Viadrina-Schriftenreihe zu Mediation und Konfliktmanagement

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The Role of Insider Mediators in Peace Processes: A Systematic Approach

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Preface

Being a lawyer by training and profession, thinking, learning and writing about the resolution of international – and frequently violent – conflicts has been a new, yet immensely satisfying and rewarding academic experience for me. I am enormously grateful for the opportunity to explore the fascinating field of peace mediation during the master's degree in Mediation and Conflict Management at the *European University Viadrina Frankfurt (Oder)*, and then again when writing my master's thesis, on which this book is based.

Peace processes are typically complex and lengthy affairs. The handshake between high-ranking officials of the warring parties and – to take a striking example – the UN Secretary General as mediator to seal a peace agreement is often just the icing on the cake of years of hard work by many actors on various levels of society. This book examines the role played by the oft-forgotten and invisible mediators at the grassroots level. Insider mediators frequently work tirelessly and with great devotion for little or no remuneration or recognition. Yet their contribution to peace processes can be significant. However, how precisely and under which circumstances this is the case are questions that the current literature has not dealt with systematically or in great depth. By seeking to fill this gap I hope sincerely that the insights and conclusions presented in this book are helpful for the design of peace processes going forward.

I thank my supervisor, *Prof. Dr. Lars Kirchhoff*, for his guidance, helpful comments and generally pleasant conversations. Thank you also to *Ms. Julia von Dobeneck* for her helpful comments as second reviewer of my thesis. I am grateful to the editors, *Dipl.-Psych. Nicole Becker, M.A.*, *Prof. Dr. Ulla Gläßer, LL.M.*, *Dipl.-Psych. Kirsten Schroeter* and *Dr. Felix Wendenburg, M.B.A.*, and the publisher, the *Wolfgang Metzner Verlag*, for including my thesis in this publication series – this is indeed a great honour for me. Finally, this book would not have been possible without the extraordinary support of my beloved wife, *Dr. Anneke Wilhelm*. Not only did she take on more than her share in caring for our three young children so that I can focus on writing, but she additionally took over large portions of the editorial work on my thesis. Her unconditional devotion and commitment to help me complete this project has touched me deeply – thank you!

Martin Wilhelm, September 2020

Martin Wilhelm

Abstract

Dass Insider Mediatoren eine wichtige Rolle in Friedensprozessen spielen, ist unumstritten. Eine systematische Aufarbeitung ihres Mehrwerts in der internationalen Konfliktbearbeitung ist jedoch bisher ausgeblieben. Diese Lücke vermag die vorliegende Ausarbeitung zu schließen. Auf Grundlage der wesentlichen Eigenschaften von Insider Mediatoren wird ihr struktureller Bedarf in Friedensprozessen anhand zweier theoretischer Bezugsrahmen herausgearbeitet: Verhandlungstheoretische und sozial-psychologische Erklärungsansätze für Konfliktursachen sowie das Vorliegen gewisser Charakteristika von Gegenwartskonflikten, die den Einsatz von Alternativen zu „Outsider" Mediatoren strukturell begünstigen. Hierdurch entstehen neue Zugänge und Quellen zur Figur des Insider Mediators, aus denen teils bekannte, aber auch teils neue Erkenntnisse generiert werden, die für die Gestaltung von Friedensprozessen von Vorteil sein könnten. Ein weiteres Anliegen dieser Arbeit ist, das immanente Problem des Verlusts der Parteilichkeit von Insider Mediatoren systematisch darzustellen. Hierzu werden strukturelle Probleme und Gegenmaßen aufgezeigt, die für weitere Forschung zu diesem Thema fruchtbar sein könnten. Insgesamt trägt dieses Buch insbesondere durch die neuen und vielschichtigen methodischen Ansätze sowie die in der Literatur bis dato ausgebliebene systematische Aufarbeitung der strukturellen Anfälligkeit von Insider Mediatoren zu einer echten Dynamisierung des Themas bei.

