

Inclusivity in Mediation Processes: Lessons from Chiapas



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Disclaimer: MSN Discussion Points summarize the authors' reflections on discussions held at network meetings and do not aim to provide a comprehensive or consensus MSN view.

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1. INTRODUCTION

From 22 to 26 November 2014, the Mediation Support Network (MSN) met in Chiapas, Mexico, under the auspices of Servicios y Asesoría para la Paz (SERAPAZ). At the meeting, the network sought to achieve a better understanding of inclusive peace processes and to discuss ways to strengthen inclusive approaches. To that end, MSN members discussed different ways to approach, understand and define inclusivity, and shared experiences in dealing with inclusivity challenges in their mediation support work. Inputs from Thania Paffenholz, based on her team's research at the Geneva Graduate Institute's Centre on Conflict, Peacebuilding and Development, helped to frame the conceptual discussions. SERAPAZ, which was closely involved in the mediation process between the *Zapatista National Liberation Army* and the Mexican government,¹ introduced network members to the Chiapas peace process and arranged meetings between the participants and local mediators, conflict parties and victims.

This edition of MSN Discussion Points is inspired by discussions held throughout the meeting, building in particular on the case study portion of the meeting. It does not provide a comprehensive or consensus view of MSN members, but rather the authors' reflections on the discussion.

2. SUMMARY CONCEPTUAL DISCUSSION

INCLUSIVITY OF ACTORS AND ISSUES

Inclusivity "refers to the extent and manner in which the views and needs of conflict parties and other stakeholders are represented and integrated into the process and outcome of a mediation effort."² It can be assessed on two different levels: the extent and manner in which *actors* are included in a process, and the extent and manner in which *issues* are included.

Another way to look at inclusivity is by framing it in terms of exclusion: the aim of broadening inclusion is to avoid both active and – the often overlooked – passive exclusion.³ Conflicts often revolve around the issue of horizontal and vertical exclusion, i.e. the failure of

the political system to deliver representation.⁴ Inclusion, therefore, becomes an essential part of long-term conflict transformation. While it may be a valid option to have some exclusionary phases during a mediation process,⁵ there is growing consensus that mediation processes overall should aim at being as inclusive as possible in order to address the root causes of the conflict. However, there are still open questions and ongoing debates, for example, whether, how and under what conditions inclusive peace processes indeed lead to better and more durable peace.⁶

TWO DIMENSIONS OF INCLUSIVITY

MSN members identified both a practical dimension of inclusivity (inclusion as a *tool* for sustainable peace) and a more profound value dimension, which is often framed in normative terms (inclusion as a *moral obligation*, a *question of fairness*). Bridging these two dimensions and translating the concept into practice is challenging. For example, practitioners may strive to create a set of criteria to ensure inclusive processes. However, by doing so, they may also create the conditions for exclusion (as anyone who does not meet the criteria is automatically excluded). It also begs the question of who should be setting the criteria and how to ensure that they are context-specific. Generally, for practical reasons, it is not possible to be totally inclusive. These are all considerations that illustrate the challenge of operationalizing inclusion and making it tangible and relevant, without losing track of the bigger picture and the 'raison d'être' of inclusivity.

CONTEXTUALIZING INCLUSIVITY

The network recognized that inclusivity means different things for different organizations, depending on the aim of the engagement and the context, level and phase they work in. There is hence a need to contextualize the concept, to move away from a general debate of 'who should be represented', and to situate and analyze each activity within the broader peace process. Working on inclusivity can be seen as a multi-level endeavour where different modalities can help operationalize inclusivity at different phases and levels of the process. In this vein, this edition of MSN Discussion Points applies an inclusivity lens to the case of Chiapas

1 "SERAPAZ was created to provide administrative and financial support to the mediation work of the Comisión Nacional de Intermediación (CONAI). In June 1998 when its work was completed, CONAI transferred the mediation and civil networking work for peace to SERAPAZ." SERAPAZ Website, About Us, <http://serapaz.org.mx/about>

2 "Guidance for Effective Mediation," United Nations, 2012: 11.

3 Active exclusion means that actors are "proactively excluded". Passive exclusion is more subtle: it refers to those "without the means to assert their stake in negotiations." Paffenholz Thania, "Inclusivity in Peace Processes," *Briefing paper for the UN High-level review panel*, February 2015.

