

The mediator's moral dilemma: An essay in memory of H.W. van der Merwe

*Andries Odendaal**

‘Today, with a democratic government in place, it is hard to remember how unpopular concepts such as negotiation and conflict resolution were even a decade ago.’ H.W. van der Merwe, who wrote this in 2000 (110), was referring to the situation during the 1970s and 1980s in South Africa. The then South African government and the liberation movements both shared a common distrust of ‘mediators’ or peacemakers. The government had banned the liberation movements. Establishing contact or facilitating dialogue with these movements was not only illegal, it was treason. The liberation movements similarly rejected peacemaking. The reigning slogan was ‘justice before peace’; and the dominant strategy non-collaboration and armed struggle. Would-be peacemakers, in their opinion, diluted their resolve to achieve victory.

* Dr Andries Odendaal is a Senior Associate at the Centre for Mediation in Africa at the University of Pretoria. He also serves on the Expert Panel of the Bureau for Crisis Prevention and Recovery of the United Nations Development Programme and the Mediation Roster of the Mediation Support Unit of the United Nations Department of Political Affairs.

Possibly his greatest contribution to the field of mediation¹ in South Africa was the manner in which H.W. van der Merwe established, in the face of this huge distaste for mediation, its validity and integrity. He was Director of the Centre for Intergroup Studies at the University of Cape Town from 1968 to 1992, the period in South African history when the struggle for the liberation of the black people of South Africa from colonialism and apartheid reached its climax. Under his leadership the Centre played a pioneering role not only in using, but justifying dialogue, facilitation and mediation as mechanisms to address the conflict. A trained sociologist, Van der Merwe rooted his case for mediation not only in sociological and political theory, but also in religious thought and practice. The latter was important because, at the time, the debate was as theological as it was political.

A majority of South Africans wanted theological justification for their political action. It led to contradictory ‘theologies’: the theology of apartheid versus the theology of liberation. As in the case of the opposing political camps, these theologians had only contempt for those seeking to occupy the middle ground. The argument that enjoyed the moral high-ground, locally and internationally, was that justice was more important than peace, and that the evil of apartheid had to be overcome and did not deserve to be granted some respectability by engaging it in dialogue. Several important ecumenical declarations in the 1980s emphasised the moral and theological imperative for believers to take sides with the oppressed and poor.² Van der Merwe’s grounding of the integrity of mediation in religious faith was therefore highly relevant in the context of the time.

This short essay re-visits two aspects of Van der Merwe’s case for mediation. First, the concept of the complementarity of roles is discussed, and in particular his theological argument in this regard. The latter is still relevant today because, increasingly, religious leaders across Africa are called upon to mediate in political

1 ‘Mediation’ is used here in a broader sense, referring not only to the actual facilitation of negotiations, but to all the preliminary peacemaking processes needed to ‘get parties to the table’.

2 Most important were the Belhar Confession <http://www.upcsa.org.za/docs-archive/belhar_confession_with_letter.pdf>, and the Kairos Declaration <www.ujamaa.ukzn.ac.za/Libraries/manuals/The_Kairos_Documents.sflb.ashx>.

conflict, whether as members of national peace councils or by sole virtue of their moral authority in society. Religious leaders have, for example, mediated, or supported mediation, in national conflicts in Mozambique, South Africa, Lesotho, Malawi, Ghana and Sierra Leone (Odendaal 2013:1). In my own interaction with such mediators, often in the context of training events, I noted how they experienced the same inherent dilemma that Van der Merwe sought to address, and that his response still resonated with them. It is clearly an approach with enduring relevance.

Second, the essay re-visits Van der Merwe's expression and experience of the persistent tension between these complementary roles. There is no formula that allows an easy escape from the deeply complex moral and practical dilemma of mediators, especially those living in the context they are planning to change. The dilemma, in short, is whether to expose and confront injustices perpetrated by conflict parties, thereby risking alienating them; or, in order to find an inclusive solution, to seek to win the confidence of all actors and work with them towards an inclusive solution – at the risk of compromising the integrity of the mediator.

