

The UN as Conflict Mediator: First Amongst Equals or the Last Resort?

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Recognizing the important role of the good offices of the Secretary-General, including in the mediation of disputes, we support the Secretary-General's efforts to strengthen his capacity in this area.

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The part of the mediator consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen

“On good offices and mediation”, The Hague Convention I (1899), Article 4

Introduction

On 14 September 2005, at the World Summit, the 191 Member States of the United Nations agreed, amongst many other things in the Outcome Document, to strengthen the Secretary-General's (SG) “capacity” to mediate disputes. This was seen as a fairly innocuous commitment, packaged as part of a section on the “Pacific Resolution of Disputes”. The more heated debate in the days and weeks leading up to the summit had been reserved for issues like the new “Human Rights Council” and the definition of terrorism. While diplomats in dank basement rooms bargained through the night over every aspect of the proposed “Peacebuilding Commission”, support for strengthening “good offices” breezed through the floor of the plenary. Who could disagree that the SG of the United Nations should mediate disputes and mediate them well?

The UN's successful growth as a mediator

In one way, the matter is straightforward. The idea that the UN SG or his representatives should mediate in real or potential armed conflicts is an old one, dating back to the 1946 and the civil war in Greece. Trygve Lie, dispatched a “fact-finding mission” to look into allegations of communist infiltration and in the process establish an independent role for the SG's office. Dag Hammarskjöld took things a step further with his (successful) efforts to secure the release of American airmen held hostage in China, explicitly carving out a position for himself independent of the Security Council. It is not in the Charter, but over time, mediation has come to be seen as a natural role of the SG and one of the core functions of the Secretariat.

Since those heady early days, there have been notable successes, with peacekeeping operations emerging (in the aftermath of the Suez crisis of 1956) as an adjunct to this older role. Successful mediation by Secretaries-General continued through the depths of the Cold War. In 1963, U Thant, after persuading the parties to the Yemeni civil war to call for a UN observer force, even went ahead and

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established the force himself (borrowing troops from UNEF in the Sinai), with Security Council authorization coming only days later. In 1971 the Secretariat resolved the simmering dispute between the UK, Iran and Bahrain. Though left out of many big disputes, the Secretariat was involved in helping prevent or end enough conflicts to establish a clear niche. By the late 1980s, though the Council had been deadlocked time and again, the role of the SG as the world's pre-eminent diplomat was well set.

The nearly two decades since the end of the Cold War have seen a vastly increased demand for UN mediation. On the one hand, with the disappearance of US-Soviet rivalries, many armed conflicts came to an end, with the UN being the obvious facilitator of many peace processes. In El Salvador, Namibia and Cambodia, there was a fresh round of positive UN involvement; and many newer wars – mainly in Africa – opened up to third party mediation. As peacekeeping and post-conflict peacebuilding increased in complexity, active mediation started to continue long after the peacekeeping troops were deployed. By today, there are no fewer than thirty-seven Special and Personal Representatives and Envoys of the SG as well as headquarters-based Advisors and Under-Secretaries-General involved in one aspect or another of peacemaking. Some head or manage peacekeeping operations but many others lead efforts to end still active wars.

It would thus appear that in this uncontroversial area of UN endeavour, the Secretariat's capacity – limited as it seems – should be immediately increased and at this very moment efforts are underway to expand the Department of Political Affairs and hire new staff. It seems there will be more conflicts, more places for the UN to mediate, a greater need for UN mediation.

A unique selling point as a mediator?

But is everything so straightforward? At the beginning of the 21st century, is the UN really the best organization to mediate armed conflicts? Are there specific kinds of war or particular parts of the world where the UN is better able to perform this mediation role? Compared to the alternatives, what special advantages do the SG and his envoys enjoy? What special disadvantages do they face? And what does this mean for strengthening future "capacity".

These are questions to ask because mediation is not and has never been the sole preserve of the UN and because alongside the successes (and despite the slightly rosy narrative just above) there have been notable UN failures as well (for example over Vietnam in the 1960s and the Middle East for a long time). Conflicts have always been mediated and ended by third parties, including governments and institutions, other than the United Nations. And even where the UN has been very much involved – say Cambodia in the late 1980s and early 1990s – others have played the pivotal role in moving positions and perceptions towards formal negotiations.

It is an increasingly crowded (and unregulated) field, with not only governments being involved, but with a wide array of regional and international organizations and non-governmental organizations and private citizens inserting themselves into foreign wars and international disputes. Some have been successful, for example the roles played by the Community of Sant'Egidio in Mozambique, or the Centre for Humanitarian Dialogue followed by President Martti Ahtisaari and his Crisis Management Initiative in Aceh. And the UN at sixty years shows a degree of wear and tear that encourages deeper reflection about its comparative advantages – to understand better the situations for which the UN is best suited and this means for the kind of capacity the UN Secretariat needs to have.