4 Horizontal (or inter-elite) inclusivity refers to the degree of active participation (through executive, consultative or informal roles) by all sectors of incumbent as well as emerging elites (e.g. government; political opposition – both armed and unarmed; army; business community; religious and traditional authorities). On the other hand, vertical (or state-society) inclusion might be assessed in terms of access to decision-making by (previously) marginalised social sectors (along the gender, ethnic, regional etc. dimensions). Dudouet, Veronique and Stina Lundström, "Post-war Political Settlements: From Participatory Transition Processes to Inclusive Statebuilding and Governance Outcomes?" Berghof Report, Berlin: Berghof Foundation, 2015 (forthcoming).

5 See Paffenholz Thania, "Broadening Participation in Peace Processes," *Mediation Practice Series*, Centre for Humanitarian Dialogue, 2014.

6 See for example Arnault Jean, "Legitimacy and peace processes: International norms and local realities," In: Ramsbotham Alexander and Achim Wennmann (eds.), *Legitimacy and peace processes: From coercion to consent*, Accord issue 25, Conciliation Resources, 2014: 21–25; and Nilsson, Desirée, "Civil Society in peace accords and the durability of peace," In: Ramsbotham and Wennmann (eds.), 2014: 30.

in order to draw some lessons that may help inform the process design of other cases. Twenty years after the process took place, the case of Chiapas was chosen for a number of reasons. Firstly, it allows important lessons on long-term implications of inclusion to be drawn. Secondly, SERAPAZ (the host of the MSN meeting) played a significant role during the mediation process and had access to information and actors. Thirdly, the high levels of inclusion and the complex combination of modalities that were used during the process created an interesting dynamic, worthy of greater investigation. In a comparative study of inclusion in peace processes in 41 cases, Chiapas was found to be the most complex case of inclusivity, with “hardly any case study with so much inclusion, such great variety.”⁷

3. CASE STUDY: CHIAPAS, MEXICO

3.1 BACKGROUND AND CONTEXT

Mexico’s southernmost state Chiapas hit headlines around the world in January 1994, when the *Zapatista National Liberation Army* (EZLN) captured San Cristóbal de Las Casas and several other towns in the eastern part of the state.⁸ The armed uprising caught the government by surprise, although it happened against the backdrop of a long-fought struggle by indigenous people against poverty, violence and discrimination.⁹ Before the uprising and the ensuing mediation process, exclusion was prevalent in Chiapas in the political, economic, social and cultural arenas. Indigenous people, who make up thirty-five percent of Chiapas’ population, suffered most from this lack of inclusion. San Cristóbal de Las Casas’ society was racist in exploiting the indigenous: 40 years ago indigenous people were not even allowed to walk on the sidewalk. One specific expression of economic exclusion was the state’s land-tenure system: “indigenous communities of eastern Chiapas lived for decades under a semi-feudal pattern of landholding where most of the communities were reduced to subsistence agricultural and seasonal migration to large plantations, while those small producers with enough land to generate profits generally had uncertain land titles and were forced to fight constant battles with large landowners over the limits of their property.”¹⁰

The conclusion of the North-American Free Trade Agreement (NAFTA) in particular led to a sense of exclusion: EZLN felt that they were not consulted. They objected to the agreement which, among other things, allowed for the privatization of communal land that was previously protected by Mexico’s constitution. In protest, the start of the Zapatista uprising coincided with NAFTA coming into force on 1 January 1994.

ROLE OF AN INCLUSIVE CHURCH

The Chiapas conflict formed a new type of conflict with the state, referring to fundamental aspects of a country’s structure and suggesting the need to activate all national forces to promote substantive, constitutional and peaceful change. The Catholic Church played an important role in pushing for such change: they supported new forms of social organization, helped to defend indigenous

people’s land rights and supported building up respect for indigenous identity.¹¹ Bishop Samuel Ruiz, who served in the Diocese of San Cristóbal de Las Casas, was personally involved in the transformation efforts, stating that he was “interested in the liberation of the people.”¹² He made his church inclusive, allowing indigenous people to freely express their thoughts. In 1974, Bishop Ruiz convened the first indigenous congress. The Diocese Commission of Women, the biggest women’s organization of Mexico, was also organized by the Church in Chiapas.

