

DISSERTATION
ON
Achievements and Failure of United Nations in Peace Mediation
in Recent Years

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Submitted To

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Department of Law Supervised Dissertation (Law 406)

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Application for Approval of Research Proposal

To,

Research Supervisor Department of Law, East West University.

Subject: Proposal for Approval of Research Title

Dear Sir,

I, Syed Mukit Baksh, bearing ID: 2017-1-66-014 is a student of LL.B. (Hons.) program of the Department of Law. According to the program, I would like to undertake the course LAW 406 (Supervised Dissertation) under your supervision.

The Title of Research is mentioned below:

Achievements and Failure of United Nations in Peace Mediation in Recent Years.

Therefore, I pray and hope that you would be kind enough to approve the mentioned research topic.

Thanking you.

Syed Mukit Baksh

Signature of the student

Approved by the Supervisor

Date: 26/2/22

Declaration

I, Syed Mukit Baksh, declare that the Dissertation entitled “Achievements and Failure of United Nations in Peace Mediation” is submitted for the fulfillment of the requirements of course 406(Supervised Dissertation) for LLB (Honours) degree offered by the Department of Law, East West University contains no material that has been submitted previously, in whole or in part, for the award of any other academic degree or diploma. Except where otherwise indicated, this thesis is my own work.

Signed By: Syed Mukit Baksh

Date: 19 May, 2022

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Abstract

Mediation has become increasingly popular as a tool for peaceful conflict resolution over the last 25 years. The majority of armed conflicts were resolved or partially resolved by establishing a cease-fire through mediation. The importance of international mediation in modern conflict resolution necessitates a review and analysis of this vastly evolving field of international mediation.

This dissertation seeks to identify the characteristics that enable the United Nations to be effective peacemakers in modern international conflict. This research aims to examine the most significant trends and debates of the UN on international mediation, with a focus on conflict resolution over the last few decades.

This study focused on how peace mediation in international conflicts results in a negotiated agreement; the mediation attempts that did not result in a peace agreement and the methods for reaching a peace agreement.

However, this study does not provide definitive answers on how to use mediation more effectively, instead of discussing the process, strengths, and weaknesses of UN mediation practices. To meet the needs of the twenty-first century, impartial and balanced peace mediation can be achieved by filling gaps discovered through this dissertation's theoretical discussion.

List of Acronyms

DPA	Department of Political affairs
DPO	Department of Peace Operations
DPKO	Department of Peacekeeping Operations
DPPA	Department of Political and Peace building Affairs
GID	Geneva International Discussions
IGAD	Intergovernmental Authority on Development
MSU	Mediation Support Unit
NGO	Non-Governmental Organization
NATO	North Atlantic Treaty Organization
SBT	Senior Mediation Advisers
UN	United Nations
UNSMIL	United Nations Support Mission for Libya

Achievements and Failure of United Nations in Peace Mediation in Recent Years

1.1 Introduction: After Second World War the peaceful world has witnessed many conflicts around the globe. For the resolution of these conflicts the world has not involved in armed conflicts. We must realize that war can never bring peace prosperity and development towards mankind and nature. In the era of globalization as the economic development has increased the conflict between state versus institution and state versus individual has also been increased. Since there is involvement of economic matter and development, every party wants peaceful and immediate settlement of that dispute. That's why importance of mediation is increasing in lieu of armed conflict. The United Nation plays a vital role to settle dispute through mediation in a peaceful way. The recent war between Russia and Ukraine shows that there is no alternative of mediation to cease this war which inspired me to conduct a research on mediation. This dissertation seeks to identify the characteristics that enable the United Nations to be effective peacemakers in modern international conflict. This study focused on how peace mediation in international conflicts results in a negotiated agreement; the mediation attempts that did not result in a peace agreement and the methods for reaching a peace agreement. This study discusses the process, achievements strengths, and weaknesses of United Nations in mediation practices. The importance of international mediation in modern conflict resolution necessitates a review and analysis of this vastly evolving field of international mediation. To meet the needs of the twenty-first century, impartial and balanced peace mediation can be achieved by filling gaps discovered through this dissertation's theoretical discussion.

1.2 Background: The world has experienced two horrific wars 1st World War and 2nd World War. These two wars had an exceptional impact on mankind. After Second World War the United Nation was established to maintain global peace and security. Almost all country around the world joined in the United Nation from its establishment. We have seen that United Nation has got success through mediation in many countries. Since its founding, the United Nations has played a critical role in mediating inter- and intra-state disputes at all stages: before they escalate into armed conflict, after the outbreak of violence, and while peace agreements are being implemented. Day by day the scenario of geo politics and state

interest is changing rapidly. The process of resolving dispute is also changing. The official DPO was formally created in 1992 as the Department of Peacekeeping Operations (DPKO) when Boutros Boutros-Ghali took office as Secretary-General of the United Nations¹. The Department of Political and Peace building Affairs was established on 1 January 2019 following the reform of the Department of Peace Affairs (DPA) which was established in 1992². The Department of Political and Peace building Affairs (DPPA) of the United Nations is a vital performer in efforts to prevent lethal conflict and establish long-term peace around the world. The DPPA's Mediation Support Unit (MSU), which was established in 2006, collaborates closely with the department's regional branches to plan and support mediation initiatives in the field³. MSU provides peace processes with advisory, financial, and logistical support, as well as working to develop regional and sub-regional organizations' mediation capacity and serving as a repository of mediation knowledge.

