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## USING THE RIGHT TOOL FOR THE JOB: MEDIATOR LEVERAGE AND CONFLICT RESOLUTION

*Kyle Beardsley\**

### INTRODUCTION

There is tremendous variation in how third parties conduct international mediation.<sup>1</sup> Mediation might involve such functions as the mere hosting of talks, substantive participation in the negotiation process, shuttle diplomacy, or heavy-handed involvement in which the third party shapes the incentives of the parties to reach an agreement.<sup>2</sup> With such possible variation, mediators must especially tailor the level of leverage—the extent to which the third party uses

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<sup>1</sup> Mediation entails permissive third-party engagement with multiple disputants in a peace process.

<sup>2</sup> The mediation literature has focused on three main styles of mediation that need not be mutually exclusive: facilitation, formulation and manipulation. *See generally* Kyle C. Beardsley, David M. Quinn, Bidisha Biswas & Jonathan Wilkenfeld, *Mediation Style and Crisis Outcomes*, 50 J. CONFLICT RESOL. 58 (2006); Jacob Bercovitch, *Mediation in International Conflict: An Overview of Theory, a Review of Practice*, in PEACEMAKING IN INTERNATIONAL CONFLICT: METHODS & TECHNIQUES 125-53 (I. William Zartman & J. Lewis Rasmussen eds., 1997); I. William Zartman & Saadia Touval, *International Mediation*, in LEASHING THE DOGS OF WAR: CONFLICT MANAGEMENT IN A DIVIDED WORLD 437-54 (Chester A. Crocker et al. eds., 2007); Jonathan Wilkenfeld, Kathleen J. Young, David M. Quinn & Victor Asal, *MEDIATING INTERNATIONAL CRISES* (2005); David Quinn, Jonathan Wilkenfeld, Pelin Eralp, Victor Asal & Theodore McLaughlin, *Crisis Managers but Not Conflict Resolvers: Mediating Ethnic Intrastate Conflicts in Africa*, CONFLICT MGMT. & PEACE SCI. (forthcoming 2013).

positive and negative inducements, either explicit or implicit, to move negotiations forward—to the needs of the situation.<sup>3</sup> In international dispute mediation, a one-size-fits-all view of mediation may actually inhibit effective conflict resolution.

This essay highlights the importance of third parties choosing their mediation styles with eyes wide open to the context of the conflict. In what follows, this essay first considers existing studies that have found both potential benefits and risks of heavy-handed third-party involvement—which rely on implicit or explicit threats of punishment or promises of assistance—as a conflict-management strategy.<sup>4</sup> It then considers a few illustrative cases to demonstrate the importance of making sure that the tools of mediation fit the context. Finally, it concludes with a discussion of how sustained post-conflict peacekeeping and peacebuilding can reduce some of the risks of leverage in mediation.

#### I. THE STRENGTHS AND RISKS OF LEVERAGE IN EXISTING STUDIES

Starting with the upside of leverage, existing work has found that it is often critical that international dispute mediators employ positive and negative inducements in a way that creates sufficient

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<sup>3</sup> The use of leverage matches to the “manipulative” style used in the literature referenced above. See, e.g., Peter J. D. Carnevale, *Strategic Choice in Mediation*, 2 NEGOT. J. 41, 44-45 (1986) (characterizing the use of leverage in mediation as involving “compensation” and “pressing” tactics). In addition to “manipulation,” the use of leverage is also sometimes referred to as a “directive” style of mediation. See, e.g., KENNETH KRESSEL, LABOR MEDIATION: AN EXPLORATORY SURVEY 13 (1972); Peter J. D. Carnevale & Richard Peggnetter, *The Selection of Mediation Tactics in Public-Sector Disputes*, 41 J. SOC. ISSUES 65, 67 (1985). Moreover, the use of leverage can also be termed “power” mediation. See, e.g., Loreleigh Keashly & Ronald J. Fisher, *A Contingency Perspective on Conflict Interventions: Theoretical and Practical Considerations*, in RESOLVING INTERNATIONAL CONFLICTS: THE THEORY AND PRACTICE OF MEDIATION 235 (Jacob Bercovitch ed., 1996); Isak Svensson, *Mediation with Muscles or Minds? Exploring Power Mediators and Pure Mediators in Civil Wars*, 12 INT’L NEGOT. 229, 230 (2007). But see Robert Rauchhaus, *Asymmetric Information, Mediation and Conflict Management*, 58 WORLD POL. 207, 224-25, 233 (2006) (terming it “heavy” mediation).

