

STRATEGIES FOR IMPLEMENTING AND ENFORCING PEACE AGREEMENTS: LESSONS LEARNED

*By: Mark L. Schneider**

It is a pleasure to be here at the Benjamin N. Cardozo School of Law. I want to thank the Cardozo Journal of Conflict Resolution, particularly its staff, for the opportunity to participate in this symposium. I am pleased specifically to address the subject of “Strategies for Implementing and Enforcing Peace Agreements: Lessons Learned.”

I am frequently invited to participate in events because of people I know or people who know me. In this particular case, I have to admit, someone who knows me very well suggested that I join the panel – my daughter, Miriam, who I am proud to say is on the Journal staff.

Sadly, we live in an age where the grisly violence of terrorism fills the airwaves every evening. We see the effects of car bombs at police stations and schools in Iraq and Afghanistan and, most recently, hotels in Jordan. New York, Washington, Madrid, and London have been through terrorist attacks and are braced for more. Further from the television cameras, in Congo, Darfur, Northern Uganda, Colombia, Nepal, and elsewhere, political violence – much of it targeted at civilians – runs up an unacceptable toll.

In the aftermath of the Cold War, there was a general belief that the demise of the major ideological drivers of conflict between East and West would bring about a major reduction in armed conflict. Then, all were stunned by the appearance of seemingly endless ethnic, religious and resource-driven civil conflicts in the 1990s, particularly the horrors of genocide in Rwanda, Srebrenica and Kosovo and the recurring and devastating conflicts in Central and West Africa. In this first decade of the 21st century, conflicts raged in the Congo and Northern Uganda, and massive atrocities have been documented in Darfur. We also see a continuing 40-year conflict in Colombia with close to 2.7 million persons displaced from their homes and communities.

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Yet, there is some light shining through the pessimism and gloom. A recent study by Andrew Mack at the University of British Columbia has found, since the end of the Cold War, a decline in the absolute number of wars, deaths in war and genocides, and a rise in peace negotiations. In fact, Mack found that half of all peace accords signed between 1946 and 2003 took place since the end of the Cold War. Further, fewer deaths have been recorded because during the Cold War, wars were fought with large armies, with either direct or proxy involvement by the major powers, and every national conflict was invested with international strategic meaning. Nevertheless, our focus must remain on the civil conflicts that persist and conditions that give rise to frustration and fear and lead some to offer sanctuary to terror.

Greater international commitment must be made to conflict prevention, mitigation and resolution. This is all the more true in a world where no one is immune from the threat of deadly violence – whether spurred by ethnic, racial or religious hatred, by frustration borne of historic exclusion and denial of human rights, by partisan competition for power or by forces driven by greed to control diamonds, timber or illegal drugs.

Yet, international institutions compromised by competing interests remain weak, and too often ineffective. Over the past fifteen years, despite some success, the international community has repeatedly failed to respond rapidly or effectively to prevent conflict.

Indeed, it was the failure of the collective will to deal with Bosnia and Rwanda that led to the creation of the organization for which I work, the International Crisis Group. Our primary mission is to help prevent and resolve deadly conflicts across the globe. We are working on the ground in more than 45 countries to help shine light on crises that governments too often want to ignore.

Several months ago I asked former Canadian General Roméo Dallaire – who headed the ill-fated and under-equipped 1994 UN peacekeeping mission in Rwanda – if what occurred in Rwanda was a failure of information or a failure of will. Dallaire was unequivocal, noting that what took place in Rwanda a decade ago was happening again today in Darfur. He felt that both occurred less because of a failure of information and more because of a failure of political will. Yes, Rwanda unfolded with blinding speed, with 800,000 murdered in 100 days, but early warning signs were abundant. It was the flawed implementation of a peace agreement in Rwanda in 1993 that set the stage for the explosion a year later.

These realities bring me to my fundamental question: How can we define better strategies to bring about effective and sustainable peace agreements that do not merely end conflict in the short run but can be crafted, implemented and sustained to help nations build democratic institutions that promote development and therefore peace?

As Secretary General Kofi Annan argued, “[t]he world must advance the causes of security, development and human rights together, otherwise none will succeed.” In examining strategies for making peace agreements work, it is important to recognize that while there are efforts to end conflicts in the absence of formal peace agreements, their absence substantially complicates efforts at peacekeeping and peacebuilding. Two weeks ago, I saw a major international peacekeeping operation in Haiti, taking place in the absence of a peace agreement among the parties, whose potential conflict brought about the intervention in the first place. The Colombian Government, in the absence of a willingness to negotiate on the part of the FARC, the strongest of the three illegal armed groups engaged in the conflict, has opted to slice them off one by one, starting with the paramilitary forces who have been offered what some have described as a sweetheart deal.

