THE ROLE OF THIRD PARTY ACTOR IN CONFLICT MEDIATION: A LESSON-LEARNED FROM RWANDA AND ACEH (INDONESIA)

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Abstrak

Peran serta aktor baik negara maupun non-negara sangat krusial dalam penyelesaian konflik di setiap negara. Pada bulan Juni 2012 atas mandat yang diberikan oleh Majelis Umum, Sekretaris Jenderal PBB merilis laporan 66/811 tentang "Penguatan Peran Mediasi dalam Penyelesaian Sengkata secara Damai, Pencegahan dan Resolusi Konflik". Salah satu poin fundamental dalam laporan tersebut adalah perlunya inkluvifitas dalam penyelesaian konflik dengan pula melibatkan aktor pihak ketiga. Laporan tersebut menegaskan kembali pentingnya pendekatan inovasi dalam mediasi dengan pemberdayaan seluruh aktor, baik negara maupun non-negara. Walaupun setiap aktor memiliki sumber daya dan kapabilitas yang berbeda, pemberdayaan aktor pihak ketiga dapat menjadi opsi yang tepat dalam penyelesaian pertikaian. Selain itu, mediasi yang dilakukan oleh pihak ketiga harus mampu memahami kondisi konflik di lapangan sehingga turut serta membantu proses perdamaian secara efektif. Tulisan ini membahas tentang konflik dan mediasi serta bagaimana aktor pihak ketiga memainkan perannya melalui mediasi pada konflik yang terjadi di Rwanda dan Aceh (Indonesia).

Kata Kunci: Konflik, Resolusi Konflik, Mediasi, Aktor Negara dan non-Negara, Pihak Ketiga, Lokal.

Abstract

State and non-state actor play crucial roles in solving the conflict within country. On June 2011 through mandate that was given by General Assembly, the 66/811 report was released by United Nations Secretary General on titled "Strengthening the Role of Mediation in the Peaceful Settlement of Disputes, Conflict Prevention and Resolution". One of fundamental points is the need of inclusiveness in conflict resolution by inviting the non-state actor. Later, the report convinces us on the importance of innovation within mediation by utilizing all actors, whether state or non-state actors. Although, every actor have different capabilities and resources, empowering those actors in dispute settlement process might be the right option. Besides, mediation in which third party involved has to be able to understand nature of the conflict on the ground. Thus, help achieving effective peace process. This writing elaborate the nature conflict and mediation and on how non-state actor play its role through mediation that happened in Rwanda and Aceh (Indonesia).

Keywords: Conflict, Conflict Resolution, Mediation, Third Parties, Local.
Introduction

Recently, there has been much discussion on conflict and how it covered wide circumstances. Many aspects in international affairs such as social, politic, economic, and culture need different approaches to overcome conflict which happened over time. In today globalization era, one does not simply apply one method, yet it forces us to consider a hybrid combination of smart thinking, adjusting proper solution with varied approaches to the particular conflict in different nations. All of human are hybrids, which societies and its aspects such as economic, polities, and cultures are the result of a long process of hybridization (Ginty 2011:1). In implementing the resolution 65/283 from UN General Assembly, the report 66/811 of Secretary General pointed out that several key determinants should be prioritize namely, the use mediation optimization, operational preparedness, capacity building at the regional, national and local levels, partnership and coordination, women participation, resources and guidance for effective mediation (UN, 2012). The utilization of aspects within conflict have broaden the benchmark, from finding out the role of traditional and genuine actor to involvement of non-traditional internediary.

One of many ideas on conflict resolution has emerged and supplied important performance to solve the problems during 1980s. It can be reviewed in several cases such as group studies interference within South African apartheid case, problem-solving workshop in some Middle East peace processes, and parties' role in Northern Ireland community strife (Ramsbotham, et al. 2011). Traditional actor like state represented by its government is no longer the only option as a main mediator in the conflict. All relevant stakeholders must be invited in order to at least satisfy the least parties' interest and earn the best outcome. Some conflicts need mediation because it occurred as consequence of different interest and understanding from each opposing side. However, the best result will not be achieved without actor who plays key role within the process of mediation. One of influential actors in conflict is the third parties, whether it is state or non-state, the local or international. For state, as traditional actor within conflict has been well-known for its imperative existence. Big powers such as US, France, Russia, Norway, and Switzerland were active to take apart during post-Cold War period. Meanwhile, emerging state mediators such as Turkey, Brazil, and Malaysia have increased their participation (Mason & Sugaitamatti, 2011). On the other side, Non-Governmental Organization (NGO) such as Crisis Management Initiative, Carter Center, and Humanitarian Dialogue possess flexibility and quick response in case of mediation need to take place. Locals, they may possess genuine knowledge and values in which other actors probably do not have. However, having the advantages that third parties uniquely possess, the very basic question is do these actors are worth to be involved as the negotiator in a particular conflict? Will the third party actor materialize positive significant effect toward the final result of conflict? The most important thing is indeed the peaceful result. Whether a negative peace result as indicated by the absence of war or positive peace as an impact of simultaneous justice, equity, and harmony (Barash and Webel 2009:4). This writing tries to

elaborate the understanding of conflict and mediator and its relations with the possibility on utilizing intermediary actor in specific conflict case.