<sup>4</sup> Mediation with leverage can involve both immediate inducements for agreement or pledges of future inducements to help guarantee the peace.

leverage to incentivize the disputing parties to reach an agreement.<sup>5</sup> Intractable conflicts often need external prodding to create a sense of a mutually hurting stalemate when the status quo level of hostilities seems more acceptable to the parties than taking political or security risks in making substantial concessions.<sup>6</sup> The set of tools available to intermediaries that do not use leverage is indeed quite limited. Third parties that merely serve a role of providing the disputants with greater clarity of the relevant parameters often struggle to learn information that the disputants themselves do not already know or to convey credibly such information, or both.<sup>7</sup> Moreover, third parties that are unable to use leverage to guarantee settlements reached during negotiations will be unable to resolve concerns of mistrust between vulnerable actors who might be reluctant to reach a deal that obliges them to draw down their security forces.<sup>8</sup> Leverage might also be needed to shield the disputants from political backlash for unpopular concessions.<sup>9</sup>

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<sup>5</sup> This relates to work pioneered by Jacob Bercovitch on contingency theory. *See generally, e.g.*, Jacob Bercovitch & Scott Sigmund Gartner, *Is There Method in the Madness of Mediation? Some Lessons for Mediators from Quantitative Studies of Mediation*, 32 INT'L INTERACTIONS 329 (2006); Jacob Bercovitch & Richard Jackson, *Negotiation or Mediation?: An Exploration of Factors Affecting the Choice of Conflict Management in International Conflict*, 17 NEGOT. J. 59 (2001); Jacob Bercovitch & Jeffrey Langley, *The Nature of the Dispute and the Effectiveness of International Mediation*, 37 J. CONFLICT RESOL. 670 (1993).

<sup>6</sup> I. William Zartman & Saadia Touval, *International Mediation: Conflict Resolution and Power Politics*, 41 J. SOC. ISSUES 27, 41 (1985); Zartman & Touval, *International Mediation*, *supra* note 2; Saadia Touval, *Why the U.N. Fails*, 73 FOREIGN AFF. 44, 51 (1994); Moorad Mooradian & Daniel Druckman, *Hurting Stalemate or Mediation? The Conflict over Nagorno-Karabakh, 1990-95*, 36 J. PEACE RES. 709, 712 (1999); Svensson, *Mediation with Muscles or Minds?*, *supra* note 3 at 237. *See also* Molly M. Melin, *When States Mediate*, 2 PENN. ST. J.L. & INT'L AFF. 78 (2013) (offering an account of how actors with leverage are deemed more acceptable by disputants).

<sup>7</sup> *See* Mark Fey & Kristopher W. Ramsay, *When is Shuttle Diplomacy Worth the Commute? Information Sharing Through Mediation*, 62 WORLD POL. 529, 531 (2010); Alastair Smith & Allan Stam, *Mediation and Peacekeeping in a Random Walk Model of Civil and Interstate War*, 5 INT'L STUD. REV. 115, 117 (2003).

<sup>8</sup> *See generally* BARBARA F. WALTER, *COMMITTING TO PEACE: THE SUCCESSFUL SETTLEMENT OF CIVIL WARS* (2002).

<sup>9</sup> *See* Kyle Beardsley & Nigel Lo, *Third-Party Conflict Management and the Willingness to Make Concessions*, J. CONFLICT RESOL. (forthcoming 2013).

