ECOWAS
Dialogue and Mediation Handbook

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Foreword

ECOWAS has a rich history in preventive diplomacy and mediation, deriving from the experiences and lessons learnt from over two decades of interventions in civil wars and political conflicts within the region. These include interventions that led to the end of the civil wars in Liberia, Sierra Leone and Guinea Bissau from the beginning of the 1990s to the early 2000s. It also includes the more recent political conflicts in Togo (2005; 2007), Guinea (2008-2010), Guinea-Bissau (2008-2009, 2012-2014 and 2015-2017), Cote d'Ivoire (2011-2012), Niger (2009-2011), Mali (2012-14), and Burkina Faso (2014-15). Among other numerous interventions, the recent successful resolution of the 2016 post-election crisis in The Gambia further displayed the organisation's preventive diplomacy and mediation work and abilities.

In furtherance of the recommendations from the 2010 Monrovia Declaration (Two Decades of Peace Processes in West Africa) and the 2014 Mali After-Action Review, the ECOWAS Commission, in 2015, established the Mediation Facilitation Division (MFD) within the Directorate of Political Affairs (DPA). The MFD is mandated (amongst other aspects) to facilitate and support capacity-building and knowledge management in dialogue and mediation for ECOWAS mediators, facilitators, and their support staff - pursuant to the provisions of the 2008 Conflict Prevention Framework (ECPF).

This Dialogue and Mediation Curriculum (DMC) is part of the strategic objective of the DPA, through the MFD, to develop tools for the strengthening of ECOWAS's capacities for the prevention, resolution and management of conflicts in the region. The DMC is intended as a standardised and regionally contextualised training guide for enhancing the capacities and knowledge for the diverse range of mediation actors at the Track I, II, and III levels of preventive diplomacy. The curriculum will also expose potential mediators, facilitators, special envoys, Council of the Wise members, and special and resident representatives to the ECOWAS Peace and Security Architecture (EPSA), as well as to the normative and legal frameworks for conflict prevention, management and resolution.

The DMC is structured along four phases: the Pre-Talks Phase, which focuses on preparation for mediation; the Talks Phase, which details the conduct of the mediation process itself; the Agreement Phase, which looks at moving toward and closing mediation processes as well as the development of durable and sustainable agreements; and a final Phase, which deals with the implementation, monitoring and evaluation of (peace) agreements.

I commend the efforts of the DPA for developing this curriculum, and it is my hope that it will complement other initiatives of the Department of Political Affairs, Peace and Security, aimed at consolidating peace and stability in the ECOWAS region.

Halima Ahmed
Commissioner, Political Affairs Peace and Security
ECOWAS Commission

Acknowledgements

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LIST OF ACRONYMS

APC	All People's Congress (Sierra Leone)
APSA	African Peace and Security Architecture
ASF	African Standby Force
AHSG	Authority of Heads of States and Government
AU	African Union
CAPES	Centre for Analysis of Economic and Social Policy (Burkina Faso)
CDF	Civil Defence Force (Sierra Leone)
CEWS	Continental Early Warning System
CISU	Central Intelligence Security Unit (Sierra Leone)
CDVR	Commission on Dialogue, Truth and Reconciliation (Côte d'Ivoire)
CLHRE	Centre for Law and Human Rights Education (Liberia)
CMS	Committee for Mediation and Security
CNDHCI	National Commission on Human Rights (Côte d'Ivoire)
CODESRIA	Council for the Development of Social Science Research in Africa
CoW	Council of the Wise
CPA	Comprehensive Peace Agreement (Liberia)
CSO	Civil Society Organization
DISEC	District Security Committee (Sierra Leone)
DPA	Directorate of Political Affairs (ECOWAS)
ECOMOG	ECOWAS Ceasefire Monitoring Group
ECOWARN	ECOWAS Early Warning and Response Network
ECOWAS	Economic Community of West African States
ECPF	ECOWAS Conflict Prevention Framework
ESF	ECOWAS Standby Force
FAO	Food and Agriculture Organization
ICG	International Crisis Group
IISS	International Institute for Strategic Studies
INEP	National Institute for Research and Studies
ISS	Institute for Security Studies
INEP	National Institute of Research and Studies
IRCSL	The Inter-Religious Council of Sierra Leone
LURD	Liberians United for Reconciliation and Democracy

LWI	Liberia Women Initiative
MARWOPNET	Mano River Union Women's Peace Network
MFD	Mediation Facilitation Division (ECOWAS)
MODEL	Movement for Democracy in Liberia
MRU	Mano River Union
MSC	Mediation and Security Council (ECOWAS)
MSC	Military Staff Committee (AU)
MSU	Mediation Support Unit (UN)
NCCP	National Coordinating Committee for Peace (Sierra Leone)
NGO	Non-governmental Organization
NPFL	National Patriotic Front of Liberia
NPP	National Patriotic Party (Liberia)
NSC	National Security Council (Sierra Leone)
OAU	Organization of African Unity
OHCHR	Office of the UN High Commissioner for Human Rights
OMC	Observation and Monitoring Centre (ECOWAS)
ONS	Office of National Security (Sierra Leone)
OMZ	Observation and Monitoring Zone (ECOWAS)
PAIGC	African Party for the Independence of Guinea and Cape Verde
PAPS	Political Affairs, Peace and Security
PBO	Peace-Building Office (Liberia)
PDAs	Peace and Development Advisors (UN)
POW	Panel of the Wise (AU)
PROSEC	Provincial Security Committee (Sierra Leone)
PRS	Poverty Reduction Strategy (Liberia)
PSC	Peace and Security Council (AU)
PSO	Peace Support Operations
P4DP	Interpeace Platform 4 Dialogue and Peace
REC	Regional Economic Community
RUF	Revolutionary United Front
SLA	Sierra Leone Army
SLP	Sierra Leone Police
SSR	Security Sector Reform
TRC	Truth and Reconciliation Commission
UN	Unite Nations
UNAMSIL	United Nations Mission in Sierra Leone

UNDP	United Nations Development Programme	UNOMIL	United Nations Observer Mission in Liberia
UNDPA	United Nations Department for Political Affairs	UNOWA	United Nations Office for West Africa
UNIOSIL	United Nations Integrated Office for Sierra Leone	UNOWAS	UN Office for West Africa and the Sahel
		UNSC	United Nations Security Council
UNIPSIL	United Nations Integrated Peacebuilding Office in Sierra Leone	UNSG	United Nations Secretary-General
		UNSRSG	United Nations Special Representative of the Secretary-General
UK	United Kingdom		
UNMIL	United Nations Mission in Liberia	VdP	Voz di Paz
UNOCI	United Nations Operation in Côte d'Ivoire	WACSOF	West African Civil Society Forum
UNOL	United Nations Peacebuilding Support Office in Liberia	WANEP	West Africa Network for Peacebuilding
		WARN	West Africa Early Warning and Early Response Network
		WIPNET	Women in Peacebuilding Network of WANEP
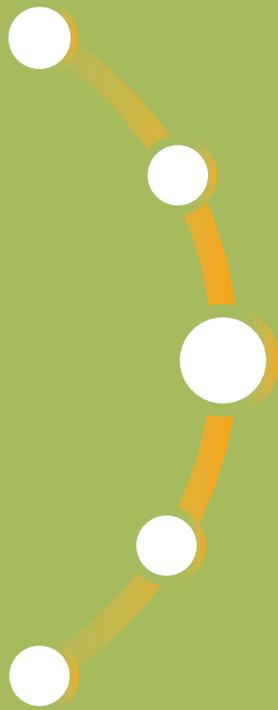
OVERVIEW

This handbook is the result of a dedicated strategy to professionalize mediation within ECOWAS and is part of a broader Dialogue and Mediation Curriculum (DMC). The broad objective of the DMC will be to strengthen regional capacities for the prevention and management of conflicts in the region. Through the DMC, ECOWAS will have coherent, standardised and regionally-contextualised training modules, and guidance for enhancing capacities of the diverse range of mediation practitioners. It is part of the core mandate of the ECOWAS Directorate of Political Affairs (DPA) to provide support, coordination, and monitoring of mediation efforts by ECOWAS institutions and organs as well as by Member States and non-State actors, and by joint initiatives.
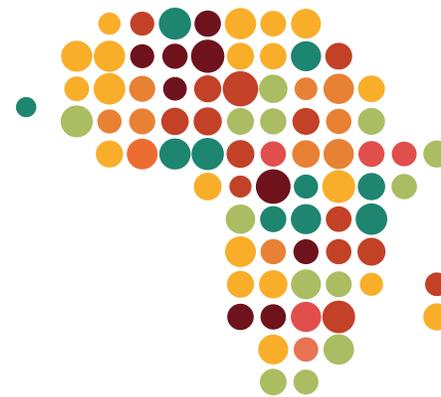
The DMC is authored by the Mediation Facilitation Division (MFD). Its mandate is defined as a mediation capacity within the ECOWAS Commission to promote preventive diplomacy in the region through the competence and skills enhancement of mediators, as well as information sharing and support. As such, the DMC is responding to the following identified needs:

1. The need for the MFD to establish a rapid deployment capability to enable it to react quickly to the potential outbreak of conflicts through mediation interventions;
2. The importance of establishing a small group of standby consultants who know the ECOWAS region well, possess relevant skills, and prioritise working with the ECOWAS Mediation Organs when needed;
3. The need to facilitate the cultivation of a culture of dialogue within the West African polity;
4. The provision of capacity-building/enhancement services and resources to ECOWAS mediation organs and staff;
5. The need for ECOWAS to exploit the resources available within civil society [across the region] to enhance the effectiveness of its mediation activities;
6. The need for ECOWAS to establish a corps of mediators across the region by requesting a list of potential mediators available within ECOWAS Member States.

The DMC is supported through the generous support and funding of GIZ, allowing for the development of the curriculum and the carrying out of pilot documentation and training to be adapted by Training Centres of Excellence across the region.

In essence, this book is a practical tool, effectively responding to the afore-mentioned needs of managing dialogue and mediation. It offers ideas, methods and techniques for understanding and working on mediation. It is based on the insights that practitioners and communities have gained from their first-hand experiences in conflict situations.

DEFINING MEDIATION

Mediation is defined as assisted negotiation in which an external actor enters the peacemaking process in order to influence and alter the character of previous relations between conflicting parties. Mediation, in the context of political mediation, is linked to three other types of informal interventions: conciliation, good offices, and fact-finding. Conciliation involves a trusted third party providing an informal communication link between the antagonists for the purpose of identifying the major issues, lowering tension, and encouraging the concerned parties to move toward direct interaction, such as negotiation, in order to deal with their differences. Related forms of limited third-party intervention include good offices, where the intermediary acts simply as a go-between, and fact-finding, where a third party assesses the situation and provides a statement back to the parties. In practice, all of these methods overlap with mediation. In order to avoid conceptual confusion, the handbook will consider these three mechanisms as integral parts of ECOWAS mediation activities.

THE ROLE OF THE MEDIATOR

The main aim of mediators and their teams is to provide a buffer for conflict parties and to instil confidence in the process and a belief that a peaceful resolution is achievable. A good mediator promotes exchange through listening and dialogue, engenders a spirit of collaboration through problem solving, ensures that negotiating parties have sufficient knowledge, information and skills to negotiate with confidence, and broadens the process to include relevant stakeholders from different segments of a society. Mediators are most successful in assisting negotiating parties to forge agreements when they are well informed, patient, balanced in their approach, and discreet.

MEDIATION STYLES AND STRATEGIES

In order to be effective, a mediator needs to make use of the entire range of styles, from being pacific at one extreme or coercive on the other extreme. The variables that guide the degree to which a mediator is non-coercive or coercive are coined as 'conflict severity' and 'issue rigidity,' which in turn prime parties' behaviours,

attitudes and orientations to conflict. While mediators strive to reach peaceful outcomes, the hindrances and obstacles to such outcomes, either posed by the conflict parties themselves, or by a sudden change that triggers the fragility of peace talks, are often formidable.

Exerting any form of leverage over parties can also be a challenging undertaking. Third parties need to have sufficient resources (international support and funding) at their disposal and the necessary power (mandate) to build coalitions and alliance and to increase the overall opportunity costs of peace. The use of 'carrots and sticks' can find its limits whenever the parties are not tied to aid or other benefits, or if there are not sufficient external pressures to reach and enforce a settlement. The third party may also not be easily in the position to make use of 'carrots and sticks' since it may compromise his/her credibility or legitimacy in the process. Therefore, mediators need to constantly assess the context and actors' dispositions and negotiation agendas so as to consistently adapt their styles and strategies towards reaching a settlement.

SUITABILITY OF MEDIATION AS A TOOL FOR CONFLICT REGULATION

The criteria to assess the suitability of mediation as a mode of engagement includes who to engage and how to engage them, more specifically: (1) the expressed willingness of the parties to explore a negotiated settlement; (2) windows of opportunity for conflict resolution; (3) reasons for success or a failure of ongoing or previous mediation engagements; (4) the intent and interests of current and potential spoilers; (5) the interests and influence of external players on a possible mediation process.

Mediation may not be the only suitable process to halt belligerents in their armed struggle and it may have to be coordinated with other peacemaking activities. Mediation may not be appropriate where: (1) parties are not genuinely committed to a resolution through dialogue or are only seeking to 'buy time'; (2) parties are seeking third party mediation to validate their

grievances or are looking to exploit the mediation process for other ends; (3) conflicts are 'frozen', i. e., where the fundamental strategic factors that caused the conflict in the first place have not changed.

CLARIFYING THE PROCESS-CONTEXT-OUTCOME TRAJECTORY

A mediation strategy is the roadmap approach to the regulation of the conflict, including the principles of: (1) process design (process), (2) roles, views and expectations of local and international actors (context), coordination architecture, and an (3) indication of post-agreement requirements (outcome) to enable peace (agreement) implementation. A mediator needs to ensure that process-context-outcome are tightly interlinked and aligned to the multilayered peacemaking system in order to reach an effective outcome. These considerations will shape mediation styles and strategies to the extent that the process needs to be continuously adapted to contextual (and often situational) dimensions (of power, time, and culture).

Some of the process consideration might entail elements such as: representation at the negotiating table, agenda, venue-setting, additional funding and capacity-building requirements, synchronization and coordination with other peacemaking efforts and actors; context considerations such as cultural and religious context, institutional context, geopolitical context (balance of forces), consolidation or fragmentation of (armed) groups, gender norms, incentives and peace dividends for potential spoilers, the use of insider (partial) mediators, notions of 'ripeness', the need for confidence-building measures, and other contextual considerations; outcome considerations like support structures for peace implementation, guarantees, workable and durable agreements, aid and development, sequencing of Security Sector Reform (SSR), and Demobilization, Disarmament and Reintegration (DDR) issues, as well as monitoring of mediated agreements, conditions of success for mediation, and others.

The process will be visualized in the following way, allowing the reader to follow along and keep track through each part of the handbook:

	Phase 1: Pre-Talks	Phase 2: Talks	Phase 3: Closing	Phase 4: Implementing
Task 1	Preparing for the mandate to mediate	Ensure proper representation	Establish objective decision-making	Decide on the role of the mediator
Task 2	Run conflict analysis	Apply BADGER	Decide on type of agreement	Monitoring and evaluation
Task 3	Ensure ripeness	Forge alliances and coordination among tracks	Use mediation support structures	Coordination with peace support operations
Task 4	Set agenda & ground rules	Connect with civil society and grass roots	Use public diplomacy	Ensure dispute resolution

Phase I focuses on the pre-talks, including the triggering of the mechanism for mediation, and context and conflict analysis. It emphasizes ripeness and party readiness, the seizing of windows of opportunities, defining the mediator(s) role(s) during the mediation process, the setting of an agenda and the use of ground rules as a first building block for confidence-building measures.

Phase II is about the talks and is centred on how to manage overlapping mediation activities. It focuses on how to conduct Track I mediation. It sets the stage in planning for the talks, deciding on a mediation style, setting the venue, deciding on how to manage the talks, and deciding on a negotiation strategy. Further, it is concerned with coordinating Track I and Track II mediation. It looks for entry points to identify and collaborate with the right Track II actors, as well as how to promote cooperation between tracks, use Track II to break impasses, and engage in dialogue and training to sustain peace efforts through Track II initiatives. Finally, it looks at sustaining the mediation activities by including and putting Track III actors at centre-stage (Definition of Tracks on page 13).

Phase III is about moving toward and closing a durable and sustainable agreement.

Phase IV is about the implementation of the (peace) agreement itself and it highlights the importance of monitoring and evaluation of peace agreements, ensuring legitimacy and making way for redress mechanisms. Within that phase, the handbook will also be exploring special issues linked to dedicated agreements, such as ceasefire agreements or national dialogue agreement.

ECOWAS NORMATIVE FRAMEWORKS FOR PEACE AND SECURITY

The Treaty establishing ECOWAS came into being in May 1975 with a vision to create a single regional economic space as a building block for the continental common market, though integration and collective self-reliance. It was to be an economic single market space and single currency capable of generating accelerated socio-economic development and competing more meaningfully in the global market of large trade blocs. The attempts at the time to address the issues of peace and security were informed by the realities of Cold War politics.

The key normative documents on peace and security were the 1978 Protocol on Non-Aggression, followed in 1981 by the Protocol of Mutual Assistance in Defence. In 1979 came the adoption of the Protocol on Free Movement of Persons, the Rights of Residence and Establishment.

Based on the experiences in the region, and understanding the nexus between internal conflict and development, the Treaty was revised in 1993, introducing for the first time, Article 58(2) on Regional Security, which clearly addresses the prevention and resolution of intra-state conflicts.

Mauritania
(Former member, withdrew in 2000)

Cape Verde

Senegal

Gambia

Mali

Niger

Burkina Faso

Guinea

Guinea-Bissau

Sierra Leone

Liberia

Côte d'Ivoire

Ghana

Benin

Nigeria

Togo

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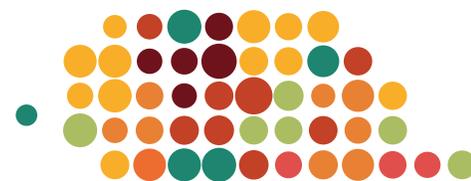
Revised in 1993, the ECOWAS Treaty now conferred supra-nationality on the regional body. In 1999, ECOWAS adopted the Protocol relating the to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping, and Security (The Mechanism), followed closely by the adoption of the Supplementary Protocol on Democracy and Good Governance in 2001 (The Supplement). The Mechanism established the Institution of the Authority of Heads of State and Government as the highest decision-making body of ECOWAS, with powers to act on all matters concerning conflict prevention, conflict management, conflict resolution and peacekeeping.

In Article 58 of the Revised Treaty, ECOWAS committed itself to "employ, where appropriate, good offices, conciliation, meditation and other methods of peaceful settlement of disputes." Under Article 4 of the Mechanism, the Authority of Heads of State and Government, the Mediation and Security Council (MSC), and the ECOWAS Commission have specific roles to play in mediation and conflict prevention, resolution, and management in West Africa.

The Authority of Heads of State and Government (AHSG), the highest decision-making body of ECOWAS, is mandated to act on all issues relating to conflict prevention, management, and resolution. On its behalf, the MSC decides on all matters relating to peace and security, conflict prevention, and authorization of the deployment of military and political mediation missions. The Commission implements decisions of the Authority and the MSC (Articles 6 and 7) relating to conflict prevention, management, resolution, peacekeeping, and security in West Africa. In line with this responsibility, the President of the ECOWAS Commission deploys fact-finding and mediation missions and appoints members of the Council of the Wise (CoW). This body, formerly named the Council of Elders, is made up of eminent personalities from all fifteen ECOWAS states who use their good offices and experience to play the role of mediators, conciliators, and facilitators on behalf of ECOWAS (as in Articles 17 and 20 of the Mechanism). Members of the Council are not necessarily professional mediators.
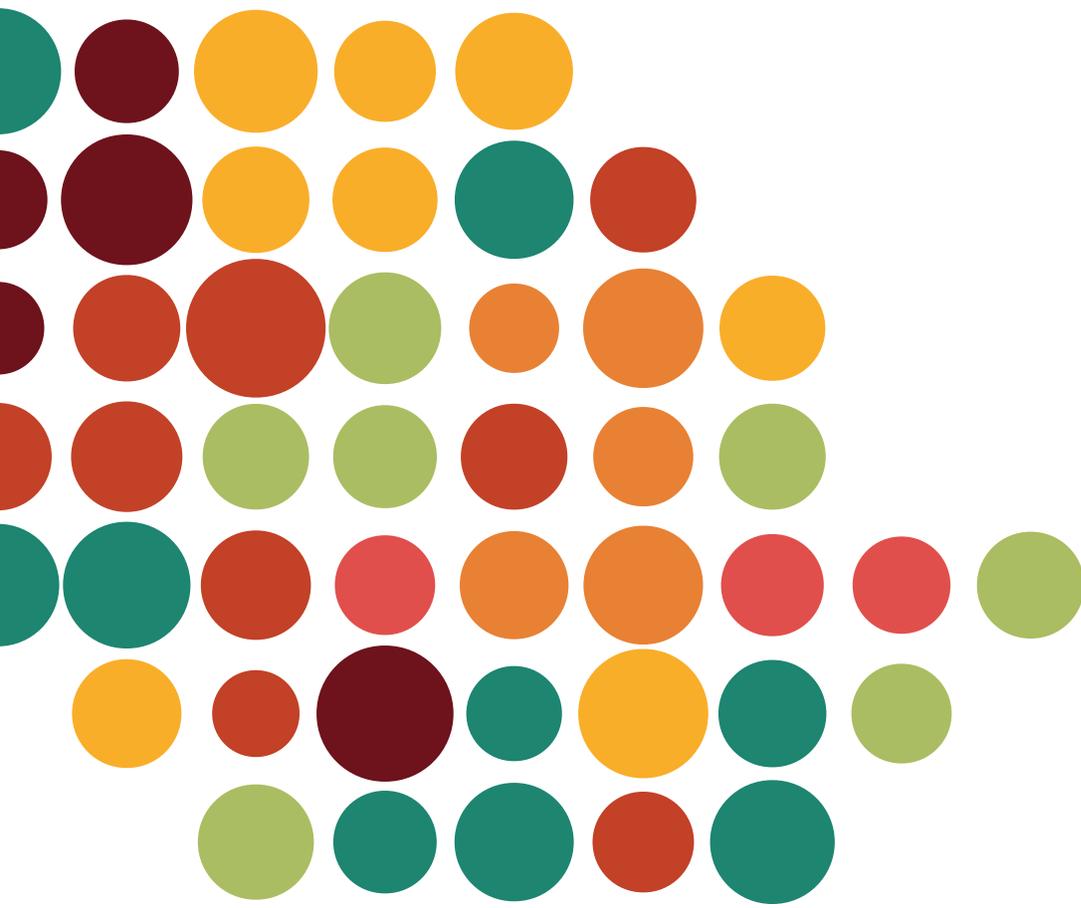
ALERT & RESPONSE STRUCTURE

Response

Early Alert

- AUTHORITY OF HEADS OF STATE AND GOVERNMENT
- MEDIATION AND SECURITY COUNCIL
- RESPONSE
- PRESIDENT OF THE COMISSION
- ALERT
- EARLY WARNING
- COMMITTEE OF CHIEFS OF DEFENCE STAFF (MILITARY)
- ECOWAS STAND-BY FORCE (ESF) FOR MILITARY INTERVENTIONS
- HUMANITARIAN RESPONSE DURING EMERGENCY CASES
- DEPLOYMENT OF EARLY RESPONSE MECHANISMS:
  - GOOD OFFICES MISSIONS;
  - FACT-FINDING MISSIONS
  - PREVENTIVE DIPLOMACY / MEDIATION TOOLS – USING COUNCIL OF THE WISE, SPECIAL ENVOYS, MEDIATORS FOR NEGOTIATION, FACILITATIONS, ETC.

Finally, in 2008, the ECOWAS Conflict Prevention Framework (ECPF) (The Framework) was adopted to institutionalize and enhance mediation capacities in West Africa. It commits ECOWAS to the development of a comprehensive preventive diplomacy architecture that seeks to address gaps in mediation with the participation of major stakeholders. Preventive diplomacy, according to ECOWAS, is considered to be an operational conflict-prevention tool to deal with imminent conflict. It is to be used to promote conflict resolution within member states through good offices, mediation, conciliation, and facilitation based on dialogue, negotiation, and arbitration.

In June 2015, ECOWAS effectively established the Mediation Facilitation Division (MFD), within the Department of Political Affairs, Peace and Security (PAPS). Among other aspects, the MFD is mandated to effectively advance *"a mediation facilitation capacity within the ECOWAS Commission to promote preventive diplomacy in the region through competence and skills enhancement of mediators and support staff…"* *(ECOWAS Conflict Prevention Framework, Art. 49).*

Conceived as a facility to support the institutionalization and professionalization of mediation, the MFD has a strategic role to play as a backstop office for anything related to mediation, from rostering, to supporting the special envoy, to providing policy recommendations, and managing knowledge emanating mediation initiatives undertaken by the institution. The facility has a strategic location within the hierarchy of ECOWAS organs allowing for information-sharing and open lines of communication:

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                        Commissioner

   Director, Political Affairs    Director, Early        Director, Peacekeeping
          Directorate          Warning Directorate      and Regional Security

Principal Programme Officer,  Principle Programme    Principle Programme Officer,    Principle Programme Officer,
  Mediation and Facilitation  Officer, Democracy and  Political Affairs and International  Electoral Assistance Division
         Division              Good Governance            Cooperations

     Programme Officer,
     Capacity Building

     Programme Officer,
    Knowledge Management

     Programme Officer,
        Operations
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COORDINATION AND COMPLEMENTARITY

When engaging in intra-state conflicts, it is critical to seek strategic coordination with other peacemaking actors. An international organization mandating the mediation at the highest level, such as the UN and its UN Security Council, is rarely the only actor to get involved in bringing the international conflict to an end. There is a need for alignment of strategies and coordination, and the building of a common vision and support. Failure to align initiatives could prevent the mediation from benefiting from the comparative advantages of different actors. In any event, the backing of regional, sub-regional and local efforts will be essential to the mediation's success.

Whilst the mediator may be limited by the mandate, he/she will do what is necessary to make use of his/her leverage and to build alliances and coalitions in order to open up the space to support the high-level mediation initiatives and thus lay the foundation for constructive dialogue. Preparing for peace implementation, including notions of national dialogue and reconciliation, the mediator will strive to ensure a multi-layered mediation process, putting in a place a system that provides the framework for peacebuilding discourse to take place.

PRINCIPLE OF SUBSIDIARITY

The principle of subsidiarity posits that ECOWAS is taking the responsibility for dealing with the extent and scope of regional conflicts as enshrined in Chapter VIII of the UN Charter (Regional Security Arrangement). Whenever it comes to an intervention, ECOWAS will lead the mediation effort, along with the UN System and the AU.

Modes of engagement follow a hierarchical order as to how responsibility is shifted and authority is delegated downwards (see Figure).

	Mode	Level	Mode	Actor	When?
3rd Intl. Resort	Responsibility	Global	Delegation	UN	• 'When all elsse fails' • Use of force required
2nd Intl. Resort		Regional		AU	• No REC available • REC insufficient
1st Intl. Resort		Sub-regionanl		RECs (AMU, ECOWAS, IGAD, ECCAS, SADC)	• States unable to resolve their differences • Intra-state problems not solvable at national level
Intl. Resort Zero		National		States	• Bilateral disputes between states
1st Resort		Intra-state		Local authorities The actors themselves	• 'Normal circumstances'

ALIGNING MEDIATION TRACKS

The handbook aims to streamline all mediation efforts within a singular ECOWAS-branded mediated activity. This contributes to cohesiveness and the complementarity of mediation efforts in the peacemaking-peacebuilding trajectory. It also allows for better evaluation of ECOWAS-streamlined mediation operations. Thus, the handbook speaks and adheres to audiences at the Track I (including 1.5), Track II and Track III level:

• Track I refers to official discussions between high-level governmental and military leaders focusing on ceasefires, peace talks, treaties and other agreements;

• Track II refers to unofficial dialogue and problem-solving activities aimed at building relationships between civil society leaders and influential individuals that have the ability to impact on Track I dynamics (and who are sometimes, although rarely, invited to participate in official and formal negotiations). When governments' representatives take part in non-governmental, informal dialogue, this is referred to as 'Track 1.5';

• Track III consists of people-to-people interactions at the grassroots level to encourage interaction and understanding between communities through meetings, media exposure, and political and legal advocacy for marginalised people and communities.

While actors on different levels continue to engage in their regular operations, the mediation effort will synchronize and coordinate their activities toward the main mediation activity, leading to more effective peace(building) to support the overall intervention.

Approaches to peace(bulding)	Main entry-points	External intervention strategies	Stages of intervention
Power-based, deal brokering diplomacy	Track I	Negotation Muscled mediation Mediation support	Formal peace process
Interest-based, problem-solving diplomacy	Track 1.5 and II	Facilitation Dialogue/mediation support	From early informal talks to post-agreement negotiations
Transformative, long-term diplomacy	Track II and III	Negotaion support Dialogue support	All stages of conflict transformations
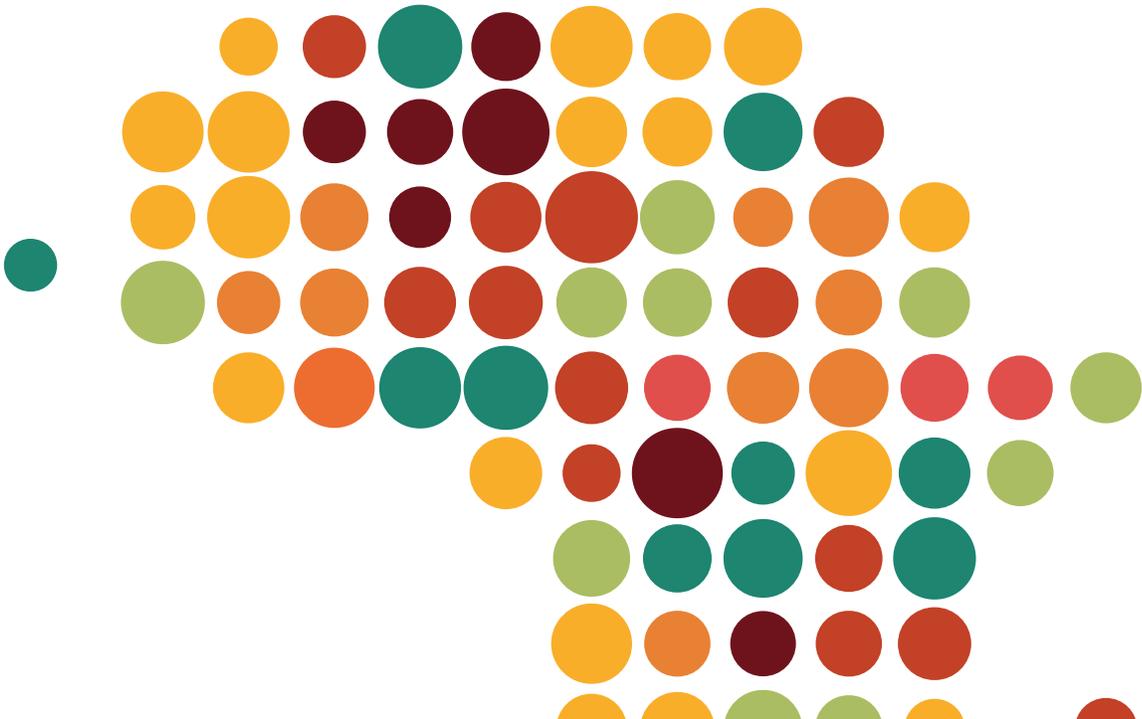
HOW TO USE THE HANDBOOK

The handbook provides a relevant overview of the mediation process within the institutional framework of ECOWAS and the tracks within. Each section starts with an overview of key learning points, a presentation of relevant information, including case studies, and ending with key reflection questions, a checklist, and a few items for further research or reference. Throughout the handbook, there are hyperlinks, allowing the user to click and activate an external resource for further reference.