This research is essential to create new ideas and techniques that how states can negotiate and settle their dispute peacefully rather than war. In this research I will try to find out the lacking of international law and United Nations and discuss some effective measures to stop humanitarian crisis and war in better way.

1.3 Literature Review: In the lapse of time the variation of international dispute has changed and so does the concept of peace process. Many Scholars have written on concept of international disputes and so many international organizations have been established. However, there is no obligation in general International Law to settle disputes⁴. Since there is no obligation to settle the disputes the settlement of dispute depends on the willingness of the party. If the both party hold equal power the dispute may be settled in bilateral negotiation. It is difficult for a third world country to claim and compel the superpower country for negotiation. Such country goes for Judicial Settlement. Bangladesh has applied before the tribunal of permanent Court of Arbitration in Hague, Netherlands against India and Myanmar regarding the delimitation of territorial sea, and Bangladesh got its judgment in her own

¹ United Nations Peacekeeping (Department of Peace operations) <<https://peacekeeping.un.org/en/department-of-peace-operations#:~:text=Up%20to%20the%20late%201980s,General%20of%20the%20United%20Nations.>> accessed 12 March 2022

² United Nations, (Political and Peace building Affairs) <<https://dppa.un.org/en/about-us>> accessed 9 March 2022

³ UN Peacemaker, (Mediation Support Unit) <<https://peacemaker.un.org/mediation-support>> accessed 9 March 2022

⁴ IAN BROWNLIE, *Principle of Public International Law*, (Eight Edition, 2020, Cambridge University Press)703

favor.⁵ If there were no law regarding this dispute it will be very difficult for a small country like Bangladesh to resolve this dispute. That's why International law and convention are the prime basis for international dispute settlement in peaceful way. Malcolm N Shaw in his International Law book mentioned in the chapter of settlement of Dispute in peaceful settlement means two categories of techniques of conflict management such as Diplomatic Procedure and Adjudication.

In J.G Starke in his 'Introduction to International Law' has mentioned these following peaceful or amicable methods of settling International Law Disputes.⁶

- 1) Arbitration
- 2) Judicial Settlement
- 3) Negotiation, Good Office, Mediation, Conciliation, Inquiry
- 4) Settlement under auspicious Of United Nation Organization.

Arbitration: Ordinarily Arbitration means the same procedure where certain persons called arbitrators is freely chosen by the parties, hear allegation and claim of both party and make an award without being bound to pay strict legal considerations.⁷

Judicial Settlement: Judicial Settlement means the settlement of dispute in a formal judicial process. In this process a country apply before any international court to resolve the dispute. Though most of the International court or tribunal has no forcing power to implement the decision of the court. But normally decision of the court is respected by the country.

Mediation: Mediation is a systematic, interactive process in which a neutral third party helps disputing parties resolve disputes using specialized communication and negotiating methods. Mediation is, by definition, a structured process whereby two or more parties to a dispute attempt by themselves, voluntarily, to reach an agreement on the settlement of their dispute with the assistance of the mediator, who is the third person, asked to conduct the mediation in

⁵ Mark E Rosen, Douglas and Johnson, Bangladesh VS India A positive Straight forward in the seas, September 2017.

⁶ J. G Starke, *Introduction to International Law* (Tenth Edition 2017, Butterworth Law Publishers limited, Kent UK,)485

⁷ J. G Starke, *Introduction to International Law* (Tenth Edition 2017, Butterworth Law Publishers limited, Kent UK,)486

an effective, impartial and competent way.⁸ A mediator normally guides the both party to get a mutual decision. Both parties mutually achieve a decision or mediator proposes a decision but the decision of mediator is not bounding upon the parties. Article 2 of the UN Charter provides that all members shall settle their international dispute by peaceful means in such manner that international peace and security, and justice, are not endangered.⁹ Mediation is popular, but it also has a mystical quality. We still have a lot to learn about what makes a conflict amenable to mediation and what makes one mediator more effective than another.

1.4 Contribution: War and Peace are not a new concept to human history. As people engaged themselves in war people also have struggled for peace. In recent era concept of peace Mediation has increased to prevent such type of Global War United Nations and other International Organizations is working on the basis of UN Charter International Law and conventions. In my research paper I have already discussed the way of Ideas to settle disputes in peaceful way. I would like to elaborate the achievements and failure of the United Nations in many conflict situations. The concept of peace process and the situation and variety of disputes are not the same over the time scholars have pointed out different dispute resolution process in their books. I will show which method of mediation of dispute resolution is most effective and beneficial for both of the party and what will be the future policy of International Dispute Resolution of modern world.

This research study is important to create more doors and opportunities in the field of mediation to settle disputes in peaceful way rather than war and conflicts.

1.5. Research Question

The role of mediation in the international arena will be discussed in this study. It is especially vital to have the option of peacefully resolving problems. The actual implementation of mediation, as well as the growing use of mediation, should be evaluated to see if it is a feasible project or if it has potential. The thesis project also focuses on the application model in international practice. Additionally, prospects for strengthening and advancing mediation implementation will be examined.

The following research questions are addressed in this dissertation: What is the meaning of the term "peaceful mediation"? What is the practical use of mediation on a

⁸ Directive 2008/52/EC of the European Parliament and of the Council of 21.5.2008 on certain aspects of mediation in civil and commercial matters, Official Journal of the European Union (OJEU) L 136, 24.5.2008,

⁹ United Nations, (UN Charter) <<https://www.un.org/en/about-us/un-charter/full-text>> accessed 5 march 2022

global scale? What role does mediation play in international relations? In the international arena, how do mediators operate? What are the possible outcomes and implications of mediation, and how willing are the countries involved to accept them? Will concentrate on the advantages and disadvantages of employing digital technology for mediation?

