

## Report on two Mediation-Workshops on Local Mediation

Kandy, Sri Lanka 26 – 31 May 2005

The current ceasefire in Sri Lanka is burdened with local political, religious and ethnic conflicts that have been slowly chipping away at the fragile situation. In an effort to promote non-violent conflict resolution Dr. Christian Schwarz-Schilling, the International Mediator in Bosnia and Herzegovina, visited Sri Lanka as a guest of the Berghof Foundation in 2003. The intention was to give Sri Lankans an impression of the various peace processes in South Eastern Europe and to exchange ideas and draw lessons from past experiences. As a direct result of this intervention, the CSSProject for Integrative Mediation, a mediation team headed by Dr. Schwarz-Schilling, has taken an active interest in the Sri Lankan peace process. CSSP has been developing contacts with various conflict resolution organizations working on in this process and visited Sri Lanka again in May 2005.

Although conflict resolution is not the main focus of the Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), the organization is committed to conflict transformation and has incorporated it as a major component of its activities in Sri Lanka.<sup>1</sup> At the centre of these activities are education and training measures in the field of mediation as a mean for conflict resolution. As part of this pillar, GTZ invited CSSP to visit Sri Lanka to further explore the usefulness of its mediation approach in the Sri Lankan context. This exchange focused on both conflict resolution experts and GTZ field staff and included a mediation training workshop and exchange of ideas workshop.<sup>2</sup>

The following report provides an overview of the two workshops. The mediation training is described in **Workshop 1: Good mediation through good negotiation skills**. The mediation exchange is summarised in **Workshop 2: Community Mediation in the Bosnian and Sri Lankan contexts**.

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<sup>1</sup> GTZ is an international cooperation enterprise set up to implement development projects. Its main client is the German Federal Government, specifically the Federal Ministry for Economic Cooperation and Development (BMZ).

<sup>2</sup> Both workshops were supposed to be conducted in Trincomalee on the Eastern coast of Sri Lanka, a municipality at the centre of the conflict where Tamils and Sinhalese troops operate and sensitivities run high. However, just before the workshops began the conflict re-escalated. In order not to threaten the security of the participants, the workshops were moved to the city of Kandy.

### Workshop 1: Good mediation through good negotiation skills

At the core of its training methods, CSSP draws on the Harvard method but adapts it in order to apply it to specific post-conflict or inter-ethnic local realities. The goal is to help potential mediators develop their skills. For his purpose, case studies, role plays and small group discussions are used to give life to theoretical knowledge that can be overwhelming and sometimes confusing. Throughout all sessions, the trainers supervise each activity and allocate time at the end of each training day for debriefings, informal questions, and debating sessions. Once the teaching aspects of the day are finished the group meets informally to discuss the problems participants are confronted with in their daily work in relation to mediation.

At the request of GTZ Sri Lanka (FSCT-IMCAP-FLICT), CSSP conducted an introductory workshop on community mediation.<sup>3</sup> At the beginning of the workshop and throughout the proceedings, participants were encouraged to express and reflect on their experience and expectations towards mediation. All comments were incorporated into the training sessions as appropriate and used to highlight problems and possible solutions that related to the participants and their experience. In Sri Lanka, there are many project coordinators or supervisors who must use conflict resolution skills on a daily basis but have not been formally trained in this area. Therefore, the workshop dedicated a disproportionate amount of time to general lessons and activities. Consequently, the participants and trainers felt that the component involving questions related to the Sri Lankan context were not explored enough and should be given a higher priority in future training sessions. Below is an overview of the training sessions.

Day 1	Day 2
Lecture: nature of conflicts / negotiation	Case studies and role plays
Small group discussions	Positional bargaining
Introduction of the stages of conflict	Problem-solving negotiations
Role plays on conflict escalation	Debriefings and discussions
Day 3	Day 4
Lectures: mediation	Interethnic mediation simulation
Mediation role plays	Analysis of simulation
Exercises on positions and interests	Group discussion
Exploring options and alternatives	Evaluation of training

Each exercise was supervised by the trainers with various interventions, bilateral consultations and ad hoc exercises to enhance group discussion. Often the discussion moved away from the theoretical training towards discussing practical implications within the Sri Lankan context. In order to ensure that the training reflected expectations and needs, the trainers evaluated daily events and adjusted the schedule accordingly. At the end of the event, participants were given ample time to discuss in a group the various components and their usefulness.

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<sup>3</sup> The workshop included 12 participants from various regions and GTZ programs in Sri Lanka. It took place over four days (two half days and two full days) on 26 to 29 May 2005 in Digana (Kandy).