Mediation, as one of the methods in the international relations field, has been used to handle the conflict long time ago. The method is indeed beneficial from the conflict prelude to the end of conflict process. The idea of mediation has been found as a method to solve the dispute in ancient China. It has also been utilized by the polity of Greek city-states (Bercovitch and Rubin 1992:1). Mediation has increasingly added the study of peace into more different perspective. As the evidence, On September 1978, a crucial milestone toward the role of mediation has been shown by President Carter of the United States of America to intercede the dispute among Egypt President, Anwar Sadat and Prime Minister Menachem Begin of Israel over Camp David issue (Bercovitch and Gartner, 2009:1). From theoretical perspective, there are three diverse point of views in conflict management namely normative, descriptive and prescriptive (Bercovitch and Gartner 2009:2). First is normative theory. Normative theory explains the relations among rational actors with information possessed towards decision in complex situations. Bercovitch and Gartner (2009:2) argued that normative theory has restriction in its capability to explain since they believe actors in conflict do not have sufficient information. Second, descriptive theory emphasizes the way of actors' behavior with modification, idealization, or moralization of what they do. Third is prescriptive theory. This theory underlines the management of conflict that an obedience of norm by parties in conflict (Bercovitch and Gartner, 2009:2). Aside of all theories above, mediation would be one of answers to any conflict deadlock or at least assuage the conflict even though it could not be an absolute guarantee. Then, the significance of mediation process will be supported through the role of actors within the conflict. Ginty's notion on society hybridization affirmed the descriptive theory of mediation that modification and idealization of actors are the characteristic of the process (Ginty, 2011). The conduct of the process itself lies in what kind of resolution that will be used and who are the subjects that will be empowered within particular conflicts. All of those instruments are intended to end up at final result of the conflict which is the state of peace.

Further understanding about conflict

Before the examination is developed further to determine the importance of third party mediator, the very first thing that needs to be examined is the type of conflict. As one of the most well-known theorists in conflict management, Galtung tried to define from the very basic elements in a conflict. In 1960s He defined that conflict are consisted with three components. The components are including contradiction, attitude, and behavior (Ramsbotham et al. 2011:10-11). Contradiction means incongruity of objectives among conflict parties based on the main situation. Attitude related to perception and misperceptions toward their opponents and themselves. While behavior as the third component related to cooperative or coercive conduct, gesture indicating conciliation or malignance (Ramsbotham et al. 2011:11). Specifically, Galtung expressed violent conflict behavior that has characteristics of coercion, threats, and destruction. He also

believed that all of three aspects must exist together and are 'constantly changing and influencing' each other in dynamic process. Several steps before the conflict starts to escalate can be defined when parties' interest clash and become more repressive. Until they create hostile attitude that lead to formation of the conflict. When it comes to the conflict resolution, de-escalation in conflict behavior, transformation of attitudes and changes in clashing interests are needed (Ramsbotham et al. 2011:11).

The terminology of conflict has been profoundly established by Galtung. Within the whole phase, it is impossible if the conflict only has process of formation. It will always have further stage and what is being the core of this discussion is the stage named resolution. It is strongly related with the suitability of the actors that has capability to determine significance positive change in the resolution. Actually, in international relations, conflict resolutions have numbers of degrees namely, multilevel, multidisciplinary, multicultural, analytic and normative as well as theoretical and practical (Ramsbotham et al. 2011:8). The next phase of conflict has been previously discussed by Rasbotham, woodhouse, and Miall (2011:13-14) by combining Galtung model of conflict with 'hourglass' model of conflict resolution. In hourglass framework, conflict resolution develops from process encompass to difference, contradiction, polarization, violence, war, ceasefire, agreement, normalization, and reconciliation (Ramsbotham et al. 2011:13-14). It is a gradual process which is divided into two stages. From difference phase of conflicting interests of parties to violence, are determined as escalation, while from ceasefire to reconciliation of involved parties called de-escalation of the conflict. Relating mediation or negotiation as one of the main objects can be utilized during ceasefire until the early phase of reconciliation which is also recognized as conflict settlement (Ramsbotham et al. 2011:14). This is obvious because we can analyze that the impact of Galtung theory's element which is contradiction will occur in peace settlement stage in the conflict process. Thus, the treatment from mediation shall adjust the behavior of parties within the conflict.