1.6. Research Justification

The idea of international peace mediation is yet a construct under development, though the mediation is being used through the years. By the passing of the era, the situation of international conflict has changed and the concept and process of mediation have also been changed. From the creation of the United Nations, the prime concern is international peace and security and the process is ongoing. The UN's current mission, as well as prior UN deployments, demonstrates the need for mediation. The topic of the dissertation is the role of mediation in international dispute resolution. The possibility of a peaceful settlement of a conflict is particularly important. The practical execution and greater use of mediation should be examined to see if they are unrealistic projects or if they have latent potential. The dissertation project could also include an application in international practice. Additionally, opportunities to strengthen and encourage mediation are being investigated. By exploring the title “Achievements and Failure of United Nations in Peace Mediation in Recent Years” the findings of the specific objectives of this thesis are

1. to understand the growing interest in mediation to restore world peace,
2. to explore UN initiatives to harness this growing need,
3. to accumulate the critical knowledge and procedure of world peace mediation developed by different scholars around the globe, and
4. to identify the challenges and opportunities of 'world peace mediation' where the UN needs to contribute further

1.7. Outline of the Thesis

In chapter one Research proposal containing introductory discussion, background, Literature Review, Contribution, Research question and course outline are discussed. An introductory description in chapter two of the concept of mediation and peace mediation and the type of

mediation appropriate to restore world peace and the legal framework of peace mediation are discussed. In chapter three UN initiatives in support of mediation in different countries and different mediation support units are explained. Chapter four is describing the future of peace mediation in light of the challenges of mediation, and the use of digital technologies in mediation. Chapter five contains an analysis of the recommendations through the findings of this research and the thesis ends with closing comments on the viability of the UN mediation in the twenty-first century.

1.8. Conclusion: Mediation is a process which enables the United Nations to be effective peacemakers in modern international conflict. But every peace mediation in international conflicts doesn't result in a negotiated agreement; the mediation attempts that did and did not result in a peace agreement and the methods for reaching a peace agreement are the topics of discussion. Mediation is gaining popularity as a more peaceful and universally acceptable means of resolving conflicts. Mediation may be used to settle any type of conflict.

Chapter 2: Mediation and Peace Mediation

2.1. Introduction: Mediation is a process of dispute resolution where any third party as a mediator like a well-wisher helps the party to resolve the dispute between according to their demand. The mediator doesn't emphasis on the party to follow his judgment rather the mediator helps the party to reach a conclusion. Mediation is a party-centered procedure in which the needs, rights, and interests of the disputing parties are the primary emphasis.

2.2. Concept of Mediation

Mediation is, by definition, a structured process whereby two or more parties to a dispute attempt by themselves, voluntarily, to reach an agreement on the settlement of their dispute with the assistance of the mediator, who is the third person, asked to conduct the mediation in an effective, impartial and competent way.¹⁰

Mediation is a systematic, interactive process in which a neutral third party helps both parties to resolve the disputes using specialized communication and negotiating methods. All participants are encouraged to take an active role in the process to peaceful dissolution. Mediation is a party-centered procedure in which the needs, rights, and interests of the disputing parties are the primary emphasis. The mediator uses a variety of strategies to steer the process in a positive direction and assist the parties in finding their best settlement. A facilitator supervises the relationship between parties and encourages open conversation. Mediation is a type of alternative conflict resolution that settles disagreements between two or more parties with tangible consequences, as defined by the law. A mediator, who is usually a third party, assists the parties in reaching an agreement. Disputes can be resolved through mediation in a variety of areas, including economic, legal, diplomatic, workplace, community, and familial problems. Mediation is gaining popularity as a more peaceful and universally acceptable means of resolving conflicts. Mediation may be used to settle any type of conflict. The United Nations plays such a mediator role in resolving dispute between two states or interstate conflict.

Marian Liebmann defines mediation as: "A process by which an impartial third party helps two (or more) disputants work out how to resolve a conflict. The disputants, not the

¹⁰ Directive 2008/52/EC of the European Parliament and of the Council of 21.5.2008 on certain aspects of mediation in civil and commercial matters, Official Journal of the European Union (OJEU) L 136, 24.5.2008, Article 3

mediators, decide the terms of any agreement reached. Mediation focuses on future rather than past behavior".¹¹

Mediation is a form of alternative dispute resolution, whereby parties attempt to resolve the differences without going to court by mutual negotiations understandings and compromise. Some court systems utilize voluntary or compulsory mediation, especially in family matters. Mediators are trained in the necessary skills and some are lawyers and some are expertise. It is used in dispute in matter of child custody or international Disputes

2.3. Type of Mediation Appropriate to Restore World Peace

There are many distinct types of mediation, each of which is useful from a different standpoint. Formal, quasi-formal, and informal mediation are three types, depending on whether or not national laws are involved and whether or not a formal venue is used for mediation. As we all know, world peace mediation is not governed by any single international law, and how the law is applied differs from one side to the next. Because World Peace Mediation is not bound by any one set of laws, it is not bound by any particular set of courts. As a result, there are no court-related mediation difficulties. However, the concepts of power, culture are all important. However, in peaceful mediation, the themes of power inequalities, cultural differences should all be carefully acknowledged.

