Process options and strategies in conflict settlement negotiations

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Introduction

Negotiation processes are commonly structured around nine different issues: purpose, format, mandate for facilitation and mediation, participation, agenda, timetable, methods for reaching consensus, confidence-building measures, and ratification and implementation of a negotiated agreement.

From the perspective of process design and the role of mediators, purpose, format, participation, agenda, timetable, and the methods for reaching consensus are particularly important issues. They often require a very pro-active mediator to help parties reach consensus about the conduct of their dialogue before and during formal negotiations and they represent areas in which problems are likely to occur that mediators need to be aware of and plan for.

While every peace process is unique in its specific design, design options, the problems likely to be encountered before and during formal negotiations, however, are not, and neither are the solutions. While mediators' and participants' creativity will shape the particular design and conduct of a negotiations process, comparative experience can serve as a useful reservoir of options to consider.

What follows in the rest of this paper, first, offers an overview of the different options that can be used to design negotiation processes in relation to process design and the role of mediators, purpose, format, participation, agenda, timetable, and the methods for reaching consensus. The second part focuses on some of the likely problems that mediators might encounter along the way and how to deal with them constructively and swiftly so that mediators can demonstrate result and retain their relevance in the peace process.

Options for process design

In this section I offer an overview of the different options that can be used to structure some critical dimensions of negotiation processes. This is not meant to be a comprehensive menu of mechanisms, but rather an indicative list of what mediators may want to consider in designing peace negotiations. The discussion focuses on how to define the purpose of negotiations and their format, how identify participants, and how to decide on the agenda, the timetable, and the methods for reaching consensus in negotiations.

Defining the purpose of negotiations

Agreeing on a purpose for negotiations is the first, and thus foundational, important step for parties, and indicates a shared understanding of what a negotiation process intends to achieve. It also demonstrates the parties' joint commitment to achieving this purpose.

Thus, parties can formally state the purpose of their impending negotiations in identical unilateral declarations, joint statements, or formal pre-negotiation agreements. These can be achieved by mediators through shuttle diplomacy, proximity talks or face-to-face meetings. The latter two need not involve senior leaders of the parties, but mediators should seek some contact with them and ensure their support for an agreed purpose of negotiations.

A different way of defining the purpose of negotiations is to delimit the outcome of negotiations by defining the principles that the sides have to respect in their negotiations, for example the territorial integrity of an existing state. Such an agreement would imply that the parties commit to finding a conflict settlement within the boundaries of an existing state. As this does normally mean a significant upfront concession from one of the parties, other principles that the parties commit to respecting are often mentioned simultaneously, such as the protection of human rights and the preservation of distinct identities.

Defining the purpose of negotiations and/or principles that have to be respected by the parties is an important tool for the mediator to enable parties to commit to meaningful negotiations. It can help them overcome a lack of trust and ensure that particular 'red lines' are not crossed during negotiations. It is also useful for the mediator who can then keep negotiations focused with reference to their purpose, and structure them in a way that promotes constructive outcomes.

The format of negotiations

How should negotiations be conducted? The answer to this is highly context-dependent and follows directly from establishing the purpose of a negotiation. Choosing a format for negotiations is one of the fundamental issues that parties need to agree on – or agree to, if particular formats are suggested by the mediator or other third-party actors. Format options include:

- strictly secretive direct negotiations among a small number of high-level representatives of the conflict parties;

- proximity talks;
- shuttle diplomacy;
- broad-based constitutional conventions and national dialogues involving a wide range of actors, including from civil society.

Formats may change over time and may combine different types of engagement. For example, negotiations among leaders may be combined with:

- (periodic) input from a wider range of actors that will usually be non-binding at the negotiation stage;
- some form of approval of negotiated outcomes by (newly elected) parliaments or constitutive assemblies, or in popular referenda.

Participants

Conflict settlement negotiations can succeed only if they include all major stakeholders in a conflict and peace process. Otherwise, negotiations and peace agreements risk being derailed by spoilers. Thus, decisions on participation are an essential component of designing peace negotiations. They are closely linked to defining the purpose of negotiations and in turn shape format, timetable and agenda of talks. Formally reaffirming parties' participation in negotiations serves the purpose for the parties of formally acknowledging and recognising each other's role, implying an acceptance of each other's place at the negotiation table.

It may seem obvious to identify the core participants in a negotiation process (who may have invited a mediator in the first place). However, identifying the right participants that can ensure a negotiated outcome is legitimate, implementable, and sustainable involves broader considerations as well.

