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# FORUM

## BACKGROUND PAPER

UN sanctions: liability or asset in  
mediation processes?

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The Centre for Humanitarian Dialogue (HD) is a private diplomacy organisation founded on the principles of humanity, impartiality and independence. Its mission is to help prevent, mitigate, and resolve armed conflict through dialogue and mediation.

Co-hosted by the Norwegian Ministry of Foreign Affairs and HD, the Oslo Forum, is a discreet and informal annual retreat which convenes conflict mediators, peacemakers, high-level decision-makers and key peace process actors.

This Background Paper was prepared for the Oslo Forum 2018 and reflects events until mid-May 2018. It was intended to guide and inform discussions at the Forum, and does not represent the positions of the Royal Norwegian Ministry of Foreign Affairs or the Centre for Humanitarian Dialogue.

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# UN sanctions: liability or asset in mediation processes?

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The Security Council unanimously adopts a resolution, renewing a series of sanctions targeting all individuals involved in undermining “the peace, stability and security of the Central African Republic (CAR)”. © United Nations Photo/Loey Felipe

In the Peacemakers Toolkit Series, William Zartman and Alvaro de Soto highlight the risks for senior mediators of being associated with sanctions.<sup>1</sup> Similarly, the UN’s *Guidance for Effective Mediation* instructs international mediators to “avoid association with punitive measures against conflict parties” in order to maintain impartiality.<sup>2</sup> The implied conclusion is clear: engaging with UN sanctions can be a liability and should be avoided.

This apprehension is understandable and forms a core part of the conventional wisdom shared by senior mediators. Yet, there are also contrasting examples of sanctions helping to advance a mediation process. For instance, Zartman and de Soto acknowledge, in the same training manual cited above, that sanctions can be used to ripen a stalemate, and that, in the case of Bosnia, “sanctions were major motivators gaining Slobodan Milosevic’s participation and agreement in the Dayton negotiations over Bosnia in 1995.”<sup>3</sup> The UN’s *Guidance for Effective Mediation* also recognises that the “actions of the international community, including the United Nations. . . have an impact on mediation. . . [which] can be an asset.”<sup>4</sup> The contradictions in both publications illustrate the complex relationships between sanctions and peace processes.

So, which is it? Are sanctions a liability for international mediators or an asset? Or are they both?

Normally, one would seek answers within academic research or existing policy guidance. With some notable exceptions, however, both are largely silent on this issue.<sup>5</sup> The gaps in both research and policy guidance are exacerbated by the fact that sanctions experts and mediation experts tend to operate in different worlds, are guided by different logics and rarely interact.

To address this problem, the United Nations University, the Graduate Institute and swisspeace initiated a two-year project with support from the Swiss Federal Department of Foreign Affairs, 'UN sanctions and mediation: establishing evidence to inform practice'.<sup>6</sup> We are examining six conflicts – Afghanistan, Libya, Sierra Leone, Somalia, South Sudan and Yemen – in which mediation initiatives with UN involvement and UN sanctions have interacted in illuminating ways.<sup>7</sup>

The project is ongoing, and it would be premature to present general findings at this stage. Yet, several insights are emerging, which challenge some of the conventional wisdom about UN sanctions and their complex relationship with peace mediation.

## UN sanctions do not work

*Sometimes they do, sometimes they don't. The effectiveness of sanctions depends on their purposes and on how they interact with other policy instruments.*

The idea that UN sanctions are ineffective is a common preconception, extending far beyond the mediation field. Research, however, shows a more nuanced picture. The Targeted Sanctions Consortium, for example, found that UN sanctions are effective in coercing, constraining and/or signalling a target on average 22% of the time. Effectiveness varies, however, depending on the specific policy goal pursued through UN sanctions. When the objective is to coerce the target to change its behaviour, always a very challenging goal, sanctions are effective only 10% of the time. When UN sanctions are applied to constrain targets and change their cost-benefit calculation, or to send a signal to targets and stigmatise certain activities, effectiveness increases to 27%.<sup>8</sup> The threat of sanctions may be even more effective than their application,<sup>9</sup> and it is important to recall that the conflicts to which sanctions are applied by the UN tend to be among the most difficult and intractable. Our preliminary research confirms a mixed outcome when UN sanctions are specifically aimed to advance the negotiated settlement of a conflict.