While Galtung shaped a very basic terminology of conflict, Mohammed O. Maundi (2006) investigated conflict from study cases in which he conceptualized it as internal conflict. The cases that were objects of the research were conflict in African countries comprise to Rwanda, Burundi, Congo-Brazzaville, Liberia, Sudan, and Ethiopia-Eritrea (Maundi et al. 2006). Maundi (2006:5) believes that the objective of intervention through mediation is not intended to support particular party to achieve victory over another, but to overcome the deadlock and help all parties gaining win-win solution. There are two types of internal conflicts namely centralist and regionalist (Maundi et al. 2006). First, centralist conflict means a dispute against the central authority which is the central government of a country through insurgency with a response from the government via resistance being replaced or sharing power with the secessionist. The most recent example of this conflict is Syria crisis between the incumbent government lead by President Bashar al-Assad and several groups of insurgencies in National Coalition for Syrian Revolutionary and Opposition Forces (BBC News 2013). The idea of power sharing was also agreed by Brendan O'Leary through consociationist thought in which he

focuses on inter-ethnics relations (Noel 2005:19-36). Second, regionalist conflict refers to secession over regional autonomy with self-determination as its objective (Maundi et al. 2006:4). *Gerakan Aceh Merdeka* (Free Aceh Movement) in Aceh, Indonesia is one of regionalist conflict that main objective was self-determination (Waizenegger 2010).

Conflict and its resolution have been explained beforehand. However, one of the most important instruments in resolution process which play crucial role in conflict is mediation. The method itself has been used since ancient times. It has been found 3,500 years ago in the Armana letters refer to the reign of King Amenhotep IV in specific issue on resolving interpersonal dispute. Mediation was also used in ancient China (Bercovitch 2002:4). There are several methods of dispute settlement, namely the use of coercion and peaceful action. In modern era, United Nation Charter is one of the most prominent legal principles to be used as guideline since it covers wide application throughout the world, across the countries. Pertinent to the use of dispute settlement, UN Charter provides Chapter VI and VII. Chapter VI proposes the use of peaceful way for dispute settlement. Vice versa, Chapter VII mandated the use of force with military or non military action (United Nations 1945). In this occasion, Chapter VI of UN Charter is a relevant international legal proceeding when it comes to the use of mediation. Chapter VI of the charter is called 'pacific settlement of dispute' where it is explicitly mentioned in article 33 of the charter that parties in dispute, to prevent threat to international peace and security shall look for solution through negotiation, enquiry, mediation, arbitration, judicial settlement, conciliation, engage regional entities or arrangements, or other peaceful means they desire to (United Nations 1945). As the mandate for all of member countries in United Nations, The chapter has provided the approach for dispute settlement through mediation.

Mediation as means to solve the conflict

As one of methods toward dispute settlement, mediation has its own characteristics. According to Becovitch (2002:5), mediation characteristics are namely; 1) mediation as part of management efforts with parties' expansion and continuation. It contains intervention in dispute through personal, organization and group in order to bridge two or more actors in conflict, 2) mediation is applied without coercion, violence, and binding form intervention. It turn dyadic to triadic relationship with the appearance of additional actors and create structural changes as well as agreement focal point, 3) within mediation process, mediators have capacity to affect, influence, modify, and resolve in particular way, 4) they also entail deliberately the knowledge, ideas, resources, and interest of their own or conflicting group they are representing, 5) mediation is conducted voluntarily, thus the outcome will be gained by the parties whether they would accept it or not, and 6) Lastly, mediation is based on ad hoc only.

With all of those characteristics, what really becomes the concern during the process of mediation is indeed, the actor. The role of mediator in conflict is considered as third party intervention. They are traditionally seen powerless but

their communication is powerful (Ramsbotham et al. 2011: 21). The actor should be capable enough during negotiation process by utilizing proper communication and act as intermediary between conflicting parties. Although they share the same characteristic in form of mediation as their responsibility toward the conflict, mediators are divided into several players. According to Bercovitch (2002:10-11) there are three actors that have ability to mediate the conflict namely individuals, states, institution and organization. In addition, Maundi et al. (2006) tried to combine the role of mediator in collectivity which was he called multiple mediators.