The complementarity of roles

Coercion (including violence) and cooperation (negotiation) are complementary aspects of the communication process between contending groups, even when at war. Communication is at the heart of conflict. Parties in conflict communicate all the time, whether by throwing bombs at each other, applying sanctions, hurling insults, or through constructive negotiation. The choice of 'communication strategy' is determined by a set of complex factors such as the structural inequality between the parties, ideological fixation, and practical, strategic concerns. In other words, parties may choose violent resistance over negotiation since they believe that they will be outmanoeuvred at the negotiation table because of the entrenched inequality of power relations; or because they are ideologically committed to the overthrow of the reigning governance system; or because they still have to consolidate their support base and cannot risk to be seen talking to the enemy.

This was the core of Van der Merwe's argument (1990:9–60). Contending parties communicate, and while coercive forms of communication are at times necessary (given the inequality in society), co-operative communication or dialogue is equally necessary. Both approaches are therefore necessary, and they complement each other. However, at times parties get stuck in unproductive modes of communication. Some actors develop a vested interest in the continuation of a conflict, while others become so entangled in their perspectives, prejudices and fears that they fail to identify and explore suitable opportunities for dialogue. Therefore the choice to cultivate and promote opportunities for dialogue between parties in conflict is valid and appropriate. It is not a choice against political activism or against the application of pressure against those guilty of injustice. It does not elevate the importance of peace above that of justice. The choice is rather informed by the reality that peace and justice are inseparable; that the pursuit of justice requires peace as much as the reverse is true. To force a choice between these options creates a false dichotomy that misrepresents the nature of conflict resolution and ignores the complex reality of the situation (Van der Merwe 1990:71). There is a need for coercion as much as there is a need for negotiation.

Van der Merwe's argument went further. Concomitant with the above political grounds, there are moral and theological reasons for mediation. Quoting Walter Wink, he concluded: 'Faith in God means believing that anyone can be transformed, regardless of the past. To write off whole groups of people as intrinsically racist and violent is to accept the very premise that upholds apartheid' (1990:93). In short, the facilitation of dialogue is a legitimate moral pursuit because its implicit objective is to enable the transformation of conflict actors – rather than the destruction of the 'enemy'. Dialogue seeks to break down stereotypes and end the demonisation of the enemy. The demonisation of the enemy refers to the way in which 'they', the enemy (or enemies), are frozen in public postures with no recognition of intra-party doubts, tensions, uncertainties and capacity to change.

Van der Merwe's personal history, perhaps, illustrates his convictions best. He was born into the Dutch Reformed Church (DRC). Since his early childhood, he said, 'I have tended to be religious' (2000:46). He married the daughter of a DRC

minister and was active in the church, inter alia as an 'elder' on church councils. In 1973, however, he resigned from the DRC, mainly because he had given up hope that the church would change its narrow identification with Afrikaner nationalism and its racist attitude and practices (2000:48). He also objected to its formality, its emphasis on dogma and creed, and, significantly, '...the fearful and depressing emphasis on original sin' (2000:48). The doctrine of the original sin of mankind stated that all human beings were conceived and born in sin, and thereby into enmity with God. Human nature was at its core perverted. Only an act of God's undeserved grace could 'save' a human being from the consequences of original sin. It was, therefore, a decidedly pessimistic view of human nature. He exchanged the DRC for the Quakers (or, more formally, the Religious Society of Friends). It was a drastic step. Apart from its political significance, it was a move away from a theology that emphasised the depravity of human nature to one with a positive affirmation of humanity.

The Quakers are possibly the most consistent pacifist denomination, at least within the Christian tradition. Their pacifism in the face of any expression of violence was rooted in their view that there was 'that of God in every man, the seed within, the Light within, or the Christ within' (Yarrow 1978:4). They believed that each person, notwithstanding atrocities or perversities that had been committed, carried a spark of the divine in him or her. The task of all believers was to respond to that spark and therefore to remain optimistic regarding human potential for change. The practical and political consequence of this belief was the Quakers' ability to build trust with all actors in a conflict and to maintain a level of impartiality and even-handedness. This did not mean that Quakers were insensitive to the suffering of people and injustices that were committed; it rather meant that, in spite of their abhorrence of such injustices, they developed empathetic relations with all actors involved (Van der Merwe 1990:93). Thus Van der Merwe developed strong personal relationships of trust with black activists, including prisoner Nelson Mandela and his wife, Winnie, as well as cabinet ministers and officials of the apartheid government. These relationships enabled him to facilitate significant encounters between protagonists.

