

Reflections of a Woman Mediator

Sakuntala Kadirgamar

Abstract

Historically the political mediators were men but women often created the spaces that opened the doors. UN SCR 1325 finally gave recognition to this reality but despite this, women mediators tend to be pigeonholed into track two negotiations. I did not set out to “be a mediator” or to “be a peace builder.” I believe that democratic government, with all its warts and challenges, is the best option, and in contexts of conflict may provide the possibilities for transforming that conflict, blunting the edges by bringing parties together to discuss alternative ways of securing their interests without going to war. In this reflection piece I discuss some of my own experiences mediating conflicts in Somalia, Nepal, Yemen and Libya.

Author Profile

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Introduction

When I was invited to share my reflections and experiences of my role as a woman mediator in the South Asian Journal of Peacebuilding *Peace Prints*, I initially agreed with alacrity. Reflection is a double-edged sword. One can look back with nostalgia and some satisfaction, but there is always room for a critical review. As recent events unfolded – the wars in Ukraine, intensified conflict in the Middle East, the wintering of the Arab Spring, the wars in Ethiopia, Eritrea, and Sudan, I was left questioning the efforts of the United Nations, the efficacy of international law and the contributions of communities of peacebuilders and mediators in the contemporary world.

It forced me to question my role and experiences in mediation – did mediation make a difference and if so, what difference did it make and to whom? Did *I as a woman mediator make* a difference? Today, as the efforts made to build a jurisprudence of international human rights law unravel before our eyes and mediation of conflicts involving superpowers and members of the Security Council appear to be non-starters I am forced to ask the question: Are efforts to promote peace, as a fundamental value as an end in itself feasible or are peace negotiations and peace mediation purely transactional in the larger scheme of things?

My Journey of Mediation – Incubated in Sri Lanka

I did not set out to “be a mediator” or to “be a peace builder.” That seems to be a pretentious label. My personal experience in peacebuilding and mediation has been experimental and incremental. It was prompted by the political situation in Sri Lanka and the opportunity to work with a mentor at a critical time that propelled me to embark on this journey.

I came of age in Sri Lanka at a time when Sri Lanka was at war with itself. Since the 1950’s there have been intermittent ethnic conflicts between Sinhalese and Tamils, with Tamils demanding recognition and appreciation for their cultural identity through a recognition of their language rights and for power-sharing and autonomy in their traditional homelands. This discourse took place in a context where the post-independence political culture was increasingly majoritarian and constitutional arrangements for power-sharing or autonomy were not acceptable to the majority Sinhalese community and their political representatives (Arasaratnam 1964; De Silva 1981; Spencer 1990).

In the 1970’s there was an insurrection spearheaded by Sinhala youth (Moore 1993), protesting the social and class stratification and the lack of opportunities for rural, underprivileged youth. Initially met with force by Sirimavo Bandaranaike, the world’s first woman Prime Minister, it

was later followed by a slew of re-distributive policies – land reforms, wealth taxes, redistribution of real estate, and ceilings on income, but they did not address the root causes of economic discontent. or have a clear agenda for growth. This was a period of rations even for basic commodities and restricted opportunities (Moore 1993).

Frustration with the economic system and the socialist ideology led to an electoral reversal, and the government that came into place in 1977 under J.R. Jayawardene swept the polls and adopted sweeping constitutional reforms to create a “strong” executive presidency that was not dependent on parliamentary controls. It constitutionalised a unitary state, and the status of Buddhism as the foremost religion and Sinhala as the official language, thus denying the Tamil minority the opportunity to exercise regional autonomy. It created a framework that endorsed majoritarianism (Wilson 2000). The government also adopted a neo-liberal model for economic development which was a shock to a society largely dependent on protectionism and a paternalistic state (Wilson 1980). The 1980s was a period of political contestation and a time when the Tamil political leadership argued for constitutional reforms and policies to no avail. Frustrated young Tamils opted for an armed struggle and secession as the only alternative to secure their rights (Ponnambalam 1983).

At this time, I was working for a think tank reflecting on emerging policies, offering critiques and positing alternatives. The economy was opened up, ambitious development projects were implemented, a free-market economy was being debated. There were discussions around the ethical dilemmas posed by rapid economic development which opened the way for environmental degradation, corruption and the displacement of subaltern communities. I had the personal advantage of working with Dr. Neelan Tiruchelvam, a person who was in the thick of these debates. He was a lawyer and an academic, and he was politically engaged. So, I found myself drawn into this arena, contributing to research and discussions. It was an apprenticeship like none other and it led me onward on my journey as mediator.

The failure of the President Jayewardene’s government to create opportunities for the Tamil community and address the root causes of anger and alienation led to the emergence of a radical youth who asserted that they would win their rights through an armed struggle.

