legitimacy. Early engagement with the UN system and donor community has also proven to be a powerful source of leverage, enabling parties to see the benefits of working towards agreement. Pledging conferences, following the signing of peace accords, have also offered tangible incentives.

Evidence suggests that the blunt, simplistic use of externally-imposed leverage often causes resistance and backfires, especially when parties believe that conceding to such pressure threatens important values, such as their sense of identity, honour, or commitment to a goal, or creates loss of face with constituents.

Although UN mediators do not themselves employ disincentives, other international actors sometimes do (e.g., through targeted sanctions, arms embargoes, or other restrictions). In such instances, mediators can help parties weigh up their options and consider how to avoid incurring such costs.

Dealing with Spoilers

Experience has demonstrated that one of the greatest risks to mediation comes from parties who believe that peace could threaten their interests and who then use violence to undermine the process. This is *particularly* likely when talks are making progress or when agreement is near, since internal divisions (between moderates and hardliners) within rebel movements or governments become more pronounced and lead to hard-line break-away factions that are opposed to the process.

As one envoy elaborates: “One should never underestimate the enemies of peace. In Colombia, as in Northern Ireland and the Middle East, they are very strong. Whenever there is progress, there are para-military groups, terrorist groups or fundamentalist groups who start a terror campaign. In Colombia, every time there seemed to be progress in the talks with either the FARC or the ELN, the para-military groups stepped up their terror campaign in order to make progress impossible between their enemy and the state. Internal divisions within the guerrilla movement or within the Government, also tend to become much stronger when a compromise is close – something that should also not be underestimated. I would say never underestimate how easy it is for a few men with a few guns to blow away everything you’ve carefully built over a long period. In the Middle East, nobody expected the kind of terror that we now have on both sides. A few suicide bombers can do a lot of harm! So, make contingency plans for violence. One has to prepare for the worst – but not be deterred.”

Careful assessment of spoilers’ motivations is required for the mediator to respond appropriately. As one special representative explains: “When you see people obstructing the process, you must ask yourself, ‘Alright, they’re obstructing, but *why?*’ Once you identify all the reasons, then you can ask: ‘Which of these things are under my control? Where can I have influence? What can I do to stop it?’ ”

Another SRSG points out that: “It’s important to ask what the motives are that cause parties to position themselves as they do. The real motive is often an internal power game – usually for the maintenance of power.”

A number of strategies have been devised for dealing with spoilers. In some cases, they can be re-engaged in the process by addressing their concerns (e.g., responding to their security fears with guarantees and reassurances). As one special representative comments: “Spoiler behaviour can be an expression of valid concern by the losers. When this is the case, there is a

need to address these things and to transform fear and a lack of trust into trust and confidence.”

Another envoy adds: “The hardliners, of course, have their reasons. My advice is to talk to them. On a regular basis, I talked to the hardliners in the army, as well as the hardliners in the URNG militancy. I suggest that you approach them in the same way you approach the others – with empathy, single-mindedness and hard work. You have to empathize with them in order to understand them. Sometimes they have very good reasons for their positions. Some have seen their entire families killed, and they themselves have been tortured. That’s why they’re hardliners and can’t agree to negotiation – and that’s a very valid point! Others have such a deep distrust of the land-holders that they believe there can never be a negotiated solution and that’s understandable too. So, the problem is not so much to challenge their hard line, because it may be perfectly valid – but to challenge them to consider the alternatives.”

Similarly, a third envoy advises: “You’ve got to be sensitive and listen in order to understand what the conflict is about. Once I got to know a guerrilla commander, sub-commander or assistant, I would always ask him, ‘Why did you join?’ In almost every case, the guy’s family had been massacred or everybody in his village had been massacred; the members of his trade union had been massacred; his schoolmates had been massacred; his land had been stolen; the women in his family had been raped. There was always a bleeding wound there. They were angry and felt that there would be no justice unless they became hard line and killed until it ended – even though, of course, the killing really just perpetuated it. But you need to get to that wounded part, if you’re going to move on. On the Government side, they would say, ‘My uncle was kidnapped; they burned down my farm.’ It was the same, sad story.”

