Analysis of multiparty mediation processes

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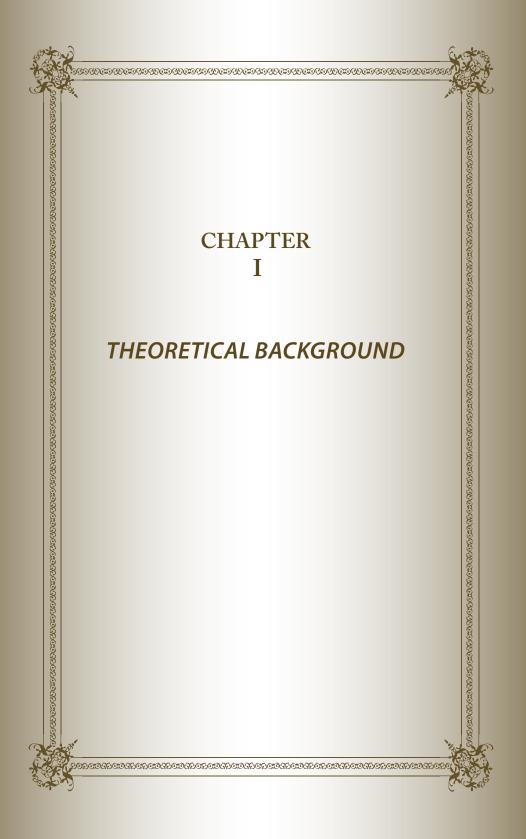
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CHAPTER
I

THEORETICAL BACKGROUND

CHAPTER I: Theoretical background

1.1 The Need to Manage Conflicts: Different Conflict Management Activities

Among all social processes, conflicts can be identified as the most insidious and costly. In their fundamental form, violent (militarized) conflicts imply a methodical and structured employment of force and violence. Human causalities and material damage, produced in conflicts, are generally regarded as the most salient type of political costs a society might experience (Gartner et al. 2004; Gartner and Segura 2000). Not surprisingly, there is an increasing demand coming from the same (political) actors that are involved in the conflict, accompanied by pressures from both local and global civil society, to manage conflicts.

Since conflicts commonly produce high levels of distrust, conflicting parties often find it useful to delegate management activities to a distinct third party. According to Bercovitch et al. (2007) 'conflict management is the product of the interaction of strategic choices made by disputants and third parties, rather than the result of a decision by conflict managers to indiscriminately manage any dispute that arises' (pg. 2). In other words, a decision to manage a conflict is not unilateral but rather a result of a careful analysis by all sides on whether a conflict has become "ripe" for resolution (Zartman, 1989). As the ripeness theory explains, conflict is ripe for resolution when the conflicting parties perceive their present situation to be a "mutually hurting stalemate". This refers to a situation "when the parties find themselves locked in a conflict from which they cannot escalate to victory and this deadlock is painful to both of them (although not necessarily in equal degree or for the same reasons), they seek an alternative or a Way Out" (Zartman 2001, 8). Both conditions - "mutually hurting stalemate" and "way out" – are based on conflicting parties' subjective perceptions: they have to recognize that they are in an impasse (no matter what the "evidence" on the ground tells and/or is perceived by someone else) and develop a sense of finding a negotiated solution as an alternative to the fighting. Since ripeness is a perceptual condition, in order to develop a subjective awareness of the present situation as ripe for resolution, parties might look for objective indicators. These indicators can be brought to the

conflicting party by an outside actor or by its opponent (Zartman 2001, 9). Given the costs that conflicts generate, the absence of ripeness is rarely a reason for inaction by third-parties. As Zartman and De Soto emphasize, outside actors "can develop a policy of ripening, cultivating both objective and subjective elements of ripeness if these elements do not appear on their own" (2010, 7). In order to ripen the stalemate and a way out, third parties might employ various measures - diplomatic, economic and/or military – which can help in reframing the conflict and accentuate the attractiveness of conflict management as an alternative to fighting.

Broadly speaking, third-party interventions vary from joining the dispute (i.e. taking side of one of the disputants) to managing the dispute. The main focus of this research is on the latter aspect of intervention. More specifically, the intention is to discuss third-party intermediary interventions, 'where an actor outside of a dispute solicits or accepts a role to peacefully manage a conflict' (Frazier and Dixon 2006, 387). Frazier and Dixon (2006) offered a useful taxonomy of different conflict management activities, each one characterized by a different extent of commitment by a third-party to manage the dispute. They divided the third-party intermediary actions into five types: verbal expression, diplomatic approaches, judicial processes, administrative assistance and the use of military force.