By the 1970s several protest movements among Tamils emerged. Most started as student organizations and they gave ideological direction to Tamil resistance. At one stage there was a veritable alphabet soup of acronyms associated with the many militant organisations operating in the Northern Province - Tamil Eelam Liberation Organization (TELO), Eelam People's Revolutionary Liberation Front (EPRLF), Eelam Revolutionary Organisers (EROS) and the Liberation Tigers of Tamil Eelam (LTTE). India too played a hand in training several militant organisations (Panneerselvan 2021; Gupta 1984; Jain Commission Interim Report 1998). The groups were divided into lines as to whether they should first build an armed wing or a mass political movement, the intensity of their relationship with India and a tendency towards internecine conflict. Some reflections were made as the influence of social origins on the shaping of militant organizations (Sivakumar 1989). Eventually, the LTTE eliminated the smaller groups and absorbed whoever was willing to accept their dominance so that they could

claim to be the sole voice that spoke on Tamil rights and the direction in which the conflict would be resolved.

In July 1983, the killing of 13 soldiers by the Liberation Tigers of Tamil Eelam (LTTE) led to an anti-Tamil pogrom across the country which shifted the political discourse. The state became increasingly repressive, enacting anti-terror legislation and curtailing many fundamental rights such as the freedom of speech, association and conscience. Advocating for secession, even through peaceful political advocacy was prevented. Detention without trial and arbitrary arrests were rife.

In this atmosphere managing ethnic conflict, advocating for pluralism and ensuring that the rule of law prevailed in a multi-ethnic society were important strands of Dr Tiruchelvam's advocacy and it shaped my political consciousness and my research interests, extending to my doctoral work. In all my conversations and research, I and like-minded colleagues looked for pathways that could take us away from violent conflict and towards negotiated political settlements anchored in constitutional reforms and public policies that supported inclusion.

We studied mediation and negotiation efforts that were held up (at that time) as successful models on how conflict could be managed. These included: the peace talks commenced in 1986 in Sudan between the government and the rebels fighting for an independent state in the South; the Chittagong Hill Tract agreements signed in 1997 where the government of Bangladesh agreed to the special status of the Hill residents and their concerns regarding land, lifestyles and livelihoods and; the Indian experience of holding together a large country that was religiously, territorially and culturally diverse through a federal, democratic and secular constitution and a policy of reservations (positive discrimination) to uplift historically deprived castes and tribes.

While many of these examples did not fully resolve conflicts, they launched processes that minimised the violence and created pauses during which alternative solutions could be found and discussed. Thus, we were part of a school of thought that recognised that there are many pathways to engage in mediation towards peacebuilding such as constitutional reforms and administrative measures to create inclusion, equity and protection from discrimination. This information on processes, choices, options and strategies to build trust and change the dynamics of conflict coupled with political will at the national, regional and international levels was the foundation for mediation. Information-sharing and engagement with key stakeholders as an option for conflict management if not resolution was one strand of mediation. Supporting, encouraging and even relentlessly persuading major stakeholders to make strategic decisions is another aspect of conflict resolution and peacebuilding. Mediation is tied to these objectives.

The choice of Norway as a mediator/facilitator of peace talks has its place in the design and architecture of the Sri Lankan peace process. Norway had a history of engagement in Sri Lanka through development corporation. NORAD was remembered for its efforts to support building small boats for the fisher community. As a country, it has an enduring interest in peace-building and as a relatively weak country with no strong geo-political designs, its soft power was

acceptable to India – the regional power, to the USA and initially, to the wider Sinhala community too (Jeganaathan 2011; Moolakkattu 2005).

During the peace talks facilitated by Norway, strong efforts were made by committed political stakeholders including civil society, to change the political discourse towards accommodation through constitutional reforms that guaranteed regional autonomy to the Tamils and a de-escalation of the conflict. They premised their mediation on the belief that mediation to resolve conflict is surely the better option as it minimises the loss of life, human suffering as well as high economic costs of conflicts that may spiral into violence. Even parties who believe that they will prevail through the violent resolution of a conflict will incur costs as well as the burden of maintaining control over a sullen and angry adversary.

