

Forget me, forget me not: learning the lessons of forgotten conflicts

Catherine Woollard, Dean Bialek and Nick Scott,
Independent Diplomat¹

Overview: forgotten conflicts

This paper explores two forgotten conflicts. Western Sahara is a conflict that many powerful players would like to forget; and the conflict over Transdniestria can no longer be ignored. Mediators working in forgotten conflicts face significant challenges due to lack of attention, resources and incentives. They may also have to contend with powerful forces that benefit from the status quo and thus block attempts at resolution, through means ranging from UN Security Council vetoes to a refusal to talk. Geopolitics can rapidly heat up a conflict, widening the definition of conflict parties to include external actors such as neighbouring countries, multinational companies and transnational criminal groups. It has become imperative to design multilevel processes to engage these actors. Underlying the mediator's strategy is the choice of objective: conflict transformation, resolution, management or mitigation? The practical and ethical implications of this choice need to be presented more transparently.

Really forgotten? Actually frozen?

Certain conflicts are characterised as 'forgotten' due to the limited attention they receive from the media, policy-makers, aid agencies, diplomats and researchers. The attention and resources they attract may not be commensurate with the level of suffering and injustice that they engender. Conflicts are, of course, never forgotten by those most directly affected, so the term applies mainly to the views of outsiders. There are several reasons why a conflict may be 'forgotten':

- it may be too sensitive for external players to get involved, particularly when the interests of powerful nations are at stake
- it may be that nobody knows what to do – that all attempts to transform the conflict have failed
- in an era of unprecedented humanitarian and political crisis, policy-makers increasingly lack the financial and human resources to intervene in lower-profile or less violent conflicts
- the distinction between conflicts that are mediated and those that remain "forgotten" is not always based on the level of need, violence or suffering; the interests of mediators (for example, their desire for public recognition or resources) may also play a role.

Generally, it is difficult to stimulate action before violence breaks out – conflict prevention is still not a guiding principle of national or international policy, despite the rhetoric of recent years.

¹ Independent Diplomat is a non-profit diplomatic advisory group.

Many forgotten conflicts are also ‘frozen’ – where violence has abated, leaving a situation of tense calm within which the root causes are unaddressed. Key political questions, such as border demarcation, language rights, citizenship, reparations, or return of refugees may remain unresolved. Frozen conflicts often involve breakaway entities seeking but yet to achieve recognition. They become frozen because parties to the conflict and external actors are either willing to live with the status quo or powerless to change it.

Many practitioners consider ‘frozen conflict’ a contentious term, because there are often significant if gradual changes, including the entrenchment of positions and consolidation of hostile relationships. ‘Frozen’ may also imply that nothing can be done to ameliorate the situation (which is rarely the case). Or it may imply that nothing *needs* to be done, which is likely to be misguided, given that increasingly entrenched positions lead to increased risk of renewed violence.

Similarly, few conflicts are entirely forgotten. In most cases, there is some form of engagement with the outside world, even in the absence of political ties and diplomatic recognition – as in the two case studies. For instance, trade relations, humanitarian assistance, exchange programmes (for students, technical experts, or government officials) and civil-society activities may continue, sometimes with an explicit conflict resolution purpose in the form of confidence-building measures. Nonetheless, this paper considers that ‘forgotten’ and ‘frozen’ are useful in helping to distinguish conflicts that are at the centre of policy-making and media attention from those that are not. We ask why some conflicts are as good as forgotten, focusing on two case studies, and then offer some lessons for mediation practitioners.