Bishop Samuel Ruiz and the other members of the National Mediation Commission (CONAI) understood peace “as a political and social process to generate and incorporate actors, agreements, conditions and changes necessary to address the national causes of conflict.” Miguel Alvarez Gándara¹³

SELF-ORGANIZATION OF INDIGENOUS COMMUNITIES

Indigenous communities began to organize themselves with the support of the Church, NGOs and political organizations from other parts of the world. The members of the Zapatista National Liberation Army (EZLN) developed their organization over a period of more than ten years. The initial idea of its leader, Subcomandante Marcos, was to help indigenous people to defend themselves. The Revolutionary Women’s Law, which EZLN passed in 1993, ensured that women were almost equal in the movement, which was unique. The EZLN uprising on New Year’s Day 1994 was the start of a low-intensity revolution: a short armed struggle was followed by a long period of negotiations.

7 Paffenholz Thania, key note speech at the 10th MSN meeting, Chiapas, November 2014b.

8 Wager Stephen J. and Donald E. Schulz, “The Awakening: The Zapatista Revolt and Its Implications for Civil-Military Relations and the Future of Mexico,” *SSI Monographs*, Strategic Studies Institute of the US Army War College (SSI), 1994.

9 Manaut Raúl Benítez, Andrew Selee and Cynthia J. Arnson, “Frozen Negotiations: The Peace Process in Chiapas,” *Mexican Studies* Vol. 22, No. 1, 2006: 131–152.

10 Manaut et al, 2006: 135.

11 Manaut et al, 2006: 137.

12 In the 1960s, the Catholic Church in Latin America translated broad changes in the church into an “option for the poor”, which led to the “liberation theology”.

13 Miguel Alvarez Gándara, *The CONAI and the general crisis in the peace process*, August 1998.

3.2 NEGOTIATIONS

Although the January 1994 uprising did not spread to the national level, the cause did implicate state realities. The reaction occurred bottom up: all over the country, there were mass demonstrations demanding a peaceful end to the conflict. These demonstrations included an enormous mobilization of indigenous peoples and allowed them to articulate their struggle at the national level. The state soon recognized that a large-scale reform was needed.

GATHERING REGIONAL LESSONS LEARNED FOR AN INCLUSIVE PEACE PROCESS

The government had a remarkable vision in accepting the EZLN as interlocutors in the negotiations. Together, the government and the EZLN requested Bishop Ruiz to mediate. From 8 January 1994 to 13 October 1994, experts assisted the Bishop in his efforts. They conducted a tour of Latin America, returning with 15 lessons learned from other peace processes. One of those lessons was that if the dreams and interests of movements and individuals were included, the state ended up winning too.

Equipped with profound knowledge of the root causes of the conflict and the necessary road to a sustainable peace, Bishop Ruiz and the National Intermediation Commission (CONAI) constituted impartial, but not neutral, mediation.¹⁴ They saw their role as that of a teeter board: a flexible axis of gravity that guarantees movement for both parties. Such mediation served to generate conditions for dialogue. In the Chiapas case, from the insider mediators' perspective, to be in the middle was to be on the indigenous side, since that movement faced a powerful government.¹⁵

ENHANCING INCLUSION THROUGH THE PARTICIPATION OF ADVISORS

From 22 February to 3 March 1994, the so-called "Talks in the Cathedral" took place. While rules, principles and the process were established, the indigenous communities and the EZLN bases were also consulted. At that time, Bishop Ruiz was the only mediator. In October 1994 Bishop Ruiz started the 'New Political Initiative' to strengthen the mediation process and make it more inclusive. He built a new team structure and included civil personalities in the Commission, among whom were two women. There were different teams of advisors for specific studies, stemming from the most diverse social, academic and political fields.

¹⁴ Neutrality refers, among other definitions, "to the relationship or behavior between intervenor and disputants". Moore Christopher, *The Mediation Process: Practical Strategies for Resolving Conflict*, Jossey-Bass, 2003: 53. However, mediators may be impartial even if they had a previous or a close relationship with one or more parties.

¹⁵ Impartiality in this context refers to the rectification of the power balance between the actors, rather than their equal treatment. In the UN definition of impartiality, a mediator "should be able to run a balanced process that treats all actors fairly and should not have any material interest in the outcome." "Guidance for Effective Mediation," United Nations, 2012.

