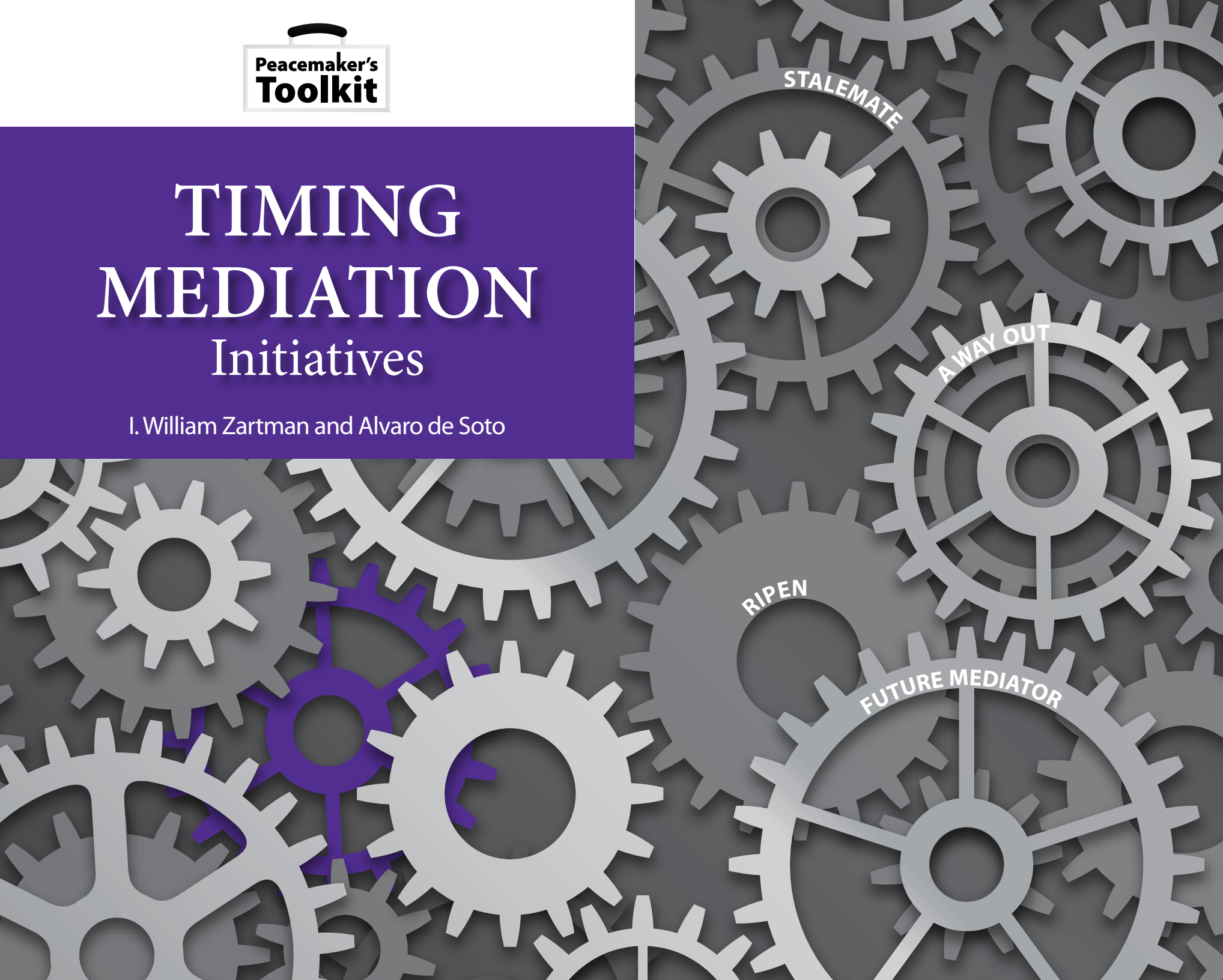


# TIMING MEDIATION Initiatives

I. William Zartman and Alvaro de Soto



# TIMING MEDIATION INITIATIVES

## STEP 1: ASSESS THE EXISTENCE AND PERCEPTION OF A STALEMATE

- **Identify Objective Indicators**
  - Determine If a Stalemate Exists
  - Assess the Extent of Hurt
    - » *Analyze Costs That Produce Pain*
    - » *Recognize That Losses Are a Sign of Pain*
    - » *Evaluate Changes in Leadership*
    - » *Assess Changes in Allies*
- **Identify Subjective Indicators**
  - Evaluate the Meaning behind Official Statements
  - Assess Unofficial Statements in Public Media

## STEP 2: ASSESS THE EXISTENCE AND PERCEPTION OF A WAY OUT

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  - Assess Preliminary Signs of Cooperation
- **Identify Subjective Indicators**

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  - Indirectly Encourage the Perception of a Stalemate
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  - Sell Solutions
  - Encourage Perceptions
  - Display Creativity

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- **Ripen the Stalemate**
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  - Employ Economic Measures
  - Apply Military Measures
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  - Use Diplomatic Measures to Reframe the Conflict
  - Declare a Willingness to Engage
  - Determine Prenegotiation Functions

## STEP 5: POSITION ONESELF AS A FUTURE MEDIATOR

**NOTE:** Steps are not sequential. They overlap and should be performed throughout the entire process.

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I. William Zartman and Alvaro de Soto



United States Institute of Peace  
Washington, D.C.

Conflict Management Program  
The Paul H. Nitze School of Advanced International Studies  
The Johns Hopkins University  
Washington, D.C.

*The Peacemaker's Toolkit* Series Editors: A. Heather Coyne and Nigel Quinney

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United States Institute of Peace  
1200 17th Street NW, Suite 200  
Washington, DC 20036-3011

Phone: 202-457-1700  
Fax: 202-429-6063  
E-mail: [usip\\_requests@usip.org](mailto:usip_requests@usip.org)  
Web: [www.usip.org](http://www.usip.org)

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## Introduction

If it is to succeed, a mediation initiative cannot be launched at just any time; the conflict must be ripe for the initiation of negotiation. Parties resolve their conflict only when they have to do so—when each party’s efforts to achieve a unilaterally satisfactory result are blocked and the parties feel trapped in an uncomfortable and costly predicament.

The idea of a ripe moment is by no means new or otherwise unfamiliar to diplomats. “Ripeness of time is one of the absolute essences of diplomacy,” wrote John Campbell more than thirty years ago. “You have to do the right thing at the right time.”<sup>1</sup> Two years earlier, Henry Kissinger had recognized that “stalemate is the most propitious condition for settlement.”<sup>2</sup> Chester A. Crocker, U.S. assistant secretary of state for Africa between 1981 and 1989, said of the Namibian dispute, “The second half of 1987 was . . . the moment when the situation ‘ripened.’”<sup>3</sup> Conversely, practitioners often say that mediation is not advisable because a conflict is not yet ripe. In mid-1992, in the midst of ongoing conflict, the Iranian deputy foreign minister noted, “The situation in Azerbaijan is not ripe for such moves for mediation.”<sup>4</sup>

The concept of a ripe moment centers on the conflicting parties’ perception of a “mutually hurting stalemate” that—optimally—is associated with an impending, past, or recently avoided catastrophe. When parties find themselves locked in a conflict that they cannot escalate to victory and this deadlock is painful to both of them (although not necessarily in equal degree or for the same reasons), they seek an alternative policy, or a “way out.” The catastrophe is an indication of pain that might increase sharply if prompt action to alter the situation is not taken. The stalemate can be viewed as a plateau (a flat and unpromising terrain without relief), and the catastrophe as a precipice (the point where things suddenly and predictably get worse). A more dynamic metaphor is

that of the moment when the upper hand slips and the lower hand rises, both parties moving toward equality, with both movements carrying pain for each party.

Certain elements are necessary for ripeness to occur. In the first place, all conflicting parties must perceive a stalemate. Yet, while ripeness is a matter of perception, that perception is usually related to objective conditions. These can be brought to the conflicting parties' attention by a mediator or an opposing party if they are not immediately recognized by the party itself, and they can be resisted so long as the conflicting party refuses or is otherwise able to block out their perception. It is the perception of the objective condition, not the condition itself, that makes for a mutually hurting stalemate. If the parties do not recognize that they are in an impasse, a mutually hurting stalemate has not (yet) occurred; if the parties do perceive themselves to be at an impasse, no matter how flimsy the evidence, a mutually hurting stalemate exists.