Western Sahara: the long road to self-determination

Background

Occupied by Spain from the late 19th century, Western Sahara was designated a Non-Self-Governing Territory under the Charter of the United Nations (UN) in 1963, with the Kingdom of Spain as the administering power. In 1965, a UN General Assembly resolution called on Spain to decolonise the territory.² In an Advisory Opinion on Western Sahara provided in May 1975 at the request of the UN General Assembly, the International Court of Justice found that:

“the materials and information presented... do not establish any tie of territorial sovereignty between the territory of Western Sahara and the Kingdom of Morocco or the Mauritanian entity.”³

Despite this ruling, the Kingdom of Morocco and Mauritania invaded the Territory of Western Sahara in November 1975. The Saharawi liberation movement, or Frente POLISARIO, declared an independent Saharawi Arab Democratic Republic (SADR) in February 1976, which later became a full member of the Organization of African Unity (OAU), and its successor the African Union (AU).⁴ In the same month, Spain informed the UN Secretary-General that it no longer considered itself responsible for the administration of the Territory.⁵ Mauritania withdrew from Western Sahara in 1979, and officially recognised the SADR.

A 15-year war ensued between Morocco and the Frente POLISARIO, and Morocco eventually occupied the two-thirds of the Territory west of the Moroccan-built ‘Berm’, a sand wall running the length of the Territory. The Frente POLISARIO continues to control the ‘Free Zone’ to the east of the Berm. The large

2 UN GA Resolution 1514 (XV), 14 December 1960.

3 <http://www.icj-cij.org/docket/index.php?sum=323&p1=3&p2=4&case=61&p3=5>.

4 Independent Diplomat provides diplomatic advice to the Frente POLISARIO.

5 The legal effect of Spain’s unilateral attempt to relieve itself of the obligations and responsibilities of an administering power over a former colony designated by the United Nations as a Non-Self-Governing Territory is a separate legal question; see <http://www.unisa.ac.za/contents/faculties/law/docs/11miguel.pdf>.

Saharawi population that fled Western Sahara during the war continues to live in tented refugee camps in southwestern Algeria. There is continued Moroccan occupation of most of the Territory, and the Saharawi population remains split between its homeland and refugee camps. A generation of more than 100,000 Saharawi refugees has grown up in these camps.

The international context

Historically, Morocco has relied on support from the US and France on the Security Council, with the Western powers disinclined to support a resistance movement backed during the Cold War years by the socialist government in Algeria. For many, it is convenient to leave resolution of the conflict to an impotent UN, both to avoid antagonising either Morocco or Algeria, and to leave open the possibility of exploiting the natural resources in Western Sahara, despite the clear illegality of such activities in a Non-Self-Governing Territory supposedly under the 'sacred trust' of the UN pending self-determination.

For some, the Western Sahara conflict is a proxy for the regional rivalry between Algeria and Morocco, and not a question of occupation, colonialism and self-determination. However, relations between Algeria and Morocco have been fraught since long before the Western Sahara conflict. Morocco and Algeria went to war in 1963 over a disputed border region, 12 years before Algeria decided to back the POLISARIO.

On the rare occasions when a major power has attempted to intervene, the parties have reacted forcefully. For example, the US proposed the addition of a human rights monitoring mandate to the UN Mission for the Referendum in Western Sahara (MINURSO) in 2013. Morocco responded with a diplomatic onslaught and even threatened to cancel joint military exercises with the US, which ultimately backed down. MINURSO remains the only UN peacekeeping mission in the world established since 1978 which is operating without a human rights capacity.

Why has the conflict become 'forgotten'?

After the initial failure of the UN Security Council to ensure implementation of the Settlement Plan, apparent unwillingness to overcome Moroccan objections to a referendum has entrenched the status quo. Because the ceasefire has now held for more than 20 years, the international community does not consider Western Sahara to be an urgent problem. In contrast to its swift response to violent outbursts in the Indonesian-occupied East Timor, the international community has done little to support the Saharawi people, arguably because they have not resorted to violence in the pursuit of self-determination. Within the occupied Territory of Western Sahara, Morocco exerts extremely tight control and prohibits all peaceful protest and political gathering. Free access is often denied even to MINURSO officers, which seriously weakens the Mission's ability to fulfil its mandate.

