United Nations Guidance for Effective Mediation: Moving Forward

October 2012

The following reflections on the UN Report and Guidance draw on the lessons of Conciliation Resources’ experience in supporting and researching peace processes, in particular the value of greater inclusion and local knowledge.

Background to the report

In July 2011 the United Nations (UN) General Assembly requested the Secretary General to submit a report on the implementation of Resolution 65/283 entitled ‘Strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution’. The report outlines progress made in implementing the resolution, in the context of key trends in the field of mediation. Annexed to the report is also a ‘United Nations Guidance for Effective Mediation’. The Secretary General formally presented the Report and Guidance to the General Assembly on September 13, 2012.

The UN Mediation Support Unit (MSU) led the process of drafting the report and annex. During this process it gathered input from the Mediation Support Network1 at a meeting in March 2012, to which Conciliation Resources actively contributed.

Summary

The report presents a timely reflection on the field of mediation, opening it to more forward thinking and innovative approaches to mediation. Conciliation Resources welcomes in particular the positive language in the guidance around inclusivity, and the recognition that there are multiple actors involved in peacemaking, including civil society actors and women. Conciliation Resources is also encouraged by the recognition that mediation activity can have both positive and negative impacts on peace processes, and by the recommendation that mediators should undertake conflict analysis and stakeholder mapping to ensure that mediation ‘does no harm’.  

The report and the guidance reflect evolving thinking about the changing architecture of mediation and peace processes. At Conciliation Resources, our experience and reflection is leading us to challenge the idea that peace is agreed between the main conflict parties, primarily those who have been engaged in violence, with a high-level external mediator bridging the divide. More consideration is being given to thinking beyond the negotiation table and a reliance on high-level external mediators, towards a focus on the quality and process of mediation and peace processes.

Conciliation Resources endorses the link made in the guidance between more inclusive and more durable peace processes, and the need to look beyond the immediate conflict parties to ensure the legitimacy of peacemaking. It is also important to remember that conflicts are inherently complex, and that mediation is one component of an overall peace process. Mediation needs to be clearly located within the broader framework of effective peace process support. Sustainable outcomes require strong processes, and inherent in this is engaging with the complexity of conflicts to produce changes that end and prevent conflict.

In order to build on the recommendations in the guidance, mediation efforts should seek to:

- Use conflict analysis based on a local understanding of the context
- Find meaningful ways of consulting and engaging with a broader set of actors
- Pursue multilayered approaches of engagement
- Ensure a broader recognition of conflict resolution tools and skill sets
- Ensure there is both flexibility and coherence when engaging with armed groups

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1 The Mediation Support Network (MSN) is a small, global network of primarily non-governmental organisations that support mediation in peace negotiations, and seeks to promote and improve mediation practice, processes and standards to address political tensions and armed conflict.
Conflict analysis based on a local understanding of the context

Context matters: what may work in a specific context at a specific time may not be appropriate elsewhere or at a different point in time. Mediation efforts can be greatly improved if regular conflict analysis is undertaken that is based on a locally informed understanding of the context. National and international efforts to prevent and resolve violent conflict often rely on limited, external sources. International mediators’ efforts are too often poorly informed by the views and experiences of people directly affected by violence and instability. Conflict analysis that encourages reflection at the local level and includes these local insights is valuable for mediation efforts. At Conciliation Resources we have found that, while it is important to understand the histories, causes and triggers of conflicts, conflict analysis should not be seen as an extractive process – our experience has shown that the best processes of learning, exchange and connection come with some investment in the capabilities of civil society groups.

Meaningful ways of consulting and engaging with a broader set of actors

We have learned that with wider consultations comes a greater diversity of views, and whilst a challenge, this can help inform both mediators and the mediation process. Local views of the lessons to be learned from past attempts to end conflict, and of the peacebuilding agenda, can be enormously valuable to a mediation team.

However, the tendency to expect local capacities and ideas to be reflected back by negotiators in formal negotiations and in implementation does not always correspond to reality. In many countries poor governance means a disconnect between the population and leaderships. Mediators should be careful not to simply engage with the most obvious stakeholders but find meaningful ways of consulting and engaging with a broad set of actors, particularly those who may be less accessible and marginalised from decision-making processes.

Conflict resolution should aim to be transformative. Whilst recognition of unequal capacities between negotiating parties is recognised in the guidance, there is no explicit mention of unequal power relations more generally. Mediation strategies that promote participation need to include an explicit agenda to redress unequal relations and democratise peace processes. Analysis needs to consider relations of power, who exercises it, who abuses it, and how it works. We may then be better placed to champion and defend the space for the inclusion of the less (militarily) powerful actors.

Pursue multilayered approaches of engagement

Whilst the need to balance inclusivity against efficiency to ensure progress in a peace process is important, inclusivity should not be superficial, even if this involves a slower and more considered approach. Conciliation Resources’ experience of early stage negotiations suggests the need to manage expectations – of the negotiation parties but also of the mediators themselves. Mediation can involve long-term engagement and incremental progress over substantial periods of time. It may also involve more innovative forms of formal negotiation; meaningful inclusivity may require rethinking who gets to sit at the negotiating table.