Another envoy describes how he tried to reason with the hardliners in Bougainville: “As Chairman of the negotiations, I could not ignore the

hardliners. Quite the contrary, I felt an obligation to give them special attention and to encourage them to stay in the process. My basic plea was: ‘You tried war for ten years; now you must give negotiations a chance to work. You can’t give up after just one year.’ In the course of the negotiations, I had about eight sessions with them, each lasting three or four hours. I would send the helicopter to bring them to our headquarters, where we would begin with an extremely pleasant lunch, during which it was as if we were all members of the same family. For those who were smokers, cigars were provided. Following lunch, we would repair downstairs to the conference room. We would begin with a prayer, after which I would urge their continuing support for the negotiation process – and the conviviality of the exchange over lunch would quickly disappear. They were respectful, but forceful and tough. . . They wanted to make it clear that, if they felt the negotiations were not going anywhere, they were not going to make my life easy. They threatened that, if the National Government did not negotiate in good faith or if there were delays, they would start fighting again. They threatened that they would make a unilateral declaration of independence. These exchanges continued over several months. As the negotiations progressed, little by little the hardliners were persuaded to stay with the process. . . Throughout all of this, I had to keep smoothing ruffled feathers on both sides, to keep nursing and cajoling and pressuring them individually, as well as by group – the National Government on one side, the Bougainvilleans on the other – including the hardliners. Every little bit helped.”

In other cases, the “departing train strategy” – where the mediator asserts that the process will go forward regardless of whether a party joins or not – has been used. When peace is achieved, the party that has excluded itself may change its analysis as the advantages of participation become clearer. This strategy was used in Cambodia when the Khmer Rouge opted out of the process and the special representative carried on with the elections as planned. It was subsequently used in Burundi, where most of the rebel

groups signed the Arusha Accords but a few did not. Ultimately, the benefits of being inside the process became obvious and led to the signing of the agreement by the remaining groups.

One important word of caution: threats to withdraw international support for a process being sabotaged by spoilers have been shown to be extremely dangerous (as exemplified by Rwanda). This gives spoilers veto power over the process and exactly what they want, which is the withdrawal of the international community. Such a response by the international community also marginalizes and endangers the moderates.

In extreme cases, threats of coercion or actual coercion by the international community have resulted in spoilers coming to the table. But disincentives have not always been as effective as expected, as parties often value their resistance to coercion more than they do the losses they will suffer.

Some spoilers, of course, are motivated by the benefit derived from a war economy. The profits earned by black marketeers, drug lords, smugglers, traffickers, and government or guerrilla commanders cannot be underestimated. The power and status derived from being a wartime leader are obviously more attractive than the prospect of being sent to The Hague. Previous UN reports have noted that spoilers have the greatest incentive to defect from peace processes when they have independent sources of income to pay soldiers, buy weapons, and enrich themselves. Where income from the export of narcotics or valuable commodities cannot be stopped, peace is less likely. Although civil wars often begin with the aim of taking over, retaining control of, or seceding from a State, many quickly mutate into wars where economic incentives come to the fore. In such situations, the problem is not simply the breakdown of the previous system but the emergence of a new system of power, profit and protection. This underscores the importance of early action to mount skilled, well-designed and well-resourced efforts to resolve disputes/conflicts before their reach extends into the murky world of transnational crime.

The role of international actors, including the Security Council and individual Member States, has been crucial in controlling spoilers. Where there has been coherent international action to support a peace process and deal with spoiler behaviour, the situation has been managed; where this coherence has not been present, spoilers have succeeded in derailing the process at great cost. For example, failure of the Arusha and Bicesse Accords, due to the action of spoilers, led to the death of an estimated three million people. External actors must also be dissuaded from supporting spoilers with weapons, money and sanctuary.

Achieving Peace Agreements that Facilitate Implementation

Experience has shown that peace agreements must satisfy certain criteria to withstand the stress of implementation. “When you negotiate a peace agreement,” explains one envoy, “it’s important to have in mind that the agreement itself is not enough. You have to make sure that you have an agreement that can withstand the test of implementation. All processes of implementation teach us lessons as to what an agreement should contain.”

We have also learned that, when the UN is expected to have an implementation role, it should be the one that brokers the agreement or, at the very least, the UN should have sufficient input into framing the agreement to ensure that it is, indeed, implementable. Agreements that are more complete are easier to implement since more of the issues in contention have been decided, leaving less to be negotiated during implementation. As one special representative argues: “Lack of specificity in a peace agreement is a recipe for endless disputes during the implementation phase. In such cases, it is difficult, if not impossible, to reach consensus and the process suffers endless delays. The additional time required in the negotiation phase to make a peace agreement more specific is largely compensated for by gains in the implementation phase and creates a solid base for the success of a peacekeeping operation.”