Verbal expression might stand for appeals for a cease-fire or even offers to facilitate or mediate the negotiations. According to Frazier and Dixon (2006) they represent the bulk of third-party activities. Nevertheless, 'third parties are not all talk', since diplomatic activities (namely mediation) 'account for slightly over 40% of third party activity' (pg. 395). The last three types – judicial processes (for example arbitration), administrative (such as humanitarian assistance, election supervision, monitoring) and military (such as military observations, peacekeeping, demobilization monitoring) compose a rather small fraction of third party activities. Since the latter three types inevitably imply increased levels of commitments (such as financial costs, or providing personnel and necessary logistic support) these findings do not come as a surprise. Having this in mind, numerous scholars tried to explain why diplomatic activities are so frequently used. Prior to Frazier and Dixon (2006), Bercovitch et al. (1991) also stressed that diplomatic (i.e. mediation) activities are the most widespread form of active third party conflict

management. The popularity of this method was commonly argued to be due to a belief that it can halt intensification of a dispute while still tackling the whole array of issues to the dispute (Raymond and Kegley, 1985). At the same time, given the fact that mediation is not compulsory, 'it provides another opportunity beyond bilateral negotiations to solve conflicts with only limited infringement upon sovereignty' (Frazier and Dixon 2006, 396). Thus, already for decades, mediation has been vociferously advocated as the most efficient method for solving conflicts that cannot be resolved by peaceful means on a bilateral level between conflicting sides (Ott 1972, Young 1972, Bercovitch 1984, Holsti 1991). The growing interest in mediation as a method of conflict management is also provoked by the acknowledgment that civil or inter-communal conflicts are not easily dealt with by other modes of conflict management (such as legal tribunals, arbitration, or the use of force). In fact, mediation represents a relatively low-cost alternative between the choices of doing nothing and a large scale military intervention.

1.2 Mediation as a Distinct Form of Conflict Management Activity

1.2.1 Definition(s)

Mediation is widely considered to be a non-coercive and voluntary form of conflict management, particularly practical within the intricate dynamics of international relations dominated by the principles of preservation of actors' independence and autonomy (Bercovitch 2005). However, there are small but significant variations among scholars in defining third-party mediation, especially when it comes to actions that are observed. Over time, several definitions of mediation have been formulated. For Mitchell (1981) a distinct feature of mediation as an intermediary activity is in its purpose of achieving some compromise settlement of issues at stake between conflicting sides, or at least ending disruptive conflict behavior. According to Raymond and Kegley (1985) this activity can be seen as a method of conflict management and conflict resolution which brings about the use of third parties to help disputants in reaching a voluntary agreement. They see third party involvement usually through actions of facilitation such as: agenda setting, simplification of communication, clarification of respective po-

sitions, issue 'reconceptualization', bargaining facilitation and support for agreement. Moore (1986) on the other hand, emphasizes the nature of mediation as an extension and elaboration of the negotiation process. Through the intervention of an 'acceptable, impartial and neutral' third party, holding no 'authoritative' power, mediation facilitates conflicting parties so that they can reach a mutually acceptable settlement. Bercovitch, Anagnoson and Wille, also highlighted the importance of mediation as a process that has no commanding power. For them mediation is "a process of conflict management where disputants seek assistance of, or accept an offer of help from, an individual, group, state or organization to settle their conflict or resolve their differences without resorting to physical force or invoking the authority of the law" (Bercovitch et al. 1991, 8).

Mediation usually represents an extension and continuation of parties' own conflict management efforts (i.e. extension of the negotiations process) where a mediator enters the dispute in order to affect, change, resolve, modify or influence the dynamics of previous relations between conflicting sides (Bercovitch and Houston 1996, Bercovitch 2002). Frazier and Dixon (2006) emphasized the importance of mediators in formulating potential solutions, that are still "legally non-binding" and described third-party mediation as a process during which "the third party proposes specific, non-legally binding options or procedures for the purpose of ending hostilities or crises, or suggest options for resolving a dispute" (pg. 396).

It should be said that, initially, the study of international mediation mostly relied on insights derived from the analysis of collective bargaining in economics (Zartman 2008). Drawing parallels from mediation activities in labor-management disputes, scholars assumed an axiomatic stand toward the role of a mediator as a neutral and impartial third party that was stripped down of any self-interest or leverage in the conflict. As such mediation was often equaled to facilitation and a mediator's role reduced to a mere channel through which complex communication between disputants can be alleviated. This simplistic and naïve treatment that persisted for several decades (in some cases even to this day), was gradually challenged. As the number of mediation activities increased in international relations, scholars started to unveil complex dynamics behind mediation activities, pointing out the interplay of several factors that might influence the outcome. Already in 1975, Touval emphacized

that a biased mediator is not a liability to the process but a potential advantage as it is able to move the party toward which it is biased to reach a negotiated solution. Following these findings, Zartman and Touval refused mediator's impartiality and neutrality as a necessary prerequisite, and defined mediation in a very simple yet usefully flexible manner, as 'a mode of negotiation in which a third party helps the parties find a solution which they cannot find by themselves' (1996, 446).