Mediators should seek to include all parties with a capacity to spoil either the process and/or any agreement that results from it. It is equally important to consider including parties that may lack the coercive power of armed groups, but may have legitimacy within the population, such as political parties, trade unions, or councils of elders. Similarly, it may be useful to include representatives from civil society in negotiations.

Depending on the their mandate, deciding about participation (or not) or helping the parties agree on participation, mediators need to be sure that parties have, or can acquire, the capacity to contribute meaningfully to negotiations. This also includes making sure that participants have authority not only to negotiate but also to conclude agreements (which may still be subject to parliamentary or popular ratification).

If some parties reject the inclusion of others, or refuse to sit in the same room or at the same table with them, mediators could propose alternative negotiation formats, such as proximity talks, to protect the inclusiveness and integrity of a peace process. Over time, mediators should revisit the format and consider whether sufficient confidence has been built between parties to move from shuttle diplomacy or proximity talks to face-to-face negotiations.

At times, formal negotiations cannot get underway because one or more of the parties and their representatives may fear arrest and prosecution. In such circumstances, granting at least temporary immunity is an essential step towards creating confidence in a negotiation process. The same logic applies to pardons, prisoner release and exchanges. Such arrangements can be further strengthened when their monitoring is a clearly defined responsibility as part of the peace process implementation. Alternatively, mediators could

consider moving negotiations to 'safe', neutral venues. Another option in some cases might be the (temporary) suspension of ICC proceedings.

Participants also need to be able and willing to respect the rules of a peace process: from maintaining ceasefires, to refraining from undermining the process, to respecting confidentiality. Ideally, mediators, or other bodies as appropriate, should have the power to sanction parties who fall foul of agreed rules, for example by imposing a temporary exclusion and withdrawal of benefits that accrue to parties who participate in negotiations.

Agenda setting

In many peace processes, agendas for talks are highly contested as they derive from particular interpretations of the conflict and its causes (i.e., what issues need to be addressed to achieve a sustainable settlement) and potentially shape the outcome of negotiations (i.e., which 'solutions' will not be considered). Agenda setting also needs to be sensitive to using neutral terminology on potentially contentious issues. 'Constitutional issues' is less provocative to some than 'constitutional reform', 'territorial self-governance' may be more acceptable than 'federation' or 'autonomy'. As such, agenda setting is often a negotiation process itself.

Agenda setting can be direct and indirect. Direct agenda setting involves an agreement on specific areas to be considered by the parties during negotiations. Crucially, thus, the agreed agenda determines a sequence in which the different areas are to be negotiated (and, by implication, that they should be negotiated sequentially rather than in parallel). This also offers parties a guarantee against unilateral change by requiring any changes to the agreed sequence to be dependent on mutual consent.

Alternatively, agenda setting may be indirect, through reference to general principles to guide the approach by the parties to negotiations. For example, this may be through:

- already existing agreements
- relevant resolutions by regional and international organisations
- specific regional and international standards
- general principles of international law.

While agendas for negotiations can be set by the parties themselves, it is also possible to leave agenda setting to the mediator, whose mandate might include determining the issues to be dealt with in each round of negotiations. It is also possible to give the mediator the power to submit suggestions to the parties for their approval, or to receive their suggestions and decide whether to adopt them.

Timetable

Committing themselves to a timetable according to which a negotiation process should be completed indicates parties' seriousness about achieving a negotiated agreement to end their disputes. This can take different forms. Timetables can be established either:

- relative to particular milestones, such as a number of days/months following the signature of the pre-negotiation agreement and/or subsequent to completing different stages in the negotiations; or
- in absolute terms, giving precise dates by which specific elements of a negotiation process, or wider peace process, need to be completed.

It is also important to note that the provisions in timetables can create links to verification and require that subsequent agreements also include implementation timetables, which, in conjunction with verification procedures, can serve as guarantee mechanisms in negotiated settlements. Agreements on timetables can be strengthened further if they go hand-in-hand with broader commitments of the parties to negotiating in a constructive and timely manner as well as not unilaterally leaving the negotiation process.

Methods for reaching consensus

In general, negotiations are conducted on the assumption that any agreement will require the consent of all participants. Nonetheless, the parties may wish to emphasise the need for consensus. This is often the case in situations where there is distrust between the parties, a lack of confidence in the negotiation process, and/or a significant asymmetry of power between the parties.

