

# Local Conflict and State Fragility: Supporting Local Mediation in the Philippines, Kenya and Libya<sup>1</sup>

## Introduction

In the broad field of conflict management, international attention tends to focus on conflicts between states, or larger overtly political<sup>2</sup> intra-state conflicts that threaten the stability/viability of the state itself (for example, coups, civil wars, revolutions, separatist conflicts and insurgencies). A ‘capital city’ viewpoint suggests conflicts far from the centre of power are less important, and indeed beyond the scope of international mediation support. But these conflicts, especially if they persist over decades, can also be markers of (and contributors to) state fragility. At these local levels, particularly, the capacity of the state to respond is often limited and force is very unlikely to produce durable solutions. Indeed, state attempts at military/police conquest often only make things worse; just as at the national level, durable local solutions require viable and broadly-accepted local systems for the non-violent management of grievances and competing claims. To strengthen all levels of governance, local systems must connect appropriately with the overall state structures. External support for local mediation processes is thus always only part of much bigger state-building objectives. But that part can be important in reducing the risks of conflict and, hence, state fragility.

This paper outlines three examples where the Centre for Humanitarian Dialogue (‘HD’) has worked to assist local actors in the mediation of local conflicts. These examples, in chronological order of involvement, are from the Philippines, Kenya and Libya. The paper analyses the nature of the local conflicts, including pre-existing conflict management mechanisms, and outlines HD’s role in supporting these efforts. The paper concludes with observations regarding the role of international actors in responding to local conflicts.

## 1. Sulu – Southern Philippines

Throughout its modern existence, the Philippines has grappled with local conflicts including a communist insurgency, Muslim-based separatist struggles in and around Mindanao, and conflicts between localised militia of various hues. The eight-year contribution of HD in assisting with the ongoing mediation of the Mindanao issues is relatively well known. In 15 October 2012, the Moro Islamic Liberation Front (MILF) and the Government of the Republic of the Philippines (the Government) signed a framework agreement that may prove to be a landmark in the peaceful resolution of that conflict situation. Less well known is HD’s mediation role in the complicated localised conflicts in Sulu.

The history of this region is complex. The March 2013 armed attack (in the name of the Sultan of Sulu) on a local region in Sabah, North Borneo, claiming back territory passed to Malaysia in the 19<sup>th</sup> century, is a sharp reminder that this history remains relevant, at least to local armed groups. Suffice to say that quite apart from conflict connected with Muslim separatism in the region, the Sulu archipelago has long been on the fringe of central state control: it is notorious for smuggling, piracy and abductions. HD first became involved in Sulu in 2005 at the invitation of the Government to establish mechanisms and facilitate dialogue

1 This paper was compiled by the following HD Centre staff members involved in the processes: Michael Frank Alar and Vandrazel Birowa on Sulu; Andrew Ladley on Kenya; and Christopher Thornton on Libya. The authors would like to thank all who have commented and contributed to the analysis, as well as all those involved with the projects discussed.

2 Armed threats from organised crime are increasingly merging with more explicitly political violence (for example, in parts of West Africa) but are not discussed here.

between the Government and the Moro National Liberation Front (MNLF). However, as HD's engagement in Sulu deepened, it became apparent that clan conflicts were causing more deaths and presented more pervasive security threats than the sporadic skirmishes between the Armed Forces of the Philippines (AFP) and the MNLF. This was largely due to the fact that disagreements between individuals in Sulu often turned into armed violence between families, as people have strong family links and easy access to guns. Given the failure of state institutions to provide effective security and justice mechanisms, the Tausugs (the main tribe in Sulu) rely heavily on their clans who, in turn, rely on arms as well as political alliances to ensure their survival and protection. In addition to the police and the Philippine Marines, arms are held by the MNLF, kidnap-for-ransom organisations (for example, Abu Sayyaf), the private militia of local politicians, and most of the population.<sup>3</sup>

In this context, in 2009 the HD Centre and the Office of the Mufti of Sulu worked in partnership to form the Tumikang Sama Sama (TSS or 'Moving Forward Together'), a small body of respected local individuals who help resolve clan conflicts in Sulu. Its permanent members are from the religious sector, academia, the community and even the MNLF. The non-permanent members are usually identified by the communities affected by the conflict or by the parties themselves, often during community gatherings organised by HD. Their link to the parties, as well as their status or credibility in the community, allows the non-permanent members to shuttle between the two sides.

