Journal of Advances and Scholarly Researches in Allied Education

Vol. IV, Issue VIII, October-2012, ISSN 2230-7540

REVIEW ARTICLE

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Journal of Advances and Scholarly Researches in Allied Education
Vol. IV, Issue VIII, October-2012, ISSN 2230-7540

Defining Mediation & Mediation Success

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INTRODUCTION

When parties in conflict are in no position to negotiate directly, but have a genuine will to overcome the situation they are in, they tend to seek a person or institution to help them reach a satisfactory agreement. Mediation, in itself, does not have to be imposed by third parties (although this might be suggested or induced), but should always be freely accepted by the parties in conflict. Mediation is, more than anything, a communication exercise that seeks to conciliate the interests of the parties in dispute, assisting them to find a way out, but without imposing a solution upon them from outside. The person that mediates a conflict and the parties' interests must have a broad understanding of the conflict and respective interests, must have certain personality traits (honesty, impartiality, flexibility, empathy, patience, etc.) and must be a master of certain well known and widely promoted mediation skills and techniques (paraphrasing, summarising, prioritising, starting with assumable objectives, temporarily keeping a distance in order to generate new ideas and focuses, clarifying needs and interests, resituating the conflict, broadening the scope, moving outside of the usual conceptual framework, emphasising common values, breaking down the problem, helping the parties to make small concessions, etc.) that can lead to new approaches, break deadlocks, open new dialogues, achieve more active participation and help to find a solution in which all of the parties come out winning. Mediation intervenes in the actors' conducts, in order for them to agree to matters of mutual benefit, and not in terms of structures, which should be a derivation of the agreements the parties reach. The target is to modify the relations between the parties in conflict. This also has its stages and moments (initial contacts, data collection, the establishment of the rules of play, process design, the identification of agreements and incompatibilities, the visualisation of hidden agendas, reformulation, the generation of options and the achievement of agreements and compromises), and forms an integral part of any negotiation process.

There is extensive literature on mediation, and also many centres that specialise in the issue. The mediation of armed conflicts, however, works under very different conditions to microconflicts, as the mediation is always constricted by elements that have nothing to do with the capacity and skills of the mediator. The techniques are more or less the same, but in armed processes, ultimate success also depends on factors that are external to the mediation process. As has already been suggested, there are some basic principles for mediation in armed conflicts: the mediator must be technically impartial, the parties must agree to the mediation and select the person who will do it, the conflict cannot be resolved under pressure, the parties must want to settle it, 94 and the mediators must not adopt punitive measures.

1 Mayer considers there to be four basic analytical instruments that the mediator must know how to handle:

1 – Understand the relative power and authority of the people involved in the conflict. This implies knowing who does what, when, where and how.

2 – Understand the nature and depth of each party's emotions. Which are socially acceptable and under what conditions? What groups have the greater capacity to express their emotions? What emotions are the most repressed?

3 – Understand the layers or strata of the conflict, and find the right level on which it is possible to work on resolving it. i.e. estimate the 'entry level', one which is neither too tough nor too soft. This implies not starting with the most complex issues, but trying to make small progress to generate trust and only later tackling more complex issues. This also involves perceiving the layers from which the roots and history of the conflict arise.

4 – Finally, maintain clear communication, as this is vital in order for the messages to be correctly understood by all the parties.

There were 34 armed conflicts, which can be understood as a contested incompatibility between two parties that results in at least 25 battle-related

deaths per year, occurring in 25 locations throughout the world; this was one more armed conflict than what was reported the year before . As illustrated below in Figure 1.1, the majority of armed conflicts since 1949 have occurred in Africa. When we consider only the armed conflicts that occurred in 2007, however, the majority of these armed conflicts took place within Asia (14) and then next within Africa (12).

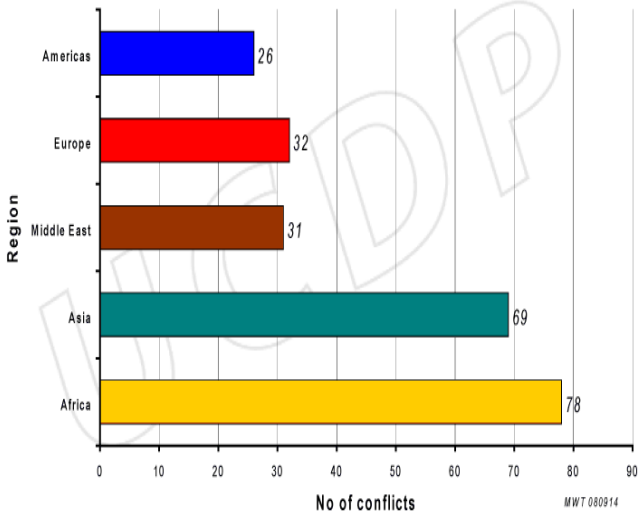

Figure 1.1 Number of Armed Conflicts by Region (1949-2007)

