
Introduction

MEDIATION AND INTRACTABLE CONFLICTS

IN THE 1990S AND EARLY TWENTY-FIRST CENTURY, negotiations brought an end to some of the world's most challenging and difficult conflicts. In places as varied as Mozambique, Cambodia, and Guatemala, third-party mediators played critical roles, acting independently or together to bring about a negotiated settlement between warring parties. Some of the world's other long-standing conflicts, however, have been extraordinarily resistant to negotiated solutions or mediated interventions by third parties. In the Middle East, for example, Israelis and Palestinians have struggled for years to reach a negotiated settlement with only modest results. In many parts of sub-Saharan Africa, such as Sudan, northern Uganda, Burundi, and the Democratic Republic of Congo, intense civil conflicts continue to exact a high toll even as peace efforts struggle to gain traction. In many parts of Eurasia, secessionist struggles, border disputes, and various kinds of guerrilla insurgencies ebb and flow but show few signs of receding entirely. And in Cyprus, where violent armed conflict is a thing of the past, efforts to reach a more permanent political settlement have had to overcome dogged resistance because of intense political differences that divide the parties.

Much analytical work has focused on the causes of these conflicts and the forces that contribute to their intractability (as explained below, an "intractable conflict" is one that is unusually difficult but not impossible to manage or resolve).¹ Much less attention has been devoted to how these conflicts may end and, more specifically, to

the role that third-party intermediaries can play to bring about a negotiated end to the violence. Indeed, it is somewhat ironic that the excellent recent work on conflict causes has prompted the scholar-practitioner community to devote more attention to what third parties should do to *prevent* the eruption of violence in new places² than to how third parties should manage conflicts that are already raging.

This lack of attention to ending conflict in the so-called intractable cases has three apparent sources. The first is an obvious sense of frustration born of a litany of cases in which repeated third-party interventions apparently failed. Nobody likes failure, and the lesson that some drew from a track record of tried-and-failed attempts at negotiation is that it makes little sense for outsiders to continue to bash their heads against a wall of intransigence.

The second source is the view of some policymakers, practitioners, and scholars that it is best to give some conflicts as wide a berth as possible on the grounds that there is no compelling national interest to be served by becoming involved in a hopeless case. For these people, the risks of being bogged down in or dragged into someone else's conflict far outweigh any potential benefits conferred by the end of hostilities.

The third source is a widespread sense that because many of these conflicts have gone on for so long they have essentially become self-contained or hermetically sealed. Many believe that there is little chance that these conflicts will escalate or spill beyond their existing boundaries, because the parties are deadlocked and have neither the will nor the capacity to raise the level of violence to a new (or higher) threshold. A rather perverse, self-fulfilling logic informs this assumption: "If the parties can live with the conflict (and the violence), then, presumably, so can the international community." In those cases where violence and formal military hostilities have long since ended (e.g., Western Sahara, North and South Korea), where open warfare has ended but a final political settlement on outstanding issues has not been reached, there is also a strong sense that it is best to leave things alone and not engage in interventions that could, in fact, make the situation worse.

Each of these three lines of reasoning is faulty. In the first place, the argument that third parties are doomed to fail ignores the fact that

a few intractable conflicts have in recent years yielded to negotiations, if not full settlements. In Cyprus, for example, years of impasse in UN efforts to broker a settlement to end the division of the island have yielded to hope, as Turkey redefines its national interest in an end to the conflict. Against all odds, a joint effort by three international mediators brought the Northern Ireland conflict to a negotiated agreement.³ After many years of wheel-spinning by a range of third parties, a U.S.-led coalition of Western and African states has recently made substantial headway toward ending the civil war between the Khartoum government and the southern rebellion in Sudan, a country that has known mostly war since its independence in 1956. Even in the Middle East, the endorsement by Israelis and Palestinians of the Bush administration's "Road Map to Peace" showed that a strong desire for peace could coexist with continued indications of deep-rooted intractability, an unresolved tension that may at some point yield dividends under the right set of circumstances. And if we look back to the late 1980s and early 1990s, we can find examples in Namibia, El Salvador, and Cambodia of protracted conflicts that succumbed after many years of third-party persistence to a negotiated outcome.⁴ Success stories of tough cases that cracked cry out for investigation into the reasons why negotiated third-party interventions produced positive results when they did.