Different wars for different mediators?

Armed conflicts may be classed or divided up in different ways. One might, for example, think about them in terms of where they are in time: are they at the beginning of the war, still at a stage when there is much fight left in all the parties, when there is little appetite for compromise? Or are they nearer the end, when one or both sides are exhausted and looking for a way out? Is the UN well-suited to help ripen a conflict for mediation, or is this a task best left for others?

Another way would be to divide conflicts between those where there is significant outside leverage or interest (e.g. Sudan, Afghanistan, Iraq, Israel-Palestine) and those which are fairly self-contained and where the fuel for war is largely internal (the Philippines, Southern Thailand). Are the parties to the conflict substantially dependent on outside governments and are they amenable to external pressure? Or is at least one side a home-grown power, with little foreign influence? Is the UN best as mediator when there is a strong international dimension to the conflict? Especially when conflicts are internal, or are linked to painful decolonization processes, sovereignty arguments raise their grey heads, and it seems UN involvement becomes particularly distasteful (at least to one party, such as Indonesia on Aceh, following Timor Leste's painful independence).

A third way would be to see conflicts as either involving a big power or not. Are there important international strategic issues at stake? Is the US or another powerful P5 state committed to a particular outcome? Is the UN hand strengthened or weakened when such big power interests are involved? And how best can the role of the Secretariat as mediator be managed alongside the position of the Security Council?

There are of course countless other ways to class conflicts – whether they are internal or intra-state, whether they have led to a major international humanitarian operation or not, etc. Which kinds are more suited for UN mediation? To think about this, one needs first to think about the UN's own comparative advantages and disadvantages in ending war.

Advantages

The most obvious of the UN's advantages is that it is the world's only global organization with unparalleled legitimacy. Though this legitimacy may be strained at times and be different in different parts of the world, there is still no substitute for the moral authority and convening power of the UN. A second advantage is the very breadth of the UN system. The UN system, though unwieldy and lacking any real command and control system, is still joined up in many ways, with the Secretariat and the various agencies, funds and programmes involved in almost every conceivable issue. Only the UN can both mediate, start-up and manage a peacekeeping operation, raise funds and deliver humanitarian assistance, and lead a process for longer-term reconstruction and development. Seen in its best light, the UN is a one-stop shop offering at least the possibility that this will lead to a better coordinated international response.

There are also other advantages that the UN Secretariat should have, but does not. The first is institutional memory. Despite being the world's pre-eminent international mediator for six decades, there is very little knowledge of past experience, let alone a good system for ensuring that lessons are well learned. What memory there is rests in individual people rather than in the organization itself and these people are few and far between. The UN should have a second advantage over others, in being

able to draw from a pool of able mediators, able diplomats with a good understanding of the UN system as well. But whilst there are senior diplomats who have worked for the UN more than once, there are virtually no experienced in-house mediators, in particular at a middle-level, who can be called upon to lead or support negotiations.

Disadvantages

Against these real or potential advantages, there are several important disadvantages. One is confidentiality. Especially in cases where the parties to the conflict may be uncertain about the benefits of outside mediation, there may need to be a fairly quiet, initial period of confidence building, away from any public view. Quiet diplomacy should be a very old hat for the UN SG and his team, and there were plenty of Cold War examples of confidential UN initiatives. But in recent times, very few things easily escape the glare of media attention and the pressure to speak out and engage (however fruitlessly) in more public diplomacy; Darfur or Myanmar provide examples. For the UN more than others, a confidential process may be more difficult to sustain.

This is particularly true when it comes to conflicts involving non-state actors. It's one thing for the UN Secretariat to be in discreet talks with states who are parties to a conflict; for the UN to initiate contacts with non-state actors may be much more difficult and bring immediate censure, either from the state concerned or from other interested governments. More generally, the UN Secretariat may not be well-placed to deal with non-state actors, given the often roundabout way that contacts with them may need to be initiated and then maintained. Though the Secretariat is notoriously opaque in many ways, it is also sometimes unhelpfully transparent. A lumbering bureaucracy may be at a handicap, compared with a private actor or even a government in engaging with rebels and insurgents.

In addition, the sensitivities of the UN's Member States, and in particular the more important ones (like the Russians over Chechnya or the Chinese over Taiwan or Tibet) will more or less ensure that the Secretariat has very little or no room to act, however discreetly. There is also another side to this – the perception by many that the SG, in certain situations, is acting as an agent for big power interests. In places where the US for example has a keen interest, such as in the Middle East, the ability of the SG to be, or at least to be seen as, impartial is likely to be extremely limited.

