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Final Research Report

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Negotiation Kosovo: The Role of the International Community as a Mediator

Abstract

Mediation is a form of third-party intervention with an outcome of resolving the conflict through negotiation and bringing a settlement acceptable to both parties. The process of mediation is essential when there is a breakdown in communication between the parties in conflict. Thus, the purpose of mediation is to help parties involved find a solution they are not able to find themselves.

Negotiations over the future of Kosovo were extremely complex and sophisticated. When there is a great deal at stake, as in the case of Kosovo, everything that takes place both outside the negotiating room and at the negotiations table is of crucial importance. Parties that are conducting negotiations, personalities involved, statements made both to their adversaries as well as to the media and last but not least the choice of a mediator, as we have learned in Kosovo, can be a determining factor in the outcome of the negotiations.

My research which involved interviewing key negotiators, led me to conclude that the failure of Kosovo negotiations was a result of missed opportunities on the part of negotiators, which could partly be explained through their unwillingness to cooperate but even further by their inability to take advantage when such opportunities arose. These negotiations clearly show the extent to which issues such as timing, power and perceptions, strategy, trust, negotiating personalities, the choice of mediator as well as broader issues of outside political interests have on the outcome of negotiations. The most important lesson for all parties involved including the mediator is to determine early on in the negotiations the different interests that are present at the negotiating table and beyond. My study shows that there were opportunities for the parties to achieve an agreement during the negotiations, however due to the fact that the key components of successful negotiations were missing, the Kosovo negotiations ended in failure.

Relevance and Contribution to the Field

Mediating and negotiating international conflict and issues affecting international security is extremely important. Mediator helps adversaries communicate and helps change their perceptions of each other while assisting them to reach a mutually acceptable agreement. Since mediation is a process with no pre-determined outcome, the consequences of a failure to reach an agreement can have devastating

consequences for one or multiple parties involved. At times, the outcome can affect the security of the whole region. This is the main reason why negotiations should be studied and analyzed by the policy makers.

After the NATO bombing campaign in 1999, which ended the fighting between the two ethnic groups, and six years of Kosovo being under the administration of the United Nations, the final round of negotiations, between 2005 and 2007, provided the Serbs and Albanians with a unique opportunity to not only resolve the status of the former autonomous republic, but more importantly to find a common ground and mutual interests which is a pre-requisite to achieving stability in the Balkans.

My research examines the conduct of mediation and answers the question why Kosovo negotiations ended in failure. It provides a valuable insight into the negotiations and reveals some of the components that were missing in the negotiations such as mutual trust among participants. The mediator imposed a formula on the parties, instead of allowing the parties to determine a formula that is acceptable to them. The fact that the issue of Kosovo's status was extremely politicized only hurt the negotiations. The mediator also sent strong signals that Kosovo would become independent which affected both parties' willingness to compromise.

Kosovo negotiations provide many lessons but the most relevant one is the importance of determining early on in the negotiations the different interests that are present at the negotiating table and beyond. This was an occasion where in order to obtain a desired outcome; one had to be well-versed on the theory of negotiations as well as the interests of outside powers which acted as a mediator. My research singles out very important tools that every mediator must master prior to entering the negotiations in order to be an effective mediator. The lessons and tools are also invaluable for the negotiating parties so they may negotiate an agreement in their favor.

• **Research Methodology**

My research took me to Belgrade, Serbia and Pristina, Kosovo. The purpose of my research was to conduct personal interviews with individuals that conducted the Kosovo negotiations. This is mostly because the negotiations are very recent and a lot of information is still not available to the public. Furthermore, the failure of the negotiations and subsequent independence of Kosovo remains controversial especially in Serbia and among the Serbs living in Mitrovica. Many of the government officials that participated in the negotiations were hesitant to give interviews. Some asked not to be identified or quoted in my writing.

I interviewed both Serbian and Kosovo Albanians high-level government officials, university professors and other experts that participated in the negotiations as well as members of the Contact Group. My approach was to find out the perceptions the negotiators had going into the negotiations about the other party as well as their perceptions about the mediator. The goal was to determine how much leverage both teams perceived they had going into the negotiations and to what extent that affected their behavior during the course of negotiations. Furthermore, I inquired about the role of the media and references to promises for the Kosovo negotiations and whether that impacted parties willingness to compromise. My questions also dealt with the issue of trust which is crucial in any negotiations. This question addressed

trust between the two parties as well as trust in the mediator and in the fairness of the process of negotiations.