In some cases, UN sanctions have been highly effective in supporting peace processes. For example, in Sierra Leone, according to our research, there is good evidence that the arms embargo placed on Liberia pushed Foday Sankoh, leader of the Revolutionary United Front (RUF) and heavily supported by Liberian president Charles Taylor, to sign the Abidjan Accord in November 1996. Later, sanctions in the form of travel bans and asset freezes against senior leaders of the RUF applied by the UN Security Council in June 1998, and the diamond trade embargo of July 2000, helped to shore up the peace process and discouraged the RUF from violating its terms. UN sanctions thus became a means of spoiler management, helping to ensure the political transition in Sierra Leone.

In other cases, UN sanctions have been ineffective and have complicated peace mediation efforts. In Somalia, the UN Security Council applied targeted sanctions in November 2008 to promote the implementation of the Djibouti Agreement, a deal bringing together the Transitional Federal Government (TFG) and the moderate remnants of the Islamic Courts Union (ICU). However, it took the UN Security Council until April 2010 to designate individuals to be sanctioned. The list reflected the political priorities of the US and its allies rather than the needs of the peace process. Our research shows that this cemented the pariah status of conservative Islamist groups and thus closed the door to a more inclusive settlement involving all relevant stakeholders in Somalia.

## You cannot talk to sanctioned parties

*There is no legal barrier to speaking with a UN-sanctioned party. Sanctions can, however, restrict mediation space and make it politically more difficult to engage certain groups.*

Many UN sanctions regimes contain measures against individuals, including both travel bans and asset freezes. Since most peace talks take place outside the territory of the conflict, some assume that sanctions preclude targeted individuals from participating in talks, or even that engaging with sanctioned individuals is illegal.

This is mistaken. UN sanctions do not prohibit participation in peace talks, let alone diplomatic contact with an individual or political engagement with the group the individual represents. Many regimes allow the respective sanctions committee – the subsidiary organ of the UN Security Council that oversees a given sanctions regime – to grant exemptions to travel bans on different grounds, including participation in peace talks. For example, when the UN Security Council applied sanctions in South Sudan in March 2015, it stipulated that travel bans do not apply, “where the Committee determines on a case-by-case basis that an exemption would further the objectives of peace and national reconciliation in South Sudan and stability in the region.”<sup>10</sup>

In the cases covered in our research, there are examples of sanctioned individuals participating in peace negotiations. Sanctioned RUF members took part in the negotiations in Togo leading to the Lomé Peace Agreement of July 1999. In Afghanistan, several members of the Taliban, against whom individual measures were still in place, were given travel-ban exemptions to participate in reconciliation talks with the Afghan government after 2010.

It is the political consequences of UN sanctions, rather than legal obstacles, that can be problematic for a mediator’s ability to talk to all actors. UN sanctions can have a significant stigmatising effect on targets – both the individuals and the groups they represent – making it politically difficult to include them in peace talks. The push for exclusion is especially strong when UN sanctions target a single group, rather than all warring parties, as part of a coercive strategy to marginalise that group. This limits the space for peace mediation, which is most effective when it involves all relevant stakeholders in the search for a mutually beneficial political configuration.<sup>11</sup>

In Yemen, the increasingly anti-Houthi approach of the UN Security Council, which targeted two Houthi commanders in November 2014, undermined the efforts of the Special Adviser of the Secretary-General, Jamal Benomar, to bring the Houthis into a negotiated settlement. The UN’s decisions to target just one side in the conflict imperilled the UN mediator’s impartiality. In Libya, in 2011, sanctions along with other measures against the Ghaddafi regime stymied attempts by the Special Envoy of the UN Secretary-General, Abdelelah al-Khatib, and by the African Union, to facilitate negotiations between the government and the Benghazi-based opposition. Given the increasing pressure against the Ghaddafi regime, the opposition lacked incentives for a negotiated settlement.

## UN sanctions enable leverage

*They can. But using sanctions as leverage can also undermine the parties’ ownership of an agreement and damage parties’ trust in the mediator.*

Peace mediation has the highest chance of success when parties find themselves in a mutually hurting stalemate on the battlefield. This is when, according to Zartman and de Soto, conflicts are ‘ripe for resolution’.<sup>12</sup> Very often, however, mediators work with parties who do not perceive a hurting stalemate and who evaluate the risk of a negotiated settlement as too high. To unblock such situations, sanctions appear to be an obvious tool for mediators. Applying sanctions inflicts damage on parties and, thus, the

promise of lifting sanctions makes peacemaking more attractive. In other words, conventional wisdom holds that mediators *can* use sanctions as sticks and carrots to ‘ripen’ a conflict.