Assessment of mediation efforts

In 1988, joint mediation efforts by the UN and OAU produced a Settlement Plan to enable the people of Western Sahara to exercise their right to self-determination. The plan, accepted by Morocco and the Frente POLISARIO, and endorsed by the Security Council, provided for a ceasefire to be followed by a referendum that would enable the people of Western Sahara to choose between independence and integration with Morocco.⁶ The UN Mission for the Referendum in Western Sahara (MINURSO) was established to organise and implement the referendum and monitor the ceasefire that came into force on 6 September 1991.

6 See: SC Resolutions 658 (1990) and 690 (1991) and UN Doc. S/21360, para. 1.

Morocco has undermined plans to hold the referendum, and in 2002 declared the Settlement Plan not implementable.⁷ In 2004, Morocco declared that it would reject any solution that did not legitimise its occupation of Western Sahara, and that it would support a political solution only within the framework of ‘Moroccan sovereignty’.⁸ The Frente POLISARIO maintained its position that any future referendum would have to include the option of independence.

After numerous attempts to overcome the stalemate, the Security Council called upon both parties to enter into negotiations to achieve a political solution, to allow self-determination of the people of Western Sahara.⁹

More recently, delegations from the Frente POLISARIO and Morocco met in four rounds of formal negotiations (the ‘Manhasset Negotiations’) between 2007 and 2008. This was the last time the parties conducted formal, face-to-face negotiations. Nine rounds of informal talks were held under UN auspices between 2007 and 2012.

Since 2009, the UN Secretary-General’s Personal Envoy for Western Sahara, Christopher Ross, has been working with the parties to achieve a political solution which would provide for the self-determination of the people of Western Sahara. After several rounds of informal negotiations under Ross, and a subsequent attempt at ‘shuttle diplomacy’ to break the impasse, the parties have again retreated to their long-standing and mutually exclusive positions.

In May 2012, Morocco claimed that Ross was becoming biased, citing critical passages in the Secretary-General’s report on Western Sahara, which revealed to the international community Morocco’s systematic efforts to undermine MINURSO. After strong supportive statements from the UN Secretary-General, the US and the UK, Morocco eventually backed down in September 2012 and allowed Ross to resume his duties.

In his 2014 report, the UN Secretary-General concluded that:

“If... no progress occurs before April 2015, the time will have come to engage the members of the Council in a comprehensive review of the framework that it provided for the negotiating process in April 2007.”¹⁰

In 2015, the robust entry of the AU into the negotiating process offers a potential avenue for progress, though it is forcefully resisted by Morocco, which is not a member of the AU. The role of the AU and African leadership within the UN in New York remains critical to this end.

On 28 April 2015, the UNSC extended MINURSO’s mandate for another year with no significant changes to the previous year’s text, despite language proposed by African members of the Security Council (Angola, Nigeria, and Chad) to the Group of Friends of Western Sahara (France, Russia, Spain, UK, US).¹¹ After the vote, Venezuela, Malaysia and China called for more transparent and inclusive negotiations in the future, including allowing proposals from concerned members of the UNSC and input from strategic UN allies (AU). A press statement from the AU Peace and Security Council reiterated the need for AU/UN cooperation on Western Sahara, signalling that it plans to remain involved in the resolution of the conflict.

7 See: UN Doc. S/2002/178, para. 48.

8 See: UN Doc. S/2004/325.

9 See: UN SC Resolution 1754 (2007).

10 Para. 94; S/2014/258.

11 See: SC Resolution 2218 (2015).

Transdniestria: no longer forgettable

Background

In July 1992, a ceasefire agreement ended violence between the central government in Chişinău, Moldova and the breakaway region of Transdniestria. In clashes which followed the break-up of the USSR, approximately 300 people were killed and around 100,000 were displaced. Transdniestria broke away amidst fears of the unification of Romania and (parts of) Moldova and the impact on linguistic minorities, some continued affinity with Soviet ideals, and territorial competition.

