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The principles of mediation and the role of third parties in peace processes

By Vicenç Fisas Armengol

Executive summary

This report focuses on the roles that third parties should play during a dialogue facilitation process. The high number of negotiations launched and peace agreements reached during 2012 confirms the trend observed during the last decades that the most common form of conflict termination is through negotiated settlements. However, according to the 2012 figures, about 40% of the negotiation process faced serious difficulties or did not achieve any results. Considering that the literature has shown a high correlation between the participation of third parties and peace talks' success rates, one obvious explanation for the high percentage of peace negotiations that are unable to properly move forward could be the absence of third parties. Another factor could be linked to the performance of third parties when they do participate in dialogue processes. Some of the most frequent causes of crisis in negotiations are the warring parties' lack of confidence in the facilitating third party. Therefore this report addresses the functions that third parties can perform in a peace process. It defines key concepts, summarises the most important features of peace negotiations in 2012 and addresses the roles of third parties in dialogues to end violence.

Key concepts

Negotiation is defined as the process by which two or more opposing parties (either countries or actors within a particular country) decide to discuss their differences within an agreed framework to find a satisfactory solution to their demands. This can be a direct negotiation or with third-party facilitation. Normally, formal talks have a prenegotiation or exploration phase where the framework of a future negotiation is defined (format, location, conditions, guarantees, etc.).

A peace process is therefore the consolidation of a negotiation framework once the agenda, procedures, timetable and facilitation elements are defined. Hence, negotiation is just one of the stages in a peace process. Furthermore, a "peace process" is a "process aimed at bringing violence and armed struggle to an end".

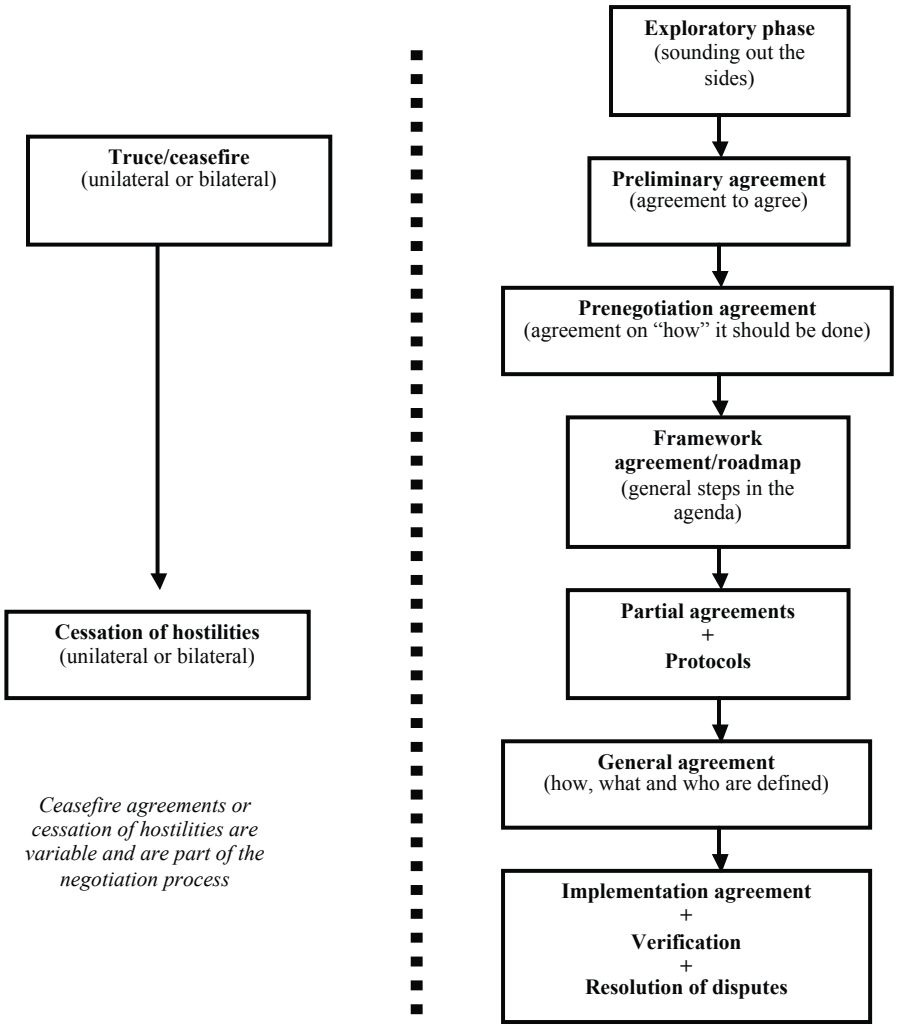
The signing of a peace agreement is only the beginning of the true "peace process", which comprises the stage called "post-war rehabilitation". During this phase decisions will be taken and policies designed that, if successful, will help overcome other existing types of violence (structural and cultural), and only then can we talk of "achieving peace".