On the other hand, even though many negotiations critically depend on third-party pressure, there are also real risks for using too much third-party leverage when less would suffice. Not only is leverage more costly to the third party, which often must follow through on threats and promises, but it can prove detrimental to peace stability in the long term. When third parties are heavy handed in their approach, they create artificial incentives for agreements that are not likely sustainable over time.<sup>10</sup> As a third-party's interests shift and influence wanes, former combatants that had reached an agreement primarily because of the third-party's enticements will be more prone to abandon their agreements than former combatants that reached an agreement with less incentivizing. The problem of attenuated third-party involvement is especially strong when multiple third parties are involved heavy-handedly in the peace process because of the more difficult coordination needs in the post-conflict setting.<sup>11</sup> Separately, mediation with leverage can also restrict the ability for disputants to walk away from negotiations that their opponent is pursuing as a simple stalling tactic or that are otherwise destined to fail.<sup>12</sup>

The existing work on mediation regarding these tradeoffs suggests a basic rule of thumb that mediation with leverage should be reserved only to stop ongoing or imminent massive bloodshed, especially when the violence endangers non-combatants. That is, the

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<sup>10</sup> See KYLE BEARDSLEY, *THE MEDIATION DILEMMA* (2011); Kyle Beardsley, *Agreement Without Peace? International Mediation and Time Inconsistency Problems*, 52 AM. J. POL. SCI. 723, 737 (2008); Suzanne Werner & Amy Yuen, *Making and Keeping Peace*, 59 INT'L ORG. 261, 269 (2005); Mehmet Gurses, Patrick McLeod & Nicolas Rost, *Mediating Civil War Settlements and the Duration of Peace*, 34 INT'L INTERACTIONS 129, 136 (2008); Zartman & Touval, *International Mediation*, *supra* note 2 at 452 (highlights the dilemma that mediators face in choosing to push for an early ceasefire or wait for a durable settlement to emerge).

<sup>11</sup> See BEARDSLEY, *THE MEDIATION DILEMMA*, *supra* note 10; Tobias Böhmelt, *Disaggregating Mediations: The Impact of Multiparty Mediation*, 41 BRIT. J. POL. SCI. 859, 860 (2011); Chester A. Crocker, Pamela Aall & Fen Osler Hampson, *Is More Better?: The Pros and Cons of Multiparty Mediation*, in *TURBULENT PEACE: THE CHALLENGES OF MANAGING INTERNATIONAL CONFLICT* 497-513 (Chester A. Crocker et al. eds., 2001); Birger Heldt, [The Lack of Coordination in Diplomatic Peacemaking](#), 2 PENN. ST. J.L. & INT'L AFF. 9 (2013).

<sup>12</sup> See generally Kyle Beardsley, *Intervention without Leverage: Explaining the Prevalence of Weak Mediators*, 35 INT'L INTERACTIONS 272 (2009).

use of strong mediation should be motivated primarily out of short-term humanitarian goals in order to justify the long-term risks of making post-conflict peace more fragile and the lack of patience in waiting for a more organic peace to emerge. At the same time, more minimal third-party involvement should be used when a long-term, self-enforcing peace is the most pressing concern and humanitarian responsibilities are not as pressing. Indeed, it is difficult, and in many cases impossible, for third parties to successfully attain both an immediate reduction in hostilities and a long-term resolution of the relevant points of contention.

## II. MATCHING THE TOOL TO THE PROBLEM IN PRACTICE

It is helpful to consider historical cases in which hindsight suggests that third parties used too little or too much leverage, as well as cases in which the level of leverage more appropriately matched the needs of the situation. The problem of not using sufficient leverage when it is needed to stop mass atrocities can be seen recently in Syria.<sup>13</sup> Kofi Annan's initiative to facilitate a ceasefire between Assad and the rebels never had teeth as long as Russia and China blocked passage of U.N. Security Council resolutions that would authorize punishment for continued intransigence and as long as a coalition of the willing to threaten Assad failed to materialize. During the ceasefire, Assad was more or less free to continue direct attacks against rebel positions and indirect attacks against sympathizers via support for pro-government militias.