In summary, the ability to create opportunities for protagonists to engage in dialogue and negotiation is a necessary and legitimate conflict resolution strategy

that must be pursued with conviction. The religious contribution to this understanding is the view that human beings are never totally depraved, but retain their human status and potential to change. As much as it is a legitimate religious imperative to expose and oppose evil, it is necessary not to write off the evil-doers, but to engage them in processes to bring about change. I heard Van der Merwe explaining this to various audiences by using the Biblical metaphors of the prophet and the priest (1990:3–4). The prophet courageously speaks truth to power. The prophet confronts and condemns. The priest, however, is a functionary of reconciliation, performing various rituals to symbolise and enact reconciliation. The priest reaches out to the distress of individuals and communities, and provides counselling and comfort. These two roles have equal theological legitimacy. They are complementary strategies and not mutually exclusive.

The enduring tension

The distinction between the complementary roles of prophet and priest (i.e. advocate/activist and mediator) emphasises the need for role-clarity. However, it does not resolve the underlying moral dilemma that mediators face. Ultimately both prophet and priest are committed to the same framework of principles. Put differently, even the priest cannot persist with preaching reconciliation in the face of a clear violation of all that is true and good. The mediator is never relieved of the dilemma of whether to risk alienating one side of the conflict by taking a moral stand against perceived injustices (and thereby risking his or her credibility and effectiveness as a mediator); or to risk jeopardising his or her integrity by not speaking out but, instead, building relationships of trust with all relevant actors.

In his own life Van der Merwe experienced ‘intense tension between [his] profound wish to be both mediator and advocate’ (2000:79). In his earlier life he was primarily an activist. He was a dissident within the DRC, eventually breaking away from the church; and as an academic he conducted research that highlighted the deficiencies and immoralities of the apartheid policy. There had been moments, such as in the early 1980s, when he tried to mediate between the Cape Town municipality and black persons who ‘squatted’ illegally in municipal

areas, but concluded that mediation was inappropriate because of the clear injustice being perpetrated and the absence of a will to change. He deliberately and publicly renounced his mediator role in that context and sided with the squatters to the point of standing in protest in the path of the bulldozers sent to destroy the squatters' shacks.

While it is therefore true that mediation is not a 'sell-out' solution – the kind of option for fence-sitters with no fortitude to make the hard choices – it is also true that, at times, mediation may be the wrong moral option.

The tensions and inner debates that Van der Merwe had to deal with in his own life continue to be debated today, inter alia in the course of the healthy debate on the compatibility (or incompatibility) of a human rights approach to conflict (which seeks primarily to hold perpetrators of injustice to account) and a conflict resolution approach (that emphasises the importance of peace and the obligation to work *with* all actors) (Dudouet and Schmelzle 2010). Perhaps the lesson to learn from the life of one of the pioneers of mediation on the continent is that the tension between the demands of peace and justice will endure; that we should embrace both objectives; that our specific choices will be subjective; but that no single choice has the sole right to claims of integrity and legitimacy.

Sources

- Dudouet, Véronique and Beatrix Schmelzle (eds.) 2010. Dialogue Series No. 9, Human Rights and Conflict Transformation. *Berghof Handbook for Conflict Transformation*. Available from <<http://www.berghof-handbook.net/dialogue-series/no.-9-human-rights-and-conflict-transformation/>>
- Odendaal, Andries 2013. The usefulness of national mediation in intra-state conflict in Africa. Mediation Arguments No.3. Working paper series of the Centre for Mediation in Africa, based in the Department of Political Sciences at the University of Pretoria. Available from: <<http://web.up.ac.za/sitefiles/file/46/1322/17295/Mediation%20Arguments%20No%203%20new.pdf>>
- Van der Merwe, H.W. 1990. *Pursuing justice and peace in South Africa*. London, Routledge.
- Van der Merwe, H.W. 2000. *Peacemaking in South Africa. A life in conflict resolution*. Cape Town, Tafelberg.
- Yarrow, C.H. Mike 1978. *Quaker experiences in international conciliation*. New Haven, CT, Yale University Press.