Another envoy adds: “If an agreement is not structured in such a way that it addresses all the concerns and grievances that led to the outbreak of fighting in the first place, the job is really incomplete.” Yet another concludes that: “To be effective, a peace agreement has to deal with the causes of conflict. It either has to address them directly or establish a new system and institutions that will enable these causes to be dealt with over time.”

Of critical importance is finding a model for power-sharing that fits the unique characteristics of the situation. Post-conflict electoral systems are best designed to provide for broad and inclusive representation and avoid dominance by single parties or elements of society, so that losers do not have an incentive to take up arms again. As one scholar writes: “A good agreement is one that contains power-sharing provisions for winners and losers in the aftermath of elections. The context in which elections take place is crucial to the peace process. There need to be positions for both winners and losers in a new government. . . Unless there is some form of compensation, the loser will have strong incentives to take up arms and return to a renewed campaign of violence in pursuit of political objectives. Electoral mechanisms, such as proportional representation may also be required so that minorities feel they have adequate representation in parliament.”⁴

Agreements must also respect international standards. The Mediation Support Unit of the Department of Political Affairs has prepared a series of Operational Guidance Notes based on existing UN policies, guidelines and standards to help mediators and their teams think through the most important process and thematic issues. These can be found on www.un.org/peacemaker.

Viable agreements also need to be acceptable to the majority of constituents. While mediators and parties understandably seek to maintain

⁴ F.O. Hampson, *Nurturing Peace: Why Peace Settlements Succeed or Fail* (Washington D.C.: United States Institute of Peace Press, 1996), p. 218.

confidentiality with regard to the internal dynamics of the mediation process, a communications strategy remains important as the talks continue, in order to establish appropriate expectations and to prepare the public for the outcome. Once an agreement is signed, a more robust media campaign is needed to inform the population of the opportunity for constructive change and to engage them in active participation in reconstruction.

The most effective peace agreements have been those with clear guidelines about implementation priorities and realistic timetables. As one envoy puts it: “An agreement that produces commitments to action is of little use unless it also spells out by when they must be completed and how they interlock with one another, because usually they involve reciprocal concessions. Therefore, it becomes extremely important for the United Nations to think through the steps that need to be taken, so as to carry out the agreements reached. For example, if the demobilization of guerrillas is contingent upon their receiving – immediately upon hand-over of their weapons – some sort of financial assistance, you had better be sure that you know if and when that assistance can and will be delivered.”

Having a strong dispute resolution mechanism, as part of the structure that will monitor implementation and prevent or resolve crises, is also critical to outcome. Careful attention should be given to the composition of this structure, including selection of the most appropriate local and international actors. To ensure that such structures are effective, there is often a need to develop the capacities of those involved for collaborative leadership, consensus building and constructive negotiation. As one envoy explains: “A strong political structure should be established to manage the peace process. While the government should continue its normal activity, the political structure should drive and monitor the entire process, prevent crises or solve them when they erupt. The existence of such a structure is essential to the confidence-building process.”

Close cooperation between the mediator and the resident coordinator/country team can also be essential to ensuring the sustainability of the agreement.

The Special Issue of Accommodating Peace and Justice

When conflicts lead to gross violations of human rights and international humanitarian law, peace and justice are indivisible. In practice, addressing both can sometimes be a challenge for mediators, parties, civil society, and the international community. The cultural context and the wider normative standards/practices of the UN must be taken into account. To ensure that transitional justice issues are adequately covered in the agreement, mediators should rely on the expertise developed within the UN system and by relevant external experts. Widespread national consultation with civil society groups (including victims) is also vital, particularly where their perspectives are not represented by the negotiating parties.

Some important normative boundaries for UN mediators with regard to justice issues are detailed in guidelines developed by the Department of Political Affairs. When parties seek to condition their participation in the peace process on demands for amnesty, UN mediators should adhere to these guidelines and consult with other relevant partners at Headquarters, including the Office of the High Commissioner for Human Rights.