The other element necessary for a ripe moment is also perceptual: a sense of a way out. Parties do not have to be able to identify a specific solution, but they must have the sense that a negotiated solution is possible and that the other party shares that sense and the willingness to search for a solution. Without a sense of a way out, the push for resolution associated with a mutually hurting stalemate leaves the parties with nowhere to go.

Ripeness is not self-implementing; it is only the necessary but insufficient condition for the inauguration of negotiation or mediation, and so it presents an opportunity for mediators. Ripeness must be seized, either by the parties or (if not) by a mediator. Yet, the existence of ripeness guarantees no results by itself. Not all ripe moments are seized and turned into negotiations; implementation of mediation depends first on recognition of the ripeness and then on exploitation of the moment.<sup>5</sup> Ripeness is therefore not predictive in the sense that one can forecast when a given situation will become ripe. It is predictive in the sense of providing a point at which to identify the elements necessary (if not sufficient) for the productive inauguration of negotiations. As such, the state of ripeness is of great value to policymakers seeking to know when and how to begin a peace process.

The absence of ripeness is not a valid reason for inaction. Prospective mediators (and the parties themselves) can develop a policy of ripening,

cultivating both objective and subjective elements of ripeness if these elements do not appear on their own. If ripening is unproductive, the fallback position for the prospective mediator is positioning, making sure the parties realize that the mediator is present and available whenever they are ready to listen. Two challenges are posed by this notion: how to recognize ripeness and what to do about it. Finding a ripe moment requires conducting research and intelligence studies to identify objective and subjective indicators of ripeness. To establish whether ripeness exists, prospective mediators should regularly study objective facts as well as subjective expressions of pain, impasse, and inability to bear the cost of further escalation related to the objective evidence of stalemate, casualties, and material costs, along with expressions of a sense of a way out.

This toolkit lays out the steps mediators can take to recognize ripeness themselves, to foster the parties' perception of ripeness, and to ripen the conflict. Step 1 describes how the mediator should assess whether a mutually hurting stalemate exists and, if it does, how painful it is. Step 2 focuses on assessing the parties' perception of a way out. In each of these steps, the mediator should assess both objective conditions (such as rising costs of conflict for the parties) that testify to the existence of stalemate, pain, and possibilities of a joint search for an outcome, and subjective indicators (such as official statements by the parties) that show that the parties actually perceive the stalemate, the hurt associated with it, and the possibility of negotiations. Step 3 presents measures the mediator can take to induce the parties' perception of a stalemate and a way out. Step 4 explains how to enhance objective conditions for ripeness, creating a stalemate and the pain associated with it as a basis for further efforts to encourage the perception of the new facts. If ripening is not possible, a mediator should take Step 5, which involves the mediator positioning so that the parties recognize that they can turn to the mediator for help when the situation eventually becomes ripe.

## **A Word to the Mediator**

The following material is written for all types of mediators, to be used and adapted as circumstances and capabilities demand. However, mediators come in different shapes and sizes, and this affects what they can do. Great-power mediators are guided by their own interests, the most important of which is the need to see an end to the conflict. Conflicting

parties, in turn, are governed as much by the importance of demands of their relationship with the mediator as by their interests directly in the conflict. Thus, a more powerful state can be a “mediator with muscle,” playing an active role, serving as a “mediator as manipulator” with the means to sweeten the outcome and restrain the conflict if necessary. These mediators can have a useful role in ripening the conflict objectively and in changing the parties’ perception of it, but they should avoid imposing their own solutions, leaving ownership of the solution firmly in the hands of the parties. States of course do not mediate; their agents do, and a great-power mediator must be careful to ensure that the mandate under which he or she operates is clear and that the various agencies at home are fully behind the mission.

Non-governmental organizations (NGOs) and weaker states have the advantage of being less suspect for their interest in mediation. Thus, they can urge awareness of the stalemate and its associated pain and can propose solutions in a more disinterested way. However, they have little or no power to alter events, and relationships with the conflicting parties may be of less interest to them than to great-power mediators.

The United Nations is located somewhere between the two, but has an additional constraint: UN mediators are fully dependent on the mandate given them by the UN Security Council. The UN secretary-general may initiate a mediating process on his own but only at his own risk and must not get too far out ahead of the Security Council. The institution of “friends” of the secretary-general and his special representative (SRSG) is a particularly helpful device to ensure that support. The SRSG can threaten to withdraw the mediation if the parties do not cooperate, but as with the NGOs and small states, that threat is about the only pressure available. Mediation is 90 percent persuasion in any case.

Whatever the mediator, if there is more than one the most important imperative is coordination! Multiple mediators can easily become competing mediators, undercutting each other and weakening their position (while expecting to strengthen it) with the parties, who can play them off against each other in an outbidding process. Multiple mediators can reinforce each other, on the condition that they agree on a lead mediator and consult among themselves frequently. NGOs and small states can make contacts and provide ideas that large states cannot, and they deserve attention from the lead mediator.

## The Peacemaker's Toolkit

This handbook is part of the series *The Peacemaker's Toolkit*, which is being published by the United States Institute of Peace.

For twenty-five years, the United States Institute of Peace has supported the work of mediators through research, training programs, workshops, and publications designed to discover and disseminate the keys to effective mediation. The Institute—mandated by the U.S. Congress to help prevent, manage, and resolve international conflict through nonviolent means—has conceived of *The Peacemaker's Toolkit* as a way of combining its own accumulated expertise with that of other organizations active in the field of mediation. Most publications in the series are produced jointly by the Institute and a partner organization. All publications are carefully reviewed before publication by highly experienced mediators to ensure that the final product will be a useful and reliable resource for practitioners.

## The Online Version

There is an online version of *The Peacemaker's Toolkit* that not only presents the text of this handbook but also connects readers to a vast web of information. Links in the online version give readers immediate access to a considerable variety of publications, news reports, directories, and other sources of data regarding ongoing mediation initiatives, case studies, theoretical frameworks, and education and training. These links enable the online *Toolkit* to serve as a “you are here” map to the larger literature on mediation.





## STEP 1

# Assess the Existence and Perception of a Stalemate

## Identify Objective Indicators

Objective indicators provide evidence of the existence of a stalemate and pain associated with it. Objective indicators can include events external to the actions of the parties, as well as the behavior of the parties themselves.

## Determine If a Stalemate Exists

Stalemate means parties are caught in a conflict that they cannot win at an acceptable cost: They cannot escalate their way to victory.

Are the conflicting parties stuck in a stalemate? Is the conflict active or merely frozen in inactivity? Have there been attempts by either side to escalate its way out of the stalemate by military—or even political—means? Have those efforts produced no clear outcome except to show that winning is impossible? In these cases, the message is evident and the evidence of a mutual stalemate is direct. The best evidence for a desire to escalate is an attempt to escalate, but the parties may also announce plans, make threats, leak intentions, and so on. But that is not enough; it is the failure of the escalation (“fall back”) that produces the hurting stalemate.

*Israel and Hamas escalated their conflict in Gaza in early 2008 until they saw that neither could prevail over the other; an informal cease-fire and secret negotiations ensued; the cycle was repeated again at a higher level of intensity at the beginning of 2009, with the stated purpose, on the part of Israel, of restoring the “deterrent capacity” it had earlier lost.*

*In 1965, India and Pakistan launched a series of escalations over the Rann of Kutch and Kashmir that demonstrated that Pakistan could not take Kashmir by force and India could threaten but not take Lahore; exhausted, both sides fell back into a cease-fire demanded by the United Nations and then a full truce mediated by the Soviet Union.*

*In Angola in 1986, both the South African Defense Force and the Angolan army supported by Cuban troops attempted to change the battle line around Cuito Canevale and failed, setting the scene for negotiation.*

*In November 1989, a major offensive by the Frente Farabundo Martí para la Liberación Nacional (FMLN) failed to ignite a popular insurrection against the armed forces, leading it to conclude that negotiation was the only way out; the armed forces' failure to crush the offensive brought the El Salvador government to the realization that, after eight years of effort, it could not defeat the insurgents, leaving negotiation as the only way out.*

The message of failed escalations is particularly clear if one indicator is combined with others; for example, if the efforts to escalate are costly and add to an already unacceptable burden that the escalation seeks to escape, or if the stalemated efforts begin to produce increased casualties—in other words, if there is clear evidence not only of a stalemate but of one that hurts (see the section “Assess the Extent of Hurt,” below).