On 11 March 1995, the Dialogue, Conciliation and Just Peace in Chiapas Act was signed and was followed by the implementation of different legal instruments. These defined the principles, agenda, rules and procedures for dialogue and negotiation at the San Andrés Table. The process was an exemplary model of inclusion, based on the proposal of the EZLN that they would not be the only actor present at the negotiations. There were 20 invitees and 20 assessors per issue, leading at times to 200 or 300 advisors at the table. The advisors connected to people on the outside, including via national fora.

SECURING INCLUSION THROUGH A BROAD AGENDA

CONAI helped EZLN include broad topics in its agenda for negotiations: economic, political and social issues. Even though the EZLN was an indigenous movement, the Chiapas conflict was not ethnic: its causes and demands were civil, democratic, national and including, but not limited to, the rights of indigenous people. CONAI's proposals and procedures for dialogue and negotiation always linked the San Andrés Table to other actors, agendas, conflicts and needs throughout the country. Thus, a local peace process took on national relevance. EZLN's four main points of agenda were: 1) indigenous rights; 2) development; 3) women's rights; and 4) political reforms. Once there was an agreement in all four areas, EZLN argued, they would be ready to disarm. Thus, the agenda was very opportune and broad: it included all the main issues with the possibility of transforming the country. The key for civil society – encouraged by the parties – was to provide the material for negotiation through advisors and guests who worked in groups on sub-themes.

STRATEGIES AND FORMATS OF INCLUSION

The first model of dialogue used in 1994 incorporated COMPAZ, a pro-peace organization formed by civil society organizations from Chiapas. COMPAZ provided documentation and support for the mediation.

In early 1995 a new format was implemented, which involved hundreds of personalities and experts, along with indigenous, peasant and women's organizations – all invited by the parties to contribute to the dialogue. Moreover, there were numerous observers to the process.

The process initially followed the "window model", with the government receiving a list of petitions, internally defining its responses and then offering them to the EZLN. The government aimed to separate the process issue by issue, so that all actors only defended their own interests. In order to remove the "window" dynamics, the mediators wanted the consultations to be binding, which was accepted by the government. This is one of a few cases where consultations had that power.¹⁶

¹⁶ Paffenholz, 2014b.

On 16 February 1996, after almost a year of mediated negotiations, the parties reached an agreement on the first agenda point in the so-called San Andrés Accords. Civil society and women had a strong influence on the negotiations, which led to a comprehensive agreement that addressed a broad range of issues related to indigenous rights.

An ingredient for the success of the Chiapas process was the combination of strategies. The Commission of Concordia and Pacification (COCOPA) formed the so-called ‘parallel way’: as the federal Congress’ monitoring body responsible for overseeing talks between the government and the EZLN, it functioned in tandem with CONAI. Although COCOPA’s role was not respected as intended, the Commission provided for one of the novelties of the process, since it was a way of involving congress and national political parties in the search for political solutions. COCOPA linked San Andrés and the EZLN to the process of reforming the state and created a space in which the EZLN discussed its interests/positions with others, to later negotiate them with the government. In addition, the Commission held conversations with governmental agencies to overcome specific incidents and tensions of the process. COCOPA’s work prospered in 1996; it became another track of negotiation.

CHALLENGES IN INCLUSIVE PEACE PROCESSES

However, around the same time it also became clear that the federal government was no longer interested in genuine negotiations. The impasse gradually grew more complex. There was disagreement over the role of media and of the international community, which may have prevented further pressure for the implementation of the agreement or the continuation of the negotiations. The traditional elite, such as big land owners, also caused difficulties in accepting the agreement, especially in the beginning.

The government extended its campaign against civil groups and autonomous actors applying the model of local paramilitary conflicts. As a consequence, there was increased military and paramilitary violence. The government strengthened the role of the Chiapas state government through social programs supported by the army and various federal agencies.

On 22 December 1997, a massacre took place in the Chiapas town of Acteal that claimed 45 lives. There were also a series of other attacks on indigenous people in the northern part of Chiapas State, reportedly by the Mexican federal army. While the EZLN insists that Chiapas is a reflection of grave national problems that require a national negotiating agenda and nationwide change, the government claims that “Chiapas is a lamentable set of local problems deriving from poverty”, adding that those problems require local government programs.