1. General introduction

Insider mediators play an important role in contemporary peace processes. That much is clear. Since the seminal article of Wehr and Lederach introduced the concept of the "insider-partial mediator" in the early 1990s,[1] there has been a fair amount of literature on insider mediation, particularly in the last two decades or so, highlighting how insider mediators benefit peace processes. However, such writing has either taken a rather narrow theoretical approach[2] or been of limited scope.[3] This treatise attempts to fill this gap by providing a general and systematic analysis of insider mediation and by considering a wide range of theoretical perspectives, particularly from the fields of bargaining and social-psychology, but also making reference to social-anthropological models. Moreover, and perhaps most innovatively, this study will explore what this author considers to be an intrinsic – and therefore essential – challenge to insider mediators' effectiveness in peace processes, namely the risk that insider mediators are perceived as being biased by the parties.

Given the multiple stages of peace processes, and the many roles that local actors, due to their usual informal function, might take in conflict resolution mechanisms,[4] a comprehensive examination of local roles in peace processes falls outside the scope of this book. We are rather interested in where the primary role of the local actor is to support the parties in negotiations.[5] Accordingly, although the lines of various phases of a peace process may often be blurred, our focus will be peace-making measures (of which mediation is an important example),[6] rather than the

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[1] Wehr/Lederach 1991; Wehr/Lederach 1996 (which is a reproduction of Wehr/Lederach 1991).

[2] By, e.g., considering the topic of insider mediation solely from a practical perspective (by conducting case interviews with insider mediators, for instance) (see, e.g., Mason 2009; Dziatkowiec 2017), from a policy perspective (see, e.g., German Federal Foreign Office 2017; UNDP 2014), from a regional perspective (see, e.g., Hislaire et al. 2010; Ropers 2012; Elgström et al. 2003), from a cultural/religious perspective (see, e.g., Mubashir/Vimalarajah 2016) or from a bargaining or social-psychological perspective (see, e.g. Svensson/Lindgren 2013 and Wehr/Lederach 1991, respectively).

[3] See, e.g., the journal articles of Maiese 2005 and Roepstorff/Bernhard 2013.

[4] E.g. as messenger, human rights advocate, host, facilitator, providing conflict diagnosis, healer, coach, co-ordinator and advising on process design (and often a combination of two or more of such roles (see Mason 2009, 5f.; UNDP 2014, 9f.; Dziatkowiec 2017, 11; Ropers 2012, 196; Gourlay/Ropers 2012, 95).

[5] Mason 2009, 6.

[6] Ramsbotham et al. 2016, 122.

closely related stage of conflict prevention and the broader notion of peacebuilding. In particular, any activities that relate to processes of national dialogue after the conclusion of a ceasefire or general peace settlement agreement are not covered.[7] In saying that, in particular situations insider mediators may take on significantly helpful roles in a pre-peacemaking phase, which would presumably fall under conflict prevention (namely, early warning-early response networks). Situations where insider mediators adopt such functions will thus be indicated, where appropriate.

The specific issue explored by this book is what is the need for involving insider mediators in peace processes, and in which conditions is their involvement particularly beneficial. This question will be analysed against two sets of criteria: first, the causes of conflicts (i.e., how these are addressed by mediation in general and insider mediation in particular); and second, the existence of particular conditions with respect to conflicts and their resolution that favour the use of alternatives to traditional mediation by outsiders.[8] While the latter is the conventional methodology taken in insider mediation scholarship, the former is indeed a novel approach. These two benchmarks are considered to be particularly useful for examining the role of insider mediators. As regards the former, this is because mediation (including the potential benefits of insider mediation) clearly needs to be able to deal with the causes of conflicts, while, in relation to the latter, in conditions where outsider mediation is structurally inadequate in addressing conflicts, there is a *prima facie* demand for insider mediation.[9]

