

Contents

<i>About the Author</i>	xiii
<i>List of Abbreviations</i>	xv
1. Negotiating Peace	1
1.1 The Purpose of This Book	1
1.2 Mediation, Politics, and Peace	2
1.3 The Diverse Practice of Peace-Making	4
2. Negotiation, Mediation, and Other Means	6
2.1 Negotiation	6
2.1.1 Backchannels	7
2.1.2 Consultations and Exchanges of Views	9
2.2 Third Party Settlement Methods	10
2.2.1 Good Offices	11
2.2.2 Mediation	12
2.2.3 Conciliation	13
2.2.4 Inquiry and Fact-Finding	15
2.2.5 Legal Settlement	15
2.3 Crisis Negotiation	17
2.3.1 Who Does It?	17
2.3.2 What Is the Plan?	18
2.4 Peace Conferences	20
2.4.1 Advantages and Risks	21
2.4.2 Who Participates?	22
3. Mediators	24
3.1 International and Regional Organizations as Mediators	24
3.1.1 Internal or International Affairs?	25
3.1.2 The United Nations	26
3.1.3 Regional Organizations	27
3.1.4 Advantages and Disadvantages of Regional Mediation	28
3.2 States as Mediators	29
3.2.1 Mediation by States Compared to International Organizations	30
3.2.2 States' Interests in Mediating	31

Contents

3.3 Non-Governmental Mediation	33
3.3.1 Private and NGO Mediation	33
3.3.2 NGOs in Mediation and Dialogue	34
3.3.3 Tracks One, Two, and Three	34
3.3.4 Advantages and Disadvantages of NGO Mediation	35
3.3.5 Contributions and Coordination	36
3.4 Individual Mediators	37
3.4.1 Selection of Individual Mediators	37
3.4.2 Mediators and Special Envoys	39
3.4.3 Mediators and Peacekeeping Operations	41
3.4.4 Joint Envoys	42
3.5 Mediation Teams	43
3.5.1 Composition	43
3.5.2 Local Knowledge and Local Staff	44
3.5.3 Security	45
3.6 Coordination and Interested Powers	47
3.6.1 The Need for a Lead Mediator	47
3.6.2 Actors and Friends	48
3.6.3 A Group of Friends?	48
3.7 Privileges and Immunities	50
3.7.1 Envoys of National Governments	51
3.7.2 Envoys of International Organizations	52
3.7.3 National Staff and NGOs	53
4. Parties	55
4.1 Party Status and Names	55
4.1.1 Government, State, or Party?	55
4.1.2 The No-Name Solution	57
4.2 National or International Parties?	58
4.2.1 The Mediator's Mandate	58
4.2.2 Applicable Law, Immunities, and Protocol	60
4.2.3 Options for Settlement	61
4.3 Party Inclusion	62
4.3.1 Necessary and Useful Parties	62
4.3.2 Pragmatic Inclusivity	66
4.4 Spoilers or Difficult Parties?	68
4.4.1 Keeping Parties Out	68
4.4.2 Getting Parties to Join	69
4.4.3 When Parties Refuse to Join	71
4.5 Talking with Terrorists and War Criminals	72
4.5.1 Talking with Terrorists	72
4.5.2 Talking with War Criminals	74

4.6 Party Delegation Composition	76
4.6.1 The Parties' Considerations	77
4.6.2 The Mediator's Influence	78
4.6.3 Dealing with Party Splits	79
4.7 Talking with Civil Society	80
4.7.1 Contributions of Civil Society	80
4.7.2 Formal Roles for Civil Society	81
4.7.3 Diasporas and Kin Groups	82
4.8 Mediator Support for Parties?	83
4.8.1 Financial Compensation	83
4.8.2 Capacity Building	85
5. Strategy and Planning	87
5.1 Setting Goals and Defining Space	87
5.1.1 Goals	87
5.1.2 Mandates	88
5.1.3 Consent	91
5.1.4 Conflict Analysis	92
5.2 Types of Agreement	93
5.2.1 Limited Agreements	93
5.2.2 Interim Agreements	94
5.2.3 Framework Agreements	95
5.2.4 Comprehensive Settlements	96
5.2.5 Implementation Schedules	97
5.3 Structuring Mediation	98
5.3.1 A Mediation Strategy	98
5.3.2 A Standard Mediation	99
5.3.3 The Importance of Time	101
5.4 Prior to Negotiations	101
5.4.1 Preconditions	101
5.4.2 Talks about Talks	103
5.4.3 Record Keeping	105
5.4.4 Interpreters and Translators	105
5.5 Talks and Locations	106
5.5.1 Shuttle, Proximity, and Direct Talks	106
5.5.2 Meeting Locations	108
5.5.3 Host Governments	110
5.6 What Issues to Be Negotiated First?	111
5.6.1 Humanitarian Assistance and Ceasefires	112
5.6.2 Difficult Issues First	113
5.6.3 Difficult Issues Last	114
5.6.4 Simultaneous Negotiations	115