Volunteers in each of Sulu's 19 municipalities complement the work of the TSS and form the backbone of HD's early warning system. The volunteers monitor ceasefire agreements between clans undergoing mediation by the TSS. They send daily incident reports to HD's Secretariat in Sulu, which passes these to the TSS and its partners from the local government and the security sector (police and army). These partners initiate early responses, should the reports indicate a move towards violence. This close connection with the formal security sector is the key to HD's continuing presence on the ground in Sulu. All expatriates were expelled by the military following the kidnapping of ICRC staff in 2009 and HD is the only remaining international NGO in Sulu. The office is run by local staff. A recent example of how the systems work occurred in January 2013 when the Secretariat and volunteer monitors mobilised to contain an outbreak of violence between the MNLF and Abu Sayyaf. They provided the means for communication between the MNLF and the armed forces and coordinated with the army and the MNLF to open a corridor for humanitarian assistance for the wounded and displaced.

It must be noted that there have long been local ways of dealing with clan conflicts. In the context of Sulu, where armed conflict is a commonplace reality that exists alongside indigenous resolution mechanisms, HD's role has been to support clan conflict mediation led by the TSS at each step of the process. The role includes assessing conflict risks, ensuring that local mediators are acceptable to all sides, providing logistical support, keeping open channels of communication (including with local police/military/state structures), establishing and monitoring ceasefires and other agreements, facilitating traditional ceremonies, and assisting with mediation training and workshops for local eminent leaders. One highlight of HD's involvement concerns facilitating settlement ceremonies, but it has been essential to make clear that HD does not assist with the actual compensation to victims' families/clans.

## Key lessons

In 2012, HD assisted the process that led to the signing of a framework agreement between the Government and the MILF. Further discussions are underway, but the goal is a political settlement to end the conflict in Mindanao through the enhancement of local autonomy. Meanwhile, in the Province of Sulu, HD also assisted the TSS in mediating at least 20 local conflicts in 2012 alone (and many more in previous years). In the context of Sulu, it would be bold to assume that these local arrangements will prevent future violence. But each is a building block in the national structures of non-violent dispute resolution and each has already produced more secure arrangements for the local inhabitants. Perhaps most importantly, HD's involvement has fostered working links between traditional conflict resolution mechanisms and state institutions at the local level. Using and enhancing local mediation capacity has helped the communities build alternatives to

3 Oreta, J.S. and Tolosa, K.A.S., *Pagpati'ut: Mediating Violence in Sulu*, (Centre for Humanitarian Dialogue, 2012), pp.37-38 available at [www.hdcentre.org/publications](http://www.hdcentre.org/publications).

the deep-rooted culture of violence. It has also contributed to the national policy of reforming the security sector by transforming relationships between the communities and the military.

In the longer term, the hope is that these processes will help build responsive local government, police and judicial structures. In the short term, they also reduce the risk that localised violence will escalate, which would potentially threatening the wider peace process in Mindanao and the Philippines state as a whole.

## 2. The Nakuru County Peace Accord in the Rift Valley, Kenya

The link between conflicts in a local area and concerns at the national level is even more acute in the Kenyan example. Here, HD assisted with the mediation of a local peace agreement between the two main tribal groups whose followers had been involved in the worst of the post-election violence in 2007/2008.