With bias not being a taboo anymore, scholars started analyzing mediation strategies that were characterized by both third-parties' self-interest to get involved and a specific leverage that could be used by a mediator to deliver a solution to the dispute. Soon the notions of manipulative and directive mediator were introduced (Touval and Zartman 1985, Bercovitch et al. 1991). By analyzing these and other factors, mediators were no longer just simple bystanders that only facilitate the peace talks; they are rather an active party in the complex dynamics of peace talks, whose particular characteristics become instrumental for the outcome of mediation.

Contemporary scholarship has almost unanimously accepted a multicausal approach in order to explain mediation. This way mediators' characteristics (such as impartiality, interests, leverage, etc.) represent just one set of features that might shed light on the mediation outcome. Other important factors can be clustered as contextual (such as type of the conflict, characteristics of the disputing sides or geopolitical/systemic dynamics) and behavioral (such as mediation strategies).

1.2.2 Incentives to Start the Mediation Process: (im)Partiality, Costs, Interests, Leverage and Legitimacy

Parties will agree to mediation when they perceive it to work in favor of their interests. More specifically, disputants will accept a mediator's offer to the extent that the expected utility of an agreement exceeds the expected utility of continued conflicts (Maoz and Terris 2006). As Zartman and Touval note, mediators are sometimes faced with initial rejections from the disputing parties, "thus their first diplomatic effort must be to convince the parties of the value of their services before mediation can get started" (1996, 446).

At the same time, it would be implausible to expect that mediators are only driven by humanitarian concerns to intervene. Having in mind

considerable investment of resources that mediation calls for it is reasonable to presume that mediators are no less motivated by self-interest than by humanitarian impulses (Touval and Zartman 1985, 8). Mediators play their role in negotiations and spend resources not only because they aim to resolve a dispute, they also seek to gain something from it (Greig 2005). For a lot of actors, international mediation is a useful (foreign) policy instrument through which they can pursue some of their interests without creating too much opposition (Touval 1992).

As indicated previously, conventional standpoints of earlier studies highlighted mediator's *impartiality* as a crucial prerequisite for successful mediation (Assefa 1987, Miall 1992, Hume 1994). It assumed a cause-effect relation between impartiality and success. Namely, a mediator's impartiality was essential for conflicting sides' confidence in the mediator, which, in turn, was needed for the mediator to become acceptable. This in turn, was fundamental for a successful outcome of the mediation. This traditional approach was challenged by numerous scholars who realized that impartiality might be an elusive concept and in turn accentuated the relevance of a biased mediator (Touval and Zartman 1985, Bercovitch et. al 1991). For instance, having a biased mediator may have practical implications in case the mediator has particularly strong relations with the side that has a greater say over the outcome of the conflict. In this case, the less powerful conflicting side might expect that the mediator will use partiality to influence the other side. Similarly biased mediators "might empower weaker parties in their interest of an equitable settlement to end human misery" (Kleiboer 1996, 370). Therefore, in contemporary literature impartiality is generally subordinated to the issue of leverage the mediator has towards the disputing sides.

As Bercovitch and Gartner emphasize, mediation is essentially a "voluntary process". In order to make mediation effective, mediators need to be *perceived* as "*impartial*, acceptable to the disputants, and deserving their trust" (emphasis added; pg. 26). Given the apparent ambiguity of the concept of impartiality, some scholars offered an analysis of *perceived credibility* of a mediator. In other words, while mediators may maintain a biased attitude, and with it contribute to the overall effectiveness of the process, they still need to be perceived as credible in order to be acceptable to the disputants (Maoz and Terris 2006). For Maoz and Terris mediator credibility is the "extent to which dispu-

tants think that (1) the mediator's offer is believable (i.e. the mediator is not bluffing and/or is not being deceived by the opponent) and (2) the mediator can deliver the offer (i.e. mediator can make the offer stick)" (2010, 69). Their empirical analysis confirms that in case mediation takes place, a mediator's credibility "increases the likelihood of a partial or full settlement" (pg. 88). Similarly, Walter (1997) notes that in order to be credible, a guarantor must fulfill at least three basic conditions: it must have a specific self-interest in upholding a promise; it must be willing to use force if necessary (and capable to punish whoever violates the treaty); and to be able to signal determination. Hence, a direct interest which leads to a more unyielding presence by the third party makes the agreement gain necessary relevance for the conflicted parties, which would be additionally induced to obey the contract (Bercovitch 2002). Evidently, there can be no triumphant third party intervention unless there is a direct *(self)interest* involved that pushes a new actor to join the process (Kleiboer 1996, Walter 1997, Bercovitch 2002, Carnevale 2002, Pruitt 2002, Bercovitch and Gartner 2006, Touval and Zartman 2006). The interests may have different aspects and vary in intensity. They range from security and stability concerns to economic advantages or even have some normative angle involved. Nonetheless, this interest must be strong enough to set in motion the direct involvement of the third party. Obviously if the interests are weak or null, the results of the mediation process are going to be imperiled (Kleiboer 1996). The significance of a third party's interest in finding an adequate solution through a mediation procedure is that it makes a third party's presence stronger, which directly affects the quality of the agreement, due to the third-party's position as a credible and mutually acceptable guarantor of the contract. Clearly the sole interest of the third party is not sufficient for the mediation procedure to be efficient. In order to have a durable and rock-solid agreement, the third party has to have a specific *leverage* which would stimulate the conflicting sides to obey the rules and uphold the agreement (Kleiboer 1996, Bercovitch and Houston 1996, Bercovitch 2002). Leverage in mediation – 'the ability to move a party in an intended direction' (Touval and Zartman 2006, 436) - derives from the very fact that disputing sides need mediators' assistance in finding solutions to their problems (Touval and Zartman 1985, Touval 1992).