First is individual mediator. It is usually an official as representative of his/her government in sequence of interactions with high level official in disputing country. Within individual mediation itself, it is divided into two categories namely formal and informal. Informal mediation refers to long-period experience, deep commitment and also related to scholars that have expertise in real conflict (Bercovitch 2002:10). Communication strategies and social facilitation are crucial instrument during mediation process since they act based on their own initiative. The benefits gain from individual mediator is that they possess free and flexible interaction. Another type of individual mediator is that those who represent from particular entity who have professional focus upon conflict mediation. As one of example is International Negotiation Network (INN) at Carter Center. The body has experienced to handle dispute matter throughout Cyprus, Ethiopia, Zaire, Sudan, Burma, and Cambodia (Bercovitch 2002:11). On the other hand, formal mediators are representative from government, high level decision maker, incumbent official, and individual capacity as intermediary person between official representatives of other countries. In addition, David A. Hoffman exposed the term of 'shuttle diplomacy' which was quoted from former U.S. Secretary of State, Henry Kissinger in the process of Yom Kippur war in Middle East. At that time, he was travel long distance back and forth, meet the disputants and negotiate the best outcome possible. When the world leader meet in the same place with this kind of mediator involved it is also called 'proximity talks'.

The second type of mediator is state. The actor within state almost has similarity with individual type of formal mediator but it stresses more on the role of the state being represented by top level of decision makers. In this case, Dr. Henry Kissinger, President Carter, and Lord Carrington were the best example explained the representativeness to their country (Bercovitch 2002:11-12). States role in conflict intermediary probably occur when any intervention will be refused. However, this kind of mediation, although promising, but cannot simply give an absolute guarantee toward the conflict. Even highest decision maker have to be impartial, acceptable for all parties, and trustworthy (Bercovitch 2002:12). Interestingly, Bercovitch separates the notion of state mediator between the role of small and large states. He believed that small state usually wait for invitation which they are limit to regional conflict and it also has low profile strategies. They are seen as less threatening because of lack of ascendancy. Countries that have experienced to do so were Algeria, New Zealand, Switzerland and Austria (Bercovitch, 2002):12. In contrast, large state often uses mediation as a vehicle to protect or promote their interest (Touval 1992). It is possible because large states are more powerful. With all resources they have they may gain benefit through this

intermediary in which Bercovitch (2002:12) directly said 'the use of stick and carrots'. At least with that bargaining power, large state may bring strong image toward the process of mediation thus, will create obedience atmosphere among the disputants. Bear in mind, even international law did not directly prescribe the role of whether small or large state to be intermediary actor as behavioral norm (Bercovitch 2002:12).

Next are institutions and organizations. Nowadays, the role of international organization has been developed rapidly. Frazier and Dixon (2009) focus on the role of third party intermediaries especially in Militarized Interstate Disputes (MID) activity. Their quantitative approach resulted to the effectiveness of mediator as third party intermediaries in which international organization is considered as the most effective managers. Bercovitch (2002:13) divided organization in mediation into two namely regional and international organizations such as Association of South East Asia Nation (ASEAN) and United Nations.

The last but not least, is multiple mediators. Coordination with collective effort through multiple mediator will add more value added. Maundi et al. (2006:22) suggested that the advantage of having multiple mediators in conflict resolution will increase more resources. Other benefits are they can mix ideas, lengthen communication, and handle the pressure (Maundi et al. 2006:22). If multiple mediators then are combined to individual expertise it will increase requisite skill and knowledge in which not all mediators possess.

Should we empower third party mediator more?

There are problematic issues in intervention especially in form of mediation. These challenges will determine whether mediator from third party society should be empowered. However, as long as they are able to overcome all of those challenges or at least help the minor outcome possible, then third party intermediary need more attention. Maundi et.al. (2006) concerned into several points related to the matter in mediation comprise to resistance to external intervention, legal issue related to country's sovereignty, initiation actor, scope of engagement, initiation entry timing, asymmetrical issue, impartiality and interest, as well as cost to intermediary actor.