However, in order to test insider mediation against these theoretical foundations, we must first establish what insider mediation precisely is. The discussion will accordingly start with identifying the distinguishing features of insider mediation (see 2). We will then proceed to providing an overview of the current literature on the causes of international disputes (see 3.2) and the conditions that favour the use of alternatives to outsider mediation (see 3.3). This will lay the foundation

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[7] To be sure, insider mediation has been shown also to be relevant for peacebuilding processes (Roepstorff/Bernhard 2013, 167 (and see the further references cited therein)). However, the bulk of the literature so far appears to relate to peacemaking roles of insider mediators (see applicable literature cited especially at 2 and 3.4 below). Since the intended approach of this book is to build on, and add to, this existing writing, the focus here will likewise be on peacemaking.

[8] See especially 3.3 below and sources cited therein.

[9] Parties' (frequently strategic) decision to commence mediation (see, e.g., Giessmann/Wils 2011) does not appear to have a strong bearing on the role of insider mediators, as this decision would typically be taken at the track 1-level, on which insider mediators are generally not active, save for taking a lead role under certain rare conditions (see 2.4 below).

for examining insider mediators' unique role against the abovementioned benchmarks, and the conditions in which insider mediation is of particular utility (see 3.4). This book will then explore the inherent challenge of the parties' perception of bias to the effectiveness of insider mediators' involvement in peace processes (see 4). The study will conclude with a summary, conclusion and outlook (see 5).

While this book does not employ a case study methodology, references to previous peace mediation processes will be made where appropriate.

2. Distinguishing features of insider mediation

2.1. Overview

A review of relevant literature on insider mediation reveals that four primary features are attributed to insider mediation that are said to be essential for their role in peace processes: (i) close connection to the contending parties and the conflict context;[10] (ii) in-depth knowledge of relevant matters and circumstances relating to the conflict, such as cultural, religious and political issues, and of relevant aspects with respect to the conflict itself, such as its content, dynamics and context;[11] (iii) the informal nature of insider mediation;[12] and (iv) that they hold societal roles of authority and trust.[13] These will now be discussed in turn.

2.2. Close connection to parties and conflict context

The literature has broadly described insider mediators as being deeply embedded and personally rooted in the conflict context, culturally and normatively, and having close relationships to the parties.[14] This is said to confer on mediators respect, legitimacy and trust from the disputants and from the society in which the conflict is set.[15] Insider mediators generally also have a vested interest in the conflict's outcome, giving them a strong (long-term) commitment to the mediation process, a sensitivity to finding solutions recognised and valued by all the parties and generally to reaching a (durable) outcome.[16] Indeed, what seems to distinguish insider from outsider mediators is that insiders are essentially connected to the conflict and/or the parties in a way that makes removing themselves from the conflict set-

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[10] E.g., Wehr/Lederach 1991, 87; Mason 2009, 4; Elgström et al. 2003, 14, 21; Mubashir/Vimalarajah 2016, 9; German Federal Foreign Office 2017, 3.

[11] E.g., Wehr/Lederach 1991, 87; Mason 2009, 4; Elgström et al. 2003, 14; Mubashir/Vimalarajah 2016, 9; German Federal Foreign Office 2017, 3.

[12] See sources cited at 2.4 below.

[13] See sources cited at 2.5 below.

[14] See sources cited at note 10 above.

[15] German Federal Foreign Office 2017, 3.

[16] E.g., Wehr/Lederach 1991, 87; Elgström et al. 2003, 14; Mason 2009, 4; Hislaire et al. 2010, 9; Mubashir/Vimalarajah 2016, 8; German Federal Foreign Office 2017, 3.

ting and the conflict's consequences difficult (for geographic and/or cultural/normative reasons).[17] Outsiders, by contrast, retain control over determining (the level of) their involvement.[18]