*In South Africa in 1990, newly elected National Party chair and prime minister F. W. de Klerk saw that the regime was no longer able to provide the white minority with security and prosperity, to contain and control the black majority, or to claim international acceptance and legitimacy, and that the cost of these failings was steadily rising.*

Has one side made successful attacks in the conflict but then withdrawn to its previous positions? Such “escalations to call” (as opposed to “escalations to raise”) show the opponent that one party can escalate but does not want to and prefers to negotiate.

In the last year of the second Iran-Iraq war in 1988, Iraq repeatedly penetrated Iran and then withdrew, calling on Iran to negotiate an end to hostilities, which it then did. In the Cuban Missile Crisis in 1962, the United States maintained its blockade but reduced the perimeter, as it let a Russian ship not carrying missile parts pass.



## **Assess the Extent of Hurt**

Hurt means that the parties are suffering some costs or losses—physical, financial, or less tangible—as a result of the stalemate. Although hurt is subjective, it is a response to objective conditions that “should cause pain if they would only realize it.” Both parties must feel hurt and stymied for a stalemate to exist, although it is rare that they feel so to the same degree. “Mutual” does not imply symmetry; it simply means that each party feels damaged by the stalemate. If one party hurts more than the other(s), it is a challenge to the mediator to bring them to focus on their own pain and not on the difference in the perceived degree of pain.

*Analyze Costs That Produce Pain.* Rising absolute costs are clear indicators of a painful stalemate if they do not produce results and if the imbalance between costs and results is noted in a public outcry. Are rising financial costs of the conflict evident?

Relative costs can indicate pain when measured against some standard. Are costs rising above an acceptable level, independent of their results? The acceptable level may have been proclaimed ahead of time in government statements or suddenly “discovered” as the costs rise. Are costs rising compared with expectations in relation either to anticipated outlays or to anticipated results? Results may be achieved, but not to the extent that the parties have led themselves or their public supporters to expect.

Opportunity costs, where conflict costs prevent other preferable expenditures, can also indicate pain. Are popular or necessary alternatives being dropped for lack of funds? Budget, construction, or programmatic discussions may indicate the elimination of items in times of belt-tightening.

Costs—absolute, relative, or opportunity—can be calculated using public information augmented by other sources; the costs themselves are hard statistics. The elements against which costs are compared, such as similarly acceptable levels and expectations, are also statistics, although probably less sharply advertised, and can be gleaned from public media, since they are the basis for public reactions.

*Recognize That Losses Are a Sign of Pain.* The same kind of reference points used to evaluate costs can be used in regard to losses: officially or unofficially expressed expectations and acceptable limits. As with costs,

both the absolute figure for losses and the gap between losses and expectations inflict pain. Are body bags and other measures of casualties that indicate the costs in human lives on the rise?

*Rising U.S. casualties in Vietnam in the late 1960s and early 1970s, and the absence of decisive results, brought home to Washington and Hanoi the need to negotiate.*

The makeup of casualties matters too: Not all body bags are equal. Is a crucial social or economic group suffering disproportionately? Again, expectations and limits come into the calculation.

*When white body bags came back to South Africa from Angola in 1985–86, the ruling minority began to take notice and prepared to negotiate.*

Rising numbers of refugees and internally displaced persons might indicate population losses for the home state or costs for the host state.

*External events may be a source of losses. Have climatic disasters such as droughts and floods occurred and produced unexpected losses? Such events can make pursuit of the conflict difficult and change the combatants' chances for success. Such unanticipated losses (and costs) cause pain not only in the absolute sense but also relative to expectations, since they come—literally—out of the blue.*

*The 2005 tsunami caused heavy casualties to both sides (but particularly the rebels) in the war over Aceh in Indonesia, leading directly to the opening of negotiations under foreign mediation. The 1990 drought in southeast Africa caused heavy losses for the population of Mozambique and opened the way for the hurting, stalemated sides to begin negotiations mediated by Sant'Egidio and later the United Nations.*

Climatic hazards do not automatically cause a mutually hurting stalemate, but they may harden the conflict. A potential mediator must carefully watch to see which way the winds are blowing on the ground.

*The drought in the mid-1970s in the Horn of Africa brought Ogadeni refugees to Mogadishu to urge the Somali government to drive Ethiopians out of their lands.*

Calculations of losses can be made using public information augmented by other sources; the weight of losses can be discerned from official statements and commentaries in the media. Hard data about first-level losses (i.e., data about the losses themselves) can generate second-level losses such as the loss of public confidence and support. Losses are more likely to be the subject of public demonstrations than are costs; such demonstrations indicate the objective extent of publicly felt pain.

*Evaluate Changes in Leadership.* Leadership changes can be second-level indicators of a mutually hurting stalemate, but interpreting such changes is not always a straightforward business. The replacement of a hard-liner with a soft-liner, or a rightist with a leftist, may be an unambiguous sign of recognition of the need to seek an end to the conflict. However, it may take a hard-liner or a leader with strong nationalist credentials not only to recognize that his or her country needs an agreement with the opponent but also to carry the body politic into a change of policy. Changes to a soft-liner or an accommodationist stance that do not produce the opening of negotiations can lead to a second policy reversal and a closing of the window of ripeness.

*The replacement of Glafkos Clerides by Tassos Papadopoulos as Greek Cypriot leader as EU accession drew near in early 2004 drastically reduced prospects for a settlement of the conflict in Cyprus.*

The change need not only be at the top; the removal of hard-line advisors or, in harsher systems, the repression of extremists provides incumbents with greater latitude to act on their own.

*The advent to power of General Charles de Gaulle in 1958 brought France into negotiations with the Algerian National Liberation Front (FLN) to end a war that neither side could win militarily. The advent to power of another general, Dwight Eisenhower, in 1952 opened the Korean War to a productive turn of negotiations. The advent of a third general, Itzak Rabin in Israel in 1992, brought productive negotiations out of a double stalemate, both in the Israeli-Palestinian war and in the Madrid-Washington peace talks.*

The arrival of military personnel to political leadership is not, of course, the only indicator of a painfully stalemated conflict and a ripeness for negotiations; the advent, by election or not, of soft-liners is a second-level indicator of a mutually hurting stalemate.

*The election of more moderate or leftist civilians provided an indication of a mutually hurting stalemate in both parts of Cyprus in 2008 (though it was dampened by the defeat of the Turkish Cypriot leader's forces in legislative elections); in the United States in 1974 in regard to the Panama Canal dispute; in Argentina in 1984 in regard to the Beagle Channel dispute; and in Ecuador in 1998 in regard to the Peru-Ecuador border dispute.*

The reasons the new leadership gained power and any accompanying messages must be studied for signs of recognition that the conflict is in a stalemate and it hurts.

*Assess Changes in Allies.* Changes in allies can also constitute objective indicators of a mutually hurting stalemate and point to a change in direction toward negotiation or mediation. External allies may feel costs and losses themselves, they may change their views of the desirability of continuing the conflict, or they may change governments to a new regime that demotes the conflict's importance. If external allies begin to suffer from the continuation of the conflict, they can lessen their support for it, undergoing a hurting stalemate themselves. If external allies begin to feel the conflict is costly for them, regardless of its effect on the parties themselves, this perception can be conveyed to the parties.

*The external supporters of the Patriotic Front and the "independent" government of Rhodesia in 1979 felt the hurting stalemate before the conflicting parties themselves and leaned on the parties to accept mediation. The conflict was costing them good relations among other allies, notably other African states and the United States, and their reputation was suffering for not bringing the conflict to an end.*

*By 2009, external supporters of both sides in the Western Saharan conflict—Spain, France, the United Kingdom, and the United States, as well as members of the African Union who had been strong-armed into recognizing the Sahrawi "government"—were beginning to tire of the long-running (since 1974) conflict, which threatened to blow up, and began to look for a compromise even though any compromise would fall short of self-determination.*

Are external patrons seeking to rein in the conflict they are not winning because it is no longer in their interest or is actually hurting them, rather than using the conflicting parties as their proxies merely to

damage the other side? Are external patrons for both sides initiating contacts between themselves, discussing making peace regardless of whether the conflicting parties want to reach a settlement?

