Mediation in African conflicts: The gap between mandate and capacity
Laurie Nathan[1]

Introduction

Given the frequency with which high-level peacemaking is undertaken in Africa, there is surprisingly little discussion in official circles about the science and art of mediation. There is nothing remotely comparable with the serious and sustained discussion that takes place around the strategy, methods and structures of military peace operations. This is true also of training: whereas substantial time, effort and money are devoted to military training in order to ensure success, manage risk and prevent failure, little if any attention is paid to training African mediators.
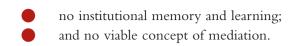
The African Union (AU) and many of the regional organisations on the continent have a formal mandate to engage in mediation and other forms of peacemaking. This is evident, for example, in the Protocol Relating to the Establishment of the Peace and Security Council of the African Union (2002); the ECOWAS Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (1999); and the SADC Protocol on Politics, Defence and Security Co-operation (2001).

Despite this formal commitment to mediation and its widespread use in practice, neither the AU nor any of the regional organisations has a dedicated mediation unit and specialist expertise in mediation. Peace initiatives consequently suffer from a chronic lack of skill, capacity and support. There is a vast gap between the peacemaking mandates of African organisations and their ability to deliver on those mandates.

The first part of this paper examines some of the specific problems in this regard:

● insufficient expertise in mediation;
● inadequate institutional support for mediators;

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1 Laurie Nathan is a research fellow at LSE and the University of Cape Town (UCT). Between 1992 and 2003 he was Executive Director of the Centre for Conflict Resolution at UCT. He has served on the editorial committees of the *South African Journal of International Affairs and Strategic Review for Southern Africa*; the Cameron Commission of Inquiry into Arms Trade; the review team of the Countries at Risk of Instability Project of the Prime Minister's Strategy Unit, UK; the Board of Directors of Conciliation Resources; the Carter Centre's International Council for Conflict Resolution; the Advisory Committee of the Arms Division of Human Rights Watch; and the Expert Advisory Group of the UNDP Democratic Governance Practice Network. In 2006 he was a member of the AU's mediation team for Darfur. He is currently a member of the Ministerial Review Commission on Intelligence in South Africa.

- no institutional memory and learning;
- and no viable concept of mediation.

The second part of the paper proposes the establishment of specialist mediation units in the AU and regional organisations as a means of addressing these problems.[2]

Insufficient Expertise in Mediation

Over the past decade domestic mediation has evolved in many countries to the point that it is now regarded as a professional discipline. It encompasses a rich body of theory, comparative research, case studies, skills and techniques. The skills and techniques relate to diagnosing the causes of the conflict; engaging in shuttle diplomacy when adversaries refuse to talk to each other; designing and convening the mediation process; preparing agendas and conducting meetings; identifying common ground between the parties; and generating options for resolving deadlocks. The techniques are intended to facilitate dialogue and co-operative problem-solving.

By contrast, states and international organisations do not view international mediation as a specialist endeavour. International mediation is conceived and undertaken simply, and often crudely, as a form of 'tough diplomacy'. The main techniques are persuasion, bargaining and the exercise of leverage, with little emphasis on the application of mediation skills. The extreme version of this orientation is captured by the belief of Henry Kissinger, former US Secretary of State, that "if you have them by the balls, their hearts and minds will follow" (Stedman 1991:118).

In 1976 Kissinger arrived in Southern Africa for the first time, confident that his diplomatic prowess and the strength of the US would lead within a few months to a negotiated settlement for Rhodesia. As befits a mediator, he insisted that he was merely an interlocutor and would not be prescriptive. He had, in fact, devised a formula for majority rule and was determined to sell his plan through threats and promises. The mission was counter-productive. His proposals emboldened the minority regime, were rejected by the liberation movements and Frontline States, and culminated in what British diplomats described as a mess (Stedman 1991).

A less extreme example of an overly prescriptive approach by mediators was the 1994 Declaration of Principles issued by IGAD in respect of the war in Sudan. The Declaration synthesised the main demands of the Sudanese protagonists in order to specify the key elements required for a lasting peace. It addressed the root causes of the war in an apparently fair and pragmatic manner. However, two of the principles were anathemas to Khartoum, which denounced the mediators

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2 This paper is based on comparative research undertaken in the mid-1990s (Nathan 1999); the peacemaking activities of the Centre for Conflict Resolution (CCR), which the author headed from 1992 to 2003; case studies prepared in 2003 for CCR's research project on mediation in African civil wars; and the author's participation in the African Union mediation for Darfur in 2006.

for abandoning their impartial stance (Deng 1997). A Kenyan diplomat familiar with the process argued that IGAD's mistake was to present the synthesis as a formal declaration instead of circulating a draft text and then mediating negotiations between the parties.[3]

The perception that mediation is synonymous with 'tough diplomacy' leads to, and is reinforced by, the appointment of international mediators on the basis of their political status rather than their competence as mediators (Susskind and Babbitt 1992). Presidents, ministers, former heads of state and military officers who are not skilled mediators are frequently appointed as peacemakers in high-intensity conflict in Africa. Some of these dignitaries have a natural aptitude for mediation, others do not.

