
EFFECTIVENESS OF THE THIRD PARTY IN RESOLUTION OF INTERNAL ARMED CONFLICTS AND THE ROLE OF MEDIATION

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ABSTRACT

This paper seeks to bring forth the effectiveness of the third party in resolution of internal armed conflicts and the role of mediation under the preview of comparative importance of various independent variables involved.

The cases of Aceh, Mindanao, Kashmir and Sri Lanka have been analysed and observed to map the South Asian trend for third party mediation.

The paper tries to bring forth the various essential elements of a third mediation in internal armed conflicts. It further throws light upon the characteristics of any such mediator. It examines a set of interrelated hypotheses and findings well-established in the standard literature on third party mediation and evaluates their applicability to the two case studies. It is generally felt that the third party which mediates the dispute is generally the superpower United States of America, or the United Nations appoints a mediator. However, in the case of Mindanao it was seen that even an unrelated country like Malaysia could be appointed to mediate the internal disputes.

Along with elaborating the concepts of mediation and the process in depth, this paper aims to give an overview opinion as to when and in what situations should a country approach a third party for mediation, and the consequences of mediation in similar situations in different countries.

HYPOTHESIS

The given paper examines a number of interrelated hypotheses and findings that are well-established by the standard literature on any third-party mediation and evaluates the applicability of the literature on the following two case studies.

- The prime hypothesis states that contextual independent variables are more influential than process independent variables in deciding the final outcome of the mediation process.
- The second hypothesis argues that in between the contextual variables involving third party mediation, the characteristics of the mediator are the most influential.
- Finally, the third hypothesis stresses on that among the various characteristics of the mediator, the leverage exercised by the mediator is the most important one.

Research Methodology: The area of research has been restricted to doctrinal methods. Cases and books have been cited along with liberal citations of data analysis and articles of global authority. Opinions of mediators and jurists in the field have been considered. The main source of reference is journal articles written by the mediators and researchers.

INTRODUCTION

The era of global interconnectedness has converted the society into an inclusive environment, which has enabled a range of non-state actors' involvements parties in any conflict. Most of the violent conflicts occurring post-Cold War are intrastate in character and a lot of these armed struggles are deteriorating because of the involvement of third party groups.¹

As per the Heidelberg Institute on International Conflict Research, there were 249 political conflicts in the world in the year 2005.²

In 2006, the number of issues increased to 278. Six of these were wars, and 29 severe crises, leading to a total of 35 conflicts carried out with a large amount of violence. Eighty-three

¹ Arjun Appadurai, *Modernity at Large: Cultural Dimensions of Globalization* (Minneapolis: University of Minnesota Press, 1996)

² Conflict Barometer 2005 (Heidelberg: Heidelberg Institute or International Conflict Research, 2006).

conflicts were classified as crises, which meant violence was used only occasionally. Altogether, 118 conflicts were carried out violently.³

Current research on neutral third parties is mainly focused on examining its roles a spoiler of peace negotiations in homeland issues. The reason for this is the acceptance of the fact that the third parties may play a significant, but mostly controversial role in conflicts and the political unrest in their country of origin.⁴

Studies have shown that from 1980 to 1990, 60% of a total of 265 conflicts were resolved through mediation. Recent resolutions such as the 1995 Dayton Peace Accord, the 1998 Northern Ireland Peace Accord and the 1998 Wye Agreement, all demonstrate the imperative for third party mediation in either conflict reduction or conflict resolution. According to Jack Bercovitch, mediation is an extension and continuation of the parties own conflict management effort. Susskind, another scholar, similarly points out that "mediation is an assisted negotiation."⁵

Third party mediation contributes towards the improvement of the environment in which the conflict occurs. In a protracted conflict, there are social and psychological processes at work which exacerbate the conflict environment beyond the basic nature and immediate circumstances of the conflict itself.

Third party intervention can work to prevent the parties' demonization of the other and would prod the adversaries towards cooperation. Third party diplomatic activity alongside this process is another dimension. The Third party can play various roles at various stages along the continuum of the process providing facilitation, consultation services, analyses, channels and forums for discussion; helping to identify the issues and interests, clarify the situation, develop the framework, add resources and invent solutions and so on.

Mediation can work on this perception. Intervention by a third party will bring the added benefit of organization to the process. It can lead to the introduction of new guidelines for communication between the parties, and thus enable each party to appreciate the other side's

³ Conflict Barometer 2006 (Heidelberg: Heidelberg Institute of International Conflict Research, 2007)

⁴ Eva Ostergaard Nielsen, *Diasporas and Conflict Resolution-Part of the Problem or Part of the Solution?* (Copenhagen: DIIS Brief, March 2006), p. 1

⁵ *The Need for Third Party Conflict Resolution in the Island of Sri Lanka*; Viswanathan Rudrakumaran, *Proceedings of International Conference On Tamil Nationhood & Search for Peace in Sri Lanka*, Ottawa, Canada 1999

perspective. Properly structured communication would impose a certain reality check upon each party's assumption regarding the other.