Mediators have indeed used UN sanctions to ripen conflicts. In Yemen, our research showed that Special Adviser Benomar was successful in marshalling the threat of UN sanctions to help persuade Yemen’s President Ali Abdullah Saleh to sign the Gulf Cooperation Council’s peace initiative, as well as the related implementation mechanism in November 2011. In the following months, the continued implicit threat of UN sanctions helped ensure that Saleh abided by the agreement, paving the way for a peaceful transition in the early phase of the conflict in Yemen. In Afghanistan, the promise of lifting UN sanctions was a key incentive for Gulbuddin Hekmatyar, an Afghan politician and former ally of the Taliban, to sign a peace deal with the Afghan government in September 2016. He subsequently returned to Kabul and disbanded the militant faction he led, the Hezb-i-Islami.

At the same time, there are instances in which mediators’ efforts to use sanctions as leverage have failed. In Somalia, the Special Representative of the UN Secretary-General (SRSG), Ahmedou Ould-Abdallah proposed de-listing certain individuals to create incentives for a negotiated settlement. However, he failed to convince the members of the Somalia sanctions committee of the political need for this measure, a task complicated by the practice of consensus-based decision-making in UN Security Council subsidiary bodies. This made it more difficult to bring key parties to the table. Likewise, in Libya, SRSG Bernardino León was rebuffed when he suggested additional listings as a way to discourage activities to sabotage his efforts to broker an inclusive political settlement.

South Sudan is an example where the mediators’ reliance on leverage by using sanctions threats backfired, as it undermined the parties’ ownership of the process. The UN Security Council established a sanctions regime in March 2015 when the peace talks mediated by the Intergovernmental Authority on Development (IGAD) were at a standstill. The Council subsequently listed six individuals from both warring parties. The listings themselves did not affect the dynamics of the negotiations, as they targeted second-rank officials, but they made the threat of escalating sanctions more credible. In August 2015, the US tabled a Security Council resolution threatening an arms embargo as well as sanctions targeting senior leaders in South Sudan.<sup>13</sup> While this compelled the otherwise reluctant government to sign a peace agreement, the government resented an imposed agreement and defected from it when international attention shifted elsewhere.<sup>14</sup>

## UN sanctions imperil a mediator’s impartiality

*It depends.*

Peace mediation is consensual, as it relies on the willingness of the parties to settle disputes through negotiations. UN sanctions, in contrast, are typically applied without the consent of the parties (or the mediator, for that matter) and may have deleterious effects on both those sanctioned and other parties with a stake in the negotiations. Therefore, mediators may, in many cases, wish to avoid association with UN sanctions for fear of jeopardising their relationship of trust with the parties that is essential for their work. In other words, mediators may assume that sanctions undermine their impartiality – one of the fundamentals of effective mediation according to the UN Guidance. Once again, the evidence is mixed.

In Libya, for example, Special Envoy al-Khatib was never credible in offering the UN’s mediation services, because the UN Security Council had imposed sanctions and other measures against the Qadhafi regime before al-Khatib’s appointment in early March 2011, even before it authorised the use of force. In Yemen, Special Adviser Benomar facilitated an agreement in February 2015 in which the Houthis agreed to the formation of a new legislature to fill the existing political vacuum. Days after the agreement, the UN Security Council renewed sanctions against two Houthi commanders, initially adopted in November 2014. This

decision led to a collapse of the agreement and undermined Benomar's ability to serve as an effective mediator in Yemen.

However, UN sanctions do not always threaten the impartiality of UN mediation efforts. For example, in Libya, according to our research, UN sanctions did not appear to affect the impartiality of SRSBs facilitating an inclusive dialogue in the period between the elections of June 2014 and the signature of the Libya Peace Agreement in December 2015. In Sierra Leone, although UN sanctions were applied against RUF cadres to keep the political process on track, they did not undercut parties' acceptance of the UN as a mediator. The relationship between sanctions and mediator impartiality appears to be highly contingent on the different phases of a conflict.

## UN sanctions are inflexible

*Sometimes, but not always.*

From a mediator's standpoint, UN sanctions may appear to be inflexible and unable to keep up with the fast pace of developments in peace processes. The application, adjustment and lifting of UN sanctions requires a decision of the UN Security Council, which is subject to the veto of the five permanent members, the so-called P5. It sometimes takes a long time for the Security Council to decide, and decisions sometimes represent the lowest common denominator. Divisions between Security Council members, in particular the P5, can block decisions about sanctions. One example is Syria, where no sanctions have been imposed on conflict parties beyond those targeting ISIL and al-Qaeda affiliates operating in the country.