TRANSFORMATION OF CONAI INTO SERAPAZ

Since 1996, CONAI has opened other areas necessary for the peace process: the promotion of reconciliation and civil participation. The CONAI Commission committed itself to recovering the centrality and national linkage for the peace and democracy process. The EZLN held the view that peace did not only depend on the state, but also on its own abilities.¹⁷

In February 1998, an International Human Rights Observation Mission comprising civil, ecclesiastical and academic organizations from more than 10 countries arrived in Mexico. CONAI had presented the proposal of this mission to the Foreign Ministry. A subsequent communiqué of the government accused the head of CONAI of having “moved away from the task of mediation given to him by law”. On 7 June 1998, CONAI was transformed into SERAPAZ.¹⁸ This helped to increase pressure from societal actors on the government by taking the initiative, diversifying calls and proposals during 1998.

PARTIAL IMPLEMENTATION OF THE AGREEMENT

In 2000, the election of Vicente Fox, a candidate from the center-right National Action Party (PAN), put an end to the 71 year dominance of the Institutional Revolutionary Party (PRI).¹⁹ Fox’s government accepted the San Andrés agreement with the exception of the autonomy provision,²⁰ and pushed for its implementation in the constitution. The EZLN viewed the government’s unilateral presentation of a constitutional reform bill to the senate as a form of exclusion, as it did not include the full agreement of 1996. However, others saw the reform bill as a positive step: at last, four years after its conclusion, the agreement was partially implemented and rights of the indigenous were established in the constitution.

“We’re subjects, not objects as before.”

Indigenous interlocutor at the MSN meeting

¹⁷ In this regard, today the nongovernmental Land University (Unitierra) is working for inclusion by giving indigenous people various types of training.

¹⁸ SERAPAZ already existed prior to this date, but had a low political profile and was mainly a legal support system. It became visible with the transformation of CONAI into SERAPAZ.

¹⁹ Krauze Enrique, “Furthering Democracy in Mexico,” *Foreign Affairs* January / February issue, 2006.

²⁰ The agreement provided for a fourth layer of government, after federal, state and municipality.

3.3 CONCLUSIONS

TRANSFORMATIVE POWER OF AN INCLUSIVE PROCESS

The case of Chiapas provides an important lesson on the value of inclusivity: its success should not be measured only in terms of whether or not parties manage to achieve an agreement, but more importantly, in terms of whether and to what extent the process manages to transform society. Indeed, the broad agenda and complex setup of the Chiapas process was perhaps among the reasons why the parties failed to reach an agreement, as the variety of interests to be taken into account were too numerous. However, by being so inclusive, it transformed society in Chiapas, and even on a national level. By broadening participation to actors that had traditionally been excluded, the process has changed the culture of life in Mexico. The EZLN, representing a previously marginalized group, has grown political in its capacity to convene national actors and to express itself socially and politically. Today indigenous people are still segregated, marginalized and discriminated against in some places, but it is no longer possible to ignore the voices and values of the indigenous population. Indigenous women are exercising their political rights, and indigenous autonomous communities continue the struggle to implement the agreement on indigenous culture and rights in their own space. This keeps advancing change in Chiapas.

There have also been transformations at the state level: the local governments of Oaxaca have adopted their constitution and the federal government has made very significant changes in its constitution. Not all of these changes were proposed by the Chiapas negotiations, but many were never expected to be possible before these negotiations.²¹ The impact of the process on civil society and political groups across Mexico was deep and continues to inspire the way they operate.²²

COMBINING FORMATS TO BROADEN INCLUSION

Another interesting lesson from Chiapas is the way in which different forms and models of inclusion were combined. There were different rounds and formats of talks and consultations, at times in parallel, to the extent that it was sometimes hard to distinguish who was talking to whom and for what purpose. Mediators and mediation support actors may look at Chiapas for inspiration of what modalities may be used to include different stakeholders at different phases of a mediation process. It also shows that there is not one best model for inclusion²⁴ – it is through a combination of different formats that Chiapas has managed to broaden the inclusion of actors and representation of issues in its process.

“Although Mediation should orient itself toward Peace by achieving a political agreement between the Parties to the armed conflict, its deepest and most difficult task is building Peace as a process of change.” Miguel Alvarez Gándara²³

²¹ Another example is that international law has become directly binding.

²² For example, the Chiapas caravans that tried to raise national awareness about the State's situation were emulated in Ayotzinapa, where the forced disappearance of 43 students in September 2014 triggered a nationwide political crisis.

