Basics of Mediation: Concepts and Definitions

Fact Sheet Series: Peace Mediation and Mediation Support

Peace mediation is a term that covers a range of instruments used to deal with intra- and inter-state conflicts. It includes mediation, mediation support and mediation-based dialogue processes. Such mediation and dialogue processes can be actively supported by third parties with the relevant mandates and mediation frameworks. States play a key role and often make effective contributions. At the Federal Foreign Office, the Directorate-General for Crisis Prevention, Stabilisation and Post-Conflict Reconstruction, set up in March 2015, acts as a focal point for matters relating to mediation and mediation support. Moreover, in this area the Federal Foreign Office is in contact with a number of German civil society organisations which have come together under the umbrella of the Initiative Mediation Support Deutschland (IMSD).[1]

Mediation

The United Nations (UN) Guidance for Effective Mediation describes mediation as a voluntary process "whereby a third party assists two or more parties, with their consent, to prevent, manage or resolve a conflict by helping them to develop mutually acceptable agreements".[2] The term peace mediation comprises the entire structured process of supporting negotiations, from initial contact between mediators and conflict parties to ceasefire negotiations and the implementation of peace agreements. Mediation is thus an instrument that can be used throughout the whole conflict cycle.

Just like diplomacy in general, peace mediation aims to address and resolve conflicts in a constructive and non-violent manner. Yet a significant difference between mediation and diplomacy lies in the fact that diplomacy predominantly focuses on a country's own foreign policy goals and interests, whereas mediation is a consensus-based method to further all parties' interests. This leads to differing concepts of the roles of diplomats and mediators and, consequently, different approaches. Moreover, diplomats are more restricted when

it comes to cooperating with certain conflict parties (above all violent non-state actors), whereas mediators are fully able to include any conflict party in mediation processes in appropriate constellations. This is why coordination of diplomacy and mediation offers great potential.[3]

Mediation, a case study: Kenya

The efforts of Kofi Annan's mediation team in Kenya in the spring of 2008 are often cited as an example of the successful deployment of an expert mediation team. The former UN Secretary-General was asked to mediate on behalf of the African Union between the two main political factions in the conflict that broke out following the 2007 presidential elections. During the unrest, many people were displaced and at least 1,500 lives were lost. In order to de-escalate the conflict, the Kenya National Dialogue and Reconciliation Team, which comprised the Panel of Eminent African Personalities, attempted to bring about cooperative governance and power sharing between the two conflicting parties. Seeking expertise in the field of governmental cooperation between divergent political factions, it asked Germany to share its experience of coalition governments. Dr Gernot Erler, at the time Minister of State at the Federal Foreign Office, was asked to offer expertise as the only representative of a non African country. After months of negotiations, Africa's first grand coalition was sworn in on 14 April 2008. It helped to de-escalate the situation in both the short and medium term. The reformed constitution, adopted in 2010, served as the basis for the peaceful elections that took place in 2013. The case study of Kenya shows that mediation teams – both professional mediators and eminent figures – can strongly influence the success of peace initiatives. Furthermore, Germany's particular expertise contributed to finding a solution and resolving the conflict.
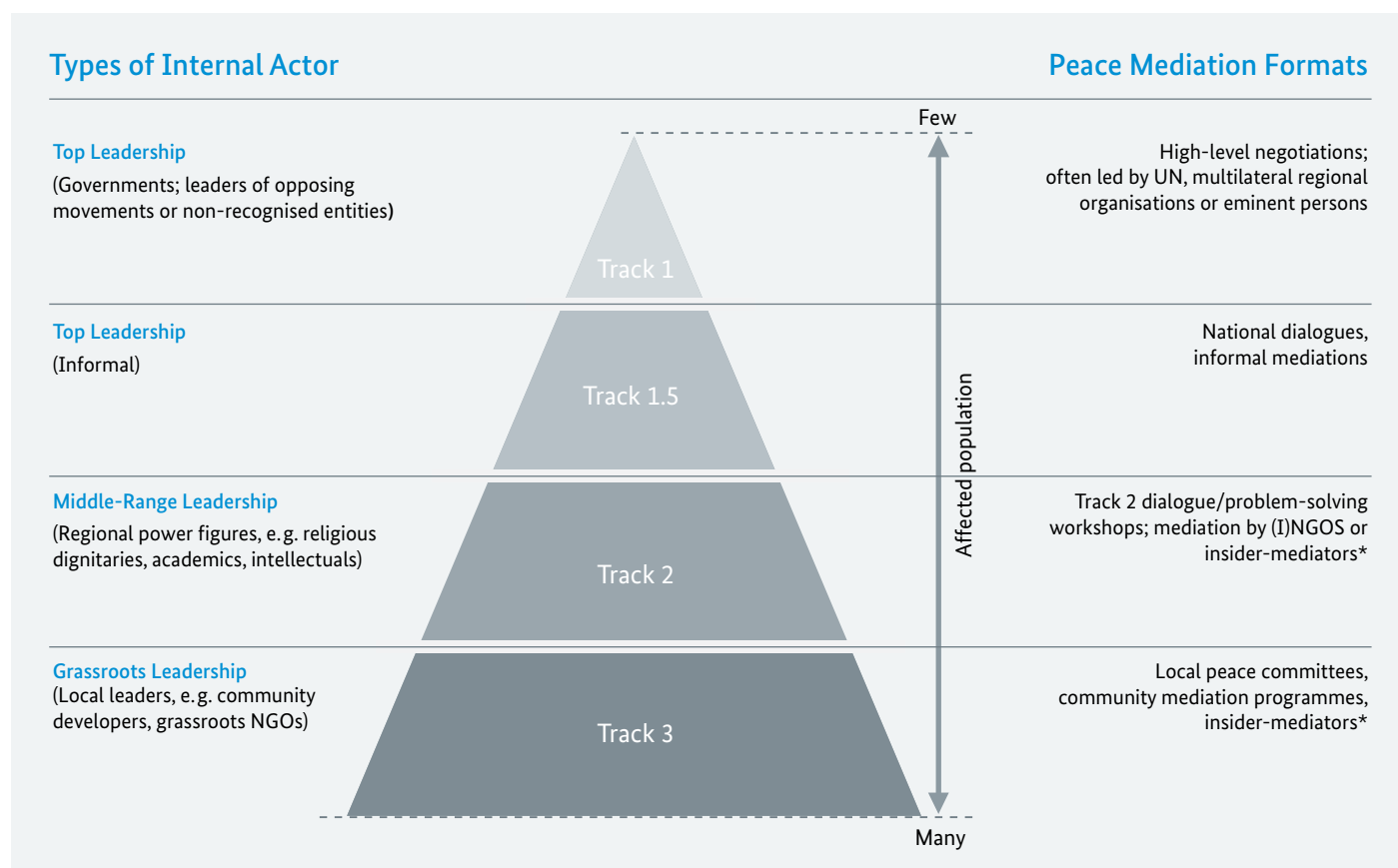
Approaches to mediation[4]