*This type of disengagement by the superpowers at the end of the Cold War was typical of the period and led to the initiation of negotiations in a number of conflicts in Central America and Africa. As the Cold War began to wind down, the external supporters of the Angolan government, the South-West African People's Organization (SWAPO), the South African regime, and the National Union for the Total Independence of Angola (UNITA) found the conflict not worth pursuing and the stalemate too painful to bear and so leaned on their proxies to begin serious negotiations.*

Internal allies can provide indications of a mutually hurting stalemate. Have crucial elements of support for the government become disaffected by the unsuccessful pursuit of the conflict, to the point of looking for a way out (see Step 2, below)? The allies need not go so far as to actually seek a way out on their own; grumbling, signs of refusal to support the parties, interviews, and statements signal a growing dissatisfaction that the government is well advised to heed.

*With the Northern Ireland economy weakening and the "Irish tiger" climbing by the early 1990s, Ulster businesspeople (most of them Protestant) began to call for a single island economy. The Northern Ireland Confederation of British Industries issued a paper supporting peace initiatives.*

*In El Salvador, the hurting nature of the military conflict was felt above all by large landowners, who in response to the rising costs of agricultural production had moved their activities to urban industry and commerce and so no longer needed the war but could buy into a limited land-for-peace formula to end it. Contacts between business leaders and the FMLN parallel to the official negotiations indicated such a trend. The shift in interests of the landed class, the backbone of the government party, ARENA, left the government with only the army as an ally for its conflict policy, and the army was the group that was stalemated.*

These various indications of hurt and stalemate are cumulative: The more that are available, the more they can trigger the perception of a stalemate, and the more easily the mediator can make the case that it should be perceived. However, even single indicators can be powerful

goals to perception: When costs or body bags or allies' support are of great importance, these objective indicators can be sufficient to attract attention. Not all indicators need be present for a stalemate to exist, and the absence of cost, pain, and the like need not obliterate other indicators if they are compelling.

## Identify Subjective Indicators

Ripeness does not exist without a subjective perception of a mutually hurting stalemate and a way out. In most cases, subjective indicators are a response to objective events. Sometimes, however, subjective perceptions are not rooted in objective reality—but perception of an objective event that does not exist may produce the same result.

Subjective indicators of a mutually hurting stalemate—that is, statements and comments by the parties that betray a lack of confidence in securing a military victory and a discomfort in that impasse—provide the necessary evidence of a mutually hurting stalemate. The perfect indicator would read something like, “We found ourselves stalemated in the conflict and it hurt, so we decided to look for an alternate way of dealing with the conflict.”

## Evaluate the Meaning behind Official Statements

Official statements may provide evidence that the parties recognize that they are indeed in a stalemate and it is painful in terms of losses or costs (or both). Are there statements of impending catastrophe, conflict fatigue, escalation futility, or waning public support? Are policy changes, such as “escalations to call,” being discussed or introduced?

*Joe Slovo, Communist Party leader in South Africa, said as negotiations took shape in the early 1990s, “The National Party couldn’t rule any longer, and we [the African National Congress (ANC)] couldn’t seize power by force. So that means both sides have to compromise.”<sup>6</sup>*

*In a different type of conflict, a conflict with nature but also with other parties over action to take, the U.S. representative at the Ad Hoc Working Group that would eventually prepare the Vienna Convention for the Protection of the Ozone Layer in March 1985 said in January that “the margin of error between complacency [stalemate] and catastrophe [hurt] is too small for comfort.”<sup>7</sup>*

Are there indirect indications, such as re-evaluations of interests, readjustments of goals, or the announcement of alternative plans for the pursuit of the conflict, that point to the hurting stalemate as their cause?

*President Nixon indicated a policy of drawing down troops in Vietnam and relying on local efforts to ensure defense in the Asian arena before talks on mutual troop withdrawals actually began.*

Often there is no observable expression of a mutually hurting stalemate. The subjective indicator is hidden in inner decision-making circles or even in a decision maker's mind, posing an exceptional challenge to the mediator, who must pick up on that perception even when official circles are closed.

*The Pakistani government turned to negotiations with the hill tribes and the Taliban in 2008 and 2009 because the costs of the conflict rose above the publicly acceptable level and were producing gains only for the insurgencies in the North. The Afghan government sought negotiations with the Taliban at the same time for the same reasons. These decision-making processes were accompanied by informal discussions, rumors, interviews, leaks, and statements to and by the media.*

Subjective indicators can come in many forms. The mediator should be sensitive to source, tone, and wording of statements. The smaller the subjective indication of a mutually hurting stalemate, the more it warrants investigation and encouragement. Indicators are not likely to come as broad, clear statements, at least not initially, but rather as slight changes in standard language, leaks, back channel messages, trial balloons, and the like. Nor are initial indicators likely to come as unambiguous messages; they may well be contradicted by official statements at the same time. Indeed, such contradictions may be an indication of policy debates within the conflict party, showing the need to encourage the perception of an opening.

### **Assess Unofficial Statements in Public Media**

The media may provide an indirect indication of the subjective perception of a mutually hurting stalemate. Are there editorials and op-eds by well-placed observers analyzing the situation, airing possibilities, and offering solutions? Are there protests against rising costs, unachieved results, or costs above an acceptable level, from the public or governments?

Are there public reactions of pain, that is, indicators of the gap between costs and expectations?

Often the line between officialdom and unofficialdom is porous, with messages going both ways. Unofficial statements can be used to test ideas before they are issued by officials. They can also be used to express ideas, pass them to officialdom, and build public support for them. In countries susceptible to public pressure, rising public opposition to policies continuing the conflict can lay the ground for official recognition of a need for policy change. Even (or perhaps, especially) in authoritarian countries, rising public opposition to a policy can be manifested in subtle ways and is watched carefully by the incumbent regime (*as in the case of government attention in Morocco and Algeria to public attitudes toward the Saharan conflict*).

Unofficial statements can be used to issue trial balloons designed to attract reactions from the other side. Such statements can be related to specific objective pressures, such as sanctions, conflict losses, or declining domestic fortunes, and also to softer pressures, such as public condemnations, loss of domestic support, or assessments of vulnerability.

*As de Soto noted in El Salvador, "As the dust settled, the notion that the conflict could not be solved by military means, and that its persistence was causing pain that could no longer be endured, began to take shape. The offensive codified the existence of a mutually hurting stalemate. The conflict was ripe for a negotiated solution."*

The same procedures in regard to official statements apply to unofficial subjective indications of a mutually hurting stalemate. On the one hand, the mediator and his or her team should be well-read and alert to statements beyond those from official leaders and spokespersons. Whether in a society of controlled or of free public expression, the mediating team should carefully screen the media and opinion leaders to identify trends in thought and influential commentaries. On the other hand, the mediating team must be extremely sensitive to nuances in such statements and should consider whether those nuances are tentative expressions of evolving thinking within official circles or deliberate attempts to introduce new thinking and perceptions into those circles, that is, whether the statements come from or go to policymakers. Official statements carry



more weight, but unofficial statements may be significant in illuminating subtle shifts and initial turns in policy. Official statements need not be formal announcements; they can appear in press interviews, in legislative hearings, or in the context of discussions. Therefore, the mediating team must be alert to small indications of change. Although team members should be listening for any change in tone from conflict parties, an assigned number of specified channels should be established to facilitate signal detection.





## STEP 2

# Assess the Existence and Perception of a Way Out

In assessing whether a way out of the stalemate exists—as in assessing the ripeness of a stalemate—the mediator must look for both objective and subjective indicators. “Way out” does not necessarily mean that the conflicting parties have identified a mutually acceptable solution to their conflict, but it does mean that both parties have perceived that they and the other party are willing to look for a joint solution.

Objective indicators are less distinguishable from subjective indicators for the way out than for the mutually hurting stalemate because the existence of the way out is itself primarily subjective and depends on each party’s perception of the other party’s intentions. An objective indicator of a way out may be an action or statement by one party; a subjective indicator may be the other side’s perception of that move as an encouragement to talk.