For mediators it is additionally important to consider how a peace agreement is 'built'. Depending in the format that negotiations take, parties could agree on separate items individually, for example by signing different protocols on specific issues that could eventually be appended to a framework agreement and become part of a comprehensive peace agreement.

Alternatively, parties may decide that they wish to negotiate and jointly approve whole agreements.

Another question is whether the parties work on drafts individually or jointly until they can agree on individual provisions.

In all this, the role of the mediator is crucial. He or she may take a facilitative role and not become involved too much in the substance of drafting or be more proactive and suggest language that may be acceptable to all parties on specific issues.

Mediators may also offer drafting particular sections of agreements or whole agreements and submit these to the parties for consideration. Feedback from the parties on such drafts could then be discussed in an interactive plenary session and inform a subsequently revised mediator draft. Such a process could be repeated until a final version can be agreed.

Problems and challenges for mediators

In the second section of this paper, I focus on a number of common problems and challenges that mediators might face before and during peace negotiations. In particular, I concentrate on the issue of how to build and maintain a common understanding of the purpose of a peace process and how to keep parties focused on realising this purpose. This is a broad and complex issue that relates to questions about maintaining the momentum of negotiations and keeping parties from defecting; to the challenge of producing early and interim 'successes' without reducing the incentives for a comprehensive and sustainable process of negotiations on the whole range of issues that need to be resolved by the parties in order to achieve a sustainable agreement; and to retaining the value and relevance of mediation in the negotiation process itself.

The section begins with a discussion of why agreement among the parties on a common purpose is important and how mediators can help the parties to achieve this. I then address four closely related sets of issues that offer mediators a range of mechanisms to guide the parties in their endeavour to achieve a comprehensive and sustainable peace agreement: agenda setting, negotiation formats, timing and sequencing. In doing so, I identify common

problems and offer possible tools that mediators can consider in order to keep a negotiation process functioning and moving forward to an agreement.

The need for a common vision among parties

Agreeing a common purpose for a negotiation process is an essential pre-condition for achieving an outcome acceptable to all parties. It is not sufficient to ensure such an outcome, but unless parties can agree on the purpose under which they enter into negotiations, it is unlikely that the process will conclude successfully.

However, getting to an agreed purpose of negotiations can be a process fraught with difficulties. It needs to be handled in such a way that parties' sensitivities are respected. It is also important to avoid language that apportions blame or defines the conflict or its consequences as any one party's fault.

Thus, for example, precluding particular outcomes, such as secession, the establishment of a federation, or the creation of a power-sharing government, is rarely acceptable to one party, while their express possibility may be just as unacceptable to the other. Moreover, third-party actors, such as states, and regional or international organisations, may also want to pre-ordain outcomes by delimiting the purpose of negotiations.

In such situations of multiple, and often competing, visions for the purpose of negotiations, mediators should focus on the needs of the parties and their constituents and try to formulate an acceptable core consensus around contentious issues. This could mean, for example, that the purpose of negotiations is more vaguely defined as resolving on-going disputes, finding a political solution to a violent conflict, or creating conditions for a peaceful future for all involved.

Mediators could also suggest that parties enumerate on a number of non-contentious, status-neutral issues as examples of a purpose for negotiations. These could include an aspiration for a peace agreement that addresses, among others, issues of reconciliation, socio-economic development, reconstruction, etc. This would give some indication of a forward-looking agenda, commit the parties to substantive negotiations and communicate an expectation of results.

In defining the purpose of negotiations (and more generally designing a mediated negotiation process) it is essential to keep parties on board and to keep them engaged precisely because each side can see a realistic prospect of finding an acceptable, sustainable and face-saving solution. Such an inclusive process is also important in order to give parties a sense of ownership over 'their' peace negotiations, which in turn creates a responsibility on their part to contribute to bringing the process to a successful conclusion.

Setting the agenda

The way in which the purpose of negotiations is defined has implications for agenda-setting as well. If the parties commit to achieve particular outcomes (e.g., by defining the purpose of negotiations to address issues of reconciliation), these need to be given time on the agenda to be negotiated in terms of substantive provisions.

However, it is one thing to have often rather abstract aspirations about the purpose of a negotiation process and to design a substantive agenda for negotiations. Especially when parties cannot agree on an agenda for negotiations in general, or for a specific round of negotiations, mediators need to take the initiative. If they judge that parties avoid certain topics because they feel threatened internally or externally by tackling it or lack the

capacity, knowledge and understanding to deal with it, mediators can turn a presumptive negotiation round into a capacity-building exercise or peer-learning opportunity.