Most of these armed conflicts are considered to be 'minor' because they had 999 or less battle-related deaths per year; when a thousand or more battle-related deaths are reached in a year then these minor armed conflicts can be considered to be wars.3 In 2007 there were a total of four wars occurring globally, which was one less than the year before and the lowest number recorded since 1957 when there were three. Interestingly, 2007 was also the fourth consecutive year in which there were no wars or minor armed conflicts fought between states. While the number of battle-related deaths is what distinguishes a minor armed conflict from a war, aside from these direct battle-related deaths are a number of other costs associated with wars. In general, 'a typical civil war inflicts an immense amount of damage: death, disease, and poverty'. In other words, civil wars can be viewed as 'development in reverse'. More specifically, civil wars create negative impacts at multiple levels: within the country, regionally, and globally. By reviewing some of these impacts, we begin to get a sense of the immense costs associated with war.

Civil wars create numerous negative impacts within the country. Licklider describes the features of a typical post-war country as follows: economically the infrastructure has been destroyed; the currency has been undermined; commerce is at a standstill; agriculture has been devastated; unemployment is high, which means there are no jobs for former soldiers; foreign investment has been frightened off; and there is no basis for exports. The country's society has been undercut by the mutual dislike between warring groups, which is not any weaker than before the war; the wide distribution of weapons within the population; the people's habit of non-obedience to government and authority generally; the undermining of traditional sources of authority; the need to demobilize and disarm at least two armies quickly; and the prevalence of young soldiers with no skills other than killing. The old political process has been discredited you do not want to re-create the political system that resulted in civil war, there is no single legitimate government, there is a low tolerance for legitimate opposition, there is often little democratic tradition, and the police and judicial systems are seen usually correct as part of the problem rather than as part of the solution because they have legitimacy for much of the population.

Closer examination of Licklider's list reveals that these problems span three sectors: economic, societal, and political.6 Some recent research has begun to quantify some of these economic, societal, and political costs. For example, it has been found that, 'by the end of the typical war, the economy is about 15 percent poorer than it would have otherwise been, and mortality is much higher, mainly due to disease triggered by movement of refugees and the collapse of public health systems, rather than to combat deaths' . Furthermore, the costs of war in terms of its effect on human health is also persistent for some time after the war has ended and these costs may actually last longer than the economic effects . For example, life expectancies data indicate that health problems continue to cut people's life short even after the war has ended. That is, the average life expectancy is about three years shorter five years after the war than five years before the war. Another way to quantify the costs of war on human health is to express this cost through measures of Disability Affected Life Years (DALYs), which the World Health Organization (WHO) defines as, 'the sum of years of potential life lost due to premature mortality and the years of productive life lost due to disability' . Collier and Hoeffler estimate that the typical civil war incurs around half a million DALYS a year during the war. By arbitrarily assigning a value of $1,000 per DALY the health costs of the typical civil war are calculated as being around $5 billion. The political costs of war can also be quantified. By utilizing the Polity IV measure of democracy Collier and Hoeffler find that, 'on average civil war leads to a deterioration rather than an improvement in political institutions.' These same researchers find that measures of human rights five years before and after a civil war reveal that human rights are decreased after civil wars and that there are more human rights violations after the civil war. In sum, civil war creates numerous negative impacts across multiple sectors within the country that has experienced the war. The costs of civil war, however, are not only confined to the country that has experienced the war. Collier notes that both economic decline and disease spread across borders. Furthermore, Collier states that, 'because the typical country has about three neighbors, all of

whom are affected, the total cost of a civil war to neighbors is about as large as the cost to the country itself.' Taking all of these costs together, Collier and his colleagues have estimated that the typical civil war costs about $60 billion. Civil wars thus create numerous regional impacts, the costs of which become borne by the neighboring countries.

Civil wars also create negative impacts globally. Collier argue that civil war is linked to the three global problems of hard drugs, AIDS, and international terrorism. In the first case, territory that is outside the control of an internationally-recognized government is a prime location for the cultivation of drugs . With regards to the spread of AIDS, there are multiple linkages between civil war and the spread of AIDS within a nation and a region . One of these major linkages between war and the spread of AIDS is found in the fact that HIV-infected soldiers sometimes use rape as a weapon of war. Lastly, Collier argue that civil war provides territory that serves as a safe haven for terrorists. Hence, there is a link between civil war and tackling the problem of international terrorism. In sum, it is clear that the costs of civil war are not confined to the country. Besides the damages created across various sectors within the country are a number of other negative impacts at regional and global levels. By evaluating the total costs of civil war against the benefits as per a 'cost-benefit framework' it quickly becomes evident that civil wars are not socially productive, rather they produce adverse legacy effects . Because of this fact, Collier and Hoeffler argue that civil war should not be viewed as an unavoidably costly but valuable investment, rather it is, 'an avoidable calamity with highly persistent adverse effects.'