However, the peace process was fraught with spoilers and sceptics among the government, the militants, the military and civil society. They remained distrustful of each other, and impatient that peace talks did not lead to immediate results which was unlikely given the length and intensity of the conflict. The Tamil militants held fast to a demand for a separate state while they were awaiting the devolution package that was to be offered. They continued to eliminate their opponents while the government forces too violated the terms of the ceasefire. The government accused the ceasefire monitoring mission established by the Norwegians, of bias. However, the government was unable to even articulate federalism as an option and various linguistic formulations were considered to ensure that hardliners among the Sinhalese would not feel betrayed by a settlement that included a federal constitution. There were also many missteps made by the Norwegian facilitators, the international community, the government and the LTTE which were not addressed speedily and became sources of discord (Jeganaathan 2011; Inclusive Peace and Transition Initiative 2018). In their haste to ensure that the Liberation Tigers stayed engaged in the process, they alienated Chandrika Kumaranatunge, the President of the country as well as the Muslim minority who felt that they too were victimised by the conflict but their interests were not heard. Initially, minor infractions of the ceasefire were overlooked to keep both parties in the process, but as their frequency and intensity increased, the justifications rang hollow. After the elections of 2005 were held, a new President, Mahinda Rajapakse was elected. He was never an enthusiastic supporter of the peace processes and in 2009 he decided to end the Norwegian facilitation and resolve the conflict through military means.

Between the LTTE's readiness to play a game of brinkmanship and the government of Sri Lanka's final decision to end the conflict through military means, the war was concluded at a high cost with mass casualties. The terms on which the war ended have led to allegations of mass killings, disappearances and human rights violations which continue to haunt Sri Lanka to date.

Sri Lanka's conflict was the subject of much discussion, regionally and internationally. The international community at large wanted to see the peace process succeed and the process by which mediation was agreed, the choice of the mediator, the trajectory of the talks, their ups

and downs and eventual collapse have been analysed and belated “lessons learned” exercises have been drawn by local and international pundits on peace processes.

What did I learn about Mediation? Is it a Science or an Art?

I drew my conclusions on the failures of Norway’s peace efforts in Sri Lanka which commenced tentatively in 1997, leading to a ceasefire agreement in 2002 and the collapse of the efforts in 2009, culminating in a full-blown war (Crisis Group 2006; Gunnar Sørbo 2011). Mediation requires active listening to the grievances, fears and aspirations of parties, and understanding ground realities. The mediator must earn the trust of both parties by assessing the mood, timings and opportunities. sharing information on optimal choices to address challenges and creating a conducive framework for engagement. Mediation requires a constant process of adaptation to its environment. It also requires the ability to convince people at many levels that there is value in mediated and negotiated choices and that the partners are legitimate stakeholders even if they are not considered to be inherently desirable or trustworthy. Mediation is an exercise in diplomacy as well as in logistical planning. It is an effort to create pauses in conflicts, opportunities for reflection and spaces to gather and dialogue. They are steps in a process and not an end in itself. In the mediated accord, the text is less critical than the process and it is unwise to create unrealistic timelines and targets.

Bringing together parties who do not even acknowledge the other's right to exist is a mediation challenge in its own right (Turner 2021). Anticipating and preventing the alienation that may stem from groups who feel they are excluded or that their interests are being sacrificed for political stability is a challenge. Some stakeholders firmly believe that the improvement of conditions for marginalised groups inevitably undermines their position as it shifts the power balance. Mediation then calls upon the skills of a juggler and an illusionist to establish that everyone wins creating the proverbial “win-win” situation.

Mediation efforts are not confined to pausing and ending conflicts. They may work along a continuum – to create ceasefires during violent conflict, humanitarian pauses to deliver aid to the victimised communities and they may also be aligned with longer-term efforts to address the root causes of the conflict and lay the foundations for economic development and political and social transformation. Thus, mediation efforts have extended to include support for national dialogue platforms, management of transitional processes such as the demobilisation of combatants and their reintegration into standing armies or society in general, agreement on elections and technical support on constitutional reform options, electoral system design, to ensure that transitional elections do take place.

I learnt that mediation should be more process-oriented and less aligned to tight timelines and benchmarks and these benchmarks are often missed and a focus on this undermines the process. It was clear that mediation has a role to play at the Track I and Tack II levels. Mediation between high-level parties to a conflict at the Track I level requires a particular level of access, sets of skills and the ability to offer incentives and even compel participation in the process. But Track I efforts must be supported by Track II efforts, which engage a range of social and

political influencers, and civil society groups as they can bolster, even legitimise the efforts of the Track I mediators. They prepare the ground and if there isn't such an effort, the initiatives of Track I may be regarded as a sell-out and illegitimate and may even unravel and fail. Track II initiatives are particularly important in divided societies where conflicts have turned former neighbours into adversaries, and a variety of civic groups, religious bodies, and the media join the fray to undermine peacebuilding initiatives and to maximise the prospects of total victory for one or the other party to the conflict.

Historically the political mediators were men although women often created the spaces that opened the doors. UN SCR 1325 finally recognised that women bear a disproportionately high cost in conflict. Durable peace must engage women from both sides of the conflict in all aspects of peacebuilding and this requires women to participate in peace talks, in designing and monitoring prevention and protection measures, engaging in relief and recovery effort (UN 2000). Only this will ensure that the peace process is designed with the interests of the wider community in mind, it will benefit from the perspectives of women and ensure that women are not left behind in benefiting from the fruits of the peace dividend.