Usually, the literature dealing with third party intervention emphasizes the significance of military power (Walter 1997, Carnevale 2002,

Walter 2004, Werner and Yuen 2005). Since it allows for a very direct involvement for the third party, by being enabled to use coercive means whenever it feels that the agreement was not upheld, this form of power clearly represents a very valuable asset. However, this form of authority is not usually recognized as the most stimulating by the conflicting parties, especially if there are no belligerent activities underway.

Carnevale identified two main forms of power, based on actors' 'will and skill'. On the one hand there is the resource-based aspect of social power, to which he refers to as 'strategic strength' and it is a clear-cut extension of mediation, and on the other there is a behavioral aspect of mediation, which he identifies as 'tactical strength'. According to that classification, "*strategic strength* in mediation refers to what the mediator has, what the mediator brings to the negotiation table; the tactical strength refers to what the mediator does at the negotiation table" (Carnevale 2002, 27-28).

Tactical strength is exemplified through a mediator's premeditated choice of specific techniques and the ability to follow a particular procedure. Most emblematic are: communication tactics (later discussed in communicator strategy, see Touval and Zartman, 1985), image tactics (mediator manages to alter the negative image disputants have of one another), momentum tactics (mediators set in motion a framework of trust which paves the road for further cooperation between the parties), and relational tactics.

On the other hand, *strategic strength* includes different types of social power: legitimate power (a mediator's ability and right to prescribe behavior, accepted by disputants), informational power (a mediator offers "information that makes compliance with the mediator's request seem rational), expert power (a mediator's experience and knowledge of the mediation process recommend him for the job), referent power (found in features such as a mediator's charisma, prestige, status, etc.), coercive power, and reward power (sticks and carrots from the manipulator strategy) (Carnevale 2002, 28; Touval and Zartman, 1985). The latter two have proven to be highly instrumental in recent practices of mediation activities between states and political terrorist organizations.

According to Carnevale (2002), coercive-reward power is closely related to the 'carrots and sticks' approach in mediation. In this case, coercive power refers to the 'pressure' a mediator imposes on efforts to reduce the parties' limits or aspirations. For instance, coercive power can be seen

in threats, such as different types of sanctions, or a lack of support in various multilateral bodies. On the other hand, carrots of mediation are reflected by 'reward power', which Carnevale defines as 'compensation'. It involves the mediator's 'provisions of rewards or benefits' in exchange for a compromise solution or acceptable agreement. These inducements might take diverse forms, such as economic aid, financial support and improvement of a party's international reputation.

Contemporary practice shows that in some cases the mediating coalition must be prepared to employ an extensive amount of resources, which range from targeted financial incentives to military deployment. Sisk (2009) identified three very important rewarding, or non-coercive, measures that mediators can use as leverage: First the transfer of financial means to the parties in conflict, which are intended to encourage them to alter their positions. Second, promises of the deployment of neutral peacekeeping operations to "induce weaker parties to accept vulnerabilities in the post-accord environment… guaranteeing non-defection by other parties' (Sisk 2009, 54). Third, to confer legitimacy to a faction's cause, which would otherwise be marginalized (Sisk 2009, 55). Coercive measures are generally exercised through various forms of threat or punishment. Diplomatic pressure is the softest coercive mechanism at mediators' disposal, and usually it includes different types of 'persuasion, mass media appeals, withdrawing recognition, or public shaming' (Sisk 2009, 55). This tool has been used quite often, especially by mediators, as cases of the US contribution in the Dayton peace talks or their involvement in Sudan's north/south dispute show. A more rigorous coercive measure is the imposition of sanctions regimes, which projects mediators' discontent with party's behavior and attitude in the process. Finally, the most intrusive and violent form of coercive power is the use of military power. Several scholars (Rubin 1980, Hiltrop 1985, 1989) have shown that an intense conflict with an elevated number of casualties necessitates a more powerful/manipulative intervention than a low intensity conflict, mainly because the cost of not reaching a solution is exceptionally high. While weak mediators excel when the parties are motivated to settle but lack the necessary optimism or communication facilities to move forward, strong mediators, like the US, are especially needed when the parties lack sufficient motivation to settle (Pruitt 2002, 51; Bercovitch 2009, 348).