Where serious crimes have been committed and are under investigation by the ICC, pursuing international justice during mediation can generate considerable tension, since those being investigated or those indicted may cease cooperation and actively obstruct the process. Ignoring the administration of justice, however, leads to a culture of impunity that will undermine sustainable peace. Mediators should make the international legal obligations clear to the parties and parties should understand that, once ICC jurisdiction is established, it is essential that the Court rules on matters before it and that its independence is preserved.

Settling for a Less than Perfect Deal

One mediator argues that parties need to be helped to understand that they cannot obtain everything to which they aspire. He suggests that “at the time of the signature of a peace agreement, they should simply believe that this is the best solution they could have achieved.” “A peace agreement is always controversial,” agrees another envoy. “Leaders must come to realize that by accepting a practical, although less than perfect deal, they might lose in public opinion, but history will show them to be the heroes of peace who took the courageous decisions.”

Establishing Public Commitment

Public signing of peace agreements can provide a significant finale to years of negotiation and may also help to establish a public commitment to peace. One envoy notes that: “As part of generating support for an ongoing peace process, ceremonies can be very important. In El Salvador, it was decided to make a big affair of the signature of the accord proper. Mexico had been a prominent member of the Contadora Group and they set great store by the El Salvador peace agreement. So, they decided to hold the signing ceremony in Chapultepec Castle, overlooking Mexico City. There, you had ten Heads of Government, including the Heads of Government of all the Central American countries, as well as President Cristiani of El Salvador, plus the Heads of Government of the Friends of the Secretary-General and the Secretary-General of the United Nations. We had our delegation present, as well as the delegations of the two sides and many, many guests. This was televised and repeated all day. The first line of Boutros-Ghali’s speech was: ‘The long night of El Salvador is drawing to an end.’ It was a major ceremony, since until that point, President Cristiani had refused to meet face-to-face with the guerrillas. Cristiani’s speech was remarkable because, in that speech, he admitted that, until then, El Salvador was not a country that had the characteristics of a democracy in which the type of conflict that was coming to an end could be resolved peacefully. After initialling the

agreement himself, he came down from the table, where he was together with his other colleagues and shook the hands or embraced each of the guerrilla delegation members, one-on-one. I was actually the first person whose hand he shook – and he had tears in his eyes.”

The Need for Patience and Persistence

Most mediators argue that patience and persistence on the part of the mediator are essential. As one states: “There’s a morally challenging trade-off between the quality of an agreement and the time you devote to it. You may sometimes be able to reach a very quick agreement and, of course, that means that you will spare lives. . . There are, of course, all kinds of very valid reasons why you want to rush the parties into something that allows the end of the war. But at the same time, if an agreement is what it has to be to survive – if it is good, legitimate, politically accurate, based on a great deal of mutual confidence and has addressed all major issues – that will require time. It means, first, that the mediator must spend a great deal of time with the parties; it also means that the leaderships will have to spend considerable time with their constituents.”

Another envoy adds that: “Mediators should be careful not to aim for too much at the beginning. Even if there’s a feeling that it is possible to move faster, one has to go step-by-step, letting the parties themselves feel that there are other steps that can be made. You can say, ‘When we meet next time we will address that,’ because at each stage, the parties have to go back and convince their constituents and they need time to do that. It’s only when you’ve made a number of steps that you might feel that you can speed up a little. However, even then, one has to be careful. I’ve been witness to a number of situations where we were close to the end, but because we wanted to finish too quickly, we jeopardized the whole process. So, even towards the end, it’s best not to rush things so you can be sure that you’re really bringing the parties along.” Another representative sums it up

this way: “Quick fixes have a way of coming back to haunt the fixed as well as the fixers.”

Finally, as one special representative comments: “You must have a positive approach. You must realize that to do what is possible is very easy. Anybody can do that. What is difficult is to *make* things possible – in other words, to make utopias become reality. This is what makes things move in history.”