However, despite Resolution 1325 (UN 2000) calling for greater engagement of women as mediators, women tend to be pigeonholed into Track II mediation efforts and even within the United Nations, the numbers of female Special Representatives and heads of missions in post-conflict societies have been limited.

My Expanded Experiences in Mediation

I was privileged that my career with the International Institute for Democracy and Electoral Assistance (IDEA) and the United Nations took me beyond the politics of Sri Lanka, and spanned many countries, expanding my knowledge and including many diverse and interesting experiences. I share some of my own experiences beyond Sri Lanka – such as my work in Somalia, Nepal and Yemen.

Challenges of Working in Somalia

My experience of working in Somalia was unique. Globally, Somalia is characterised as a failed state (Boas 2005; Call 2008; Rotberg 2004) so described when they become incapable of providing the basic functions of government, such as law enforcement and justice, military defence, education, and a stable economy. More objectively a failed state is identified as one with a “gap framework” based on three gaps or service areas the state can no longer provide when it begins to fail. These gaps are capacity, when the state cannot effectively deliver basic goods and services to the people; security, when the state is unable to protect its population from armed invasion; and legitimacy when a significant portion of the political elites and society reject the rules regulating power and the accumulation and distribution of wealth. (Call 2008)

I discovered that mediating to enable a transition towards peace in the context of these gap frameworks poses specific and unique challenges.

Somalia received independence from the Italian-administered UN trusteeship in 1960 and a civilian government was formed in those early days to administer the country through a National Assembly which was replaced in 1969 when Siad Barre seized power in a *coup de tat* in 1969 and governed the country for over two decades through totalitarian rule. Somalia is a clan-based society and the government and administration prioritised clan allegiance over national allegiance. The economic failures, the lack of opportunities for Somalis outside the governing clan structure, the costly war launched by Barre and geo-political shifts whereby Somalia lost support from the Soviet Union led to clan-based resistance to the government. Armed militias took control leading to UN Peacekeepers being sent to Somalia in 1992. Since 1992 Somalia has been embroiled in civil war which has spilled over to neighbouring countries too. The rebuilding of Somalia – not only its infrastructure but its political institutions and creating the conditions for peace has been high on the agenda of the United Nations, the United States of America, the African Union, Intergovernmental Authority on Development (IGAD) and Somalia's neighbours too as the instability has an impact on the region. The UN efforts were focused on establishing a transitional government that would draft a new constitution that had broad acceptance and would create the pathway to elections and democratic government. This required mediation at various levels.

In 2000, efforts were made to establish a transitional government with limited success as Somalia's independent clans would not give up their autonomy easily. In 2004 there was a political understanding that Somalia would have a transitional federal government with a transitional federal parliament established through a federal constitution. The government was weak and ineffective and in 2006 there was a fresh round of violence through the intervention of an Islamist organisation which assumed control of the Southern part of Somalia and established a government under Shariah law. The Transitional government with the support of Ethiopia and the African Union quelled this force and established its authority back in the capital city and the international community continued its efforts in re-establishing a constitutional order. This included the UN efforts working closely with the regional stakeholders and the Transitional Federal Government to draft a constitution, efforts by Kenya to facilitate and host a two-year national reconciliation conference and the United Nations and World Bank hosting a needs assessment to map the country's development requirements. Some key agreements were reached through these processes. At the Arta Conference held in 2005, it was agreed that all Transitional institutions would include representation of the basis of clans and thus the 4.5 formula for representation was adopted. The 4.5 formula is a power-sharing formula where each of the four major Somali clans gets equal political representation while the smaller clans share the remaining 0.5 positions. The presidential, prime ministerial, parliament speaker and the head of the judiciary positions are also shared among the 4 dominant clans. Many believe that this formula further consolidates clan loyalty and undermines the prospects of nation-building while others believe that it was a pragmatic response. In current constitution-making processes, democratic and popular participation is mandated. But in Somalia, where plebiscites were not possible the stakeholders turned to traditional institutions – clans, and

Councils of Elders to legitimise their processes and decisions. These constituted their basis for inclusive representation. Gender and disability were not prioritised for inclusion.

During the years of chaos when there were no state structures, Somalis developed informal networks for trade, finance and community survival but it also created a vacuum in which criminality flourished. Somalia was back on the international agenda for fears that it could be a haven for piracy, terrorism and money laundering.