## **Workshop 2: Community Mediation in the Bosnian and Sri Lankan contexts**

Together with GTZ Sri Lanka (FLICT), CSSP designed and participated in a two-day workshop on community mediation in the Bosnian and Sri Lankan context. The aim of this workshop was to discuss how the CSSP methodology of mediation at the local level in South Eastern Europe might be adapted for use in Sri Lanka.<sup>4</sup>

The workshop was organised in two main parts and included ample time for open exchange and dialogue. In the first part CSSP introduced the work of the International Mediator for Bosnia and Herzegovina and the concept of Integrative Mediation which was developed by CSSP out of the work of the International Mediator. The second part focused on the status of mediation in Sri Lanka and possible application of the methods described by CSSP to the Sri Lankan context. At the end of the exchange some general mediation related questions were discussed and are summarised at the end of this document.

### *Part 1: From International Mediator to Integrative Mediation*

The International Mediator for Bosnia and Herzegovina, Dr. Christian Schwarz-Schilling, (1995-2004) mainly applied a mediation framework that in academic terms could be referred to as the “eminent mediator model”. It is based on a high profile mediator who enjoys the respect and moral authority of the conflict parties, a framework that is not applicable to all areas and was heavily debated in regards to its applicability to the Sri Lankan conflict. Local participants raised questions related to the mediator’s power, official mandate, neutrality, and nationality, the dynamics for accepting such a mediator, responsibilities of the communities and influence of the government on the mediation process. Wider aspects considered were the role of the international community and presence of a military operation and how these actors affect the sustainability of peace and the mediation efforts. CSSP introduced two mediation cases from Bosnia and Herzegovina (successful and unsuccessful), which were intensively discussed and analysed for their relevance to the Sri Lankan context.

At the end of the discussions, the concept of the “eminent mediator model” was perceived as not applicable to the Sri Lankan context and dropped. Instead the group focused on power mediation aspects. The discussions also showed that the term “community mediation” appears to have a different connotation when it is used in Sri Lanka.

The concept of Integrative Mediation was developed by CSSP out of the direct experiences of its work in South Eastern Europe (Bosnia and Herzegovina, Kosovo, Macedonia and Croatia). The methodology of Integrative Mediation consists of six elements, including grassroots mediation, domestic mediation, negotiation training, problem-solving workshops, conflict prevention and research. Although the methodology has been developed from the context of the conflicts in South Eastern Europe, the application of Integrative Mediation holds greater potential. As the discussions following the presentation showed, participants were able to highlight some commonalities between the two conflict regions and the mediation approach. Commonalities include issues such as refugee and IDP returns, unresolved land and property claims, religious and cultural conflicts, fights regarding distribution, infrastructural problems, paramilitary influence, demobilisation and reintegration of soldiers, and politicisation of almost all areas of life.

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<sup>4</sup> The workshop was conducted on 30 and 31 May 2005 in Kandy, Sri Lanka. GTZ invited 18 experienced local conflict resolution experts, NGO representatives and government mediators to contribute from their perspectives.

*Part 2: Mediation concepts in Sri Lanka*

Sri Lanka possesses a well developed mediation system at the national level (Justice Department mediation boards), as well as a series of local and international NGOs that intervene in conflicts. The comparison of different conflict situations in the two global regions (Balkans and Sri Lanka) and their resolution through local mediation were moderated by GTZ FLICT. The participants had the opportunity to discuss their conflict resolution methods together and work jointly on recommendations for improvement. Most important was the commitment by the NGOs and the Ministry of Justice to work together in the future and to promote awareness.

CSSP was impressed by the high level of risk NGOs have to take to conduct their work and the desire of all actors in the field to find new ideas that might help resolve the conflict. Specifically the lack of direct security guarantees from the military and political forces, despite their consent, was alarming. The openness and welcoming manner of the Sri Lankan participants, contributed to the healthy and open exchange between the various participants.

At the centre of discussion was the question how mediation in Sri Lanka can develop under the current situation. The peace process in Sri Lanka has not progressed beyond a ceasefire, which creates a different situation than the one encountered by CSSP in the Balkans where peace agreements exist. The participants presented the work of the existing mediation boards and the country-wide foundations. All efforts pushed their borders as soon as it affected areas not controlled by the government. From this situation the following main points were noted: It is difficult to conduct community mediation without a peace agreement. It is important to strengthen grassroots groups and awareness. Mediation might be useful in reducing communal, social and religious tensions. Specifically, the abilities and personalities of mediators affect their success and failure, and acceptance of mediation in the communities is the first step.

In three mixed groups the participants were asked to discuss three main questions: what does local mediation mean for each mediator and what are its elements; what are the boundaries for local mediation; and what is the potential of mediation and what are the next steps for the future? In general the three observations below were highlighted by all groups. In addition, each group developed individual observations and suggestions, which are presented in the next pages.