“If you look at things that seem completely impossible, and you say, ‘OK, this cannot be done,’ then realism is a very strong enemy. You must have dreams. You need a little bit of utopia in your mind. You must accept that things can be *made* possible, and to the extent that you really want them and you’re ready to take risks for them, then *you can achieve results!*”

IV. SERVICES AND RESOURCES AVAILABLE TO UN MEDIATORS

This section will describe how the Mediation Support Unit, established in 2005 and located in the Department of Political Affairs, is available to provide support and resources for good offices and mediation. The Unit now operates as the focal point of United Nations Headquarters for mediation support and the institutional repository of knowledge, lessons learned and best practices. The Unit currently employs 12 professional staff who have worked in the field in peace processes and who are based in New York. They provide first-line operational support; planning and coordination; evaluations; and mediation capacity building and training. This is augmented by a seven-person Standby Team of Mediation Support Experts which can be deployed rapidly to the field for short periods of time (as described in greater detail below). The Unit also manages a small roster of mediators and other thematic advisers who can be deployed for longer periods.⁵

⁵ For further information, please contact Kelvin Ong, Head of the MSU at ongk@un.org

The Mediation Support Unit offers UN mediators and their teams a full range of mediation support services in three main areas which are outlined below. Examples of such support are shown in Table 1.

Technical and analytical support: The MSU provides support for peace processes throughout the planning, implementation and evaluation phases of a mediation process. Available services include: modest mediation start-up funding; strategy development and process design for mediation, facilitation and dialogue initiatives; and advice on thematic issues.

The MSU is also home to the seven-member Standby Team of Mediation Experts who are experienced in mediation situations and experts in a range of topics that arise frequently in mediation, including: security arrangements (ceasefires; disarmament, demobilization and rehabilitation; security sector reform), constitutional processes, power-sharing, natural resources and gender issues. Team members can be deployed within 72 hours and are available, upon request, to provide technical advice to current United Nations envoys, political and peacekeeping missions and country teams, as well as to regional organizations with whom the United Nations works closely. Team members can be deployed to the field in any configuration: as individuals, as a small group, or as the entire team. In some cases, they can also provide advice remotely.

This support is flexible and can be adapted to the needs of the situation and could include, for example: providing advice on procedural and agenda-setting issues; analysis of the interests of parties in negotiation (including the identification of potential points of convergence); leading workshops for parties on substantive or process issues; general technical assistance; and drafting of the text of peace agreements. When not deployed in the field, the members of the Standby Team carry out research and coordinate reviews of best practices in their areas of expertise.

Requests for deployment or assistance of the Standby Team or any one of its members should be directed to the Under-Secretary-General for Political

Affairs, and to the Mediation Support Unit of DPA. The request should be made in writing or by e-mail and should come from the head of mission, head of appropriate department, special envoy, resident coordinator or other appropriate senior official.

For longer-term deployments, the MSU also maintains a Mediation Roster, which is a database of senior mediators, operational-level mediation support staff and thematic experts.

Capacity Building: The MSU provides tailor-made training for mediators and their teams, as well as for conflicting parties and regional organizations to facilitate their engagement in peace processes. Available training includes mediation and negotiation skills; process design; and mediation strategy development; as well as thematic issues in peace processes.

Mediation Guidance, Lessons Learned and Best Practices: The MSU also offers mediators and their teams a briefing package of key UN policies and approaches to mediation; a mediator's handbook of real-world examples from former mediators; a mediation start-up manual (forthcoming); and operational guidance notes on process design and thematic issues. The MSU also hosts an online databank of peace agreements and peacemaking experience at www.un.org/peacemaker.

Examples of each of these types of support are provided below.

Table 1: Examples of MSU Support for UN Mediation Efforts

<p>Holistic Support</p>	<p>The MSU has been involved in Cyprus since the beginning of the latest round of bilateral talks. The Unit has provided start-up funding; facilitated discussions in the working groups during the preparatory phase; and deployed constitutional, power-sharing and property experts. As input to the talks, analytical papers were also developed on the future executive branch of a re-united Cyprus.</p>
<p>Process Design and Thematic Support</p>	<p>The MSU assisted the Special Representative of the Secretary-General for the Great Lakes Region in the DRC by providing comparative mediation process designs from a variety of UN and other cases. The MSU also provided mediation start-up funding; identification of technical experts and support staff; as well as advice on strategy documents prepared by the mediation team.</p> <p>The MSU conducted a dedicated planning session for the Personal Envoy of the Secretary-General for Western Sahara, to assist in thinking through the mediation strategy and next steps in engaging the parties. MSU also developed substantive papers on alternatives and options to the self-determination issue with the aim of providing fresh ideas.</p> <p>The MSU has been working with the United Nations Mission in Nepal to tailor a mediation training programme for the Representative of the Secretary-General and her team.</p> <p>In the Central African Republic, the MSU provided training for the CAR Preparatory Committee for the All Inclusive Dialogue on how to run a national process. This early engagement was continued during the dialogue phase to support the SRSG on both process and thematic issues, such as security sector reform.</p> <p>In Central Asia, the Unit has been very active in working with the SRSG in his mediation efforts over water-sharing issues.</p>