Yet, the handbook is an organic document and needs to live within the realities of involved mediators. Therefore, the reader is invited to share comments, thoughts, and reflections with ECOWAS's MFD for further processing, updating and knowledge management.

FURTHER TRAINING REFERENCES:

1. Inside the Box: Using Integrative Simulations to Teach Conflict, Negotiation and Mediation. CSS, 2015

2. Dialogue and Mediation: A Practitioner's Guide, West Africa Network for Peacebuilding, 2012, WANEP

3. United Nations Peacemaker Resources, 2014

Pempiase

Readiness, preparedness, strength and unity

PHASE I: PRE-TALKS

Task 1: Preparing for the mandate to mediate

Task 2: Run conflict analysis

Task 3: Assessing ripeness

Task 4: Set agenda and establish ground rules

INTRODUCTION

Every conflict situation (a definition of conflict is suggested on p. 24) triggers seismic changes among the involved parties, the local and regional populace, the regional security apparatus, and the international community. Key to understanding the pertinence of dynamics and drivers of conflict, and therefore informing the strategies and roles used by mediators, is a thorough understanding of the problem and the contextual environment. ECOWAS structures focusing on maintaining peace and security in the region have specific parameters upon which the mechanisms safeguarding the communities from violent warfare are triggered. Understanding these institutional specificities is key for an informed mediation process, allowing the mediator to identify proper entry points, gauge relevant supporting actors, and get a general sense of direction and coordination with peace support.
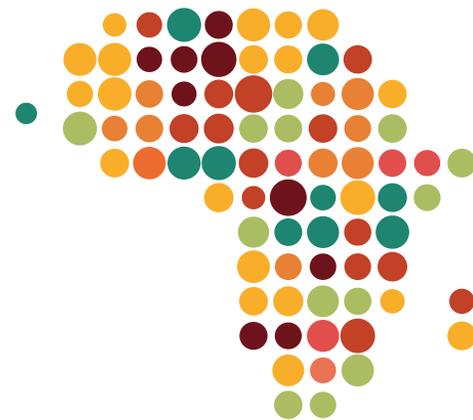
The mandate to prepare for mediation is issued as soon as Article 25 of the Mechanism is triggered, which involves:

- Aggression or intra-state armed conflict, or the threat to peace and security from a conflict in one of the ECOWAS member states;

- Internal strife with the potential to become a humanitarian disaster;

- Serious human rights violations or attempts to violently contend the existing and-prevailing Rule of Law in a member state;

- Inter-state conflict between two or more ECOWAS member states;

- Coup d'états or unconstitutional changes of a democratically-elected government, or other incidents deemed relevant by the Mediation and Security Council (MSC) and that pertain to a threat to regional peace and security.

In the complex political environments in which ECOWAS mediators operate, it is essential that they have a team to support their efforts and help them carry out their various tasks effectively. The mediator needs to know not only what needs to be done but also whether he or she is the right person to do it—whether he or she has the right skills, the right resources, and the right support to be successful.

An effective mediation role is ensured when:

- There is an appropriate mediation mandate;

- The mediator is a credible go-between;

- The mediation team has the required roster, expertise and set of competencies;

- Mediation is identified as the suitable pathway for intervention; and

- Co-mediators are effectively managed and coordinated.

WHO IS MANDATING THE MEDIATION?

Securing Mandate for mediation:
Institutions and Processes

The Authority of the Heads of State and Government (AHSG) is the primary decision-making body/ mandating authority on all matters concerning conflict prevention, management and resolution, peace-keeping, security and peacebuilding, among others. The Authority may delegate its powers to the Mediation and Security Council (MSC).

With reference to preventive diplomacy, and in particular mediation (key objectives of the Mechanism), the Authority via its Chairperson will normally reach agreement and decide on the appointment of a mediator, facilitator or special envoy for a particular situation. This decision is based on consensus rather than a vote.

In cases where the Authority has delegated power to the MSC, it is up to this institution to consider several options and decide on the most appropriate course of action to take in terms of intervention. Such options may include recourse to the Council of the Wise, the dispatch of fact-finding missions, good offices missions, and other preventive diplomacy tools. Per the Mech-

anism, the MSC is the only ECOWAS institution where nine member states can take decisions with a two-thirds majority. The composition of the MSC is a rotational system comprising nine countries elected for a two-year period, with no permanent seats. The MSC operates at the levels of the heads of state, ministers of foreign affairs, and ambassadors accredited to Abuja, Nigeria, where the ECOWAS Secretariat is based. The ECOWAS-member ambassadors to Nigeria, who are concurrently accredited ambassadors to ECOWAS, hold regular MSC meetings. The MSC can activate the mechanism of intervention, per Art. 25, which states that the Council might decide on political and military interventions in member states, in the 'event of [a] serious and massive violation of human rights and the rule of law', or if there is 'an overthrow or attempted overthrow of a democratically elected government' as well as 'any other situation as may be decided by the Mediation and Security Council'.
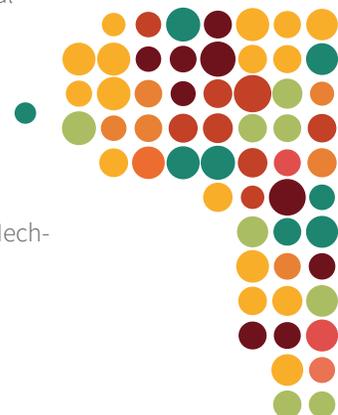
The Mechanism itself consists of several steps. First, the executive secretary (President of the Commission) briefs members of the MSC on political and security situation in the region and 'in consultation with the chairman…" takes all necessary and urgent measures (Art. 27 of the Mechanism). The MSC therefore decides upon the course of action, based on the briefing, which may include 'recourse to the Council of the Wise, the dispatch of fact-finding missions, political and mediation missions or intervention by ECOMOG [ECOWAS Cease-Fire Monitoring Group]' (Art. 27 of the Mechanism). The President of the Commission then draws up a plan according to the mandate given to him by the MSC, informs the African Union (AU) and the United Nations (UN), and is responsible for securing funding for the operations and also coordinating with other international support.

In accordance with Article 15 of the Mechanism, the President of the Commission, in consultation with the Chairperson of the Authority may initiate actions for conflict prevention, management, resolution, peace-keeping and security. These actions may include

fact-finding, mediation, facilitation, negotiation and reconciliation of parties in conflict. It is important to note that these actions may be undertaken by the President of the Commission in his or her institutional capacity, making this a key institutional actor with regards to preventive diplomacy and mediation.

Consequently, institutionally, the Authority of Heads of State and Government, the Mediation and Security Council and the President of the Commission work in synergy in approving mediation mandate.

Within the ECOWAS Commission, the Office of the Commissioner for Political Affairs, Peace and Security (PAPS) is responsible for peace and security issues and oversees the Directorate for Early Warning, the Directorate of Political Affairs and the Directorate of PeaceKeeping and Regional Security (DPKRS). PAPS is the starting point of mediation efforts providing an analysis of the situation at hand with recommendations, which is presented to the President of the Commission as well as the Mediation and Security Council. The Department of Political Affairs, Peace and Security (PAPS) has the MFD, a division dedicated to supporting mediation missions, like the UN and the AU, which provides backstop support to all mediation initiatives, including fact-finding, quiet diplomacy, conciliation and also support to the Council of the Wise (CoW).

Case Study: ECOMOG and Liberia, 1990

By May, 1990, the Liberian crisis had degenerated into unspeakable tragedy as many people had been killed. The Liberia Council of Churches, Muslim leaders and other influential Liberians asked the United Nations and the United States to intervene. But nobody was willing. The organization of African Unity (OAU) referred to its clause on non-interference in the internal affairs of member states. The then Secretary-General of the United Nations (UN), Javier Perez de Cuellar, did not mince words in saying that the UN would not intervene and United

States bluntly refused to move in and separate the warring factions. All appeals from ECOWAS and other international organizations for the warring factions to halt the killings went unheeded. It was against this background that the 13th Session of the Authority of Heads of State and Government of ECOWAS convened in Banjul, The Gambia, from 28-30th May, 1990 under the Chairmanship of Blaise Compore of Burkina Faso. It was at that occasion that former President Ibrahim Babangida of Nigeria proposed the setting up of a Community Standing Mediation Committee (now: MSC). In deciding to establish the now MSC, the Authority stated that it was convinced that "regional security and stability, as well as peace and concord are necessary conditions for effective sub-regional cooperation and integration", and that it was fully aware of "the disruptive effect that recurrent situations of conflict and dispute among member states have on the ultimate ECOWAS goal of a harmonious and united West African society." The Mediation Committee was charged with a mediatory role between all the factions. The first meeting of the Committee was held in Banjul, Gambia, from 6-7th August, 1990 under the Chairmanship of Sir Dawda Jawara. On the 7th August, 1990, the MSC established an ECOWAS Cease-fire Monitoring Group (ECOMOG) in Liberia to halt the "wanton destruction of human life and property and… massive damage… being caused by the armed conflict to the stability and survival of the entire Liberian nation".

ECOMOG was mandated to restore law and order to create the necessary conditions for free and fair elections. The committee also convened a conference of all political parties and other interest groups for the purpose of establishing a broad-based interim government. To ensure the impartiality of the interim government, it was agreed that none of the leaders of the warring factions could head the interim government and that the head of the interim government would not be eligible to run for the presidential elections to be conducted later. By the

end of August, 1990, it became obvious that forceful involvement was needed to physically dislodge the warring factions. Accordingly, the ECOWAS Standing Mediation Committee took the decision to dispatch the ECOMOG to Liberia to enforce a ceasefire.

Case Study: ECOMIG in The Gambia, 2016-2017

One of the outcomes of the ECOWAS Summit held on December 17, 2016, in Abuja was the decision to designate President Muhammadu Buhari as the Mediator for The Gambia, with Mr. John Mahama, the out-going President of Ghana as Co-Mediator. The Summit also defined the mediation terms of reference to include ensuring the safety of the President-Elect, Adama Barrow, as well as the country's political leaders and the entire population. It upheld the result of the presidential election of December 1, 2016, and vowed to ensure that the president-elect is sworn into office on January 19, 2017 - in conformity with the constitution of the country. On the direction of President Buhari, the Minister of Foreign Affairs, Geoffrey Onyeama, led a Mediation Support Team (MST) that would work with the team of the Co-Mediator, President Mahama. The main task of the team would be to undertake the first phase of the preparatory and support work that would lead to a high-level meeting of the Mediator (President Buhari) and the other stakeholders.

IDENTIFY MEDIATION STAFF: THE MFD'S MEDIATION ROSTER AND PARTNERSHIPS

The MST will be run by a coordinator and staffed by mediation experts and a senior administrator. A key resource to identify specialized staff is the MFD roster, which is intended to be developed from a database. The roster will comprise people with expertise in the following category: Senior mediators, operational mediators,
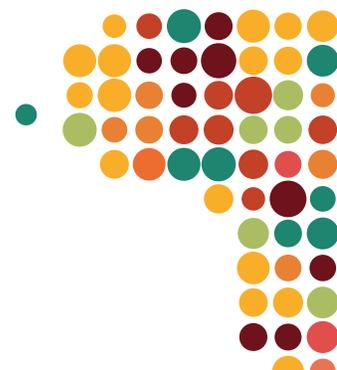
thematic mediation experts. Directorate of Political Affairs (DPA) desk officers would be responsible for arranging briefings for incoming mediation support staff.

Tip: The mediation team, as a whole, should cover the following areas of expertise and capacity:

1. Negotiation analysis and mediation expertise to identify issues, interests, and no-agreement alternatives for all of the parties in the conflict, as well as to plan and run the process of dialogue and negotiation, provide advice to the parties' leaders and negotiators and encourage a cooperative stance among neighbouring states and other external actors. Also to explore non-official, Track II processes to augment official discussions, and consult with civil society groups to develop broad input into the negotiation process.

2. Country and regional expertise to ensure a deep understanding of the parties, their factions, and their internal debates, as well as the cultural practices of local communities, the key groups in civil society, and the history and dynamics of the conflict.

3. Analytical expertise to discern and interpret changing conditions on the ground, shifts in the parties' positions and changes in the relationships between various actors.

4. Writing skills for drafting reports and agreements.

5. Communications expertise to communicate with the parties' constituencies, the public at large in the conflict zone, member states and other actors. This includes expertise in working with the media and in public outreach..

6. Management, administrative and financial expertise to ensure that the mediation process is run efficiently, that proper records are maintained, and that personnel, funds, and other resources are managed soundly.

7. Gender diversity is essential in the team make-up to comply with UNSC Resolution 1325 and to signal the

AU's commitment to gender equity in every conflict prevention, management, or resolution process.

COMMUNICATE, COORDINATE, AND COOPERATE WITH OTHER MEDIATORS

An environment with multiple mediators calls for careful communication, coordination, and cooperation to ensure a coherent and unified mediation effort. Ideally, cooperation will involve a conscious division of labour and perhaps even a sequence of interventions that build on the strengths of different actors and encourage interdependence. The number of actors involved in mediation endeavours requires the establishment of a sound coordination system. Even in loosely coordinated endeavours, mediators should keep one another informed and refrain from public criticism of parallel efforts. In addition, involving local actors from the start has proved to be critical to the success of any engagement as it ensures local inputs to strategy development as well as ownership – and therefore – support for the implementation of the mediated agreement. There are three levels of coordination:

*   Team-level Coordination: If several organizations are directly involved in a mediation effort, a specific coordination forum structured around the lead mediator should be established. This forum will be used to exchange information, jointly monitor progress with the lead mediation strategy, and coordinate efforts in support of the lead mediator.

*   Country-level Coordination: Country-level coordination structures are used to engage local actors, as well as local representatives of international actors such as other governments or international institutions. Depending on the design of the mediation process, coordination structures can be established to bring in other local stakeholders around the mediation process. If a mediation or dialogue process includes only political actors, a consultative forum of civil society organizations, including women's organizations, could be established to keep other

local stakeholders informed of the process, as well as seek their inputs and secure their buy-in for an eventual outcome. For international actors, country-level coordination structures are often organized as local chapters of 'contact groups' or 'groups of friends', who also meet at other levels as discussed below.

- International-level Coordination: The design of an international coordination structure should take into account existing mechanisms, usually in the guise of 'group of friends' or 'international contact groups'. They are used to share information, keep diplomatic partners abreast of developments, seek international endorsement of strategies and leverage the influence – individually or collectively – of powerful diplomatic allies. One major advantage of this is its ability to mobilize donors and funding.

Case Study: Guinea, 2008

In December 2008, a military junta led by Captain Moussa Dadis Camara took power in Guinea through a coup d'état. As part of efforts to coordinate international, regional and sub-regional support towards a return to constitutional order, the African Union (AU) and ECOWAS, with the support of the UN, established the international contact group (ICG) on Guinea on the margins of the AU Summit held in Addis Ababa in January 2009. Chaired jointly by ECOWAS and the AU, the ICG brought together the country's external partners, including the Community of the Sahel-Saharan States (CEN-SAD), the EU, the Mano River Union (MRU), the Organization of the Islamic Conference (OIC), the OIF, the UN, the Chairs of the AU's Peace and Security Council (PSC) and ECOWAS, as well as African and permanent members of the UNSC.

The ICG met regularly in various locations as part of its efforts to encourage Guineans to establish tran-

sitional institutions, complete the transition through the holding of credible elections, and mobilize international resources in support of these efforts. Throughout the transition, the ICG acted as a forum for the harmonization of international positions and actions on Guinea and the pooling of resources in support of the transition. The ICG was particularly successful at channelling international pressure, mobilizing financial and technical resources, facilitating among the parties, encouraging the sharing of best practices and promoting the establishment of a conducive environment for the conduct of a peaceful and democratic transition.

When triggered by Article 25 of the Mechanism, the President of the Commission coordinates and assures coherence, according to the principles of subsidiarity, by collaborating with the AU and the UN.

Key to mediation success is how well the conflict and the context have been understood in order for intervention to succeed and for the mandate to be generated and operationalised. Conflict analysis can support problem-solving and decision-making for future action through a deeper understanding of the pertinent elements, traits, and components of the (violent) disagreement.

WHAT IS CONFLICT?

A conflict can be understood as the pursuit of incompatible goals between two or more actors. Conflict is apparent through the expressed issues, the prevalent attitudes (mindset) and observed behaviours (violent or non-violent) among various parties.
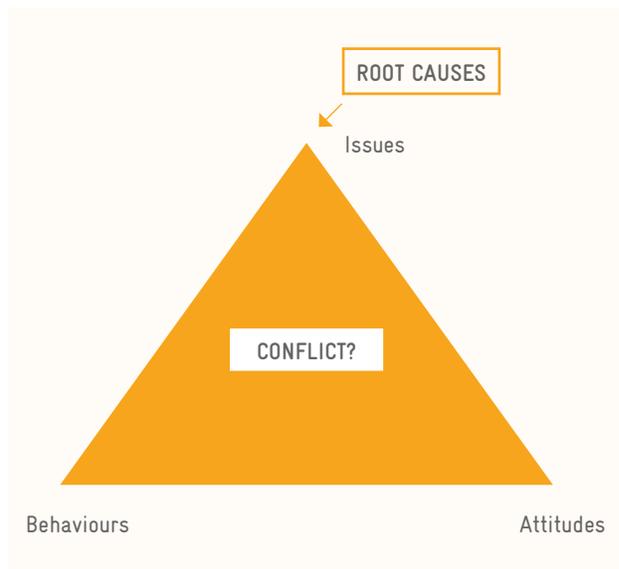
WHO DOES CONFLICT ANALYSIS?

Within the ECOWAS peace and security architecture, the following departments are involved in conflict analysis, but not exclusively:

- Mediation Facilitation Division (MFD)

- ECOWAS Early Warning

- Directorate of Political Affairs officers

- DPKRS Desk Officers

- Mediation support team

- West Africa Network for Peacebuilding (WANEP) and other similar CSOs

- West Africa Network for Peacebuilding (WANEP)

- The AU (Peace and Security Council)

- Track 1.5 and II actors

(1) The Economic Community of West African States (ECOWAS) has one of the most comprehensive and advanced structure on the African continent with regard to conflict prevention and management with the ECOWAS Early Warning and Response Network (ECOWARN). The Early Warning Directorate represents the entity that provides the link for the early alert and conflict analysis to feed into the wider ECOWAS system where conflict resolution and mediation activities are planned and undertaken. The Early Warning reports are sent to the President of the Commission and relevant ECOWAS Commissioners, particularly the Commissioner for PAPS.

These reports are further shared with other relevant directorates for information, inputs and necessary actions.

(2) Armed with the political and security situation reports in the region and in member states, the President of the ECOWAS Commission briefs the Mediation and Security Council (MSC). The MSC is the institution that is mandated by the member states to take relevant decisions for the establishment of peace and security and which makes it the primary actor responsible for decisions on mediation and conflict resolution. The channel therefore exists for conflict analysis data to reach those relevant decision-making bodies for peace and security of ECOWAS. The Special Representatives of the President, as chiefs of the peacekeeping missions, have a direct link to the ECOWAS Commission, which allows for information flow. In addition, the Mechanism also makes room for the President of the Commission to brief members of the Council of the Wise and provide them with relevant conflict analysis data for the conduct of mediation and facilitation during times of crisis. It can therefore be stated that the institutional structure of ECOWAS indeed provides a strong framework for conflict analysis to feed into ECOWAS conflict resolution and mediation efforts.

WHEN DOES CONFLICT ANALYSIS TAKE PLACE?

(1) Conflict analysis takes place during the entire conflict cycle and during the entire mediation process. It takes place as a constant activity done by DPA and EWD through monitoring of specific issues. During the crisis and in the instant of the mediation intervention, it is an iterative process that needs constant updating and assessment. From the perspective of a conflict-resolution organisation, conflict analysis might serve a variety of purposes, depending on context. This range includes conducting a conflict analysis primarily or even exclusively for internal purposes, perhaps as a desktop exercise designed to map what other third parties are doing and to inform the organisation's own strategising, before its strategy is defined and made known to others.

(2) Conflict analysis definitely takes place as soon as Art. 25 of the Mechanism is triggered. Additionally, conflict analysis continues during the set-up of the mediation intervention

WHAT SHOULD A GOOD CONFLICT ANALYSIS COVER?

'Good' conflict analysis should allow for constructive problem-solving and informed decision-making around the elements, components, requirements and parameters of intervention. Ideally, it covers the following central elements:

- What are the key driving factors (both the issues and the people) of the conflict? What are the causes or effects of these factors? Key driving factors are factors without which the conflict would not exist or would be significantly different.

- What are the relationship dynamics among these factors? How do the factors interact and affect each other? How are the actors and factors related?

- What needs to be stopped and who will resist it? The most effective interventions also ask what factors (actors, issues, motives, resources, dynamics, attitudes, and behaviours) maintain or reinforce the conflict system - who would resist a movement toward peace, and why?

- Who are the 'key' actors? Key actors are people or groups who have significant influence on the conflict dynamics, who are able to decide or strongly influence decisions for or against peace, and/or who are able to 'spoil' or undermine peace.

- What are the international or regional dimensions of the conflict? Conflict analysis and programming often focus on the immediate conflict area and fail to incorporate what needs to be stopped or supported in a broader area. A good analysis asks how the policies

and actions of forces outside the immediate local context (the village, province, or nation) affect the conflict, how such factors might be addressed, and what kinds of local-international cooperation will be needed to handle these external issues.

• What has already been tried and with what result? Has the proposed programming approach been tried in this conflict before? If so, with what outcomes?

• Is the conflict ripe for resolution? Are the parties themselves ripe for resolution? Ripeness only occurs when all the parties involved in the conflict have exhausted all their means to benefit from the violent situation, and when the costs of peace override the benefits of war. What are the windows of opportunity? What are the windows of vulnerability? How do parallel activities of preventative diplomacy and other peacemaking efforts contribute to a favourable time for intervention?

See Annex B for a more comprehensive checklist for conflict analysis.

SPECIAL CONSIDERATIONS

#1: Deepen the Analysis by Analysing Drivers and Dynamics of Conflict

The team should understand and outline drivers of conflict and mitigating factors as defined here and enumerate those identified within the specific situation being assessed.

Drivers of conflict: The dynamic situation resulting from key actors' mobilization of social groups around core grievances. Drivers of conflict can be understood as active energy, while core grievances are potential energy.

Mitigating factors: The dynamic situation resulting from key actors' mobilization of social groups around sources of social/institutional resilience. Mitigating factors can be understood as the kinetic energy

produced when key actors mobilize the potential energy of social and institutional resilience.

The assessment team should identify whether key actors are motivated to mobilize constituencies toward inflaming or towards mitigating violent conflict, and what means are at their disposal.

Case Study: 1996 Abidjan Peace Accord

Although there are many challenges with properly identifying all parties involved in a conflict and their interests, failing to fully understand their demands can impede and, in some cases, put an end to mediation processes. The latter was, for example, the case in the run-up to the Abidjan Peace Accord of 1996, which was meant to conclude the Sierra Leonean Civil War. Then Minister of Justice, Solomon Berewa, who was actively involved in both the Abidjan and Lomé peace processes as the government's representative, reflects on the pitfalls of the Abidjan agreement:

"There was poor preparation from the side of the government. We did not try to understand clearly what the rebels wanted … We didn't know that the rebels were really determined to share power with the government. They were very keen on being in the government, to share power. In the Abidjan agreement, we didn't include any provision for them to do that. Additionally, they wanted amnesty very badly and we did not give them that…In the case of the Lomé Peace Agreement, we really did proper preparation. We found out what the rebels really wanted; we went to Lomé prepared to meet the rebels and the rebels were able to articulate what they really wanted."

In Berewa's view, analysing the interests and demands of the Revolutionary United Front (RUF) and other rebel groups in Sierra Leone would have improved the chances of the Abidjan Accord in bringing about an end to the civil war. His assertion that the government of Sierra Leone learnt from the mistakes of the Abidjan Peace Accords and put more effort into understanding the demands of the rebels before going to the ultimately successful 1999 negotiations in Togo is, therefore, a particularly interesting example of the need to analyse conflict parties' demands even during the pre-talks phase.

#2: Understand Sources of Power and Leverage

Identify Material Resources and Parties' Control over Them

Antagonists may depend on many forms of power, for instance: control of armed forces and materials, territorial control, control of natural resources or wealth, popular support and legitimacy, and external diplomatic or political support. The mediator should pay particular attention to the antagonists' key sources of material resources, including state assets, commodity exports, predation on local populations, theft of humanitarian aid, and Diaspora funding. Is the antagonists' hold on these resources secure and sustainable?

Significant non-material resources of the different parties, such as popular support, fear (of power holders or of opponents), community cohesion, control of media, and endorsement by spiritual leaders should also be factored into the mediator's calculations. Interrupting or protecting a flow of resources might give the mediator strategic leverage. The mediator should explore helping parties gain and secure access to resources by means other than violent conflict, and should determine what forms of resource-sharing are feasible. The mediator should also identify what resources currently deployed for conflict might be turned toward peacemaking.

Tip: Sources of Mediator Leverage

- Support of other states or groups of states, especially those that can help to neutralize potential opponents of the mediation.

- The balance of forces in the conflict itself, a form of influence that the mediator effectively draws from a stalemate in order to persuade recalcitrant parties that there is no military or unilateral solution.

- The mediator's bilateral relationships with the parties, bearing in mind at all times the necessity of keeping both parties under pressure to move toward settlement.

- The mediator's ability to influence the parties' costs and benefits, as well as their fears and insecurities. This type of leverage comes from reassurances, external guarantees, intelligence sharing, commitments to see the settlement through to full implementation, and a readiness to mobilize international resources for the dangerous transition to peace.

- The mediator's capacity to place a continuing series of hard questions and tough choices before the parties so that they are obliged to provide answers to the mediator.

- A proposed settlement formula or package. Such leverage is typically based on selling ideas to one side that — if accepted conditionally — offer the basis for obtaining movement from the other.

- Donors and other third parties that are prepared to help underwrite the costs of achieving a negotiated settlement and ensure that levels of humanitarian, social, economic, and development assistance are sufficient to effect change once a negotiated process is underway and a settlement is within sight.

#3: Dealing with Impasses

Identify and Address the Characteristics of Intractability

International mediation is often a last resort for parties in a conflict, and thus when a mediator finally comes onto the scene, he or she usually faces a stubborn and challenging situation. Many factors can make a conflict protracted or unusually difficult to resolve, for instance: cocooned elites, the absence of real pressure for a settlement, fear of accountability, identity politics, material stakes, outside manipulation, the lack of outside help or wider security mechanisms, and the impact of previous, failed attempts at mediation.

In these protracted cases, a thorough, strategic assessment of the conflict is even more critical in order to identify points of leverage that may encourage the parties to see the costs of continued fighting in a different way and to entertain options other than violence.

The mediation strategy should address the characteristics of intractability as well as the root causes of the conflict.

Task 3: Assessing ripeness

ENSURE SITUATED RIPENESS

In addition to ensuring that he or she is ready to tackle a conflict, the mediator should also ensure that the conflict is ready to be tackled - that it is, in professional parlance, 'ripe for resolution'. Ensuring conflict ripeness is presented here as the third step in the mediation process, but it actually consists of two activities - assessing ripeness and enhancing ripeness - that will probably be initiated at different times. Assessment is done early on, while the conflict as a whole is being assessed, and enhancement takes place later, once the mediator has determined that he or she is ready and able to tackle this conflict. Once begun, however, both activities will run in tandem, with the mediator adjusting his or her enhancement strategy in line with the conflict's fluctuating level of ripeness.

A conflict may become ripe for negotiation when the antagonists recognize that they are in a mutually damaging stalemate and sense that a way out is possible. All the sides must become aware that they cannot defeat the enemy outright and that continued violence will not only be costly and ineffective, but will risk weakening their situation. A related conceptualization of ripeness is the moment when belligerents recognize their interdependence and that their goals cannot be achieved without the involvement and inclusion of the other side. All the sides involved must have a sense that some mutually acceptable outcome is available to them. The parties must not only perceive the stalemate to be painful, but must also be strong and coherent enough to make decisions and to deliver on them.

If a conflict is not yet ripe for resolution, a mediation initiative often – though not always – runs the risk of coming to a premature end. If one of the warring parties sees pursuing the conflict as a more viable option than seeking peace, a mediated agreement is unlikely to effectively end the conflict.

ENHANCE RIPENESS

If the analysis of the conflict reveals a threat to regional stability grave enough to trigger Article 25 of the Mechanism, yet the situation is be ripe for intervention, the ECOWAS Protocol on Democracy and Good Governance (the Supplementary Protocol) allows for ECOWAS to take all necessary steps to ensure the peace is kept. In this sense, it can ripen the situation and make it more favourable for intervention. Upon request by the member state affected by the conflict, or when the MSC deems it appropriate to address threats to

regional peace and security, ECOWAS can initiate peacemaking activities in the form of sanctions or other necessary measures short of military intervention.