Transdniestria has since existed as a *de facto* independent but unrecognised entity (it has been recognised by only South Ossetia and Abkhazia). Since 2005, it has had the status of autonomous territorial unit under Moldovan law. It is heavily dependent on Russia, which provides direct economic aid, security and citizenship to many residents of Transdniestria. The territory borders Ukraine as well as Moldova and contains Russian, Ukrainian and Moldovan/Romanian-speaking populations, and smaller minorities.¹²

Since the ceasefire agreement, tensions have concerned the management of a demilitarised zone, including peacekeepers from Transdniestria, Russia and Moldova. The deployment of Russian peacekeepers and, separately, the deployment of other Russian troop contingents are seen as a threat by many in Moldova and Romania. Equally, tension has resulted from occasionally inflammatory rhetoric from nationalists in Romania calling for unification of Romania and Moldova. Language issues, for example attempts to close Romanian-language schools in Transdniestria, and one-off incidents such as the killing of a Moldovan in Transdniestria in early 2011, have also led to periods of heightened tension.

Despite these tensions over the years, the conflict over Transdniestria was until recently considered the easiest to resolve of the frozen conflicts because the parties themselves were willing to engage, and there were not significant legacies of violence. Constitutional settlement was always a sticking point, however.

Current sources of tension

Since the crisis in Ukraine, the conflict over Transdniestria has been rapidly rising up the international policy agenda. There is a need for international initiatives to reduce tension and use the new prominence of the conflict to tackle some of the unresolved problems. The interpretation by many mainstream commentators of the Ukraine crisis as a battle for influence and the accompanying 'New Cold War' rhetoric has led many to question whether Moldova-Transdniestria will become the next site of the conflict. That said, Russia has never recognised Transdniestria, despite its financial and security support.

Within Moldova, a protracted political crisis was recently ended by the formation of a new government, following elections in November 2014. A corruption scandal led to the collapse of the previous government in 2013. Both Moldova and Transdniestria are considered very corrupt by their own populations and international observers. Widespread corruption limits trust in politicians while hindering economic development.

Moldova's aspirations to join the European Union founder on Transdniestria's status. Compromises were found to facilitate Transdniestria's involvement in trade relations, but deeper integration will be difficult because it involves adoption of and compliance with EU law. In the long-term, it is hard to see how Moldova can join the EU with unresolved territorial issues, following wide criticism of the accession of Cyprus. The new government in Moldova has reiterated its commitment to the EU integration process; Moldova remains the biggest recipient of EU neighbourhood funds, per capita. After the

¹² Around 30% each of Moldovans/Romanian-speakers, Ukrainians and Russians according to the 2004 census; the full results of the 2014 censuses in Moldova and Transdniestria are not yet public.

debacle with Ukraine, the EU is also committed to ensuring that the association process with Moldova remains on track.

Why has it been ‘forgotten’ (for so long)?

First, the status quo – the freeze – was of benefit to some of the conflict parties. For Russia, it provided a reason to deploy peacekeepers in another region of Europe, and the Transdniestrian authorities could operate as a *de facto* state. The situation did not worry the political elite of Moldova, where the population was more concerned about economic development.

Second, the situation did not interest many international players. Most European countries prioritised conflicts that were considered to be of greater strategic or economic importance, that provoked higher levels of violence and suffering, and in response to which powerful diasporas and other interest groups demanded action. Within the EU, there was limited interest and understanding of the situation in Moldova–Transdniestria.

Third, the economic costs of the continued conflict,¹³ and associated human rights abuses, are not seen as significant enough to merit attention. High levels of migration and trafficking are linked to the conflict but in complicated and indirect ways which make it harder for policy-makers to act (compared, for example, to visible migration from conflicts in the Middle East, which generates more political attention).

Fourth, in the two territories, there has not been great popular demand for resolution of the conflict. In Moldova, opinion polls consistently show that conflict resolution is a low priority for most; it barely featured during the 2014 election. Research, such as is available, indicates the same for the population of Transdniestria.