A recent study by Svensson showed that "most effective are those

mediation attempts when both power and pure mediators are active as third parties" (2007, 229). On the one hand, powerful mediators manage to broker a peace agreement much faster than 'pure' mediators, and are especially more effective in achieving a deal that regulates the military dimension. On the other, 'pure' mediators still tend to be more capable in delivering settlements that cover territorial and political power-sharing arrangements. However a combined intervention, of both types of mediators allows them to produce agreements that manage to regulate both military and power-sharing dimensions, as required in state conflicts with political terrorist organizations.

Another very important type of leverage is reflected through the level of *legitimacy* invested in the mediator. Here Carnevale defines 'legitimate power' as influence 'driven by belief that the mediator has the right to prescribe behavior, and derives from a norm that has been accepted by the disputants' (2002, 28). This influence is best observable when comparing different types of mediators (see below), thus sometimes a mediation process performed by an international organization is deemed more legitimate and bears with it higher authority than a process carried out by a state (Touval 1992). This issue is directly related to the matter of a mediator's interests in managing the dispute. Since international organizations represent a composite entity, their interests reflect a specific combination of various interests of their members.

Finally, once mediation is accepted and put in motion, all those involved experience certain *costs.* On the one hand the disputants may be enticed into making unexpected concessions, by giving up a certain level of control over the process which increases the overall level of uncertainty regarding a desired outcome. Thus they may end up accepting less than what was initially planned for a satisfactory outcome, or experience the degradation of political and economic ties with the mediator (Bercovitch and Gartner 2006). At the same time, the mediator is also exposed to certain levels of risk such as domestic and international political costs, diminishing of reputation and criticism in media (Princen 1992). In order to produce successful results "mediators have to possess a high motivation to enter a conflict arena, a strong desire to get involved and a perception of higher benefits than costs" (Bercovitch and Gartner 2006, 332).

1.3 Factors Affecting the Mediation Process and Outcome

Mediators' characteristics (such as impartiality, interests and leverage) represent just one feature which explicates mediation success. Most scholars (Kriesberg 1991, Kleiboer 1996, Bercovitch 2002) agree that defining success is generally very difficult because the evidence is almost always vague. Success and failure are mainly a result of interpretation rather than being discovered by the analysts. As Kleiboer emphasizes, this potential elusiveness might not complicate the research, as long as "embraced definitions and operationalizations of mediation results" are constrained in a systematic way by the analyst (1996, 362). For the purposes of this research, *mediation success* will be defined as a significant (or even essential) contribution to de-escalation of conflict, movement towards an acceptable agreement or reconciliation, under the prevailing conditions (Kriesberg 1991, 20). In order to explain the mediation outcome (i.e. success), the analysis should take into consideration two distinct types of factors: contextual (nature of the dispute and characteristics of the parties) and behavioral (process of mediation and mediation strategies).

1.3.1 Contextual Factors: Systemic Features, Parties' Characteristics and Nature of the Conflict

To evaluate mediation activities it is crucial to consider the overall context and conditions that surround the conflict. The first set of contextual factors can be labeled as *systemic features*. These include all those geopolitical aspects that might affect the outcome of the mediation process. For instance, one of them is the international context. As Kleiboer (1996) explains, the influence of other parties and of other conflicts taking place at the same time are very relevant in this respect. On the one hand, various forms of pressure (such as economic and political) used by outside parties that have an interest in the conflict may have both constructive and destructive effects on conflict management efforts. On the other, concurrent and similar events of conflicts that take place in proximity might have an impact on mediation activities. Kriesberg highlights that when a conflict's salience decreases "as other fights become of greater importance for one or more of the adversaries,

de-escalation is more likely to occur" (1991, 20). This issue is directly related to settlements and documents produced over time in those conflicts. The creation of peace settlements and similar documents has been under careful analysis by conflict management theory. As Fortna (2003) indicates, there are specific mechanisms within cease-fire agreements that might affect the 'durability of peace', such as the withdrawal of forces, creation of demilitarized zones, formal cease-fire agreements, peacekeeping, third party guarantees, and dispute resolution procedures (pg. 339). Ultimately, another systemic feature that should not be overlooked is the pattern of alignments on the international level with a specific focus on the distribution of power among the actors.

