Six strategic principles of mediation

Laurie Nathan suggests that international actors would do well to apply these core mediation principles - and to rely more on professional mediators' expertise...

There are many striking differences between the approach to mediation adopted by the Centre for Conflict Resolution (CCR) and that pursued by the United Nations (UN), the Organisation of African Unity (OAU) and major powers. In this article I highlight some of the key differences by outlining six strategic principles which underpin our efforts but which frequently are not applied by international actors.

The term "strategic" is intended to indicate that the principles, while informed by theory on peace and conflict, are shaped by the experience of practitioners and serve to guide our activities in the field. "Mediation" refers to the process whereby an independent third party assists parties in conflict, with their consent, to reach a settlement which they collectively find satisfactory.

1. Conflict is not inherently destructive

Many people regard conflict as an intrinsically negative dynamic. This perspective is apparent in numerous UN and OAU documents which use the word "conflict" to describe situations of large-scale violence. The perspective is understandable in the light of the destruction wrought by violent conflict in Africa and elsewhere, but it is misleading analytically and unhelpful strategically.

The reality is that conflict is inevitable and ubiquitous in all societies comprising diverse groups. Whether the groups are defined by ethnicity, religion, ideology or class, they have different needs, interests, values and access to power and resources. These differences necessarily generate conflict and competition. Conflict can also be understood as an expression of uncertainty and stress where major change occurs, and of frustration where major change is sought but not attained.

If people view conflict as inherently negative, they may try to avoid it or seek to prevail over their opponents through the use of formal or informal power. These options are more likely to exacerbate than resolve the problem. Since conflict is a normal social and psychological phenomenon, the challenge is to manage it in constructive ways. Mediation is one of the tools which can be used to this end.

2. Mediators are non-partisan

Where individuals or groups are locked in conflict and believe that their differences are irreconcilable, their relations will be characterised by a high level of tension and mistrust. Strong feelings of anxiety, anger and enmity inhibit dialogue and rapprochement. In these circumstances the utility of mediation lies in creating a safe political and psychological space for the disputants to address their concerns with the assistance of an independent third party.

Mediation can thus be viewed as a confidence-building exercise. The disputants' faith in the process stems largely from the expectation that the mediator will be fair and non-partisan. Where mediators demonstrate a bias against or in favour of one of the antagonists, they break that bond of trust and undermine the integrity of the process. If it is impossible to find someone who enjoys the respect of all the parties, a "balanced" team of mediators might be acceptable.
This emphasis on impartiality reflects an ideal which is not fully attainable since no individual is free of bias. All mediators have personal and professional values which shape their attitudes and conduct. Yet one of the professional values is a commitment to procedural fairness. If bias impedes a mediator's judgement and weakens this commitment in a given conflict, he/she should refrain from playing a mediating role.

Mediators appointed by international actors often ignore these considerations, displaying blatant prejudice against one of the parties. The prejudice may be due to that party's intransigence in the course of negotiations; to an institutional predisposition to oppose groups which violate international norms; or to domestic interests and pressure, as in the case of the United States favouring Israel in Middle East peace initiatives.

Regardless of whether the bias is justified, the disfavoured party is likely to mistrust the mediator as much as a soccer team would mistrust a jaundiced referee. Bias may also impair the mediator's ability to appreciate fully the concerns raised by that party. There is the danger too that a partial mediator will become a party to the conflict, contributing to the problem rather than its resolution.

3. Mediation requires the consent of the disputants

Centre staff do not mediate in conflicts without the consent of the disputant parties, and their authority and mandate consequently derive from the parties themselves. This gives the disputants a substantial measure of control over, and therefore confidence in, the process: they can select a mediator who they trust; the mediator is accountable to them; and they can dismiss the mediator at any stage.

A further advantage is that the antagonists may be more willing to reach a settlement if they have instigated the mediation than if it is imposed on them. Even before the endeavour has commenced formally, they will have reached consensus on at least two issues: the choice of the mediator and, more importantly, the potential benefit of engaging in dialogue and negotiation.

In contrast to the above, international actors often seek to initiate mediation and appoint special envoys as mediators without consulting the disputants. The parties may not be receptive to mediation or they may be ready for talks but have no faith in the envoy. In either event, and especially if their animosity stems from insecurity and fear, they may regard the initiative as a form of coercion and feel threatened thereby.

The mediator's appointment by a powerful external actor can give rise to further complications. It may lead to real or imagined conflicts of interest; limit the flexibility and creativity required in a dynamic process; generate confusion where the external actor is divided over the means of addressing the conflict; and result in pressure on the mediator to secure a settlement more quickly than the parties can bear.

4. Mediators do not impose or prescribe solutions

In many instances of conflict, independent observers might regard the behaviour of one or more of the disputants as unreasonable if not irrational. They might even view the issues in dispute and the differences between the parties as relatively trivial. If the parties shared these views, however, there would be no need for mediation.