It is important to note, however, that identifying who is an insider or an outsider with respect to the degree of their ties to the parties and the conflict setting is not always clear-cut. Whether such a connection exists will often depend, first, on the subjective and, possibly, culturally influenced perceptions of the parties. In relation to the former, a mediator could regard himself as being an insider, while the parties may not.[19] And regarding the latter, different cultures may define the in-group more broadly than others – e.g., Africans are said to more readily include citizens of other African states than Asians would include citizens of other Asian countries.[20] And second, the degree of the connection may vary over time with changing circumstances, as determined, e.g., by the particular phase of mediation, the changing nature of issues being mediated and other relevant factors.[21] Consequently, insider mediators may often only be capable of being defined in relative terms – that is, as being more or less of an insider as compared to others.[22]

This lack of conceptual clarity, though possibly unsatisfactory to the conceptual purist, does not detract from the fact that a connection between a mediator and the conflict setting – however difficult its existence and degree may be to determine in any given circumstance – constitutes a variable that explains mediators' role in resolving international conflicts, and thus remains an essential characteristic of insider mediators. The relative nature of closeness in particular circumstances does mean, however, that the conflict context, such as the cultural and religious setting,[23] has to be taken into account when examining the extent to which this feature contributes to insider mediators' utility in peace processes.

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[17] Meaning that mediators may often, but need not necessarily, live in the context setting to be classified as insiders.

[18] Roepstorff/Bernhard 2013, 165.

[19] Roepstorff/Bernhard 2013, 165; Mubashir/Vimalarajah 2016, 8.

[20] Ropers 2012, 195.

[21] Roepstorff/Bernhard 2013, 165; Gourlay/Ropers 2012, 92; Ropers 2012, 195.

[22] Roepstorff/Bernhard 2013, 165; Mubashir/Vimalarajah 2016, 8.

[23] On culture and religion's impact on the parties' perception of trust for the mediator, which affects their perceived strength of connection with the mediator see 3.3.5 below.

2.3. Knowledge of relevant matters and circumstances

Scholars have found that insider mediators typically have knowledge of cultural norms, the countries' history and political landscape, the dynamics and context of the conflict, as well as of the interests and strategies being pursued by the parties.[24]

With this intimate knowledge, together with a network or even existing personal relationships within the conflict setting (with the latter two traits deriving from mediators' closeness to the parties and conflict context considered above), insider mediators frequently have access to stakeholders that are already known to be relevant for the conflict resolution, and have the inherent capabilities to identify and integrate into the peace process potential stakeholders that are still outside the radar of the peace process design.

A close connection between mediator and parties often presupposes knowledge of relevant matters and circumstances, which explains why insider mediators are likely to exhibit both these characteristics.

2.4. Informal nature of insider mediation

The overwhelming – albeit implicit – assumption in conflict resolution writing is that insider mediation is typically low-profile by nature, meaning that it is most useful when operating either in unofficial peace processes (i.e., those that lack a clear mandate from the relevant government as well as a procedural framework, such as agreed agendas, rules of engagement and time schedules) or by way of complementing the mediation efforts of high-level mediators[25] in official peace processes.[26] Insider mediators have accordingly been described, for example, as "[…] unofficial mediation activities, often below the radar of the public (or party) attention, which might pave the way for negotiations."[27]

Indeed, insider mediators frequently seem to take on such informal roles in peace processes. Pertinent examples are the insider mediation movement known as the "Concerned Citizens for Peace" as part of a high-level mediation effort led by

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[24] E.g., German Federal Foreign Office 2017, 3; see also Mason 2009, 4, 16; Smith/Wachira 2010, 9.

[25] High-level mediators, external mediators and outsider mediators will be used interchangeably in this study.

[26] E.g., Mason 2009, 4; Giessmann/Wils 2009, 6; idem 2011, 187, 188; on the distinction between official and unofficial processes generally see McCartney 2006, 4.