Within this overall conflict context, as a woman mediator I participated in Somalia's state-building process in two stages, first in 2007 -2008 when I worked with the United Nations Development Programme (UNDP) as the project manager to support a participatory constitution-building process and then again to work with the UN Political Office for Somalia (UNPOS) established under the aegis of the Special Representative of the Secretary-General to Somalia from 2010-2012. My first engagement, through UNDP, was to provide technical advice on matters relating to federalism, the design of various federal institutions, and international experiences where federalism met the needs and aspirations of majorities and minorities in divided societies. The technical advice was given to the Independent Federal Constitutional Commission, (IFCC), established to draft the constitution. This entity too was established under the 4.5 formula. The members did not necessarily have legal knowledge and understanding but they were selected by their respective clans. However, there was little momentum towards reaching an agreement and various deadlines established for the IFCC and the Transitional Government to meet lapsed. Eventually, the international community drafted a roadmap that imposed tight deadlines and recalibrated the process for drafting the constitution, the adoption of the constitution through a National Constitutional Assembly, a process for selecting members of the Assembly and the process for selecting the first Provisional government to serve following the freshly adopted, Provisional Constitution.

Many aspects of the Somali process were unique. The process could not be properly described as fully participatory and consultative given that the security remained precarious and the UN representatives (including myself) could not freely engage in Somalia. Most IFCC meetings were held in Nairobi or we had closed meetings under tight security in designated places in Somalia. Radio and community-based organisations were used to disseminate messages on the constitution-making process and the transition but it was difficult to evaluate how well they were received. I sensed that several parallel processes were ongoing outside the purview of the international community (Kadirgamar 2019).

The 4.5 formula, endorsed by the international community as well, was largely dominated by men but under pressure from Somali women. Under the leadership of a remarkable woman Asha Haji Elmi, a women's network emerged demanding a seat at the peace negotiations and in the constitution-building process. Appropriating the 4.5 formula, she called the women's network the Sixth Clan and she was a signatory to the peace agreement in 2004. Since then, a component of female representation in the constitution-making process and the adoption of the constitution have also been assured. Women and children were and are the major victims in conflict and this was the case in Somalia too. Although there was no parity of representation

and even the 30% recommended by the United Nations as necessary for significant and effective representation was not assured, it is remarkable that the Sixth Clan initiative was a local initiative that found traction. (Inclusive Peace and Transition Initiative 2018)

The final stages of the constitution-making process, which came to be managed by the UN political office, involved layers of complexity, creating additional oversight committees to create the optics that the draft was further vetted by experts and was also inclusive. A Committee of Experts (CoE) to review the IFCC draft was established, engaging the Somali Diaspora – women and men who had lived in exile in Norway, the United Kingdom, Germany, the USA and Italy for their support. Many of them had the advantage of living in stable countries, building their capacities while still being engaged with Somali politics and the community. They were able to contribute to the process, albeit facing tensions from the community left behind who expressed resentment that they suffered the consequences of the civil war while those who fled to safety now returned to dominate the political process!

It was impossible to hold a referendum on the constitution, or elections for a new parliament. A process was devised to establish a constituent assembly by calling on the traditional elders (a group of 135 persons – all male) to compile a list of participants for the Constituent Assembly and the Provisional parliament. This list that would be vetted by a Technical Selection Committee (TSC) to ensure that the selection criteria was respected. This too was formed based on clan representation. was established (again based on the 4.5 formula) with clan members selecting their representatives who would be part of the Assembly.

A quota for women was maintained and at the assembly, the constitution was read and explained to the members who voted for its adoption. Many aspects of the Constitution were established as principles but the implementation details had to be addressed by the Parliament. It remained a work in progress (Kadirgamar 2019).

As a woman mediator I observed that the Somali process was illustrative of many factors. There was considerable international and regional engagement and as the transitional government, the commission of drafters and the various meetings were supported financially by the international community, the autonomy of the Somalis was undermined. There was also so much factionalism within the peace-building community and this co-existed with the war raging in the cities and countryside. Much of the institutional design and concepts for state building drew on modern political theory (i.e., Parliament, Presidents, elections, Rule of Law etc.) and the international community was either ignorant of or did not want to concede that Somalis were still bound by Xeer (customary law), clan loyalty and kinship networks. Many of the leaders of the various stages of the transitions were nationals of other countries, having escaped the civil war for their survival. They could still leave if there was further instability, yet they were responsible for making decisions for another generation. In the interests of advancing the process, the international community did not press for answers to these disquieting factors and pragmatic solutions were prioritised. The Somali peace-building and state-building process was littered with a variety of piecemeal meetings that led to ad-hoc agreements, with one agreement superseding and even contradicting a previous agreement

before the ink ran dry. The rush was to create momentum and secure nods towards agreements, even if they were not durable.

Nepal a Successful Transition

My engagement in Nepal began with my engagement with International IDEA. Nepal's fledgling democracy was stymied from inception by its very partisan politics. Political parties were committed only to feuding and changing governments and as a result, governments could not complete a full term and advance positive legislative and policy reforms. Amid this dysfunctional democracy a Maoist rebellion gathered momentum.