The Supplementary Protocol also allows the President of the Commission to deploy a fact-finding mission or an elections observer mission. Depending on the assessment of the conflict, the actors at hand, and the issues that are under dispute, he can also deploy the CoW. The President can then suggest the MSC take certain actions, such as the imposition of sanctions, embargos, or suspension of the ECOWAS membership of the concerned state. Based on Article 45 of the Supplementary Protocol, the Authority of the Heads of the States and Government decides over the fate of sanctions.

The Supplementary Protocol therefore constitutes a legally binding document for ECOWAS to prevent, reduce, mitigate, manage and resolve conflicts that go against constitutional principles, such as unconstitutional changes of government, Coup d'état or other situations affecting the constitutional integrity of a member state.

Tip: If a conflict is not ripe for resolution, it is pointless for the mediator to convene a high-profile negotiating forum with a large number of party delegates. As in Abuja during the Darfur talks in 2006, the parties will simply use these forums to grandstand and indulge in mutual accusations. The better options for the mediator are:

- engaging in low-profile shuttle diplomacy with the aim of identifying common ground (as was done in South Africa)

- bringing the parties' leaders together in informal settings (as was done in Mozambique and during the Somali peace process)

- providing the parties with training in negotiation skills (as the parties requested in Abuja)

- empowering the parties by arranging opportunities for them to learn from peace processes in other countries

- encouraging the parties to make unilateral confidence-building moves (e. g. release of prisoners and temporary ceasefires)

The MFD has a critical role to play when providing mediation support that is conducive to circumventing parties' resistance to mediation].

Case Study: Burkina Faso Coup d'état 2014

After the Burkina Faso coup in 2014, the AU demanded that the army step aside and hand power to a civilian authority within two weeks, failing which suspension and sanctions would come into effect. President Macky Sall of Senegal led an ECOWAS mediation that resulted in the adoption of a charter for a civilian-led transition and the selection of Michel Kafando, a retired diplomat, as interim president. Following this, the AU decided that its demands had been met and that suspension and sanctions need not apply. Immediately thereafter, Kafando appointed one of the coup leaders, Lt. Col. Isaac Yocouba Zida, as interim prime minister and he, in turn, appointed other military officers to the cabinet. Contrary to the AU's determination, the army had not transferred power to civilians, but had done a power-sharing deal with them. ECOWAS supported this deal in the interests of stabilizing civil-military relations and the wider political arena.

DETERMINE THE APPROPRIATE TYPE OF MEDIATION

Mediators can play diverse roles. That diversity extends far beyond the division between Track I initiatives conducted by governments and intergovernmental organizations and Track II endeavours launched by private organizations and individuals. Some mediators, for example, facilitate while others manipulate, and some exert their political authority and flex their institutional muscle while others exploit their own weakness to gain the trust of the antagonists.

There are two types of mediation: High Power Mediation (HPM) or Low Power-Neutral Mediation (LPNW). High power mediation refers to the use of coercive methods to force the belligerent parties to the table and bring about an agreement, whereas Low Power-Neutral mediation refers to the principle of pure mediation, where mediation is a voluntary activity.

In HPM, mediators are:

- More manipulative

- Frequently use 'carrots and 'sticks' to overcome impasses

In LPNM, mediators are:

- More formulative

- Use dialogue and facilitation skills to overcome impasses

Transformative Mediation
(Relationship Mending)

NLP M
(NLPM or LPNM

Crisis level
Diplomacy

Facilitated Grassroots
Dialogue

High Powered M
(heavy driven M)

Problem Solving Mediation
(Interest Accommodation)

ref. Negotiating Agreements in Conflict Settings
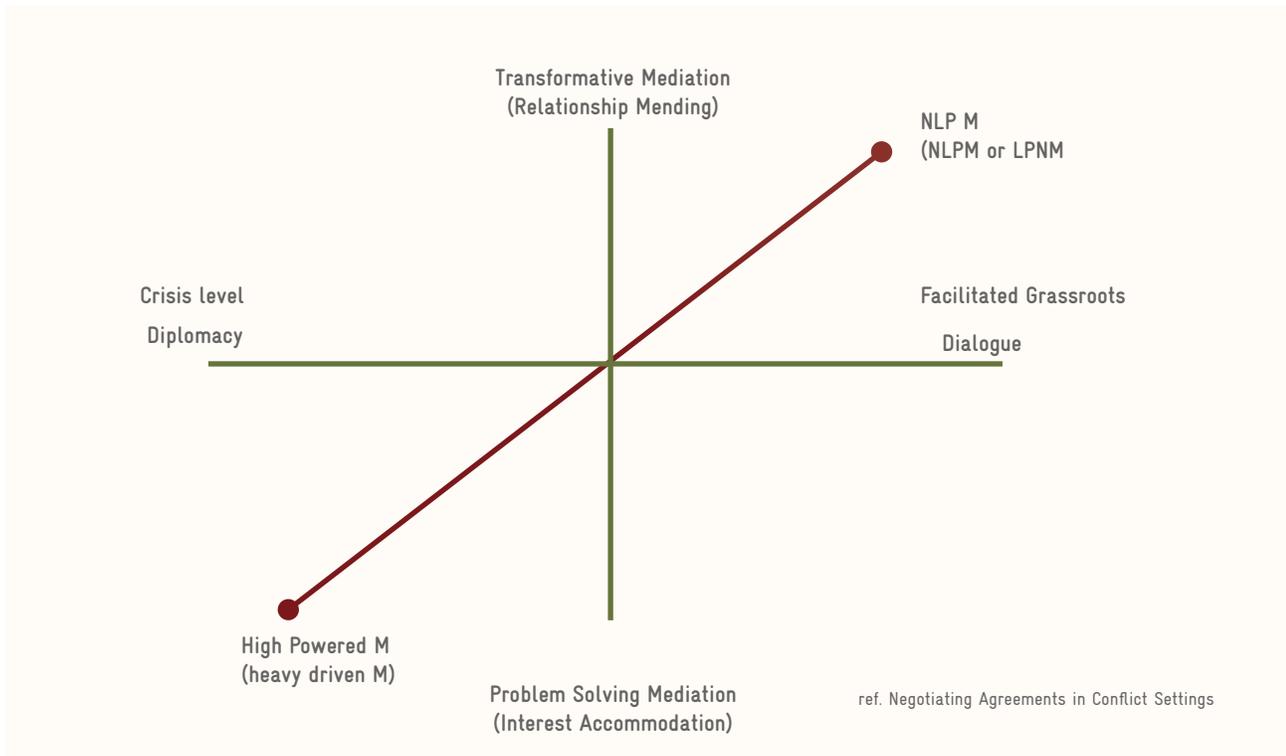
At the Track I level, mediators tend to be more high-powered. Due to their status, mandate and charisma, these mediators tend to be more credible when achieving certain desired outcomes. At the Track II level, mediators tend to focus more on neutral-low powered mediation and try to foster confidence.

PRINCIPLES OF POWER MEDIATION

In the context in which a Special Envoy or Special Representative is deployed to deal with any of the situations mentioned in the Mechanism (Article 25), he/she is responsible for two main activities: (1) work with the parties and the institution to stop further violence, (2) to start bringing the parties toward a new level of cooperation and collaboration to stabilize, consolidate, and foster peace.

Given the need for mediation in the first place, it can be assumed that the process is not one done out of the parties' own volition. Thus, the process will need to be

guided and directed by a powerful mediator. Their power stems from a rich pool of resources, including a peace enforcement component (through the ESF) and a wide range of strategies (including multi-track diplomacy and joint mediation with the AU and the UN) which they can use in attempting to reach a resolution. A powerful mediator can deploy their own power in different ways, but ultimately each and every mediator at the Track I level has ample power to produce the following outcomes:

- De-escalation and leverage

- Shifting perceptions and reframing issues

- Maintaining the prevailing peace and security order, in line with the Treaty and the Mechanism

PRINCIPLES OF PURE MEDIATION

Pure mediation focuses on interposing the mediator as a credible and legitimate third party in order to achieve a mutually acceptable agreement. The mediator achieves credibility by being neutral and impartial. When using this strategy, the mediator has to refrain from using the leverage of force in order to escape the trap of bias.

Both approaches are interdependent andtherefore, if done properly, both work toward achieving the goal of conflict management, conflict prevention, and preventive diplomacy - as enshrined in the guiding documents such as the Mechanism, the Framework, and the Supplementary Protocol.

Task 4: Set agenda and establish ground rules

AGENDA-SETTING

Participants need to know and agree in advance on the broad subject matter of the mediation. It is therefore important for the mediator to define the shape and structure of the discussion by first developing the negotiation agenda. Annex I displays a range of methods on how to do this.

A mediator has to begin by helping the parties to identify their negotiating issues. During the investigation, the mediator will focus discussions on those issues and help the parties to formulate them in specific terms. Finally, the mediator translates these issues into a language that is non-judgmental and uses the technique of reframing - that is, changing the thrust, tone, and focus of a conversation - to process the critical development of a settlement.

Thus, setting the agenda is both a communication skill and a key process tool to keep the mediation moving towards resolution. The mediator's guiding philosophy in this process should be discussing the negotiation issues in the order that would best result in the parties coming to a better understanding and a possible resolution.

The agenda should be simple and logical to help the parties navigate through the complexities of the process.

GUIDE THE PROCESS: ESTABLISH CLEAR GROUND RULES

Trust and confidence among the parties can be fostered by clearly and consistently applied ground rules for negotiations. Involving participants in designing these ground rules is itself an exercise in building trust.

That being said, much of the work of international mediation is conducted informally, often with only one partner and without rules and guidelines of this sort. When opportunities for further progress present themselves, the mediator should adjust their strategies and arrangements accordingly.

It is advisable for the lead mediator to get clarity on the wishes of the negotiating parties in order to establish the ground rules of the actual negotiation, such as meeting times, locations, forms, if meetings should be recorded, etc. Consultations between all actors involved increases trust and credibility in the mediator's capacity to guide the process. It also allows the mediation team to gather some information pertaining to the cultural backgrounds of the parties, as well as the conflict and the issues at stake.

Ground rules could consider some the following points:

- Structure and format of talks: large-scale conference, summit of key representatives, roundtable discussion, shuttle mediation, bilateral talks, etc.

- Decision rule: simple majority, two-thirds majority, consensus, unanimity, secret votes, open show of hands, etc.

- Guidelines for participation: Who qualifies as the appropriate party at the negotiation table, how to ensure participation of those who are not at the table, etc.

- Communication: method of recording the process, confidentiality, closed or open sessions, progress reports, handling the media, etc.;

- Timeframe: schedule, sequencing, pacing;

- Acceptable procedure to handle sticking points;

- Role of mediators: convener, facilitator, Track I, Track II or both;

- Gifts: How to handle gifts.

REFLECTIONS:

1. What are the key components of the conflict triangle that analysis is supposed to help uncover?

2. Who is the responsible authority within ECOWAS for deploying the mediation? Based on what criteria and legal foundations?

3. Why does a good agenda promote decision-making and collaborative problem-solving?

4. When is mediation a suitable way to manage conflict?

FURTHER REFERENCES:

1. United Nations SG Report: A/70/328. Report on "Cooperation between the United Nations and regional and sub-regional organizations on mediation"

2. United Nations Guidance for Effective Mediation, 2012

3. Timing Mediation Initiatives, by William Zartman and Alvaro de Soto, 2010

4. Understanding violent conflict. University of Birmingham, 2014

CHECKLIST: PRE-TALKS PREPAREDNESS

Problem	People	Process
What is the nature of the conflict? • Interstate/intrastate? • Political, territorial, ethnic, religious, resource-based? **What are the disputed issues?** • Political, territorial, ethnic, religious, resource-based? **What are the sovereignty implications? How receptive are national governments of foreign intervention?** • What are the implications of a possible outcome to the conflict vis-à-vis national sovereignty? **History and evolution of the conflict** • How and when did the conflict begin? • How has the conflict evolved over years? • Is the conflict stagnant, escalating or deescalating? • What is the configuration of power relations? **International factors and context** • What is the international context? • How do international factors exacerbate/mitigate the conflict? • What is the international legal framework and how does it affect the conflict? • Are there relevant conventions or resolutions put forth by regional or international organizations? • Are there international actors already actively engaged? **Ripeness of conflict** • How viable is mediation? • How receptive are the belligerents to a mediation process? • In what stage is the conflict? Is the conflict at a stalemate? • What is the level of confidence between the parties? What level of confidence is needed to initiate talks?	**Parties** • Who are the primary, secondary, and third parties? • Are there secondary parties that present themselves as third parties? • What are the parties' internal dynamics? Are there parties within parties? How fragmented/unified are the parties? • How do the parties position themselves vis-à-vis the conflict and other parties? • What are the parties' needs, interests, and concerns? • How powerful are the parties financially, politically, and socially? • What are the external pressures from the international community on the conflicting parties? **Mediators** • Who are the mediators? Which actors identify themselves as mediators and which ones actually mediate? • Are there sole mediators or mediator teams? • How were the mediators selected? • How qualified are the mediators? What is their temperament? Style? Ego? Needs? Readiness to take on the challenge of mediating? • Are there competing mediation initiatives? Do other mediation initiatives support or hamper the process? • How are the mediators perceived by the primary and secondary conflict parties? • Does the mediator have leverage over the parties or the conflict situation? • Who mandates the mediation efforts? Is the mediator accountable to someone? What are the external pressures on the mediator(s)? • What are the mediator's interests vis-à-vis the conflict?	**Appropriateness of mediation** • Are there other competing mediation efforts? How can they be coordinated? • What are the interparty dynamics? Do parties get along with each other? How can any goodwill and openness between the parties be increased? **Outlining the process** • What ground rules are set for the talks? • How is the mediator's role clarified to the parties? **Confidence-building** • Are preliminary bilateral contacts with parties needed? • What information-sharing and communication should take place between the mediator and the parties before the talks begin? How is confidentiality assured in pre-talk discussions? • How should the parties be prepared for the negotiations? Who prepares them? • What is the confidence level needed before the talks can begin? How should the mediator go about building confidence between the parties?

Nkon son

Human relation and unity

PHASE 2: TALKS

Task 1: Ensure proper representation

Task 2: Manage the mediation with BADGER

Task 3: Forge alliances and coordination among tracks

Task 4: Connect and align with civil society and grass roots

INTRODUCTION

Mediators need to manage the talks constructively, creating a safe space for new ideas and possible solutions to the conflict to emerge, while at the same working toward containing the violence and coordinating with local mediators and grass-roots movements. While basic mediation skills need to be present, further competencies, networking, and knowledge management are needed to professionally and skilfully handle conflict situations, and break impasses and deadlocks. This section of the handbook provides key insights and competencies pertinent to all mediators, whether on Track I, Track II or Track III.

CONDUCT TRACK I MEDIATION

Throughout the negotiations, the mediator helps to guide the process by ensuring that procedural rules are established and followed in order to create a constructive atmosphere and keep emotions under control.

The main objectives of this are:

- To generate in-depth understanding of each side's core interests/concerns, which must be addressed to achieve a sustainable settlement of the conflict;

- To facilitate the interposition of the mediator as an impartial third party who will, in effect, become the negotiating partner for each side and who, through shuttle diplomacy or proximity talks, will probe the interests of both parties. This allows each party to have a constructive partner as an interlocutor and overcomes the problem of parties having to deal directly with each other;

- To explore innovative options which move beyond each side's position in order to address their key interests, and identify new possibilities not previously considered – all of which may gradually be pieced together into mutually-acceptable agreements. These options will be generated from ideas presented by the parties, the mediator, experts, NGOs, and civil society organisations, or they may be derived from international standards, models, and best practices. After a series of consultations, these ideas will be gradually refined until agreement is reached;

- To promote a gradual building of confidence and a subsequent improvement in the atmosphere between the parties through

sequential agreement successes which can eventually provide the basis for direct talks;

- To foster the encouragement and support of other influential actors who can reward progress and nudge reluctant parties towards accommodation, agreement, and gradual reconciliation.

HANDLE CONSTRUCTIVE DIALOGUE: DETERMINE PARTICIPANTS

As mentioned, the best course of action for a mediator to determine who will be sitting at the negotiation table should be to:

- Choose parties and representatives who have sufficient control over drivers of conflict and relevant constituencies;

- Engage both top-level and mid-level leaders, recognising their strengths and limitations.

The conflict analysis and assessment done prior to this phase should be able to give relevant background information on all the actors involved. Based on these reports and assessments, the mediator should be able to identify and determine who will be participating to the negotiation and how. They should do this in a sensitive manner and in close coordination with the key decision-makers in the mediation mission.

Close attention should be paid to those who can support the peace agreements as well as to those who might 'spoil' the process. Spoilers, those who will block settlements if their own interests are not met, require careful consideration and management. The mediator

will have to draw a fine line between not including potential spoilers at the negotiation table while still involving them in the wider mediation process.

The following strategies (either standalone or in combination) can be applied to manage spoilers:

- Inducement: This strategy involves taking positive measure to address the grievances of factions that obstruct peace. When spoilers act out of fear, they will usually demand some sort of physical protection. When acting out of a sense of fairness, they will usually demand material benefits. When acting out of a sense of justice (at least from their perspective), they tend to demand recognition or legitimacy.

- Socialization: A socialization strategy establishes a set of norms for acceptable behaviours among all the parties that commit to peace or seek to join a peace process. Adherence to these norms is encouraged by the use of carrots and sticks. The norms must be clearly established and communicated to all stakeholders and must remain consistent over time.

- Coercion: A coercion strategy relies on the possibility of punishment if a spoiler does not fall into line. Coercion can take the form of threats, the use of force, warnings that the peace process will go forward with or without the spoiler, or the possibility of mediator's withdrawal from the peace process.

Which conflict party sits at the negotiation table can be a crucial dilemma for a mediator. A party is someone who is involved in the matter and whose agreement is necessary to resolve the particular dispute. Participation entails questions of inclusiveness, representation, decision-making power, procedures, as well as the competence of the negotiation delegation. The general rule is that the more inclusive the negotiations, the more legitimate and sustainable they will be, but the more complicated their management will become.

Based on previous conflict analyses which looked at the quality of the stakeholders and their involvement, the mediator and the team will have refined a list of the actors to engage, and the parties who need to be brought to the mediation table. However, there is a distinction between being involved in a conflict and being party to a mediated discussion. In order to make their choices, the mediator should assess:

- How the party is involved in policy-making

- The leadership level of the involved party

- What potential scenarios could come out of the inclusivity or exclusivity of the party to the conflict

Case Study: Arusha Process 1998

In July 1998, 19 delegations from Burundi, representing 17 political parties, the government and the National Assembly converged in Arusha, Tanzania, to participate in a round of negotiations (Boshoff et, al, 2010: 7). Leaders from several African countries including Uganda, Kenya, Tanzania, and Rwanda were also present. However the process was disrupted when armed military groups aligned to the Conseil National Pour la Défense de la Démocratie (CNDD), Parti pour la Libération du Peuple Hutu (PALIPEHUTU), Forces pour la Défense de la Démocratie (FDD), and Forces Nationales pour la Libération (FNL) broke away from their political delegations at Arusha and demanded representation as independent organizations. This forced other parties to continue negotiations without the participation of these military factions (Boshoff et, al, 2010: 8). The peace agreement was signed on the 28th of August, 2000, however, the rebel groups that did not sign the agreement continued fighting despite repeated calls from African mediators, including South African, Tanzanian, Ugandan and Gabonese leaders (Devon Curtis, 2003).

The mediator and the mediation team may also consider the following dimensions of participation:

1. *Few negotiation parties:* Depending on conflict, context and complexity, exclusive participation can provide effective negotiations. While various consultation platforms, working groups, and negotiation delegations can be involved, the actual negotiation delegations can be fairly small in size, and if only the heads of the negotiation delegations are present, the entire process can be moved forward. The advantage here is that people tend to talk more to each other and are able to test out ideas and suggestions made by the mediator without having to immediately commit themselves to them.

2. *Many negotiation parties:* Involving as many negotiating parties as possible can provide the sustainable support needed for the peace agreement to move forward. This needs to be assessed by the mediation team based on rigidity of issues, whether natural resources are at the basis of the conflict, and the period of the conflict.

3. *Fragmentation of parties:* Some negotiation delegations are fragmented from within and they pursue concurrent and at times contradictory interests during the negotiations. At times, negotiation delegations are not represented by their respective authorities. In these situations, the mediation team may increase its frequency of shuttle diplomacy, including the International Contact Group, peace agents, liaison officers, and even the media in order to enhance the ripeness of the situation.

4. *Women's participation:* In line with UNSCR 1325, lead mediators are required to assess women's participation at the negotiation table. The mediation team might face some challenges here, since in most cases it is the conflicting parties who decide the compositions of their negotiation delegations. Still, the mediator can suggest various consultation formats or working groups to broaden partic-

ipation in the process. In the years to come, more women will be on mediation rosters that will allow for a lead mediator to be a woman of recognized stature, which will also allow for the conflict parties to select women to join the ranks of their delegations.

Although a mediation process may be requested, a mediator can assess if it may or may not be the most desirable option for resolving a given problem. The strengths, weaknesses, opportunities, and threats of a situation need to be assessed to determine whether intervention at a given time is constructive or not.

A wide variety of mediation processes include:

- Large-scale conferences

- Summits of key spokespersons

- Full roundtable sessions

- Shuttle mediation

- Bilateral discussions

- A mixed formula of plenaries and sub-groups (disaggregation)

- Acknowledgements of dissenting coalitions by means of minority reports

- Dialogue forums

BE GENDER SENSITIVE

In general, gender refers to the socially constructed differences between men and women and the unequal power relationships that result. While there is evidence that gender plays a role in conflict, mediation and negotiation, it is less clear to how mediators engage the topic before and during mediation.

To keep gender sensitivity as an aspect of the mediation process, the following visual should serve as a navigational tool:

CONCEPTUAL AND ANALYTICAL: Understand the context, and analyse the conflict and purpose of peace talks with women peacebuilders.	POLITICAL SUPPORT: Push for the inclusion of women peacebuilders in mediation, key meetings, summits, and consultations.
Preparation/Pre-talks, During Peace Talks, and Implementation	
TECHNICAL SUPPORT: Provide woman peacebuilders access to gender-sensitive expertise on sevurity, governance, natural resources, and other issues in the process.	LOGISTICAL AND FINACIAL SUPPORT: Enable woman's participation through assistance with travel, security and visas, and with timely funding.

This is especially important when taking into account that a mediator may only be mandated for a specific amount of time, whereas gender-based conflicts can endure or persist even after the agreement has been signed. This means that the mediator has to incorporate a gender-sensitive lens throughout the entire life span of the mandated mediation process.

Since the Gender Agenda is also part of the Sustainable Development Goals (SDG 5), it is imperative that mediators prime all the parties, develop the mediation strategy, and work towards solutions that have a positive impact on gender equality. Men and women, boys and girls all experience conflict in different ways, and each group has varying degrees of vulnerabilities and needs that require specific responses. As contextual pressure has significant impact on the way peace agreements are framed and construed, it is important to be contextually relevant to existing gender imbalances.

The collateral damage of a gender-blind peace agreement include:

- Lack of legitimacy, transparency and ownership of the peace process

- Lack of clarity about the scope of the post-conflict reforms

- Persisting gender imbalances in the socioeconomic and political environment

- Dysfunctional and/or abusive security and justice institutions

The ECOWAS Plan of Action for the implementation of UNSCR 1325 and 1820 was adopted on 17 September, 2010. The declaration aims to foster synergies among different actors through the establishment of a strategic framework and a Regional Action Plan to support existing National Action Plans. Accordingly, the ECOWAS Plan of Action provides concrete measures to ensure the effective implementation of resolution 1325 in each country. These include the designation of national and regional focal points in the various institutions, as well as the publication of periodic reports and regular coordination meetings.

Overall, the declaration has four pillars: (1) effective participation of women in peace processes, (2) protection of women and girls from conflict-related sexual violence (3) prevention through greater involvement of women in preventive diplomacy and the establishment of early warning systems, (4) relief and recovery through access to adequate care and humanitarian services. It also provides for the establishment of monitoring mechanisms and evaluation instruments, including specific indicators.

Guided by the International and National Gender Instruments, Policies, and the ECOWAS Treaty and Protocols signed by various member states, mediators can advocate for gender equality by considering the following strategies:

- Using creative advocacy means

- Having a women's coalition that is broad-based and truly representative

- Creating a tested mechanism for channelling women's voices to the negotiation table

- Using the International Contact Group as a conduit for stronger gender representation in negotiated processes

MANAGE THE NEGOTIATIONS

The mediation session consists of six components:

B: Begin the discussions

A: Accumulate information

D: Develop the agenda and discussion strategies

G: Generate movement

E: Elect to have separate sessions (caucus)

R: Reach closure

This step-by-step approach ensures that parties will move towards each other, equipped with decision-making power, and through an improved understanding of one another, come to agreements that are comprehensive and effective. While conflict situations are unique, this linear approach ensures learning, streamlining, and cohesiveness in mediation strategies. In this situation, negotiation tactics can range from distributive to integrative bargaining, depending on the results of conflict analysis, the situation on the ground and the power symmetry between the main parties.

BEGIN THE DISCUSSIONS (B)

The first step entails two components:

1.   Set the procedural framework, i. e. the agenda, seating arrangements, timing

2.   Start the actual meeting

ACCUMULATE INFORMATION (A)

The mediator gathers information with a purpose. He/she wants to understand the issues: how the parties experience the 'story' they tell, and what concerns, both substantive and emotional, need to be addressed to reach agreement. He/she will focus on uncovering information that will advance constructive dialogue.

To accumulate information effectively, mediators must do five things:

1.   Listen carefully

2.   Record notes selectively

3.   Promote clarity

4.   Support communication in non-verbal and verbal ways (see Excursion: Use of Non-verbal Communication, below)

5.   Promote understanding

Be (Culturally) Sensitive

The mediator needs to project that he/she is 'warming-up' to what is presented in the mediated discussions.

The mediator should make use of all available listening styles and communication techniques in order to probe for the underlying needs and to allow parties to re-frame the issues in order for conflict transformation to take place:
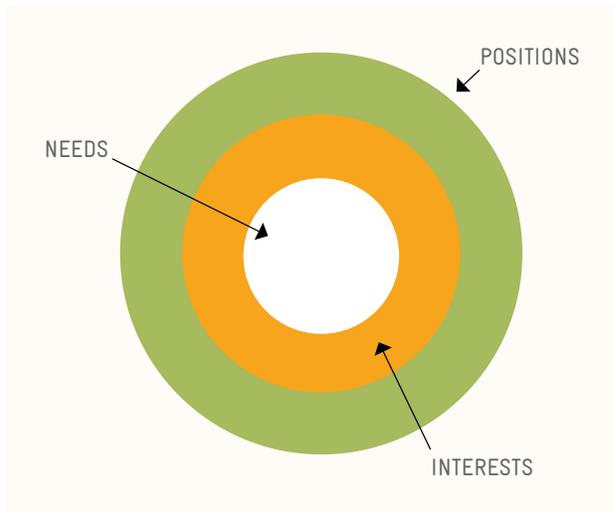
1. *Interests:* Interests are the silent, powerful movers behind positions that parties take. There will be no resolution if a person believes that his/her primary interests have not been respected, secured, or advanced. Interests are what parties care for and may be:

   • Substantive: directly related to the focal issues of the mediation

   • Process-based: related to how the parties behave in the mediation process

   • Relationship based: tied to the current or desired future relationship between the parties.
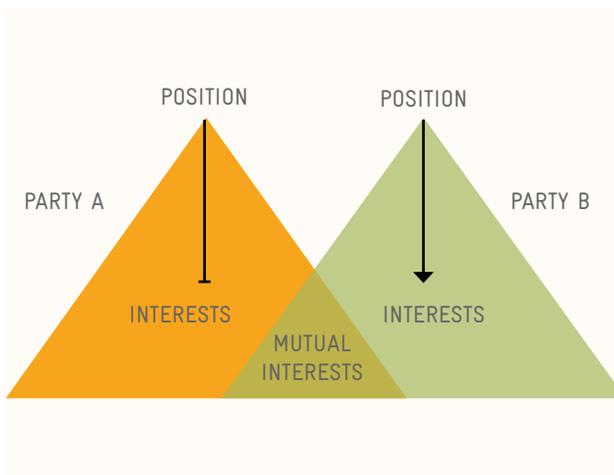
2. *Issues:* Issues are the distinct and negotiable matters or behaviours that have frustrated a party's interests, and resulted in the need for mediation. The resolution of these issues are the subjects around which agreement is built.

3. *Proposals:* Proposals are suggestions or offers for the resolution of issues. Like interests and issues, proposals can be hard to hear if they are embedded in threats and insults.

4. *Feelings:* Using emotions effectively to promote successful negotiation is inherently difficult because of the complex nature of human emotions. They affect the way parties tend to make decisions and influence their behaviours at the mediation table. Feelings are:

   • Unavoidable – People cannot avoid them any more than they can avoid thinking.

   • Numerous – In a given situation, a person can experience and encounter numerous emotional states, for example anger, frustration, enthusiasm, and regret.

   • Fluid – They change from moment to moment, without warning.

   • Multi-layered – People sometimes experience multiple emotions simultaneously.

   • Varied in their impact – Different people may react differently to the same emotion expressed in similar situations.

   • Triggered by multiple causes – sources of emotions are hard to identify.

It is crucial for the mediator to understand emotions and to deal with them appropriately.

5. *Principles, Values, and Rules:* Although they are intangible in mediation, it is important that the mediator listens carefully to the parties' central tenets. Most people are governed by values, principles, and rules that guide their conduct. Laws also provide important guidelines. These principles cannot be negotiated, yet will need to be reflected in the conflict resolution process.

The mediator must take into account the perceptions, cognitions, and emotions of all the parties at the negotiation table. Based on the abovementioned considerations, and after gathering all the valuable pieces of information, the mediator can assist the parties in reshaping the negotiation field.

DEVELOP THE DISCUSSION STRATEGY (D)

Participants need to know and agree in advance on the broad subject matter of the mediation. It is therefore important for the mediator to define the shape and structure of the discussion strategy by focusing on:

• Finding common interests

• Identifying and (re-)framing the issues

• Continuously developing the negotiation agenda

In certain mediation environments it is important to levelling the playing field and counter asymmetrical power relationships at the negotiation table. For example: While a government or central authority has ready access to power, their opponent's access to resources is usually a more difficult matter. Establishing a power balance is therefore not a matter of the larger global picture, but the situation at the negotiation table. As soon as one party agrees to another party's representation, the mediator will find it easier to facilitate talks and use appropriate strategies to keep building momentum for constructive discussions to take place.