Ambassador Ami Mpungwe, the accomplished Tanzanian diplomat who facilitated the abortive Arusha peace talks for Rwanda in 1993-4, has said that throughout the process he was painfully aware that he and his colleagues lacked knowledge and experience as mediators. He did not know whether there was anything they could have done differently to avert the genocide but he was convinced they would have benefited greatly from training in mediation.[4] A decade later, the need for mediation training remains unmet.

Mediators who are skilled and experienced will not be successful in every instance, but they are more likely to succeed than inexperienced mediators. They are more familiar with mediation strategies and tactics, giving them a wider range of options and tools, and they are less likely to make mistakes. This matters greatly in conflicts where large numbers of people are being killed. It seems absurd that states and international organisations that would not deploy untrained soldiers or doctors in conflict zones are willing to use untrained mediators.

This tendency might be changing in the case of the UN. The UN Secretary-General's High-Level Panel on Threats, Challenges and Change (2004) recommended that the organisation's capacity for preventive diplomacy and mediation should be enhanced substantially. The Panel also argued that in appointing envoys, mediators and special representatives, the Secretary-General "should place high-level competence above all other criteria". The UN has since established a Mediation Support Unit in the Department of Political Affairs, as well as a mediation support website (http://peacemaker.unlb.org/index1.php). In the case of the AU, the current process of constituting the Panel of the Wise is an opportune time to set up a mediation unit.

Inadequate Institutional Support for Mediators

Mediators in high-intensity conflict are confronted by a complex array of actors, issues, tasks and problems. They might justifiably feel like jugglers struggling to

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3 Author's interview with Kenyan diplomat, Johannesburg, 3 November 1998.
4 Author's discussion with Ambassador Mpungwe, Johannesburg, 4 November 1998.

keep in the air more balls than is humanly possible, painfully aware that the consequences of dropping even a single ball could be very damaging.

Of course the parties to a conflict cannot be managed as if they were inanimate juggling balls. They have volition, passion, fury and fear, which make them both unpredictable and intransigent. The greater the number of parties and the greater the divisions within their ranks, the greater the number of perspectives and concerns that are brought into the mediation process, the harder it is to address all of these concerns to the satisfaction of all the parties and the harder it is for the mediator to facilitate decision-making by consensus.

The difficulty is heightened by the presence of other actors hovering in the wings: the gatecrashers who want to join the mediation but have not been invited; the godfathers who influence the parties' decisions behind-the-scenes; the parties' members and constituencies that constrain their leaders' decision-making freedom; the neighbours that behave in an unneighbourly fashion; the donors and big powers that have their own agendas; and the media, which are hungry for controversy to the point of creating it. These actors can influence the course of the mediation but they typically lie beyond the reach of the mediator and they are not bound by decisions agreed to by the negotiating parties.

Adding to the mediator's burden, each of the disputant parties wants the mediator to attend to its concerns as a matter of priority; the mediator may have to play different roles in relation to different parties; he/she has to address both the structural causes of the conflict and the crises that arise from time to time; and all of this has to be done in an environment of intense mistrust, hostility, volatility and violence.

It follows that mediators in high-intensity conflict need considerable institutional support. The required support can be categorised in terms of different functions and types of expertise:

- **Mediation expertise** is needed to plan, convene and run the negotiations, provide tactical and strategic advice to the parties' leaders and negotiators, and encourage a co-operative stance by neighbouring states and other state actors.
- **Country and regional expertise** is needed to ensure a deep understanding of the parties, the factions and debates within their ranks, the cultural practices of local communities, and the history and dynamics of the conflict.
- **Intelligence expertise** is needed to discern changing conditions on the ground, shifts in the parties' positions, and changes in the relationships between various actors.
- **Thematic expertise** is needed on a range of topics, such as constitutions, ceasefire arrangements, DDR, land distribution and wealth-sharing.