In both theory and practice, there are different views regarding the mediator's role and style. The following three approaches are relevant for peace mediation:

Facilitative mediation focuses on organising and facilitating communication between the parties in a non-directive manner, eliciting the underlying interests and needs behind the stated demands and positions. In order not to jeopardise multi-partiality[5], the mediator refrains from making substantial recommendations or suggestions.

In **formulative mediation**, the mediator takes a more directive role. In addition to structuring the process and gathering proposed solutions, the mediator offers different options, e. g. by formulating option papers or drafting agreements. As in facilitative mediation the consent of the parties is seen as essential.

The focus of **power-based mediation** lies in using the mediator's leverage in order to reach an agreement. A strong mediator deploys his power and uses strategic tactics. The conflict parties are encouraged to agree through threats of punishment and promises of reward (carrot and stick approach).

In practice, there is not always a clear-cut difference between these methods, and different mediation actors can use these approaches or combinations thereof at different stages of the mediation process. While the UN Guidance for Effective Mediation emphasises consent of the conflict parties, impartiality of the mediator and inclusivity of the process as mediation fundamentals[6], these elements are not always met in all the approaches.

Types of Internal Actor		Peace Mediation Formats
Top Leadership (Governments; leaders of opposing movements or non-recognised entities)	Few ⌃ Track 1	High-level negotiations; often led by UN, multilateral regional organisations or eminent persons
Top Leadership (Informal)	Track 1.5	National dialogues, informal mediations
Middle-Range Leadership (Regional power figures, e.g. religious dignitaries, academics, intellectuals)	Track 2	Track 2 dialogue/problem-solving workshops; mediation by (I)NGOS or insider-mediators*
Grassroots Leadership (Local leaders, e.g. community developers, grassroots NGOs)	Track 3 Many	Local peace committees, community mediation programmes, insider-mediators*

Affected population

Based on Lederach, John Paul (1997). Building Peace. Sustainable Reconciliation in Divided Societies. Washington D.C.: USIP, p. 39, adapted by IMSD.
* Insider Mediators are "trusted and respected insiders at all levels of a conflicted society who have a deep knowledge of the dynamics and context of the conflict and a sensitivity in their contribution to finding solutions that are recognized and valued by the parties themselves". (Hislaire/Smith/Wachira (2011). Insider Mediators in Africa. Prangis: PeaceNexusFoundation, p. 2.)