The model used in the process will depend on the type of claims and the ability of the actors to exert pressure or make demands (i.e. levels of military, political and social symmetry), although other aspects also have an influence, such as who accompanies or facilitates the negotiations, the fatigue levels of the various parties, the support they receive, and other less rational factors, such as the leaders' personal obsessions, the social imaginary or historical inertias.

Not all of the processes or the exploration phases, dialogues and negotiations are truly sincere. Often they are part of the war strategy itself, either to buy time, to internationalise the conflict and get publicity, to rearm, or for other reasons.

The various stages of a peace process typically require an enormous investment of time. The proof of this is the significant number of years normally needed to launch such a process and achieve any results. Overall, and with very few exceptions, the process follows a pattern with more or less well-established phases, with the longest being the one dedicated to the negotiations. There is an initial exploratory phase, also called the prenegotiation stage,

Figure 1: The stages of a peace negotiation



Source: Fisas (2013: 15)

where those involved (explorers) gauge the parties' commitment, i.e. they investigate whether the parties are really convinced that they are prepared to start a negotiation process where they will have to give something up.

This is a crucial stage, since often negotiations are conducted and one of the parties is not really committed to the process. In this case the negotiations are doomed to failure. The exploratory phase is where the terms are analysed to guarantee the complete and absolute safety of the negotiators who will attend the talks, since there may have been previous attempts to murder or attack them. Nobody would risk beginning talks without having full security guarantees in place with clearly defined rules.

In this phase other aspects are also established to guarantee compliance with the agreements reached. The schedules and methodology are laid down, a pre-agenda or initial agenda is defined, the terms of an initial roadmap are outlined, and the challenging issues of basic disagreement or fundamental incompatibilities (the metaconflict) are clarified.

At this stage attempts are made to generate confidence in the process itself, decisions are made on the role of third parties, ideas are not imposed (since these form the basis of the negotiation itself), and the opponents are officially recognised to provide them with the legitimacy needed to become interlocutors. Once this exploratory work has been done an "agreement on what needs to be agreed" is reached and, as a result, progress is made on "how to do it".

The sum of all these steps forms a "roadmap" or initial framework of what needs to be done so that everything goes well. The roadmap is an outline of the work to be done – a diagram giving the steps that guide the process.

After the negotiations begin the parties check to make sure that the interlocutors are valid, effectively represent the main stakeholders and have decision-making capacity. The negotiating table is no place for second-level actors. Thus, it is always necessary to start with an inclusive approach that gives a voice to the actors who are key to resolving the conflict, although they may not be very desirable. It makes no sense to invite actors just because they are friendly or easier to deal with. You need to seat the real adversaries at the table.

The substance of these negotiations is that opposing parties sit down to talk within a mutually beneficial framework that is based on the idea that "everybody wins, nobody loses", i.e. "I win, you win", avoiding zero-sum approaches where one wins and the other loses.

If satisfactory progress is made during the negotiation, substantive agenda items may be discussed (those in the procedural agenda will have been previously agreed on) and, since confidence will have grown, personal relationships may also change, which will make it easier to reach an agreement or, at least, partial agreements with their respective protocols. This in turn will make it possible to reach a final agreement that will specify how the accord will be implemented and who is responsible for doing so. This will eventually lead to agreements covering areas such as implementation, verification procedures and the resolution of any disagreements that may arise in the final stages.

The evolution of peace processes in 2012

Considering the number of negotiations launched and peace agreements reached, 2012 proved to be one of the most successful years for peace talks in recent times. Fifty-five negotiation contexts were identified; 14 groups from five countries handed over their weapons after reaching agreements with their respective governments; and exploratory talks that could bear fruit in 2013 began in Sudan, the Central African Republic (CAR), Colombia, India, Burma and Turkey. The high number of active negotiations confirms the growing trend in recent decades to resolve conflicts through dialogue processes that often end in peace agreements. Thus, of the 46 conflicts that have come to an end in the last 30 years, 82% have been terminated through peace agreements and 18% through military victory, which confirms negotiation as the best path for resolving conflicts.