Contents

5.6.5 Mediator's Package Deal	116
5.6.6 Negotiations in Baskets	118
5.6.7 Staggered Agreements	118
6. Negotiating an Agreement	120
6.1 Mediation and Meetings	120
6.1.1 Styles of Mediation	120
6.1.2 Listening and Speaking	121
6.1.3 Joint Meetings and Codes of Conduct	123
6.2 Impartiality, Partiality, Norms, and Leverage	124
6.2.1 The Impartial Mediator	124
6.2.2 Leverage and Impartiality	126
6.2.3 The Partial Mediator	128
6.3 Stay or Leave?	130
6.3.1 When to Leave	130
6.3.2 To Stay for Implementation?	132
6.4 Culture, Trust, and Formalities	133
6.4.1 Negotiation Cultures	133
6.4.2 Honour, Trust, and Oral Agreements	136
6.5 Confidence-Building Measures	138
6.5.1 The Use and Risks of CBMs	138
6.5.2 Procedural CBMs	140
6.5.3 Substantive CBMs	144
6.6 Negotiating Time	147
6.6.1 Open-Ended Negotiations, Timelines, and Calendars	147
6.6.2 Use and Types of Deadlines	148
6.6.3 How to Set a Deadline	149
6.7 Confidentiality	151
6.7.1 Confidentiality and the Mediation Team	152
6.7.2 Witnesses and Testimony	153
6.8 Media and Public Information	154
6.8.1 Media Review	155
6.8.2 Secrecy, Openness, and Responsiveness	155
6.9 Decision Making	157
6.9.1 Local Ownership	157
6.9.2 Who Needs to Agree?	158
6.9.3 Unanimity and Consensus	160
7. Concluding an Agreement	162
7.1 Drafting an Agreement	162
7.1.1 Who Drafts the Agreement?	162
7.1.2 Quality and Precision	164
7.1.3 Single Negotiating Text	167

7.1.4 Preparing and Presenting a Draft	168
7.1.5 The Politics of Names	169
7.2 Adopting an Agreement	170
7.2.1 Outcomes, Initials, Signatures, and Ratifications	170
7.2.2 Referenda	172
7.3 Making Agreements Legally Binding	174
7.3.1 The Use of Legal Force	174
7.3.2 National Agreements and Internationalized Agreements	176
7.3.3 Constitutional Change	178
7.3.4 Later Changes	179
7.4 Dispute Settlement Provisions	182
7.4.1 Political and Legal Dispute Settlement	182
7.4.2 Ceasefire Commissions	183
7.5 Guarantees and Assurances	184
7.5.1 Military Support and Peacekeeping	185
7.5.2 Political Guarantees and Practical Assurances	187
7.6 International Follow-Up Mechanisms	188
7.6.1 International Follow-Up Commissions	189
7.6.2 Evaluation Commissions	190
7.6.3 Monitoring Missions	191
7.6.4 International Administration or Supervision	192
7.7 Gender in Mediation and in Agreements	193
7.7.1 Inclusivity	194
7.7.2 Political Rights	195
7.7.3 Sexual Violence	196
7.8 Financing Peace	197
7.8.1 Needs and Risks	197
7.8.2 Coordination and Conditionality	200
8. Conclusion	203
8.1 Negotiating Peace	203
8.2 The Call of a Profession	207
<i>Notes and References</i>	209
<i>Further Reading</i>	261
<i>Index</i>	265