Apart from the external conditions of the conflict, *internal characteristics* of each party represent an important set of factors that affect the mediation process and outcome. In general, features such as regime type, internal cohesiveness, international capacity and previous relationships between parties represent the focal group of these characteristics. According to Bercovitch (2005), in case the conflict is between open democracies, there are better chances that the mediation activities will have a successful outcome, while in case of non-democratic regimes third party intervention will have to rely much more on coercive methods in order to manage the conflict. The level of internal cohesiveness is directly related to the issue of legitimacy, as the pressure mediators experience from various domestic actors usually complicates a constructive involvement in the mediation process. Thus their legitimacy might be contested by some fractions, which directly reduces their legitimate right to represent the party as a whole. The international capacity is often measured as a party's capability to endure in conflict and attract international support for its cause. Ultimately, previous relationships between parties directly affect the mediation, since for instance protracted conflicts might develop situations where conflicting sides cement their positions which obstruct the likelihood for a successful outcome of the mediation. In other words if conflicting parties in the past have not had a very constructive relationship, and their enmity is deeply rooted, this might also condition (negatively) the outcome of mediation efforts. Finally, previously mentioned mechanisms in cease-fire agreements – such as the study by Fortna (2003) - are strongly related to the formation and configuration of intra-party relationships over time.

Thus directly related to the nature of relationships between actors

involved in the mediation process is the third set of contextual factors found in the *nature of conflict*. The nature of conflict is vital in establishing how it should be managed. According to Bercovitch "certain issues in conflict, such as beliefs, core values, and identity, have a high saliency and are apt to encourage decision makers to accept high levels of costs" (2005, 108). In cases where the conflict is over intangible issues, mediation activities might be seriously hampered. Issues at stake become the focal point of a conflict's progression, intensification and termination. At the same time, conflict intensity, costs, and casualties represent elements that have also a very significant impact on mediation activities. Especially problematic are the so called intractable conflicts.

Broadly speaking, *intractable conflicts* are those conflicts that imply perpetual tension and violence; they persist over an extensive period of time and stimulate countless unsuccessful attempts of conflict management. According to Bercovitch (2005) there are several specific characteristics that distinguish intractable conflicts from other malignant social processes. First of all these conflicts have a tendency to be enduring in time, sometimes even for decades. They imply the use of destructive means with frequent acts of militarized activities and violence – which can be also sporadic or suspended (usually referred to as frozen conflicts) – with a large number of civilian causalities. A very distinctive characteristic of intractable conflicts is the fact that there is an extensive list of unsolved or seemingly irreconcilable issues at stake. As Bercovitch points out "this means that the parties in conflict feel that at best they may reach temporary cessations of violence and that they cannot reach fundamental and genuine resolution of their issues" (2005, 100). At the same time intractability implies that the relationship between belligerent parties is tainted with signs of utter animosity and profound sentiments of fear and distrust. Thus unending conflict becomes a fertile ground for creating exaggerated stereotypes and misgiving among parties involved. This only fuels mutual hostile perceptions where potentially each actor becomes inclined to develop an interest in perpetuating the conflict. Having all this in mind, such conflicts might induce a vast array of external actors to engage in managing and resolving the conflict. Few of them, however, tend to be successful.

In fact, according to Bercovitch (2005), "in the context of intractable conflicts it is more sensible to talk about conflict management only … since the very intractability of the conflicts we are dealing with me-

ans that they can at best be managed, contained or de-escalated; they are unlikely to be resolved" (pg. 104). Bercovitch considers success of a conflict management activity in intractable conflicts when the process achieves a degree of change in the basic structure of the conflict, and the issue structure and actor transformation. According to Bercovitch's (2005) data, mediation represents almost 44 percent of total conflict management activities aimed at resolving intractable conflicts. Despite the fact that mediation is 'ideally suited for intractable conflict' due to its 'low-visibility, low-cost, and voluntary method of conflict management', mediation is conditioned by several factors which affect the level of its success (pg. 119). His study shows that more than 52 percent of mediation efforts in intractable conflicts end in failure while full settlement is achieved only in 5.2 percent. The failure of mediation in intractable conflicts can be derived from several aspects. First of all, many attempts to mediate fail because major powers have 'competing interests' (idem). At the same time, there may also be many 'spoilers' who have serious problems with conceding anything and are implicitly determined to preserve the status quo of an intractable conflict (idem). This leads us to the second group of factors which affect the mediation process and outcome.

1.3.2 Behavioral Factors: Mediation Process and Role of the Mediator

There are numerous scholars (e.g. Kolb 1983) who strongly contributed to defining mediation strategy and behavior. In mediation literature, strategy is defined as 'a broad plan of action designed to indicate which measures may be taken to achieve desired objectives in conflicts' while behavior refers to actual 'tactics, techniques, or instruments' at a mediator's disposal (Bercovitch 2005, 113). This research will reflect on the typology put forward by Touval and Zartman (1985; 1989; 1996) who classified the mediator's behavior and corresponding strategies on an intervention scale raging from low to high. At the low end of this scale are strategies labeled as communication-facilitation. Using this strategy, the mediator assumes a very passive role in the process. This passivity is mirrored in the level of involvement which is based on channeling information to the parties and facilitating collaboration while exercising modest control over the actual process of mediation. Tactics that are im-

plemented are purely procedural, and they include establishing contact with conflicting sides, developing confidence of the parties, facilitating communication, identifying pertinent issues and elucidating the overall situation for both sides. In this case, the mediator is reluctant to take sides and is rather inclined to allow the interests of all sides to be taken into consideration.