In order to establish equity in decision-making, the mediator and the team might consider the following options:

• to accept, at least within the negotiation context, the right of all sides to be present;

• to agree on procedures permitting the involvement of previously excluded or restricted persons;

• to schedule time and resources to permit all parties to come to the table prepared;

• to make contact with, and learn from, counterparts and other contexts;

• to look for a powerful external mediator or chairperson, both to bestow at least temporary legitimacy on all parties for the duration of talks, and to underwrite the equality of all parties at the table.

GENERATE MOVEMENT (G)

Often the parties are able to reach closure on at least one previously contentious topic. It is crucial for the mediator to be conscious of these leverage points and to use them to generate movement towards ultimate understanding and resolution. This will result in sustainable and effective agreements.

The focus should be on:

1. Common interests and ideas

2. Expanding the information base

3. Perspective-taking

4. The use of negotiation norms and practices

5. The benefit costs of not settling (BATNA)

Common interests and ideas are often interwoven with the issues and can be explored during discussions. To gain the cooperation of one party, any proposed deal must address the interests and ideals of its counterpart. A mediator can persuade parties to do certain things by pointing out how the proposed settlement terms promote mutual goals rather than just reinforcing one party's gains:

- Interdependence between parties: It is important for all parties to develop a shared view of their problems so that they can solve them to mutual satisfaction. The mediator emphasises the reality that a party's ability to achieve its objective depends on securing the freely granted cooperation of others; gaining such cooperation requires that each party believes it will be no worse off after accepting the proposed settlement terms.

- Identify joint or shared interests: A mediator must develop and repeatedly remind the parties of their shared needs.

- Appeal to commonly held principles: Whenever the mediation situation seems to derail into threats, insults, or even chaos, a mediator needs to make sure that the parties can agree on something. These might be simple appeals, for example 'Can we all agree that we will not interrupt each other or use disrespectful language during our conversations?' The goal of these types of appeal is to get parties to agree to a principle or guideline that has some bearing on resolving the matters under dispute.

- Call for a vision: The vision of an ideal of better and more peaceful living conditions can become a target for working out the specifics of how to achieve it. In expressing the ideal, parties often feel stronger and are surprised by their commonalities.

- Emphasise trust-building dimensions of conduct: Conflicts erode trust among people, and this loss of trust leads them to demand burdensome settlement terms for fear that anything less will be exploited. The mediator must get parties to do things for each other that help restore a sense of trust.

Since mediation is considered to be a voluntary process, the parties may not necessarily agree to the mediator's efforts to advance conflict resolution or help them re-examine their perspectives and positions. The mediator can facilitate this by using a series of strategies that psychologically position the parties for agreement:

- *Allow for choice:* In a heated debate or where a deadlock stops the conversation, a mediator might ask: 'Would you like to continue this conversation about who is at fault – a conversation you have been having for a long time – or do you want to see if we can resolve the issue of …?' By simply laying out choices, parties can feel empowered to move in different directions.

- *Give compliments:* A mediator must reinforce positive behaviour by reminding parties that their willingness to mediate, to listen to one another, to come up with proposals, and to have the stamina to settle issues after many hours of emotional debate, is commendable.

- *Cite examples with which people can identify:* To be persuasive, a mediator can use examples relevant to the disputant's personal experiences.

- *Use humour:* The mediator can use humour sparingly and sincerely to break tensions and help put matters into perspective.

- *Role reversal:* At times, a proficient mediator can get a party to analyse an issue from the other party's point of view.

- *Let silence ring:* People feel awkward when no one is speaking. A mediator should not rush to fill gaps in the dialogue. Silence can generate opportunities. Sometimes, a person will relieve the uncomfortable atmosphere by suggesting a possible change in what

he or she is willing to do. The mediator should rec-ognise such moments and explore their possibilities.

- *Focus on the future, not the past:* A mediator help parties to focus on shaping their futures without allowing past events overwhelm the mediation strategy.

- *Prohibit greed:* In some discussions, one party seems to obtain its favoured position on nearly every negotiating issue. A mediator must be aware of the increase in negotiation power that one party might achieve through its tactics and remind all sides that reciprocity and outcomes benefit both sides, which in turn can result in compliance with commitments.

- *Exploit vulnerabilities:* Disputants tend to see things from a win-lose perspective. Yet everyone has reasons for regret. These lapses constitute vulner-abilities which the mediator should explore in order to rebalance discussions. By highlighting vulnerabilities, the mediator emphasises joint responsibility for problems and the need for mutual, not unilateral actions to solve the problem.

- *Face-saving:* This means the mediator attempts to maintain a party's dignity or reputation. If a mediator can assist a party in changing positions without losing pride or face, movement towards a resolution of the conflict is far more likely.

Developing a BATNA involves:

- Listing all the possible alternatives that could be pursued if no agreement is reached

- Considering the practical implications of more promising alternatives

- Selecting the alternatives that seem to be the most satisfactory BATNA

Tip: BATNA guidelines

Review the conflict:

- What are the central negotiating issues?

- Who is involved?

- What kinds of outcomes are hoped for?

- Which actions would best help to reach this objective?

- What would be:

  - The best outcome?

  - The minimal outcome?

  - The worst outcome?

Assess the alternatives:

- Are there any issues a party is unwilling to negotiate?

- What alternatives does a party have for satis-fying their interests if no agreement is reached?

- What would be the best alternative?

Strengthen the BATNA?

- What can a party do to achieve its interests?

- Are additional resources required?

- Will the party need extra time or financial support?

Consider all parties' BATNAs:

- What does the mediator think their key interests might be?

- What might they do if no agreement is reached?

ELECT SEPARATE SESSIONS (E)

Separate sessions for all the parties (caucus, quiet diplomacy, shuttle diplomacy) can allow the mediator to obtain information and insights, impart information, and privately encourage parties in ways which he or she may not be able to do in joint sessions. This phase is crucial to allow parties to reflect on the alternatives to negotiated agreements and for the mediator to be a reality agent in potential outcomes.

A separate session or caucus can take place with each of several parties and the mediator. It is also possible for the mediator to meet with different subsets of participants. As with any other tool, the mediator must know why, when and how to use caucusing.

MOVING TOWARDS CLOSURE FOR RESOLUTION (R)

Mediators should strive to reach closure only if and when the parties have agreed on the options they want to pursue collaboratively. Sometimes no mutually acceptable resolution emerges from the mediation but the parties may have ended up in better positions to develop resolutions at a later time or to move on to another dispute resolution process. Where solutions are reached, the mediator wants the agreement to be as doable and durable as possible to prevent future disputes. An agreement that is both appealing and clear, and satisfying to each party, is more likely to be successful and sustainable. Depending on the nature of the agreement, the following steps need to be taken:

- Confirming the commitment and mandate of all the negotiation parties and conflict stakeholders

- Mediating the drafting of written agreements that are as specific as necessary

- Allowing reviews by constituents

- Reaching final agreements

Once there is agreement on the way forward, the parties consider the details. Key questions are:

- How will the stakeholders ensure that the agreement will be acted on?

- Does the implementation of the agreement require the formal involvement of specialists or groups such as administrators, leaders of resource groups, political leaders, and businesses?

- How will the parties manage unexpected results from the agreement?

- What monitoring mechanisms will be established to ensure compliance with the agreement?

- What is the mediation team's role in monitoring? Are there local, neutral or trusted monitors?

Parties can choose to agree or not agree; the mediator should ensure that decisions are at least well considered or, at best, as optimal as possible.

Remember: General High-Power Mediation Strategy

Preparation

1. Prepare before embarking on negotiations

2. Establish ethical guidelines and ground rules

3. Establish negotiation modalities before starting

4. Agree on agenda

Strategies

5. Focus on the objective, look to the future, capitalise on the present

6. Know what you want, and what the other side(s) want

7. Ask directly and clearly what you want, understand the importance of words and body language

8. Do not give up anything for nothing

9. Be realistic and rational

10. Have a fallback position

11. Be on top of the situation, take control

12. Protect your negotiating documents

13. Agree on implementation modalities, negotiate with people who have authority

14. Reality check

Tactics

15. Use temper sparingly

16. Do not accept "no" for an answer, or give "no" for an answer

17. Be firm, be flexible, and use a friendly tone

18. Take away and walk out

19. Mask what you really want

20. Bracket issues you cannot achieve at a particular time

21. Maintain the final line of defence

HANDLING IMPASSE

General Communication Skills in Mediation

Constructive conflict resolution is based on two main activities: skilled negotiation and skilled communication. Language, cultural sensitivity, and the ability to listen to the parties' needs and interests is key in creating milestones for each party being able to move away from their pre-conceived notions about the other party and to forge trust and credibility.

Apart from the mediator's skill to grasp the effectiveness of asking the right questions, the ability to listen actively or reflectively typically allows for constructive narratives to be exchanged during the course of the negotiations. Active or reflective listening is an action word with the purposes of establishing a new relationship and new channels of communication.

Tip: Active Listening is made up of 5 elements:

(1) Not speaking. Listening means first of all being able to be silent and to listen to the other's discourse;

(2) Staying attentive. When you listen, you send signals of attentiveness! An understanding nod, eye contact, open gestures, a confirming- "Hmm" etc. show the speaker that you are completely with him. Also, confirmations of facts fall into this category.

(3) Enquiring. When asking questions to check your understanding keep to open questions (wh-questions). Here, don't add your own thoughts to the conversation, but rather encourage the other person to explain their standpoint even more precisely or clearly and to include examples.

(4) Paraphrasing. Occasionally take advantage of any short breaks in speaking to summarize in your own words the relevant points of what you've just heard. With that you can check
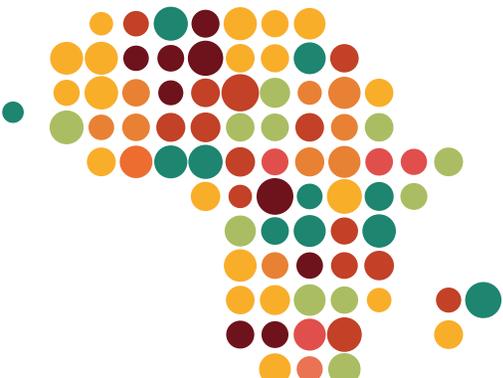
whether you have understood everything and are also strengthening the relationship.

(5) Mirroring. If you think it is appropriate, address the "feelings" level as well! Ask yourself what is being expressed between the lines, what type of frustration or annoyance is affecting the person speaking. By expressing in a sentence or a question what you think might be his mood you strengthen the relationship of trust enormously.

Handling Difficult Parties through Communication

Research and practice have shown that, at times, parties do not adhere to set ground rules or rules of ethical behaviour throughout the mediation process. Either at the table, during negotiations, or through coalitions with outside spoilers, parties sometimes seize the space created by the mediation mission to engage in further hostilities, arm themselves, or deploy hidden agendas at the negotiation table. When asked to comment about their behaviours, negotiating parties will rationalize, explain, justify, or verbalize some good, legitimate reason why this tactic or that behaviour was necessary. Common examples include:

• *The tactic was unavoidable.* The party feels that they were not in full control of their actions or had no other options. Hence, they should not be held fully responsible, e.g. retaliation of a rebel group against government troops while negotiating a ceasefire agreement;

• *The tactic was harmless.* The party may say that that they did was really trivial and not very significant. However, this particular justification interprets the harm from the actor's point of view, not the victim of the act, e.g. perpetration of violent crimes where the victim may have experienced significant harm or costs as a result;

• *The end justified the means.* In this case, the justification is that the tactic helped to avoid greater harm.

• *The tactic will produce good consequences, or the tactic was altruistically motivated.* A party who judges a tactic on the basis of its consequences is acting in accord with the tenets of utilitarianism – that the quality of any given action is judged by its consequences. In reality, most negotiators at the negotiation table will be using deceptive tactics for their own advantage, not for the general good;

• *'They had it coming' or 'They deserved it'.* These are variations of the theme of using lying and deception either against an individual who may have taken advantage of the other party in the past or against some generalized source of authority ("The System").

• *The tactic was fair or appropriate to the situation.* This approach uses a kind of moral (situational) relativism as a rationale for justification. Most social situations, including negotiations, are governed by a set of generally well understood rules of conduct or previously established ground rules.

A mediator can deal and manage with difficult parties in the following, non-exhaustive ways:

• Ask probing questions;

• Phrase questions in different ways;

• Force the party to a reactive move – a reality check;

• Test the parties – apply some logic to the statement, use criteria and possibly a caucus (separate session) to do a reality check;

• Ignore the deceitful tactic;

• Discuss what you have witnessed and offer assistance in rephrasing or formulating statements in a non-judgmental way;

Mediators should review the potential sources of leverage identified during step 1 (conflict assessment) and determine which ones can actually be brought to bear on the parties.

Typically, mediators can bring some or all of the following types of leverage to the negotiating table:

- reward power by having something to offer to the parties in exchange for changes in behaviour

- coercive power that relies on threats and sanctions, and includes military options

- expert power that is based on the mediator's knowledge and experience with certain issues

- legitimate power that is based on certain rights and legally sanctioned authority under international law

- referent power that is based on a desire of the parties to the conflict to maintain a valued relationship with the mediator

- informational power that works on the content of the information conveyed as in the case of a go-between or message carrier

Specific resources within these categories depend on the mediator's institutional readiness, mandate, and resources.

A mediator can increase and multiply these sources of leverage by using coalitions and allies. Mediators should be aware of how their use of leverage will impact the parties and the dynamics of the conflict. Incentives and coercion are most effective when applied in combination, not only because they present a more compelling offer, but because of the effect they have on the negotiating dynamic. Threats and coercion generate resistance that can be offset by incentives that foster cooperation.

The type of leverage used should be appropriate for addressing underlying sources of conflict and the reluctance of the parties to settle. Incentives or deterrents must also have sufficient value to induce changes in behaviour without being so excessive that they inflate future demands.

Conditionality may be used to link progress on an issue with rewards.

Mediators should create a process in which rewards are delivered in response to specific commitments and actions from a party to avoid the appearance of rewarding intransigence.

Mediators should never bluff or use threats unless the ability and political will to carry them out exists.

GENERAL CONSIDERATIONS

Whereas power-based diplomacy tries to pressure the parties into a settlement, confidence-building mediation seeks to build the parties' confidence in each other, the negotiations and the mediator. It entails a lengthy process of facilitated talks in which a peacemaker helps the parties, in an even-handed manner, to engage in collaborative problem-solving and accommodate each other's concerns and needs. The parties' common trust in the mediator will offset their mutual distrust and raise their confidence in the negotiations. Confidence-building thus captures the essential logic and utility of mediation.

Track II efforts can play a constructive role even before a conflict becomes ripe for Track I efforts; for instance, Track II practitioners can float low-profile, low-risk 'trial balloons' to gauge support for possible subsequent Track I mediation efforts. Track II participants need to understand at all times that they are an adjunct to the Track I process and cannot replace that process. However, efforts must be made to coordinate Track II efforts, not just with Track I endeavours, but with each other to enhance synergies and avoid confusion and congestion.

#1: Identify and Coordinate with Track II Efforts

Ascertain Status and Potential of Track II Efforts

The Track I mediator should ascertain the existence and status of ongoing Track II efforts and decide if and how to communicate, coordinate, or even if they wish to work with those endeavours. Some Track II activities may complicate or undercut the work of the official mediator, and the mediator should seek to minimize their disruptive potential. Others may help

the mediator and should be encouraged and supported. The mediator will probably be most concerned with any disruptive effects of Track II efforts once the Track I negotiations are under way, but the mediator should also be attentive to positive potential of Track II endeavours throughout the entire mediation process.

Mediators need to identify and assess the capacity of Track II actors to absorb and duplicate mediation efforts in order to gain local traction for any peace agreement. Official mediators also need to coordinate with a range of other peace actors from a range of areas, practices, traditional roles, businesses and reconciliatory processes. The use of proxy mediators supports the theory that all-inclusive processes tend to be conducive to sustainable and implementable peace agreements. This includes the management of spoilers, the rise of civil society, and the creation of a space where democratic ideas can be contested in a constructive manner and sanctioned by a constitution.

Guiding questions for effective coordination between Track I and Track II actors:

- How can Track I and Track II actors best coordinate?

- What methods of coordination can be best tailored for the different situations in which initiatives are based?

- Are these different methods most appropriate for NGOs, IGOs, and militaries in intervention coordination?

- What strategies might funders adopt to support coordination?

- How can parties to conflicts, in the midst of their differences and while negotiating for peace, encourage and support coordination of the interventions that involve them?

- In what ways, can intervention coordination best be institutionalised? How can structures for intensive cooperation emerge and sustain improved peace processes?

Mediators from various levels and scales can cooperate in the following ways:

1. Communication: The sharing of information, early warning scenarios and analysis can provide valuable lessons in cooperation.

2. Coordination: Common planning, steering committees, and the synchronisation of efforts allows for the understanding that no single actor or activity can create sustainable peace and security.

3. Cooperation: Resource-sharing, the sharing of technical experts and maximising the impact of separate initiatives allows for the identification and assessment of capacities and abilities on all sides.

4. Collaboration: Maximising the impact of joint initiatives will pave the way for effective complementary goals.

Evaluate the Need for Track II before Track I

Track II is often needed before Track I because Track I mediation will not work if the parties are not ready to negotiate or the conflict:

- is not "ripe" for negotiation;

- negotiation is impossible because one or more of the parties—or issues—is viewed by the other(s) as illegitimate;

- one of the parties is too fragmented, ill-defined, low-powered, or inexperienced to allow for effective de-escalation or negotiation;

- the conflict is needs-based or values-based; or

- the general population is unsupportive of the peacemaking effort.

If any one or more of these situations is present, Track II processes can nurture the conditions for subsequent Track I efforts.

Dealing with "Illegitimate" Parties

Track II processes can be particularly useful when the conflict involves at least one party that is seen by another as 'illegitimate'. State negotiators often refuse to talk to such parties — paramilitary or terrorist groups, for instance — because of concern that engaging them will legitimize them and condone or encourage their violent actions. However, peace can seldom be achieved without negotiating with such parties because they will continue their violent struggle until they have at least 'been heard' or their needs have been met.

Track II activities can be helpful in ameliorating this kind of situation in several ways. First, Track II actors can work quietly through back channels to ensure that the interests and demands of an illegitimate party are clearly understood and brought to the table. Second, they can work to convince the illegitimate parties that talking is more likely to get their interests met than violence.

Empowering Low-Power Groups

Track II processes can also help parties that are willing to negotiate but are not ready to do so. Several reasons can explain a lack of readiness. A common cause is a party's internal fragmentation and disorganization. Track II actors can try to remedy such a lack of cohesion by helping the various parties identify their interests, goals, and needs, and then help them to work
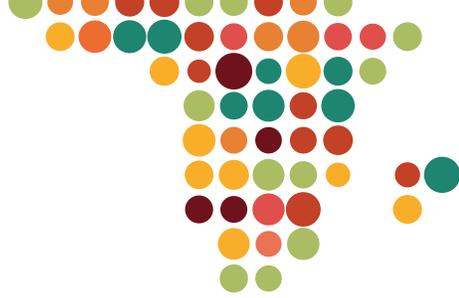
together to develop a coherent negotiating strategy that they can employ at the official negotiation table.

Another common problem is a simple lack of negotiation experience on the 'lower-power' side, which consequently finds itself unable to stand up to the more experienced, 'higher-power' side. This is an area in which Track II trainers can help low-power parties prepare for negotiations. Such assistance might seem one-sided but it is actually advantageous for both groups as parties on all sides need to understand the negotiation process if it is to succeed. Track II trainers, consultants, facilitators, and even mediators can work with low-powered and inexperienced parties to help them assess the conflict, identify their interests, and develop constructive, non-violent ways of addressing those interests, as well as build coalitions, and improve their negotiation skills so that they can negotiate effectively, both in unofficial discussions and at the formal negotiating table.

Focus on Track II Activities that Build Parties' Capacity and Foster Wider Support for the Process

The Track II activities most relevant to a Track I mediator are those that either build the parties' capacity to participate effectively and to reach a settlement or build support for the peace process in the wider community. To be most effective, capacity-building for the parties should be coordinated with the Track I process to target specific needs identified by the official mediator, such as negotiation skills, coalition-building, or platform development. Track II processes aimed at building wider support for the process should engage members of elite subgroups with ties to official negotiators, as well as leaders who represent significant sections of the public, especially those sections not directly involved in the Track I process.

#2: Promote Cooperation between Tracks

Share Information and Clarify Roles

Ideally, coordination between the two tracks will occur during the mediation process and toward its end, when Track I mediators may need to hand off some of the responsibilities for implementation to Track II actors. Whenever possible, Track I mediators should meet with the major Track II groups to share information and analysis (to the extent confidentiality restrictions make that possible) and use this information as a basis for agreeing on explicit Track I and Track II roles for facilitating the peace process. At a minimum, mediators should work to develop shared visions of mutually reinforcing activities that can guide each group's involvement.

In the long term, enhanced coordination and cooperation depend upon regular communication between Track I and Track II professionals. One mechanism to promote a close relationship is to convene regular forums for practitioners working in specific conflict areas.

A decentralized planning model in which people meet frequently to share the latest news, analyse and strategize together, and, where appropriate, take joint action, is very effective. Field-based representatives of Track I and Track II organizations may coordinate more efficiently than their geographically scattered organizational leaderships.

Reward Track II Efforts that Further the Track I Process

Although a Track I mediator cannot regulate all the relevant Track II activities, he or she can exercise some control over the access that those activities have to the Track I process, rewarding those efforts that have the potential to support it. Such support could range from occasional briefings to keep Track II actors informed of progress to active collaboration on aspects of the mediation.

Assess the Need for Track II during Track I

Many of the activities deemed valuable during the pre-negotiation phase can also be useful while talks between the parties are taking place. Track II actors can continue to connect the perspectives of illegitimate parties to the peace process through back channels, as well as seek to strengthen the cohesiveness and capacity of one or more of the parties, and work with a broad spectrum of stakeholders on skill and capacity-building, problem-solving, and dialogue.

Track II interventions can be especially valuable to Track I negotiations when official talks grind to a halt over a highly contentious issue. The problematic issue then can be referred to a parallel Track II process which can bring mid-level leaders with strong interpersonal relationships developed over time together to examine the problems and devise new solutions. Problem-solving workshops are particularly fruitful sources of creative new approaches. These proposed solutions can then be fed back into the Track I process and, if deemed promising, refined until an acceptable approach is found.

In cases in which one party refuses to discuss issues that another party considers of critical importance, these issues can be handed to a confidential Track II process. The parties are usually less resistant to discussing 'illegitimate' issues or topics they find particularly threatening in Track II environments than they are in the Track I process.

Assess the Need for Track II after Track I

Post-agreement disputes are common, and the threat of a return to violence is ever present. Track II actors can play a constructive role especially when sections of the population are unhappy with, ill-informed about, or isolated from the peace process. And when ambiguities in the peace agreement are likely to lead to disputes during the implementation phase disputes that the society lacks the capacity to resolve peacefully, Track II actors can play an important role in easing the

tensions and working toward proactive conflict transformation through national dialogue processes.

Tip: Examples of Track II Support for Track I

- **Facilitation of Unofficial Negotiations:** Facilitate unofficial meetings with either Track I or Track II leaders to explore options or to float trial balloons or model peace plans for an official process.

- **Capacity Building for Negotiating Parties:** Provide training in negotiating and conflict resolution skills, and in platform/ alliance development.

- **Interactive Problem Solving:** Conduct workshops before or in parallel with Track I mediation to investigate underlying interests and to develop mutual understanding.

- **Logistical Support for Track I:** Provide Track I efforts with technical expertise, additional staff, and logistical, administrative, or infrastructure support.

- **Negotiation and Mediation of Subsidiary and Local Issues:** Facilitate resolution of lower-level disputes within the context of the wider Track I process.

- **Early Warning:** Provide independent insights into the nature of the conflict and identify emerging problems and opportunities.

- **Capacity Building for Civil Society and the Wider Population:** Improve the ability of citizens to participate effectively in the peace process by fostering an understanding of the peace process; initiate programs in support of the institution and state-building necessary for sustainable peace.

- **Reconciliation and Relationship Building:** Facilitate dialogues with civil society to build relationships that foster intercommunal trust and communication and support long-term peace.

- **Transitional Steps:** Undertake programs to assist with disarmament, demobilization, and reintegration of combatants; participate in transitional justice efforts.

- **Implementation Support:** Mobilize and educate the population to monitor and participate in the peace process, including security support such as neighbourhood watches or disarmament programs.

#3: Sustain Dialogue

The term "dialogue" is used in many different ways, but in the peacemaking context it generally means bringing conflicting parties together with a facilitator to improve interpersonal relationships, understanding, and trust, and sometimes (but not always) to engage in an analysis of the conflict situation and potential paths toward its transformation or resolution. The primary goal of dialogue is to improve relationships not to negotiate a settlement or a peace agreement. Some dialogues are one-time events, while others are long-term efforts that involve a series of meetings spread over months, years, or even decades. A sustained dialogue or 'public peace process' first invites participants to explore the nature of their relationship then helps them work to improve that relationship, and finally — in some cases — moves them into a process of problem-solving their substantive differences.

Dialogue can take place in three ways:

- Influential participants such as writers and journalists, scholars, church and community group leaders, and activists can directly present ideas that come out of the workshops to their larger constituencies, students, followers, and readers. They can also present these ideas to intermediary organizations such as research and policy institutes and think-tanks, which can develop and disseminate the ideas further.

- Some participants serve as advisers to individuals engaged in Track I negotiations. As such, they can insert ideas and suggest changes in outlook developed in the dialogue process to those engaged in the Track I process.

- Some participants go on to become representatives themselves in the Track I process, and can thereby bring these ideas and thought processes into the Track I discussions even more directly than an adviser could do.

Develop the Track II Mediation Strategy

As previously pointed out, Track II mediators tend to use a neutral-low power mediation style. In addition to strategy considerations as outlined under Track I, Track II mediators should consider the following five-step approach to mediation as tentative roadmap:

1. *Setting framework:* Setting the framework includes clarifying the goals, participations, venues, finances, timing, and communication guidelines.

2. *Presenting:* Presentation of perceptions means giving each actor the necessary time to speak about how they view the conflict, and to tell 'their side of the story' from the beginning.

3. *Clarifying:* This phase seeks to create better understanding of each actor's concerns, and to shift from positions to interests.

4. *Developing options for settlement:* Brainstorming options has to occur before decisions are made.

5. *Deciding:* The final stage involves agreeing on an option that is acceptable to all parties. If possible, 'fair', jointly agreed-upon criteria should be used to assess the various options. This stage also involves clarifying implementation questions (who does what, when, and how).

To encourage frank discussions, the IPCR office was chosen as a neutral ground to host the meeting. The meeting helped to identify issues in the conflict, design a dialogue, as well as map out stakeholders, facilitators, venue, and dates for the meeting. The strength and value of this process was that the stakeholders owned the process. They had the opportunity to make key decisions regarding the dialogue and this guaranteed a certain buy-in of the process and trust-building between the organisers

and the stakeholders which led to a four-step approach to the dialogue: Step 1: a request to the president to use his good offices to entreat three elderly statesmen to call for a ceasefire, Step 2: asking the state government to provide support to multi-level dialogue processes in Jos to mediate the city's underlying issues; Step 3: a call to the federal government to provide a platform for state and non-state actors to promote peace and reconciliation and Step 4: that IPCR and WANEP convene the wider stakeholders to raise awareness on the issues identified in the consultation meeting. The participatory nature of the dialogue planning process paved the way for a successful dialogue.

Mediators at the Track II level will often follow a more facilitative strategy that focuses on specific aspects, issues and goals. Ideally, mediators at the Track I and Track II level will have synchronized their efforts and public diplomacy strategy in order to progress toward the agreement phase.

Engaging informal intermediaries and local mediators

Track I mediators can tap into existing formal and traditional dispute resolution mechanisms on a local level to either:

- build up the capacity of parties to participate effectively and to reach a settlement, or

- to build support for the peace process in the community affected by the initial conflict.

Track II processes should engage specific members of elite subgroups (local mediators) with ties to the official negotiation channels and leaders who represent significant sectors of the public. In most cases, the wider public is usually not part of the Track I negotiations.

Direct mediation or conciliation by unofficial third parties

In this model, intermediaries act between conflicting parties, either by hosting and facilitating talks or by providing unofficial shuttle diplomacy.

Consultation or Facilitation of Interactive Problem-solving by Unofficial Facilitators

In this approach, key elite members of subgroups from the parties are brought together in their personal capacities – rather than as representatives of their side – for direct, private interaction. The meetings are low key, closed to the public and non-binding. Participants share their perceptions and concerns, focusing on the interests and basic needs underlying their positions. They also jointly analyse the underlying issues and their relationship, developing ideas for resolution. The workshops are designed to promote relationship-building and trust-building across conflict lines, as well as develop lines of communication, and explore options that can meet the interests and needs of both sides.

Facilitation by Official Third-party Actors among Private Citizens in Influential Sectors

In this approach, official third-party actors initiate or facilitate discussions among non-official representatives of the conflicting parties – such as academics or business – to stimulate progress in official negotiations.

Track II efforts also encompass so-called Track III diplomacy; whereby unofficial third parties work with people from the communities and different sectors of society to find ways to promote peace and to work towards reconciliation. This work is typically aimed at rebuilding broken relationships and to establish new channels of communication across the lines of division. The premise for Track III diplomacy is that peace must be built up from the bottom, thus emphasising the need for local ownership of the peace process. For any negotiation to succeed and for a peace agreement to be sustainable and implementable, a peace constituency must exist. The development of an infrastructure for peace is as important to the pre-negotiation phase of transforming intractability as it is to the post-settlement phase of implementation of an agreement and building peace at a societal level.

The Use of Insider Mediators

Political structures, whether in states with authoritarian governance systems or in those with more developed democratic systems, are often under heavy stress when coping with violent and destabilizing conflicts.

Traditional peace movements and individual 'go-between' activists can play an important role in such contexts to prevent, reduce and eliminate the violence connected with these conflicts. But their efforts might not be sufficient. What examples of insider mediation demonstrate is that within all parties, movements and camps constituting the complexities of conflict, persons who have the skills to mediate and are motivated to work towards joint problem-solving and consensus-building are needed. In divided societies, it is not enough to have formally functioning democratic institutions and a few talented 'go-betweens'. What is needed is the development of a cross-cutting culture of mediation and mediation attitudes among members of all main stakeholders and parties.