Capacity-building and peer-learning can often benefit from involving additional experts in a context that is not a formal negotiation and is thus less threatening to the parties as an environment in which they would otherwise feel uneasy to discuss particular topics.

In other words, mediators need to understand why parties resist putting particular issues on the agenda and the need to work with them to overcome this resistance. Such efforts to unblock the agenda can, moreover, be useful in a broader sense as the involvement of additional experts can facilitate a better understanding of particular issues and solutions and give participants a better perspective on their problems and possible solutions.

For example, if one of the parties resists discussions about a future federal structure of the state, mediators could break this issue down into individual concerns of the parties and resolve state structure from the bottom up (issue by issue) rather than top-down (starting from the federal model). Mediators could bring in experts to talk about different ways of dividing competences between a central government and different entities, about different models of financing sub-national entities, about mechanisms to coordinate policy and/or resolve differences between different levels of government, about how to manage natural resources. By breaking down a big and often contentious issue like state structure into its component parts and resolving these issues one by one, the task becomes more technical in a sense, and requires the parties to focus on concrete issues rather than revert to political declarations over the acceptability or not of a particular model of state construction. The parties can then also see the specific benefits for themselves and their constituents on each individual issue in a concrete way rather than arguing over the dis/advantages of a unitary or federal state.

This approach, in relation to state structure or other big issues such as power sharing or transitional justice, also has the advantage that mediators can increase the parties' understanding of the range and complexity of the areas in which they need to find agreement. Enabling the parties to engage in discussions among themselves, with each other, and with the mediator and experts on the individual concerns that they need to see addressed in an agreement enhances the sense of ownership of the agenda and the process as a whole, it keeps the momentum of talks alive and demonstrates to the parties that they can reach agreement in mediated negotiations, and it minimises the risk of a sub-optimal agreement that neglects important aspects of what would otherwise be a comprehensive, and thus sustainable settlement.

It is also important for mediators in this context to distinguish between 'outside' expert consultants and 'inside' participant consultants and be aware of the different value and utility they have in mediated negotiation processes. Outsiders can bring examples of solutions to identical or at least broadly similar problems from elsewhere, and they can do this by building the capacity of parties individually or in peer-learning settings, involving negotiators from all parties with the aim of broadening their knowledge and understanding of a particular issue and of the position of other parties in the negotiations.

'Insiders', such as representatives from civil society, the business community or local analysts, have a more obvious stake in the outcome of negotiations. Their agenda in becoming involved may therefore also be to lobby for particular outcomes. Their objectives may be at cross-purposes which each other or with the parties in the negotiations. Nonetheless, it may be important to create opportunities for them to voice their perspectives to create either the space for negotiators to make certain concessions to the

other side (which they may otherwise not appreciate as being acceptable to their constituents) or create popular or sectoral pressure to do so or reject particular deals.

Such a broader consultative process, with additional insider and outsider participants, in parallel to negotiations, thus, also offers an opportunity to develop empathy among negotiators, i.e., to understand what the pressures and constraints are on their counterparts in the negotiations and to create an environment in which a joint problem-solving approach can be adopted that is informed by an ability to see the other side's perspective.

If carefully and judiciously deployed with the agreement of participants, recourse to either type of expert consultation is thus useful beyond overcoming hurdles in relation to agenda-setting, but can be deployed as a more general tool by mediators break deadlocks in mediated negotiations by offering innovative solutions and/or demonstrate what solutions constituents would find acceptable.

This approach to effectively delay negotiations on a specific issue until such time that there is a clearer prospect for agreement can be applied to the negotiating parties jointly (i.e., through peer learning) or individually. In the latter context, mediator initiatives on agenda setting can thus also utilise shuttle-diplomacy to prepare the ground for more constructive and fruitful face-to-face negotiations that contain a lower risk of continuing or increasingly entrenched deadlock on specific issues.

Utilising different negotiation formats

Format changes can be particularly useful if negotiations become deadlocked. Mediators then need to be conscious of the relative advantages and disadvantages of plenaries versus smaller groups, of the utility (or not) of parallel negotiations, and how they can best sequence issues in a way that keeps negotiations going, builds a momentum of success, while leaving sufficient time for difficult issues to be comprehensively resolved.