To foster democratic dialogue and develop political consensus among political parties, IDEA established a Center for Democracy and Dialogue in 1996 and it included the secretaries of all the major political parties to create a forum for building consensus on key policy issues. While it became an amiable "Chautary" (a forum for conversation) it did not lead to any remarkable breakthroughs and eventually, it withered. However, for IDEA it created a nucleus and we developed relationships with key political stakeholders through it. When the Royal massacre took place in 2001 with the Crown prince assassinating the King, and the Queen and killing himself, a new King (the brother of the assassinated King) was crowned. It was a time of trauma and confusion in the country with the Maoist rebellion gathering momentum and the new King dissolved Parliament, took over executive powers himself and appointed pro-royalist Prime Ministers to run the government and to combat the Maoist insurgency. This move only heightened the instability.

IDEA as a small international NGO was able to conduct low-key dialogues and technical information-sharing sessions with key political actors at a time when the political parties had no role in government and had the time to spare to listen and to engage! This proved to be a valuable investment for when the political context changed, they were more receptive and more prepared to engage. During this time of interregnum, IDEA brought in practitioners who had engaged in dreaming about, talking about, and eventually building peace in countries that also had deadlocked and desperate conditions. They talked about the incremental processes of engagement in South Africa that led to peace talks and eventually a participatory constitution-building in South Africa and Kenya. They talked about the constitution-making processes in Afghanistan and Iraq that created spaces that brought in former adversaries to the table and created spaces for women's participation in the political process.

Eventually, the Maoists and the seven political parties struck an agreement to cooperate and challenge the authority of the King. They signed a 12-point agreement, pledging to work towards democracy, peace, prosperity and social advancement and ending the autocratic monarchy. The parties agree that the National Army and the Maoist army shall be under the supervision of the UN or any other reliable international actor, to conduct fair elections, and to accept international mediation during the dialogue process. This agreement was followed by a comprehensive peace accord committing the stakeholders to adopt a republican political system that complies with universally accepted fundamental human rights, multiparty competitive

democratic system, acknowledges the sovereignty vested in the people, constitutional check and balance, rule of law, social justice, equality, independent judiciary, periodic election, monitoring by civil society, complete press freedom, people's right to information, transparency and accountability in the activities of political parties, people's participation in the political process and in an impartial, competent, and inclusive bureaucracy.

The problems related to women, Dalit, indigenous people, Janajatis, Madheshi, oppressed, neglected, minorities and backward communities were acknowledged and there was a commitment to end discrimination based on class, caste, language, sex, culture, religion, and region and to restructure the state based on inclusiveness, democracy and progression by ending present centralised and unitary structure of the state.

Many factors were significant in the Nepali peace mediation process. It was driven by the nationals themselves who then sought the support of the United Nations who assisted in aspects of the process – supporting elections to the constituent assembly that was tasked to draft the new constitution, and supporting the assembly itself with technical expertise and also assisting in the process of disarming the Maoists. Nepali political stakeholders were initially open to international support, especially through the UN. However, given the special relationship that India has with Nepal, the UN and other international assistance had to be mindful that they would not cross the redlines that India had drawn either implicitly or explicitly. The first Constituent Assembly included an unprecedented number of women, indigenous communities and marginalised castes and established that it was an inclusive and representative assembly but it had to be capacitated. The Maoists had invested more in their combat structures and ideological development than in their party formation. Soon they were riven by factionalism.

I was engaged as the Senior Advisor to the unit established by the United Nations Development Programme (UNDP) to support participatory constitution building and this was done by establishing a centre that included a library, conducting lecture series on key issues such as federalism, strategies for protecting the interests of non-territorially based minorities and protecting the rights of indigenous people and a meeting space for members of the Constituent Assembly.

To many Nepalis, federalism was an aspiration and a panacea for many of the governance challenges they faced but they did not understand the implications of drawing boundaries of states, allocating powers and financing federalism. The UN was privileged to have as a Constitutional adviser at the inception of the project, Professor Yash Ghai, who was the Chair of the Kenyan constitutional process. He was initially brought to Nepal by IDEA and through his many meetings with political parties, UN officials and national civil society organisations, he won their confidence and the UN invited him to provide the initial support to the Constituent Assembly and the process at large. He set the framework of support for the Constituent Assembly. Although the assembly missed its deadline for drafting a constitution and a new assembly was elected, the new constituent assembly was able to build on the work of the previous assembly and enact a constitution despite many challenges.