The second strategy is more active and allows the mediator to assume a more formal control over the process. Procedural-formative strategy implies that the mediator actually enters the substance of the negotiation. Since the conflict might imply a certain level of distrust that impedes the parties to communicate with each other directly, the mediator takes over the role of a formulator. For Zartman and Touval 'formulas are the key to a negotiated solution to a conflict; they provide a common understanding of the problem and its solution or a shared notion of justice to govern an outcome' (1996, 454). Acting as a formulator, the mediator persuades conflicting sides that suggested solutions to their dispute are valid. Since persuasion requires a certain level of involvement the mediator does not only act as a communicator but needs to get involved much more directly in the process, by offering innovative solutions which could downplay those commitments that constrain the parties. Thus the tactics at a mediator's disposal vary from choosing the conveying site, formulation of protocol and drafting the procedure of mediation.

Finally the most active strategy a mediator might use is described as directive- manipulator. In this case the mediator becomes 'the full participant' who is able to affect the substance of the bargaining process by presenting incentives or delivering ultimatums to the disputing sides. In other words, the mediator uses its power to induce the parties to a settlement. Tactics that are at a mediator's disposal vary from 'taking responsibility for concessions, making substantive suggestions and proposals, making parties aware of nonagreement… rewarding party concessions… pressing parties to show flexibility, promising resources or threatening withdrawal' (Bercovitch 2005, 115).

This research describes a successful outcome as an effort toward de-escalation of conflict, thus it is important to discuss some crucial steps towards de-escalation such as preparation, initiation, negotiation and implementation (Kriesberg 1991). In the preparation stage, the mediator explores which parties are willing to discuss de-escalation and which

parties can be excluded from the process in order to make the process more efficient. In the initiation stage the parties start discussing the pertinent issues which will lead them to de-escalation. In case there was a scarce level of exploration in the preparation stage the mediation might be hampered already in the initiation phase through inadequate proposals. Nevertheless, the main stage of a mediation process is facilitating negotiation between disputing sides. Negotiation dynamics have been under strict scrutiny by numerous scholars (Zartman and Berman 1982, Druckman 1997). For the purposes of this research, the analysis will focus on theoretical contributions provided by Lax and Sebenius (1991).

In a nutshell, the negotiation process is characterized by several techniques such as party arithmetic, identification of key negotiators, subtraction of players, sorting out the preferences and issues and affecting the BATNA (Best Alternative To a Negotiated Agreement). So for instance, the mediator needs to have a very clear idea who its negotiating partners are and identify the most constructive ones. If the situation allows, the mediator might want to exclude those destructive elements which are less willing to engage in the de-escalating process, in order to have a successful outcome. At the same time, the mediator needs, firstly, to explore the situation to the most minute of details and, secondly, be clear what the issues at stake are and establish the best way to proceed with negotiations. This - usually referred to as 'strategic sequencing' (Lax and Sebenius 1991) - could be done by either starting with low issues or with the most salient ones, depending on the type of conflict. Finally an active mediator needs to be able to manipulate the situation, and offer incentives to conflicting sides which might induce them to detach from initially planned positions and perceived alternatives and accept the negotiated agreement. Thus in the implementation stage the mediator seeks 'to gain support for the settlement by the constituencies of the negotiating parties. A formal mediation offers legitimacy and credibility to an agreement… and improves the likelihood of compliance' (Kriesberg 1991, 25).

As Zartman and Touval note, "mediation is a triangular relationship" (1996, 445). All parties involved invest significant resources, time and personnel. Mediators deliver resources and other capacities proportionate to their rank and status. Thus another significant issue that needs to be addressed is the type of mediator that specific circumstances demand.

1.3.3 Potential Mediators

Up to date, most of the scholarly literature on mediation, as a form of third-party intervention, focused its attention on effectiveness (Bercovitch et al. 1991). However, directly related to the argument of effectiveness is the debate on the most suitable type of conflict manager to deliver a nonviolent resolution to a dispute. Frazier and Dixon (2006) made a noteworthy contribution in this regard. Their work on Militarized Interstate Disputes (MID) was an important effort to parse out the differences in efficiency between three forms of actors acting as mediators: states, coalitions of states, and multilateral bodies.