Given the devastating impacts and high costs associated with wars versus the benefits they produce, the importance of ending wars becomes self-evident. Over the last eighteen years some of the world's most difficult and challenging wars, such as the ones occurring in Mozambique, Cambodia, and Guatemala were brought to an end through a negotiated agreement . Other wars, however, have not been ended by the production of a negotiated agreement. Despite repeated attempts, peace has not been achieved in places such as Uganda and Sri Lanka. As recently as January of 2008, for example, the six year old ceasefire agreement in Sri Lanka broke down and hostilities resumed.

More precisely, if we examine the record for 2007 it reveals that peace agreements were signed in five armed conflicts: Uganda, the Central African Republic, Ivory, Chad, and Israel . Three of these five armed conflicts, however, were recorded as being active in 2007 . This suggests that only two of the five peace agreements were successful in ending the armed conflicts. Yet, in other cases where a war initially appeared to be resolved by a peace agreement, it would recur at a later date. The case of Sudan is a particularly interesting example of this: the war there ended in 1972 and then re-emerged eleven years later. In other words, we might conclude that there is a poor record in the success of ending armed conflicts through a negotiated peace agreement. Because the costs of a single war are immense, and these costs outweigh the benefits, there are obvious reasons for ending wars. When we also consider the recurring nature of some wars, such as the one in Sudan which was mentioned earlier, then there are a lot of other compelling reasons to end these wars permanently so that they do not recur later. To this effect, Collier notes that, 'history matters because if a country has recently had a civil war, its risk of further war is much higher. Immediately after the end of hostilities there is a 40 percent chance of further violent conflict.' Mason also found that the more civil wars a nation has had, the more likely peace is to fail and that, 'each additional civil war increases the odds of peace failure by 50 to 64 percent.' Moreover, these subsequent wars are often more costly and severe . This naturally leads to the question of why do some wars recur while others do not? There are a number of possible explanations. These explanations could include, for instance, the deployment of peacekeepers after the war, increased post-war peace building efforts, or the holding of free and fair elections.13 These and several other factors such as post-war economic development, democratization, and third-party support have been found to play a role in contributing to the permanent resolution of wars.

While these various factors may have played roles of varied importance in contributing to the permanent resolution of the wars in the places mentioned earlier, this study is only concerned with identifying and analyzing the factors related to mediation which are important for the permanent resolution of war. This chapter therefore begins by broadly discussing the challenges of reaching a permanent resolution of a war. The subsequent sections focus more narrowly on the challenge of defining mediation success, this study's research problem, the aim of this research, the research methodology, the limitations of this research, and lastly, the structure of this study.

DEFINING MEDIATION SUCCESS

The problem of defining success is pertinent to all third-party interventions and this problem has been handled in a variety of ways. For example, one view contends that there are degrees of success for third-party interventions. Mitchell argues that there are degrees of success and he states that: Some such peace processes never manage to get the parties into dialogue, let alone to agree to a cessation of fighting. Others reach dialogue but fail to find any possible agreement. Still others--the Anglo-Irish Treaty of 1921 comes to mind—achieve agreement,

only to see it repudiated. Still others rapidly break down at the implementation stage and the process ends in recrimination and accusations of bad faith. In other words, success can be viewed as being incremental. However, Hampson remarks that there are problems with defining success incrementally as Mitchell has done. That is, Hampson asks whether success should based on minimalist terms, such as the maintenance of a ceasefire, or should more comprehensive terms also be included? Hampson admits that there is no easy answer to this problem. The problem of defining mediation success is discussed in this section. First, three ways that the problem has previously been approached will be discussed. Then, the differences between a short-term and long-term definition of mediation success are outlined. Based on the limitations associated with short-term definitions of mediation success, it is argued that long term measures should be employed in order to achieve certain specific research objectives.

Next, the question of how to measure long-term success in mediation is addressed. It is proposed here that outcomes of durable peace would indicate a long-term mediation success. Finally, this section concludes with a discussion of how to measure durable peace. Like the problem of defining success of third-party interventions, as described earlier, defining mediation success is also problematic. 19 For example, it has been stated that, 'the relationship between international mediation and successful conflict outcomes by successful outcomes we mean producing either a ceasefire, a partial settlement or a full settlement is frequently mentioned, rarely defined and widely misunderstood' . However, Kleiboer argues that there are least three ways that the problem has been approached:

1. Some researchers avoid defining success and failure.

2. Some researchers create their own criteria of success.

3. Some researchers equate mediation success with mediation effectiveness.

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