Third party mediation is a political process. It contributes to a negotiated settlement. The other option is for a military solution, in which only one party wins, and in the case of Sri Lanka it will only serve to prolong the conflict since the Tamil Nation cannot be subjugated. Third party mediation enables both parties to emerge as winners.

THE BASICS OF MEDIATION

Mediation when explained in the simplest terms amounts to “A communication exercise that seeks to conciliate the interests of the parties in dispute”. The process seeks to help the parties to find a solution out of the present situation without applying a solution upon them externally. The final aim of a successful mediation process is to find out new approaches to decide the dispute amicably, break deadlocks, preview new dialogues, gain more active participation and help to seek a solution in which no party is at loss. Thus mediation seeks to redress the conflict between the two parties in such a way that none of parties is in an advantageous position as against each other.⁶

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.

Mediation comes in between in the actors' conducts, in order to agree to matters of mutual benefit, and not only in terms of structures, which should be a derivation of the agreements reached by the parties. The aim is to change the relations between the parties in conflict. This also has its points and moments, and leads to formation of an integral part of any negotiation process.

⁶ Saaida Touval and I. William Zartman, “International Mediation in the Post-Cold War Era” in Chester A. Crocer, Fen Osler Hampson & Pamela Aall, eds., *Turbulent Peace: The Challenges of Managing International Conflict* (Washington DC: United States Institute of Peace Press, 2001), p. 440

To sum up the essentials of a valid mediation procedure, it can be defined as a form of an ad-hoc trial of conflict resolution in a non-forcible and also non-legally-binding manner, which is then practiced by the parties to the conflict and third parties as mediators.⁷

Once a conflict becomes open for mediation, many actors may aspire to lead a role in that initiative.⁸ However, one critical agenda is whether or not the warring parties agree on who will bear the responsibility to manage the issue. In order to begin negotiations, a mediator needs to be accepted by both parties. Who will be accepted as the mediator by the warring parties varies on the many different variables in a conflict. Nevertheless, the primary requirements of an acceptable mediator is the having an ability to offer a resolution which is more favourable than an ongoing conflict situation and potential of knowing a mutually acceptable solution.⁹

Conflict analysis has given certain distinctions—which are between facilitation, mediation, and arbitration—to sort out some nuances in the third party's role. The term “facilitation” is commonly used to describe a third party's informal role in getting parties together in an open-ended dialogue without resort to any conflict at hand.¹⁰

Role of Independent Variables:

The independent variables for explaining the result of the third party mediation may be distinguished into contextual and process variables. There is a major consensus in the standard literature depending on which factors are considered as contextual variables to explain the effectiveness of mediation.¹¹

Contextual variables:

These are of four categories:

1. the characteristics of the dispute,

⁷ Bercovitch & Rubin, 1992, pp.2, 4-5, 7; Crocker, 2007, p.2; Crocker, Hampson & Aall, 1999, pp.5, 7; Horowitz, 2007, p.51; Williams & Williams, 1994, p.116

⁸ Chester A. Crocer, Fen O. Hampson & Pamela Aall. *Taming Intractable Conflicts: Mediation in the Hardest Cases* (Washington D.C.: United States Institute of Peace, 2004). P. 25

⁹ Yossi Shain, “The Role of Diasporas in Conflict Perpetuation or Resolution,” *SAIS Review*, 22, 2 (2002), p. 137

¹⁰ Jonsson, “Bargaining, Negotiation,” p. 23 *Elusive Peacemakers: A Bargaining Perspective on Mediation in Internal Armed Conflicts* (Uppsala University: Department of Peace and Conflict Research Report No. 75, 2006),

¹¹ Bercovitch & Rubin, 1992, p.7

2. the parties,
3. the mediator
4. the international context.¹²

The characteristics of the issue can be analyzed according to its ripeness, intensity, and problems at stake in that issue. The nature of the parties that include in the conflict may be analyzed through six aspects:

- 1) identification,
- 2) cohesiveness,
- 3) type of regime,
- 4) motivation to mediate the conflicts,
- 5) mutual relationship
- 6) power balance of the parties.¹³

The third contextual variable, the characteristics of the mediator is evaluated on three basic levels: impartiality, leverage and status of the mediator. The fourth contextual variable, the international context, lays focus on the impact of important international events and processes on the mediation activity.