The role of Peace Infrastructures

Another aspect is the collaboration among persons who are engaged as insider mediators, peace-builders or party representatives with the particular interest and skills to be able to reach out to opponents. To make their collective efforts more effective, it is helpful to build networks, platforms and other joint mechanisms to establish a common space. This allows for the creation of impartiality, which is considered to be one of the key features of an outsider mediator. It requires a long-term process of joint learning and the willingness to become part of a joint initiative.

Finally, it is worth mentioning that the growing interest in the role of insider mediators and peace-builders resonates well with another recent trend in the conflict transformation field, that is, the development of 'peace infrastructures'. They can be defined as "diverse domestic, interconnected forms of engagement between conflict parties and other stakeholders" with the particular feature of establishing some kind of organizational structure. Such peace infrastructures can be established in very different formats, for example inclusive or partisan peace secretariats to accompany peace negotiations, national dialogues to prepare new social contracts, or peace resource centres to provide expertise and knowledge on state-of-the-art peace processes. But, in all cases, they have to be rooted in the social and political fabric of the conflict-affected countries.

Manage Distrust and Build Trust

Building trust between the interveners and the participants, as well as among the participants themselves, is critical and challenging. Before that is possible, however, one must deal with the high degree of distrust that may exist between the parties, and often between each of the parties and the intervener or the intervention process. For adversaries, not trusting the other is safer, as it does not leave one vulnerable to attacks or abuse if things go wrong. Being wary of the intervener is also logical. It protects the parties from harm if the intervener turns out to favour one side over the other or otherwise acts in ways that are perceived as dangerous or hostile to the participants.

As a first step toward building trust, interveners need to ask themselves what the risks are to the participants if and when they decide to engage in the process. What will happen to them if things go wrong—if an embarrassing story becomes public, for example, or if the other side reneges on an agreement? While these risks cannot be completely avoided, working with the participants to develop a process that limits potential damage can be helpful in transforming distrust into trust.
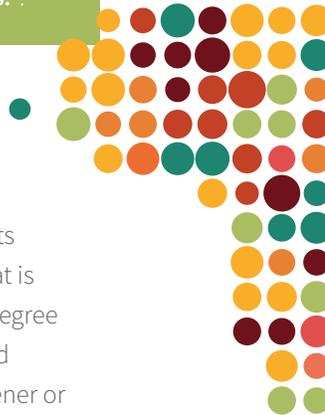
#4: Coordinate with Other Processes

The success of political mediation is contingent upon a set of relevant criteria, such as the power of the mediation to forge alliances in order to overcome challenges to the process. Complexity in mediation can weaken the degree to which alliances can be effective. However, this can be managed through effective co-ordination of local, regional and international actors. The degree of coordination needs to be articulated in both the strategic and the operational plan.

Some special considerations:

International Contact Groups

In protracted conflicts, it is frequently the case that a range of external actors become involved in peace-making and peacebuilding endeavours. These actors typically include the UN, the AU, the relevant REC, neighbouring states, the former colonial power, donor countries, and international bodies, such as the European Union (EU), the League of Arab States, and the Organisation Internationale de la Francophonie. It is vital that these actors work collaboratively with a common purpose. Competitive behaviour undermines the peace process and can allow the disputing parties to play the external actors against each other.

In such situations, an International Contact Group comprising of all the relevant external actors should be set up with the aim of ensuring co-ordination, co-operation, role clarification and an appropriate division of labour. Role clarification and division of labour should be conducted regularly in order to avoid turf battles and duplication of efforts, and to maximise the value and comparative advantage of the external actors.

The actor most suited to serve as the convenor of the International Contact Group might differ from one instance to another. In general, however, the UN is the logical body to play this role because of its authority, mandate, and membership.

The International Contact Group must appreciate that local ownership is both a fundamental means and a fundamental goal of peacemaking and avoid becoming isolated from domestic bodies. It must interact closely, consulting properly and listening to governmental and non-governmental local actors.

Case Study: Guinea-Bissau Mediation 2004-2009

After the appointment of a special representative of the ECOWAS commission's president to Bissau in 2004, the organisation had a permanent presence in the country where its mediation between political and military actors was generally well received. ECOWAS's quick dispatch of high-level goodwill missions, usually composed of the president of the commission and at least one minister from a member state, was also crucial to limiting crises and containing the risks of widespread deterioration in any situation. On four occasions (2005, 2008, 2009, and 2014), emergency aid provided by ECOWAS and some of its members, with Nigeria at the forefront, was decisive in facilitating satisfactory and non-violent elections. As it was closer to the ground than other international partners, ECOWAS was able to build on personal relationships and develop a better understanding of the Guinea-Bissau context, although it took years to become familiar with the former Portuguese colony's particular political and institutional heritage, including the fact that it was the only country in the region to have waged a war of independence. By promoting the creation in May 2006 of an International Contact Group for Guinea-Bissau (ICG-GB), ECOWAS helped mobilise an international community that had little interest in the country, even though the ICG-GB never benefited from the same level of attention and monitoring as the ICG-G, its equivalent in neighbouring Guinea.

Joint Mediation Missions

Joint mediation missions should be based on the following:

- A comprehensive and accurate analysis of the parties, the dynamics, and the causes of the conflict, as well as the role of external actors (e.g. foreign powers, neighbouring states)

- An assessment of previous peace processes and agreements relating to the conflict

- A strategic perspective on the conflict, the options for peacemaking, the major challenges, and the preferred scenario or Course of Action (CoA)

- The Lead Mediator's terms of reference

- The nature of the partnership between the UN, the AU, and ECOWAS

Case Study: The Gambia

The joint mission visited Banjul from 4-5 May, 2016, and was led by the president of the ECOWAS Commission, Marcel Alain de Souza. and the mission also included the AU Commissioner for Political Affairs, Dr Aisha Labara Abdullahi, and the Special Representative of the UN Secretary-General for West Africa and the Sahel, Dr Mohamed Ibn Chambas. Also involved was the Office of the High Commissioner for Human Rights through its regional representatives for West Africa. The mandate of the joint mission was two-fold: to mediate in the border dispute between Senegal and The Gambia over the hundred-fold increase in fees for crossing the Gambia River imposed by the government of The Gambia's President Yaya Jammeh, and to address the deteriorating political-security situation in The Gambia.

Strategic and operational plans will provide the necessary cohesion and convergence. The relationship between the AU PSC, UN DPA and DPKO, and the ECOWAS (including EWD and DPKRS) regarding mediation should be strengthened through the following:

- on-going desk-to-desk contact

- sharing information and early warning

- developing a system for jointly identifying emerging conflict issues and designing strategies and plans for conflict prevention

- collaborating in the preparation of briefing papers

- joint training, retreats and workshops

Risk Management Considerations:

- Create more opportunities for regular communication and relationship development between Track I and Track II professionals. Cooperation, coordination, and/or collaboration never happen without trust, which is built by frequent contact, testing, and confirmation of people's reliability. By getting to know people over time, both sides can determine who does and does not know what they are doing, what they are talking about, and who has the willingness and ability to follow through on their promises and commitments. Once the two tracks establish contact with each other, the benefits of frequent communication become clear and steps are likely to be taken to ensure it occurs regularly. In addition to holding regular meetings, the two tracks often find it helpful to adopt the practice of exchanging calls routinely—maybe once a week—with specific contact people to find out what the other track is doing.

- Whenever possible, establish a long-term presence in a region. A long-term presence gives Track II practitioners not only the knowledge they need to 'know what they are talking about' but also the chance to

develop trusting and meaningful relationships both with the local citizens and the Track I practitioners.

- The same is true for Track I interveners. If they come and go quickly, they will not have the ability to connect with the Track II practitioners in a way that allows the mutual development of trust and therefore effective collaboration.

- Develop greater understanding of the diverse roles Track I and Track II actors play in different contexts, appreciating that their roles may evolve over time and rejecting the all-too-common assumption that a single actor can or should fulfil all the functions involved in a peace process. A peace effort usually builds on what went before, and even though an earlier effort may have looked like a failure, it may have prepared the ground in some way for a more successful effort either by the same party or by subsequent parties. The key to effective cooperation between Track I and Track II actors on the scene is to have a shared vision about what the other's role is, and how they can mutually support and enhance each other's efforts. Track I and II practitioners should meet early on (and then continue to meet regularly) to determine roles, expectations, and limitations.

- Implement flexible and adaptive joint planning processes that evolve in changing environments. This is largely already covered above, but the key notion here is flexibility. As the situation changes, needs change. If joint planning is ongoing, both Track I and Track II players need to be able to respond in adaptive ways. One track may become more active in a particular geographic or substantive area while the other withdraws. Rules for interaction and intervention should not remain fixed, but should adapt to the needs as they develop.

- Integrate newcomers into the existing network of collaborators. Trust is not built immediately, but if new people are introduced to a network by the current, trusted collaborators, those newcomers will be more

likely to rapidly acquire the local knowledge and contacts necessary to become effective collaborators. If they are left out of the collaboration network, they are more likely to work at cross-purposes with others (if even unintentionally) and may come to distrust of the group from which they are excluded.

- Where appropriate, create explicit roles for convening and facilitating cooperative efforts. Meetings do not happen without convenors and facilitators. Ideally, one 'well-networked' /track II person should team with a well-networked Track I person to jointly convene and facilitate regular meetings. This task can be very demanding in terms of time and work, and so it should be shared, with responsibility rotating among the members of a network or group. If everyone feels the results are worthwhile, they will be more likely to accept the extra work, especially if it is periodic.

- Identify and capitalize on examples of successful cooperation, and apply lessons learned, as appropriate, to other contexts. These examples can come from the current context or elsewhere. The more people who are involved in collaboration meetings, the more experience that can be brought to bear on the current problems and the more ideas for potential responses can be developed. Very large meetings, however, tend to allow less time than smaller meetings for participants to discuss problems and ideas. Thus, it is necessary to strike a balance between the size of meetings and richness of discussion.

GENERAL CONSIDERATIONS

Lead mediators should engage with local mediators and traditional leaders to gain support from the most vital focal points in societies for movement in the peace process. These traditional leaders and local mediators come from various corners of societies and can be referred to as 'insider mediators'. Most official peace processes are initiated or supplemented by informal, non-official peace processes, dialogue forums and peace conferences, and such processes are often facilitated by people from the conflict regions with in-depth knowledge and great dedication to work in conflict. This is, in most cases, based on activities and initiatives provided by civil society organizations and platforms in the various member states of ECOWAS.

The contribution of civil society to conflict analyses is particularly important within the West African context, where different governments have varying levels of capacity to conduct analysis themselves. In some cases, contributions from civil society organisations regarding early warning signals for internal conflicts are critical to the overall national security analysis. It is important to note that the ECOWAS Early Warning System, ECOWARN, relies in part on a network of civil society organisations (especially WANEP) for furnishing information to their system.

Insider mediators often facilitate informal processes. However, there are cases where they work hand in hand with official mediators. Insider mediators often have proximity to the parties or stakes in the conflict therefore, these mediators may be partial in their relationships, but not necessarily in how they approach mediation. Part of the level of credibility and trust gained at this level is that these mediators speak the same 'language' as the conflicting parties, which allows them to gain access

based on their empathy towards both positions. Insider mediators also have a cultural and normative closeness to the mediator and the conflict parties. Thus, insider mediators possess a sound cultural knowledge and in-depth understanding of the situation.

Case Study: The Use of bashingantahe in Burundi

The term bashingantahe (singular mushingantahe) refers to men of integrity who are responsible for settling conflicts at all levels and maintaining peace and stability among people in the villages and towns. During the Arusha peace talks, the 19 parties that took part agreed that the work of the abashingantahe had made it possible that no ethnic conflict had emerged before 1965. The debate over democratisation between 1989 and 1992 opened the gates to freedom of expression. In this debate, many contended that the new processes of democratisation should recognise the value of bashingantahe and ensure that the leaders who emerged through the processes of democratisation were abashingantahe. Those who argued for the bashingantahe expressed concern about the country's past experiences and the desire to protect against the evils of tribalism and ethnic hatred in politics. Although the negotiators of the Arusha Accord were divided between Hutu and Tutsi, they managed to reach a consensus on bashingantahe as an aspect of their shared culture.
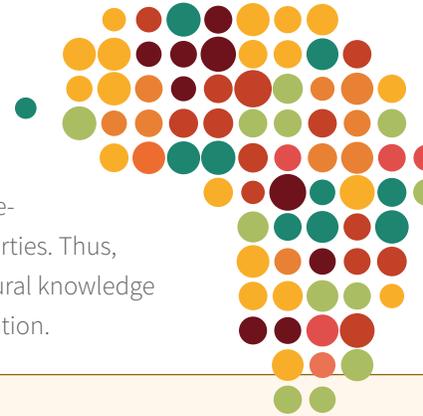
Case Study: The Darfur Peace Agreement

Traditional leaders were seen as important players in ensuring sustainable peace processes in Darfur, Sudan. According to the AU DPA, the parties were to ensure compliance by other armed groups and militia that were not parties to the agreement with the ceasefire through non-military means – including negotiations, mediation and traditional forms of conflict resolution. This was achieved through enlisting the support of traditional leaders and local authorities. This approach also called for community representatives to take responsibility for intertribal reconciliation and community harmony by rebuilding societies damaged by war. The DPA also stated that traditional and community leaders would work with relevant authorities to help with the registration of all displaced persons, in urban, rural and camp settings.

Identify and Coordinate with Track III actors

CSOs in West Africa often work in the perspective of multi-track mediation when carrying out peacebuilding and mediation activities, including informal shuttle diplomacy and advocacy between the different tracks. Shuttle diplomacy has especially been applied by women's groups in the civil wars of Liberia and Sierra Leone. Examples of such groups are the Mano River Women's Peace Network (see below), the Liberian Women's Initiative, Sierra Leone Women's Movement for Peace, and the Campaign for Good Governance. With regard to the civil war in Sierra Leone, women's groups were one of the first in the society to support the engagement in dialogue with the RUF at a time when the conflict parties themselves preferred to pursue the use of weapons. Through advocacy, pressure can be exerted on Track I actors to take action, and the media have been used to involve the population in the peace process.

Case Study: Track III Diplomacy by MARWOPNET

The Mano River Women's Peace Network (MAR-WOPNET), is a regional actor that pursues several different approaches in promoting peace, through conflict analysis and dialogue. MARWOPNET has assisted local authorities within the Mano River Union in conflict analysis. The network primarily acquires early warning data from communicating with local and traditional women groups within the sub-region. Concerning peacebuilding, MARWOPNET has taken advantage of its extensive regional networks to try to form a broad constituency within the region in order to exert pressure on national leaders to take more action for peace. Through its strong networks with UN agencies, ECOWAS and the African Union, MARWOPNET has been able to bring to attention the suffering of women and children during conflicts, such as the poor conditions of women and children in refugee camps in the sub-region.

Case Study: The Gambia, January 2017

On January 18, 2017, the Senegal-Gambia-Guinea Bissau Women's Forum, in collaboration with the Gender Action Team (GAT), organized a 'Peace Tent'. The women were concerned about the increasing threats of insecurity and instability in The Gambia due to the political impasse after the December 1, 2016, presidential elections. Participants included members of the GAT, the delegation of representatives from the Women's Platform in Senegal and Guinea Bissau, religious and venerable leaders, members of the diplomatic and consular corps, representatives from civil society organizations, and other professional bodies and members of the general public. The purpose of the event was to call on the outgoing president, Yaya Jammeh, and incoming president Adama Barrow to ensure that peace and stability continued to prevail in the country. Like the Peace Caravans, participants put on white clothes symbolizing peace.

This activity was a follow-up to an earlier call by the Senegal-Gambia-Guinea Bissau Women's Forum urging both parties, and especially the incumbent, to ensure a smooth transition and to seek a peaceful and non-violent resolution of the political impasse.

women's full and equal participation in all aspects of peace processes in West Africa at all levels. Through well-established regional networks, MAR-WOPNET engages in different tracks of diplomacy in each country within the Mano River Union.

Engage with the Broader Peace and Security Policy Community

Through the coordination function of MFD, ECOWAS Track I mediators are able to take advantage of Track III actors through the following initiatives, bodies, and organizations:

- The West African Civil Society Forum (WACSOF) was endorsed by the AHSG as a platform for coordinating and infusing civil society perspectives into ECOWAS peace and security policies and activities, promoting civil society participation in West African integration, and facilitating communication, interaction, and co-operation between ECOWAS and civil society groups.

- The African Security Sector Network (ASSN) and the West African Network for Security and Democratic Governance (WANSED) play a central role in ECOW-AS's SSR initiatives, which benefit not only from the research and analyses published by their members but also from the technical experts they supply to advise, design, and review draft policy proposals, as well as undertake needs assessments, carry out back-ground research, and design SSR-related projects.

- Women's groups such as the Women Peace and Security Network Africa work with a variety of stake-holders, including ECOWAS, to promote women's perspectives on and participation in peace and security.

- The West Africa Network for Peace (WANEP) is a civil society based platform represented in all ECOW-AS countries and contributing to a great extent to the Early Warning Architecture of ECOWARN.

- The Mano River Women's Peace Network (MAR-WOPNET) is an NGO that engages regionally for

REFLECTIONS:

1. What can mediators do to ensure the proper delegation of parties at the mediation table?

2. What are key elements of good mediation practice?

3. How does a Track I mediator ensure coordination with other Tracks?

4. What can a mediator do to ensure that continuous leverage is exerted over the parties?

5. Why are grassroots movements relevant to managing the mediation?

FURTHER REFERENCES

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4. da Rocha, J.P (2016), Mediating international conflict – Challenges and opportunities. BPC Policy Brief, Vol 4(1), Rio de Janeiro: BRICS Policy Centre

5. Gender in Mediation: An Exercise Handbook for Trainers, CSS Mediation Resources, 2015

CHECKLIST: TALK PHASE

Problem	People	Process
Context analysis • Are there changes in the context that affect the conflict? • In what ways can the initial conflict analysis be updated?	**Who participates in the talks?** • Leaders of parties, deputies or lower level representatives? • Who else participates? Civil society, marginalised groups, experts, academics? • Do the participants have a clear mandate to represent their parties? • Is there a need to bring outsiders to the talks to share their experiences? **Involvement of different tracks?** • Are there different tracks involved? How can these tracks be coordinated? • Do these tracks have a mandate? **How to deal with spoilers?** • Should spoilers be brought into discussions? • Can spoilers be dealt with outside the mediation process? • Should a group of friends of mediations be established? • What type of support could it bring?	**Setting the stage and ambiance to the talks** • What are the interparty dynamics like? • Do parties get along with each other? • How can the goodwill and openness between the parties be increased? **Drafting clear guidelines for the negotiations** • How do parties engage with each other in the talks phase? • Are observers allowed in the meeting room? If yes, what is their role? • Are the discussions recorded? If yes, what happens to the recordings? **Format of the negotiations** • How many plenary sessions are included in the talks phase? • What issues should be dealt with through shuttle diplomacy? **Formality of opening** • What is the format of opening and opening statements? • Is the opening ceremony a public or a closed-door event? What is the protocol? • Do the negotiations require a formal opening? If so, does it matter who gives the opening statement? **Guiding the mediation process** • Are rigid deadlines or timeframes needed? • Will there be one, two or more mediators? What is the division of labour among the mediators? • What are the rules for the mediator and parties using caucus? • How are the disputed issues reframed and the decisions sequenced? Should 'easy' issues be dealt with first? • How can deadlocks be broken? • How does the process reflect the desired agreement type? • How is communication with different constituencies dealt with? • How are the parties' expectations managed? **Venue and other logistics** • Where should the talks take place? Does the selection of venue affect the impartiality of the mediation process? • How can security be assured? • Are interpreters needed? How is their impartiality assured?

EXCURSION:
NEGOTIATING SPECIAL ISSUES

Whereas many special issues seem to emerge during a conflict and the subsequent mediation, a few special topics require specific attention, especially when power mediation is the chosen style, addressing some very pertinent issues of leverage and de-escalation through the use of a peace enforcement element. Notwithstanding the fact that many issues may easily destabilize the peace and security order of the ECOWAS region, the following will only focus on two special issues which have received heightened attention and where scholarly work and current practices have strengthened knowledge management. For further investigation into other related issues, kindly consult the guiding documentation provided by the Centre for Humanitarian Dialogue to ECOWAS and lodged within the MFD.

NEGOTIATING CEASEFIRES

In intra-state and interstate conflicts, mediators will often find themselves equipped with a limited mandate to negotiate a ceasefire agreement between belligerent parties. That will typically be followed by a peacekeeping element to manage the peace process. Ceasefires might play two distinct roles: (1) they can be part of a larger peace process, thus allowing for a stabilization force to secure the foundations of the peace agreement, or (2) they can be the main contribution to peace efforts.

A ceasefire is a temporary stoppage of firing or fighting:

1. Temporary Ceasefire: Limited in duration and has specific objectives.

2. 2Permanent Ceasefire: It is negotiated as part of the overall peace deal, and is aimed at gaining sustainable peace through a transformative process. It is linked to political and security arrangements, justice and human rights, sexual violence and gender issues, and IDP and refugee resettlement.

In terms of temporary ceasefires, there are three types of agreements:

1. Cessation of Hostilities: A cessation of hostilities is a temporary stoppage of fire or fighting for a specific objective. It could be undertaken at the beginning of a peace process, negotiated by all parties in conflict, or it could be unilaterally declared by one party.

2. Truce: A temporary declaration by fighting armies to stop fighting in specific locations, at specific times and for specific reasons, such as the evacuation of the injured, and the dead. The best-known example of an unofficial truce occurred during World War I when British and German troops emerged from their trenches to celebrate Christmas in 1914.

3. Armistice: In general, this is an agreement between warring sides to stop the fighting, but is not an agreement to make peace, nor is it necessarily an indication of victory by one side or surrender of another. For example, the 1953 Korean War Armistice.

Here is a simplified schematic of a (temporary/permanent) ceasefire design process:

GENERIC CEASEFIRE PROCESS

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                                    ┌─────────────────────┐      ┌─────────────────┐
                                    │ PEACE AGREEMENT &   │      │  REINTEGRATION  │
                                    │  PERMANENT CFA      │      │                 │
                                    └─────────────────────┘      └─────────────────┘
                                                                          ▲
┌──────────┐  ┌──────────┐  ┌──────────┐  ┌──────────┐  ┌──────────┐  ┌──────────┐
│ COHA AND │  │          │  │MONITORING│  │CANTONMENT│  │REORGANI- │  │DEMOBILI- │
│FRAMEWORK │→ │POLITICAL │→ │CESSESION │→ │ AND/OR   │→ │ SATION   │→ │ ZATION   │
│AGREEMENT │  │DIALOGUE  │  │   OF     │  │REDEPLY-  │  │ AND/OR   │  │ AND/OR   │
│          │  │          │  │HOSTILITIES│  │  MENT    │  │DISARMAMENT│  │RETENTION │
└──────────┘  └──────────┘  └──────────┘  └──────────┘  └──────────┘  └──────────┘
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CONSIDERATIONS:
- Cantonment: timeframe, sites, monitors
- Detailed security arrangements: ceasefire commission, D day & monitors; disarmament monitors, demobilization structure and timelines
- Children, victims and community security
- Funding & donor support

REORGANISATION/ DEMOBILIZATION PLANNING:
- Based on a detailed review and planning process
– Registration of troops and weapons
– monitor recruitment and weapons freeze
– arms collection, storage, and disposal
– site demobilization centers
– managers screening process
– coordinate with Military Integration Team
– coordinate with Reintegration Committee

MILITARY INTEGRATION / AMALGAMATION

TRANSFORMATION

The following is a feature of a permanent ceasefire:

- Principles (are not conditions and are not demands, but set the tone for cooperation),

- Prohibitions and Undertakings (restraints and commitments to improve relationship),

- Monitoring and Verification Mechanisms (third-party role in implementation),

- Disengagement, Redeployment and Limited Arms Control (physical security requirements),

- Preparation for Disengagement and Redeployment (procedures and planning),

- Demilitarized Zones and Buffer Zones (safety of civilians and troops),

- Non-Military Logistical Support (confidence-building),

- Responsibility for Security in Areas under Control (transitional security)

- Civilian Weapons Control (community security)

Case Study: The Darfur Peace Agreement, 2008

On 12 November, 2008, Sudan's president, Omar Hassan al-Bashir, announced a ceasefire between the armed forces and warring factions in the Darfur region of Western Sudan. The ceasefire was recommended by the Sudan People's Forum - a platform consisting of government and opposition figures. Following the announcement, Bashir promised to disarm militias and restrict the use of weapons among armed groups. The ceasefire was part of the Sudanese government's campaign to display its readiness to take part in peace negotiations negotiated by Qatar and the United Nations.

Typically, a ceasefire agreement is part of a peacekeeping exercise to put a wedge between armed forces, therefore coming with the following elements:

- De-escalation measures

- Clear parameters and indicators about what constitutes a ceasefire violation

- The deployment of a peacekeeping component

- Time and space-bound ceasefire implementation

- Monitoring, verification, and the creation of joint mechanisms for verification

- Linkages between the ceasefire agreement and an all-inclusive peace process

As a time-bound compromise to establish the building blocks of a larger and substantive peace agreement, ceasefire agreements can be used as pre-negotiation agreements for subsequent sustainable peace activities. As such, they are limited compromises that do not address the core grievances of all parties involved in the conflict. A mediator must navigate the ceasefire compromise carefully and attempt to sow the seeds for stabilization and further engagement of involved actors. She or he must seek the constant support and coordination of other mediating elements, such as civil society, business, the International Contact Groups, and other peace supporters, in order to counter the danger of armed groups falling back into a warlike scenario.

The mediation support team should therefore be made up of technical experts who can provide knowledge on Security Sector Reform, DDR processes, and power-sharing, as well as gender experts, business experts and educational experts. Lawmakers should also be engaged in regional dialogue to establish the ground rules for institution-building – therefore managing spoilers and the risk of stalling.

A basic ceasefire agreement should contain following elements:

- Definition of geographic coverage and timeline for implementation: ceasefires do not always stop all the fighting, but may be partial ceasefires, where the geographic area is defined.

- Identification and definition of accepted and prohibited acts: Typically, this is an agreement on troop levels, locations and movement, recruitment, training, the use and resupply of arms and ammunitions, and the responsibility of command and control over their respective forces, including rogue or non-complying elements. Acts outside these agreements would be considered a violation of the ceasefire.

- De-escalation measures: how do we ensure that the situation is not getting worse? Separation and move-

ment of forces as well as managing arms and armies. How would you manage the passage from the ceasing of active to a final, comprehensive security arrangement? Lines of disengagement, deployment, demilitarized zones and monitor positioning.

- Verification, supervision and monitoring: effective means of verifying that the agreement is honoured; definition of a chain of command on both sides is of paramount importance.

- Resolution of disputes: even if consensus is the most common mode of decision-making, many deputes can arise, and their resolution must be anticipated. In addition to a Joint Military or Monitoring Commission (JMC/JMM) or a peacekeeping or an observer mission, civil society can play an important role through local monitoring. It is essential the ceasefire agreement explicitly details the process of decision-making and authority in resolving a dispute.

Permanent ceasefires lead into negotiating transitional security arrangements. A schematic process is figured below:
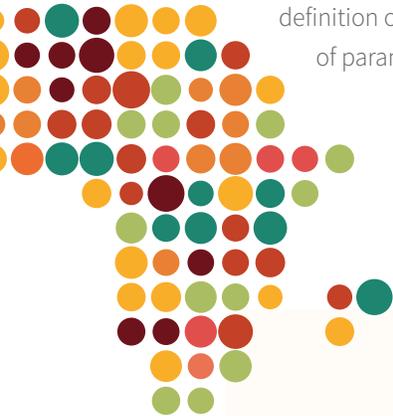
TRANSITIONAL SECURITY ARRANGEMENTS PROCESS

CEASEFIRE AGREEMENT

TRANSITIONAL PERIOD:

- Stretegic security and defence review

- Security and defence management and oversight

- Security architecture: force reorganisation

- Non-military logistical supply to forces in cantonment to enable accountability, reorganisation and sensitisation

- Confidence building initiatives

INTERGRATION OF FORCES

DDR

REINTEGRATION

MILITARY PROFESSIONALIZA-TION

SECURITY SERVICES INTEGRATION

NEGOTIATIONS AND ELECTIONS

While working in 'fragile' environments, mediators should be cognizant of the power, the challenges and the opportunities arising from elections. Elections are a key turning point in a society's transition from war to peace, but certain political conditions still have to occur for ECOWAS mediators to engage effectively during or after them. Whilst a more conservative approach would argue that the mandate of an ECOWAS-led mediation mission is to foster the guiding principles and foundations for peaceful elections, the mediator and the team should pay attention to the dynamics that unfold in the aftermath of a peace agreement and its implementation. It is therefore recommended that, in case the mandate to mediate also entails establishing the ground rules for subsequent elections in the conflict space, the lead mediator should coordinate with a variety of technical experts and consultants, as well as with the lead mediation bodies, such as the AU and the UN, to determine the details of electoral processes. As such details might be outside of the scope of intervention, it is widely accepted and feasible in practice that one of the key decision-making bodies of the AU, the Panel of the Wise, and eminent personalities of various regional and international institutions play an important role in providing mediation support to electoral systems.

NEGOTIATING WITH NON-STATE ACTORS: ARMED GROUPS

In a range of intra-state civil wars, the mediation mission will by necessity have to engage with armed groups. Armed groups are those whose rebellion or resistance explicitly challenges the authority of the state. Political in its origin, armed action is often pursued as means to a political end. Hence, when equipped with a robust peacekeeping mandate, mediators must seek to accommodate these political aspirations in order to contain the violence. Yet, the definition of armed groups is unclear, as they are characterized by their great diversity and varied degree of threat to the state.

Armed groups can have the following classifications:

- Rebel forces organized as an army;

- Broad political-military resistance movements;

- Separatist groups organized in cells but with links to political surrogates;

- Ethnic-based armed groups;

- Interlinked militant groups; and

- Militant groups with connections to a broader international network.