Assessment of mediation efforts

Mediation has been attempted sporadically since 1992. The official ‘5+2 process’ is led by the Organization for Security and Co-operation in Europe (OSCE), which mediates in partnership with Ukraine and Russia while the EU and US act as observers. The main purpose of the OSCE mission in Moldova is the resolution of the conflict over Transdniestria. The most fruitful phase of mediation was 2011–2013, when talks re-started following a six-year hiatus. The 2012 OSCE Chairmanship-in-Office of Ireland had conflict prevention and resolution as its main objective. The prior involvement of Germany (and Russia) in laying the ground for the revival of the talks through the Meseberg Memorandum was also important in showing support for the resolution efforts of major European powers.

In 2012, the parties agreed on an agenda including socio-economic, legal and humanitarian issues and human rights, and a comprehensive settlement (including institutional, political and security issues) and a format for discussions. Talks began and some progress was made on practical issues (such as transport infrastructure, trade and telecommunications).

Linked to the formal process, 11 expert working groups were created in 2008 with members from both conflict parties cooperating on technical issues. Yevgeny Shevchuk, Transdniestrian President elected in 2011, set out a ‘policy of small steps’ for Transdniestria which is also an apt description of the process as a whole. NGOs are managing confidence-building processes at Tracks 1.5 and 2. For example, Crisis Management Initiative (CMI) convenes a group of senior independent experts and officials in an ongoing dialogue (and also supports some of the expert working groups). PATRIR’s Moldova Country Programme focuses on widening inclusion and the transparency of the peace process.

Mediation has not led to a ‘resolution’ of the conflict or of its most problematic manifestation – the continued division of the territory and uncertain status of Transdniestria. While compromises have allowed for circumnavigation of the status issue (such as in trade cooperation), no solutions to the fundamental

¹³ See for example PATRIR’s work on making visible the social and economic costs of the conflict (www.patrir.ro).

constitutional questions have been found. The deeper causes of conflict – identity, governance and geostrategic competition – have not been definitively tackled. Thus, many commentators are negative in their evaluation of mediation efforts.

However, on the positive side:

- violence has been limited to sporadic and small-scale events in the 20+ years since the ceasefire
- mediation has led to practical and technical progress in the relationship between Moldova and Transdniestria
- Transdniestria has not been isolated in the manner of many breakaway entities, with contact continuing at many levels (through confidence-building measures, expert-level discussions, and daily life).

Conclusions: lessons for mediators

Do ‘forgotten’ conflicts reflect daring below-the-radar mediation, or are they cases of mediators floundering without adequate political backing? Comparing forgotten and non-forgotten conflicts illustrates the importance of resources, political attention, multi-track engagement, and the provision of incentives for all parties to the conflict. We offer the following eight specific learning points for mediation in ‘forgotten’ conflicts.

- 1. Engagement is usually worthwhile.** Mediation efforts that do not resolve the conflict may be seen as unsuccessful – but the bigger picture is more complex. Any engagement that can prevent the isolation of a territory and the total breakdown of contact (and potentially trust) between populations has value. At the political level, this may require a strategy of ‘engagement without recognition’ (meaning that contact continues in some form but does not imply formal recognition).
- 2. Public attention is important.** The conflict in Western Sahara, along with many other forgotten and frozen conflicts, would benefit from an enhanced public profile. In this case, the plight of Saharawi refugees awaiting the long-promised referendum should be recognised. The legal and practical issues involved are in many ways straightforward, and a public outcry in countries with the ability to influence the conflict (the US, France, Spain) may go a long way to assist mediation efforts towards ending this conflict. However, some kinds of international attention will not necessarily have a positive impact on internal conflict dynamics, as the case of Transdniestria may come to demonstrate.
- 3. Mediation in forgotten conflicts requires great patience and creativity.** Mediators involved in conflicts lacking political attention and resources face many frustrations. They are constrained in terms of the incentives, benefits and threats they can put to conflict parties in negotiations. These factors should be considered in the choice of mediator and supporting institution, and in the duration of mandates.
- 4. Irrespective of power politics, equal treatment of parties is important.** In the case of Western Sahara and other forgotten/frozen conflicts involving non-recognised entities, the UN has failed to play the role of honest (impartial) broker. For Western Sahara, over time, the UN has compromised its apparent role as peace-broker by failing to implement previous agreements, and allowing Morocco to take advantage of its status as a full UN member. This leads to a wider point: impartiality is a principle key in mediation but while mediators may (seek to) be impartial they are not always disinterested. That is, they bring their own interests to the table. This does not necessarily mean that they are biased in favour of one of the conflict parties but rather that they gain other benefits from their position, such as resources, publicity, or recognition.
- 5. Veto-wielding may indefinitely block resolution.** Subjecting an international dispute to the decision-making of a UN body in which one or more members has a veto power allows parties to a