Despite the many positive signs that were reported in 2012, about 40% of the negotiation processes faced serious difficulties or did not achieve any results. One of the factors that may help explain this high percentage of negotiations that are unable to successfully move forward is the fact that in many peace talks there is no third-party participation. When others were involved the negotiations usually functioned better. Thus, the involvement of third parties was important in the exploratory or rapprochement phase (e.g. Cuba and Norway in Colombia). Conversely, the (limited) mediation efforts by the UN were less important.

Another factor may be linked to the performance of third parties when they do participate in dialogue processes. Some of the most frequent causes of crisis in negotiations are related, for example, to the lack of confidence some of the conflicting parties have felt toward the third party who was facilitating the dialogue. In this regard, the following section identifies and analyses some of the functions that third parties can perform in a peace process.

The roles of third parties in peace processes

First we must acknowledge the work of Chris Mitchell (1992), who drew up the first proposal to systematise mediation roles, which in this report I will develop and

Table 1: Negotiation status of peace talks at the end of 2012

Positive (12)	Difficulties (16)	Negative (6)	Exploratory phase (7)	Resolved (14)
Senegal (MFDC) Sudan (JEM) India (NDFB(P)) India (NCSN-IM) Myanmar (KNU) Myanmar (ABSDF) Myanmar (NMSP) Myanmar (ALP) Myanmar (CNF) Myanmar (RCSS-SSA) Myanmar (KNPP) Philippines (MILF)	Ethiopia (ONLF) Somalia Sudan (JEM-MC) Sudan-South Sudan DR Congo (M23) Colombia (FARC) India (ULFA) India (NSCN-K) India-Pakistan Philippines (MNLF) Philippines (NPA) Cyprus Serbia-Kosovo Moldavia (Transnistria) Georgia (Abkhazia and South Ossetia)	Mali Morocco-Western Sahara Afghanistan Armenia-Azerbaijan (Nagorno-Karabakh) Israel-Palestine Syria	Sudan (SPLM-N) CAR (CPJP faction) Colombia (ELN) India (NDFB) India (NDFB(R) faction) Myanmar (ABSDF) Turkey (PKK)	CAR (CPJP) India (APA, AANLA, STF, BCF, ACMA, KLA/KLO, HPC, UKDA, KRA, DHD) Myanmar (SSAS) Nepal (SKTMMM) Nepal (SSA-S)

adapt to peace processes.We should start by dispelling a popular misconception, which is the belief that mediation involves one person (former president Bill Clinton in Israeli-Palestinian negotiations, former president Nelson Mandela in Burundi, former UN secretary-general Kofi Annan in Syria or former U.S. special envoy Christopher Ross in Western Sahara, for example).

Following Mitchell's proposal, mediation is a process with multiple actors that play different but complementary roles. If functional mapping is more complete, the process will run better. The so-called mediator is, in fact, a central figure in the process who is known as the facilitator. The facilitator cannot act alone, but will need the help of people who also perform other tasks that are just as vital in a peace process.

Mediation is the intervention of third parties in a conflict where two or more players face initial problems of incompatibility. The third party attempts to help the actors in the conflict to find a satisfactory solution to the problem by themselves. The facilitator will not provide them with the solution, but will help them to find it by using suitable techniques and procedures. It should also be noted that mediation is not needed in all conflicts – the conflicting parties can meet and negotiate directly without the help of others. Nevertheless, in more than half of conflicts third parties are asked to provide assistance.

Mediation is a series of tasks performed by different people in the three basic stages of the peace process: the prenegotiation, negotiation and implementation of agreements. In each of these stages different people who are assigned specific roles may intervene. These are usually private individuals, but sometimes they are centres, organisations or agencies.

Creating the right environment

Starting a negotiation when public opinion is against it or indifferent to it is more difficult than if there is a favourable environment, i.e. when the public supports a negotiation or peace process. This favourable attitude will help the government to initiate a rapprochement with an armed group or help the armed group make the gestures needed for the government to agree to negotiate. This environment does not emerge on its own, but must be created using both patience and strategy. The people or organisations that are in favour of negotiation should create favourable public opinion through editorials in newspapers, demonstrations and public events.