Second, the notion that outsiders should avoid some conflicts because the costs of intervention outweigh any real benefits is called into question by the events of September 11, 2001. If diplomacy and negotiation had ended the brutal civil wars in Sudan and Afghanistan a long time ago, the world might look quite different today. Al Qaeda operatives would have had fewer places to hide and to plan, organize, and prepare for their attacks on New York and Washington. Our retort to those who say this is simply wishful thinking is to point out that these (and other) forgotten conflict zones have served as breeding grounds for a host of ills such as terrorism and disease exported to neighbors and around the world. In an era of globalization, it is not just global "goods" but also global "bads" that we must worry about. In responding to these "bads," diplomacy should be the first response, not the last.

Finally, the third premise—that the longer a conflict continues, the more the parties themselves learn to live with and manage its dynamics, and therefore the less likely it is to escalate beyond its existing borders or boundaries—is also questionable. The parties to a protracted conflict certainly have high thresholds of pain—if they did not, they would have greater incentives to look for a negotiated way out of their impasse. But when public passions are inflamed by terrorist acts and constant violence, political judgments often become skewed and the propensity for taking risks increases. The possession of weapons of mass destruction and weak command-and-control systems can also increase the likelihood of miscalculation with devastating consequences. The Indo-Pakistani conflict over Kashmir is a case in point. In 2001–2, the conflict between these two countries showed all the danger signs of escalation as governments, emboldened by popular opinion and a false sense that the political and military advantage lay with them, tried to exploit the conflict for their own ends. It was only severe external pressure (and mediation in all but name) from the United States and Great Britain that helped to reduce tensions by making the parties recognize the dangerous game they were playing.⁵

Even when possession of weapons of mass destruction is not the principal trigger for escalation, many intractable conflicts have the potential to undermine regional political stability. Following the speedy end to the Iraq war in 2003, governments in the region that were allies of the United States worried openly about the consequences of leaving the Israeli-Palestinian dispute untended because of the conflict's continuing radicalizing impact on public opinion in the Islamic world. In Central Africa, civil conflicts that have erupted in one country have quickly drawn in regional actors seeking to ward off hostile rebel groups that find sanctuary across the border and—often at the same time—looking to exploit the conflict for their own national or personal ends. The civil and regional war in the eastern part of the Democratic Republic of Congo has resisted various third-party attempts at mediation and has dragged in many of Congo's neighbors, with adverse consequences for political stability throughout the entire region.

THE MEANING OF INTRACTABILITY

Many scholars and practitioners use the term “intractable conflicts” to mean conflicts that can *never* be solved or effectively managed.⁶ Our view of these conflicts is closer to the dictionary definition of *intractable*; that is, these conflicts are stubborn or difficult but not impossible to manage. What separates intractable conflicts from other conflicts is a difference in the willingness or susceptibility of parties to entertain political options other than violence. In a conflict, parties look to a political settlement when the costs of continuing to fight begin to outweigh the benefits. This dynamic can occur for a number of reasons: circumstances change, elites change, or the public grows weary of the violence that marks the status quo. However, in intractable conflict situations, these changes in cost-benefit calculations don’t happen: elites are not very interested in considering negotiated alternatives because the conflict does not hurt them enough; a large number of people may be benefiting from the conflict; and too many entangled and entrenched interests stand in the way of a negotiated resolution.