*In January 2006, Hamas won a majority in Palestinian legislative elections, earning it the right to lead a government. (The Quartet had earlier supported Hamas’s participation as part of Palestinian Authority President Abbas’s inclusive strategy aimed at bringing the most powerful resistance movement into the mainstream.) Hamas had taken significant steps by agreeing to and complying with a unilateral cessation of attacks against Israel. Hamas offered to include Abbas’s Fateh in a unity government—another objective indicator. Hamas’s overtures were rebuffed by the Quartet, which instead set strict conditions for engagement with and cut off aid to the Palestinian Authority, under which Israel in effect blockaded the Palestinians.*

*In March 2009, President Obama coupled New Year greetings to Iran with a friendly wish to engage in dialogue, an objective indicator; the*

*Iranian response was to pile on additional conditions, an indicator of the absence (at least for the moment) of a subjective perception of a way out.*

## Identify Objective Indicators

The process of assessing objective evidence of a way out begins with identifying the willingness of each side to look for a joint solution as an alternative to the pursuit of escalation and victory. Unlike mutually hurting stalemate indicators, way out indicators are not external to the parties' actions or statements but are found in the moves of each party. There are fewer objective indicators of a way out than there are objective indicators of a mutually hurting stalemate because the former depend on a signal of some sort from one side: In other words, they are to some extent an amalgam of objective and subjective indicators.

## Evaluate Official Statements

Official statements may indicate greater openness to talking or a willingness to drop preconditions. Have one or both parties issued statements announcing a change either in substantive positions or in policies toward a joint search for agreement? Has one party gone so far as to indicate its intention to seek negotiations (*as occurred in Northern Ireland in 1996*)?

Unilateral cease-fires can be ambiguous indicators, because cease-fires may serve only as an opportunity to reprovision or rearm military forces, but they may also constitute a trial balloon leading to talks. Has one of the parties ordered a unilateral cease-fire? Such announcements should be investigated and pursued.

De-escalation of goals from holistic or abstract aims to specific purposes can lay the ground for a negotiable way out. Has one of the parties made public statements that drop a crucial element of previous conditions? In the absence of changes in positions, statements of revised interests can provide an indirect indication of a sense of a way out. What is not said can be as significant as what is said. Statements may be made to the media, in parliament, or via any other venue, international or domestic, that gets the message across. Because they are tentative, such statements may well float only as trial balloons, coupled with denials and contradictions in order not to make the policy change seem too abrupt

while awaiting response from the other side. The mediator and the other side need to be alert to such subtle messages.

*Three days into the Cuban stalemate, on October 25, 1962, John Scali, an ABC correspondent, received an urgent invitation to lunch from a Soviet embassy official, who presented what would become the ultimate formula for agreement to resolve the Missile Crisis but to which he added conditions later that evening; the démarche, rather than its wobbly substance, was clear indication of a way out.*

### **Assess Preliminary Signs of Cooperation**

Are there new joint actions, cooperation in nonconflict programs, cease-fire actions, exchanges of prisoners or wounded, assurances of troop movements, declarations of non-hostile intentions, or exchanges of greetings and memorial messages?

*The famous “Ping-Pong diplomacy” between the United States and China indicated a softening of relations that opened the way to talks over the renewal of diplomatic contacts between the two countries.*

Objective indicators of the possibility of a way out may be found in informal statements, op-eds, media and conference discussions, and even actions indicating that the government should give some indication of a willingness to explore discussions with the adversary. Parts of society that normally support the government, such as business groups, can give such indications even if the government does not. Such statements, it should be noted, are merely pressure; it takes a similar statement from the government to constitute solid evidence of a willingness to seek a way out. Leaks regarding splits within rebel leadership can turn into objective evidence of such willingness, creating an opening that the government might seize.

*Beginning in 1986, South African businesspeople traveled to Zimbabwe to meet ANC leaders to investigate the possibility of resolving the conflict between the two parts of society and their political representatives. Four years later, talks began.*

### **Identify Subjective Indicators**

For the mediator, recognizing a way out involves finding signs of the subjective perception of the possibility of a way out by both parties. The

perfect indicator would read something like, “We think our opponent is willing to join us in looking for a solution,” or more broadly, “The way to a negotiated solution is less encumbered than might have appeared.”

When looking for subjective indicators of a way out, mediators should ask themselves the following kinds of questions: Has one side recently referred to past moments of cohabitation or cooperation with the other side, made positive comments about the other side, issued statements that seek to de-demonize the other side, or recognized the other side's needs and aims? Has there been a decrease in negative statements about the other party, in insistence on the need to win at any cost or the certainty of doing so, or in the valor of holding out at all costs for the patriotic cause?

Have previously insurmountable obstacles to negotiations or unacceptable conditions to an agreement been removed? Have previous maximum goals, humbling preconditions, or preliminary capitulations been reduced?

*A journalist covering the Aceh conflict noted, “the scale of the tsunami disaster was so huge . . . that hearts and minds there seem to have changed. The [Aceh separatist movement] decided to suspend at least its ambition to achieve independence because . . . rebuilding—not fighting—was the priority.”<sup>8</sup>*

Catching subjective indicators requires a tuned ear and a sharp eye, because the parties will usually avoid overt statements lest they sound like a capitulation instead of an invitation. Mediators should be attentive for any signs that the door to negotiation is opening.

*In February 2009, the Algerian prime minister gave a number of fulfillable conditions to Morocco for the opening of their common border without, for the first time, mentioning the Western Saharan conflict, an indication of a possible path to a way out in the relations between the two parties to the conflict.*

Mediators may be able to perceive subjective indicators of a way out directly via general contacts with the conflicting parties. Discussions with the parties may yield no explicit admission that they are tired enough of attempts to break the stalemate to be open to considering negotiations, but the mediator may sense such a change of heart.

*A U.S. State Department official working on Bosnia stated in August 1995, “Events on the ground have made it propitious to try again to get the negotiations started. The Serbs are on the run a bit. That won’t last forever. So we are taking the obvious major step.”*

*Right after the 1995 war between Peru and Ecuador that heightened the sense of the mutually hurting stalemate, President Alberto Fujimori of Peru declared that the existing boundaries “will remain demarcated, a little more in a curved line, but the demarcation will be completed and the problem will be finished,” a declaration that drew much public criticism because it suggested that a negotiated settlement of the remaining problem was being considered, as indeed it was.<sup>10</sup>*







### STEP 3

## Induce Recognition of the Stalemate and a Way Out

When conflicting parties cannot see the mess they are in and are not receptive to the possibility of mediated negotiations, the mediator needs to help them perceive their stalemate and the pain associated with it and the possibility of negotiating a way out. These acts of ripening assume that, objectively, a hurting stalemate and the possibility of negotiating a compromise exist and that the subjective appreciation of these facts is absent. The parties will resist, consciously or subconsciously, because they want to win and because they do not want to recognize the situation of entrapment that they have created for themselves—or simply because they do not agree with the mediator’s assessment, possibly because they are in possession of information that contradicts it.

### Induce Recognition of Stalemate and Pain

All the mediator’s skills of persuasion are called on when the mediator must induce the parties to the conflict to recognize that a hurting stalemate exists. Conversations beginning with “Don’t you think that...?” “Don’t you see that...?” “How long can you...?” “What do you think of...?” are good openers. Diplomacy involves efforts to help the parties see the importance of ending the conflict early rather than prolonging it in the hopes of better fortunes in the future. Because continued conflict means continued costs, and probably rising costs as well, the mediator should strive to persuade the parties to calculate and compare the price they will pay for holding out for an uncertain victory with the benefits they will accrue from negotiating sooner rather than later.

## Directly Encourage the Perception of a Stalemate

The mediator should begin by empathizing with and expressing understanding of the position of the party being addressed, and then draw attention to the facts and press for signs of recognition. One tactic is to start either with the hurt or the stalemate, and then relate it to the other element. Mediators should work to free the parties from thinking in terms of the conflict and their goals in it and instead look to future opportunities and alternatives and creative ways out of it, moving from mutually hurting stalemate to a way out.

*Secretary of State Henry Kissinger, meeting with the Israeli cabinet of Golda Meir, explained that he understood the position of Israel in refusing to negotiate with Egypt but then, with a historian's eloquence, lamented how the lost opportunity would look some years hence, when the costs of failing to negotiate would have become apparent.<sup>11</sup>*

The mediator might draw parallels with other situations where the parties found themselves in a hurting stalemate and suggest similarities to the current situation.