These civil society interventions, apart from creating the proper environment, help shape the agenda and negotiation periods, making it easier for certain topics to be considered. Using the media, public opinion leaders will initially be in charge of creating a receptive environment that is favourable to rapprochement and will counter the voices of those sectors opposed to any negotiations, which always exist and are sometimes very influential. The idea is to generate an opinion that "yes, it is possible", "yes, it is the right time", and "yes, it is necessary and we must try".
This will require the participation of many actors, including artists. For example, peace concerts have been organised on numerous occasions to encourage not only the general public to support a peace process, but also to encourage the government and armed groups to begin talks.

Exploration

Negotiations can begin directly when the parties take the decision to do so because they believe that the time is right. But often a third party is needed, the explorer. This person quietly checks and weighs the willingness of each party to participate in a prenegotiation process. Explorers play a vital role in this process because they can approach one or all of the parties involved and determine if the time is right to start the process. It is a confidential and thankless job, because explorers are not usually mentioned in the official history of the peace process.

The people who perform this task must be able to contact some of the parties – and, if possible, all of them – because they can act as messengers, i.e. they can tell one of the parties that the other party is willing and ready to start a negotiation or prenegotiation process. Therefore, they must know how to contact the parties – either the leaders directly or people who have access to the leaders.

In addition, people acting as explorers may in some cases be able to influence the opinions and decision-making of the actors they speak with. In the process of sounding out the different sides a more favourable position to begin talks can be fostered, or one of the sides can be convinced that the other is ready and willing to enter talks. This requires having good information, which can only be gained through direct contact.

Explorers can also act as liaison agents. They can carry messages from one party to another, but must always maintain complete confidentiality. In this case the explorers do not act on their own, but at the request of one of the parties.

Preparation, training

Members of armed groups have usually spent many years living in the mountains, in the fields or in the jungle, isolated from real life. They are proficient in the use of weapons, but lack vital skills that people who lead normal lives have. When it comes to negotiations, armed groups often lack the skills needed to hold a proper discussion of agenda items. To remedy this the country in question often authorises members of the armed group to travel abroad for training in a number of subjects (economics, parliamentary procedures, armed forces, democratic institutions, public sector management, municipal government, etc.).

The Salvadoran guerrillas travelled to Spain to take a course organised by the Spanish government in the early 1990s. Mozambican guerrillas did the same in Italy shortly

before the Mozambique peace agreement was signed in 1992. In both cases this was done discreetly. Receiving more publicity, members of the Colombian FARC guerrilla group travelled around Europe in the early 1990s to learn about the democratic institutions in several countries. In 2012 delegates from the Philippine MILF guerrillas visited Catalonia to learn about the autonomous experience of this region. This led to new ideas for the negotiation, such as including a demand for an ombudsman. The so-called "Group of Friends" are those countries that are sometime in charge of this training.

The convener

When the parties are convinced that they want to negotiate, in some cases a convener is needed to make a formal public request to begin talks. It can be a prestigious person or organisation (the church, a regional or international body, etc.). The convener can also offer a physical space where the talks can take place, although this is not a prerequisite. Convening a dialogue always gives the negotiation an air of formality. Often the conflicting actors meet with the convener, who sometimes performs another essential function, that of facilitator.

Facilitation

What we commonly call a mediator is actually a facilitator. This is the key figure in the mediation process, since this person will be present at all stages of the mediation, will attend all meetings and will help the parties find a solution. He/she can be an individual of international standing. In this case a team of technical experts and professionals usually accompany the facilitator to help in the mediation task. The facilitator will only chair the meetings, but the support team will do the real work. The facilitator has the most visible role in the process. He/she will be the most visible public figure and, if the process is successful, will receive the most credit. It is this person who poses for the official photo. But as stated previously, his/her work would not be possible without the support and participation of all of the actors that are part of the mediation process.

Many peace processes go through periods of crisis because the right facilitator was not chosen or because some of the parties fall out with him/her. Crises also take place due to the failure of the facilitation model or because of technical aspects of the process. Finding the right person and procedures to follow are, therefore, important.