In reality, the characteristics of the mediator like impartiality, leverage, and status (a contextual variable) dynamically are related to the behaviour of the mediator (a process variable) but for analytical reasons, this paper treats these variables differently. Mainly, the process variable highlights and evaluates the nature of agency intervention, like a passive communicator, formulator, else active manipulator of the mediation process. Thus, in the real mediation process, there might be instances where the characteristics of the mediator are not consistent

¹² Stephen J. Stedman, "Negotiation and Mediation in Internal Conflict" in Michael E. Brown, ed., *The International Dimensions of Internal Conflict* (Cambridge, MA: MIT Press, 1999), pp.359

¹³ Touval & Zartman. *International Mediation*, p. 436

with the level of actual involvement in mediation.¹⁴ For example, a mediator with significant leverage might not be able to play a more active manipulator role expected of it; or one seen with low leverage may in fact attempt a better active formulator or manipulator role.

Process Condition Variable

Besides the contextual variables, the final outcome of mediation is also affected by process condition variable as it is the indicator of procedure of mediation. According to Bercovitch, a mediator can be 'passive', 'facilitative' or may move on to become 'active'. The mediators, according to Touval and Zartman, have an important role to play and subsequently influence the result of the process through the following ways:

1. as a “communicator” who serves as a bridge between the parties who barely communicate or trust each other;
2. as a “formulator” who encourages the parties to mediation to agree on the procedure of mediation by illustrating them with numerous possible ideas leading to resolution of conflict; and
3. as a “manipulator” who sticks to the use of peaceful and nonviolent power to bring about a change in the attitude of the parties so that they can concentrate on conflict resolution through mediation.¹⁵

Bernard Mayer, in his book *The Dynamics of Conflict Resolution*,¹⁶ 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**. The questions to be asked are: Which are socially acceptable and under what conditions? What groups have the greater capacity to express their emotions? What emotions are the most repressed?

¹⁴ Saaida Touval and I. William Zartman, “International Mediation in the Post-Cold War Era” in Chester A. Crocker, Fen Osler Hampson & Pamela Aall, eds., *Turbulent Peace: The Challenges of Managing International Conflict* (Washington DC: United States Institute of Peace Press, 2001), p. 440

¹⁵ Bercovitch, 1992, p.8; Touval & Zartman, 2001, pp.435-436; Young, 2006, p.143

¹⁶ Jossey-Bass, 2000, 263 p.

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.

Third party mediation can be fairly defined as “a process of conflict management, related to but distinct from the parties’ own negotiations, where those in conflict seek the assistance of, or accept an offer of help from, an outsider to change their perceptions or behaviour and to do so without resorting to physical force or invoking the authority of law”.¹⁷ The ‘outsider’ can be an individual, a group, an organization or a state. Mediation strategies and tools ranging from the channelling of information to parties to the provision of incentives and pressure designed to make influence the bargaining process.¹⁸ Although mediation is non-binding, it might contribute to a cessation of hostilities, a peace agreement, or a full settlement of a conflict.

The study of mediation has given a lot of attention to the motivation of mediators and parties to the conflict to get engaged in mediation. Some argue that mediators are not always neutral, altruistic ‘outsiders’, but may form their own aims.¹⁹ Through the act of mediating, they result into becoming an actor in conflict relationships and dynamics.

Despite the potential need for mediation to contribute to conflict management and to a much lesser extent to conflict resolution, it has largely been treated as a single discipline. Though mediation has received much attention in academia, politicians and activists don’t give it the same level of attention as peacekeeping and aspects of these conflict prevention and peacebuilding.²⁰ The international climate for mediation has been changing radically in the last ten years, with a rapid increase in both, the diversity of actors involved in peace processes and

¹⁷ Bercovitch, J., 2009, ‘*Mediation and Conflict Resolution*’, in *The SAGE Handbook of Conflict Resolution*, eds., J. Bercovitch, V. Kremenyuk, and I. W. Zartman, SAGE, London, pp. 340-354

¹⁸ Fiona Lortan. “Africa Watch: The Ethiopia-Eritrea Conflict: A FragilePeace” *African Security Review* (2000), p.2

¹⁹ Mariefe kleiboer. *The Multiple Realities of International Mediation* (London: Lynne Rienner Publishers, 1998), p. 370

²⁰ Hall and Swain, “Catapulting Conflicts.”

the major frequency of interventions. The field of third party mediation has encountered a number of challenges including the 'global war on terror'²¹, the constant growing influence of new powers such as China and India, and the ongoing divisions within the UN. Recent researches on the African Union has shown that work should be done to build the capacity of international and regional organizations that engage in mediation, and develop strategies and mediation units within the organizations.

The success rate of peace negotiations is thus determined by a number of factors which include the space and resources given for the process, the potential of the facilitator and the characteristics of the negotiating teams and mediators. The success rate of mediation efforts can be enhanced if the motivations of issues actors are carefully analyzed and understood.