*When Robert Doussou was persuading Beninois dictator Matthieu Kerekou to reach an agreement with the NGOs pressing for a new constitution, Kerekou was said to be deeply impressed by CNN reporting on the situation of Romanian dictator Nicolae Ceausescu as he faced (but did not give in to) the same sort of popular pressure.*

The mediator should encourage the parties to think about the sustainability of the present course and to evaluate its costs and losses, to consider the strength of the opponent and evaluate the chances of overcoming the other side, and to reflect on the chances of winning and its costs and the chances and costs of the opponent's attempt to win. The mediator should encourage the parties to evaluate the possibilities of escalation and to undertake a cost-benefit analysis of their own escalations and their efforts to counter the opponent's escalation.

## Indirectly Encourage the Perception of a Stalemate

The mediator can encourage other parties to work as "friends of the mediator" and impress upon the conflicting parties the painful impasse in which they are caught. The mediator may be able to plant, discreetly, an

awareness of the stalemate and its hurt in op-eds and other articles in the media, as well as among opinion leaders, friends of decision makers, and other mutual contacts. The parties' allies may also be helpful in spurring a perception of the stalemate and its hurt. Can the parties' allies be induced to reduce or terminate their support for continuing efforts to bear or break out of the stalemate, and to indicate that they will no longer pour resources into efforts to do so? Can alternative goals be encouraged that would draw resources and attention away from the conflict situation and bring out the stalemate that characterizes it? Can other parties in similar situations be brought in to testify?

Track-II efforts can also be used, directly or indirectly, to encourage the parties' perception of a stalemate. For instance, the mediator may offer support to NGOs that host sessions at which supporters of one or both parties are asked to analyze the current conflict situation and to try to understand the other side's perspective on the conflict.

## Induce Perceptions of a Way Out

The mediator can induce recognition of a way out by identifying possible and acceptable outcomes and persuading each party that the other sees that possibility as well. The mediator should test salient solutions for acceptability, air alternative solutions if a single salient solution does not exist, develop ideas about possible solutions if no salient solution exists, and bring up components of a solution if compensation or construction is required. In this step, the mediator's friend is the phrase, "What would you do if...?"

## Sell Solutions

Perception of a way out does not require agreement on a particular solution but on the perception that, objectively, a solution is possible; consideration of the possible types of solution can help convince parties that there is an attainable goal toward which to work.

The mediator should help identify a *salient solution* on which the parties might agree. Salient solutions are those that stand out as prominent and discussed terms of agreement to end the conflict. If there are two (or more) salient solutions, the mediator should focus either on *compromises*, in which each party gives in a little in exchange for the other's concessions

until they reach a rough midpoint between their initial positions, or on a set of *compensations*, in which each party buys the achievement of an approximation of its goals with the “payment” of an agreement to the other’s achievement of its goals. In the case of compensation, can other issues be brought in to balance one party’s achievement of some or all of its goals? If no salient solutions exist, the construction of a new definition of the conflict and a new set of terms as the basis of a joint agreement is the next aim. Can such solutions, or component elements that can capture the parties’ attention and creativity, be identified as objectively possible?

### Encourage Perceptions

Mediators should determine if outside parties can be enlisted to encourage the perception of negotiability and reciprocity. Perhaps “friends of the mediator” can be engaged to carry the same message. Diplomatic gatherings, consultation sessions, and articles in the press may offer opportunities to bring out positive attitudes of the other side and elaborate means of testing them. Can discussions and conferences be organized to bring out the negative value of demonizing, critically evaluate the usefulness of maximum preconditions, or examine the topic “What is this conflict like, and what precedents exist for solutions?” Can Track-II efforts be employed to bring unofficial representatives of the parties together to test possibilities? Can joint meetings be scheduled to see if the usual confrontation can be turned into some potential openings or dialogue sessions to compare future hopes?

*During the civil war in Guatemala, Lutheran and Catholic churches began contacts with both sides, ending in a meeting in Norway where representatives concluded a meal by assuming blame for the current conflict, a first step in engaging in a conversation on future aspirations.*

*In Liberia in 1993 and Ivory Coast in 2003, dialogue sessions were held among leaders of all conflicting parties, programmed on four questions: Where is our country now? Where do we want it to be five or ten years from now? What prevents us from attaining these goals? How can we overcome these obstacles? The dialogue opened possibilities of fruitful further discussions.*

### **Display Creativity**

The mediator may need to creatively recast the situation. Can aspects of past attempts at resolution be retained? Is there something to be learned from examining the reasons for failure as a guide to overcoming obstacles? What is this conflict like? How were others resolved? Do similar conflicts suggest similar solutions? Alternatively, do differences from similar conflicts suggest new angles? What are the real reasons behind the other party's positions, and how might they be addressed?

Because timing mediation initiatives depends so heavily on the perception of the parties, not just on the realities on the ground, the effectiveness of a mediator depends in large part on his or her skill in shaping and influencing those perceptions and in introducing innovative ways of looking at the conflict that capture the attention of the parties.





#### STEP 4

## Ripen the Stalemate and a Way Out

If the parties do not perceive a hurting stalemate and a way out that constitutes a ripe moment, the mediator may have to take a more active role in ripening the situation. If “inducing recognition” (the subject of Step 3) means working on the subjective appreciation of the situation, “ripening” (the subject of this step) may mean changing the objective conditions. In so doing, the mediator moves from a role as a communicator (carrying messages) and a formulator (bringing ideas) to that of a manipulator (changing conditions), a more intrusive role that is suitable for more powerful mediators, not for smaller states and NGOs.

The purpose of ripening is to bring the parties to the objective condition of a mutually hurting stalemate and, more specifically, to equalize the sides so that neither party feels beaten in the conflict or too weak to face the opponent in negotiation. Parties feeling too weak or unequal are reluctant to meet their opponent in negotiation and may well be unable to hold to their agreement if one is reached. The process of ripening also involves going beyond inducing the perception of a way out to creating attractive solutions and encouraging the parties to consider them.

### Ripen the Stalemate

Ripening refers to measures taken to bring the conflict to a stalemate.

#### Use Diplomatic Measures

Negative measures in the form of *threats* and *warnings* may be required. Promises and positive predictions do not stand out clearly unless they are

contrasted with worse alternatives, which may be presented in the form of applied threats or foreseen warnings. The mediator should indicate potential negative measures the mediating country would be prepared to take if the conflicting party or parties refuse to acknowledge the impasse into which they are escalating. Mediators often make the mistake of seeing their role as only offering positive prospects, when in fact they need also to indicate—and sometimes ensure—the likelihood of worse prospects if mediation is not accepted.

Mediators should point out the two-handed policy on which mediation is based: better prospects if mediation is accepted and pursued, worse consequences if it is refused. Such threats and warnings should be stated evenhandedly, but if one of the parties is recalcitrant, it may need to be subjected to criticism for blocking the process. Mediators should reward positive responses to pressures with praise.

Conflicts are ripened when the cost of third-party relations outweighs the potential benefits of the conflict. A third-party mediator can help bring about a stalemate by indicating that its own relations with the conflicting parties can be affected by their response to its efforts to end the conflict; mediators serve as crutches or surrogates for trust between the parties, and often their relations with the parties are more important than the cost of the conflict.

*France summoned the warring Ivorian parties to Marcoussis in 2003 to make peace—and they came because of their concern for relations with Paris. The United States played the same role in the Sudan conflict leading up to the Comprehensive Peace Agreement in 2005. A similar approach was taken by the UN secretary-general in inviting Cypriot leaders first to New York and then to Switzerland in a last-ditch attempt to finalize a settlement before EU accession in the first trimester of 2004.*

The most specific diplomatic threat and evocation of relations is the threat to leave the process. The mediator should make it clear that mediation will continue as long as there is sincere participation in the process, but that bad faith will be identified and can cause the mediation to end. The mediator should remember, however, that ending mediation and attaching blame means ending mediation for a long while; withdrawal with blame is not conducive to taking up the process again soon.



*President Carter always announces that his mediation implies an honest effort and that if one of the parties does not play sincerely, he will terminate his engagement and indicate the uncooperative party, as he did in 1988 in the Ethiopian civil war over Eritrea. In contrast, President Clinton promised that he would not ascribe blame if the Camp David II mediation failed, but then castigated Palestinian chairman Yasir Arafat for being uncooperative.*

Another focus of diplomatic ripening measures involves closing out alternative mediation and support channels and focusing parties' attention on the stalemate and a sole mediator. Mediators should show would-be mediators that competing efforts will only encourage outbidding and diminish the chances of success. They should indicate privately why alternative channels are less likely to produce results, and invite alternative mediators to support a single mediator's efforts. However, if other mediators have a better position or other advantages vis-à-vis the parties, all should join forces to provide a coherent, combined effort. The mediator may offer to form a contact group or encourage others to constitute a "friends of the mediator" group.