A facilitator must satisfy a series of conditions: he/she must have an understanding of the problem; must be willing to persevere; and must be neutral, impartial, patient, empathetic and imaginative. The facilitator must be able to keep the participants seated at the table, even in the most difficult moments, and must be able to suggest proposals that can break an impasse. He/she never imposes solutions, but merely helps the parties find them. It is a question of seeing the glass half full, i.e. that progress has been made despite the difficulties, and the parties must be made to see this. When necessary, pauses in the negotiations must be suggested so that the two sides can refresh their ideas or use the time to avoid a dead end. It is important for the facilitator to have a precise knowledge of the conflict he/she is mediating. Mohamed Sahnoun, an Algerian diplomat who in the early 1990s accepted the post of special envoy of the UN secretary-general for Somalia, brought together the world's top experts on Somalia to teach him about the culture, economy and politics of Somali society. He was thus able to design an action plan based on the unique characteristics of the Somali people and their culture.

The witnesses

Many negotiation processes are interrupted or a crisis breaks out because of disagreements between the parties during the process. This happens frequently, and in the worst cases the negotiations can be broken off. Sometimes a topic is interpreted differently by the parties, which gives rise to misunderstandings. To resolve this problem an objective external observer should be present at the talks. The observer acts as a witness of the process and can clarify for the parties the meaning of the points they do not agree on. In 2002, for example, the government of Indonesia and the Gerakan Aceh Merdeka guerrillas reached an impasse because of different interpretations of the cease-fire agreement they had signed.

The witness in the negotiations helps the parties clarify their proposals so that they do not get mired in a metaconflict, i.e. a problem of meaning. The witness can say whether or not a particular statement was made and can thus clarify the different interpretations of what was said at the negotiating table. This provides a guarantee that the process will move forward with fewer glitches.

The witness is not responsible for mediation or facilitation, but is present simply for clarification: his/her goal is to ensure transparent communication between the parties. A formal mediator or facilitator can also play the role of witness, since he/she is present at all meetings.

More than half of ongoing negotiations worldwide have a mediator-facilitator who acts as a witness of everything that takes place. The parties may also decide, however, to have an additional witness and may ask for an outside observer who can attest what is said and agreed. The remaining half of the talks are conducted directly between the parties. When there is no mediation it is possible to negotiate without a witness, which was the case of the first six rounds of talks between the ELN and the Colombian government in Havana between 2005 and 2007.

When witnesses are present, but no mediators are involved, the presence of an external observer is an option, with the participation of countries in the "Group of Friends" or "International Contact Group". With regard to the former, a professional can be called on, such as Alvaro de Soto in the second meeting between Cristiani's government from El Salvador and the Farabundo Martí National

Liberation Front in October 1989 in San José, Costa Rica. Subsequently, De Soto became the mediator. This was also the role played in Geneva by the Centre for Humanitarian Dialogue in talks between the Spanish government and ETA in 2005 and 2006. In the peace process in Colombia, the Caracas (1991) and Tlaxcala talks (1992) between the Simon Bolivar Guerrilla Co-ordination Body (formed by the FARC, ELN and EPL) and the Colombian government had an international witness of what was discussed (Emilio Figueredo).

Another possibility is participation by civil society, such as in the state of Assam in India, where the People's Consultative Group has acted as facilitator and witness in talks with the guerrilla organisation the United Liberation Front of Assam. In the Caracas and Tlaxcala talks mentioned previously between the Colombian guerrillas and the government of the country, Colombian civil society observers participated in the process.

Often, it is the church who acts as a witness. In recent times, the presence of the Bishop-Ulama Conference has been requested on several occasions to act as a witness, and it acted as adviser on religious subjects in the peace process between the Philippine government and the MILF guerrillas. A professional politician or even a head of state or president can be a witness, such as Bill Clinton at Camp David in July 2000, who acted as a witness in the negotiations between the Israeli prime minister, Ehud Barak, and the president of the Palestinian Authority, Yasser Arafat.

In some peace processes a "Group of Friends" is used. The countries making up this group can simply observe the process or participate more actively in the negotiation. For example, in the case of Colombia, both Mexico and Venezuela were witnesses to the peace process and disarmament of the EPL and the indigenous movement Quintín Lame in 1991. Finally, another type of participation is the "International Contact Group", such as the one in the Philippines in the talks between the government and the MILF guerrillas. This group is made up of several NGOs, the Centre for Humanitarian Dialogue (Switzerland), the Asia Foundation (U.S.), Muhammadiyah (Indonesia) and Conciliation Resources (Britain), which participate in all meetings. This group also includes diplomats from Japan, Britain, Turkey and Saudi Arabia.