As an insider and yet an outsider to the process I could soon detect that the expectations of the Nepali stakeholders were not fully met by the interventions of the United Nations and soon they were disenchanted with the support provided by the United Nations with grumblings that they were disconnected from the stakeholders, the bureaucracy delayed the provision of support and there was unnecessary expenditure on keeping the UN mission in place that could have been better allocated to the country itself. As technical advisors, were able to communicate with English-speaking elite stakeholders and through translators and interpreters. One was never sure what was “lost in translation”! Our contacts with the national stakeholders were inevitably framed through national who were “gatekeepers” to other national stakeholders and such processes are driven by an internal political dynamic as well. I was more aware of this in Nepal than in the other processes in which I worked as I had a strong personal network of contacts with CSOs in Nepal, gathered over the years I had worked in Nepal with IDEA.

The Nepali process was a mixed success in that a new constitution was passed, the political discourse was changed and some fundamental constitutional changes were made when turning the country into a federal republic, and bringing in hitherto marginalised communities into the political and social milieu. However, despite the years of conflict, the traditional political parties and political dynasties have remained resilient and have resurfaced and it is they who occupy key public offices.

Yemen: Supporting the National Dialogue 2013

My engagements over the years, working with the United Nations in Nepal and Somalia put me on the radar screen of the United Nations and I found myself included on the UN roster of consultants. I did not pay much attention to the roster and the likelihood of being called through the roster, but in 2013 I did receive a call from the Office of the Special Envoy to Yemen to assess my suitability to be a facilitator at the National Dialogue Conference to be held in Saana, Yemen in 2013.

I presumed that I was selected due to my experiences in Somalia and Indonesia, working in Muslim -majority countries and my work in Nepal where there was an armed conflict. I advised conference delegates and civil society on constitutional and governance reforms, transitional justice, human rights and women’s rights and state re-structure to address Southern demands for autonomy and provided policy advice to the UN Special Envoy on strengthening participation and outcomes of the National Dialogue Conference comprising 565 delegates. Very specifically, I spoke on federalism, power sharing, including women in the political dialogues, on the Norwegian brokered peace talks in Sri Lanka and the South African constitution-making process to civic groups and political parties who were part of the National Dialogue Conference in plenary settings and in small ad-hoc meetings. My South African colleague and I felt particularly honoured when we were invited by an elder statesman to speak at an informal Friday evening “Qat Chew” – a forum that is exclusively male but where many political issues are freely discussed and decisions made. Although the National Dialogue Conference failed and was criticised in retrospect for being too large and unwieldy, with an

overloaded agenda and unrealistic expectations placed on it, it was remarkable on several counts and could be a model for adaptation in other transitional processes.

Given that Yemen had been stifled under an autocratic dictatorship for over thirty years and there were multiple layers of unresolved conflicts to be addressed (broad sectarian conflicts dividing Sunnis and Shias and sub sectarian divisions within the Shia, and regional power struggles), this forum created a space to discuss buried past grievances, and divisive political and social issues and aspirations. These included the demands of the South, which had previously been under the British and later Russian spheres of influence for secession, and the demands of the Houthis living in the rugged North in Saada for special recognition of their sub sectarian identity as Zaidis and their historical marginalisation. It also included the more general demands for transitional justice to account for the many disappearances during the years of conflict and autocracy, and an urgent need for initiatives directed at state building, good governance, military and security, independence of special entities (focusing on rights of minorities, vulnerable, and marginalized groups), rights and freedoms, and economic development.

Yemen's national dialogue was supported by a UN Special Envoy who spoke Arabic and was well-versed in the politics of the country and the region. However, Yemen's national dialogue and its potential to realise the people's aspirations were also circumscribed by regional rivalries and interests along with its internal fissures. We, as facilitators of dialogue created spaces and information for reflection but the whole transition operated within the constraints of history, culture and geopolitics. Although it failed to achieve its immediate objectives, we can say that it has contributed to a foundation for change and transition that may take place or at worst, proceed in fits and starts.

Formally Branded as a Mediator: My Experiences with the Stand-by Mediation Support Team

In 2014, I applied to join the Stand-by Mediation Support Unit (MSU) which was affiliated with the United Nations.¹ The MSU was established to enhance the United Nations' operational readiness to implement and support mediation efforts. The Mediation Support Unit (MSU) within the Policy and Mediation Division (PMD) of the UN Department of Political and Peacebuilding Affairs (DPPA), created the Standby Team of Senior Mediation Advisers that had a dedicated mandate.

The Standby Team is composed of mediation experts who can be rapidly deployed to provide advice on a wide range of issues that tend to arise in mediation and preventive diplomacy efforts, including the design and management of dialogue processes, constitution-making, gender and inclusion issues, natural resources, power-sharing, and security arrangements. The

¹ I committed to two years at the MSU, first as the Advisor on Gender & Inclusion, Constitutions & Power Sharing and then with a reversal of emphasis as the Advisor on Constitutions, Power Sharing, Gender & Inclusion advisor.