International law has always been viewed by the international community as a tool for establishing and maintaining world peace and security. The basic goal of international law has always been to maintain international peace and security. This is the main purpose of the League of Nations, which was founded in 1919, and the United Nations, which was founded in 1945. Because disagreements between countries are always the primary source of war and violence, conflicts should be resolved in the interests of peace and security. International law establishes techniques and procedures for resolving conflicts in a peaceful manner. Countries have signed a slew of international accords aimed at resolving disputes and conflicts peacefully.

Several bilateral and multilateral agreements incorporate specific clauses about dispute resolution in addition to such general treaties on dispute settlement. The United Nations Charter's Chapter VI expressly addresses methods and processes for resolving disputes

¹¹ Marian Liebmann, *Mediation in Context*, (Jessica Kingsley Publishers, 2000)10

peacefully. Negotiation, inquiry, mediation, reconciliation, arbitration, judicial resolution, and referral to regional agencies or arrangements are all ways for peaceful settlement of problems, according to the first paragraph of Article 33 of the Charter. This paragraph obligates the parties to a dispute to seek a resolution using any of the above ways or other peaceful methods of their choosing.

2.4. Concept of Peace Mediation

The efforts of a third party recognized by all parties to facilitate conflict resolution through formal and informal negotiations and dialogue voluntarily are referred to as peace mediation. At all levels of society, peaceful mediation methods and instruments can be used to prevent, manage, and resolve conflicts within and between countries. Self-determination, respect, honesty, and openness to the process's outcomes are all guiding elements in the mediation process. Furthermore, any technique of peaceful mediation must adhere to the United Nations Guidelines for Effective Mediation, which was published in 2012.

In the post-Cold War era, peaceful mediation has become a popular practice. Through debate and negotiation, a diverse variety of participants—international and regional organizations, non-governmental organizations (NGOs), celebrities, and countries large and small—have helped to prevent conflict and resolve wars. Many mediators have made significant contributions to society's passage from war to peace. However, not all mediation techniques are effective, and some even worsen the situation, such as dividing non-state armed actors. Despite these issues, there are few accountability systems in place, and there is no recognized framework for systematically evaluating mediation operations. Peace mediation's impact in this situation is multidimensional and cannot be measured solely based on input and output. The Sixth Istanbul Mediation Conference was convened on 31 October 2019 with the theme of “International Peace Mediation: Taking Stock and Looking Ahead”.¹²

2.5. The Legal Framework of Peace Mediation

The United Nations (UN) Guidance for Effective Mediation describes mediation as a voluntary process “whereby a third party assists two or more parties, with their consent, to prevent, manage or resolve a conflict by helping them to develop mutually acceptable

¹²UN Peacemaker, (Summary Report of the Sixth Istanbul Conference on Mediation, 25 November 2019) < <https://peacemaker.un.org/node/3371>> accessed 15 May 2022

agreements”.¹³

The term "peace mediation" refers to support for the full structured process of discussions, from the initial contact between the mediator and the conflict parties to ceasefire negotiations and peace agreement implementation. Mediation is thus a tool that can be employed at any point in the conflict cycle. Peaceful mediation, like general diplomacy, strives to handle and settle issues in a non-violent and productive manner. The major distinction between diplomacy and mediation is that diplomacy focuses primarily on a country's foreign policy goals and interests, whereas mediation is a consensus-based strategy for promoting the interests of all parties. As a result, multiple interpretations of the function of diplomats and mediators have emerged, as well as varied tactics. Furthermore, diplomats are limited in their interactions with certain conflicting parties (particularly violent non-state actors), whereas mediators are fully capable of including any conflicting party in the mediation process within the right scope. As a result, coordinated diplomacy and mediation have a lot of promise.

Article 33 of the Charter of the United Nations provides that "The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice."¹⁴

This Article calls upon parties to any dispute to seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means, should the continuance of a given dispute endanger the maintenance of international peace and security. The UN has further conferred prominence on mediation as a conflict resolution mechanism with the UN's Report of the Secretary-General Report on enhancing mediation and its support activities. The report encourages the development of mediation capacities and underlines the importance of a coordinated collaboration between mediation actors and the institutions that empower them, such as the UN, regional and sub-regional organizations, governments, and non-governmental organizations. The Secretary-General, the Security Council, and the General Assembly are all envisioned in the Charter as having a role in the peaceful settlement of conflicts; UN decisions and practices have aided the growth of the organization's

¹³ Peace Mediation Germany, (Basics of Peace Mediation: Concept and Definitions, February 2017) <<https://peacemaker.un.org/sites/peacemaker.un.org/files/Basics%20of%20Mediation.pdf>> accessed May 15, 2022

¹⁴ UN Peacemaker, (Peacemaking Mandate) <<https://peacemaker.un.org/peacemaking-mandate>> accessed 15 May 2022

peacemaking activities.

The maintenance of international peace and security may be jeopardized if the parties request it or the Security Council considers the dispute will persist, according to Articles 37 and 38 of the Charter. The Security Council may establish subsidiary entities to promote the peaceful settlement of international conflicts, according to Article 29 of the Charter. It made use of this authority to create subsidiary entities for mediation. Organizations at the regional and sub-regional levels play a significant role in resolving conflicts peacefully. The Security Council, according to Article 52 of the Charter, should foster the peaceful resolution of local conflicts through regional organizations and may refer problems to regional organizations for resolution.

The General Assembly, according to Article 10 of the Charter, has the authority to discuss any problem or item within the Charter's scope, and to make recommendations to the Member States or the Security Council without infringing Article 12 of the Charter.