Plenary sessions tend to be overly confrontational, with parties simply sticking to their own positions and well-rehearsed arguments rather than making substantive progress towards a solution. In contrast, one of the key advantages of proximity or shuttle diplomacy is that these formats do not involve parties 'performing' to wider audiences. By keeping parties apart, at least sometimes, mediators can more easily explore each party's hopes and concerns, and can propose innovative options for resolving them, gradually building solutions to which the parties can agree. In such a case, plenary sessions or high-level meetings of leaders can then serve to endorse an agreement that has already been reached by the parties elsewhere.

Alternatively, if it appears impossible to resolve a particular issue in a plenary session, perhaps because it is too sensitive or emotive, moving this issue to a working group to consider it in a purely technical, problem-solving sense may help to find a solution that can subsequently be agreed in a plenary session. Another option to explore for mediators in such a situation would be to have the issue discussed behind closed doors between leaders only.

The mediator may even choose not to participate in such talks if he or she judges that there is sufficient trust between the leaders and enough will and ability to make the necessary concessions and compromises to reach agreement. The mediator could initially still assist leaders by laying out the particular options available to them and suggesting possible ways forward, but then leave it to the leaders to decide privately which course to choose. Such an approach would still retain the relevance of the mediator to the process and demonstrate

the value that mediation adds to negotiations. It would also, however, somewhat decrease the dependency of parties on the mediator and encourage them to take more responsibility for their agreement. In other words, while preserving the integrity of a mediated peace process, this approach would also enhance the sense of ownership of parties of the outcome that they achieve.

Parallel negotiations, whether in-built into the original design or adopted at a subsequent stage, are another important tool available to mediators who are faced with the possibility of complete deadlock or breakdown of a mediated negotiation process (and thus an increased likelihood of the outbreak of violence).

Parallel negotiations offer the possibility to pursue negotiations on some issues but not others. In other words, having several parallel negotiations on different issues going on simultaneously minimises the risk of a complete breakdown of negotiations if talks on one particular issue become stalled.

With negotiations on at least some issues continuing, mediators can use periods in which talks on one or more other issues are temporarily suspended to work with parties individually or collectively to build their capacity to tackle a particularly difficult issue (as outlined above). A flexible approach to parallel negotiations can thus contribute to building confidence between the parties and in the negotiation process and its mediator. It also increases the chance that parties will be able and willing to return to more difficult issues at a later stage and with a greater chance of successful discussions. Parallel negotiations thus also allow the mediator to protect agreements already achieved and to retain momentum in some discussions that can remain unaffected by stalling negotiations on other issues.

However, mediators need to be aware that parallel negotiations require a high level of coordination capacity by the mediator and her or his team and among the parties. If this is available, or can be created, parallel negotiations also enable trade-offs and concessions between the parties across different areas in real time rather than requiring the re-opening of already completed (partial) agreements.

Focusing parties on the result of their negotiations (i.e., the substance of an agreement) and being open-minded about which formats of negotiations are employed to achieve it (i.e., having a flexible process of getting to agreement) can also help with maintaining public confidence in the ability of negotiations to deliver acceptable outcomes and can thus create, consolidate, and strengthen peace constituencies in both parties. In other words, the more the mediator can demonstrate that the negotiations process has concrete results that serve the interests of all parties in the negotiations, the greater is the likelihood that popular support for a negotiated settlement will grow. In turn, this will increase the incentives for parties to remain constructively engaged in negotiations and thus limits the likelihood of defection and attempts to spoil the peace process or an eventual agreement.

Getting the timetable right

It is important for mediators to be aware that timetables, while useful in helping to keep parties focused, can also undermine parties' confidence in the mediator and derail an entire peace process if they are nit adhered to. If parties are put under too much pressure by an unnecessarily tight deadline, they may not be able to negotiate a sufficiently detailed and specific agreement to achieve sustainable peace. Leaving aside the occasional need for some constructive ambiguity in peace agreements, lack of specificity is a sub-optimal outcome par excellence and inevitably invites subsequent disputes during the implementation phase.

Thus, allowing sufficient time to negotiate a comprehensive and detailed agreement is necessary and should be encouraged by mediators.