dispute to rely on supporters and proxies to avoid pressure to reach a solution. This is also the case for non-forgotten conflicts, of course, where vetoes are also used to block progress. On Western Sahara, a more robust involvement from the African Union might help to create pressure for progress.

6. **Mediation needs to be broader, targeting all conflict parties.** The two cases show that conflicts can be exacerbated by external actors, who may also block attempts at resolution. However, the interplay between local tensions and external interests is often at the heart of conflict. In addition, purely external factors, such as geostrategic competition, may lead to conflict. In many conflicts, there is now a proliferation of mediators working with the immediate conflict parties at Tracks 1, 1.5 and 2; less effort is expended on engaging the external actors, who should also be treated as conflict parties. If they are engaged it will often be as “facilitators” or “observers” and exclusively at Track 1 level. Thus, mediators need to assess and target all the parties to a conflict and design formats to engage them. This relates to the wider issue of systemic inclusion of external causes of conflict in analyses and strategies. Powerful external players may include regional powers and neighbouring states, but also multilateral institutions, multinational companies and transnational organised criminal networks.
7. **Helpful spillover effects might be elusive.** Dialogue on certain issues does not always have a positive effect on other issues. The example of Transdniestria shows that dialogue and progress on issues such as transport or customs did not have an impact on the ‘big ticket’ issue of recognition (other cases, including Kosovo and Taiwan, also illustrate this). It is often hoped that starting with less contentious ‘technical’ issues will lead to trust developing between the parties, making it possible to tackle the ‘difficult’ issues such as status, constitutional settlement, and abuses. Unfortunately, this does not always happen.
8. **Conflict resolution may be an impossible ideal.** Mediation can have different objectives, including conflict resolution, conflict management, and stabilisation. The objectives shape the strategy, activities and resources deployed by mediators and also, crucially, the definition of success. Within peacebuilding, following John Paul Lederach, the consensus has been to favour a conflict transformation approach, according to which one objective is to transform the expression of conflict away from violence. In some conflicts, transformation or resolution may appear impossible, due to the intransigence of parties, incompatibility of positions, legacy of abuse, or the potential benefits of conflict. There might also be practical or ethical reasons to pursue a strategy of containment, depending on the likely impact of violence re-emerging. Therefore, minimising violence and containing the conflict may be the only viable strategy. It should be noted, though, that there are also costs associated with maintaining the status quo, which should be taken into account.

Mediators working in forgotten conflicts face a series of dilemmas, not least the question of amelioration versus transformation, resolution and justice. They also often face opposition from those who benefit from the status quo, and this requires resilience and pragmatism on the part of mediation teams. There may be more that the mediation field as a whole can do to tackle forgotten conflicts – by providing support for colleagues engaged in these arenas, and also by looking at how to expand mediation efforts to bring in *all* conflict parties. Finally, practitioners could also consider a better division of labour, at a time when some conflicts are inundated with mediators and others are overlooked.