In short, during the rounds of talks it can be very useful to have a witness who can attest everything that takes place at the negotiating table. Although witnesses do not have the right to speak during the discussions, they are able to express their opinion to the parties, especially when the opposing sides do not agree on what has been said.

Incentives

When negotiations take place during difficult times, it is a good idea to include in the process an organisation or country that can provide political or economic incentives to unblock the process. The European Union has taken on that role on several occasions, and various countries have offered economic resources in exchange for continuing the negotiations or have promised to provide those resources once a peace agreement has been reached.

For example, in 2012 the Norwegian government offered €60 million of development funds for the Karen people (Burma), which bolstered the negotiations taking place between the Kareni guerrillas and the Burmese government.

Another incentive is to promise to remove an armed group from the list of terrorist organisations if it signs a ceasefire agreement. In 2012 in Burma the incentive used was to allow various ethnic armed groups to open representative offices. A visit by the UN secretary-general to the negotiating parties can also be a good incentive. In India an incentive used to advance the negotiations with the United Liberation Front of Assam armed group in 2011 was the release of its imprisoned leaders.

Idea generation

All negotiations reach difficult moments when the facilitator must decide whether it is appropriate to pause and look for a fresh approach. He/she may consult third parties, usually academics or specialised centres, to ask them to offer new ideas. For example, an academic centre such as the School for a Culture of Peace brought together the negotiator of the Polisario Front, delegates of the king of Morocco, the representative of the UN facilitator, African Union and European diplomatic representatives, together with specialists in the Arab world and formulas of self-government to try to generate new ideas when an impasse was reached in the negotiations on Western Sahara. These ideas were subsequently taken back to the talks by the UN facilitator in this conflict.

Witnesses to peace talks, although they have no right to speak, can make written suggestions that are made available to the various parties. This, for example, is what the International Contact Group has done in the negotiations between the MILF guerrillas and the Philippine government. Representatives of this guerrilla group visited several countries to learn from the experiences of other negotiations. This is very common in peace processes.

The unifier

When armed groups begin preparing for peace talks there are often rifts between supporters of the negotiation and those opposed to it. This may trigger more divisions, such as in Darfur (Sudan), which initially had two armed groups and one year later had at least 13, making negotiations impossible. In this case the figure of the unifier is needed. A unifier is a person who tries to bring groups together, or at least to align their agendas, so that the number of variants is as low as possible and low enough to make a successful negotiation feasible.

The guarantor

Persisting conflict can commonly cause great distrust between the parties. Therefore, all peace processes must be accompanied by a figure, the guarantor, who guarantees to the parties that the terms of the agreement will be fulfilled. Obviously, complying with the agreement is the responsibility of the conflicting parties, but it is good for a third party to accompany them and monitor the agreements. The guarantor must have some power, so it cannot be just anyone. It could be a regional or international organisation. This gives security to the process. Occasionally, such as in the case of the negotiations between the FARC and the Colombian government, the guarantors (Norway and Cuba) also act as observers.

Verification

As the negotiation proceeds certain measures are adopted and need to be verified, such as a ceasefire or cessation of hostilities. This requires the participation of civil and military specialists from various countries who certify that the agreements are being upheld. It is a technical task and thus requires some preparation. Sometimes UN staff are responsible for this function. Compliance with the peace agreements must also be verified, and therefore people are also needed to work on verification teams in the areas of politics, economics, the police, the military, etc. Often these teams are mixed, i.e. they are composed of people from the armed group, the government and other countries. Verification teams have to investigate when they receive reports that agreements have been violated and must also offer resolution mechanisms when incidents take place. Therefore, they can be given the power to apply sanctions.

Conclusion

In a peace process all stakeholders must be involved and play the roles that have been mentioned. Normally these roles are different from one another and participating in one of these tasks is incompatible with taking on any other functions. Only in rare cases can one person do two things at once. In the prenegotiation process – the exploratory phase – it is advisable to define which people or institutions will take on these roles, while how they will be designated must also be clarified. The success of the negotiation depends on managing this process correctly and making the right decisions.

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THE AUTHOR

Vicenç Fisas Armengol is the director of the Escola de Cultura de Pau/School for a Culture of Peace at the Autonomous University of Barcelona and holds the UNESCO Chair on Peace and Human Rights. He is the author of 30 books on peace and disarmament and received the National Human Rights Award in 1988.

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