Following the disputed General Election in December 2007, two months of widespread violence racked Kenya. Some 1200 people were killed and several hundred thousand people were displaced in waves of political/tribal attacks and retaliations. The violence was especially acute in the Rift Valley, situated west of Nairobi – and particularly in one area called Nakuru County. The two major tribal political protagonists in that area have long been the Kikuyu and Kalenjin tribal groups. The events of 2007/2008 were not the first incidents of elections-related violence in Kenya (or in the Rift Valley), but their scale over that period brought the country to a standstill and affected the wider region. At the national level, in February/March 2008 a political settlement was brokered by the Kofi Annan-led African Union Panel of Eminent African Personalities (with HD providing on-site technical support). This settlement produced a power-sharing agreement (with several sub-agreements) and, over the next years, a substantial programme of constitutional and institutional reform. Humanitarian elements of the crisis were also addressed in the agreements, although five years on tens of thousands of families remain displaced, particularly in the Rift Valley.

Among the key institutional reforms emerging from the 2008 political settlement (which eventually also appeared in the revised 2010 Constitution), was the National Steering Committee on Peacebuilding and Conflict Management (NSC<sup>4</sup>) and the Kenyan National Commission on Integration and Cohesion (NCIC). As the Commission's name suggests, its purpose is essentially to reduce tribal/political violence by fostering a common set of values. One of its first major projects was to address the conflict between the Kalenjin and Kikuyu that had been at the centre of the 2008 violence. If this could be addressed, it was reasoned, it might provide an example for the rest of the country.

Over some 18 months, between March 2011 and August 2012, the NCIC and the NSC brought together key Elders from the Kalenjin and Kikuyu communities to begin a dialogue. The first sessions were, predictably, characterised by distrust. Some Elders later recounted that they would not even close their eyes for opening prayers, they were so suspicious of the other side. Anger, pain and distrust gradually reduced, and relationships developed as participants unmasked myths. Quite early on, the NCIC brought HD in as an impartial technical interlocutor to assist in pulling the discussions together to produce a tangible agreement and to progress implementation. In March 2012, two days of mediated discussion produced a draft Nakuru County Peace Accord. The Elders agreed that their respective 'steering committees' would then take the draft back to their communities for discussion and endorsement over the subsequent months.

This process faced several challenges. Some were 'internal', including from rival tribal Elders influenced by local political complexities. Others were from groups who feared being left out (women, young people, different tribes). The local public sector appeared to support the process initially, but then kept its distance, waiting for clarity from the political establishment. Each of these challenges was addressed by talking through the terms of the document itself (which were universally welcomed) and by further inclusion of these groups into the process. By the time the Accord was ready for signature, the process of inclusion had become embedded in the document, including in the somewhat unusual provisions for signing as founders,

4 The NSC was also established after the post-election violence, essentially as a visible security sector (police, intelligence, military) structure with known field officers in each area, linked throughout the country and expected to identify high risk areas in advance.

joiners, welcomers and witnesses. Whatever their initial scepticism, endorsement emerged from almost every community and public figure that read the document. Remarkably, it seemed to ‘speak to all’.

A key challenge throughout the process was how to handle current politicians and representatives of the formal state sector. The Accord was always intended to be an agreement between communities. Political representatives, the local police and the District Commissioner were informed, but not made actors. Indeed, almost every time the Elders tried to consult or engage with politicians (including simply to witness the signing ceremony), the complexities of Kenya’s politics threatened to delay or derail the process. Although the Accord had no overt party political connections, it was always recognised that the historical context of most of the previous violence had been electoral. A key goal of the Accord, therefore, was to diminish the ability of candidates to ‘drum up’ ethnic violence before, during and after future elections.

In terms of its content, the Accord acknowledged the suffering and destruction that had resulted from political violence in Nakuru County, essentially every five years since the early 1980s. Communities took their share of collective responsibility for that violence and established a set of principles reflecting their determination that there would never again be such violence. The 10-point ‘code of conduct’ in the Accord tightly summarised aspirations for a political system of peaceful competition, where elected persons govern for all, and where no community or person is permanently excluded.