U.S. State Department – interviews, Washington, D.C.
Academy for Diplomacy and Security, Serbia
Organization for Security and Cooperation in Europe (OSCE) - Serbia
Politika Newspaper, Serbia
Review of International Affairs Institute, Serbia
Serbian Government officials – personal interviews, Serbia
Institute for Balkan Studies; Serbian Academy of Sciences and Arts, Serbia
DAN newspaper, Serbia
Albanian Embassy, Serbia
Institute for Political Science, Serbia
American University, Kosovo
Kordinacioni Centar za Kosovo I Metohiju, Serbia
Kosovo Government – interviews, Kosovo
Library of the Univeristy of Pristina, Kosovo
Police department, Kosovska Mitrovica, Kosovo
UNMIK, Kosovo
EULES, Kosovo
IREX office – interviews, Kosovo
UN offices – interviews, Kosovo
University of Pristina, Kosovska Mitrovica, Kosovo
International Crisis Group, Kosovo
Koha Detore newspaper, Kosovo
Serbian Assembly, Kosovo
Kosovo Parliament, Kosovo
Political Party Representatives, Serbia
Academy for Diplomacy and Security, Serbia
Beogradski Univezitet, Law School, Belgrade
University of Political Science, Belgrade

Research Findings and Preliminary Conclusions

My research objective was to analyze and determine the role of the mediator in the negotiations. I chose the Kosovo negotiations because that was the most recent example of complex negotiations where the international community played a key role as the mediator. The negotiations ended in failure to reach a mutually acceptable agreement.

In international negotiations between two or more states that involve states or international organizations as mediators, stakes are extremely high and mediation serves as a foreign policy instrument to end a conflict. In international mediation, the mediator is rarely indifferent to the terms being negotiated, which is

why in general mediators try to avoid terms that are not in line with their own interests. In some instances, the mediator will try and use coercion in order to move parties to adopt the formula proposed by the mediator as was the case in the Kosovo negotiations.

My research findings show that the opportunity for reaching a mutually acceptable agreement between Belgrade and Pristina did exist, however the opportunities were not used. The opportunity to reach an agreement existed especially in 2005 and early 2006. Perceptions of both parties about a possible outcome played a key role in the ability and willingness of the two sides to show flexibility and to compromise. The outcome of the negotiations appeared predetermined by the fact that the key mediator President Martti Ahtisaari presented it as such and also because both parties obliged and accepted the result. Serbs 'bought' the argument, which made them passive, insecure and averse to any compromise. Kosovo Albanians not only accepted the argument but they "locked it in" and were unwilling to move one inch away from this position. The Serbs perceived the key mediator as biased and his claims of Serbian guilt and the proposed formula as the final outcome which placed them on the defensive and discouraged the Serbian delegation from fully engaging in the negotiations.

Statements made by Washington and Brussels that Kosovo independence was only a matter of time made Belgrade skeptical about the sincerity of the process and about the motives of the mediator. Trust was lacking throughout the process. The Serbian delegation relied too much on the mediator and the pace and agenda that he was trying to set. It hoped that Resolution 1244 and the Russian veto in the UN Security Council would prevent the final outcome.

The mediator in this case had an interest in avoiding violence and creating stability and was therefore seeking a "clear cut" solution for the problem. However, in negotiations, finding a mutually acceptable agreement leads to successful and lasting agreements because they resolve the underlying problem and reasons behind parties coming to the negotiating table in the first place. Kosovo independence may have appeased Kosovo Albanians which were threatening with violence if they did not obtain independence, however instead of giving parties incentive to cooperate, it created even further divide between the two ethnic groups.

The failed Kosovo negotiations afforded Kosovo its independence, however negotiations did not resolve the underlying causes of animosity between the Serbs and Kosovo Albanians.

Suggestions for Future Research

This study will provide a critical insight into the issue of mediate on and negotiation. It will reveal useful tools that are essential for any negotiation to be successful. Further research can be done in the area of mediation and techniques/tactics that a mediator could apply that will make him more effective in bringing parties to an agreement. One could also research the importance of preparation for mediation which is essential. Knowing the parties that are involved, their stakes in the negotiations, their bargaining zone, sources of leverage as well as their culture, mentality and negotiating style are all essential components that a mediator should master prior to entering the negotiations.

Additional research could also be done in the area of mediation when the international security is at stake. International law played a role in the Kosovo negotiations however it did not prevail because in this

case, the international security of the region was in question. One could research the interplay of law and politics to determine to what extent are the principles and standards of international law taken into account in negotiations that involve security issues.

Recommendations for the US Policy Community

The issue of negotiations and mediation deserves more attention from the US policy community. The United States is often called on to negotiate agreements however often times the individuals that negotiate or mediate are not trained negotiators. This is not to say that they are not skillful politicians or diplomats. Rather, the point is to emphasize that mediating negotiations is a learned skill and the field of negotiations offers certain tools that are beneficial for any mediator. Mediators are not born, they are made/trained. Hence, as the world leader, the United States has a responsibility to provide the best and most educated and experienced mediators that will be able to lead the parties to the mutually beneficial outcome. While international security will always be the number one priority for the United States, the goal of the mediation efforts should be for the parties to achieve a long-lasting solution to the problem that brought them to the negotiations table in the first place. The mediator should not impose a pre-determined solution on them but rather lead them to a mutually acceptable agreement. Only in such case can the negotiated agreement lead to a lasting peace in the region.