*The Carter team mediating the Congo (Brazzaville) conflict in 1999 arranged the withdrawal of competing mediators, including the Francophone and African heads of state, in order to avoid outbidding among mediators; it would have been helpful to get Angola to withhold its support for the government in order to facilitate an even playing field among the three "presidents."*

*In southwest Africa, Chester Crocker continually repeated that U.S. mediation was "the only game in town," and South Africa realized that when it tried an end run with an alternative mediation using Zambia.*

*Even a "friends of the mediator" arrangement is no guarantee that end runs will not be attempted, as evidenced by the Venezuelan president's ill-advised foray behind the UN secretary-general's back at a difficult moment in the El Salvador negotiations in 1991.*

Public positions in regard to the conflict and the parties' conflict behavior may serve to demarcate what the mediator regards as permissible actions, reinforce a stalemate, and indicate limits to the conflict. Condemnations of parties' actions, either as public statements or as UN

resolutions, send powerful messages. Such condemnations are often avoided, however, because they may imply a biased stance toward the parties, or are issued only when they can be applied to both sides. The mediator must weigh the risk that a public reprimand could entail to his or her extremely special, even intimate relationship with parties to a conflict, not unlike that between analyst and analysand. Are limits indicated by public disapproval of specific tactics employed by one side? Do limits apply to both sides that can be used to enforce the stalemate by constraining impassible escalations?

### **Employ Economic Measures**

Measures such as economic aid, trade agreements, and debt forgiveness may be used to strengthen one of the parties' capabilities and bring about a stalemate. Are there economic measures that can help the weaker party stay in the contest and achieve a more equal position in upcoming negotiations? Can economic measures be used as an incentive for greater flexibility? Can they be used to reduce the risk of engagement in talks, to cushion losses in actual conditions, or to facilitate a shift from conflict to accommodation in the eyes of the public? Can economic measures be used to assure a party of continued relations as it is pressed to make concessions?

Economic measures can also be employed to increase the attractiveness of a solution to both sides. Sometimes the prospect of ending a conflict is simply not attractive enough to bring the parties to an agreement. Can additional benefits be offered to the parties as they refocus their attention on a reframed solution? Can the parties be redirected from conflict to development and thereby opened to the potential of donor pledges and international assistance? Can economic assistance be tied to a plan for disarmament and demobilization, repatriation, rehabilitation, and reintegration (DDRRR) that would remove the danger otherwise posed by former combatants on the loose? Can assistance for reconstruction be offered by the international community as part of the agreement package?

*After accomplishing two disengagements in the Middle East, on the Sinai and the Golan Heights in 1974, U.S. mediation efforts ran up against Israel's refusal to proceed with a second Sinai withdrawal. Threat of a sweeping reevaluation of Mideast policy—that is, a reconsideration of U.S.-Israeli relations—followed, as did a massive aid commitment that remains to this day and that had to be matched for Egypt to break the deadlock.*

Negative economic measures can also help to equalize the sides and bring the parties to a negotiating venue. Withholding a carrot constitutes a stick, and removal of a stick constitutes a carrot. Can carrots and sticks be used to nudge the parties into a negotiation mood? Can these be presented positively, as adjuncts to a policy aim of resolving conflict and introducing peaceful relations in the interest of both parties?

*The United States promised loan guarantees to Israel to bring it to the Madrid Mediation Forum with the Palestinians and Arab states in 1991.*

General sanctions can be used for the same purpose. *Sanctions were major motivators gaining Slobodan Milosevic's participation and agreement in the Dayton negotiations over Bosnia in 1995.* General sanctions are a blunt instrument that mostly affect people who are in no position to influence the behavior of the obdurate leader—as in the case of Saddam Hussein—and the risks are such that most mediators should not be associated with them.

### **Apply Military Measures**

Military measures generally do not involve direct engagement, which would compromise the mediator, but rather the extension or withholding of military support. The purpose is the same as with economic measures, to keep the parties locked in a stalemated conflict that they cannot win and to preserve an equality among them that allows fruitful negotiations.

*France established a military interposition force between the warring factions in the Ivory Coast in 2005 in hopes of creating an impasse and bringing the factions to negotiations. The United States provided arms to a beleaguered Morocco in its war for the Western Sahara in 1976 after having previously refused in order to create a military stalemate and a negotiating situation that the Organization of African Unity was advocating. The United States also supplied arms to Israel after it was driven from the Sinai in 1973 so that it could return to a battlefield stalemate, producing the mutually hurting stalemate that led in turn to the Sinai withdrawals under Kissinger and the Washington Treaty under Carter.*

Measures that create a stalemate that ultimately blocks parties from pursuing a strategy aimed at winning are not merely diplomatic tactics but require serious commitments from the mediator's home government—if

that government is in a position to go that far. The mediator cannot provide aid, threaten sanctions, threaten withdrawal, or offer sweeteners as a personal initiative or a tactical ploy. Such measures come from the home office and are part of the ongoing relations between the mediator's country and the conflicting parties. They may well be in the legal domain of the UN Security Council under the UN Charter, but they are not likely to be within the capability of any but major and interested parties.

## Ripen the Attractiveness of Negotiating

Creating the perception of a way out involves floating ideas about possible formulas for conflict management and resolution. The idea is not to provide terms of agreement but to help the parties think about the possibility of finding solutions and attracting the agreement of the other side.

### Use Diplomatic Measures to Reframe the Conflict

Are there new ideas about enlarging the field of discussion to provide compensation for compromise or new exchanges and the prospect of “buying” agreement? When concessions and compensations are not available, are there new and different ways of thinking about the conflict? Often this thinking involves not just new ways out of the conflict but new ways of framing the conflict itself. Could the parties articulate basic principles that constitute building blocks toward more specific thinking about a settlement? Putting aside the substance of an agreement, could the parties be brought to establish a procedure “if ever they were to start talking about an agreement,” or at least to handle future, conceivable issues that could arise in the conduct of the conflict?

*When Lord Caradon came up with the formula “territory for security” in UN Security Council Resolution 242 in 1967 as the key alternative to zero-sum definitions of the Arab-Israeli conflict, he opened a new definition of solutions that helped ripen thought and prepare for later negotiations (even though the Arab states rejected all negotiation at the time in the “Three No’s of Khartoum”).*

The phrase “what if” comes in again as a useful device: “What if we looked at the conflict in these terms; would that make a difference?” Can thinking be prompted about small steps to begin the process, including truces and cease-fires, separation of the parties, a proposed statement of

principles, and a procedural roadmap? Can such measures be proposed to the parties or issued by the mediator and its friends?

*UN Security Council Resolution 435 was a roadmap for the independence of Namibia that, together with the innumerable suggestions by the team of Assistant Secretary Crocker over a six-year period (1981–86), prepared the parties for a rapid grasp of the stalemate at the end of the period and successful negotiations in 1987.*

*UN Security Council Resolution 687 laid down the principles on which the parties relied to end the Iran-Iraq war.*

*The effectiveness of the Quartet's roadmap for a two-state solution to the Israeli-Palestinian conflict is marred, however, by the many reservations attached to it by Israel that nullify it as an agreed-upon basis for negotiation.*

### **Declare a Willingness to Engage**

The most basic diplomatic indicator of ripening is a signal that a state (or, occasionally, another party) is ready and willing to mediate. The availability of a party that will take on the costs of mediation is an indication of its estimate of the possibility of ripening the situation. The mediator should communicate to the conflicting parties a willingness to help them end the conflict and avoid being defeated. All parties should understand that the mediator's relations with them are important and that their interests and point of view are understood. The mediator should declare a willingness to engage, using the occasion to lay out parameters that should guide the effort to a fruitful end, and appeal to the parties to reorient time and resources from zero-sum conflict to positive-sum programs of joint development.