Additionally, one could argue that both Iraq and Afghanistan have suffered from the absence of a peace agreement signed by the defeated forces, in part because they refused to recognize defeat and in part because the military victory appeared not to require such a political recognition of forces – whether Saddam Hussein or the Taliban – whose illegitimacy was clear.

We also know that the failure to manage either the process leading to peace agreements or the adequacy of their content and the success of their implementation are crucial factors in stemming a recurrence of conflict. As the World Bank’s Paul Collier has recorded in a study of all conflicts since WWII, the single most reliable factor predicting future violence in a country is the existence of a previous conflict. More than 500 reports by the Crisis Group over the past decade on steps leading to peace processes, on the agreements themselves and on peacekeeping and peacebuilding efforts offer clear lessons for the future.

The all encompassing conclusion is that effective strategies for peace must encompass an inclusive process before the agreements are signed, a careful design for the content of the accords themselves, and international verification and support for their implementation.

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First, the nature of the negotiating process leading to the peace accords is absolutely vital. Among the key elements determining success or failure are the following:

- All the major warring parties must become part of the process. Having splinter armed forces outside the negotiations almost guarantees their becoming spoilers of the process down the road.
- The forces in conflict and the country as a whole – including its civil society and particularly women – must participate in and ultimately take ownership of the process.
- International facilitation – whether through the UN and other formal inter-governmental organizations, through the involvement of NGOs or private entities, or a mix, including the participation of influential regional powers as friends of the process or special envoys.
- The negotiating process is rarely one stop shopping. In fact, the great likelihood of ownership and participation occurs as confidence builds over time through different phases. In Central America, the peace process in El Salvador that ended with the signing of the Chapultepec Accords on January 16, 1992 may be said to have begun six years earlier when the Pan American Health Organization (PAHO) and the United Nations Children's Fund (UNICEF) combined with the Catholic Church to negotiate three weekend truces to permit a nationwide polio immunization campaign to take place in spring 1985. Working with PAHO, I called President Duarte to seek his agreement and UNICEF head Jim Grant and I both called Archbishop Rivera y Damas to get the FMLN's agreement. By the third year, we almost had the guerrillas asking when the immunization ceasefires would be scheduled.
- An extended process also allows time for the context of negotiations to ripen, for both sides to decide that they want peace, that they trust peace and that they can convince their supporters that peace is their best option. In part, it requires greater confidence on the part of the guerrillas that the international community will not allow them to be murdered when they put down their arms. The context was also ripe because both sides saw themselves as likely to lose advantage, territory and internal control if the fighting continued, particularly since their external patrons were calling for an end. In the US, Congress threatened to cut off military aid to the right-wing military, and the fall of the Soviet Union saw an end to the guerrillas' external support.
- To the degree that the negotiating process can produce a coherent single team of negotiators on either side of the table, rather than multiple disorganized forces, the likelihood of suc-

cess is greatest. In El Salvador, Fidel Castro initially drove the separate insurgent groups to coalesce for greater military success if they wanted his help, and that decision subsequently made negotiating with a single FMLN more feasible.

- We now are seeing a similar process in Darfur where only two days ago, Salim Salim of the African Union (who is a member of our board), and U.S. Deputy Secretary Robert Zoellick were both quoted in Arusha pressing the SLM and the JEM rebels to forge a negotiating coalition and a common negotiating strategy as the best way to produce an agreement and put an end to the Khartoum supported janjaweed paramilitary violence.
- In recent years, the rise of international NGO's with competency in conflict resolution has added to positive developments. We have examples of efforts in Oslo where academics and NGOs – almost always in close liaison with the UN – generated a move in 1993 that led to a significant step toward resolving the Israel/Palestinian conflict. And only this year, the successful negotiations that ended the conflict in the Aceh province in Indonesia, conducted by another member of our board, Martti Ahtisaari, took place with the support of a Geneva-based NGO. Similarly, the Catholic community in Rome of Saint Egidio was a mediator of talks between Renamo (the Resistencia nacional Mocambicana) and the government of Mozambique that brought that civil conflict to an end.

If the process is crucial, so too is the content of the peace accords themselves. Perhaps the most unchallenged conclusion is the following: Each accord is different, and every peace process requires patient and determined engagement, creative energy, and deep knowledge of the underlying drivers of the conflict to succeed. Nevertheless, there are some lessons that we have learned.

The accord is more likely than not to succeed if it:

- Deals directly with the underlying causes of the conflict either by spelling out who gets what or by defining a process for more equitable participation by the competing forces or their constituencies in determining who benefits. In Macedonia in 2001, the flash ethnic violence between Macedonians and the Albanian minority led to an internationally mediated negotiation at Lake Ohrid that included: greater acceptance of Albanian as an official language in government; affirmative action to raise the percentage of Albanians in public jobs, such as in the police force; a mention of religions other than the Macedonian church in the Constitution; and a law on decentralization of government. When I spoke to an Albanian militia

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leader, it was fascinating to hear him talk about the language discrimination his children had experienced in schools – not unlike the complaints that could be heard in the southwest from Hispanics a few decades ago. The agreement had to be specific to succeed.