Furthermore, the utilization of local actor to the conflict they are mediating is still questionable. It is based on assumption that they probably still have certain interest from any disputants. Even some dispute in Africa, although had local actor involvement, the main initiator come from other actor of mediation such as individual, state representative, or regional organisation. Rwanda conflict during 1990-1992 was a relevant case for this matter. Rwanda case was the example of centralist internal conflict where the objective is to control central authority. It was Rwandan Patriotic Front (RFP) as the main insurgent with contribution of external and internal factors (Maundi et al. 2006:32). It even became more structural since Zaire and Kenya argued that the conflict was between Rwanda and Uganda and the refugee has moved to neighbor countries (Maundi et al. 2006:43). Thus, it made

internationalization of case become real phenomenon. The first wider response was initiated by Organization of Africa Unity (OAU). It is quite surprising since The U.S. delayed its effort at very first phase of internationalization of the issue. Maundi et al. (2006:40-41) stated that U.S. did not have direct impact to national interest although later on former U.S. assistant secretary of state, Herman Cohen involved as mediator during the negotiation between Uganda and Rwanda Presidents before the peaceful moment in Arusha. Belgium, as another key player even were more active by sending diplomatic officials to Rwanda, Kenya, Uganda, Tanzania, and Ethiopia to hold talk with the secretary general of Organization of Africa Unity. Later on, the final mediation was held in Tanzania and President Ali Hassan Mwinyi of Tanzania was appointed to be official facilitator (Maundi et al. 2006:40-59). The regional entity play important role in solving the problem. Besides that, Belgium as a state actor also gave an influential value to the process of mediation before the final agreement was made. In this case, the local could not be able to be mediator since the stereotype and contradictive perception among Hutu and Tutsi ethnic will not soften the mediation process. Therefore the best option is empowering regional entity as intermediary actor while at the same time inviting other influential actor which the disputants believed as impartial toward the peace settlement result.

Another case was Aceh Insurgency case in Indonesia. Unlike the Rwanda case, this conflict was regionalist conflict in which *Gerakan Aceh Merdeka* (Free Aceh Movement/GAM) sought a demand of independency through self-determination. The conflict started since 1976 until the Helsinki Memorandum of Understanding (MoU) was signed in 2005 (Waizenegger 2010). In this case, mediator also plays important role rather than the use of force conducted by the government of Indonesia. The process of negotiation toward peace settlement initiation has been started since 1999 until 2005. It is important because the life casualties when the government of Indonesia use hard power to fight against the Free Aceh Movement has been severe. It was counted roughly over 17,000 death casualties between GAM and Government of Indonesia only (Waizenegger 2010). The first humanitarian pause initiated by Indonesia government during 2000-2001 was failed. Although Henri Dunant Center (HDC) acted as external mediator, the agreement still could not last longer. It was because both sides violated the ceasefire agreement by having arms contact in North Aceh, one of the highest heat spot of conflict (Higgins 2010:203). The second negotiation in which was known as Cessation of Hostilities Agreement during 2002-2003, also failed. In this case, GAM still wanted the independency while the government considered granting special autonomy to the province (Higgins 2010:205). The successful of mediation finally came at the last phase of the negotiation in Helsinki, Finland. It resulted to the creation of Memorandum of Understanding (MoU) which was signed between GAM and Indonesia government in 15 August 2005 (BBC News 2005). The tsunami disaster has also become the process of issue internationalization thus, fasten the peace settlement (Waizenegger 2010).

Beside the role of the government of Indonesia itself, other important actor that contributes to the peace talk was Crisis Management Initiative (CMI) led by former Finland president, Martti Ahtisaari (Odaira 2009). Odaira (2009) believed that the role of CMI was crucial because although it is not as experienced as Carter

Center, it has no hidden agenda with high credibility. With support from Netherland, Finland, and European Union, CMI was able to create neutral and cohesive environment (Odaira 2009). Moreover, from individual point of view, Martti Ahtisaari's role was the sample of Bercovitch's combination of formal and informal individual mediator. Martti was the head of state which gives him high capacity to establish communication and support not only internally but also externally. The need of experience, wide area of connection, and deep experience indeed fit in Martti as mediator. Thus, the role of NGO like CMI as mediator is likely lead to successful dispute settlement process.

As conclusion, intermediary role in international relations has been so pivotal. In this context, the role of mediator is seen as third party involvement. The mediator should be able to engage good office approach without any hidden interest. That means impartiality become the most important aspect during settlement process. The role of local actors is considerable. However, in case of Rwanda insurgency as centralist conflict and Aceh secession as regionalist conflict both have shown that more capacity and capability of mediator is needed since the process of internationalization has taken on place. Thus, local actor that would act as intermediary subject will not be properly suitable within the conflict. Therefore, when the conflict escalates and getting more chaotic, more influential actors such as state representative, high-rank figure, and wide range organization will be more compatible to solve the mediation challenges. However, this writing is limited to two case studies which were promised to elaborate from the use of intermediary action in centralist and regionalist conflict perspective. Hence, further discussion and analysis is needed to provide a better point of views, arguments, insights, and understanding.

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