- **Communications expertise** is needed to communicate with the donors, member states, the parties' constituencies and the public at large in the conflict zone.
- **Management, administrative and financial expertise** is needed to ensure that the process is run efficiently, that proper records are maintained and that funds and other resources are properly managed.

As illustrated by UNOSOM II in Somalia in 1993, a lack of expertise can be very detrimental. The UN undertook a serious analysis of conditions in Somalia only after the operation was well underway, it did not comprehend the magnitude of the crisis and its misjudgements regarding the authority and legitimacy of local leaders contributed to numerous setbacks (Friedrich Ebert Stiftung *et al.* 1995). Driven by schedules set in New York and lacking a proper grasp of traditional reconciliation processes, the UN worked against rather than with indigenous forms of conflict management (Menkhaus 1996).

By contrast, in 2005–6 the AU mediation team for Darfur had deep knowledge of the history and conflict dynamics of western Sudan and utilised many specialists as advisers on the thematic issues under consideration, particularly in the security and wealth-sharing commissions. The advisers outlined solutions that were technically sound and based on comparative experience, enhanced the knowledge of the negotiating parties and the mediators, generated options that had not previously been considered and thereby helped to overcome deadlocks.

On the other hand, the Darfur peace process suffered from a lack of mediation expertise. It was evident that the members of the AU team and the resource people who played mediating roles did so with varying degrees of competence. The Head of the team, Ambassador Sam Ibok, recognised this handicap but could not find suitably experienced mediators to join the process at short notice and for an extended period. This problem, in turn, was a manifestation of the broader continental failure to view mediation as a specialist endeavour and to train mediators accordingly.

The Darfur mediators were put under great pressure by their funders and political principals to produce a 'quick accord' and wrap up the mediation speedily. The unrealistic deadlines, the absence of independent funding and the persistent threat to terminate donor support severely comprised the mediation (Nathan 2006).

No Institutional Memory and Learning

In the absence of standing mediation units in regional organisations and the AU, there are no thorough assessments of mediation endeavours, no consistent effort to develop and record lessons, no gradual accumulation of knowledge, and no central repository of know-how. Each new mediation initiative relies on the personal experience of the individuals involved in it and there is no assurance that they have assessed their experience objectively and self-critically; indeed, they tend to blame the parties rather than acknowledge their own mistakes.

What lessons can be drawn from the failed mediations for Rwanda and Ethiopia/Eritrea and from the successful mediation for Mozambique? What mistakes were made during the mediations for Burundi and Liberia? Why were some of the peacemakers in the DRC more effective than others? There is no rigorous and systematic institutional attempt to answer these questions, with the result that mediation on the continent does not improve incrementally over time and mediators continue to make the same mistakes as their predecessors.

The point here is not that we will ever find a recipe for successful mediation. Because conflicts are dynamic and differ significantly from case to case, mediation cannot be undertaken in a formulaic fashion. Mediators have to be flexible, creative and responsive to changing conditions. Nevertheless, they are invariably confronted by common strategic issues in high-intensity conflict. These issues include the following:

- The problem of several competing mediators in a given conflict.
- The relative merits of confidence-building mediation versus power-based diplomacy.
- The relative advantages of state versus non-state mediators.
- The relationship between mediation and enforcement action.
- The challenge of ensuring compliance with peace agreements.
- The leverage exerted by donors who fund the mediation process.
- The problem of parties negotiating in bad faith.
- The problem of parties that are themselves deeply divided.
- The problem of spoilers that are not parties to the mediation.
- Ensuring civil society involvement in peace processes.
- State sovereignty as an obstacle to preventive diplomacy.
- Regional organisations as arenas of conflict rather than forums for conflict resolution.
- The importance of non-partisanship in mediation.

While all of these issues have specific features in any given conflict, they also have general features across a range of cases. Through comparative research that includes interviews with mediators and negotiators, it is possible to formulate general knowledge and lessons that might be helpful to mediators in future cases. At the very least, such knowledge could help to avoid obvious mistakes and patently flawed strategies.

There is no better example of the failure to learn from past experience than the recurring problem of mediator bias. There is abundant historical evidence that a mediator who displays bias against or in favour of one of the disputant parties will lose the trust of the disfavoured parties, become less effective if not ineffectual as a result, and complicate or even heighten the conflict. This was true of IGAD in relation to Sudan in the mid-1990s, ECOWAS in relation to Liberia in the 1990s and UNOSOM II in Somalia in 1993; on the other hand, a strict commitment to non-partisanship was one of the reasons for the success of Sant'

Egidio in Mozambique in 1990-2 and the World Council of Churches in Sudan in 1971-2 (Nathan 1999: 3-6).