On the flip side, the risk of using too much short-term leverage was demonstrated perhaps most dramatically in the lead up to the 1994 Rwanda genocide.<sup>14</sup> The 1993 Arusha Accords resulted from substantial third-party pressure and the promise of a peacekeeping force to guarantee the peace. However, once the mediator involvement waned upon the signing of the Accords and

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<sup>13</sup> J. Michael Greig, in this issue, provides a detailed account of why this conflict has proven so difficult to manage. J. Michael Greig, [Intractable Syria? Insights from the Scholarly Literature on the Failure of Mediation](#), 2 PENN. ST. J.L. & INT'L AFF. 48 (2013).

<sup>14</sup> See Alan J. Kuperman, *The Other Lesson of Rwanda: Mediators Sometimes Do More Damage than Good*, 16 SAIS REV. 221, 222 (1996).

the peacekeeping force turned out to be weaker than expected and slow to deploy, implementation of the Accords failed and a window of opportunity for Hutu extremist militias to establish their dominance emerged. Stated more particularly, the leverage of the mediating parties, coupled with their inability to follow through on their commitments, left much of the Tutsi and moderate Hutu populations vulnerable to annihilation perpetrated by Hutu militia groups intentionally left out of the peace process. It is also important to note that the violence during the Rwandan civil war that preceded the Accords was not nearly as threatening to non-combatant populations as the genocide that followed. That is, the heavy-handed third-party involvement, in retrospect, was not well justified on humanitarian grounds.

More positively, Richard Holbrooke's role in pushing for the Dayton Accords amidst NATO bombings of Serbian positions at the end of the Bosnian War presents a compelling example of a case in which the use of much needed leverage effectively calmed a humanitarian disaster. Prior to the extreme heavy-handed intervention, earlier mediation attempts lacking sufficient leverage failed to halt the violence. These earlier efforts stand in stark contrast to Holbrooke's role, such that it is often lamented that the international community did not act stronger sooner. Note that this does not mean that Holbrooke's role is an appropriate model of how third parties can foster long-term, self-enforcing peace, as Bosnia continues to sit on a razor's edge with a real risk of returning to interethnic conflict. But it does well demonstrate that strong third-party involvement is often necessary to stop the killing and force a hurting stalemate, and that the risks of long-term instability may very well be worth the intervention.

Another example of a well-matched mediation effort, Marti Ahtisaari's role in the Aceh peace process, which led to the transformation of the Free Aceh Movement (GAM) from a rebel group to a legitimate political actor, demonstrates the promise of more hands-off involvement being better able to facilitate long-term peace. As the former president of Finland and founder of the Crisis Management Initiative, Ahtisaari lacked any ability to manipulate the incentives of the disputants, but he was able to shape the momentum for peace—generated by the 2004 Indian Ocean Tsunami and

military gains by Indonesian forces—and help formulate an agreement that involved concessions on both sides with an eye toward long-term political transformation. This example, however, illustrates that while agreements that result from softer forms of mediation are more likely to become self-sustaining, the problem is in getting to the agreement in the first place. Without leverage, the parties already have to be motivated to resolve their dispute peacefully, but that is often asking quite a lot. Weak mediation may not carry much risk, but it also might not carry much value added when a protracted conflict environment needs more third-party engagement. That is, weak mediation can perform quite well when the conflict is already “ripe” for resolution, but it can struggle to help “ripen” the conflict in the first place.<sup>15</sup>

### III. COMBINING MEDIATION WITH PEACEKEEPING AND PEACEBUILDING

In light of the limitations and risks surrounding the use of leverage, single third-party efforts generally fail to produce both immediate humanitarian relief to the bloodiest conflicts and long-term conflict resolution. As such, it is helpful to think more broadly about peace processes as potentially involving multiple third-party efforts that unfold over time. Post-conflict peacekeeping and peacebuilding, when effective, can supplement mediator efforts to achieve both short-term and long-term effects.<sup>16</sup> If there is sufficient international will to sustain leverage and engagement after hostilities have attenuated, then mediation is not likely to create a large risk for a fragile peace after short-term success in attenuating the hostilities.