Engaging with armed groups remains at the discretion of the decision-makers of the AU whose authority has framed the mandate. Based on sound conflict analysis and Early Warning indicators, political decision-makers will have to choose from the following options:

- Engage in order to open a channel of communication;

- Engage in order to build trust with the armed group and enhance its capacity for negotiation;

- Engage in order to manage potential spoilers to the peace process.

Due to the political sensitivity of the issue, the lead mediator shall coordinate with liaison officers from the AU, the United Nations, the International Contact Group, and CSOs engaged in mediation in order to engage any armed groups. Local mediators, traditional peacemakers and other Track II actors will have to be addressed and coordinated as well.

NEGOTIATING WITH NON-STATE ACTORS: SECESSIONIST MOVEMENTS

A recent development on the African continent sees the emergence of secessionist tendencies and separatists within many states. Most secessionist movements aim at a negotiated transfer of power and jurisdiction from the host state to their political organizations. The host state authorities may not be ready to negotiate on this issue, but may be ready to negotiate with the secessionist leadership on the devolution of power or on the relief of specific grievances that the secessionists highlight in their propaganda or in their demands. In other words, the host state authorities are often ready to negotiate and to accommodate at least some of the secessionists' demands.

But negotiations or negotiated agreements between the host state and the secessionists do not precede all secessions. In some cases, no negotiations took place or the negotiations between the two sides broke down without any agreement. In such cases, the secessionists proceeded to proclaim secession unilaterally without any agreement with the host state authorities. A unilateral proclamation of secession – often called a unilateral declaration of independence – is a demand to the host state to acquiesce or to unconditionally agree to its loss of control and jurisdiction.

Secessions are characterized by four basic elements:

- A bounded territory within an existing state;

- A population within that territory;

- A political movement supported by the local population that has proclaimed the independence of a new state based on that territory; and

- Has attempted to gain recognition from other states and international organizations of that independence.

When negotiating in these contexts, mediators need to assess in which stage the secessionist conflict is.

Some are peaceful, most are violent. Violent secessions are characterized by the following factors:

- The readiness and the capacity of the host state to use force to prevent secession and suppress secessionist movements

- The readiness of the secessionist movement to use force in the pursuit of its secessionist goals

- The opposition by a territorially concentrated group within the seceding state to secession of their territory from the host state

- The existence of armed groups outside the control of the principal secessionist authorities and of the host state

Conflict analysis should therefore look at the following questions:

- Which factors contributed or were likely to contribute to the outbreak of the violence in any attempt at secessions?

- How, in a particular case of secessions or attempt at secession, did the violent conflict come about? Which actions of the parties involved in such an attempt led to violent conflict?

- What social and political conditionsfacilitated these attempts at secession and what 'triggered' the proclamations of secession?

- How could one justify these attempts at secession?

- Were these secessions legal?

NEGOTIATING UNCONSTITUTIONAL CHANGES OF GOVERNMENT

A key building block in the push for democracy in Africa has been the adoption of term limits. Establishing this precedent is crucial, given the continent's legacy of 'big man' politics — where the cult of personality surrounding many African leaders supersedes the rule of law and efforts to establish checks on power. Once ensconced in office, many African leaders so control the levers of power that they are very hard to dislodge.

Through the efforts of reformers, roughly 20 of Africa's 54 countries now limit presidents to two terms. Another 10 countries, including Burundi, have such provisions written into their constitutions, though they have yet to be implemented. Norms around term limits have been gaining momentum in recent years. Afrobarometer polls show 75 percent of African respondents favour two-term limits for their heads of state. The last successful circumvention of term limits was in Djibouti in 2010.

Constitutional Term Limits on Sub-Saharan African National Executive Authorities					
	Constitution contains a two-term limit on president				
			Two-term limit was reached		
Constitution does not contain a two-term provision	**Limits not yet met by any president**	**Limits not retroactively applied to current incumbent**	**Compliance**	**Attempted modification / elimination**	
				Without success	**With success**
Cape Verde* *(3-term limit)* Equatorial Guinea Eritrea Ethiopia* The Gambia Guinea-Bissau Lesotho* Mauritius* Somalia South Sudan Sudan Seychelles *(3-term limit)* Swaziland	Burundi CAR Côte d'Ivoire Guinea DRC Liberia Madagascar Mauritania Rep. of Congo Rwanda Zimbabwe	Angola	Benin *(Kérékou)* Botswana *(Mogae)* Comoros *(Assoumani)* Ghana *(Rawlings)* Kenya *(Moi)* Mali *(Kanaré)* Mozambique *(Chissano)* Namibia *(Pohamba)* São Tomé & Principe *(Trovoada)* Sierra Leone *(Kabbah)* South Africa *(Mbeki)* Tanzania *(Mkapa)*	Burkina Faso *(Compaoré, 2014)* Malawi *(Muluzi, 2013)* Niger *(Tandja, 2009)* Nigeria *(Obasanjo, 2006)* Senegal *(Wade, 2012)* Zambia *(Chiluba, 2001)*	Cameroon *(Biya, 2008)* Chad *(Deby, 2005)* Djibouti *(Guelleh, 2010)* Gabon *(Bongo, 2003)* Togo *(Eyadéma, 2002)* Uganda *(Museveni, 2005)*

*Executive authority largely rests with the office of prime minister; which does not face any restrictions on tenure.
*Source: Africa Center for Strategic Studies, 2015, updated and expanded from "Africa and the Arab Spring: A New Era of Democratic Expectations," ACSS Special Report, No. 1, 2011; and Vencovsky, 2007.*

Case Study: Togo, 2009-2010

In 2005, after the death of Eyadema Gnassingbé who had been the president of Togo since 1967, the military announced Eyadema's son Faure Gnassingbé as president, but opposition parties, including ECOWAS, the AU and the international community, rejected the coup. ECOWAS began mediation between the government and opposition political parties on April 30, 2005 and on June 9, 2005, President Faure Gnassingbé appointed opposition leader, Edem Kodjo, as prime minister. President Blaise Compaoré of Burkina Faso, representing the ECOWAS, began further mediated negotiations between representatives of the government and opposition political parties on August 10, 2006 and by August 21, government and opposition political parties signed an ECOWAS-mediated Global Political Agreement (GPA) in Lomé. The GPA provided for the establishment of two commissions that would be responsible for establishing the truth about crimes and human rights violations following the 2005 presidential election, and would promote political reconciliation in Togo. During the legislative elections on October 2, 2007, ECOWAS sent 152 observers to monitor the process. President Compaoré as ECOWAS' special mediation envoy then mediated negotiations between President Faure Gnassingbé and Gilchrist Olympio, leader of the Union of Forces for Change (Union des Forces du Changement-UFC), in Ouagadougou, Burkina Faso, on November 2, 2007. This successful effort prompted the European Union (EU) to lift economic sanctions against the government and subsequently paved the way for the 2010 presidential elections, which was largely seen as a success.

Case Study: The Gambia, Dec. 2016-Jan. 2017

In a bizarre telephone call beamed live across the country on December 2, President Yaya Jammeh conceded defeat following the country's presidential elections. Later the same day, ECOWAS, the AU, and the UN endorsed the result of what they described as a "peaceful, free, fair and transparent presidential election" as a legitimate expression of the will of the Gambian people. On December 9, however, Jammeh changed his mind and said he would contest the election result, citing "serious and unacceptable abnormalities." In response, on December 12 the AU Peace and Security Council stated it would take "all necessary measures" to ensure compliance with the election results. On December 17, the ECOWAS Authority took a similar position, stating it "shall take all necessary measures to strictly enforce the results of the 1 December 2016 elections." On December 21, the UN Security Council issued a presidential statement on The Gambia commending ECOWAS' position. What followed was a series of diplomatic initiatives, including by the presidents of Liberia, Ghana, and Nigeria, and later Guinea and Mauritania, to convince Jammeh to leave office and transfer power to Adama Barrow, who had been declared winner of the elections, on January 19, 2017 according to the official schedule. As that deadline approached, on January 13, the AU declared that it would cease to recognize Jammeh as the legitimate president of The Gambia as of January 19. With air, naval, and ground troops from several ECOWAS states actively engaging in contingency planning and operational preparations, on January 17 ECOWAS gave Jammeh an ultimatum: depart by midnight 19 January or face the consequences (the deadline was later extended to midday, and then to 4.00 pm).
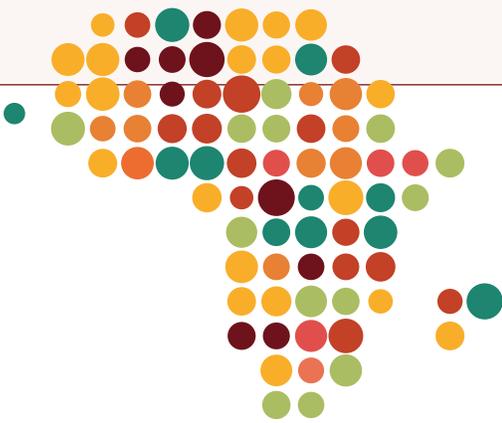
When dealing with unconstitutional changes of government, ECOWAS mediators shall:

- Clarify their mandate to negotiate;

- Work with the international contact group to allow for side discussions with involved armed groups to act as channels of communication between delegations and constituency;

- Clarify ground rules and agenda for engagement;

- Continuously update their conflict assessment;

- Clarify terminology: autonomy, referendum, self-government, independence;

- Proxy mediators and traditional mediators must maintain contact and communication on a Track II level for spoiler management and motivation of all sides to continue the negotiations;

- Allow for shuttle diplomacy to happen;

- Refrain from sanctions and pressures;

- Employ SSR, power-sharing, and DDR experts for troop regulation;

- Employ rule of law and gender experts for new jurisdiction framework;

- Consult with elections experts for referendum-related questions and constitution-building;

- Employ technical consultant on drafting agreements and clauses for inclusion of monitoring, verification and evaluation clauses.

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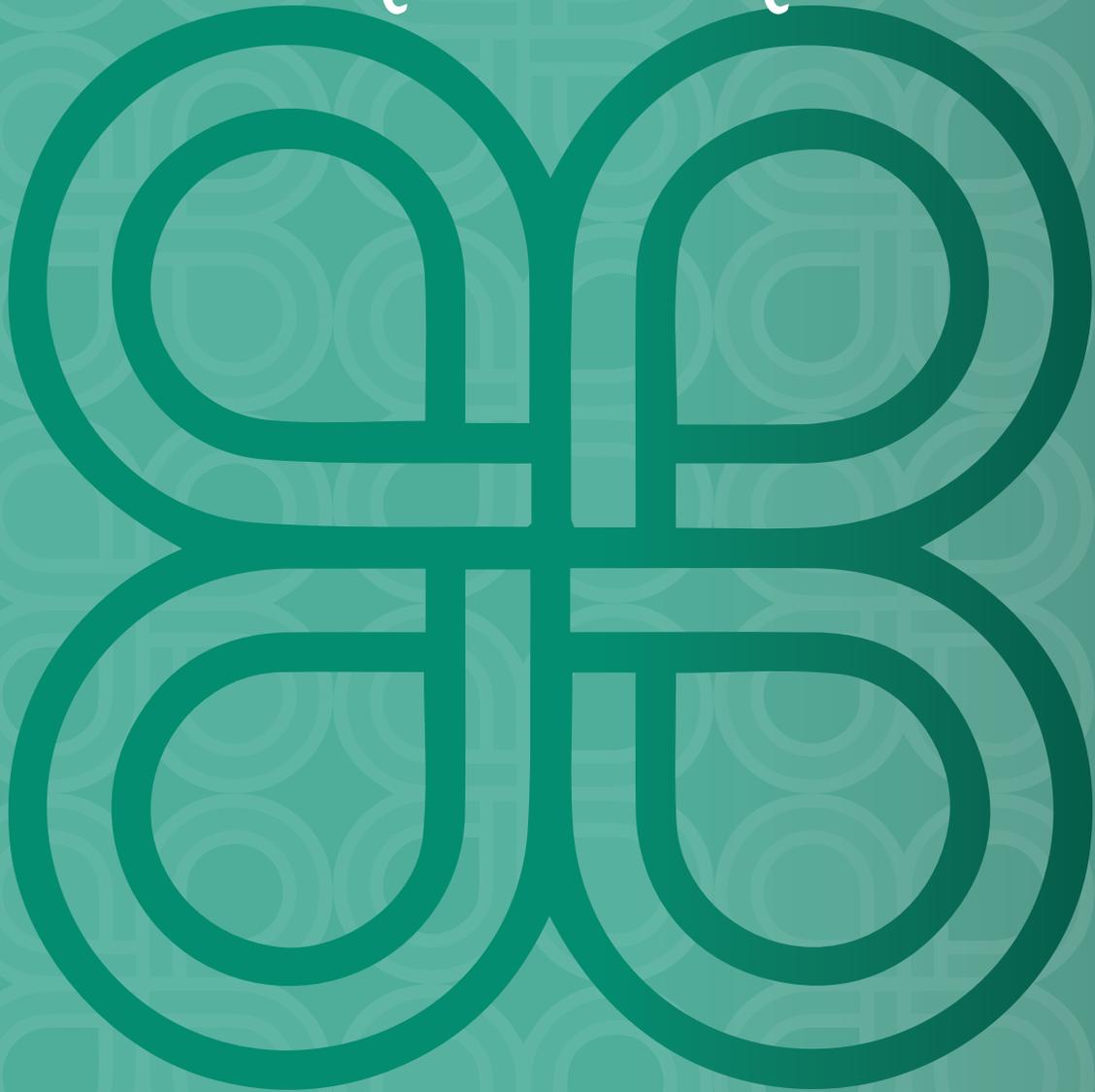
*Understanding, forgiveness,
peacemaking and reconciliation*

PHASE 3: AGREEMENT
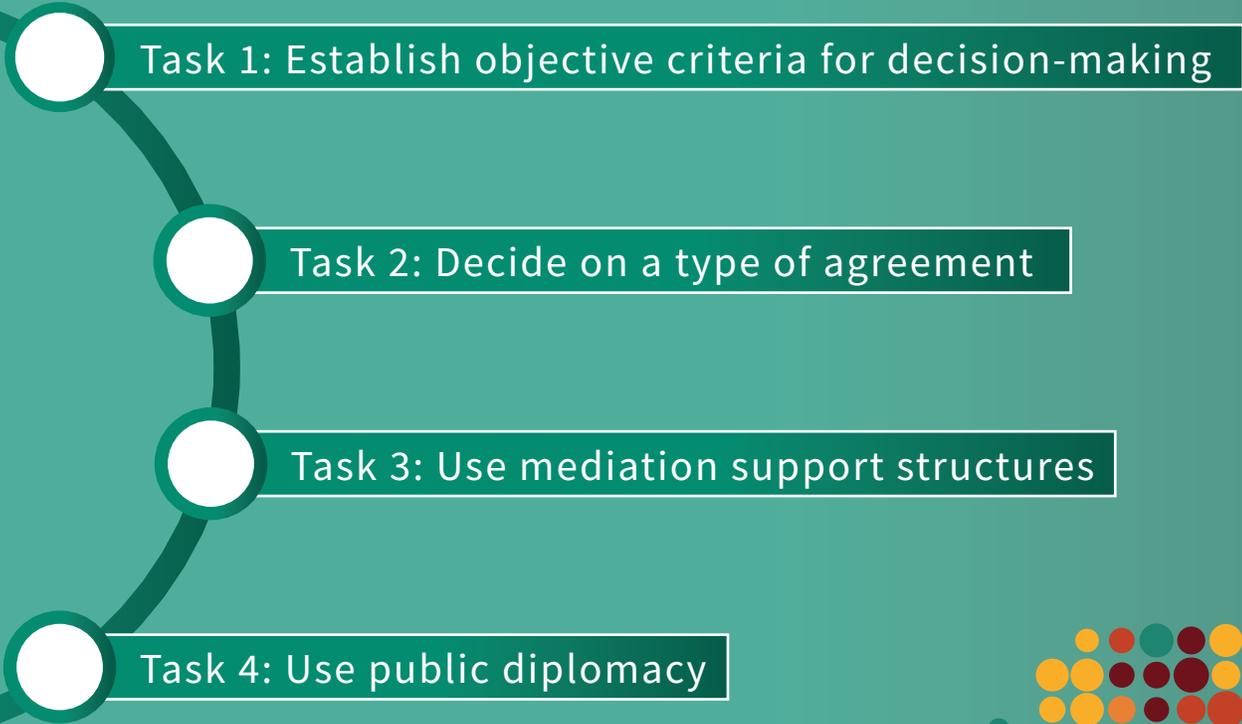
Task 1: Establish objective criteria for decision-making

Task 2: Decide on a type of agreement

Task 3: Use mediation support structures

Task 4: Use public diplomacy

INTRODUCTION

When mediators enter the third phase of the mediation process, their focus shifts to constructing an agreement that endures the test of time, is realistic and measurable. Beyond these criteria, mediators at all tracks need to ensure that the agreement is acceptable to the wider public, and that it stands a chance to be implemented successfully. To that effect, the MFD and concurrent support structures, as well as the use of public diplomacy become vital lifelines of the nascent agreement.

GENERAL CONSIDERATIONS

A key milestone in any mediation effort is reaching closure of the mediation activity through a sustainable and implementable peace agreement. In general, peace agreements are hybrid constructs: (1) They need to be clear enough to allow for monitoring, verification, implementation, and redress mechanisms in order to have clear roles, responsibilities, and accountabilities, yet (2) they have to be ambiguous enough to be organic documents that allow for flexible and creative adaptation to the ever-changing dynamics of the post-conflict setting. Moreover, peace agreements need to be locally owned, which, in itself needs clarification and precision in terms of the institution-building abilities of the founding document. The agreement needs to tackle a range of issues, such as themes of justice, peace, reconciliation, human rights, development, governance, grievances, rehabilitation, etc. Hence, the lead mediator and the mediation team need to craft an agreement that, most of the time, they will not be able to witness implemented. This raises questions about the ability of the crafted agreement to survive if there is no guarantor ready to supervise, give guidance or mentor the conflict parties during the transition phase.

Look for Integrative Solutions

A mediator helps people find acceptable solutions. In moving towards resolution, they can avoid impasses by insisting that parties adopt accepted negotiation priorities.

- *Establish priorities:* Parties who stress that every issue is equally important usually lack a clear idea of their own interests. A mediator needs to identify a party's priorities, especially if the party does not explicitly rank them.

- *Develop trade-offs:* Negotiating between the parties entails a series of exchanges. Parties only start to exchange items of relevance if they believe the items are of comparable worth. However, individuals value items differently. Exchanges, and therefore negotiations, are influenced by these differing valuations. Some individuals value substance over relationships, which is why priorities must be established before trade-offs are made.

- *Compel parties to acknowledge constraints:* A mediator needs to remind parties that their negotiating proposals must not only reflect their own aspirations but also fall within the resource capacities of their negotiating counterparts.

- *Pursue compromises:* Mediation often connotes compromise. Unfortunately, a compromise is a conflict resolution style characterised by both parties getting less than they aimed to achieve. In this sense, there can be no long-term agreement, merely a short-term arrangement to allow a situation to settle down, creating space and time for the issues and parties to become 'ripe'. The mediator's strategy should however, reach beyond compromise and aim for collaboration between the parties. The mediator should encourage the parties by urging them to compare what they may get in return for accepting less than what they desire, and to determine whether the exchange is acceptable. A mediator helps parties get what they need, not always what they want.

- *Look for integrative solutions:* The mediator should try to assist the parties to resolve issues without having to give up anything. Usually, these solutions are not readily available for every negotiating issue, but they do exist, and the mediator should en-

courage the conflicting parties to look for them. This will promote long-term empowerment and sustainable agreements.

- *Use brainstorming:* Typically, movement in a mediation process is prompted by the parties imagining resolution possibilities. The mediator should invite both parties to throw out as many ideas as possible, whether they are good or bad, to get a range of ideas on the table. The mediator will then capture the ideas, preferably on a flip chart, without attributing them to a particular party and without attaching any judgments or qualifications. Separating idea-creation from idea-adoption frees people to be creative.

- *Prohibit escalating demands:* When a negotiating party escalates their demands, it shifts the target for agreement, which makes resolution impossible because one cannot know what it will take to strike a deal.

- *Help strategise the negotiations:* The mediator should help parties explore whether there is some overlap in their demands – a zone of agreement in what they may be willing to do – by conveying offers in a way that does not antagonise either side, and by shifting the discussions so that parties reveal underlying interests and develop responsive trade-offs.

- *Use the agenda:* Sometimes people become stuck. Doing something different helps to break the impasse, for example shelving a particular matter and/or shifting the focus elsewhere can generate movement and creativity.

- *Develop time constraints:* People tend to reach decisions under the pressure of deadlines. For all mediated discussions, there is an ideal time period within which the parties have the power to resolve matters by themselves. A mediator should use deadlines to encourage parties to take responsibility for managing their futures.

Task 2: Decide on a type of agreement

Obtain Agreement on Basic Principles

Prior to the development of final agreements, it is often helpful to have the parties agree to a 'declaration of basic principles' or a negotiating framework that provides the overarching structure for a subsequently drafted, detailed peace agreement. This negotiating framework usually includes statements such as:

- The parties seek to live together in peace.

- The rights of states and/or nations and peoples will be protected.

- All parties will be treated with respect.

Craft the Broad Outlines of an Agreement

- The framework also usually contains the broad outlines of an agreement: "Side X will do A, B, and C, if Side Y does D, E, and F." These agreements are usually stated in general terms that are acceptable both to the parties at the table, as well as to

political leaders and the general public. Determining exactly what these general ideas mean in practice and how they will be achieved is the next, very challenging part of the job.

Determine a Drafting Process

Most agreements are drafted in one of two ways. One approach is the 'single-text' negotiating process in which the mediator listens to suggestions from both sides and drafts a proposed agreement that best meets each side's needs and interests. This text is then edited — either simultaneously or sequentially — by the parties until a draft acceptable to all sides is attained.

The other approach is for each side to simultaneously produce its own draft agreement; the mediator then takes these agreements and works with the parties to mesh them together into one document that everyone can agree on.

The drafting process can take place as the negotiations proceed, with discrete parts of an agreement being drafted as soon as individual issues have been resolved. Alternatively, the entire agreement can be drafted at the end, after all the issues have been negotiated and all the trade-offs have been made. Both approaches have advantages, but if the issues are negotiated separately and the agreement is drafted in sections, it often is necessary to specify at the outset that "nothing is agreed until everything is agreed." This prevents negotiators from "cherry picking" — taking the agreements they want and discarding the ones they don't want. It also allows some flexibility for rewriting sections later, should trade-offs between issues that were not evident before become apparent.

Translate Principles into Legally Binding Language
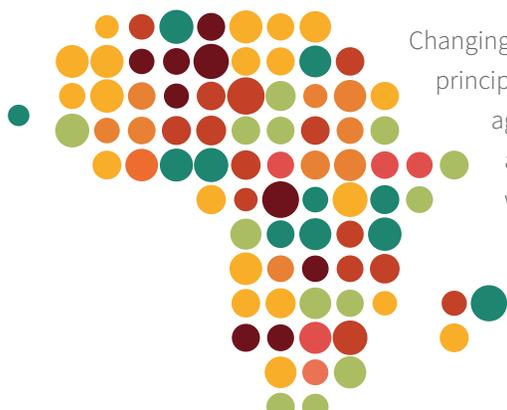
Changing a declaration of principles into an actual agreement is often an arduous task that takes weeks — if not months

or even years — of negotiation over the details. Each general statement has to be spelled out in legal terms so that it is clear to both sides exactly what is expected of whom and when each action is to be accomplished.

IDENTIFYING THE TYPES OF AGREEMENTS

Most peace agreements address three concerns: procedure, substance, and organisation.

- Procedural components: These delineate how the peace process will be sustained though the detailed processes and measures that build peace. They include schedules and the formation of shared institutions to facilitate the implementation of substantive issues such as elections, justice, human rights, and DDR processes.

- Substantive components: These define what is going to change after the peace agreement is reached and include the political, economic, and structural changes needed to remedy past grievances. They also address issues such as the distribution of power, the management of natural resources, and the types of formal and informal justice mechanisms to address past injustices and inequalities.

- Organisational/institutional components: These address the who of the agreement and are either directly responsive to it or provide oversight and guidance to the other actors who must carry out the activities intended to consolidate peace.

The following are the most common classifications of peace agreements, either used as stand-alone settlements or a mix of agreements depending on the issues:

- *Cessation of Hostilities/Ceasefire Agreements*

  - This type of agreement refers to temporary stoppages in violence and armed conflict for the purpose of peace keeping for an agreed- upon time

frame within a limited area. By definition, cease-fire agreements are short-term compromises that must be quickly followed up with further arrangements in order for peace to be maintained.

- *Pre-negotiation Arrangements*

  - These agenda-setting arrangements define how peace will be negotiated, and determine procedural issues such as schedules, agendas, participation, and location, as well as the mediator's role and procedures for drafting later arrangements. They are intended to build up trust and confidence in the peace process.

- *Interim Agreements*

  - Interim or preliminary agreements are made as an initial step toward conducting further negotiations. They do not deal with either procedural or structural issues, yet might include provisions on how and when the negotiations might be held. This in turn relates to respecting cease-fire agreements and need to be followed up quickly with negotiations on procedural and substantive issues.

- *Comprehensive Agreements*

  - Comprehensive agreements address the substance of the underlying issues and seek common ground between the interests and the needs of the parties.

Case Study: Liberia Comprehensive Peace Agreement, 2003

Parties Involved

The parties to the peace agreement were the Government of Liberia (GOL), the Liberians United for Reconciliation and Democracy (LURD), the Movement for Democracy in Liberia (MODEL), and other political parties.

Basic Objectives and Components

On August 18, 2003, Liberia's Comprehensive Peace Agreement (the Agreement) provided for the disarmament of approximately 40,000 combatants. The Agreement also provided for the formation of a transitional government that would prepare the state for elections in 2005.

Substantive Issues

The Agreement called for a ceasefire and a demobilization, disarmament, and reintegration process that would result in the full disarmament of all paramilitary groups. The commission coordinating demobilization, disarmament, and reintegration activities included representatives from paramilitary groups. The International Stabilization Force (ISF) conducted the disarmament, and all arms were under the International Stabilization Force's surveillance. The Agreement stipulated that, following demobilization, members of paramilitary groups were to remain in designated locations until the combatants began reintegration activities or entered the national armed forces.

Poor preparation and an insufficient number of peacekeepers caused the suspension of the demobilization, disarmament, and reintegration program after a few months, but it was successfully restarted a few months later. Although reports of violence

continued for almost a year following the signing of the Agreement, violence never spread to other communities or lasted for more than a few days. The Agreement also called for the immediate and unconditional release of prisoners of war from all sides. Further, the transitional government considered a policy regarding amnesty for members of paramilitary groups that were party to the Agreement.

Upon complete disarmament, all paramilitary groups agreed to cease their activities as military forces. Under the Agreement, former paramilitary groups were free to form political parties or otherwise engage lawfully in national politics. Additionally, the two main paramilitary groups, Liberians United for Reconciliation and Democracy and the Movement for Democracy in Liberia were each allocated twelve seats in the 76-member transitional legislature. The Agreement also granted 12 seats to the Government of Liberia, so that the Government and the paramilitary groups each were equally represented. The remaining seats were for representatives of political parties, civil society organizations, special interest groups, and the provinces.

Example of a Framework Agreement: Democratic Republic of Congo, 2013

In February 2013, a peace framework agreement aimed at bringing stability to the war-torn eastern part of the Democratic Republic of the Congo (DRC) was signed in Addis Ababa, Ethiopia. The agreement was signed by heads of state and envoys from DRC, Angola, Burundi, Central African Republic, Republic of Congo, Rwanda, South Africa, South Sudan, Tanzania, Uganda and Zambia. UN Secretary General Ban Ki-Moon also witnessed the signing of the agreement. The UN believed the peace framework agreement could lead to the creation of a special UN intervention brigade of 2.500 troops in eastern DRC to combat rebel groups and renew political efforts.

- Framework Agreements

  - Framework agreements broadly agree on the principles and agendas from which substantive issues will be negotiated. These are usually followed by protracted negotiations that result in annexes containing details of subsequent negotiated agreements, which in turn, form the comprehensive agreement.

- Implementation Agreements

  - These agreements elaborate on the details of comprehensive or framework agreements. The goal of implementation agreements is to work out the details and mechanics to implement the comprehensive agreement. They come in varied forms, for example, verbal notes, exchanges of letters, and joint public statements. Most implementation agreements elaborate clauses on monitoring, evaluation, verification, and dispute resolution are integral to the drafting procedure.

- Precision of transitional arrangements, for example, voting arrangements, cease-fire arrangements, and demobilisation assembly points

- Balance between clear commitments and timelines, and creative flexibility

- Incentives for parties to become involved in political contestation through power sharing arrangements

- Inclusion of dispute resolution systems, such as arbitration, early neutral evaluation, mediation, litigation, traditional ways of coping with disputes, and, if necessary, re-negotiation in case of disagreements

- Dealing with core issues including rules, values, and principles, as well as fostering political accommodation and reconciliation to bring about real transformation

- Respecting global standards of justice and human rights, consistent with international standards for individuals and groups

CHARACTERISTICS OF SUCCESSFULLY NEGOTIATED SETTLEMENTS

Depending on the issues that led to the conflict, the mediation support team will assess what routes to take in negotiating settlements. If the conflict involves issues of power and identity, integrative solutions might be elusive. Yet, consociationalism, federalism, autonomy, power-sharing, dispersal of power, and electoral systems that give incentives to inter-ethnic coalitions, all offer ways out of conflict.

Sustainable, robust agreements have the following characteristics:

- Inclusion of affected parties

and repatriate, members of such armed groups. The parties also agreed to write a new constitution founded on the values of justice, the rule of law, democracy, good governance, pluralism, respect for the fundamental rights and freedoms of the individual, unity, solidarity, equality between women and men, and mutual understanding and tolerance among the various political and ethnic components of the Burundian people. According to the agreement, a national observatory for the prevention and eradication of genocide, war crimes and other crimes against humanity was to be established. Legislation outlawing genocide and crimes against humanity was to be enacted as well.

The transitional government requested the formation of an International Judicial Commission of Inquiry on genocide and war crimes and the parties agreed to ban all political or other associations advocating ethnic, regional, religious or gender discrimination, or ideas contrary to national unity. The parties committed themselves to equally distributing natural resources throughout the country and to the implementation of an economic recovery programme with a view to combating poverty and raising the income of the people, as well as a programme for the reconstruction of destroyed economic infrastructures. The agreement also provided for the establishment of a Truth and Reconciliation Commission to investigate, reconcile and clarify the history of Burundi. A transitional legislature made up of a National Assembly and a Senate, a transitional Executive, Judiciary and other transitional institutions were also to be formed and were to commence immediately after the signing of the agreement.

