

Some Essential Qualities for Mediators in Mediating Geopolitical Conflicts by Conjoint Professor Kim Lovegrove, FAIB; Lawyer, Author, and Law Reformer.



“Mana”

1. The mediator must have "mana", mana is a Polynesian term for power, status, authority, command or control. The mediator will have to have sufficient charisma and bearing to inspire a measure of awe or at the very least a high level of veneration from those that may not be in the habit of paying homage to others. In the rarefied atmosphere of geopolitical conflict the political luminaries that make up the disputants, for want of a better word, are typically heads of state; powerful, often complex but generally revered or feared individuals and sometimes of a disposition that is prone to the holding of oneself in high regard. These types of individuals do not, as a rule, defer to those who are not held in the highest universal esteem. So without the requisite level of "mana" it is unlikely that the mediator will hold their attention, let alone engender a preparedness to see the point of view of those whom are at odds with them.

"Immaculate" impartiality

2. "Immaculate" impartiality and a demonstrated capacity for non alignment and partisanship is paramount. The mediator has to be an agnostic when it comes round to geopolitical matters of relevance or

in some instances "religio political" ideology. This does not mean that the mediator cannot be of a certain geopolitical or religious persuasion, but these personal leanings must not seep into the mediation dynamic under any circumstances. Any perception by either party that the mediator lacks apposite agnosticism will "crue the crème". It is possible that one of the reasons that the practice of appointing retired heads of states as mediators has not always been successful is that a good many have been perceived to have sided in the past with policies of countries that may not have resonated with an ideology, be it economic, religious or political of one of the parties at the table. Even though the particular mediator may have moved on from such perceived or actual leaning, the history of the mediator operative may prove uninspiring to one of the parties.

3. The ability to listen with intent and the ability to empathise with opposing points of view. A famous Australian mediator Sir Laurence Street once in a co-address with the writer said "a dispute is like a coin with the head and the tail....one side sees the head, the other the tail". It is not about who is right or wrong, the mediator has to recognise that the people eyeballing their adversary at the other side of the table will harbour a different point of view, they will only see their side of the coin. There is no place for sanctimony, nor are the rights and the wrongs, perceived or actual, the seminal considerations in this type of mediation because once disputes find their way into the geo political stratosphere there are very polarised views regarding definitions of right and wrong. It will not bode well if the mediator forays into such assessment, after all, that is the job of an arbitrator or decision maker. Absent an independent higher jurisprudential authority, which will more often be the case in geopolitical conflicts where there is no binding decision maker, the mediator has to be able to acknowledge both points of view before he or she will have any chance of helping the adversaries engineer an accord. One thing I have learnt about mediation is that it is often futile as a negotiator to argue the point and it is often more

productive to put the argument aside and allow pragmatics to come into play in order to "cut the deal".

Being able to work out what success will ultimately look like

4. An ability to set the scene and to describe what resolution may look like is important. In the theatre of geopolitical conflict it is unlikely that the resolution will be presented as victory. Victory is the product of war, not negotiation, unless there is surrender and surrender is still very much about the victorious and the vanquished. So in a geopolitical conflict if the parties are intent on resolving their differences through negotiation with the assistance of a mediator, from the outset the mediator must make it clear that it is most unlikely that victory will be the end game. US President Barak Obama in a recent interview with Thomas Friedman for the New York Times said "And that's, by the way, a broader lesson for every country: you want 100 percent, and the notion that the winner does takes all, all the spoils. *Sooner or later that government is going to break down.*" The end game will be about compromising, the giving and the conceding, and success may be about each party losing something with the ultimate aim of arriving at an end that can be accommodated rather than enjoyed. The idea that mediation is "win win" is somewhat of a fiction. Having specialised in conflict resolution for 30 years, I can say that mediation by and large is about "lose the least"- "lose the least", for the nature of compromise is such that both parties have to give something which is another way of saying that they are prepared to lose something. The name of the game is to work out what the outer boundaries of loss are (in this regard in negotiations I often use the metaphor "what is the other side's low water mark", knowing full well that they have to have something left in the tank). The mediator will realise that the head of state or the foreign secretary will have to account to the people as he or she has to sell the outcome to the people and this will always be a top of mind consideration.

The ability to control the ebb and flow of mediation

5. Think about the kite flier, the string is loosened, tightened, loosened then reigned in. Such is the ebb and flow of negotiations, such is the delicate touch of the mediator or charismatic cajoler if you will, when steering the rhythm of the mediation. The mediator has to allow alternative points of view to be heard with the occasional accoutrements of histrionics and invective because this can release the steam. But equally the mediator has to control the regularity and the velocity of steam release so that no one gets scolded. If the mediator engenders an atmosphere of negotiation claustrophobia the mediator will fail.

Time and Patience

6. Time, stamina and patience. Past President Bill Clinton to this day rues the fact that he was not able to engineer an accord between Palestine and Israel. Had he had more time it may have been possible. Mr Clinton had the patience and the resolve, but ran out of time as his political mandate expired. If one could lock the parties into a room and not let anyone out until there was an outcome, then maybe there could be an outcome. That after all is pretty much what Henry Poulson did with the captains of finance and industry to avert economic apocalypse with the GFC in 2008. Alas in the geopolitical theatre no one would have sufficient power or mana to compel this. This being the case the mediator has to persuade the parties to invest the time and the patience as the most difficult of compromises tend to take the longest time to augment.