In the current period, many actual and prospective mediators ignore this historical pattern. For example, the South African government sought to play a mediating role in the Zimbabwe crisis while simultaneously expressing support for President Mugabe and ZANU-PF. Unsurprisingly, the Movement for Democratic Change eventually declared that it had rejected South Africa as a mediator because it was biased in favour of the ruling party (Hartnack 2005).

No Viable Concept of Mediation

Defence planners and senior military officers devote much time and effort to debating, developing and refining military doctrine, strategy and concepts of operations. In the academic literature there are major debates around these issues in relation to international mediation (Kleiboer 1996). Yet there is scarcely any such discussion within the AU, regional organisations and the member states that undertake mediation on the continent. As a result, there is no coherent doctrine and viable concept of mediation.

There are countless failed mediation initiatives in Africa that mistakenly sought a quick settlement and relied too much on strong-arm tactics, underestimating the complexity of the conflict, ignoring the psycho-political dynamics of war and neglecting the political imperative of ownership (Nathan 1999). A comparative study of some of these cases, conducted in 2004, led to the following general observation:

> *Mediators deployed by states and multinational organisations frequently focus more on the solutions to a conflict than on the process of peacemaking. They formulate solutions, endeavour to win the parties' consent thereto, and press for rapid results through a combination of persuasion and leverage. They might adopt this approach because they regard the solution as fairly obvious and consider the demands of one or more of the parties to be completely unreasonable. They might also be concerned about the high level of fatalities and the financial cost of a drawn-out engagement. Whatever their motivation, however, a mediator's confidence that he or she can quickly bring the parties to their senses is both naïve and arrogant* (Nathan 2004: 71).

This observation captures precisely what happened in the AU mediation for Darfur in 2006. The negotiations were driven by a deeply flawed approach of 'deadline diplomacy' emanating from AU headquarters and the funders and partners of the peace process. This inhibited effective mediation, resulted in a peace agreement that did not achieve peace, and sowed divisions that exacerbated the conflict (Nathan 2006).

As with all civil wars, the humanitarian need for a quick accord in Darfur was

indisputable. But there is never a quick fix. These wars are social phenomena whose causes, dynamics and contested issues are multiple, complex and intractable, and the difficulty of resolution is heightened immeasurably by the protagonists' mutual hatred and suspicion. In these circumstances, short-cuts and quick fixes are invariably cul-de-sacs.

A more viable model of peacemaking is confidence-building mediation, as occurred in Mozambique in the early 1990s. According to Father Romano (1998), the Sant' Egidio mediators were put under strong pressure to conclude the talks quickly because of the high level of fatalities. The mediators resisted this pressure on two grounds: "the pathology of memory" was a "heritage of almost a generation and could not easily be cancelled"; and "there is no use in forcing people to agree on anything. The only way the process could have been successful and the reason that made it successful was that all the actors involved gained ownership".

In his study of the Mozambique mediation, Hume (1994: 146) summarises the essence of the confidence-building approach followed by Sant' Egidio:

> *Both sides wanted to find an alternative to stalemate and destruction. The mediators helped the parties find that alternative. Because this conflict was essentially domestic, the solution had to be found in a new relationship between the parties. The mediators concentrated on developing mutual recognition and respect, rather than relying on outside leverage to push the parties together. Their first step was to begin a dialogue between the parties that could open the way to reconciliation. Eventually the parties could agree on their own solutions.*

Unlike power based diplomacy, which seeks to pressurise the parties into a settlement, confidence-building mediation aims to build the parties' confidence in each other, in negotiations and in the mediator. It entails a protracted process of facilitated dialogue and negotiation in which a third party assists adversaries, in an even-handed fashion and with their consent, to engage in collaborative problem-solving and accommodate each other's fears and needs. These features of mediation render the process a non-threatening venture and mitigate the pathology of distrust among the parties. In short, confidence-building reflects the basic logic and utility of mediation.

In civil wars and other intractable conflicts, sustained pressure on the parties is often necessary to alter their strategic calculations, heighten the cost of continued hostilities and thereby make negotiations a more attractive option. But it needs to be clear at all times that coercive action should not be taken by the mediator, who must be non-partisan in order to win and keep the trust of the parties; that a lasting peace will only be achieved if the parties are genuinely committed to any peace agreement they sign; and that this will not happen unless they have a sense of ownership of the agreement and are confident that their opponents will honour their obligations.