[27] Giessmann/Wils 2009, 6.

the then General Secretary of the United Nations, Kofi Annan, during the Kenyan post-election crisis in 2008.[28]

It would seem that the main comparative advantage of insiders over outsiders when acting in this informal function is their flexibility in conducting mediation. Insiders are more flexible than outsiders primarily because there is a lower degree of general publicity, public assessment and pressure to achieve certain results than where an outsider mediator were involved. Moreover, the absence of procedural requirements, such as time limits, enables insider mediators to adapt their approach to the circumstances, allowing them to delay talks where this seems justified, for example.[29]

However, a review of previous peace processes shows that low-profile insider mediation, though most prevalent in practice, is not the only form in which insiders become active. In some instances, insider mediators take the lead in official mediation processes (and are therefore referred to as "high-level" insider mediators herein). Conspicuous examples are Oscar Arias' efforts in ending the Central American wars in the late 1980s in his capacity as then President of Costa Rica,[30] Intergovernmental Authority on Development (IGAD), an eight-country trade bloc in east Africa, in Sudan's peace negotiations in Naivasha from 2002 to 2005, with assistance from a troika comprising the UK, Norway and the US,[31] and the sole involvement of the Economic Community of West African States (ECOWAS) during the civil wars of Liberia and Sierra Leone that broke out in 1989 and 1991, respectively.[32]

This raises the fundamental question whether the fact that high-level insider mediation clearly exists in practice, and, at least in the case of the Central American and Sudanese conflicts mentioned above,[33] could also be regarded as successful, calls into question that the (predominantly) informal nature of insider mediation is an essential feature of it. This author believes that it does not. To the extent that the high-level activities of insider mediators could be seen to benefit peace processes on account of other inherent characteristic, notably having a close connection to, and intimate knowledge of, the conflict context (which were considered above),

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[28] Mason 2009, 13f.

[29] UNDP 2014, 37.

[30] Dziatkowiec 2017, 11.

[31] Giessmann/Wils 2009, 7.

[32] Elgström et al. 2003, 19.

[33] Indeed, ECOWAS' efforts could also be seen as mildly effective, given that the peace plans that had initially been drafted by ECOWAS were eventually implemented, albeit in amended form (Elgström et al. 2003, 19f.).

the rare occurrences of where insider mediators take the lead in formal peace processes is best seen as a valuable extension of, rather than a detraction from, their predominantly informal role in international peace processes. Moreover, the existence of a comparatively low number of counterexamples does not diminish the benefits of the flexibility inherent to the informal nature of insider mediation, as explained above.

However, the distinction between high-level and low-profile insider mediation may have implications for certain general characteristics of, and the mediation style typically employed by, insider mediators. First, high-level insider mediation will, by definition, take place on higher tracks of mediation processes than low-profile mediation: the former on tracks 1 and, possibly, 1.5; the latter generally on tracks 2 and 3.[34]

Second, since high-level insiders take the lead in official peace processes, they carry substantial responsibility in respect thereof and their activities will also be scrutinised more by the public. Consequently, the parties and the wider public will likely demand that the mediator be a person or organisation with a high level of authority and standing (possibly to reduce the risk of mediation failure). This is demonstrated by the fact that a head of state (Oscar Arias in the Central American conflict) and regional organisations (IGAD and ECOWAS in the Sudanese and Sierra Leone/Liberia wars, respectively) were selected as mediators in the examples mentioned above. Demands that informal insider mediators occupy societal positions of authority and trust would seem to be lower, however, as the discussion of the next essential feature of insider mediation will show.

Third, the fact that high-level mediators will stand in the public eye to a greater extent than their informal counterparts means that the former will be less flexible in conducting the mediation than the latter, as they are likely to be under pressure to deliver results within certain deadlines and are expected to have to adhere to stricter procedural requirements.

Finally, although high-level insiders are less likely to adopt a power mediation approach[35] than powerful state high-level mediators, they are certainly more likely (and tempted) to adopt a directive, occasionally even power, mediation approach than informal insider mediators. This is partly due to high-level insider mediators'

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[34] See Gourlay/Ropers 2012, 96f.

[35] I.e., influencing the substantive content of negotiations through negative or positive incentives, including military intervention (Greig/Diehl 2012, 9). Power mediation would seem to be an extreme form of a directive strategy.