Multiple tracks of engagement

Peace processes take place at different societal levels (tracks) and are in often supported by external third parties. The first level (track 1) comprises the leadership of a country (e.g. political and/or military). The second level (track 2) covers leading figures in society such as religious dignitaries, intellectuals, political parties and regional power figures. Track 3 comprises leading civil society figures at the local level and grassroots initiatives. Work on the ground highlighted the need to expand this three-level structure to include a further component: the track 1.5 level, which refers to top-level political decision-makers, yet in informal, non-official settings. These track 1.5 mediation/dialogue processes often serve to sort out and prepare for track 1 talks, develop options and help bring about better comprehension and understanding between conflict parties. The potential offered by peace mediation can only be fully unlocked through coordinated interaction between these tracks. A lasting peace process thus often requires a multi-track approach, which does not only mean conducting activities on all tracks but also interlinking these activities in ways that increase their effectiveness.

What does a mediator need?

Method-based communication techniques ("mediation micro-skills") can make a substantial difference in peace mediation: the ability to reframe strong statements into non-offensive comments, eliciting and formulating the true interests of conflicting parties as well as constructively dealing with the typical dynamics of perception in conflicts can lead to real progress. In addition, structured conflict analysis and process design can be used to generate multiple and at times unorthodox entry points for mediation approaches. This needs to be methodically trained and continuously developed.

Mediation Process Design

Using the results of comprehensive conflict analysis and building on identified entry points, peace mediation interventions have to be designed carefully before processes start. In the Process Design phase, decisions on objectives, appropriate measures, procedures, formats, strategies, methods and logistics are taken while equally considering relevant norms and operationalising the mediation principles. The resulting design (Process Design) lays out the structure of the process and can serve as a roadmap for third parties. Due to changes within the conflict setting, the Process Design may require continuous and dynamic adaptation.

During Process Design, the following aspects are among the most relevant and should be clarified and structured before the beginning of a process (uncategorised interchangeable order; exemplary questions).

- **Objective:** What is the overall objective of the process?
  What does the mandate include and is it aligned with
  the objective and context of the process?

- **Tracks:** Which track(s) should be used to fulfil the objective?
  If multi-track, which approach is to be applied on which track
  and how should tracks be interlinked?

- **Participation:** Which actors have to be included with regard to objective and in which manner:
  active participation/representation/consultation/information (including media/information to the public)?

- **Format(s):** Which format(s) reflect(s) the objective (direct talks, proximity, shuttle diplomacy,
  bilateral meetings, working groups, plenary)?

- **Procedures (Decision-Making):** How should decisions be taken: by majority, by consensus?
  Is confidentiality necessary?

- **Agenda and Sequencing:** Who sets the agenda (mediator, conflicting parties, both)?
  How is the agenda to be structured?
  a) Easy-to-hard (incremental approach, most common approach);
  b) Hard-to-easy (most difficult issue first, easier ones later);
  c) Committee approach (all issues at the same time:
     "nothing is agreed until everything is agreed");
  d) Framework mediation
     (general agreement first (early in process), details later)

- **Timing and Frequency:** When are negotiations held in terms of
  ripeness[7]? How often are they held (regularly, on demand)?

- **Third Party Composition:** How should the third party be composed
  in terms of mandate, leverage, perception, expertise? How can coordination be effective?

- **Funding and Donors:** Who is funding the process and for how long?
  Do donor interests have to be respected? Might they affect the process?

- **Venue(s):** Where does mediation (and potential accompanying activities) take place
  (e.g. in-country, out-of-country)?

- **Normative framework:** What norms should be considered?[8]

Mediation support

The term "mediation support" refers to methodical, technical, logistical, regional knowledge support provided by experts to mediation processes guided by mediators. The aim of mediation support is to improve and create the conditions needed for mediations/negotiations or long-term peace processes. Target groups and beneficiaries of mediation support include not only mediating third parties, but also conflict parties, interest groups, donor institutions and other supportive actors. Mediation support also covers support in developing mediation structures as well as promoting local mediators. Mediation support can be provided in the following areas:

a)   Implementation and operational support for mediation processes

Implementing or supporting mediation processes, planning and preparing logistical and organisational elements, methodological, thematic, strategic, psychological or legal advice and collaboration, dovetailing of key stakeholders and processes, monitoring and evaluation, funding.

b)   Compiling and disseminating expertise

Evaluating mediation processes (lessons learned), and further developing concepts and instruments, developing analysis on conflicts, stakeholders and relevant topics such as religion, ethnicity, human rights, gender, drafting laws and constitutions, etc., as well as developing guidelines, good practice standards and codes of conduct for mediation.

c)   Capacity building

Training on acquiring methodological, thematic and normative knowledge and practical mediation skills, workshops on boosting human and institutional skills and expertise, coaching and mentoring of mediators/diplomats to enhance their skills, e.g. in the fields of communication, negotiation and designing processes, preparing conflict parties for mediation processes.