Dedicated Mediation Units

The AU and the regional organisations could mitigate many of the problems raised above if they viewed preventive diplomacy and mediation as specialised endeavours and set up permanent mediation units comprising staff with the necessary expertise. These units would generate cumulative wisdom and develop over time a set of lessons and best practices based on experience and critical evaluation.

The mediation units would have two primary functions: conflict prevention and conflict resolution.

- **Conflict prevention.** The units would support senior officials and envoys in their efforts to prevent and de-escalate significant conflict between and within states. This function would typically be undertaken in a low-key and discreet fashion. Depending on the circumstances, the units would support high-level efforts to advise the parties, act as an interlocutor between them, facilitate confidence-building measures and/or broker agreements.

- **Conflict resolution.** The units would support senior officials and envoys in their efforts to resolve significant conflict between and within states. Depending on the circumstances, this function might be performed discreetly and informally or more publicly and formally. It could take place prior to the start of formal mediation with the aim of encouraging the parties to enter into negotiations. It could also extend to facilitating and managing multi-party negotiations.

The units could have four secondary functions: dispute resolution; co-ordination, liaison and consultation; early warning; and gathering information and lessons.

- **Dispute resolution.** As distinct from large-scale violent conflict, there is frequently a need to address more specific or localised disputes in the context of peace endeavours (e.g. tension between member states participating in a peace support operation; tension between the military mission and local actors; addressing allegations of ceasefire violations etc). The units could be deployed on a short-term and ad-hoc basis to assist in resolving such disputes.

- **Co-ordination, liaison and consultation**. In the course of preventive diplomacy and mediation, there is invariably a need to brief and consult a range of actors (e.g. member states, the UN, donors and local organisations etc). The units could assist with this vital but time-consuming role and also help to co-ordinate the activities of different peacemakers involved in the same conflict.

- **Monitoring and early warning.** The units could provide early warning/ action advice to senior officials. The advice would focus on opportunities for de-escalation and resolution of conflict as well on the

risk of escalation. The units would not the primary locus of early warning/action advice but could make an important contribution by offering the perspective of mediators.

● **Information repository and lessons learnt.** The units could establish and maintain an information repository and develop a set of lessons learnt from peacemaking endeavours. The lessons would concentrate on the strategies, tactics, processes and arrangements that had most significantly contributed to success or failure in different cases.

The envisaged activities of the units can be grouped into the following categories:

● **Information gathering** on the history and dynamics of a given conflict; the positions, composition and orientation of the disputant parties; the positions taken by other key actors; any previous attempts at peacemaking; etc.

● **Analysis** of the structural, historical and proximate causes of the conflict; the dynamics of the conflict; and the positions of the disputant parties and other key actors.

● **Strategising** in order to identify opportunities, dangers, risks and the range of alternative courses of action.

● **Intervention activities** such as consulting the parties; engaging in shuttle diplomacy; designing and convening a mediation process; conducting the mediation; etc.

● **Consultation and liaison** with significant local and external actors, especially those who could support the peace process and those who could jeopardise the process.

● **Monitoring, evaluation and adaptation**, including monitoring the evolving dynamics of the conflict; assessing the parties' responses to each other and to the mediator's proposals; evaluating the mediator's efforts; and adapting strategies and tactics accordingly.

A single person cannot perform all of the above activities in a deep-rooted conflict. The lead peacemaker – who might be the Executive Secretary of a regional organisation, his/her envoy, or the leader of a member state – therefore requires substantial support. Every lead peacemaker should have a dedicated team of at least four to six people who provide mediation, analytical, strategic and administrative support. Much larger teams are required in multi-party negotiations. The teams should have the expertise outlined above in the section on 'Inadequate Institutional Support for Mediators'.

There appear to be two reasons for the failure of African organisations to establish mediation units: there is insufficient appreciation that mediation is a specialist pursuit; and the organisations are too preoccupied with crises and have too little staff capacity to set up new structures.

Conclusion

The AU and the regional organisations should establish expert mediation units for the following reasons: international mediation should not be equated with coercive diplomacy but should rather be understood and practised as a specialised activity with a particular set of skills and techniques; mediators who are experienced and competent are more likely to succeed than those who are inexperienced or inept; and poorly conducted mediation can exacerbate the conflict.

International mediators diminish the prospect of ending conflict when they deviate from the principles of confidence-building mediation and are unfamiliar with its techniques. Mediation is a specialised activity that is not a mystical affair, reducible to common sense or synonymous with coercive diplomacy. The AU and regional bodies would better fulfil their mandates in relation to peace and security if they established mediation units with the necessary expertise.

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