However, it has often been argued that this process condition exercises limited influence over the mediation outcome than the contextual variables, and the characteristics of the mediator in particular, may do. They are of the view that the actions of the mediator in the entire mediation procedure has no such role to play which can overturn the perceptions of the parties, who ultimately make decisions on the outcome, as these perceptions are determined in advance of the process by the context.

PRE REQUISITES OF A MEDIATION PROCESS

There are some basic pre requisites of the resolution of an armed conflict via mediation process.

These include-

- Mediator must be technically impartial.
- The parties must agree to the mediation process
- The parties must mutually select the mediator.
- There can/should not be any pressure from any external source.

²¹ Touval & Zartman, *International Mediation*, p. 436

- There should be a genuine will of the parties to settle their disputes.
- The mediator cannot adopt any punitive measures.²²

Characteristics of A Good Mediator

For the achievement of the above said objectives certain indispensable qualities of the mediators are necessary. These include-

Impartiality- A mediator is expected to impartial and unbiased. This is one of the major characteristic for the reason that the bias approach to one of the parties will vitiate the entire process as it will work at the peril of the other party. Still, the level of impartiality is not as rigid as expected.²³

Leverage- Many studies have shown that a mediator's leverage, its power and resources to influence the parties, is of much more important than its show of impartiality.²⁴ Thus, the leverage, or simply what the mediator can do to change the status quo, is more important in comparison to how the mediator is regarded by the parties.²⁵

Patience- Any dispute resolution requires a great amount of patience. The mediator needs to be a patient listener to the issues of either of the parties and then finally form his opinion.

Flexibility- The mediation process needs to be flexible and also the mediator. He has to take into consideration the different circumstances made available to him and then make a suggestion in a way acceptable to both the parties.

CASE STUDIES AND ANALYSIS

This part examines the comparative relevance and impact of the major arguments raised and findings of the standard identified literature on third party mediation of two cases. More precisely, it analyses the impact of contextual and process independent variables. Two other contextual variables, cohesiveness of parties and the international context, have also been evaluated as these factors have played a major role in the cases in question.

²² Bernard Mayer, *The Dynamics of Conflict Resolution*, Jossey-Bass, 2000, 263 p.

²³ Picco, 1997; Williams & Williams, 1994, pp.10-11, 111-112

²⁴ Crocker, 2007, pp.1-2;

²⁵ Takeshi Odaira, "Effectiveness of third party mediation in internal armed conflicts", *Journal of Social Sciences* at p 31-52. Accessed from <http://icussri.files.wordpress.com/2009/03/icu68_odaira.pdf> on October 10,2025

THE CASE OF ACEH, INDONESIA

Aceh is a special region of Indonesia and lies on the northwest side of the Indonesian capital Sumatra. It is believed to be the place from where Islam began to spread in the densely Hindu populated country having highest proportion of Sharia ruled Muslims²⁶ and is, in fact, a conservative area in terms of religion²⁷. It has been the centre of many conflicts since a long time. Post its golden era, that is, the rule of the Sultanate of Aceh it was occupied by the Portuguese which affected the trade practices of many Islamic traders²⁸. However, owing to its strategic location with regards to controlling trade, it became an influential territory in the nineteenth century which was later on occupied by the Japanese during World War II leading to a subsequent revolt by the inhabitants against the Dutch and the Japanese.²⁹

On 8th August 1950, the special status granted to Aceh was repealed, and it was, subsequently, incorporated into the North Sumatra province. However, the part of the history of Aceh with which we are concerned is their quest to gain Independence from the Indonesian territory. This quest for independence triggered for the first time due to the unequal distribution of profits gained by the selling of oil and gas to an American company.³⁰ At the same time, agitated by the centralist tendencies of Suharto, the then Indonesian ruler, led Hasan Di Tiro to launch the Free Aceh Movement GAM (Gerakan Aceh Merdeka)³¹ in 1976 initiating the fight against the armed Indonesian army for a very long time. There have been numerous occasions where the parties have mutually tried to redress their issues. However, the efforts failed. The first substantial step was taken by HDC.

The Government of Indonesia (GOI) and the Acehnese rebel movement GAM, on December 9, 2002, entered into a historic cease-fire agreement which was signed at the Geneva headquarters of the Henry Dunant Centre for Humanitarian Dialogue. The most significant contribution of the organisation was to midwife the three-year-long process that would yield

²⁶ Sharia Ruled Muslim States, http://upload.wikimedia.org/wikipedia/commons/b/b2/Countries_with_Sharia_rule.png, last accessed on 1st October 2025.