Mediation support, a case study: Sudan

Against the background of different, decades-long armed and political conflicts, in January 2014, Sudan's President Omar al-Bashir announced an inclusive national dialogue. In order to support the official dialogue process at the track 1.5 level, the Federal Foreign Office (AA), the Berghof Foundation and the German Institute for International and Security Affairs (SWP) are working together to implement *Project Sudan: Support to National Dialogue and Reconciliation*. The project seeks to support trust and consensus building within the opposition groups and enable the two parties to discuss arrangements for joint meetings at numerous talks.

The project conducts mediation between the parties as well as facilitating unified positions within the opposition. The mediation format links the Berghof Foundation, the AA and the African Union High Implementation Panel (AUHIP), which agreed a strategic partnership with Germany. The mediation activities ranged from informal meetings between the opposition and government hosted by the AA and Berghof Foundation, to co-chairing with the AUHIP the formal negotiations between the Government of Sudan and the Sudan People's Liberation Movement North in Berlin, Germany. Meditation support activities conducted by the Berghof Foundation aimed to support the parties in preparing, carrying out and evaluating informal and formal meetings in Addis Ababa and various other venues.

Following a long preparation phase, ongoing consultations with the Sudanese Government and opposition groups, intensive, trust building communication with other relevant stakeholders and close collaboration with the African Union High Implementation Panel (AUHIP) and the international community, in February 2015 the German initiative managed to bring together the main opposition groups in Berlin for a national dialogue. At the meeting, the groups represented signed the Berlin Declaration, agreeing to take part in a preparatory meeting for the national dialogue in Addis Ababa.

d)   Developing/expanding mediation structures

Providing support and advice in establishing mediation at the political level, in legislative processes related to mediation, in integrating mediation support departments in ministries and international organisations, in developing and managing expertise on mediation, in the design and setup of fixed standby teams and external pools of experts (rosters) as well as in developing conflict management systems and mediation infrastructure, i.e. mediation centres, contact points for mediation, and embedding them in their respective legal/political/social context.

Dialogue facilitation

The facilitation of dialogues through third parties is subsumed under the term "peace mediation", because it has a vast overlap with mediation, particularly the facilitative style of mediation. While mediation attempts to reach substantial agreements that solve issues at the heart of a conflict, the primary aim of dialogue is to learn more and understand better the views and needs of the opponent and thereby transform the relationship, create trust and in many cases lay the ground for substantive agreements at a later stage. Dialogues on track 1.5, track 2 or 3 are often initiated in order to explore readiness for official negotiations, when formal peace talks are stalled, in order to broaden public participation and support for existing official peace processes or to secure sustainable implementation of peace agreements. They are thus an essential component of an effective multi-track approach.

Dialogues are usually facilitated by a third party whose role, methods and skills are very similar to those of a facilitative mediator: Dialogue facilitators help the stakeholders involved to communicate their own positions and interests, to understand those of the other side, to de-escalate contentious topics by phrasing them differently and foster mutual understanding.[9]

Support to national dialogue

National dialogues are nationally owned political processes aimed at generating consensus among a broad range of national stakeholders in times of deep political crisis, in post-war situations or during far-reaching political transitions. National dialogues offer the opportunity to work on a comprehensive range of topics. Moreover, while often only a limited number of stakeholders are involved in mediation processes, national dialogue processes seek to involve a broad spectrum of predominantly local stakeholders. Despite the fact that in a national dialogue there is no official mediator, there are regular chairs for plenary sessions and working groups who moderate with a mediation-based approach. The process is often supported technically by third party actors and can thus be seen as being part of peace mediation.

Support to national dialogue, a case study: Yemen

When Yemen was on the brink of civil war in 2011, the GCC initiative (Gulf Cooperation Council) presented a roadmap for a political transition process. Its main elements included a transfer of power to an interim president, the establishment of a government of national unity and the organisation of a National Dialogue Conference (NDC) to lay the foundations for a new constitution in Yemen. The NDC convened over ten months with a total of 565 delegates from the various political and social components of Yemeni society (the main political parties, parts of the Southern Movement, the Houthis, independent women and young people's groups as well as other civil-society actors. The conference's agenda covered a broad range of issues of national concern and concluded with more than 1,700 recommendations.