Case study: The International Contact Group (ICG) provides mediation support to the Malaysian facilitator of the peace talks between the Government of the Philippines and the Moro Islamic Liberation Front (MILF). The ICG is the only mediation mechanism to have international non-governmental organizations (NGOs) working alongside diplomats as part of a formal peace-support structure. The ICG exerts leverage and builds trust among the parties and provides assistance on request. To this end it attends and observes the negotiations, and talks to the parties before and after the negotiations. This provides useful ways forward at moments of deadlock in the peace talks. International NGOs also act as a bridge between the parties and civil society. The Government of the Philippines welcomes this format, as it limits the number of embassies monitoring their internal affairs. Diplomats also appreciate it, as international NGOs have greater flexibility and expertise in peace, which in turn complements the diplomats’ greater political and diplomatic leverage.
It is also important to move away from the idea of the negotiating table as the sole place where peace is determined and shaped. Mediators should be aware that a commitment to participation and inclusivity demands a diversity of approaches. It is important to listen and respond to the demands of those you want to include and, while some will want a place at the table, others will not, preferring to exert influence, and contribute, behind the scenes. There should be multilayered approaches to engagement, allowing for a diversity of spaces for participation and contribution. Conciliation Resources’ approach to the negotiations in the Philippines centres on women, peace and security; providing the only female members of the ICG, supporting civil society initiatives, partnering with the ‘women’s peace table’ and promoting an exchange programme between 10 women from the Philippines and 10 from Colombia with different backgrounds.

**Ensure a broader recognition of conflict resolution tools and skill sets**

There are lessons to be learned from the practice of local actors on the ground (including those at the community and household levels). While the report identifies the particular value of local mediators, the guidance offers little advice as to how external mediation efforts should engage with them. The international community needs to get better at identifying where and how local mediators are working, and ways to support, engage and build up capacity so that the actions of external mediators do not jeopardise but complement those of local mediators.

The field of mediation should also reformulate the relationship between external mediators and local knowledge. Whilst there is still a need for a ‘professional’ mediator with specialised training, there should be a broader recognition of conflict resolution tools and skill sets – local mediators may bring different methods and approaches that are of value to the process. Respecting local knowledge may require a shift in attitude from simply grasping local knowledge (so as to strengthen initial mediation) to actually acknowledging local practice (as a component that can be as important as mediation at the Track 1 level).

Different mediators bring different comparative advantages to the table depending on the nature, scale and level of the conflict. An international Special Representative may have little to bring to an inter-communal dispute, and a local intermediary may have little to contribute to the resolution of an inter-state conflict. Self-awareness matters, as there can be a direct inter-relationship between the limitations of the mediators and their ability to promote participation.

Conciliation Resources’ experience in Fiji, Abkhazia, Somalia and Nagorny Karabakh has shown that when mediators are employed by governments and multilateral institutions, engaging with armed non-state actors and/or unrecognised conflict parties, such as military regimes or leaders of unrecognised entities, can be challenging. In these cases, in order to achieve participation and inclusivity the mediator may be required to rely on other intermediaries. Diversity of participation may itself require diversity in the mediation and peace process, and the actors involved.

**Ensure there is both flexibility and coherence when engaging with armed groups**

The tension highlighted in the guidance between normative frameworks and the need to protect space for dialogue should be considered carefully. This demands flexibility but also coherence. The guidance recognises the importance of “avoiding association with punitive measures against conflict parties”. There may be limits to mediators’ room for manoeuvre when their own institutions have declared one or more of the conflict parties to be criminal and are actively pursuing their arrest or defeat.

Proscription – the act of putting an armed group on a list of designated terrorist organisations – can have the unintended consequence of inhibiting engagement in mediation and peace processes. The UN system has started to acknowledge this, evidenced, for example, by the recent splitting of the Taliban and Al-Qaeda lists in an attempt to create more space for dialogue in Afghanistan. However, the situations in Somalia, the Middle East and elsewhere illustrate how formal and informal limitations restrict the space for the UN and other actors to engage with proscribed groups. In Northern Ireland early peace talks in the 1970s sought to isolate the ‘extremists’ and instead work with the ‘moderate’ parties. It was only when more flexible arrangements for inclusion were set up in 1994 that substantive and practicable peace agreements was agreed and implemented.
Peace process support and mediation should also recognise the constituencies that armed groups represent. The transition from armed to political actor may seem from the outside to be slow and obstructive to peace, but may simply reflect the negotiations taking place internally to ensure consensus. Peace process support, including mediation, should also work to support this transition, allowing actors space to engage with their constituencies in debate and reflection. It also needs to support the empowerment, development and participation of non-armed sectors and groups.

Such support can pose enormous challenges for governmental and non-governmental groups alike, particularly in light of ‘Holder v Humanitarian Law Project’ – the US Supreme Court ruling that makes it illegal for US citizens or organisations receiving US funding to support negotiated peace settlements by training or advising a party that is on the US State Department’s terrorist list.

The Secretary General’s report acknowledges that no-one – not even the UN – has a “monopoly on mediation”. Mediators, even when not playing specific roles to extend participation, need to recognise the value of those who may be engaging with armed groups in support of peace processes, as an essential part of the peace process framework.

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Download the full 24-page UN Guidance on Effective Mediation: http://www.c-r.org/UN-guidance-mediation