If timetables slip, mediators have principally three options of how to deal with the potential for derailing negotiations that is implied in serious delays to an agreed timeline. They can move to parallel negotiations; they can put aside sticking points and commit to returning to them at a later stage (I discuss this issue in more detail below in the section on sequencing); or they can extend an existing deadline. Neither of these options is necessarily without problems, but they are more likely to succeed if mediators are able to offer additional incentives and resources for parties to agree to any one or more of these options. This cannot be done unconditionally as it would otherwise incentivise parties to drag out negotiations in the expectation of additional benefits and great care thus needs to be taken to tie further incentives to concrete deliverables that parties have to realise.

Negotiations under significant time pressure, either because of an agreed or imposed deadline, or because of a deteriorating security situation, often require negotiations of different issues in parallel. The success of such a parallel negotiations format, however, is contingent on parties' capacity to mobilise sufficiently competent and duly authorised negotiators. It also requires a relatively large mediation team with sufficient resources and support to facilitate and coordinate parallel negotiations. Mediators need to assess whether these resources exist or can be mobilised before suggesting a shift to parallel negotiations.

If it is not possible to negotiate in parallel, mediators, with the agreement of the parties, can suggest an extension of the negotiation process beyond a previously agreed deadline. This is not unproblematic either, however. Extending negotiations beyond an agreed deadline also requires additional resources and possibly the extension of a mediator's mandate.

Moreover, deadlines can be a useful tool to keep parties focused during the negotiation process and to concentrate on the substance and technical detail of an agreement rather than on political grand-standing. Depending on the consequences of passing a deadline, such as withdrawal of the mediator or of benefits that parties enjoy as a result of their participation in negotiations, parties' intransigence on particular issues can be broken down.

However, mediators need to be careful of how 'tough' they want to be in insisting on keeping of a particular deadline. Concessions from one party still need to be reciprocated from the other (in the same issue area or by trade-offs across different issues). Compromises still need to be genuine compromises by all parties rather than the submission of just one party to the demands of another. Otherwise, negotiators and the negotiation process and its outcome can be too easily undermined by spoilers and agreements are less likely to find broad popular support from within the party which seemingly has been forced to capitulate in negotiations.

Additionally, mediators need to be careful not to rush the conclusion of an agreement and thus to risk something that is insufficiently detailed or precise and likely to lead to problems in the implementation phase. Mediators should impress on the parties and on external sponsors and supporters of a peace process that it is more important to achieve a sustainable agreement than to conclude negotiations within a set timeframe.

As a possible middle ground between a comprehensive agreement that is only completed after a deadline and a sub-optimal settlement that is concluded in time, mediators could suggest that parties agree to lock in whatever consensus they have achieved by the time a certain deadline is reached and simultaneously agree on continuing negotiations on hitherto

unresolved issues. In other words, if participants agree to such a course of action, it is important to be conscious of the balance between achievements so far and challenges ahead and think of a realistic new timeframe for the negotiations to complete, rather than rely on the possibility of subsequent further extensions of the process.

It is equally important for mediators in this context to demonstrate the value of continuing negotiations to the parties, their constituents and any external supporters or sponsors of the peace process and to do so on the basis of tangible results. Thus, before agreement on an extension, parties should be encouraged to pin down concrete results and perhaps even formalise them in the form of specific protocols. These need not be cast in stone, but can be left subject to future confirmation as part of a whole agreement and thus to potential bargaining in subsequent negotiations. Failure to produce at least such tangible short-term outcomes is otherwise likely to increase the risk of popular disaffection from the mediated negotiation process and of donor withdrawal of support.

The question of timing thus also raises important general issues for process design. As noted in the first section of this paper, timetables can be established either relative to particular milestones or in absolute terms. If parties want to agree to timetables ahead of the commencement of substantive negotiations, mediators need to weigh the relative merits of different approaches. If they anticipate problems ahead, for example because they judge that parties overestimate their human or technical capacity to conduct negotiations swiftly, they may want to encourage parties to opt for timetables that are set relative to particular milestones rather than including a concrete deadline. On the other hand, if mediators sense limited commitment or a lack of resources on the part of external supporters and sponsors of a peace process, they may choose to encourage parties to demonstrate their commitment to a settlement by agreeing on a fixed deadline. Another reason why mediators may propose a concrete deadline could be that a deteriorating humanitarian or security situation requires a swift conclusion of negotiations in order to allow for the deployment of humanitarian relief operations and/or of a peacekeeping mission.

How to sequence issues in negotiations

Whether an agreed timeframe for a mediated negotiation process can be kept depends on a number of issues, including will and capacity of the parties, ability of the mediator, support of external actors, etc. It also depends on the sequence in which issues are negotiated.