2.6. Conclusion: Mediation has grown in popularity among nations, international organizations, and other entities over the last two decades. The United Nations' constructive solution has contributed to the rising frequency of mediation. Mediation is popular, but it also has a mystical quality. We still have a lot to learn about what makes a conflict amenable to mediation and what makes one mediator more effective than another.

Chapter 3: UN Initiatives in Support of Mediation

3.1. Introduction: The UN has played a mediating role in resolving a large number of inter-state and intra-State conflicts worldwide, among the different methods for peaceful settlements outlined in Article 33 of the Charter of the United Nations. This mediation effort is helpful in all stages of conflict: in the prevention of armed conflict, in peace building and peacekeeping, after the outbreak of violence, and in the implementation of peace agreements. The UN has more institutional experience in mediation than any other organization, based on more than 77 years of experience in this field. Furthermore, it has extensive expertise in implementing peace accords by deploying multiple peacekeeping missions and supporting United Nations agencies for work in the building of peace. A community of mediation aid professionals has emerged over the last 20 years. The Department of Political Affairs set up, in 2006, a Mediation Support Unit, to provide the United Nations and other mediation processes with targeted technical support¹⁵.

3.2. UN Mediation in Libya

Libya was kept under foreign rule for centuries until it became independent in 1951. Soon after the discovery of oil, the country was brought with it great wealth. Colonel Gaddafi came to power in 1969 and ruled for four years, with the aid of the Western military intervention, until his rebellion in 2011 kicked him down. It was divided and has split into rival political and military groups in Tripoli and the east since 2014. Prime Minister Abdul Hamid Debebe, internationally known leader of Tripoli is the leader of the Libyan national army, and Khalifa Haftar, who controls most of the southern and eastern areas of the country.

UN Initiatives to resolve the conflict:

Local conflict is plagued by Libya's statelessness and consequent violence, as well as lawlessness throughout Libya. In recent years, however, the work of local mediation flourished. Apart from these local players, the UN is increasingly involved in the work of

¹⁵ UN,(UN activities in Support of Mediation, 27 June 2017)
<https://peacemaker.un.org/sites/peacemaker.un.org/files/DPA%20Report%20REV9%20ENG%20WEB_0.PDF
≥ accessed 18 march 2022

local mediation, which is also inseparable from the broader transitional justice and reconciliation process at the government level. Although the UN Support Mission in Libya (UNSMIL) was originally focused on supporting elections and national political agreements, the core of its work has been local mediation¹⁶. Although UNSMIL is sometimes focused on promoting short-term solutions to local conflicts such as a ceasefire, it has launched a more thorough reconciliation effort to pursue long-term answers. The UN negotiates directly with armed groups in some circumstances, although it prefers to work with local mediators. The UN mostly performs local mediation in the country's western regions, ranging from mediation between terrorist organizations and the military in Benghazi to contact with militias in Tripoli to restore calm. Although the changing alliances of the different groups and their complex interactions in history make it hard to attribute the roots of conflict to such simple duality, nearly all these efforts involve the effort to resolve the differences between revolutionaries and loyalists formerly to the regime.

Although the United Nations mission initially focused on elections and national mediation, "the UN political and humanitarian teams have contributed somewhat to easing local conflicts.

When the NATO military campaign in Libya ended in October 2011, the United Nations established the Support Mission in Libya (UNSMIL) to support the country's transition to an elected government.¹⁷

Proposals to insert a peacekeeping mission in Libya in 2011 were met with resistance by Libyans who believed that they were capable of resolving their conflicts and feared foreign intervention. Six envoys were present during the first six years of UNSMIL Mediation still dominates the peace process, despite its weaknesses. Several sources are mediators in the Libyan conflict, but the UN approach is the dominant framework on which to develop a political solution.

3.3. UN Mediation in Syria

Before the conflict started, many Syrians complained that President Bashar el-Assad, who succeeded his father Hafez after his death in 2000 was highly corrupt and there was unemployment and lacked political freedom. In March 2011, pro-democracy protests erupted

¹⁶ UN Peacekeeping, (UN Support Missions in Libya) <<https://unsmil.unmissions.org/>> accessed 24April 2022

¹⁷ UN Peacekeeping, (UN Support Missions in Libya) <<https://unsmil.unmissions.org/background>> accessed 2 April 2022

in Deira South, inspired by the uprising against oppressing rulers in neighboring countries¹⁸. The demonstration to demand the President's resignation erupted across the country when the Syrian government used lethal force to suppress dissent. The supporters of the opposition took up arms first to protect themselves and then to clear up their area's security forces. There was a rapid escalation of violence, and the country plunged into civil war.

Various countries and international bodies have intervened to ensure good offices, mediation or negotiation to alleviate the consequences of the Syrian crisis. In the summer and fall of 2011, the Arab League made the earliest mediation effort. Former Secretary-General Kofi Annan initially managed the UN Mediation Initiative and the later famous Six-Point Plan was the heart of this initiative. The main purpose of the plan, the UN-led Stop of Armed Violence and the preparation of negotiations and processes, is to address the Syrian people's legitimate aspirations and concerns. Following the departure of Annan, Lakhdar Brahimi was involved in UN mediation, and he was tried in several different ways, such as trying to achieve a limited ceasefire during the Eid al-Adha holidays in October 2012, and, above all, renewing it in January 2014¹⁹. Begin the UN-coordinated discussions. Civil society is being pursued in different ways while still working on a regional and international basis.

Even before Annan launched the first round of UN mediation in Astana, the mediation process in Syria was proposed in January 2012 and tried once more the following year. It appeared in the last few days of 2016 that it reinforced the cease-fire proposal negotiated between Russia and Turkey.