Despite the success in getting the Accord signed, it proved impossible for the NCIC to replicate this process elsewhere in Kenya before the 2013 election, mainly because of the 18 months it took just to get this one finalised. However, this does not mean that the process was not influential elsewhere. It was widely cited, including by leading politicians, and the key participants were taken to several different localities in the Rift Valley to explain to other communities how they had reached peaceful accommodation with each other.

In March 2013 Kenya held peaceful general elections – including in Nakuru County. The winning Presidential team was headed by a Kikuyu (Uhuru Kenyatta) and a Kalenjin (William Ruto)<sup>5</sup>. It is, of course, impossible to judge how responsible the process that produced the Accord was for the absence of violence in Nakuru County in 2013, given the wider constitutional and other reforms as well as the widespread rejection of electoral violence in Kenya as a whole, and the political alliance between Kenyatta and Ruto.<sup>6</sup>

## Key lessons

For all that the Accord helped to build trust, reduce tensions and (possibly) to reduce violence around the elections, actually it proved extremely difficult (despite donor requests) to address head-on the substantive issues underpinning violence in the Rift Valley. This was not a failure so much as a limitation that became clearer as the process continued. These issues, including land ownership, use and settlement, are actually national issues. They are mentioned in the Accord – but tackling them would require much more than a local community process.

Even with this limitation, the Nakuru process suggests that community level peace processes can achieve a measure of local peace and even contribute to the national scene in significant ways. However, it is critical to devise strategies to manage the connections with wider political processes that can potentially derail the project. It took time, goodwill, remarkable co-ordinators from each community, and the driving force of a key national institution (the NCIC) to make this peace Accord work, even in one County. This showed the resources required for such a process and the limitations even of the NCIC.

5 As is well known, these two political leaders have been indicted by the International Criminal Court for their alleged roles in the 2008 violence.

6 One could go further in speculating about the relevance of this Accord. The agreement between Kenyatta and Ruto to stand together was announced in Nakuru city, explicitly citing the Accord. Many candidates apparently referred to the spirit of the Accord and promised to uphold its terms.

### 3. Local Mediation in Libya

The Libyan example also involves elements of local and traditional processes interacting with the modern state. However, in this case, traditional mechanisms have adapted to fill the vacuum left by the collapse of the Qaddafi regime in a highly-armed society with weak state security structures. The Elders or wise men (*Hukama*) are the centerpiece of this spontaneous response. HD's involvement in Libya is at a more nascent stage than in the other cases discussed, but the organisation has similarly tried to support pre-existing mechanisms.

Tribal leaders and religious notables have long had an important role in resolving disputes in Libya. These *Hukama* have historically adjudicated disputes over land, marriages and divorce, accidental death and many other issues both within, and between, families and tribes. The authority of the *Hukama* is often derived from their status as tribal leaders, but can also emerge as a result of wealth, social activism and religious authority. The role of these Elders remained prominent throughout the reign of Colonel Muammar Qaddafi. However, while the development of the institutions of a modern nation state, particularly the judiciary, in Western Libya attenuated the influence of the *Hukama*, the systematic neglect of Eastern Libya by the Qaddafi regime meant that communities in these areas continued to rely heavily on traditional dispute resolution mechanisms. Qaddafi tolerated, and even encouraged, the continuation of these practices. This accorded with his system of patronage and control along tribal lines as well as his glorification of Bedouin culture and the “Bedouinisation” of Libya's cities. Due to this history, the dichotomy between the modern political elites and traditional leaders is not as prevalent in Libya as in other countries in the region: for example, an individual can be both a Supreme Court judge and play an active role as a tribal Elder.

In some respects, therefore, the role of the *Hukama* in post-revolutionary Libya can be seen as a continuation of their pre-revolutionary role: Elders still adjudicate family and tribal disputes and award compensation for victims of perceived wrongdoing. However, in other respects the Libyan revolution precipitated a profound modification of both the role, and sources of authority, of these traditional leaders. The collapse of state institutions has dramatically increased the role for traditional leaders in Western Libya.