Mediators have to take seriously the significance which the parties attach to their positions. The disputants are typically motivated by unmet needs which are fundamental and by real or imagined threats to their security. The threats may relate to physical safety, cultural identity, financial security or some other concern. Interpreting conflict in this way helps to explain why disputants assume a hard-line stance and why trust in the mediator's impartiality is a critical factor.

Basic human needs are not limited to material imperatives like food and shelter. Individuals and groups crave
respect, acknowledgement and affirmation. They want to be involved in decisions which affect their lives, and resent being treated as the object of another body's plans. The Centre has mediated in many disputes where communities reject a sound development project because it has been imposed on them without prior consultation.

In light of the above, there is little chance of achieving a viable and lasting agreement if the disputants do not "own" the settlement. Centre mediators consequently avoid prescribing solutions and exercise discretion when offering guidance to the parties. Their mandate is not to make decisions but rather to facilitate decision making by the disputants.

Mediators appointed by international actors often regard their function as persuasion rather than facilitation. They rely on the authority and muscle of the body which appointed them to press for pre-determined solutions. This invariably gives rise to perceptions of insensitivity, partisanship and coercion. The use or threat of sanctions or force might compel the parties to reach a settlement but it will be short-lived if they are not genuinely committed to it.

5. The functions of mediation, advocacy and enforcement should be kept separate

Mediation is not the only appropriate strategy for dealing with conflict. In situations of oppression and injustice, it may be necessary for local and external actors to apply pressure on the offending party through advocacy or enforcement measures. The former includes campaigning for democracy and respect for human rights, and the latter encompasses legal, economic and other sanctions.

As in the case of apartheid South Africa, enforcement and advocacy may weaken the offender to the point that it becomes receptive to negotiations; they may also complement mediation where a disputant reneges on its undertakings. The critical point is that mediation, advocacy and enforcement should be performed by different bodies. If a mediator's effectiveness depends on the trust of the parties, then he/she cannot be a lobbyist and carry a big stick.

Although the Centre is non-partisan when mediating, it is not neutral on matters of peace and justice. It has, for example, issued public protests and called for police action against parties which repeatedly flout negotiated agreements and resort to violence. However, activities of this kind are undertaken as alternatives to mediation.

In contrast, the mandates of the UN, and to a lesser extent regional bodies, combine the functions of mediation, advocacy and enforcement in a formal manner. The institutions might be more effective if these functions were uncoupled. For example, a cleaner separation could be made between the UN Secretary General's responsibility for mediation and the Security Council's consideration of enforcement action.

6. Mediation is an art and a science

In our experience good mediators have a particular combination of personal traits. These include sensitivity, intuition and empathy. The mediator must also have sufficient confidence to maintain control of meetings when tempers flare and to avoid being bullied by powerful parties. At the same time, the mediator must be able to keep his/her ego in check and refrain from being too assertive or too anxious to achieve a positive outcome.

While these attributes contribute to the art of mediation, mediation is also a science in the sense that it encompasses a body of theory, models, techniques and skills. The skills relate to process design, conducting meetings, facilitating communication and overcoming deadlocks. The techniques help the disputants to appreciate their interdependence, view the conflict from each other's perspective, and thereby adopt more
conciliatory positions. In essence, the mediator seeks to affect a shift from adversarial "winner-takes-all"
relations to a more cooperative problem-solving approach.

It is not clear that international actors are sufficiently familiar with these techniques and skills. Special envoys
are appointed on the basis of their stature rather than their expertise in mediation. While some of them are
effective because of their inter-personal skills and/or the ripeness of the conflict for resolution, the success
rate might be higher if they were more familiar with mediation techniques.

Since stature is important in the context of serious inter- and intra-state conflict, it is understandable that
mediation in African crises is often entrusted to elder statesmen. It would be helpful though if they were
supported by technical experts in mediation. Further, as demonstrated by Sant' Igidio's success in brokering
peace in Mozambique, stature may derive as much from unquestionable moral integrity as from formal
political power.

The principles outlined above are not iron-clad rules. Because every conflict is different and communities
have diverse cultural perspectives on conflict management and resolution, mediators have to adapt their
approach to suit local actors and dynamics. If there is a "golden rule", it is that mediation requires flexibility,
rigorous analysis and cultural sensitivity.

In comparing the Centre's approach to mediation with that of international actors, it must be acknowledged
that the latter are bound by mandates and constraints which do not apply to non-governmental organisations.
They are expected to resolve conflicts which are far more complicated in scale and intensity, and they cannot
so easily keep a low profile. They also have to navigate a precarious course between pressure for
humanitarian intervention and resistance to such action from the disputant parties.

A soft conclusion would be that mediation efforts by states, multi-national bodies and NGOs should be
viewed as complementary or as appropriate in different settings. The stronger conclusion from the preceding
discussion is that international actors would benefit considerably from greater expertise in mediation and from
utilising experts in this field.

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(Author's Note: The principles described in this article are explored in greater detail and supplemented by case studies, skills slots
and bibliographies in this and previous editions of *Track Two*. The Centre's approach to mediation has been influenced, in
particular, by the writing of John Burton, Johan Galtung, John Paul Lederach, Manfred Max-Neef and Chris Moore.)