²⁷ The Escape Artist, Andrew Marshall, TIME, Thursday, February 15, 2007. <http://content.time.com/time/magazine/article/0,9171,1590162,00.html>, last accessed 1st October 2025

²⁸ D. G. E. Hall, *A History of South-east Asia*. London: Macmillan, 1955.

²⁹ Indonesia's Secret War in Aceh, John Martinkus, Random House Australia, 2004, p.47

³⁰ M Nur El-Ibrahimi, *Peranan Teungku M. Daud Bereueh dalam Pergolakan di Aceh*, 2001.

³¹ Schulze, Kirsten E. (2004) Why GAM should be held accountable, *The Jakarta Post* (2 July). ISSN 0215-3432

the Aceh accord known simply as the COHA (Cessation of Hostilities Agreement).³² Under this agreement, HDC was then charged with helping the parties to monitor implementation of the cease-fire through a Joint Security Committee (JSC) and the presence of unarmed military observers from Thailand and the Philippines³³. However, the accord signed peacefully between the two parties was not to last long and only 6 months after reaching the accord, it collapsed. What followed were extensive military operations by the Indonesian troops.

The official figures put the deaths of the rebels at 2000. Further 2100 were arrested. Hundreds of innocent civilians died and thousands of Acehnese were brutalized and displaced³⁴. Thus the efforts of the organization went down the drain. This brings us to an all important question of whether the third party mediation an effective mode to resolve internal armed conflicts.

There are three broad themes that emerge from the failure of the accord.

- The first theme concerns the question of ripeness³⁵- A condition under which parties are prepared to seek a negotiated solution as a preferable alternative to what appears to them as a painful and probably unwinnable stalemate. In the instant case, the two parties in dispute were not in a position to reach a peaceful accord. Both the GAM and the Indonesian government struck to their respective demands thereby invalidating the entire process of mediation. Thus the first essential of resolution of dispute via alternate dispute resolution mechanism is absent in the present case. The will of the parties to resolve their disputes amicably is absent. Thus the entire process of signing of an accord committing to cease fire was a sham.
- The second theme concerns the limits to what HDC, or any similar nongovernmental organization lacking formal authority, could do to ensure a successful accord. HDC's principal shortcoming was that it lacked the power usually available to states who attempt to mediate in similar conflicts. Here HDC used different strategies, including establishing a group of prominent international jurists, to mobilize wide political support among states for a successful settlement, but donor countries ultimately

³² See Barakat et al. (2002) citing John Groom and Keith Webb, "Injustice, Empowerment, and Facilitation in Conflict," *International Interactions* 13(3): 263–80.

³³ HDC "Mission Statement" (<http://www.hdcentre.org>), last accessed 12th October , 2025

³⁴ Tiarna Siboro and Nani Farida, "TNI Admits to Wrongdoings in Aceh," *Jakarta Post*, May 6, 2004.

³⁵ Konrad Huber, '*HDC in Aceh: Promises and pitfalls of NGO mediation and implementation*', Policy Studies, East West Centre, Washington. Accessed from < <http://www.eastwestcenter.org/fileadmin/stored/pdfs/PS009.pdf>> on October 26 , 2025

sidestepped direct responsibility for the peace process. Mediation process not being binding on the parties will always fail in case the parties are not willing to settle their disputes amicably.

- Thirdly, the experiences of HDC exposed various issues which the NGO did not address at all. However, an insight into these issues could bring to light various measures which can provide important support for similar peace efforts elsewhere. These issues include:

(1) Developing analytical capacity and organizational learning,

(2) Identifying, framing, and sequencing the issues for negotiation,

(3) Dealing with problems of representation and coherence within the parties,

(4) Working with civil society,

(5) Managing the pace of the negotiation process, and (6) Harnessing international support.³⁶

The failure of the Aceh accord is a clear indicator that, in absence of elements like a basis for a comprehensive settlement and a credible third-party guarantor³⁷, mediation will always fail in an armed internal conflict. There is also an element of cheating and breakdown which may be a factor in the failure of mediation which may consequentially lead to a more violent return to war.

PAKISTAN-INDIA (THE KASHMIR DISPUTE)

Attempts of the United Nations at Mediation

On January 1, 1948, India sought assistance from the United Nations Security Council by filing a complaint alleging Pakistan had illicitly provided assistance to Kashmiri insurgents. India promised to settle the issue of final accession of Kashmir in accordance with the wishes of the people, but only after the invaders had been displaced from the region. Pakistan weighed in with a counter-complaint denying any wrong doing and challenging the validity of Kashmir's

³⁶ Konrad Huber, *The HDC in Aceh: Promises and Pitfalls of NGO Mediation and Implementation*, ISBN 1-93272817 1, www.eastwestcenterwashington.org/Publications/publications.ht

³⁷ See, for example, Edward N. Luttwack, "The Curse of Inclusive Intervention" (Crocker et al. 2001: 262–75).

accession to India and India's military presence in the region.