Moreover, due to the absence of state security structures and the widespread proliferation of arms, the *Hukama* are also being asked to intervene in conflicts that are incomparably more violent than those they had encountered prior to the revolution. As many of the more protracted conflicts now take place in Libya's border regions, these conflicts also have a major impact on regional stability.<sup>7</sup> Furthermore, as in the other cases discussed, while the problems manifest themselves locally, the issues driving the conflicts (including citizenship and minority rights) typically require solutions at the national level.<sup>8</sup>

The Elders responded admirably to these new demands. Initially, this response was spontaneous and uncoordinated: when fighting broke out in a particular locality, several unconnected individuals would travel to the area and begin discussions with (usually) the Elders of the conflicting parties (and, less often, the military commanders themselves). Gradually these many mediations would coalesce into a single mediation process and an agreement would emerge. The Elders' approach would rely heavily on their moral authority and would be more akin to arbitration (holding hearings and then issuing ‘rulings’). Particularly, religious prohibitions of violence form a central component of the Elders' approach. Finding sustainable and just responses to the grievances of the parties has tended to take a back seat. Consequently, while the Elders have proven effective in stopping fighting, the arrangements often break down fairly quickly when the Elders leave the conflict zone.

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7 Libya has a significant Tebou population, who are also found in Chad, Niger and Sudan. The Tebou are involved in conflicts in Kufra and Sabha. Major Tuareg populations are found in Libya, Algeria, Mali, Niger and Burkina Faso, with smaller groups in Morocco and Tunisia. The Tuareg are one of the parties to the conflict in Ghadames, among others. The Amazight also have populations in neighbouring countries, but this dimension has been less prominent in the conflicts involving this ethnic group. The role of former Qaddafi loyalists living in neighbouring countries in some of the local conflicts is much discussed, but remains very unclear at present.

8 For more details see Kane, Sean William and Gluck, Kenny, “Mediation after Revolution in Libya”, *Oslo Forum Briefing Paper* (Geneva: Centre for Humanitarian Dialogue, 2012).

As this process of mediation was repeated in several locations, there were early attempts to coordinate and structure the work of the Elders. Firstly, several bodies, including most importantly the *Lignat Al-Hukama*, were created. In the early summer of 2012, the *Lignat Al-Hukama* was registered as a “civil society organisation”, endorsed by Mustafa Abdel Jalil the head of the National Transitional Council, and renamed the *Majlis al-Hukama*. Just after national elections in July 2012, Libya’s interim Government created an entity to unite the different Elders’ councils: the so-called *EtiHAD Majalis al-Hukama wa Shura*. While this Government-endorsed organisation was initially less active on the ground than the informal bodies, it has since become more active and gained credibility. All of these entities are loose umbrella organisations which break down and coalesce on a regular basis, and have no real administrative structures. They focus around a few active core members and there is often overlap between the members of different organisations. Moreover, the Elders of the conflicting parties are often incorporated into the organisation upon agreeing to a truce or ceasefire, swelling membership but diluting the pool of active mediators in these organisations.

Evidently much could still be done to improve and support the Elders’ efforts. Co-ordination between different mediation attempts, as well as coordination with other actors such as the Government, security forces and civil society, needs to be improved. Mediation processes often produce recommendations whose implementation is beyond state capacities, contrary to national legislation, and in conflict with key national political processes. More attention could also be paid to conflict analysis and the mapping of conflict actors, as well as questions of timing and preparation for multilateral negotiations. As regards basic processes, a better understanding is needed of the respective places of adjudicated processes (that depend for their effectiveness on such factors as law, legitimacy, reasoning and authority) and negotiated settlements (that depend on the full and informed consent of the parties). Perhaps most importantly, the Libyan state must begin to respond more constructively to the demands of marginalised communities in areas of local conflict to support the efforts of the *Hukama*.

