

Promises and Pitfalls of Mediation between State and Armed Non-State Actors

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Abstract

The UN blue ribbon report recommends that the UN make greater efforts in the area of preventing internal violence "...through the appointment of skilled, experienced and regionally knowledgeable envoys, mediators and special representatives, who can make as important a contribution to conflict prevention as they do to conflict resolution." This raises the following questions: What are the potentials and limitations of mediation between state and armed non-state groups? What are the policies regarding such mediation/facilitation engagements from a state or IGO perspective? How can one constructively deal with asymmetry of power and "legitimacy" between these actors in third-party-assisted negotiations? What role does civil society play, how can it participate? What are the preconditions for talks to be successful?

Summary

Types of third-party intervention

The first part of the discussion revolved around potentials and limitations of third-party engagement in a conflict between state and armed non-state actors (ANSA). It was argued that mediation or facilitation is an indispensable tool of conflict resolution, particularly in protracted conflicts. However, third-party engagement with ANSA is dependent on state party approval. Third-party governments therefore distinguish between three types of engagement: 1) direct: when the state actor approves of a third-party engagement, direct contact with the conflict parties is established; 2) semi-direct: when there is only tacit approval for third-party engagement, contact will have to be maintained through proxies (NGOs, private people); 3) indirect: when the state actor formally and explicitly prohibits third-party engagement, no contact is possible. In certain situations, NGOs involved in the peace process may be supported.

Problems linked to armed non-state actors (ANSA)

As party to the conflict, ANSA needs to be part of any facilitated approach. This stance is compounded by three problems. Firstly, key exponents of a non-state group may make amnesty a prerequisite for talks, yet if they have been indicted by the International Criminal Court (ICC) this cannot be granted. It was argued that in the interest of ending hostilities as fast as possible and in order to prevent further human rights violations, a third-party engagement might be considered all the same – yet within the framework set by the ICC. At the same time, clear bottom lines have to

be defined and permanent contact with the ICC needs to be established. It was added that ICC indictments were not necessarily stumbling blocks to a peace agreement. The challenge faced by the mediators is how to integrate existing indictments into the peace process and uphold the principles of reconciliation, accountability and justice. In this context, it was also pointed out that mediators must consider the odds, and that the ICC was beneficial for mediation as it clarified the framework within which the process could take place. Central to the “peace-justice” question is the sequencing of when which measure has priority. In the interest of preventing further bloodshed it is at times advisable not to insist on punishment and justice, so as to deal with those ANSA that can influence the process. Whereas in other situations it is better to set priority on justice, in particular when it is apparent that a quick fix might not endure. Sequencing and timing is the key.

A second problem surrounding ANSA is the fact that some of them have been listed as terrorist groups. It was argued that this practice rendered the peace process more difficult as it prevented ANSA representatives from traveling to peace talks. In addition, it not only strengthens the state party through increasing its legitimacy but also leads that party to behave more aggressively. It was added that governments could not be associated with an organization that was declared an illegal terrorist group and they take a considerable risk when agreeing to talks all the same. If talks take place, they are therefore kept strictly informal, use proxies and/or involve no high-ranking government officials.

A third problem that needs to be addressed is the fact that ANSA are often not as well prepared for peace negotiations as state actors. Mediation and facilitation can only work, however, if all parties are treated equally and are given the same opportunities. To bridge the capability gap between state and non-state actors, ANSA need to be provided with expertise. In this context it was viewed as vital that third parties providing expertise maintain all-partisanship, full transparency and permanent contact with the main facilitator of peace talks. Various uncoordinated third-party efforts can derail a process.

Means of bringing parties to the negotiation table

Another topic discussed was third-party exertion of pressure and capacity to contact ANSA, in particular during the pre-negotiation phase. It was argued that interplay of pressure and dialogue was needed in order to get conflict parties to the negotiation table. In this context, pressure does not necessarily mean imposing sanctions but offering incentives and exerting positive influence. Such positive influence can best be applied by neighboring states, or states and NGOs with long-standing relationships with the conflict parties.

A relationship of trust between conflict parties and the mediation team can serve as another source of positive influence. It was emphasized that the process of confidence-building starts very early, often years before peace talks are even on the agenda. Many ANSA have been fighting for decades, leading a life in nearly total isolation. As a result, they often sink into their own logic, create their own reality, and continue to perceive state and society as they were decades ago. In order to convince ANSA to come to the negotiation table, a third party will therefore need to invest a considerable amount of time to learn their logic and win their trust. In addition, the third party will have to help the ANSA to overcome their fears, as ANSA are well aware that they know far better how to fight than how to talk. It was added that it might help at this stage to bring in expertise from other peace processes, for instance by getting Sinn Fein in contact with the ANC or the LTTE with Sinn Fein.

In the context of helping ANSA overcome their reluctance to stop fighting, reference was also made to NGOs that train selected members of armed groups in politics, thus giving them the capacity to attain their goals through peaceful means. Another such program focuses on introducing paramilitaries to a different way of life as a means of facilitating their integration into society, family and community.

Training and competences of mediators

Questions from the audience focused primarily on training and competencies of mediators. Panelists agreed that mediation methods and techniques could be trained, yet they pointed out that factors such as personality and experience were much more pertinent. In addition, a mediation team is often led by a charismatic figure with high standing among the conflict parties but no formal training in mediation. However, people in the mediation team are often trained, and training is essential for the support team, which needs to provide the mediators with expertise in areas as diverse as process management, constitutionalism, allocation of tax money or DDR-SSR.

Conclusion

Mediation or facilitation by third parties is an indispensable tool of conflict resolution. As a party to conflict, ANSA need to be included into this process. This requires that third parties not only invest time and patience, but also resolve problems such as dealing with ANSA listed as terrorist groups.