- Deals with a conflict over control of valuable resources – whether timber in Liberia, or drugs in Colombia, or diamonds in the Congo. Not only are these conflicts more likely to involve neighbouring countries with their own selfish goals, but agreements ending these conflicts are also most likely to deny individual riches to commanders even if their communities may receive fair treatment. The North/South accord in Sudan and the Iraqi Constitution demonstrate clearly how the peace accords must seek to achieve an acceptable allocation of those resources.
- Deals directly with spoilers first by identifying who they are and then by designing implementation plans for the agreement with the obvious intent to prevent them from destroying the possibility for peace. Spoilers can be from criminal groups, such as the drug trafficking organizations in Colombia who are dead-set against a peace agreement. Spoilers also may shift over time. In Haiti today, the Lavalas forces who were demanding the return from exile of former President Aristide and the rejection of an electoral process which they were convinced was tilted against them, raised unending objections to the process earlier this year. The Interim Government of Haiti, the traditional parties who had opposed Aristide, and the business elite all pressed for the transition elections on a firm electoral calendar. Suddenly, the latter are raising new obstacles because the Lavalas are participating, and seem to have a decent chance of winning, albeit with a candidate who has divorced himself from Aristide.
- Deals directly with neighbouring countries who either have forces committed to the conflict or use local forces as their allies or fronts.
- Establishes clear and adequate timelines for implementation, sufficiently specific and unambiguous to allow for independent and transparent monitoring.

This takes us to the final element dimension. While the process leading to and the content of the peace accords are important, the proof is in the pudding – that is, in the implementation of the accords.

- Implementation requires full commitment of the parties. If they are not convinced that their minimum interests are served by the peace accord, they will seek ways to delay, ob-

struct and stymie the process. In addition to the commitment of the parties themselves, monitoring and verification (usually by independent international entities) can be the most effective mechanism, to assure implementation of the accords.

- Accepting a role for international monitors and verifiers also offers a better, though by no means guaranteed, chance for success. The UN is the default monitor of peace processes. Even where it may not have been the central facilitator, it is usually the most acceptable entity for monitoring the accord's implementation. This is obviously the case in the 42 instances since 1990 where UN peacekeepers have been sent to help maintain a peace settlement. UN monitors on the Sinai border are virtually invisible at this point, yet their role and presence has been a major guarantor of the process itself.
- Full and active support by the international community for the implementation of the accords has a huge determining role in success or failure. Where that support is defined in concert with the government and the former belligerents and is seen as responding to their needs, the implementation process moves forward. That support entails every possible entity including the UN, the World Bank, major bilateral donors, and increasingly, NGOs as well.
- In Afghanistan, that support is obviously crucial. It was based on a common framework growing out of the Bonn Process. The current criticism from parts of the Afghan government, however, is that the donors manage the funds themselves and do not strengthen the Afghan institutions. In Haiti, there was more than \$1.2 billion committed to urgent relief, electoral preparations, security and socioeconomic needs.
- Development assistance must be available to build physical infrastructure and human capital, encourage constitutional inclusion of indigenous and minority populations, strengthen civil society, and help establish the rule of law. The fact that for years we have had to recreate an international police presence for every new peacekeeping mission around the globe shows how much we still have to learn; something I will come back to shortly.
- But support cannot always be across the board. Here the lessons are, as Stephen Stedman has noted, that the highest priority has to be assigned to the demobilization and disarming of the combatant forces and their translation into political actors. It also has to be done in a way where the aid does not re-engage discrimination and anger. If those from the same or similar communities who did not take up arms do not have access to some similar benefits, grievances will almost inevitably arise.

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- As noted, perhaps the highest priority in international support for peace accord implementation is the security sector – police, courts, the rule of law and the new armed forces if they are to exist. Unless the international community is directly engaged in helping to professionalize those forces, they can soon be taken over by some of the same forces who either started or perpetuated the conflict.
- Perhaps the three most conspicuous elements for post-conflict success demonstrated in those studies are the following: post-conflict planning that has local buy-in; providing international police and judges; and a long-term, coordinated international donor partnership.

At the outset, I noted that strategies for peace encompass the process leading to peace agreements, the agreements themselves, and international verification and support for their implementation. These are among the lessons we have learned over the past fifteen years.

In conclusion let me return to the words of Roméo Dallaire. He wrote:

Early warnings had gone unheeded, intervention was ruled out, and even as the bodies piled up on the streets of Kigali and across the countryside, world leaders quibbled over the definition of what was really happening. The only international forces they sent during those first days and weeks of the massacres were paratroopers to evacuate the foreigners.

In the twenty-first century, we must commit ourselves to demanding that our political leaders do better than that.