The U.N. never directly addressed the issues raised in India's complaint, but instead responded by adopting a resolution establishing the United Nations Commission on India and Pakistan (UNCIP). The proposed function of the Commission was to make findings of fact and provide mediating influence over the dispute. International attempts at mediation were a failure. The first United Nations Representative in India and Pakistan (UNRIP) appointed to mediate the dispute was Sir Owen Dixon, an Australian jurist. Dixon's suggestion of conducting a plebiscite regionally, rather than on a state-wide basis was rejected.

A year later, Frank Graham, an American diplomat, took Dixon's place. The UNSC proposed a reduction in military presence by both sides on December 23, 1952, which was accepted by Pakistan and rejected by India. The last serious UNRIP effort to find a solution was Graham's proposal of February 14, 1953 which was rejected by both sides. Mediation attempts continued to focus on creating optimal conditions for plebiscite, while internal and external political and societal developments were continually shifting India away from the idea of plebiscite. India's increasing resistance to plebiscite can be attributed to several factors, including "the de facto partition of the state, the cold war, the state's proximity to the Soviet Union and China, the United Nations' failure to mediate, the political developments within Jammu and Kashmir and India's resolve to retain the territories under its control."

Mediators between sovereign states can have several of numerous roles, including acting as facilitator of communication between the principals, formulator of strategy and options for the principals, and active manipulator of one or more of the principals. The more unwilling the parties are to have their dispute mediated by a third party, the more forceful interventions may be in order to change perceptions of the issues in dispute. The military balance between India and Pakistan has always been unequal: Pakistan cannot match the defence-spending power of India, despite spending (by some estimates) 40 % of the national budget on defence, and the outcome of their wars has confirmed the military asymmetry. Both India and Pakistan have sought outside intervention during various stages of their conflict, although India's tolerance for third party intervention has diminished in accordance with its rise to regional power status and the accompanying belief that mediation will not provide India with optimal outcomes.

Intervention by a third party in the Kashmir dispute requires acute awareness of the distinct dynamics involved in the overlapping interstate and internal conflicts.

MINDANAO AND THE MEDIATION BY MALAYSIA

The independence of the Mindanao region has been a pressing issue for a long time now and has received international attention. The problem had surfaced as early as 1910 with the submission of the writ petition by the Zamboanga business sector stating a plea to isolate the region in order to develop “plantation interests”³⁸. There has been a long drawn out conflict between the Government of the Republic of the Philippines and the Bangsamoro Liberation Front. Over the three decades of the issues, there has been unprecedented loss of life and damage to property along with incidents of brutal massacres and torture. A number of human rights and principles of international human rights laws have been violated in this troubled region.³⁹

There is genuine will of the parties to reach a peaceful settlement and there have been multiple attempts at this in the past. Mediators had been appointed for this very purpose. The Organization of Islamic Conference (OIC), the state of Malaysia and even the United States of America has been actively trying to facilitate settlement talks and negotiations between the GRP and the Moro Liberation Front.⁴⁰

The main cause of the issue is that the people of Bangsamoro refuse to accept the sovereignty of Philippines. The reason for this is that the disputed land is chiefly inhabited by the Islamic population, who succeeded in defeating the Spanish invasion thanks to their advanced military and maritime techniques and machinery.⁴¹ The bone of contention is that, since they were never ruled by the Spanish, they do not have the right to cede their region to USA as a result of the treat signed by them in 1898.

The people of Bangsamoro have employed all peaceful means with the authorities of Philippines to achieve independence. However, they have all failed and hence, liberation front’s

³⁸ Federico V. Magdalena, Lecture on Islam and politics of Identity, University of Hawaii-Manoa, November 17, 2003.

³⁹ Nur Misuari, MNLFC Chairman, Lecture on The MNLFC’s Urgent call for a Realistic and Pragmatic Tactical and Strategic Approach, June, 2000. http://focusweb.org/publications/Bulletins/Fop/Issue14_2000.htm, last accessed on 16th October 2025

⁴⁰ Dr. Samuel Tan, Understanding the Mindanao Conflict, Cotabato City Peace and Development Forum, July 20, 2000.

⁴¹ Brendan Koerner, How Islam goes to the Philippines, 2005. http://www.slate.com/articles/news_and_politics/explainer/2005/01/how_islam_got_to_the_philippines.html, last accessed on 15th October, 2025

have been started to continue their struggle. The repressions against the Muslim population by the government have resulted in the violent struggles in Mindanao.