Their work departs from a historical analysis, which identifies a clear pattern of third party intervention by these three types of actors. As highlighted in their work, traditionally, states were the principal third parties because they were the only actors invested with legitimacy on the international level. In fact while the international system was dominated by 'realpolitik' conceptions of interstate relations, management of conflicts was consigned mainly to the powerful states. However, quite often even the most powerful states were induced to form coalitions with other states, in order to create a more unbiased setting for negotiating peace. On the other hand, since the end of the Second World War, non-state actors (notably international organizations, and non-governmental organizations) gradually became essential intermediaries.

Following this line of thought Crocker et al. (1999) indicated a number of recent important developments in international politics that have changed both the content and the nature of international mediation. The end of the Cold War has untied (to a certain extent) international organizations from the preexisting bipolar constraints and allowed them to take on new roles in mediation and conflict management in general. Regional organizations and coalitions of small and medium sized powers have also become more active as mediators, facilitators and conflict managers. Even in cases where great powers have intervened due to domestic political pressure or because of threats to their national interests, there is seemingly greater willingness to share the costs of intervention with other international actors. As previously mentioned, given the high risks, costs and resources that mediation implies, motivations for an outside actor to act as a mediator are found in their domestic and international self-interest. For states, self-interest is mirrored

in attempts to produce settlements that will "increase the prospects of stability, deny their rivals opportunities for intervention, earn them the gratitude of one or both parties, or enable them to continue to have a role in future relations" (Zartman and Touval 1996, 446). In principle, the activities of states as mediators are a genuine blend of both defensive and offensive goals. Defensive reasons are seen in cases when the conflict prolongation directly threatens outside states' interests who are then inclined to intervene. Also, continuation of conflict might induce other states to join, so a fear of such escalation encourages states to intervene as mediators. Finally, in some cases the conflict intensity attracts more than one state to intervene, so the mediation activity becomes a shared enterprise. In these cases, cooperation between mediators is essential.

Offensive motives of state intervention are in short "the desire to extend and increase influence" (idem, 447). In this case, a very important factor is a mediator's leverage on disputing parties. Through its power, the mediator can enhance its influence and create an environment in which the actual mediation success is dependent on its involvement. This strong presence is reflected in situations where conflicting sides "depend on it to garner concessions from the other party" and when the mediator assumes the role of a guarantor of the agreement. Nevertheless, since mediation bears inevitable costs for mediators, third parties are much more inclined to share these costs with fellow countries and even more to pursue these activities through collective entities such as international organizations.

Undoubtedly, motives behind involvement of international organizations (excluding military alliances) are much more complex. Rarely, an international organization has the leverage and resources its member-states posses. Lacking these capabilities, it has to rely on its status as a global/regional organization (i.e. the United Nations and the European Union), the legitimacy it acquires from this status, its credibility as an international actor, the cohesiveness of its members, and mediators' experience and persuasiveness (Fretter 2002, 98). Many of the establishing charters and statutes of interventional organizations have promotion of peace and security (globally and/or regionally) as their distinct element. At the same time, these entities are also constrained by specific interests of their member-states. Despite the fact that interests of member states might differ, international organizations attain their perceived

legitimacy from two sides: on the one side because their interests are a result of channeling and balancing process of diverging member-states' interests, and on the other side, because of the norms and values that are recognized as commonly shared and promoted by the same member-states. The acceptability of international organizations as mediators is reflected in the possibility that conflicting sides can address their different opinions to all member states and potentially find support within. The last group of potential mediators can be found in actors that this research will label as 'low key' and they are individuals and NGOs – actors that have no coercive power on the international level and rely on their reputation as successful mediators whose primary interest is in ending the conflict itself. Individuals that are not government officials or political actors might contribute to the efforts of de-escalating the conflict, through their distinct capabilities such as a developed network of contacts, and/or previous experience in mediation. Such actors, despite their limited effectiveness, if accepted, might reduce the friction through unofficial talks between conflicting sides and pave the road for a more formal process.

NGOs represent a type of actor whose interests are "not as apparent or suspect as the primary players of power politics" (Zartman and Touval 1996, 450). They are interested in establishing and maintaining the role and reputation of a good and successful mediator over time. The extensive presence of development, humanitarian and religious NGOs in countries and regions affected by conflicts has produced a very valuable entry point to the conflict. However, apart from trying to alleviate the problems of violent conflicts, NGOs also see themselves as having the necessary capacity, knowledge and expertise to instigate a process of dialogue between conflicting sides. This position should not be viewed as egoistic, because NGOs do not only tend to enhance their position but actually believe they have something new to offer to the process (idem).

Although each type of potential mediator has been under serious academic scrutiny, they all have been analyzed separately. However, as experience shows mediation activities are quite often conducted by more than one mediator. Therefore, reflecting on insights from studies that analyzed each type separately, this research goes one step further and in the next chapter aims to extend the study of international mediation to the dynamics and principles generated in multiparty mediation activities.