Analytical Support from Headquarters	Not all of the work of the Unit requires the physical deployment of experts. In Iraq, the MSU provided the United Nations Assistance Mission for Iraq with a range of analytical papers on power-sharing, inter-ethnic relations and wealth-sharing. On power-sharing, the MSU prepared advisory papers on Northern Ireland. On the Kirkuk issue, the Unit provided lessons and good practices from Bosnia and Herzegovina; Chandigarh, India; Andorra; Cyprus; Belgium; Italy; and Switzerland. Expert papers were also developed on issues relating to federalism and wealth-sharing (e.g., hydrocarbon revenue and water sharing) using comparative models from Brazil, South Africa and Central Asia. All of this was carried out in close cooperation with the UNAMI team, but without actual deployment to the country.
High-profile Mediation Support	Typically the MSU operates behind the scenes, but its support to the SRSG in Kosovo in October/November 2008 was not so discrete. At the request of the Department of Peacekeeping Operations and in support of the United Nations Interim Administration Mission in Kosovo, the MSU deployed its expert on constitutional arrangements to assist the SRSG in conducting the consultations to reconfigure the international civil presence in Kosovo (i.e., the Secretary-General's 6-point dialogue with Belgrade, alongside close consultations with Pristina). This work played a role in paving the way for the full implementation of the Secretary-General's proposed reconfiguration of UNMIK and the deployment of the European Rule of Law Mission in Kosovo over the whole of Kosovo.
Evaluation of a Peace Process	Not all of the MSU's work is done upstream and early in the mediation process. The Unit is also starting to provide assistance in the evaluation of peace processes. In Côte d'Ivoire, in support of the United Nations Operation in Côte d'Ivoire, the Department of Peacekeeping Operations, the Peacebuilding Support Office and the Mediation Support Unit were part of a Headquarters Joint Evaluation Mission to take stock of the Facilitation conducted by Burkina Faso and to propose options for further assistance.

V. CONCLUSION

In summary, given the vital importance of preventing and resolving deadly conflict, it is incumbent on mediators (whether from the UN or elsewhere) to be as knowledgeable and skilled as possible in the field of mediation, including being able to profit from the lessons learned/best practices derived from those who have studied and those who have practised mediation. It is hoped that UN mediators will avail themselves of the information and resources available through the Mediation Support Unit and carefully consider the lessons/experience of other experienced colleagues. It is also hoped that envoys and representatives will take note of and record the lessons from their own experience, so that these can be tapped for future versions of this manual.

ACKNOWLEDGEMENTS

The author is grateful to Lynn Pascoe, Under-Secretary-General for Political Affairs, for the idea of producing this manual. UNITAR also wishes to express its gratitude to the Mediation Support Unit for providing funding for the publication of the manual and for suggesting additional sections to make it more complete, including a section on the context of UN mediation and on the support and resources available to UN representatives and envoys through the MSU. In particular, thanks are due to Sherwin Das and Kelvin Ong, Head of the MSU, for their input to these sections. As well, appreciation is expressed to Carlos Lopes, Executive Director of UNITAR, for his support for this work and to Trisha Riedy, Manager and Senior Trainer of the UNITAR Programme in Peacemaking and Conflict Prevention and Hiroko Nakayama, Specialist in this programme, for their work on publication of the manual.

This manual would not have been possible without funding support from four governments for the UNITAR Programme for Briefing and Debriefing Special and Personal Representatives and Envoys of the UN Secretary-General. They are: The Department of Foreign Affairs and International Trade of Canada; the Ministry of Foreign Affairs of Sweden; the Federal Department of Foreign Affairs of Switzerland; and the Department for International Development of the United Kingdom.

Mediation advice summarized in this manual comes from interviews with the following individuals as part of this project. UNITAR extends its gratitude to them for sharing their knowledge with others involved in mediation.

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