THE PROBABLE MEDIATION FOR SRI LANKA

On the island of Sri Lanka, the betrayals and deception perpetrated by the Sinhala political establishment have created a psychological distance between the parties which inordinately exacerbates the suspicion and mistrust between the two parties to the conflict. Moreover, this psychological distance has also been exploited by the Sri Lankan government to engage in demonization of the Tamils and LTTE which has furthered the distance.

Despite the virtues of third party assistance in the resolution of conflicts, which has been demonstrated in various parts of the world, the Sri Lankan government continues to reject the very notion of third party mediation. While the Sri Lankan government reiterates its objections to third party mediation, it has thus far failed to provide any meaningful reason for its opposition. By some spokesmen for the Sri Lankan government, claims have been put forward that this current armed conflict- which has resulted in the cost of thousands of lives lost - is the internal affair of the Sri Lankan government. Characterization of the current armed conflict as an internal matter is morally wrong, legally incorrect and diplomatically naïve and also indicative of the hegemonic attitude of the Sinhala government towards the Tamil nation.

Indeed, a modicum of thoughtful deliberation on the part of the Sri Lankan government would reveal the fact that third party mediation would in fact be helpful to the government itself. Although once it was perceived that President Chandrika Kumaratunga had political courage and statesmanship, she has demonstrated clear lack of such qualities initially attributed to her. One has often heard the expression that the President would like to solve the conflict, but the political system hardliners and the hawks within the military establishment will not allow her to do it. Third party mediation will furnish her with an opportunity to demonstrate her political courage.

The President can pursue bold initiatives for peace; and any political risk resulting from such action can be distanced from her by the third party assuming responsibility.

The Sri Lankan government, through political rhetoric has entrapped itself by seeking only a military solution to resolve the current conflict. This Government has invested its image and

political survival on a perilous route. Third party mediation would have allowed the Government to leave its trap and at the same time ensure its political survival.

However, given the Sri Lankan government's irrational opposition to third party intervention, the question before us is what can the international community do to bring forth third party mediation. Assistant U.S. Secretary of State, Karl Inderfurth's offer demonstrates the international community's view that third party intervention is an essential element for negotiated settlement aimed at bringing peace to the island of Sri Lanka.

When the Sri Lanka government is subject to a hurting stalemate, it will come to realize that a negotiated solution is the best way out. Conflicts characterized by asymmetry such as the armed conflict in the island of Sri Lanka, power asymmetry works against the creation of hurting stalemate. Change of heart on the part of larger power is usually unobtainable where asymmetrical conditions exist.

When the Sri Lankan government's military capability is reduced and/or when the Tamils' right to self-determination and the legitimacy of the LTTE are recognized, the Sri Lanka government's cost-benefit analysis will point towards the acceptance of third party mediation.

ASSESSING THE THIRD PARTY INVOLVEMENT

Third parties in this dispute have been instrumental in keeping negotiation efforts on between the GRP and Bangsamoro Liberation Fronts, even when talks had reached dead ends and hostilities broke out. The credit of officially starting dialogue between the parties in Jeddah on January 18, 1975 goes to the OIC⁴². Along with the OIC, the diplomatic efforts of Libya has resulted in the landmark Tripoli Agreement of 1976 signed on December 26, 1976, after elaborate negotiations. The agreement contains general principles for autonomy and other institutional mechanisms that needed to be instituted.⁴³ Following this, discussions proved futile. It was once again, when OIC was the chair of the Committee of Six, later changed to Committee of Eight, when talks resumed and led to the signing of the 1996 Peace Accord.

In 1997, when formal talks between the GRP and the MILF ensued, there were efforts to remove the third party interventions. However, during the course of talks, GRP forces launched

⁴² Ibid

⁴³ Interview, HDC expert, December 29, 2003

attacks on the MILF camps which resulted in the MILF's withdrawal from all negotiations, discussions and disbanding its negotiating panel.

There was an attempt on the part of the GRP and MILF to do away with third party when they started formal talks in 1997 but as the talks progressed the GRP forces launched massive attacks against the MILF camps, including Camp Abubakare, in 200 that lead to the MILF withdrawal from the negotiations, and to the extent of disbanding its negotiating panel.

It was only after the GRP invited Malaysia to facilitate the negotiations that the MILF agreed to go back to the negotiation table. The shuttling diplomacy of Malaysia's representative broke the impasse. MILF chairman agreed to resume talks with the government when assured by the Malaysian representative that the issue of sovereignty and territorial integrity of the Philippines and other constitutional issues will not be raised in the negotiations, at the same time the MILF will not bring up the issue of Bangsamoro independence.