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<sup>15</sup> See I. WILLIAM ZARTMAN, *RIPE FOR RESOLUTION: CONFLICT AND INTERVENTION IN AFRICA* 266 (1985); J. Michael Greig, *Moments of Opportunity: Recognizing Conditions of Ripeness for International Mediation between Enduring Rivals*, 45 J. CONFLICT RESOL. 691, 692 (2001) (overviews what ripeness entails).

<sup>16</sup> Peacekeeping and peacebuilding both entail permissive third-party involvement for the purposes of enhancing the stability and duration of peace in a post-conflict environment. Peacekeeping implies a military component, and peacebuilding implies a political, social or economic component. These terms often overlap but need not be provided by the same third parties performing mediation.



Turning first to peacekeeping, deploying international forces can maintain the outside pressure that existed at the time of agreement and keep the parties motivated to uphold their commitments. That being said, peacekeeping is expensive—even when the costs can be distributed across U.N. or regional organization memberships—and the financial and decision-making burdens often fall to those third parties in the developed world that are fairly insulated from the externalities of recurrent conflict. So, peacekeeping cannot be counted on as a solution to the mediation attenuation problem because third parties that would be willing to step in as peacekeepers and indefinitely remain engaged as guarantors of the peace are often hard to find.<sup>17</sup>

Peacebuilding missions that follow intrastate conflict provide an interesting middle ground, and their increasing prominence is perhaps well justified given how they can help resolve the long-term issues caused by heavy-handed, third-party involvement. Peacebuilding encompasses a number of reforms that can include various dimensions of political, economic and security sector reform.<sup>18</sup> Relevant to the long-term risks related to heavy-handed mediation, one of the central goals of peacebuilding is to ensure that the key stakeholders are invested in maintaining peace and not dependent on third-party inducements. Through the promotion of democracy and power sharing, peacebuilding strives to enable the voices of each of the key constituent groups to be heard; through the promotion of economic development, peacebuilding strives to diversify the set of groups that would benefit from sustained peace; and through security sector reform, peacebuilding strives to improve the capacity of the state to maintain order and reduce the ability for one side to threaten others through use of the state security apparatus. While peacebuilding that follows strong mediation can

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<sup>17</sup> See generally VIRGINIA PAGE FORTNA, DOES PEACEKEEPING WORK?: SHAPING BELLIGERENTS' CHOICE AFTER CIVIL WAR (2008); MICHAEL W. DOYLE & NICHOLAS SAMBANIS, MAKING WAR AND BUILDING PEACE: UNITED NATIONS PEACE OPERATIONS (2006). This is not to say that peacekeeping is ineffective when it occurs, which would be inconsistent with some of the existing literature. The point is that peacekeeping cannot be taken as a given supplement to mediator leverage, as it still depends crucially on third-party long-term investment.

<sup>18</sup> See ROLAND PARIS, AT WAR'S END: BUILDING PEACE AFTER CIVIL CONFLICT 38-39 (2004).

help bridge the gap between the incentives at the time of agreement and the incentives in the future in the absence of sustained third-party engagement, an important caveat is that peacebuilding in many post-conflict states might be more accurately described as nation building and still needs substantial, sustained international involvement for self-sustaining peace to adhere. Moreover, a close equivalent of peacebuilding does not in practice exist for interstate conflicts.

#### CONCLUSION

This article has considered the risks inherent in deciding how much leverage a third party should bring to bear in a conflict management effort. Too much leverage, especially when the leverage is difficult to sustain indefinitely, can risk promoting artificial incentives that lead to fragile terms of peace. Too little leverage in the face of ongoing and imminent bloodshed carries obvious humanitarian risks. The lesson to take away from this analysis is not that mediators can do no good. Indeed, mediators can do much good when they are able to use leverage to stop ongoing brutal violence in the short-term, especially when they can sustain that leverage over time. Moreover, mediators can do much good when they use lighter tactics to help disputants get over some of the final barriers to durable settlements that are not negotiated under duress. In these ways, practitioners of mediation can choose the form of their involvement with accurate expectations of both the potential merits of involvement and the potential risks.