<b>GENERAL OBSERVATIONS</b>
<ul style="list-style-type: none"><li>• Mediation in all its formal and informal forms has played an important role in preventing a re-escalation of the conflict and providing ad hoc solutions. Moreover, it has created a space for dialogue at the local level.</li><li>• The Mediators reach their limits when there is a lack of clear power structures at the community level, little knowledge about mediators, and a lack of mediation training.</li><li>• The potential lays in strengthening and expanding the existing system through mechanisms of awareness, networking and training.</li></ul>

**GROUP 1**

**Group 1** started with defining the **elements** of mediation and identified six basic tasks of mediators in the Sri Lankan context. Drawing on the local context, the experts of group 1 identified the main six problems and **limitations** of mediation from their daily work in the field. Despite these limitations, the participants were convinced that mediation in Sri Lanka has a function in the peace process and an unused **potential**; new ways could be found through co-mediation and volunteers who would be able to resolve conflict with little resources. For the **next steps** the group identified three categories how to improve the mediation system and maximize the work of the mediators.

<b>Elements</b>	<b>Limitations</b>
<ul style="list-style-type: none"> <li>• advocacy</li> <li>• facilitation</li> <li>• negotiation</li> <li>• mediation</li> <li>• enforcement</li> <li>• different stakeholders responsible for one or more points</li> </ul>	<ul style="list-style-type: none"> <li>• lack of recognition</li> <li>• lack of awareness</li> <li>• lack of coordination / sharing: access to power to some areas (NGO could be support)</li> <li>• lack of resources (could be shared)</li> <li>• lack of training</li> <li>• more / lack of exposure to international / regional / local case studies and materials</li> </ul>
<b>Potential</b>	<b>Next Steps / Action</b>
<ul style="list-style-type: none"> <li>• co-mediation (pluralist approach)</li> <li>• volunteers / committee people to work with little resources</li> </ul>	<ul style="list-style-type: none"> <li>• identifying stakeholders and coordinate sharing</li> <li>• identify diversity of experiences</li> <li>• opening of resource centres: capacity building, documentation and research; material development.</li> </ul>

## GROUP 2

**Group 2** started by identifying the **potentials** of community mediation and defined eight tasks of local mediators. The activities of a mediator are not always leading to the expected results and this group explained these deficits with nine **limitations** based on experience. Mediation is used on a daily basis but the current activities need to be professionalized and better equipped. For the future group 2 participants suggested five **next steps** to be taken to improve the system and make mediation better known.

<b>Potentials</b>	<b>Limitations</b>
<ul style="list-style-type: none"> <li>• bringing the divided communities together on the spot</li> <li>• identifying benefits and problems of the divided communities</li> <li>• trouble shooting of immediate problems if necessary</li> <li>• to resolve resource related disputes</li> <li>• structured dialogue to develop the community</li> <li>• to identify the root cause of the problem in order to use the right tools</li> <li>• provide satisfaction and show alternatives (win-win situation)</li> <li>• use mediation boards more actively</li> </ul>	<ul style="list-style-type: none"> <li>• skilful people</li> <li>• lack of awareness</li> <li>• lack of infrastructure</li> <li>• lack of women mediators</li> <li>• mediation boards are re-active and not proactive</li> <li>• time limitation</li> <li>• neutrality of mediator</li> <li>• solving only local but not structural (political) problems</li> <li>• lack of confidence into the implementation of agreement</li> </ul>
<b>Next Steps</b>	
<ul style="list-style-type: none"> <li>• improving the existing structures</li> <li>• reaching out to all areas of Sri Lanka</li> <li>• to reach all areas government should cooperate more with NGOs and IC</li> <li>• engaging in public awareness with a broad campaign</li> <li>• improving skills of current mediators</li> </ul>	

### **GROUP 3**

**Group 3** started with a **definition** of community mediation by three possible categories. The work of the participants was seen as limited due to political and structural shortcomings. Group 3 identified six basic **limitations** to the mediation process coming from the specific Sri Lankan context. In order to overcome these limitations the participants proposed to make better use of the mediation potential and named eight **perspectives** to increase the effectiveness of future mediation activities. Two **next steps** recommendations were given to the ministry of justice to improve the mediation system in enlarging the tasks of the mediation boards.

#### **Definition**

Community Mediation is third party intervention by neutral community mentors to assist in solving community issues that can be divided into three areas: (1) one-to-one mediation board (legal), (2) municipality issues – group mediation, and (3) peace process issues manifested at local level

#### **Limitations**

- Limited mandates for mediation boards
- Lack of awareness and monitoring
- Restriction on intervention potential
- Lack of framework for categories 2 and 3
- No government -LTTE mediation boards at local level
- Lack of peace process issues

#### **Perspectives**

- to form mediation boards to deal with category 3
- to develop bottom up approach to inform higher levels of local problems
- more experience sharing with other community mediators
- include gender, ethnic, linguistic and religious components in framework
- more mediation boards are needed especially in Northeast
- more mentors, awareness, resources and capacity-building
- creating network between mediation boards and NGOs
- Legislative review: scope, issues, active vs. passive, multi-party issues

#### **Next Steps**

- Ministry should educate NGOs in role of NGOs to refer issues to mediation boards and tools available
- There should be a review of mediation boards to see if they include gender, ethnic, linguistic and religious issue