As the talks moved forward, the Armed Forces of the Philippines attacked the MILF positions in Pagalungan-Pikit area in February 11, 2003, but despite of that breached on the existing ceasefire Malaysia was able to maintain communication line open and later was able to bring them together to talk in a creative manner called exploratory talks.⁴⁴

For more than three years of negotiations without third party participation, the GRP and the MILF had not discussed any substantive issue.⁴⁵ Talks were just on implementation of the ceasefire reached on July 18, 1997 in Cagayan de Oro City. With the facilitation of Malaysia after the resumption of talks in April 2000, the negotiations inched higher towards substantive issues on rehabilitation and development of conflict-affected areas and ancestral domain.

The involvement of OIC and Malaysia to settle the dispute has been put in simple words by Santos in his book where he describes their role as-

“Malaysia's facilitation, aside from being host, usually involved the following functions: gobetween conveying positions of the parties; providing a conducive atmosphere and facilities; presence in the talks as 'referee' and to witness commitments and understandings; help bridge

⁴⁴ Eddie LL. Quitariano Their war, our struggle stories of children in Central Mindanao, Save the Children, UK, Philippine Program, 2004.

⁴⁵ Edward Aspinall and Harold Crouch, The Aceh Peace Process: Why it failed, ISBN 1-932728-01-5, 2003.

differences by shuttling between the parties; administration of the talks; and record and keep minutes, to detail what had actually been agreed upon.”⁴⁶

The statement very conveniently sums up the entire essential characteristics of a mediator.

ANALYSIS OF THE ISSUES

Based on the present study, the three major standard hypotheses can be answered now and findings of literature on third party mediation recognized earlier can now be evaluated.

First, between the independent contextual and process variables of third-party involvement in mediation in question in cases above, the process factor is nowhere less important than the contextual ones. On the contrary, the process factor evidently has a very strong impact on the result of mediation in both cases. In case study the mediators actively took upon themselves roles of communicators and formulators. The mediators involved in the cases played actively and directly played to the point where the official peace agreements were concluded even though the subsequent results differ from case to case.

Second, among the contextual factors involved in third-party mediation in aforementioned case studies of internal armed conflicts, the cohesiveness of the parties and the international arena seem to be highly influential to the final outcome of the process than was expected. This cohesiveness and the international context seems to be having a great impact on the final outcome of mediation. In the present cases, the presidential influence and foreshadow over the military ensured much necessary cohesiveness by the governmental side in order to keep the process of mediation on the right side by assuring observance of implementation of all the agreements entered into by the government.

The international context has had huge impact on both the cases. While in cases like that of the MNLF and the MILF, the mediators only had enough leverage to initiate and conclude the peaceful negotiations among the parties, but not quite enough leverage to implement, while the mediator of the Aceh and Mindanao case had sufficient leverage in all of the three assessed categories.

⁴⁶ Takeshi Odaira, “*Effectiveness of third party mediation in internal armed conflicts*”, Journal of Social Sciences at p 31-52. Accessed from <http://icussri.files.wordpress.com/2009/03/icu68_odaira.pdf> on 30th October 2025

As predicted by the elaborated standard literature, among the various characteristics of the mediator, the reputation, status and leverage factors exercised would have the greatest influence on the concluding outcome of mediation process while neutrality of the mediator would be the last. The case studies also points out that the status and leverage pertaining to the mediator are closely interlinked and therefore have to be considered together.

In such conflicts, mediators have a range of moral obligations to the people affected by the conflict, to the political parties to the conflict, to concerned observers and to the wider mediation profession. Further the credibility of a third party depends upon a number of factors which includes the goals they set, the methods they use, the degree of directiveness they employ, and the power available to them for getting parties to the mediation table and nudging them successfully towards an agreement.

CONCLUSION

Analyzing the two important issues from the world politics, I wish to conclude that using the third party mediation in internal armed conflicts has its advantages and disadvantages. The mode definitely serves a lot of purposes and if made enforceable is a valid and effective mode of dispute resolution.

Third-party mediation in international and non-international armed conflict is highly political, fluid and complex. It involves careful long term engagement in situations where widespread human suffering is common and thousands of lives are at stake. Many armed conflicts are deep and protracted with painful histories of extreme violence, inter-group hatred, oppression, humiliation, profound political suspicion and active involvement of other states.

The wide persistent evident lacunae in the both the above discussed case studies is that the two mediating authorities in the end lacked the power and authority required to enforce the mediation process. This was one of the main reasons why the COHA signed by the two parties fighting against each other fell apart. Another reason for the fall out was the absence of the will of the two parties. Thus for any mediation process to be successful what is needed is the genuine need of the two parties to reach a peaceful settlement.

In my opinion, parties such as the United Nations have the required power and authority to resolve such issues and thus should actively and voluntarily participate in dispute resolution.

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