Since agreements need to be wise and workable, they need to be strong agreements:

Strong agreements are:

- *Substantive:* define specific tangible exchanges

- *Comprehensive:* include a resolution of all issues in the dispute

- *Permanent:* resolve the issues in dispute for all time

- *Final:* include all details in their final form

- *Non-conditional:* provide for the ending of the dispute, without insisting on future conditions

- *Binding:* people agree to be bound by, and adhere to, the terms of settlement

Weak agreements are:

- *Procedural:* they define a process by which a decision has to be made

- *Partial:* do not include a resolution of all issues in dispute

- *Provisional:* may be temporary decisions

- *In-principle:* include general agreement, but details remain to be worked out

- *Contingent:* state that the conclusion of the dispute is conditional

- *Non-binding:* agreement is a recommendation or request
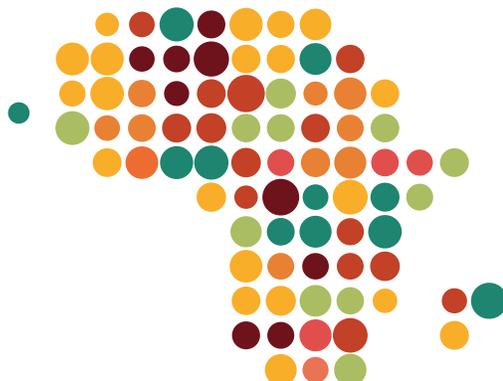
INCLUDE ALL ACTORS IN
THE SIGNING OF THE AGREEMENT

1. Balance between Internal and External Actors

As it was previously said about negotiations, in a peace process - and the creation of a peace agreement -it is important to maintain a proper balance between the involvement of internal and external actors. External actors acting in the capacity of negotiators and mediators are important in the creation of a peace agreement and in monitoring and aiding the implementation process. However, they cannot achieve anything without the proper involvement of internal parties in the agreement in the process. The extreme of external actor involvement is the imposed peace agreement, which is extremely likely to fail through lack of support and reluctance in its implementation.

2. Importance of Local/Popular Support: Representativity

Transparency is important in the same way support within the groups that will be affected by the agreement is important. As already mentioned there needs to be an understanding of the process for there to be a real sense of ownership in the peace agreement. It is also important that all groups are represented in the agreement not only so that their interests are represented, but also so that they have a stake in the process, and therefore are less likely to act as spoilers.

3. Spoilers

A spoiler is a person or group (for example a faction within a conflict) that tries to derail a peace process or peace agreement. This can be through violent means, by attempting to discredit the peace process, or by putting obstacles in the way of its implementation. An example of a spoiler would be the terrorist organisation called the Real IRA in Northern Ireland, a splinter group from the Irish Republican Army (IRA) who continued to employ violence after the latter agreed to a ceasefire in order to enter negotiations.

A party can be a spoiler with or without signing the peace accords. They can be party to an agreement purely for the benefits that it can bring them, rather than signing up to the goals of the agreement. In the case of a spoiler not associated to the accords, it is likely to be a group not associated to the peace process who wishes to destabilise the relationships that the negotiations are building, as with the example mentioned above.

A 'total' spoiler is a party with whom no settlement is possible, for whom power cannot be shared. In this case the only way to bring them into the process, or prevent sabotage of the peace process is to employ coercion.

Like the hurting stalemate, spoilers are impossible to identify before they come into play. In addition, acting as a spoiler on one occasion does not make a person or group a total spoiler. Another set of negotiations, or a different approach could well bring this party into the negotiations at another time.

ECOWAS' MFD is the dedicated facility that synchronizes, liaises, and coordinates the support to the peace agreement. While Track I mediators provide substantive support to the parties at the negotiation table, mediation support structures can contribute toward the agreement's durability and sustainability.

Mediation Support can be defined as activities that assist and improve mediation practices, e.g. training activities, developing guidance, carrying out research, working on policy issues, offering consultation, backstopping ongoing mediation processes, networking, and engaging with parties

It builds the capacity of mediation staff, as well as of conflict parties; provides analytical resources to enable learning from previous experience; builds on networks for sharing ideas and insights; and provides on-site support and day-to-day management of the process.

Mediation support can entail any (or usually several) of the following:

1. *Operational support:* This includes direct support through field deployment such as on-site thematic and process-orientated expertise, day-to-day management of the process and parties, and logistic support and flexible resource management; substantive desk support such as process design and problem-solving workshops, briefings, research and analysis; as well as support activities including confidence building and technical support to the parties. Therefore, it remains crucial that the MFD continuously supports, trains, selects, deploys and debriefs local mediators used in the context of Track II mediation.

Case Study: Central African Republic, 2008

Following the request of the UN SRSG, the UN MSU provided expert assistance during the Inclusive Political Dialogue (Dialogue Politique Inclusif) in December 2008. The MSU worked with personnel drawn from the Organisation Internationale de la Francophonie, HD Centre and UN CAR Peacebuilding Office (BONUCA). The team advised former Burundian President Pierre Buyoya, who chaired the Dialogue, with feedback on how to structure and lead the process, perceptions of the dynamics of the dialogue, potential obstacles, and thematic inputs related to security-sector reform. Team members drafted and edited documents, offered suggestions on substance or process when necessary, and reported on progress and stalemates to President Buyoya.

2. *Institutional capacity-building and training:* which involve establishing clear decision-making, planning and coordination procedures, briefings, training curricula design, and access to expert networks and human resources as well as and training and skills enhancement, including training of mid- and high-level mediators and field and HQ support staff.

3. *Knowledge management and research:* where knowledge management entails accumulating, managing and disseminating comparative knowledge or substantive issues on mediation processes and research refers to both tailor-made, process-specific research, such as conflict briefs and stakeholder analysis, and additional research relevant to the field.

4. *Networking and experience-sharing:* which enforce positive relationships and allow mediators to share and discuss their experiences. Networking and experience-sharing activities should not be neglected as learning tools, because they create valuable opportunities for improving relationships and bridging hierarchical or institutional divides. This contributes to the transfer of knowledge and ultimately enhances capacity. Mediation supporters could benefit from making more strategic use of networking and experience-sharing activities.

Task 4: Use public diplomacy

DEVELOP CHANNELS FOR PUBLIC DIPLOMACY

At the Table. Civil society stakeholders, particularly those from representative organizations with experience or expertise in specific issues, may be directly engaged in working groups addressing issues relevant to their constituencies. Such actors provide a counterweight to elites and potential spoilers and ensure that broader public interests are negotiated. They may also be very effective at explaining the negotiating process to constituents. Resistance by the combatants to the direct involvement of these actors, however, may require alternative means of inclusion.

Parallel Meetings. Conducting parallel consultative meetings for civil society can help legitimize and sustain formal talks without making such talks unwieldy. Formal meetings may provide additional bargaining power for negotiators voicing civil society's interest. They also present an opportunity for civil society to practice democratic procedures.

Two-Way Communication. Another way to incorporate the public is by instituting some form of two-way communication. News of negotiations should reach the public and pub-

lic discussion and reactions should be heard by negotiators. The means of such communication could include discussion forums, workshops, opinion polls, and referenda.

None of these methods is without risk. Broad engagement can make negotiations unwieldy or unfocused. Parallel meetings could be hijacked by elite groups to promote their own, narrow interests. An informed civil society may reject delicate agreements reached by elites or may conclude that talks are not addressing their own concerns.

MANAGE MEDIA AND PUBLIC RELATIONS

During a mediation effort, a media strategy that extends beyond responding to press questions is essential. The strategy should take into account the role that the media has played thus far in the conflict; any legacy of hate media or propaganda must be addressed. At the same time, the mediator should work with the media to reduce inflammatory or biased news coverage. Confidentiality may be an important aspect of talks, yet the lack of information is a vacuum that someone will fill, perhaps with rumours, fears,

or slander. The mediator should encourage the parties to make joint public appearances, which will model the progress of negotiations while reducing the ability of the parties to spin public announcements to their own benefit.

A good communication and public relations strategy will aim not just to explain isolated events, but also to educate the public about the path to peace. The mediator will usually have natural local allies in the effort to build support for the peace process. These allies can be empowered by cultivating press freedom and peace media (including popular forms such as community publishing, interactive websites, and social networks using mobile phones).

REFLECTIONS:

1. What are the different types of agreement available to the mediator?

2. How does a mediator guarantee an inclusive outcome?

3. What are key determinants and conditions for drafting the agreement?

4. How can public diplomacy be used to catalyze support for the agreement?

FURTHER REFERENCES:

1. Negotiating Peace: Lessons from Three Comprehensive Peace Agreements. P. Wallensteen, M. Eriksson (Uppsala University, in support of the Mediation Support Unit, Department of Political Affairs, United Nations), 2009

2. Structural Components of Peace Agreements. Beyond Intractability, 2004

3. Peace Accord Matrix, University of Notre Dame, 2015

4. Peace Agreements Worldwide Collection, Ulster University, 2015

CHECKLIST: AGREEMENT PHASE

Problem	People	Process
Issues included in the agreement • What issues have been agreed upon? • How comprehensive should the agreement be? What is left outside the agreement?	**Inclusivity of the agreement** • Who approves the agreement? • Are the perspectives and demands of unrepresented stakeholders included in the agreement? • Are secondary and third parties included in the official agreement? **Guarantors** • Who are the guarantors and watchdogs for the agreement? • What is their role? **Openness** • To what extent should the general public be informed of the agreement before it is signed?	**Voluntary agreement?** • Did the parties reach an agreement voluntarily? • Did they co-generate the agreement? **Scope of the agreement** • How comprehensive should the agreement be? • Is it an agreement to talk, a ceasefire agreement, a cessation of hostilities, a transitional agreement, or a comprehensive agreement? **Flexibility of the agreement** • How rigid should the agreement be? • Can the agreement be amended after it has been signed? Is there room for any further mediation? **Mechanism for implementation** • What is the agreed format and timeframe for implementation? • Who implements it? • Who funds the implementation? **Mechanism for monitoring** • What is the agreed format for monitoring? • Who will monitor it? • What are the consequences of non- implementation/ non-compliance? Is a sanctioning system established?

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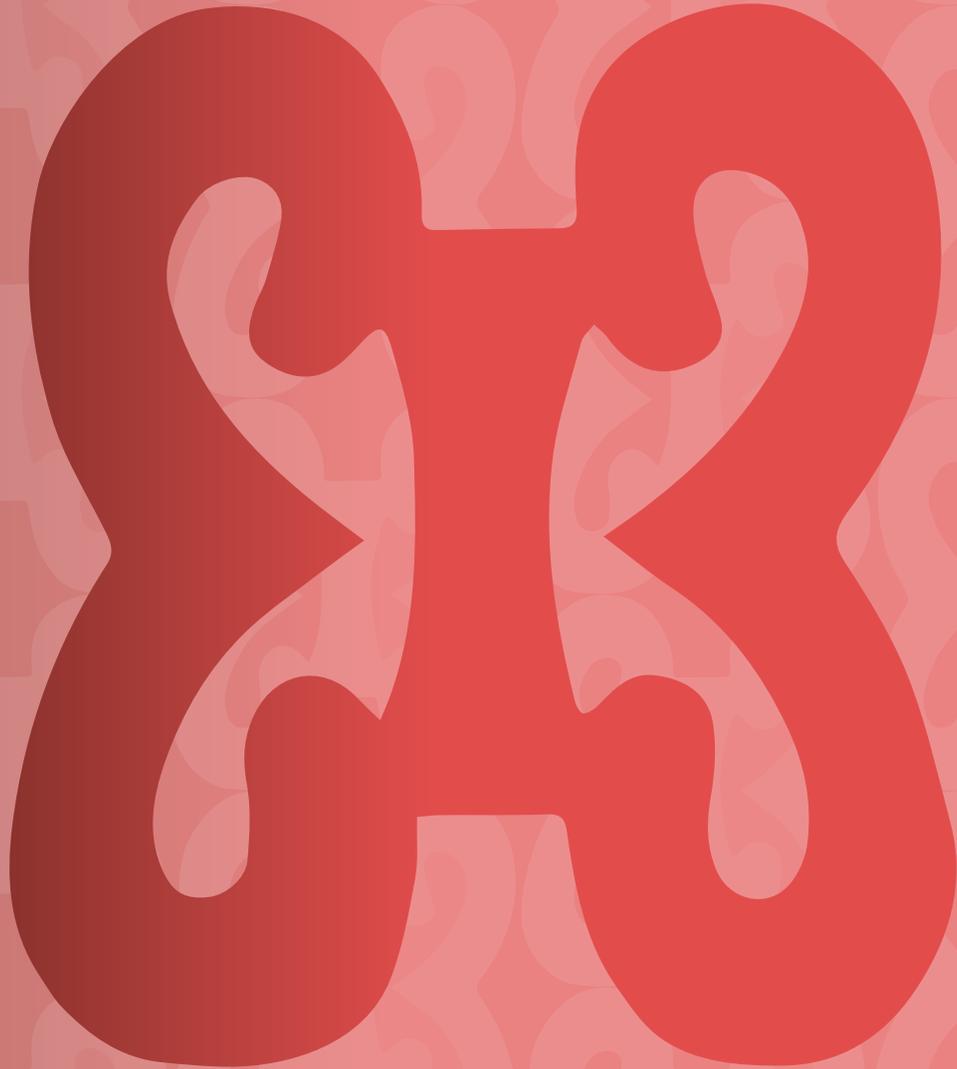
Knowledge and wisdom
that results from listening

PHASE 4: IMPLEMENTING PEACE AGREEMENTS
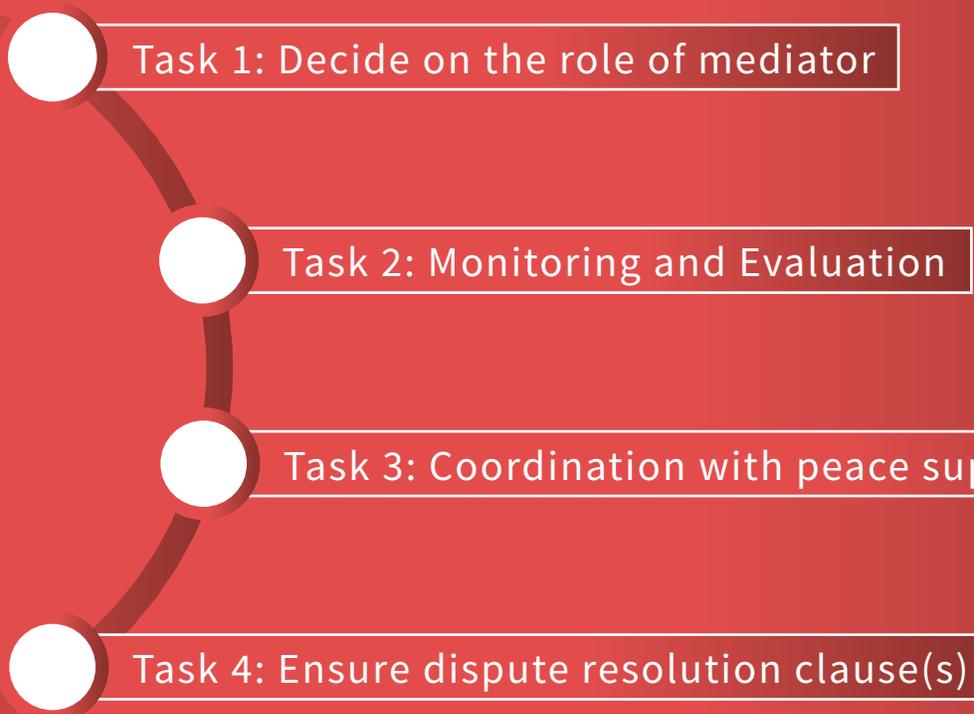
Task 1: Decide on the role of mediator

Task 2: Monitoring and Evaluation

Task 3: Coordination with peace support operations

Task 4: Ensure dispute resolution clause(s)

INTRODUCTION

A peace agreement is only a beginning and, without implementation, it does not guarantee the appeasement of a conflict. This process of putting a peace agreement into practice after it has been signed is what constitutes the implementation phase and requires continued dialogue and monitoring as well as the set up of new institutions and the reform of existing ones to serve the post-conflict country. This phase is extremely challenging because expectations are often high while the peace itself is actually fragile.

Lack of proper planning for or poor implementation regularly cause mediation processes to fail at this phase. Therefore, no peace agreement is complete without thorough, systematic implementation. In the implementation phase, mediators and their teams must assess what their role and that of the international community should be after the signing of a peace agreement. They also must address questions of power asymmetries and guarantors of peace.

The conflict stakeholders must decide on whether or not to appoint a specific monitor or use an existing mediator. Great care needs to be taken to assess whether or not the trusted third party is able and capable of fulfilling this role.

Roles include:

- 'Whistle-blowers' who indicate when an agreement has been violated

- 'Enforcers' who have a powerful role in overseeing implementation, and might participate in future negotiation over grievances caused by non-compliance.

THE MEDIATOR AS A MONITOR

In the best-case scenario, the main parties to an agreement should agree to the methods and standards by which the agreement is to be enforced. However, in practice, even when parties do agree on the substantive provisions of an agreement, they may find it difficult to adhere or to actually enforce the agreement. Therefore, third party intervention can provide objective monitoring of the agreement.

Ultimately, the mediator should work towards gradually pulling out, as their continued engagement in this phase can be seen as patronising. Thus, in principle, mediation practitioners emphasise that the implementation process should be left to the parties as sometimes the answer comes from the parties themselves. The mediator should lead the conflicting parties to the solution, but it is up to the parties whether to adhere to the agreement and put it into practice.

However, should the negotiation parties request the mediator to take over monitoring functions, specific attention needs to be paid to their responsibilities in this new role.

The following tasks will then be required:

- *Clarifying and confirming the mediator's monitoring role:* This should be discussed when drafting and finalising the agreement

- *Accompanying the implementation process according to the agreement:* This may require the mediators to visit the site and be easily contactable in times of trouble.

- *Defining monitoring and enforcement mechanisms:* Sanctioning mechanisms, communication channels, and options for dealing with stakeholders who do not follow the agreements, need to be established.

- *Facilitating the revisiting of events to reflect on progress achieved:* This can help to restore relationships, deepen trust, and provide opportunities for planning joint future activities.

- *Evaluating the various costs of fulfilling the role:* This includes obtaining in advance commitment from local and/or external sources to have financial and other resources available when required.

There are various commitment procedures that may help increase the probability of conflict parties complying with the agreement. These come in two main forms:

- *Public gestures, e. g.* public exchange of promises among conflict parties, symbolic exchanges of gifts or gestures of friendship;

- *Formal procedures, e. g.* written agreements (memoranda, contracts) or legal contracts that involve judicial authorities.

In many cultures, settlements or agreements receive or require ritual and/or public recognition. Rituals provide symbolic order and strengthen the importance of an agreement, thus reinforcing the parties' commitment to abide by it. A very wide range of actions may be taken, including visits from senior people, hand-shaking ceremonies, prayers, embracing, formal signing procedures, toasts, celebration meals, and gift-giving.

Public gestures may be very important in non-direct dealing societies because they indicate the conflict parties' willingness to restore relationships. When restoring positive relationships is the main issue, detailed agreements may be counterproductive, because details may indicate a lack of trust. In direct dealing societies, conflict parties may value formal procedures and documents more than public gestures.

When an agreement breaks down, the interest groups - with support from mediators where appropriate - may consider restarting the conflict management process. The mediators may then convene shuttle consultations with the different stakeholders, or hold a joint meeting. This may mean re-engaging the stakeholders and starting new negotiations on certain issues. Whether or not mediators are involved again depends on the stakeholders' willingness to renegotiate and address the conflict collaboratively.

An agreement can break down if:

1. Stakeholders are not really satisfied with the outcomes

2. People who would benefit from continuing conflict try to spoil the process by spreading rumours or stirring up discontent about the outcomes

3. New conflicting issues surface that are related to the conflict but were supposed to have been settled

The value of the mediator's engagement if an agreement breaks down is that they have the best knowledge of the process and the parties. The mediator can therefore answer the parties' critical questions of how the agreement should be implemented and, in turn, push the parties to adhere to the agreement's finer details. Hence, even if a mediator is not fully engaged in the day-to-day implementation process, they should make themselves available for regular consultations.

Most agreements require that the parties carry out specific actions and behave in certain ways, thus ending the dispute. The success of an agreement therefore depends on the implementation plan and the process that puts this plan into operation. It also depends on the degree to which the parties feel a sense of ownership of the agreement.

Successfully implementing an agreement depends on:

- Willingness and ability of the conflict parties to comply with the agreement

- Management of expectations

- Local input in planning and design

- Monitoring procedures to observe the implementation process

- Enforcement procedures in cases of non-compliance with the agreement

Monitoring can be divided into two distinct areas:

- Monitoring, which can either be highly generalised or highly directed actions to gather information

- Verification, which is the process by which compliance of the parties to the terms of the peace agreement is judged

Monitoring involves the following key steps:

- Observation is where a team of select and agreed investigators of the peace agreement passively watch and inspect the new situation. At this level, monitors typically lack the mandate to judge the actions of the parties being monitored.

- Verification is where monitors have the mandate to judge and to verify compliance with the treaty. Parties may not only observe, but judge and produce reports on violations

#1: PLAN FOR MONITORING

Incorporate Strategies for Implementation and Monitoring

One key to fashioning a successful agreement is to write into that agreement strategies for implementation and for monitoring and (if possible) enforcing compliance with the terms of the agreement. It needs to be clear who is to do what by when, how performance is to be measured and by whom, and what will happen if targets are not reached. When these specifics are left vague, one or both sides can too easily procrastinate or evade their responsibilities. (Further approaches to implementation are discussed below.)

The agreement must:

- include a mediation or arbitration clause in case of future disputes

- stipulate future relations between the parties

- describe the role of the parties in implementing the agreement

- provide where resources and funds will come from
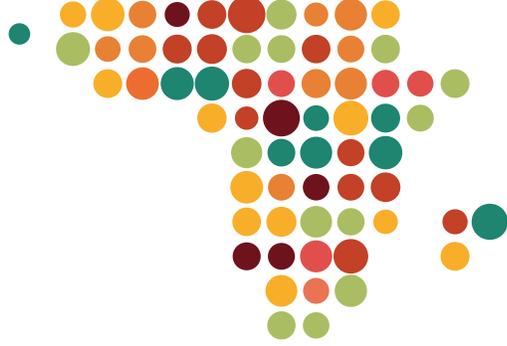
Why monitor an agreement?

- To implement the agreement

- To restore relationships and ensure that the commitments of parties are upheld

- To put in place proper procedures to sustain the agreement

- To control psychological and emotional issues of parties during the implementation process

Monitoring and implementation plans are first and foremost the responsibility of the negotiating parties. Agreements must therefore always be based on the parties' realistic assessments of what they are willing and able to do. The parties may feel more confident if the mediator or another trusted third party assumes the role of neutral monitor in case problems arise.

#2: ESTABLISH COMPLIANCE PROCEDURES

Agreements made in moments of conciliation may fail, even when made in good faith, because parties are not able to enforce the terms of the agreement. In order to prevent this, compliance procedures have to be built into every peace agreement. Compliance procedures fall into two categories, positive and negative. Positive enforcement mechanisms encourage compliance with an agreement by providing rewards or 'incentives'. Negative enforcement mechanisms encourage compliance by threatening and using disincentives or 'punishments'.

- Positive Compliance Mechanisms:

  - Incentives, including monetary, political or social rewards

  - Peace dividends, i.e. when the benefit of upheld peace agreements bring economic, social and political benefits to both sides

  - Transparency, including the collecting and sharing of information, i.e. policy formation and mechanisms for publicising information

  - Bureaucracy, i.e. the inclusion of elites, the management of expectations, inclusion of grassroots activities, and validation of legitimacy of leadership

  - Dispute Resolution Processes, these do not only create space for the mediation of disagreements over enforcement, but also provide the space to review those unclear and uncertain parts of the agreement that may cause a flaw in the implementation phase of the peace process. Drafters should apply a certain degree of flexibility and creativity, with the purpose of equity and allowing for credibility, while ensuring that limitations crucial to the success of the agreement are included.

- Negative compliance mechanisms:

  - Sanctions, i.e. social, political or economic punishments against a government

  - Trade bans and embargos

  - Reparations, such as compensation and restorative justice

  - Agreement withdrawal, i.e. parties to an agreement can place criteria in the agreement which, if transgressed, will bring about its dissolution

The choice of any of these enforcement mechanisms will vary, based on the situation and the mechanisms available. Depending on the conditions, certain mechanisms are meaningful while others are inappropriate. The decision has to be based on the results and outcome of the conflict analysis, allowing for the mediator(s) to understand and review the root causes and know how the compliance mechanism will positively or negatively impact the issue, the relationships, and the overall socio-political systems.

Enforcement is where monitors observe, verify, write reports and make judgements, as well as enforce the terms of the agreement through positive and negative incentives.

Tip: Timing of Agreements

Timing is an important issue in monitoring. In designing monitoring plans, as in agreements overall, one must choose between single-stage and multi-stage implementation. Each has its strengths and weaknesses. Single-stage implementation is less susceptible to detractors (or spoilers), but more likely to fail in intractable conflicts. It is an all-or-nothing proposition, so the peace agreement will either work and be implemented accordingly, or it will fail. Multi-stage agreements allow more flexibility in terms of content and trust-building, but because of their extended timeframe, they allow much more room for spoilers to disrupt the process.

Tip: Quick List - Monitoring Agreements

- **Roles and responsibilities of the various parties:**

  - Who will be responsible for implementing the various components of the agreement?

  - What specific responsibilities will they have?

  - How will it be ensured that these roles and responsibilities are met?

  - What backup support should be in place in case there is a problem, such as someone being unable to finish a task?

  - Is there any legal backing?

  - Are there any alternative disputes resolution mechanisms?

  - Are local or other authorities involved?

- **Process of communication:**

  - How will the parties keep each other informed about progress made?

  - Should periodic meetings, telephone calls or more formal mechanisms be scheduled?

  - How will other people's inputs and responses be handled?

  - What is someone disagreeing with the approach adopted?

- **Transparency and flexibility:**

  - What mechanisms or procedures are needed to ensure transparency in carrying out the agreement?

- Is the peacekeeping mandate robust and clear to all stakeholders?

- Would it be worthwhile to revolve duties among stakeholders?

- Should an independent person be called on periodically to serve as an outside assessor?

- Are the parties willing to be flexible about certain components of the agreement? Are there any areas where flexibility is undesirable or impossible?

- What happens if factors beyond the parties' control make it impossible to implement or maintain the agreement? Is there procedure for calling the parties together for future negotiations?

#3: PLAN FOR IMPLEMENTATION

Peace settlements have to be implementable. Overly ambitious agreements that do not attract the resources, skills, and commitment to enforce them do damage by disillusioning the parties and encouraging the view that violence is the only feasible route to the decisive achievement of their goals.

Peace is made by people, not by settlements. Thus, the parties to the conflict, the affected societies, and the external partners must be mobilized to undertake implementation - from planning and managing to monitoring and enforcing. Implementation plans should anticipate both the immediate transitions out of violence and long-term post-conflict peacebuilding.

Make the Local Population Stakeholders and Guarantors of the Agreement

Peace settlements should include local community members as planners, agents, managers, and monitors of implementation. Tapping into local knowledge, networks, and leadership increases the resources available for implementation, builds social capital, and solidifies local ownership, increasing civil society's stake in the implementation.

While implementation tasks should not go beyond the technical, managerial, and personnel capacities of the local community, full participation in the process can expand such skills and capacities.

Implementation frameworks should therefore include local input in planning and design, should optimize use of local resources in implementation, and incorporate the means to provide progress reports and evaluations to the community.

A successful and durable peace will be more likely if the society is fully mobilized to implement the settlement benchmarks. The local business community can be directly involved in the economic reintegration of combatants; traditional justice mechanisms or religious practices can be adapted to enable reconciliation; local materials and labour can be utilized in reconstruction; local human rights monitors can help safeguard returning refugees; local stewards can keep watch to prevent corruption and waste; and local media can keep the community informed about all these practices. Societal actors should be involved in ways that make them stakeholders and guarantors of the agreement instead of passive onlookers.

Use Metrics to Gauge Progress

Metrics — or measurable indicators of progress — can assist in formulating and implementing a peace agreement. More particularly, metrics help ensure the mediator and parties establish realistic goals, bring adequate resources and authorities to bear, focus their efforts strategically, and enhance prospects for attaining an enduring resolution of the conflict. It is important during the peace process to collect baseline data to help determine potential obstacles prior to a settlement. During implementation, it is also important to track progress from the point of

the settlement through to the sustained peace. The most valuable metrics must measure outcomes essential to implementation of the agreement—that is, they must measure results and impact rather than level of effort.

When it comes to implementing peace agreements, it is important to recognise that parties rarely have equal capacities and resources to commit to the peace process. In intrastate conflicts, the government's side is often stronger than that of the rebels or guerrillas. If the peace agreement creates artificial new structures in such situations, it is important to ensure that the weaker side has enough resources to commit to the new structure. The presence of international observers and monitors reduces the risk of the more powerful party taking advantage of the power imbalance to its own benefit. In fact, wary of the power asymmetry, the weaker party often demands the presence of the international community to assure proper implementation. Monitoring compliance of the regulatory framework of a peace agreement becomes a crucial indicator in the degree of empowerment and level of sustainability of the peaceful solutions by the involved parties.

The mediator's role is to facilitate agreements on the most effective form of monitoring and verification for a particular situation. Activities to be monitored may range from disarmament, decommissioning and redeployment to resettlement and rehabilitation of refugees or displaced persons, or from constitutional and legislative enactments to power transitions and election processes. Mediators can help parties make well-considered and appropriate choices with respect to the mechanisms to be set up, as well as with respect to the mandates, composition, and financing of bodies or individuals to be engaged.

Given the lack of trust between many conflicting parties, it is essential that the monitoring entity be transparent, credible, independent, and have the sole authority to determine and to report on violations of the peace agreement. A number of peace processes are monitored by bodies made up of equal numbers of representatives of each party (procedural justice), and if such a mechanism is chosen, it is the chairperson of such a body

who must be endowed with independent authority. The tendency is for the government party to propose appointing the chairperson, or at least that they be a senior, possibly retired, government official. This type of arrangement should be resisted by the mediator.