The end of the Syrian war depends essentially on the wishes of the conflicting parties and their key allies. But analysts stress that Russia's diplomatic initiatives are increasingly replacing the Geneva process. At the same time, on the ground, most of the opposition-controlled areas were regained by the Syrian Army with Russian and Iranian allies' support. The conflict may have ended, but Syria's civil society players' participation in the resolution of the conflict remains essential for peacebuilding legitimacy or sustainability.

3.4. UN Mediation in Kenya

Since Kenyan return to political multi-party policy in 1992, the 2007 election has been Kenya's fourth. A total of 108 parties took part in 210 parliamentary seats and the three

¹⁸ Britannica, (Arab-spring: Pro-democracy Protest) <<https://www.britannica.com/event/Arab-Spring>> accessed 2 April 2022

¹⁹United Nations, (Meetings coverage and press release, 17 August 2012) <<https://www.un.org/press/en/2012/sgsm14471.doc.htm>> accessed 12 April 2022

leading presidential candidates were the PNU's Mwai Kibaki, the ODM's Raila Odinga and the former ODM-Kenya Foreign Minister Kalonzo Musyoka. Early results showed that on December 28, the day after the elections, Odinga maintained strong leads, and on December 29 ODM announced the Odinga victory, but the two candidates' divide was announced on the same day as more results. On 30 December 2007, the Election Board declared Kibaki victorious²⁰.

In the space of minutes from the announcement by the Committee that Kibaki had been the winner, there were tribal riots and violence, primarily against Kikuyus, across Kenya.

Both parties claim to have won the presidential election, and both hope that Kenya's leader will. After weeks of negotiations and a series of setbacks two months after the chaotic presidential elections in Kenya, Mwai Kibaki and Raila Odinga signed an agreement, a result of an intensive mediation effort led by the former UN Secretary-General. General Kofi Annan and his African famous people Graça Machel and Benjamin Mkapa The “Agreement on the principles of the partnership of the Coalition Government” is the main result of a successful process of interest-based mediation.

The mediation initiative involving Kofi Annan, the African Union and the United Nations showed how effective diplomacy can prevent the escalation of the serious political crisis, before it turns into a protracted armed conflict, following the post-election force that took place in Kenya in late 2007 and early 2008.

3.5. Conclusion: The United Nations has participated in a wide range of activities as part of its overall peacekeeping and preventive diplomacy efforts, including operational support for mediation, promotion and dialogue processes, strengthening the mediation capabilities of partners, and formulating mediation guidance and best practices. Mediation is thus a tool that can be employed at any point in the conflict cycle. Peaceful mediation, like general diplomacy, strives to handle and settle issues in a non-violent and productive manner. The major distinction between diplomacy and mediation is that diplomacy focuses primarily on a country's foreign policy goals and interests, whereas mediation is a consensus-based strategy for promoting the interests of all parties.

²⁰ France 24, (Kenyan Rivals meet for initial talks) <<https://www.france24.com/en/20080125-kenyan-rivals-meet-initial-crisis-talks-kenya>> accessed 14 April 2022

Chapter 4: The Challenges and Future of Mediation and Peace Processes

4.1. Introduction: There is always a change in the nature of the conflict. Increasingly, mediation support faces many challenges, given the increasing complexity of conflict trends that impact mediation practice. These new asymmetrical and mixed security challenges, including terrorism, organized crime, trafficking, piracy and epidemics and their social impact, are increasingly being addressed in the peace process. Mediation has experienced dramatic growth over the past decade, and mediators have also faced challenges.

4.2. The Challenges of Mediation and Peace Processes: Dispute resolution in modern world between two states can't be achieved without difficulties or challenges. The following challenges are identified throughout the mission of UN mediation:

- i. The main problem of mediation is how mediation instruments are best used to maintain or reconstruct peaceful relations between conflicting parties. The international community's difficult decisions relate to recent changes in the dynamics of conflicts, power decentralization, coordination gaps, challenges in coherence and inadequate mediation abilities.
- ii. Effective mediation has been widely recognized as a tool for preventing conflict break-out and escalating crisis and for ending conflicts, which have already occurred during negotiations. However, a skilled mediator may be needed for the long-lasting negotiations for the implementation of the agreement following the conclusion of a peace agreement and the implementation of a peace operation.
- iii. When failures in governance are too long ignored, frustration is increasing and sometimes violence. Preventive diplomacy should be used more often and more promptly, so long as it is not far enough to avoid the collapse of the state. But it is a real challenge to use mediation as soon as possible before a conflict.
- iv. New drivers of armed conflict have emerged over recent years and pose further challenges to peace-building. The drought caused by climate change has exacerbated conflicts over water use and the availability of arable land as seen in the example of Darfur. Fast urbanization in many societies is associated with increasing socio-

economic inequality, increasing urban violence by gangs, which may destabilize national and local authorities. The facts show that it is difficult to resolve social violence through the traditional peace process of the first level.