### **Determine Prenegotiation Functions**

Prenegotiation functions are items that must be established or decided upon before actual negotiations can be initiated; by resolving these issues, the mediator can clear the way for more positive consideration of a way out. These functions include

- identification of the parties necessary to a settlement as well as identification of spoilers to be isolated;

- identification of the issues to be resolved and separation of issues not resolvable in the conflict;
- identification of alternatives to the current conflict course and to a negotiated agreement;
- establishment of contacts and bridges between the parties;
- clarification of costs and risks involved in seeking settlement;
- establishment of requirement (assurance of reciprocity) between the parties; and
- assurance of support for a settlement policy within each party's domestic constituency.

In many cases, the mediator cannot decide these matters but can help the parties focus on them and, by floating ideas and making suggestions, help the parties move toward preliminary decisions. Often—as in the cases of issues, parties, costs, and risks—preliminary functions involve the exchange of assurances between the parties that the prospective negotiations will remain within manageable bounds. The mediator can bring the parties together to build bridges, if only for the process of de-demonization, not for actual negotiation.



## STEP 5

# Position Oneself as a Future Mediator

If active ripening policies fail to attract the parties' attention and produce movement toward negotiation, the would-be mediator can always fall back on a policy of positioning. The mediator should constantly remind the parties that he or she is available to help them out of their conflict and that their path can end only in a stalemate that they cannot win, if they are not there already. Are there occasions in normal diplomatic contacts when the parties can be reminded of the mediator's willingness to mediate? Are there occasions for public declarations and for private assurances that the path to accommodation is ready to be opened? Can the mediator throw in new ideas, new ways of thinking, to keep the parties from remaining stuck in their positions? Can the mediator repeatedly show the parties where their fixed positions are leading them, until they ask what the alternatives might be? Can the mediator get authorization, from the home office or from the UN Security Council, to "just explore a bit" to see what the parties are thinking in informal moments? Are there occasions to indicate to other potential mediators whether their possible entry would be considered an acceptable alternative or whether the positioning party intends to remain the only game in town?

*The much-touted success of Assistant Secretary of State Crocker in pulling the rabbit out of the hat in the Namibian conflict was testimony to recognizing and seizing ripeness, but the less-noticed aspect of his success was his patient tenacity in positioning for six years until the ripe moment arrived.*

*In the El Salvador case, UN secretary-general Xavier Pérez de Cuéllar began positioning himself to be useful as early as November 1986, when he*

*met with the secretary-general of the Organization of American States, two and a half years before his role, limited to “good offices,” was authorized by the UN Security Council and three years before the turning point of ripeness allowed a direct role.*

*As U.S. secretary of state Alexander Haig's effort to defuse the looming conflict in the South Atlantic between the United States' allies Argentina and the United Kingdom waned in 1982, Secretary-General de Cuéllar put to the parties his willingness to mediate. They both accepted his offer, but the conflict was not averted. De Cuéllar's effort was handicapped by the failure of the United States, which had thrown its lot behind the United Kingdom, to apprise him of the state of play at the time of handover.*

Conflicting parties can be expected to try and try again to prevail in their conflict. Reinforcement is the normal response to opposition: “Don't give up without a fight,” “No gain without pain,” “Hold the course, whatever the cost,” “When the going gets tough, the tough get going,” and “If at first you don't succeed, try, try again” are common sayings in any culture. They also represent costly but useful efforts to become further locked into a stalemate and to a realization that the way to victory is blocked. As long as this realization has not yet hit the parties, the mediator's message is best limited to “Here I am if [when] you need me.”

*U.S. secretary of state James Baker remarked to Congress in 1990 that when the parties in the Israeli-Palestinian conflict were serious about making peace, they should call the White House. “The telephone number,” he said, “is 1-202-456-1414.”*

Can the danger of entrapment be conveyed to the parties, along with the willingness of a third party to help them avoid it?



# Conclusion

Parties to a conflict need help to extricate themselves. Winning may be unlikely, but the parties may be too embroiled in the conflict to perceive the stalemate or think of a way out. They need—even if they do not welcome—the help of a mediator.

Ripeness is a characteristic of conflict, and heightened conflict and attempts at escalation may be necessary to set up the conditions for ripeness. If a mediator can help the parties see that danger before they prove it to themselves by escalation, the mediator will be performing a great service to the parties and to the world.

The tactics of ripeness involve helping the conflicting parties see and emerge from a mutually hurting stalemate. The mediator must emphasize that there are no winners and no losers in ending the conflict. The path from a stalemate to an acceptable outcome begins with the conveyed willingness to seek a way out and a perception by each party that the other has that willingness.

Third parties who see involvement in a conflict as mediators in their interest must begin with their own assessment of ripeness; if the assessment is positive, mediators must convey that fact to the conflicting parties and help them perceive it. In this process, mediators look for indicators of the objective facts and of the parties' perception of them. The biggest job of mediators is to enhance that perception; after that, guiding the parties toward the discovery of their own solutions follows naturally (even if not easily).

Once the process of discovery and invention has begun, it is important to keep the notions of a mutually hurting stalemate and a way out alive. The perception of a way out turns gradually into a solution, but the perception of a painful stalemate must remain present to keep the parties on track. If they forget it, they may be tempted to drop out of negotiations and lunge for a one-sided victory.

If such a perception is not forthcoming, the mediator is pulled into the more demanding role of helping to create the stalemate and its associated

pain. Acting as a manipulative mediator takes commitment and runs risks, but it may be the only way to bring the mediation to a successful conclusion.

If all efforts fall short but the mediator remains interested in obtaining a positive conclusion, if for no other reason than that the pain of the unresolved conflict falls on the mediator as well, the mediator can position himself or herself for a later useful role. In any case, the mediator must not feel a greater pain than the parties and therefore want a conclusion more than they do. In that case, the parties have control over the mediator rather than vice versa, and mediation becomes weak and vulnerable.

# Notes

1. John Campbell, *Successful Negotiation: Trieste* (Princeton, N.J.: Princeton University Press, 1976), 73.
2. Henry Kissinger, *New York Times*, October 12, 1974.
3. Chester A. Crocker, *High Noon in Southern Africa* (New York: Norton, 1992), 363.
4. Agence France Presse, May 17, 1992.
5. At the outset, confusion may arise from the fact that not all “negotiations” appear to be the result of a ripe moment. Negotiation may be a tactical interlude, a breather for rest and rearmament, a sop to external pressure, without any intent of opening a sincere search for a joint outcome (F. C. Ikle, *How Nations Negotiate* [New York: Harper & Row, 1964]). Thus the need for quotation marks, or for some elusive modifier such as “serious” or “sincere,” when describing negotiations. It is difficult at the outset to determine whether negotiations are serious or sincere, and “true” and “false” motives may be indistinguishably mixed in the minds of the actors themselves. Many theories contain a reference to a “false” event or an event in appearance only, as differentiated from an event that has a defined purpose. Indeed, a sense of ripeness may be required to turn negotiations for side effects into negotiations to resolve conflict.
6. Quoted in Paul Taylor, “South African Communist Sparks an Explosive Debate,” *Washington Post*, November 22, 1992, A32.
7. R. E. Benedict, *Ozone Diplomacy: New Directions in Safeguarding the Planet*, rev. ed. (Cambridge, Mass.: Harvard University Press, 1998), 43.
8. Paul Reynolds, “Analysis: Politics and the Tsunami,” BBC, December 21, 2005, <http://news.bbc.co.uk/2/hi/asia-pacific/4548832.stm>.
9. *New York Times*, August 9, 1995, A7.
10. Eduardo Toche, Walter Ledesma, and Pierre Foy, *Peru-Ecuador: Entre la guerra y la paz* (Lima: DESCO, 1998), 63.
11. Matti Golan, *The Secret Conversations of Henry Kissinger: Step-by-Step Diplomacy in the Middle East* (New York: Quadrangle, 1976).

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## About the Authors

**I. William Zartman** is the Jacob Blaustein Distinguished Professor Emeritus of International Organization and Conflict Resolution at the Nitze School of Advanced International Studies (SAIS) of the Johns Hopkins University in Washington, D.C., and a member of the Steering Committee of the Processes of International Negotiation Program (PIN).

**Alvaro de Soto** is a senior fellow at the Ralph Bunche Institute for International Studies at the City University of New York Graduate Center, an associate fellow of the Geneva Centre for Security Policy, and a member of the Global Leadership Foundation in London. An ambassador in the Peruvian diplomatic service, he has held senior positions under three secretaries-general at United Nations headquarters in New York and in the field.

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