Evaluation refers to the systematic assessment of an ongoing or completed project, programme or policy, its design, implementation and results. In the context of a mediated peace process, the following criteria allow for a systematic, yet flexible assessment of different aspects of mediation:

- Relevance. How did the mediation process relate to the broader conflict context?

- Effectiveness and impact. What were the direct and indirect, intended and unintended, positive and negative effects of mediation processes?

- Sustainability. To what extent did the benefits of mediation processes continue after their termination?

- Efficiency. How did the costs of mediation processes relate to their benefits?

- Coherence and coordination and linkages. What were the links between a mediation process and other conflict management activities within a conflict setting?

- Coverage. How did a mediation process include (or exclude) the most relevant stakeholders, issues and regions?

- Consistency with values. Was the mediation process consistent with the values of mediators and the international community, for example with respect to confidentiality, human rights or the impartiality of mediators?

These factors are relevant for evaluating any mediation. However, they are not sufficient because the value of mediation goes beyond merely producing a peace agreement. Mediation processes may change

the way conflict parties interact; they may lay the foundation for future negotiations; they may improve the humanitarian situation on the ground; they may even give hope to affected populations.

More specifically, there are seven dilemmas deriving from the characteristics of mediation as well as from the limitations of evaluation, which make it difficult to evaluate mediation activities:

1. *Complexity of context.* Mediation depends on the context, often characterised by a variety of complex political, economic, social and cultural processes, in which it operates. This calls for context-specific analysis and makes it extremely difficult to devise general 'rules' for evaluating mediation.

2. *Subjectivity of success.* Mediation success is in the eye of the beholder, as it is linked to intangible factors such as justice, fairness, or personal satisfaction, which cannot be objectively defined or evaluated. Moreover, mediation success differs depending on when the evaluation is conducted.

3. *Inherent flexibility.* Mediators thrive on flexibility. What may work for one mediator in one context does not necessarily work elsewhere. This makes it difficult and even counter-productive to identify best practices and codify norms against which the performance of mediators should be evaluated.

4. *Multiplicity of styles.* Mediation comprises of a wide range of activities from big-power politics to transformative approaches rooted in cognitive psychology. The multiplicity of mediation activities makes it impossible to define a unitary framework for evaluation.

5. *Multiplicity of aims and scope.* Mediation projects have different objectives and scopes: some aim to facilitate a comprehensive peace agreement, others merely to produce a ceasefire agreement, or even more modestly, to strengthen the negotiating capacities of a conflict party. Some processes last several years, while others conclude after a week. Again, a unitary evaluation framework is not suitable in this context.

6. *Result-focus of evaluations.* Most evaluations assess quantifiable results of an intervention, whereas the value of mediation is often intangible. Thus, the impact of mediation on the relationship between parties may be more important than whether or not a peace agreement has been achieved.

7. *Confidentiality of mediation.* The concessions that conflict parties make at the negotiating table often contradict the hardliner positions they may have articulated beforehand. To allow for progress, mediation processes are mostly confidential. Evaluation could be problematic and even counter-productive in this context because it exposes the dynamics and inner workings of the process.

Several evaluation approaches can be differentiated based on their purpose, scope, criteria, beneficiaries, and time of an evaluation.

#1: CHECK IN WITH EARLY WARNING STRUCTURES AND MECHANISMS

The Observation and Monitoring Centre (OMC) is crucial in several ways: It is the focal point of the Early Warning System, which has four observation and monitoring zones within West Africa. The function of these zonal centres is to observe and analyse the social, economic, and political situation in their zones, and report on their perceptions of threats to the Executive Secretary. The President of the Commission is expected to use such reports to begin designing response strategies. The mechanism provides the president and the Committee for Mediation and Security (CMS) three options for diffusing potential conflicts:

• Setting up a fact-finding commission,

• Employing the services of the Executive Secretary, and

• Calling on the CoW.

Thus, the mediator can make use of engaged monitors, especially at the Track III level, to tailor their preventive strategies to different phases with three basic objectives:

• To prevent latent disputes from developing into further or concurrent hostilities, and to find means to resolve them non-violently when they do;

• To hinder the further escalation of violence; and

• To avert a breakdown and relapse into violence during the post-conflict peacebuilding phase.

Different preventive measures and policies and tools apply to each of these objectives. The task of early warning is to detect the development of potential violent conflicts and provide adequate time to find non-coercive means, if possible, by which the acute escalation of a crisis can be avoided and the conflict channelled constructively.

#2: SYNCHRONISE THE PEACEMAKING ACTIVITY WITH THE PEACE SUPPORT OPERATION

In the area of peacekeeping, and in particular peace support operations (PSO), of which ECOWARN and the evolving ECOWAS Standby Force (currently ECOMOG) are constitutive elements, ECOWAS has always acted in concert with the African Union and the United Nations. The UN often designates Special Representatives to conflict zones to interface with ECOWAS. These are currently located within UNOWAS, UNIOGBIS, and MINUSMA.

The Mediation and Security Council (MSC) also has a technical advisory body, the Defence and Security Commission (DSC), which examines the administrative issues and logistical requirements for peacekeeping. The DSC assists the MSC in crafting the mandate and terms of reference for peacekeeping forces. It also appoints the force commander and determines the composition of force contingents (Article 19). DSC members include the chiefs of defence staffs, officers responsible for internal affairs and security, and experts from the foreign ministries. When specific expertise is needed, other services — immigration, customs, drug/narcotics forces, border guards, and civil protection forces — may be invited to join (Article 18).

All 15 ECOWAS member states have made commitments to contribute substantial troops and material to the ECOMOG standby unit. Lead mediators, therefore, need to engage with contributing members early on to share strategic and operational mediation plans as well as to

vouch for the embedding of an ECOWAS Standby Force (ESF) Liaison Office into the mediation support team.

Since most mediation activities in a conflict will be geared towards reaching a ceasefire agreement, the mediator will need to have a strong and robust mandate to ready and deploy a peace support force to implement the ceasefire. Most contemporary PSOs are mandated to assist countries with the implementation of a ceasefire and/or Comprehensive Peace Agreement in order to manage a transition from a state of conflict to a future state of sustainable peace. As such, they have evolved far beyond the traditional peacekeeping concept of primarily military ceasefire monitoring operations. These new peace operations have complex mandates that cover the political, security, humanitarian, development and human rights dimensions.

Mediators need to:

- Assess the possible impact of a peacekeeping force on the facilitation process of the peace agreement (timing)

- Assess the impact of the physical presence of peace support elements in enhancing or stalling the a settlement between protagonists

- Liaise with policy-makers on sequencing the peacemaking–peacekeeping intervention

- Assess treaties determine if peacekeeping should be a joint endeavour, or should sequentially follow peacemaking

- Understand the mandate of the peace support element as managing – not resolving – conflicts

- Coordinate the peace support effort with continuous diplomatic engagements as well as information-sharing with parties at the negotiation table regarding the mandates and activities of PSOs

- Select the right facilitator to engage with the multidimensional operation and the parties, in the case that a PSO is to be deployed jointly with peacemaking efforts

Case study: ECOMIG in The Gambia, 2017

Legal cover for ECOMIG's deployment: These include Article 4(j) of the AU's Constitutive Act (2000); Articles 3(h), 10(c) and 25 of the ECOWAS Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (1999); Article 7(m) of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union (2002); as well as Articles 24 and 25(7) of the African Charter on Democracy, Elections and Governance (2007).

In particular, and in order to ensure proper liaison and open lines of communication, the mediator should ensure:

- The designation of their senior advisor to liaise with peace support operations;

- Identification of counterparts within the ECOWAS Planning and Management Cell in order to provide early feedback and reporting;

- A close relationship with battlefield commanders;

- Identification with peace support operations' potential choke points when it comes to mass refugees or mass movements;

- Initiation of a public diplomacy campaign together with ECOMOG PIO in order to communicate with local populace through the means of the military force on the ground

DESIGN DISPUTE RESOLUTION MECHANISMS

During the period of transition out of conflict, settlements are bound to falter. Implementation designs should include mechanisms to review progress and handle problems. Roundtables, implementation councils, or joint committees should be available to hear grievances, mediate disputes, and make adjustments in implementation. The establishment of a monitoring and conflict resolution mechanism by the parties to the accord may be sufficient to do this.

This is a moment where ECOWAS MFD as well as Track III actors can become vital guardians and verifiers of the agreement.

RELEVANT CONDITIONS AND COMPONENTS OF DISPUTE RESOLUTION MECHANISMS

Working with the parties on including mechanisms in the agreement to deal with disputes regarding the interpretation of the language or intent of the agreement itself, or arising out of the implementation or non-implementation of its provisions, is a priority for the mediator. This involves jointly exploring the relative advantages and practicalities of a range of domestic and non-domestic options available to the parties. The agreement can, for example, include a clause that provides for a process of negotiations, for mediation by an acceptable third party, for arbitration, for the submission of disputes to a constitutional or supreme judicial court for adjudication, or for a combination of these.

Case Study: The Abyei Arbitration, 2008

Recognising the importance of credible dispute resolution mechanisms, including adjudicatory ones, for parties to intrastate peace agreements, the International Peace Council for States, Peoples and Minorities (Kreddha) hosted a number of expert meetings on the issue in 2008. These meetings brought together mediators, advisers to parties in conflict, international arbitrators, and individuals holding current or former senior positions at the UN and the Permanent Court of Arbitration (PCA).

It emerged that the availability of international or quasi-international arbitration, if properly conceived, could be used to resolve certain disputes and would serve to encourage parties to reach negotiated settlements, with the knowledge that either party could go to arbitration as a last resort. A particularly promising outcome was provided by a broad reading of the PCA rules of procedure, which would allow the Court to admit disputes over implementation of agreements between states and non-state entities.

Months after the series of expert meetings, the first such arbitration proceedings were initiated after being admitted by the PCA. This came to be known as the Abyei Arbitration as it concerned Sudan's politically-charged delimitation of the country's oil-rich Abyei region. The 2005 Comprehensive Peace Agreement between Sudan's government and the Sudan People's Liberation Movement/ Army (SPLM/A) had left this sensitive issue to be resolved by an expert boundaries commission. When the government of Sudan refused to accept the commission's findings, claiming the commission

had exceeded its mandate, and mediated negotiations failed to resolve the dispute, the parties once again stood on the verge of armed conflict.

This was prevented in July 2008 when the parties agreed to submit the new dispute to arbitration under the PCA rules of procedure that had been discussed in the Kreddha expert meetings. Significantly, the SPLM/A was advised and represented in the proceedings by three of the participants at those meetings. The arbitration was successful in resolving the specific border dispute put before it. Indeed, both parties accepted the arbitral decision and implemented it. Other contentious issues led to renewed armed conflict between the same parties after the independence of South Sudan, but the particular issue resolved by arbitration was not among them. On 26 April, 2012, building on the success of the first arbitration, the African Union proposed a roadmap for resolving the later conflict which heavily emphasised the arbitration of remaining boundary disputes. Thus, despite the resumption of armed conflict by the Khartoum government, the PCA arbitration provides a powerful precedent that should encourage parties to include quasi-international arbitration clauses in peace agreements.

International judicial tribunals, such as the ECOWAS Court, which can hear disputes between state and non-state parties, should similarly be explored.

USE EXTERNAL PARTIES TO SUPPORT IMPLEMENTATION

External partners provide assurance, resources, expertise, and experience in support of the implementation of peace settlements. But they also have their own interests that may conflict with the mediator's goals.

Third parties, such as allies or neighbouring states, can help to ensure that promises will be kept, timetables will be respected, and matching commitments will be fulfilled. Third-party tasks may include overseeing and monitoring ceasefires, stockpiling weapons, prisoner releases, and the return of refugees. Having such guarantors in place as part of an implementation plan enhances confidence in the settlement and encourages parties to take the risks that progress toward peace entails.

A network of donors, including governments, aid organizations, and reconstruction agencies, can help pay the bills of implementation. Funds will be needed both for immediate tasks, such as cantoning soldiers and transporting refugees, and for lengthier reconstruction efforts. Peace will not take root if funding is prematurely terminated. Donors' willingness to coordinate their activities and their determination to stay the course are essential to success. External experts can also offer counsel through working groups, commissions, and advisory positions on many aspects of the implementation of a peace accord. They might, for instance, provide guidance on writing a constitution, choosing transitional justice mechanisms, drafting election rules, vetting and training civilian police, conducting a census, and managing natural resources and revenue sharing.

Additionally, other communities that have successfully emerged from conflict can share their experiences by participating in formal events and by hosting delegations from (or by dispatching their own delegations to) societies currently struggling to build peace.

REFLECTIONS:

1. What are key considerations for the mediator to staying as a guarantor of the agreement?

2. What are critical elements of monitoring and evaluation the progress made during the implementation of the peace agreement?

3. How does the linkage between the Early Warning mechanism and the peace support component provide impetus and momentum for sustaining the implementation?

4. What are potential dispute resolution clauses you can think of to ensure redress in a peace agreement?

FURTHER REFERENCES:

1. Planning, monitoring and Evaluating Conflict Prevention, GPPAC, 2008

2. Civil Society and Peace Negotiations, GSDRC, 2006

3. *Improving International Support to Peace Processes:* The Missing Piece. Organisation for Economic Cooperation and Development, 2012

4. *Implementing Peace Agreements in Civil Wars:* Lessons and Recommendations for Policymakers. S.J. Stedman, 2001

CHECKLIST: IMPLEMENTATION PHASE

Problem	People	Process
Context analysis • Are there changes in the context that affect the conflict? • In what ways can the initial conflict analysis be updated? • How does the evolving context affect the agreement and its implementation? • Has the implementation been taken over by other events, such as new emerging conflicts?	**What are the challenges with implementation in terms of the new relations developed among the parties after the agreement?** **Implications on the legitimacy and functions of the mediator(s)?** **Actors** • Have new actors emerged? Have factions splintered from signatory actors? • Do the parties need capacity-building for implementation?	**Making local actors the guarantors of the agreement** • Can local actors act as watchdogs and guarantors of the agreement? **Engagement of mediator(s) during implementation phase** • Should the mediator remain engaged during the implementation period? • Do the conflict parties call for the mediator's longer engagement? **Involvement of the international community** • How should the international community be involved during the implementation phase? • Can the international community act as guarantors of the agreement? **Dispute resolution mechanisms** • Does the agreement include reference to dispute resolution mechanism during the implementation phase? • What is the format of this mechanism?

ANNEX A – OVERVIEW OF MEDIATION PHASES

Four Phases of Mediation Checklist of Factors to Consider Under the Three P's of Mediation		
Problem	People	Process

PROCESS

Problem	People	Process
What is the nature of the conflict? • Interstate/intrastate? • Political, territorial, ethnic, religious, resource-based? **What are the disputed issues?** • Political, territorial, ethnic, religious, resource-based? **What are the sovereignty implications?** • How receptive are national governments to foreign intervention? • What are the implications of a possible outcome to the conflict vis-à-vis national sovereignty? **History and evolution of the conflict** • How and when did the conflict begin? • How has the conflict evolved over years? • Is the conflict stagnant, escalating or deescalating? • What is the configuration of power relations? **International factors and context** • What is the international context? • How do international factors exacerbate/mitigate the conflict? • What is the international legal framework and how does it affect the conflict? • Are there relevant conventions or resolutions put forth by regional or international organizations? • Are there international actors already actively engaged? **Ripeness of conflict** • How viable is mediation? • How receptive are the belligerents to a mediation process? • In what stage is the conflict? Is the conflict at a stalemate? • What is the level of confidence between the parties? What level of confidence is needed to initiate talks?	**Parties** • Who are the primary, secondary, and third parties? • Are there secondary parties that present themselves as third parties? • What are the parties' internal dynamics? Are there parties within parties? How fragmented/unified are the parties? • How do the parties position themselves vis-à-vis the conflict and other parties? • What are the parties' needs, interests, and concerns? • How powerful are the parties financially, politically, and socially? • What are the external pressures from the international community on the conflicting parties? **Mediators** • Who are the mediators? Which actors identify themselves as mediators and which ones actually mediate? • Are there sole mediators or mediator teams? • How were the mediators selected? • How qualified are the mediators? What is their temperament? Style? Ego? Needs? Readiness to take on the challenge of mediating? • Are there competing mediation initiatives? Do other mediation initiatives support or hamper the process? • How are the mediators perceived by the primary and secondary conflict parties? • Does the mediator have leverage over the parties or the conflict situation? • Who mandates the mediation efforts? Is the mediator accountable to someone? What are the external pressures on the mediator(s)? • What are the mediator's interests vis-à-vis the conflict?	**Appropriateness of mediation** • Are there other competing mediation efforts? How can they be coordinated? • What are the interparty dynamics? Do parties get along with each other? How can any goodwill and openness between the parties be increased? **Outlining the process** • What ground rules are set for the talks? • How is the mediator's role clarified to the parties? **Confidence-building** • Are preliminary bilateral contacts with parties needed? • What information-sharing and communication should take place between the mediator and the parties before the talks begin? How is confidentiality assured in pre-talk discussions? • How should the parties be prepared for the negotiations? Who prepares them? • What is the confidence level needed before the talks can begin? How should the mediator go about building confidence between the parties?

Context analysis
- Are there changes in the context that affect the conflict?
- In what ways can the initial conflict analysis be updated?

Who participates in the talks?
- Leaders of parties, deputies or lower level representatives?
- Who else participates? Civil society, marginalised groups, experts, academics?
- Do the participants have a clear mandate to represent their parties?
- Is there a need to bring outsiders to the talks to share their experiences?

Involvement of different tracks?
- Are there different tracks involved? How can these tracks be coordinated?
- Do these tracks have a mandate?

How to deal with spoilers?
- Should spoilers be brought into discussions?
- Can spoilers be dealt with outside the mediation process?
- Should a group of friends of mediations be established?
- What type of support could it bring?

Setting the stage and ambiance to the talks
- What are the interparty dynamics like?
- Do parties get along with each other?
- How can the goodwill and openness between the parties be increased?

Drafting clear guidelines for the negotiations
- How do parties engage with each other in the talks phase?
- Are observers allowed in the meeting room? If yes, what is their role?
- Are the discussions recorded? If yes, what happens to the recordings?

Format of the negotiations
- How many plenary sessions are included in the talks phase?
- What issues should be dealt with through shuttle diplomacy?

Formality of opening
- What is the format of opening and opening statements?
- Is the opening ceremony a public or a closed-door event? What is the protocol?
- Do the negotiations require a formal opening? If so, does it matter who gives the opening statement?

Guiding the mediation process
- Are rigid deadlines or timeframes needed?
- Will there be one, two or more mediators? What is the division of labour among the mediators?
- What are the rules for the mediator and parties using caucus?
- How are the disputed issues reframed and the decisions sequenced? Should 'easy' issues be dealt with first?
- How can deadlocks be broken?
- How does the process reflect the desired agreement type?
- How is communication with different constituencies dealt with?
- How are the parties' expectations managed?

Venue and other logistics
- Where should the talks take place? Does the selection of venue affect the impartiality of the mediation process?
- How can security be assured?
- Are interpreters needed? How is their impartiality assured?

AGREEMENT

Issues included in the agreement
- What issues have been agreed upon?
- How comprehensive should the agreement be? What is left outside the agreement?

Inclusivity of the agreement
- Who approves the agreement?
- Are the perspectives and demands of unrepresented stakeholders included in the agreement?
- Are secondary and third parties included in the official agreement?

Guarantors
- Who are the guarantors and watchdogs for the agreement?
- What is their role?

Openness
- To what extent should the general public be informed of the agreement before it is signed?

Voluntary agreement?
- Did the parties reach an agreement voluntarily?
- Did they co-generate the agreement?

Scope of the agreement
- How comprehensive should the agreement be?
- Is it an agreement to talk, a ceasefire agreement, a cessation of hostilities, a transitional agreement, or a comprehensive agreement?

Flexibility of the agreement
- How rigid should the agreement be?
- Can the agreement be amended after it has been signed? Is there room for any further mediation?

Mechanism for implementation
- What is the agreed format and timeframe for implementation?
- Who implements it?
- Who funds the implementation?

Mechanism for monitoring
- What is the agreed format for monitoring?
- Who will monitor it?
- What are the consequences of non-implementation/non-compliance? Is a sanctioning system established?

IMPLEMENTATION

Context analysis
- Are there changes in the context that affect the conflict?
- In what ways can the initial conflict analysis be updated?
- How does the evolving context affect the agreement and its implementation?
- Has the implementation been taken over by other events, such as new emerging conflicts?

What are the challenges with implementation in terms of the new relations developed among the parties after the agreement?

Implications on the legitimacy and functions of the mediator(s)?

Actors
- Have new actors emerged? Have factions splintered from signatory actors?
- Do the parties need capacity-building for implementation?

Making local actors the guarantors of the agreement
- Can local actors act as watchdogs and guarantors of the agreement?

Engagement of mediator(s) during implementation phase
- Should the mediator remain engaged during the implementation period?
- Do the conflict parties call for the mediator's longer engagement?

Involvement of the international community
- How should the international community be involved during the implementation phase?
- Can the international community act as guarantors of the agreement?

Dispute resolution mechanisms
- Does the agreement include reference to dispute resolution mechanism during the implementation phase?
- What is the format of this mechanism?

ANNEX B – FRAMEWORK FOR POLITICAL-ANALYSIS

The purpose of this framework is to assist desk officers. It is intentionally brief, providing broad categories for consideration. Experience with analytical tools of this type suggests that the longer and more complex they are, the rarer their use. This framework is not intended as an 'iron dictum' which must be followed slavishly. Rather, it provides a standard starting point, intended to be freely adapted as each case requires.

The framework provides for three types of analytical papers, namely: i) strategic analysis aimed at providing policy options, in conflict or potential conflict; ii) political analysis of situations in which armed conflict is neither prevalent not likely; iii) assessment of electoral processes.

STRATEGIC ANALYSIS
BACKGROUND/CONTEXT

a. How the current political situation has been shaped by the past, what led up to it, any trends that have emerged and that should be noted to help understand the current situation. In that context, reference should also be made to social factors such as race, ethnicity, tribe, religion, socio-economic status and other identifications.

b. Impact of non-traditional or new threats to peace, such as HIV/AIDS, drugs/organized crime, environmental degradation, migration/refugees, etc.

c. Women's role in political life.

i. *Parties/Actors (e.g. states, rebel groups, major opposition movements)*

a. How best to understand the nature and behaviour of the parties/actors:

- Unitary Actors? Is each party a 'unitary actor', able rationally to pursue identifiable objectives? Or is the behaviour of some of the parties more erratic, influenced alternately by competing constituencies/pressures/demands.

- Bureaucratic Politics? Does the Military Intelligence Service (for example), or the ministry in charge of natural resource exploitation, have a disproportionate influence on the State's behaviour? Are such ministries defining the State's position in pursuit of narrow bureaucratic goals at the expense of broader national interests? Analogous questions can be asked in regard to major opposition and rebel movements and political parties in power.

- Societal influences (e.g. labour unions, private industry, women's organizations, identity groups, arms dealers/providers).

- The role of prominent individuals (personality profiles).

ii.   Issues

    a.   Are the conflicts man-made, natural, or both? (e.g., the politics of conflict)

    b.   Causes of conflict.

    c.   Is the issue of particular importance to a region or globally, or both?

    d.   Why is this matter important to the parties?

    e.   Has the issue been confronted previously? Is it transient? Latent? Exploring this offers the opportunity to delve further into knowledge management, like early warning or lessons learned.

    f.   Interests, fears and aspirations. (Differences between these and publicly stated positions)

    g.   Values, ideas and symbols of special significance

    •   Why should this case be important to the international community, or why not?

    •   To what degree are the issues malleable? Can they be transformed to be more easily addressed?

    •   Political climate before or after elections, or when a change of government occurs.

iii.   Parties/actors as they relate to the above issues

    a.   Strengths and weaknesses of parties or actors. Bear in mind that strengths and weaknesses are only relevant if they can be applied to the case at hand. Nuclear weapons do not provide much leverage in a trade dispute, for example.

    b.   Geography (e.g. landlocked, mountainous, fertile, environmental degradation)

    c.   Population/social issues (e.g. size, social cohesion, education, health, HIV/AIDS, drugs/organized crime, women, migration/refugees)

    d.   Economy (e.g. GNP—aggregate as well as per capita, diversified or single-sector economy, producer of oil/strategic minerals)

    e.   Human Rights situation, looking at men and women separately, and the situation of children

    f.   Constitution

    g.   Type of political system – prevailing political culture

    h.   Judicial system

    i.   Electoral system looking at men and women separately

    j.   Technical capacity of bureaucracy

    k.   Military capabilities (strength, technology, disciplined chain of command)

    l.   Role and potential influence of media, religious leaders and traditional rulers, as well as academic institutions and their members

    m.   Domestic sources of support and pressure

    •   Foreign sources of support and pressure

    •   Role of States

    n.   Role of Non-State Actors (multinational corporations; Diaspora; cross-border ethnic, religious or other identity groups; "value-based" groups (e.g. human rights); international organizations, including Breton Woods institutions and entities such as relevant specialized intergovernmental structures like the Middle East Quartet.

o. What percentage of the national budget is domestically generated? What percentage is provided by foreign support? Which domestic and foreign entities generate the most budgetary support (pay the most taxes or provide the most assistance)?

p. Implications of above for potential exercise of leverage (positive incentives, enablers, as well as pressure)

q. Potential and actual exercise of leverage by parties on each other

r. Potential and actual exercise of leverage by self-interested external actors

s. Potential exercise of leverage by impartial third-party(ies).

iv. *Current involvement of ECOWAS or other relevant actors*

a. What ECOWAS is doing and has been doing in the context, including the UNCT, as well as relevant specialized intergovernmental structures.

b. Identify who is who, and who is doing what, in the ECOWAS context.

c. What is the ECOWAS's comparative advantage in a particular situation?

v. *Assumptions and most likely scenarios (expected outcomes)*

a. What is likely to happen in the absence of third party involvement, and why does it matter?

b. What are the consequences for the populations directly concerned (including children)?

c. How do the consequences differ between men and women?

d. What are the implications for regional stability/economy/political relations?

vi. *Possible third-party roles*

a. Is there a need for third party involvement (e.g. good offices, mediation, fact finding, arbitration, preventive action, peacekeeping, enforcement, etc.)?

b. Is there an opportunity for third-party involvement and, if so, which entity(ies) are best placed to play this role? (UN, Regional Organization, Member State, NGO, etc.)

c. Identification of "entry points", including with other parts of the system

d. What are the pre-dispositions of the government or main actors towards an ECOWAS role? What are the potential risks of ECOWAS involvement?

e. What are the risks of third-party involvement? Non-involvement?

vii. *Recommendations (with options if needed)*

a. Defining strategy (objectives and, in broad terms, required resources).

b. Defining what is politically feasible and achievable, what is not, and why (through the principles enshrined in the Charter, as well as in the context of real politics).

c. Determining a course of action based on the above considerations.

d. Mobilizing political, financial and popular support, including from relevant specialized intergovernmental structures, if any.

e. Determining/establishing legal basis, if required, for further action.

viii. *Consultations*

    a. Within DPA (essential)

    b. ECOWAS system partners (depending on circumstances) in Abuja and in the country/region concerned

    c. Partners external to ECOWAS system (depending on circumstances)

    d. Parties

    e. NGOs and local women's groups

    f. Others

POLITICAL ANALYSIS OF SITUATIONS IN WHICH ARMED CONFLICT IS NEITHER PREVALENT NOR LIKELY

i. *Current situation*

    a. Political dynamics that lead to or have an impact on the situation that is being assessed.

    b. Economic trends: How is the economic situation affecting the current situation? Are there elements of the current economic situation that are causing or exacerbating tensions?

    c. Social dynamics: Are there specific groups that are being mobilized in regards to the situation under analysis?

    d. Human rights situation: How is the human rights situation in general affected by the events being assessed? How are the human rights of women being affected?

    e. Regional and international politics

ii. *Conclusions*

    a. Reflect on the main issues underlined by the current situation [see point i) for reference]

    b. Indicate what actors or parties are involved in fostering a political, social or economic change

    c. What would be the likely responses of the groups affected by the situation?

iii. *Recommendations*

    a. See point i)

ANNEX C – FRAMEWORK FOR POLITICAL ASSESSMENT OF ELECTORAL PROCESSES

BEFORE THE ELECTION:

- Analysis of political system: Parliamentary/Presidential? Central/Federal? Common law/Civil law? Etc.

- Review of overall electoral legal framework, including the electoral system. Does it address the political concerns on the ground? If not, what can be done to make it better? Does the UN have any mandate or leverage to change it?

- Review of independence of the electoral management body (EMB). What political influences are brought to bear on the EMB? If the EMB is not fully independent, what measures can be put in place to make it more independent? If the EMB is not independent, what are the chances for it to conduct credible elections?

- Review of measures in place to address electoral appeals, complaints and offenses.

- Analysis of previously-conducted elections and their credibility among all stakeholders.

- Review of observation-monitoring of the elections: Is there international observation of the elections? Is there national observation of the elections? Does the law permit observers? Do national organizations have the capacity to observe? Are they credible and impartial? Are observers deployed for a long enough period to make adequate assessments of the electoral process?

- Assessment of political parties and candidates. Are parties issues-based or formed on other criteria, e.g. ethnicity, region, social class?

- Are parties able to participate on a level playing field?

- Analysis of polls on voters' intention.

- Analysis of freedom of, and access to, the media.

- Analysis of the role of civil society. Do women have an active role?

- Posturing of different groups during the elections (i.e., illegal armed groups, business sector, civil society, international actors)

- Review of type of ECOWAS involvement, if any.

- Review of the role of other actors, including international donors and agencies.

- Analysis of potential electoral violence in the electoral process (i.e., intra-party violence, violence between government forces and parties, as well as the general security environment).

AFTER THE ELECTION:

- General assessment of the conduct of the lections (i.e. refer to observation-monitoring systems in place, human rights reports, press reports).

- Analysis of voter trends (percentage of voters' participation in the elections, age and gender of voters, ethnic-social affiliation of voters (if appropriate), urban-rural divide, and percentage of null and blank votes).

- Likelihood of contention of results.

- Review of post-electoral scenario, including likely policy priorities, impact on regional and/or international politics.

- Analysis of ECOWAS involvement and, if appropriate, recommended course of action for future ECOWAS involvement.