Team's services are available, without cost, to United Nations envoys, peace operations and Country Teams, as well as to regional organizations and partners with whom the United Nations works closely in conflict mediation, dialogue facilitation, and good offices worldwide. At the time I joined the MSU, it was supported by the Government of Norway and deployments were managed through the Norwegian Refugee Council (NRC).

Before I speak of my deployments, I must speak to the process by which the team was constituted. I (and many others) responded to the call for applications through a resume and cover letter. The applications that were long-listed were asked to fill in an online questionnaire which amounted to a psychological test to understand how the applicant would respond to a variety of situations. Weeks later there was a second test – whereby I was asked to reflect on the strengths and challenges associated with two peace agreements and respond to a hypothetical case study of an ethnically divided, fictitious country where the persecuted minority group in that country was supported by the neighbouring country which also had members of that ethnicity in its demographics. If my memory serves me right, I commented on the Taiz agreement (Lebanon) and the Nepal peace agreement and suggested some pathways to mediate the conflict in the fictitious country which included a broad national dialogue to address deep-seated grievances.

Whatever I wrote was sufficient to warrant a face-to-face interview in Oslo and the interview was scheduled for a couple of hours – a tough challenge for those of us who suffered jet lag. The first item on the agenda was to go through the psychological test with the assessment councillor to clarify that she understood and validly interpreted my responses. Her final assessment of my behavioural profile report, was that I am best characterized as a “Promoter, Supporter and Driver”.

As I was walking into meeting the interview panel, I was given a revised hypothetical for immediate response. The simmering conflict that I had prepared for had erupted into violence and the Special Representative of the Secretary-General to the United Nations needed urgent advice on how to move forward and de-escalate tension!

The interview panel included three members from the Mediation Support Unit of the Department of Political Affairs and two members from the Norwegian Refugee Council. It was a long and engaging conversation to assess my technical skills and competencies and to understand my ability to communicate with national politicians, diplomats, civil society and angry protestors and how I responded to a variety of contexts, stresses and challenges. Crossing these hurdles to be accepted by the stand-by mediation support unit was very affirming.

In my capacity as a Gender and inclusion advisor, I found that my deployment calls took off more slowly. It was up to the missions to call upon the stand-by team for support, and despite the UN resolution 1325 mandating women's participation in mediation processes it was not fully internalised by the missions or they believed that it had to be sequenced for a later stage. However, the opportunity came for me to engage with the UN mission in Libya which was working out of Tunis for security reasons. The peace negotiations were taking place and a

concerted effort was made to include women in the process and to prepare them to articulate their demands. It is unfortunate that the gains that women made under the autocratic but secular regime of President Gadhafi were being rolled back by conservative leaders. The UN organised several meetings in Tunis and one in Geneva to convene the women stakeholders. I observed that even the United Nations which is committed to the inclusion of women is unable to fully recognise the constraints that women face in such processes. I share an example. For women raised in traditional and conservative families, it is not acceptable for them to travel, especially overseas without a male chaperone. The UN was ready to pay for the women participants to travel but not for a male chaperone. However, the Swiss development agencies and in other instances the Scandinavians recognised this and did fund travel for a chaperone to enable the women to be present. I noticed how committed the women were to engage in the process, and stayed the course with discussions running late into the night.

I supported the UN missions with several policy papers including a study of lustration policies as this is often done in post-conflict countries without fully appreciating the consequences of lustration on public administration and law and order. I also supported the UN's learning on mediation, through a series of interviews with key political stakeholders conducted in Zimbabwe, where the international community supported a coalition government after a hung parliament emerged between two bitterly opposed factions. The information that emerged from that programme was truly illuminating on the dynamics of coalition governments, how priorities are assigned within coalition governments the probabilities of success of coalition governments. I believe the study has contributed to aligning the government's expectations relating to the success and stability of imposed coalitions.

It is with some reluctance that I state that I am now inducted into the hall of mediators through the external recognition that comes through the MSU. The jury is still out on whether mediators are born to be so or nurtured into the roles through experience.

Through my own experiences, I recognise how important it is to protect the process and that the mediator should be modest claiming the role of facilitator rather than of peacemaker or treaty broker. I recognise that the role of women in peacebuilding has not been fully established and at most, it is regarded as a Track II activity. I believe that the efforts that the NRC expended in developing the personality profiles of its mediators were significant as it bolsters confidence.

At this time when the conflicts are bitter and violent and involve unrepentant state actors and non-state actors it is difficult to conceive of a role for mediation as several stakeholders are locked in mortal combat. I hope that there is space for more unorthodox interventions that can and will lead to mediation and support for a more peaceful world order.

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