Some conflicts are obviously not amenable to the type of mediation which the *Hukama* can offer. In some cases, the Elders ostensibly side with one party over another, drawing their impartiality into question. This loss of impartiality, whether actual or perceived, is the death knell for many mediation processes, local or otherwise. The Elders have also found it difficult to respond effectively to extremely asymmetric conflicts. Where one side is defeated and cannot present any military threat, ‘weak’ mediators (including organisations such as HD) without ‘carrots and sticks’, may find it impossible to incentivise the stronger party to make the necessary concessions and compromises for a mediation to be successful.<sup>9</sup> This principle applies to the *Hukama* as much as to other types of mediator.

Despite the challenges involved, it is evident that the *Hukama* remain the most effective means in the current context to respond to inter-communal conflicts in Libya. They are embedded within Libyan culture and share the vocabulary, perspectives and norms of the conflicting parties. They often enjoy the trust of conflicting parties and have a legitimacy to intervene in these conflicts which an international actor operating on its own always lacks.

Although it is neither feasible nor efficient for international organisations to engage directly as mediators in the local conflicts which continue to destabilise Libya, HD has found that it does have a role to play in supporting the *Hukama*. Largely at the request of the Elders and the Libyan authorities, this has taken the form of capacity-building and training. HD has brought in international experts and others with comparative expertise to reinforce core messages and advise on mediation practices.

The HD Centre has found that the most effective approach has been to accompany mediation processes by working on specific cases with Elders to analyse the conflict jointly, to map the actors, and to devise strategies and options. It has also offered logistical and financial support to mediation processes, which reduces the burden previously borne by the Elders themselves. The Centre has supported the Libyan state in rebuilding its role in resolving local conflicts, including by providing advice and technical assistance to the Crisis Committee established within the Prime Minister’s Office and working closely with relevant official entities.

9 Kane, Sean William and Gluck, Kenny (2012), above.

In terms of results, while no statistics are kept, the *Hukama* have dealt with countless disputes and prevented/reduced dozens of conflicts through timely adjudication of inter-communal issues, mediating ceasefires and the cessation of hostilities. They have been less effective in finding long term solutions to protracted local conflicts.

## Key lessons

The state is slowly being rebuilt in Libya, as is its capacity to settle disputes. To varying degrees, local judicial and mediation mechanisms survived the Qaddafi period and re-emerged to fill the post-revolutionary vacuum. The HD Centre is working to support these locally-rooted processes, attempting to make them more effective and ensure they are co-ordinated with the Libyan national authorities. This is not the classic state-building model for 'rebuilding the judiciary' (as compared to Bosnia, Timor-Leste and Afghanistan), but perhaps something more realistic for Libya in the short term. It suggests that under the right conditions, international efforts should focus on augmenting the positive and mitigating the negative aspects of traditional mechanisms.

Although it is too soon to say what role the *Hukama* will play once the central state becomes stronger, for the immediate future they are critical 'managers' of conflict in Libya. In situations of state fragility, this type of traditional mechanism, although imperfect, may play a key role in avoiding deterioration into chaos and state failure, and should therefore be supported.

## Conclusion

International organisations working on conflict issues look to processes as well as results. For those involved in practical mediation, one important consideration is how much to engage with a particular dispute (or an area of disputes), as opposed to supporting/building more 'system-wide' processes. The HD Centre's mediation and support for local conflict-resolution in the Philippines, Kenya and Libya, suggests that whilst these considerations must be constantly re-evaluated, they are not alternatives. Under the right circumstances (including sufficient resources, safety and consent), international support might:

- foster the work of relevant local traditional mechanisms and actors;
- train/assist local actors (who may lack confidence, technical expertise, capacity, or even willingness) in conflict management;
- help build local, rule-based, and peaceful alternatives to violence;
- help local dispute resolution processes to complement wider constitutional, state-building (or rebuilding) laws and processes;
- help local mediators/institutions to link more effectively and communicate with the national authorities, other international organisations, development agencies and, if appropriate, foreign governments;
- promote international assistance that is better informed and more willing to engage at local levels;
- reduce risks that local issues/conflicts will escalate and exacerbate state fragility;
- improve local stability, provide better conditions for development and perhaps even save lives.