The mediator has a significant role to play in sequencing issues on the negotiation agenda, but his or her ability to do so is also constrained by the concerns of the parties. One of the key issues for the mediator to consider is shaping the agenda of negotiations such that the sequence of issues discussed allows the parties to experience a number of successes before approaching potentially difficult subjects. Early successes are often important because they can serve two purposes:

- Build a reservoir of accomplishments that parties may be unwilling to risk by breaking off negotiations over a later difficult issue
- If achieved in proximity talks or through shuttle diplomacy, early successes may enable parties to gain sufficient confidence for face-to-face talks which, in turn, can give settlement negotiations additional impetus and momentum and facilitate further constructive engagement.

While the importance of early successes cannot be overestimated, there are a number of additional considerations mediators need to bear in mind when thinking about how to

design the sequence of issues to be negotiated by the parties. These include whether political issues should take precedence over military ones, when to negotiate issues related to socio-economic development, and how to handle the question of transitional arrangements.

There are no one-size-fits-all solutions for the dilemmas that the parties to a particular negotiation process might face, but mediators should consider the following ideas as a guide to how to shape the sequence of issues on the agenda.

Security issues are obviously of paramount concern to the parties and their constituents. And while they are also often difficult to agree on, no agreement will overall be possible without arrangements that make all parties feel that their future security is guaranteed. In this sense, the dichotomy between military and political issues is not wholly accurate, but they are in fact two sides of the same coin. From an initial ceasefire, to full-scale DDR and security sector reform, military issues have to be on the agenda for a comprehensive and sustainable agreement. Yet for parties to commit to a future political process as the way to organise their relationships with one another also requires negotiations on future political institutions and how different parties will be represented and participate in them. These political negotiations frequently revolve around questions of power sharing, self-governance and public participation. Mediators should thus encourage parties to address immediate military security concerns first (such as a ceasefire, a disengagement of troops, the creation of a buffer zone, etc.) and then tackle other military and political security issues afterwards.

Identifying what these other issue are could be done separately from negotiating them, such as in the process of agenda setting and time-tabling. This would allow for a certain degree of flexibility in terms of sequencing issues and reduce the risk of early blockages in the negotiations. At the same time, ensuring that parties have at least the chance to determine what other political and military security issues they wish to discuss gives the mediator an opportunity to allow parties to build confidence about the future after a peace agreement has been concluded. In other words, knowing that their core interests will be protected in an agreement is essential for parties to remain committed to a negotiated agreement, but this does not require immediately dealing with what are likely to be the most contentious issues.

At the same time, achieving a ceasefire agreement first also has immediate practical implications as it allows for more secure access to populations for humanitarian relief operations and can be combined with the deployment of a peacekeeping force. Mediators should appreciate that linking ceasefire agreements to humanitarian and peacekeeping operations can positively enhance the prospects of success for negotiations. It demonstrates the tangible benefits of negotiated agreements (humanitarian relief, enhanced security). It reduces the likelihood of negotiations breaking down because of intentional or unintentional military incidents. It also illustrates the value of the mediator in the process who not only enables the parties to reach agreement on certain issues but also delivers subsequent benefits to them and their constituents subject as a result of their agreements.

On the basis of such an early success, mediators need to be sure that they keep parties focused on tackling other substantive issues. Depending on the negotiations format (e.g., parallel or not), socio-economic issues, such as regional development or more general human rights issues, tend to be easier to negotiate than questions of, for example, power sharing or natural resource management and wealth sharing. However, mediators should also be aware that negotiators often have a more personal interest in negotiating a power-sharing arrangement as they are more likely to benefit from it personally (for example,

through the allocation of posts). Similarly, negotiators may hope to profit more directly from the way natural resources might be managed in the future and revenues shared.

Mediators could encourage parties to agree on a 'choreography' of negotiations in which each subsequent step (e.g., moving to the next issue or round of negotiations) requires a prior step to be completed. This creates incentives for parties not to defect from a mediated negotiation process because benefits only accumulate to them, and increasingly so, as they work through the entire agenda of issues they have agreed. These benefits can be directly related to negotiations, e.g., by sequencing issues on the agenda alternating in terms of the importance that parties attach to them or by making sure that timetables are adhered to. Benefits can also be related to third-party commitments to reward, or not punish, parties for compliance with such a sequenced choreography.