On invitation of the main political parties and President Abdul Rabo Mansour Hadi, the Berghof Foundation and its Yemeni partner organisation, the Political Development Forum (PDF), established the National Dialogue Support Programme (NDSP) in 2012 with financial and political support from the German Federal Foreign Office. The main aim of the programme was to support an inclusive Yemeni-led national dialogue process. Activities in the framework of the NDSP comprised capacity-building measures, process advice and support through thematic expertise. The programme provided facilitation support, negotiation and dialogue trainings, thematic mappings, as well as analysis papers, coaching and public education materials.

Since the escalation of the crisis in Yemen at the end of 2014, the NDSP organised a series of inclusive multiparty consultations (with the conflict stakeholders and political parties) in- and outside the country to support consensus-building among the Yemeni actors. These high-level meetings are organized in close cooperation with the Office of the UN Special Envoy to Yemen and seek to complement and strengthen the official UN-led track-I negotiations through an informal track-II dialogue process. The programme further provides thematic support to help the Yemeni parties to develop concrete problem-solving mechanisms and to identify pathways out of the crisis. In this context, crucial issues such as interim security measures and confidence-building mechanisms, the restoration of state institutions, elements of a transition roadmap, mechanisms of inclusion and the division of powers, the organization of a future political dialogue in Yemen, as well as ways to strengthen local governance structures were tackled by the different groups.

The experiences made in Yemen have highlighted that, at times, it is important (if not imperative) to readjust ongoing efforts of peace support in order to adapt to fast-changing conflict environments. Building long-term relationships of trust and reliability is often key for sustaining this support also in times of escalated conflict and societal polarization. While the conceptual distinction between mediation, mediation support and national dialogues is theoretically useful and crucial to understand and develop tailor-made approaches, the change (or escalation) of conflict dynamics often requires parties to find new ways of paving the path to peace. In light of this, the potential and purpose of international third party support in peace processes has to be understood as a dynamic and interdependent endeavour.

References

1   The members of the IMSD are: the Berghof Foundation, the Center for Peace Mediation (CPM) at the European University Viadrina, the CSSP – Berlin Center for Integrative Mediation, inmedio berlin – institut für mediation. consulting. development and the Center for International Peace Operations (ZIF).

2   United Nations (2012). Guidance for Effective Mediation, p. 4.

3   Federal Foreign Office and Initiative Mediation Support Deutschland (2015). Germany as Mediator – Peace Mediation and Mediation Support in German Foreign Policy (conference report). Berlin: Federal Foreign Office and Initiative Mediation Support Deutschland, p. 12.

4   Jonathan Wilkenfeld / Kathlee Young / Victor Asal / David Quinn, "Mediating International Crises", in: Journal of Conflict Resolution (2003), 279 – 301; Lanz, David, Wählisch, Martin, Kirchhoff, Lars and Siegfried, Martin (2008). Evaluating Peace Mediation. Brussels: Initiative for Peacebuilding, p. 10.

5   Besides impartiality, definitions such as omni-partiality or multi-partiality are used by practitioners, putting a stronger emphasis on the ability of mediators to understand the interests and concerns of all the key actors involved.

6   Other mediation fundamentals outlined in the UN Guidance are Preparedness, National ownership, International law and Normative frameworks, Coherence/Coordination and Complementary of the mediation effort.

7   The concept of a ripe moment assumes that parties resolve their conflict only when they are ready to do so, which they are under certain conditions: Zartman, I. W., 2000, 'Ripeness: The Hurting Stalemate and Beyond', in Stern, P. and Druckman, D., eds., 2000, International Conflict Resolution after the Cold War, Washington, National Academy Press.

8   For further details see Fact Sheet "Normativer Bezugsrahmen und völkerrechtliche Grundlagen der Friedensmediation", to be published in Spring 2017.

9   Berghof Foundation (2012) Berghof Glossary on Conflict Transformation. Berlin: Berghof Foundation, p.28f.

PEACE MEDIATION
GERMANY

The Initiative Mediation Support Deutschland (IMSD) consists of a consortium of five organizations working in the area of peace mediation and mediation support. The objective of the initiative is to make the existing knowledge on peace mediation and mediation support accessible to representatives of the German Federal Foreign Office and central decision-makers. Furthermore, the initiative aims at contributing to the exchange of persons and institution working on peace mediation and mediation support. Thus, the work of the consortium shall ultimately contribute to strengthening peace mediation in Germany and a stronger embedding of peace mediation as a foreign policy tool.

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The Initiative Mediation Support Deutschland (IMSD) is comprised of:

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