- v. Neutrality and impartiality are important issues for mediators. Should the mediator maintain neutrality in all circumstances by maintaining an equal distance from the parties to the conflict? Or should they pursue justice, apply to everyone the same standards, and fight those who are crossing the red line? Real challenges include following guidelines and international law and preserving fairness.
- vi. Because of the fragmentation of the mediation authority in recent years, difficulties between these alternative methods have become more difficult for mediators. Regional actors have also begun to restrict the space for UN peace-making in recent years, for instance in Kenya and Myanmar.
- vii. In addition to resolving conflicts, some peacemakers may also seek out personal heritage, meet the needs of national audiences or promote national and international interests. Coordination has proved particularly difficult due to the dynamic of competition that has evolved in the increasingly crowded peace-building world.
- viii. Many factors determine who should play the role of mediation, including the parties' preferences, the availability of adequate and enduring mediators and the international community's willingness to support mediators.
- ix. Cohesion among different mediators at or at the same time at various stages of conflict is a major challenge. The problem of consistency is especially important during the multi-year peace process when the elements of potential agreements are formulated at various stages of negotiations. While mediators must achieve clear objectives at the start of the intervention, the development of a strict peace plan at first is difficult or impossible.
- x. The parties to the conflict often disagree during the implementation phase as to what the agreement requires them to do. Under-coordinated efforts to promote the peace-building process could be hindering prospects of achieving the milestones of the UN's peace agreement, and the United Nations agencies.

4.3. Future of Peace Mediation

Peace mediation is not immune to the tectonic shifts in global politics. The era of a unipolar world, dominated by one power, is over. Peace mediation will have to adjust to these new geopolitical realities. Digital tools have increasingly affected efforts to end conflicts like mediation and peace-building in the world of emerging technologies. In tradition, "low tech" mediation is now exploring the potential benefits that emerging technology brings, where intelligence, communication and skills have the highest importance. Although new technologies are not having an increasing impact and importance on mediation and peace processes, the current pandemic stresses the urgently necessary challenges as well as revealing many other challenges and opportunities in the new countryside.

The mediation practice continues to be a people-centered task although the speed, scope and systemic impact of digital technology are often considered to be revolutionary. Digital technology can provide significant efficiency and mediation opportunities. In parallel, the dual utilization of digital technology can also pose major risks to their use. Understanding these risks will allow mediators to better utilize the opportunities of digital technology.

The digital technologies and tools currently used by mediators include Social media like Facebook, Flickr, Instagram, Snapchat, Signal, Telegram, Viber, and WhatsApp Instant Messaging applications.²¹

The Geographic Information System is a digital tool for storing, analyzing and displaying information in cartographic formats. Machine learning is an artificial intelligence subfield and has potential conflict management opportunities. One important output of machine learning is to predict how and when conflicting stakeholders will be involved. In many key applications, such as data mining and data analysis, natural language processing, language and image recognition, these models have been used. Blockchain technology is used for safe online legal services and dispute resolution and for other purposes, as a safe means of recording votes and enhancing election auditability.

4.4. Conclusion: Digital tools have increasingly affected efforts to end conflicts like mediation and peace-building in the world of emerging technologies. In tradition, "low tech" mediation is now exploring the potential benefits that emerging technology

²¹ United Nations Peacemaker, (Digital Technologies and Mediation)
<https://peacemaker.un.org/resources/digital-mediation-prev> accessed 23 March 2021

brings, where intelligence, communication and skills have the highest importance. Although new technologies are not having an increasing impact and importance on mediation and peace processes, the current pandemic stresses the urgently necessary challenges as well as revealing many other challenges and opportunities in the new countryside.

Chapter 5: Recommendations and Conclusion

5.1. Introduction: Mediation is a wide phrase that refers to any situation in which a third person assists others in reaching an agreement. The procedure is secret and discreet, with the possibility of legal enforcement. The majority of the time, participation is entirely voluntary. The mediator serves as a neutral third party who helps rather than directs the negotiation process. Mediation is gaining popularity as a more peaceful and universally acceptable means of resolving conflicts. Mediation may be used to settle any type of conflict.

5.2. Recommendations

The UN and its partners should decide carefully in every crisis which strategy for peace-making is most successful. Different conflict environments demand different methods of mediation rather than the dogmatic assumption that particular strategies are always the most effective. The choice of the strategy to build peace should be defined through an analysis of the balance of power within the war zone, the intentions, capacity and potential political actions of the relevant players in various scenarios. The following processes are recommended to obtain the maximum output from a mediation process:

Entry in Right Time

In Chapter VI of the Charter, the Security Council can more frequently use its tools for preventive contact. These include the countries visiting to exacerbate small-scale conflicts, to take action, to interact with regional organizations and other actors influencing all parties and to encourage and encourage the timely implementation of the Secretary-services. General's In cases where the Security Council is unable to agree on how to deal with an imminent or serious crisis, the United Nations Secretary-General may directly or via a special envoy execute preventive diplomacy carefully before official notification to the Security Council. In this case, he can decide to inform the Council or the Chairman of his plan to meditate alone. While he may be criticized for failure, before the risk of conflict has increased, he also has the opportunity to solve the imminent crisis.

The mediation initiative involving Kofi Annan, the African Union and the United Nations showed how effective diplomacy can prevent the escalation of the serious political crisis, before it turns into a protracted armed conflict, following the post-

election force that took place in Kenya in late 2007 and early 2008.

In Syria, the UN, and Annan in particular, are frequently charged with late conflict. Initially, the conflict escalated militarily and the parties increasingly thought that they could violently overthrow each other, making Brahimi's mediation almost futile. The intervention of NATO in Libya convinced the Syrians that international support could also be obtained for the overthrow of the Assad regime. Although NATO did not intervene, all parties believe the military victory is foreseeable with the support of regional powers. While the parties Annan and Brahimi tried to foster a sense of maturity, highlighting the high costs of the conflict and the impossibility of a military solution, they still believed that without mediation they could win. A good example is Libya. The opportunities for mediation did not improve early entry due partly to lack of consent. Gaddafi never allowed his senior officials to negotiate the political transition, and only after leaving the regime did the National Transitional Council agree to negotiations. In Yemen, however, it is time for the mediator to become a part of the transition.