There are instances in which sanctions regimes have proved inflexible and where changes that would have helped to advance peacemaking failed to materialise. Following the Bonn conference on Afghanistan in December 2001, a number of sanctioned Taliban leaders signalled their readiness to defect from the insurgency and reconcile with the Afghan government. However, the Afghan government's requests for de-listings were ignored by the Security Council due to opposition from some permanent members. Likewise, in Somalia, as explained above, SRSB Ould-Abdallah failed in his efforts to de-list certain individuals in an attempt to include them in a political settlement.

There are, however, many instances in which UN sanctions regimes were adapted as a reaction to developments in the peace process, suggesting that UN sanctions are not, in fact, as inflexible as they may initially appear. In Sierra Leone, for example, the embargo on the diamond trade was extended to Liberia, to positive effect in order to weaken the RUF by undercutting the sources of its financing. In Afghanistan, the UN Security Council responded positively to the Afghan government's request to de-list Gulbuddin Hekmatyar. Indeed, the prospect of lifting sanctions was a key component of the September 2016 agreement, which rehabilitated Hekmatyar and his group as a political actor in Afghanistan in exchange for laying down arms and joining the government coalition.

## Conclusion

It is clear that the relationship between UN sanctions and peace mediation defies simple generalisations. In some cases, we have found complementarity between both tools in a way that challenges the conventional wisdom among mediators who see UN sanctions as a liability. In other cases, UN sanctions have complicated and even contradicted peace-mediation efforts, serving as a cautionary tale for those who see sanctions as a simple tool of leverage in mediation. A nuanced picture is emerging, one which (1) emphasises the complexity of the relationships between sanctions and mediation, (2) directs us to focus on the conditions under which sanctions complement or complicate peace mediation efforts, and (3) illustrates the need for sanctions and mediation practitioners to engage in a dialogue with each other. We hope to contribute further by releasing the full results of our research in November 2018.

## Endnotes

- 1 I. William Zartman. & Alvaro de Soto, *Timing Mediation Initiatives*, USIP Peacemakers Toolkit Series, 2010.
- 2 United Nations Mediation Support Unit, *United Nations Guidance for Effective Mediation*, Policy and Mediation Division, United Nations Department of Political Affairs, 2012, p. 10.
- 3 Zartman & de Soto, p. 39.
- 4 United Nations Mediation Support Unit, p. 18.
- 5 For notable exceptions, see: Peter Wallensteen, Mikael Eriksson, & Daniel Strandow, *Sanctions for Conflict Prevention and Peace Building: Lessons Learned from Cote D'Ivoire and Liberia*, Report by Uppsala University, 2006; Thomas Biersteker & Zuzana Hudáková, *UN Sanctions and Peace Negotiations: Possibilities for Complementarity*, Oslo Forum Papers, 2015; Jennifer M. Welsh, 'Mediation and sanctions: applying conflict prevention tools in atrocity prevention', in *The Responsibility to Prevent: Overcoming the Challenges of Atrocity Prevention*, edited by Jennifer M. Welsh & Serena K. Sharma, Oxford University Press, 2015; and Rebecca Brubaker & Thomas Dörfler, *UN Sanctions and the Prevention of Conflict*, United Nations University Centre for Policy Research, Conflict Prevention Series: No. 4, 2017.
- 6 For more information, see the website of the project: <https://unu.edu/sanctions-and-mediation>.
- 7 The project focuses on UN sanctions and mediation processes with UN involvement. Sanctions and mediation are two essential policy instruments used by the United Nations to promote peace and security and almost always deployed in conjunction. This makes it feasible to examine interaction effects through research and, at the same time, it promises to generate relevant findings for policymakers.
- 8 Figures taken from Biersteker et al, 'The Effectiveness of United Nations Targeted Sanctions', in *Targeted Sanctions: The Impact and Effectiveness of United Nations Action*, edited by Thomas Biersteker, Sue E. Eckert, & Marcos Tourinho, Cambridge University Press, 2016, p. 236.
- 9 Jon Hovi, Robert Huseby, & Detlef F. Sprinz, *When do (imposed) economic sanctions work?*, World Politics, July 2005, pp. 479-499.
- 10 UN Security Council Resolution 2206, 3 March 2015, para. 11.
- 11 David Lanz, *Who gets a seat at the table? A framework for understanding the dynamics of inclusion and exclusion in peace negotiations*, International Negotiation, vol. 16, no. 2, 2011.
- 12 Zartman & de Soto, above note 1.
- 13 The draft UNSC resolution regarding South Sudan, tabled by the US on 19 August 2015, is available on the UN Report blog: <http://un-report.blogspot.ch/2015/08/us-draft-resolution-on-south-sudan.html>.
- 14 Zach Vertin, *A Poisoned Well: Lessons in Mediation from South Sudan's Troubled Peace Process*, International Peace Institute, 2018.



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