²³ Miguel Alvarez Gándara, *The CONAI and the general crisis in the peace process*, August 1998.

²⁴ Comparative case study research from Paffenholz et al. has shown that success cases combine strategies, models and power considerations in their process design. Paffenholz Thania, “Broadening Inclusion in Peace Processes and Political Transitions: Presentation of research results,” Chiapas, November 2014c.

MEDIATION SUPPORT NETWORK

PROFILE

The Mediation Support Network (MSN) is a small, global network of primarily non-governmental organizations that support mediation in peace negotiations.

MISSION

The mission of the MSN is to promote and improve mediation practice, processes, and standards to address political tensions and armed conflict.

Furthermore, the MSN connects different mediation support units and organizations with the intention of

- promoting exchange on planned and ongoing activities to enable synergies and cumulative impact;
- providing opportunities for collaboration, initiating, and encouraging joint activities;
- sharing analysis of trends and ways to address emerging challenges in the field of peace mediation.

ACTIVITIES

The MSN meets once or twice a year in different locations. The organization of the meetings rotates, with each meeting hosted by a network partner. Each meeting has a primary topical focus that is jointly decided by all network members.

MSN MEMBERS IN NOVEMBER 2014

- African Centre for the Constructive Resolution of Disputes (ACCORD) www.accord.org.za
- Berghof Foundation www.berghof-foundation.org
- The Carter Center www.cartercenter.org
- Center for Peace Mediation (CPM) www.peacemediation.de
- Centre for Peace and Conflict Studies (CPCS) www.centrepeaceconflictstudies.org
- Centre for Mediation in Africa, University of Pretoria (CMA) www.centreformediation.up.ac.za
- Conciliation Resources (CR) www.c-r.org
- Crisis Management Initiative (CMI) www.cmi.fi
- Folke Bernadotte Academy (FBA) www.folkebernadotteacademy.se

- Foundation for Tolerance International (FTI) www.fti.org.kg
- Centre for Humanitarian Dialogue (HDC) www.hdcentre.org
- Initiative on Quiet Diplomacy (IQD) www.iqdiplomacy.org
- Mediation Support Project (MSP), swisspeace and Center for Security Studies (CSS) ETH Zurich www.swisspeace.ch & www.css.ethz.ch
- Nairobi Peace Initiative (NPI) www.npi-africa.org
- Servicios Y Asesoría Para La Paz (SERAPAZ) www.serapaz.org.mx
- Southeast Asian Conflict Studies Network (SEACSN) www.seacsn.usm.my
- UN Mediation Support Unit (PMD/MSU) www.peacemaker.un.org/mediation-support
- US Institute of Peace (USIP) www.usip.org
- West Africa Network for Peacebuilding (WANEP) www.wanep.org

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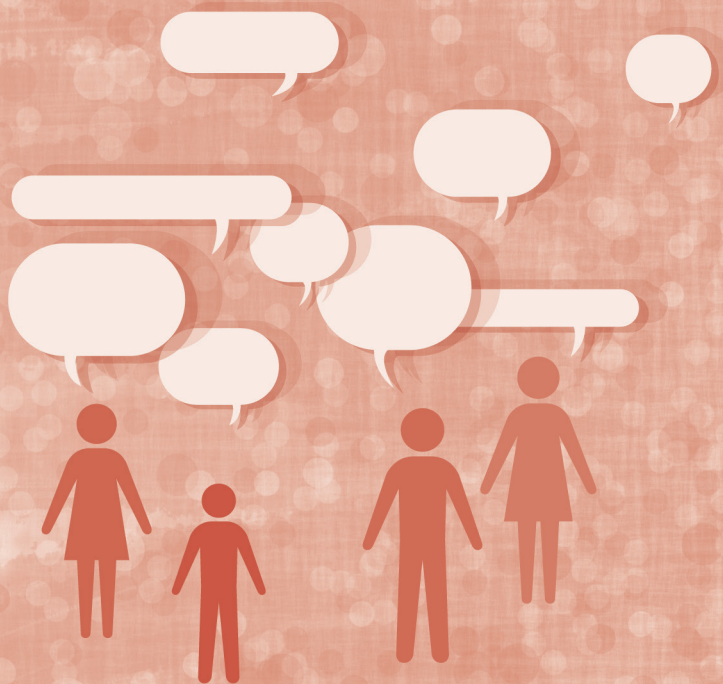
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