Yet another disadvantage is the flip side of the UN Secretariat and the UN's mediators being part of a broader system: the UN has many different agendas, norms and standards to maintain, and this may hinder the flexibility necessary for successful mediation. Parts of the system may for example have strong views on a given human rights situation and there may even be a human rights rapporteur for that country (for example Myanmar); this might then make more difficult the work of a prospective UN mediator attempting to enter into a dialogue with the local government. Or it might be that the UN is very much involved in the addressing emergency humanitarian needs and may already have a large field presence. It may not be in the interest of either the mediators or the managers of the humanitarian operation to have their fortunes closely linked to one another.

A special role amongst mediators?

It would seem then that there are at least some instances when the UN's disadvantages might outweigh its advantages and when a private actor, a government acting alone or a regional organization

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might have better luck. In these cases, should the UN simply stand aside? And what is the cost of the UN standing aside, of being marginalised?

Simply standing aside entirely is rarely an option for the UN (unless it involves an dispute internal to a big power, for example the Uighur rebellion in China). It must in some way respond to every war, if not through attempted diplomacy than through statements of concern by the SG and the offer of humanitarian assistance. If there is other third-party mediation under way, however quietly, the UN Secretariat should, first and foremost be at least able to assess these efforts for itself and at least try and do no harm.

Secondly, the UN should be able to still set certain standards and norms for mediators and mediation. There are many thorny issues involved in peace negotiations – the question of amnesty for instance for people who should otherwise find themselves before the International Criminal Court. The UN Secretariat and the UN more generally could play a useful role in leading discussions on these issues, providing some normative framework for mediation and ensuring that private or bilateral mediators are at least aware of certain international standards.

Standing aside might also be a temporary position. In sticky and protracted conflicts involving non-state actors, where big power interests might make UN Secretariat involvement unattractive, a successful peace process might be one initially groomed by a non-UN actor. But at a certain stage, the legitimacy and convening power of the UN and the ability of the UN to stand up a peace operation might be of critical value. How can we judge the moment at which a more active UN Secretariat role would become useful? For example, what situation in Sri Lanka would warrant a UN as opposed to a Norwegian lead? This means that even in cases where others are in the lead, the UN should have the capacity to analyse and monitor developments, see how to be most useful from the sidelines and prepare for playing a more central role at the right time. Sadly, the Secretariat is rarely resourced or configured to play these functions.

Areas for strategic focus for the UN as a pre-eminent mediator

To return to our starting point, then – what sort of “strengthened capacity” does the UN Secretariat really need? I return to the potential but unfulfilled advantages of institutional memory, and cultivation of a pool of experienced mediators.

Though every situation is different, and though a proper understanding of the local context, local history and local politics is essential, it would also seem that every peace process has something to learn from past failures and successes. Whilst academic and policy institutions might be the most appropriate places to ponder the recent past, it would also be useful for the UN to offer up its own experiences in a systematic way. Whilst lessons have been learned (to some extent) from peacekeeping operations, UN mediation tends to be seen more as the preserve of gentlemen, rather than a professional niche requiring certain skills and training. Successful UN mediators have been successful by accident, because of their own innate abilities, or because of training elsewhere, rarely if ever because of knowledge imparted by the UN itself.

On cultivating a pool of mediators, who could be used not just by the SG but by others, like the AU or ASEAN, or even governments, the challenge is to broaden the scope of the search. The UN has traditionally drawn mediators from the ranks of government foreign services and while this has often served the UN well, surely there is the need to broaden the pool, geographically but in other ways

too, to include people who not only have the requisite diplomatic instincts and skills, but who are familiar with the UN system and its practices. Some could be UN staff, but others could be on stand-by, working elsewhere, available as opportunities come up.

Developing institutional knowledge and promoting training towards a future pool of mediators etc need not be a labour-intensive enterprise for the Secretariat. The last thing the world needs is a new adjunct to the UN's bureaucracy. Rather, there is a need for a very small capacity, perhaps turning around existing moribund resources, which could help direct and join together a range of external efforts. . This would be something of use whatever the future balance between UN and non-UN mediation. Universities, think-tanks and others could be connected and used to help the UN Secretariat turn conflict mediation, if not into a profession, than at least a respectable craft.

Finally, the Secretariat needs a first-class analysis capacity, a point alluded to above, with its strategic centre close to the SG himself (even if some of its work was outsourced). He needs to understand all the intricacies and complexities of a given conflict, and thus when to support a non-UN effort or push for his own good offices.

The world summit decided to support the SG's efforts to strengthen the Secretariat's mediation capacity. This would be best done with a clearer understanding of the UN's comparative advantages and a better sense of how the UN can assist, even when not itself taking the lead in mediation.

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