Support of International Organization

In order to finance and influence their peacebuilding initiatives, the Security Council and the Secretary-General should seek to build alliances with the relevant countries and regional organizations. For effective mediation, the impact of the acquisition of competent power on the parties to a conflict is crucial. The Central America Contadora process and Burundi mediation show that support for all parties in the conflict is often required by relevant countries in the region. The MiddleEast Quartet, which comprises the European Union, Russia, the USA and the United Nations, illustrates how, in order to benefit from its influence on the conflicting parties, the United Nations is sometimes to ally itself with major powers in the peace process. The Secretary-representatives General and special envoys should endeavor, with the security Council and relevant regional and global governments, to develop close working relations. This enables delegates and senders to use key countries' support to support peace initiatives against conflicting parties. Groups of peacemaking friends should not be too large to work discreetly and efficiently. The groups of friends with no more than half a dozen members and a strong interest in reaching a peaceful

settlement have proved the most successful in mediating conflict settlements.²²

Impartiality and Inclusivity

The loss of the impartiality of the mediator results directly from the preconditions. In such cases it is not the mediator's character defect, but the restrictions imposed by the authorized power, that makes it lose its impartiality. The mediator is not involved in reconciliation but in the transmission of power. It is expected that the government will retire and the opposition will benefit. Only by negotiating some guarantees to the rule can the mediator avoid the zero-sum game. The mediators cannot, in this case, maintain their impartiality and in particular, the authorities are in danger of seeing them as seeking to legitimize the changes of regime.

In this respect, Syria is the clearest example. As a process to negotiations, the opposition and Western powers will use the anticipated result – the revocation of the regime. Due to LAS's anti-Assad stance, their seemingly non-partisan efforts are further complicated by the dual status of mediators as special UN and Arab League envoys. Security Council Resolution 1973 authorized Khatib, and authorized, at the same time, NATO-led military intervention in the country to seek a peaceful solution to Libya's dispute. While al-Khatib may be seen as unbiased, this certainly affected his efforts to mediate and made the regime connect to the UN.

Based upon its experience, the Security Council should ensure that political transitions with requests for limitation of mediation options are not managed in a micro-management manner. Particularly with respect to power transfers – contrary to reconciliation, it can be said that they need to be fairer – a mediator who does not have enough coercive power must attract enough government attention to the possibility of the withdrawal of power. But they are not regarded as unbiased to the ruler's interest in doing so.

Coordination of Mediators

All mediating agencies at a given time should agree who will lead the mediation process. Kofi Annan has led to the success of Kenya's peacebuilding initiative through his multi-party mediation process in Kenya. In the absence of leadership agreements by the mediators, they can show competitive behavior which can harm the peace process.

²² Teresa Whitfield, *Friends Indeed? The United Nations, Groups of Friends, and the Resolution of Conflict* (Washington, DC: United States Institute of Peace, 2007), p. 270.

Selection of Mediators

The candidate's mediation skills and experience should be given priority when selecting representatives of the Secretary-General and special envoys and written job descriptions. The Secretary-General should encourage the Member States to submit a list of leading potential candidates and to regularly update their rosters. In international affairs, countries are the most active mediators. Although a long tradition of mediation has benefited some countries, and other countries have only recently begun mediation, they have a very important role to play for mediators, mediation supporters and members of friends' groups. In many conflict situations, religious leaders and religious organizations play an important mediating role. These leaders have uniquely local connections and often gain the confidence of all conflicting parties. But they are often not fully understood and their potential contributions are still underutilized.

More often the Security Council can use expert panels to analyze and demonstrate regional dynamism of armed conflict in Angola, Sierra Leone and elsewhere. The Security Council will also use expert panels.

5.3. Conclusion:

They are still as important and urgent as they were in 1945 on the 76th anniversary of the organization's founding. Important developments have been achieved in the following decades. To Prevent the recurrence of the type of global war that UN founders were worried about. There have been treaties and conventions to tackle matters ranging from war laws to political, civil, cultural, economic and social rights as well as disarmament and environmental protection. The UN promotes peace and peace to help end conflicts and promote reconciliation between nations around the world. The UN does not, however, have a mediation monopoly. Another option described in Article 33 and Chapter VIII of the Charter calls on the Member States, via these arrangements, to resolve local disputes. Indeed, since the Cold War came to an end, from regional and sub regional organizations, countries, and non-governmental organizations the number and kinds of international mediation agents continued to increase. Several other regional organizations have mediation contact points, some of which envisage the establishment within their department to create a formal mediation support structure. Similarly, some Member States have set up government-wide specialized units to manage and sustain conflict mediation and solution efforts. The United Nations Secretariat works closely with these offices, including through mediation and

mediation support on request, consultancy and capacity building.

The Security Council has recorded that many conflicts have been successfully dealt with and that today's agenda is wider than ever in its history as the body responsible for maintaining international peace and security. With the support of other UN agencies, its contacts with regional organizations, which are an important forum for international action, are more consistent than in the past. However, the effectiveness of international cooperation to promote collective security and peace has been called into question when the Security Council is divided and therefore unable to take action. It is regrettable that the conflict has escalated, causing civilian casualties and forced displacement. Like other organizations, the United Nations has also failed in many cases to mediate a conflict but from its establishment, the glorious contribution to international peace and security shows the dream of a peaceful world.

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