Thus, in sequencing issues in a particular way, mediators could pursue a dual purpose: making sure that negotiations retain their momentum (i.e., have 'easy' issues first on the agenda after a ceasefire has been agreed) and that issues are given proper and sufficient attention by negotiators (i.e., ensure that issues do not fall by the wayside or are given short shrift once negotiators have secured their own future). Moreover, by frontloading so-called development issues that are of clear benefit to the parties' constituents, mediators can also, through and appropriate communication strategy, help build popular support for a future agreement and deter parties from defecting from negotiations as this would undermine them within their own constituencies. Additional pressure and/or incentives on parties in the negotiations can also be created by linking the conclusion of agreements on socio-economic issues to additional external support, such as a donor conference.

Many peace agreements also include clauses on transitional arrangements. These often include provisions related to the implementation of agreements and/or the temporality of particular arrangements. Mediators can strategically use transitional arrangements to entrench mediated agreements in peace processes, enhance the likelihood of their successful conclusion in negotiation processes, and limit the risk of parties defecting from negotiations or during the implementation process.

For example, permanent power-sharing arrangements may be an essential objective for one party and completely anathema for another. In order to avoid the breakdown of negotiations at this point, mediators could offer to enshrine power-sharing arrangement for a transitional period during which a permanent constitution is negotiated. This would satisfy the concerns of both parties. The party for which power sharing was a core concern would be assured its operation during the crucial period of constitution making. For the other party, such an arrangement would mean that power sharing is not inevitably a permanent feature of a future political process but subject to further negotiations. At the same time, a transitional period during which power-sharing institutions are operational would give both parties an opportunity to test their utility and be able to make a more practically informed decision based on performance of a particular mechanism rather than out of fear of the unknown.

Another way of thinking about transitional issues in peace agreements is to consider them as a mechanism securing the maximum possible agreement among parties within a given time frame and accepting the need to leave some issues unresolved. It may, for example, not be possible to agree on specific issues related to resource management, revenue sharing, or regional economic development because of a lack of reliable data (such as census figures, oil and gas reserves, etc.). Mediators could then encourage parties to make decisions for a transitional (or interim) period on the basis of most likely/most plausible scenarios, while simultaneously committing to gathering necessary data and then

renegotiate arrangements as necessary as more comprehensive information becomes available.

As mediators carefully balance the success and integrity of the negotiation process against that of a peace agreement and its sustainability, they can think of transitional arrangements in two ways. On the one hand, they can be a tool of reassuring parties early on in a peace process that their red lines will be respected. Transitional arrangements, on the other hand, can also be used at late stage in negotiations to wrap up any remaining issues and tie their final resolution to an implementation period.

Conclusion

Mediated negotiations as part of peace processes are highly context-dependent and thus unique in their design. Nonetheless, a number of common features exist that mediators can bear in mind when helping parties to structure their negotiations. As outlined in this paper, these include how to define the purpose of negotiations and their format, how identify participants, and how to decide on the agenda, the timetable, and the methods for reaching consensus in negotiations.

As mediators and parties invest their creativity in designing a negotiations process and moving through it towards agreement, they are also likely to face a number of problems and obstacles. While careful conflict analysis and context-sensitive design of a peace process can eliminate some of these problems from the outset, peace negotiations remains fraught with risks of deadlock and breakdown.

These risks can be minimised if there is a common vision among parties about the purpose of their endeavour. Maintaining such a common vision and keeping parties focused on achieving it is a key task for mediators. They need to be able to adapt flexibly to changing conditions and be able to offer parties alternative courses of action. A range of tools and mechanisms is available to mediators in relation to agenda setting, negotiation formats, timing and sequencing of issues that, if applied judiciously, allows mediators to enable parties to achieve a sustainable peace agreement.

About the author

Stefan Wolff is Professor of International Security at the University of Birmingham. He is a specialist in international conflict management and post-conflict state-building and has extensively written on ethnic conflict and civil war. Among his 18 books to date are *Ethnic Conflict: A Global Perspective* (Oxford University Press 2007) and *Conflict Management in Divided Societies* (Routledge 2011, with Christalla Yakinthou). Wolff is the founding editor of *Ethnopolitics* and an associate editor of *Civil Wars*. Bridging the divide between academia and policy-making, he has been involved in various phases of conflict settlement processes advising mediators and negotiators in particular on constitutional design, power sharing, wealth sharing and autonomy. Wolff holds a BA from the University of Leipzig, Germany, a Masters degree from the University of Cambridge, and a Ph.D. from the London School of Economics and Political Science.