Intractable conflicts have a number of salient characteristics. In the first place, they are typically long-standing, having lasted for years, possibly decades. As a consequence, they are conflicts where psychological wounds and a sense of grievance and victimization run very deep. Some intractable conflicts remain unresolved despite repeated attempts to resolve them—whether through the outright victory of one side or through direct or mediated negotiations. Some others remain unresolved and continue to burn because nobody, including the parties themselves, has tried (or cares) to resolve them. Intractable conflicts are also characterized either by frequent bursts of violence or, if there is a temporary cessation of the violence, by a failure by the parties to leave the danger zone of potential renewal of violence. It should be stressed that the level of violence across intractable cases is not always the same. Some intractable conflicts are essentially prolonged wars characterized by ongoing military hostilities between the parties. Others are characterized by violence that is episodic, at low levels, but recurring. Still others are “frozen”

in the sense that violence has ended, but no permanent settlement or resolution is within reach of the parties. Sometimes the conflict continues because nobody has seriously tried to help the parties deal with their differences in a negotiating forum.⁷

Third parties often have difficulty acquiring traction in intractable conflicts because the parties to the dispute are not seriously interested in considering negotiated options that would lead them out of their current situation. This is not to say that the barriers to negotiation are insurmountably high, but they are higher than in other conflict settings, where third parties have been able to coax the parties to the table.

In intractable conflicts, political extremists—on all sides of the dispute—often dictate the terms of any potential resolution of the conflict. Those terms may be a violent resolution of the conflict in which one side crushes the other. Or, if a potential solution is expressed in political terms that are (theoretically) amenable to a negotiated result, the solution may be one that leaves no room for compromise or major concessions to the interests of the other side.

What makes a conflict intractable? What factors and forces raise the barriers to negotiation in an intractable dispute? There is no simple answer to these questions. One of the most important factors contributing to intractability is leadership. Leaders may have a vested interest in continuing the fight because their political careers and personal wealth depend on it. Individual leaders may have a strong personal identification with and commitment to the ideals and goals of the "struggle," a commitment that outranks other aims. Leaders may also fear for their personal safety if peace becomes a reality. Any one of these factors may prevent the leadership from viewing negotiation as an acceptable alternative to continued fighting.

Another way of looking at this problem is to think of intractable conflicts as conflicts that are essentially led by spoilers.⁸ Spoilers may be individuals (or groups) for whom negotiation is but a breathing space before the next campaign, people who perceive that ongoing conflict offers greater security than the uncertainties of peace, or leaders who believe there is nothing to negotiate about because unconditional victory is the only acceptable and conceivable

outcome. Militants and revolutionary leaders who exhort their followers with the battle slogan, "To Continued Struggle, To Certain Victory," no doubt believe they are only doing what committed freedom fighters must do—locking themselves into a position where there is little to discuss except the terms of the other side's handing over power. When the raised fist of revolution meets an equally powerful force determined to hang on to power, the scene is set for an intractable conflict. The obvious challenge for third parties in these kinds of situations is to distinguish the spoilers from those individuals and groups who might become interested in exploring the negotiation option.

There are, however, many other factors promoting intractability. These include a lack of resource constraints on the parties; internal fragmentation or weakness of one or both sides, making compromise and risk taking impossible; uneven or absent linkages to external partners, to third parties, or to regional security mechanisms that could support negotiated outcomes through the provision of credible guarantees, confidence-building measures, verification, and monitoring; and the interest of outside actors in keeping conflicts alive.

A common assumption about intractable conflicts is that they lack a clearly identifiable resolving formula—that is, there is no obvious solution to the conflict that offers benefits to both parties. Less well recognized are those instances in which a resolving formula does exist but has already been discredited or rejected by the parties.⁹ In such an instance, negotiation has already been tried and has failed (perhaps more than once). Getting the parties back to the table becomes even more difficult than getting them to negotiate initially, because their past experience leads them to expect failure once again.

Finally, it is noteworthy that intractable conflicts often occur in regions with inadequate or ineffective regional security mechanisms and poor connections to better-endowed regions. These conflicts often occur in societies in which civilians have few means of controlling or influencing the armed parties, which dictate or dominate the political arena, and they often occur in poor societies. In sum, intractable conflicts are created through the interplay of variables at the elite, societal, regional, and global levels.

THIRD-PARTY RESPONSES TO INTRACTABILITY

This book is a study not about the causes of intractability but about what third-party mediators—be they a superpower such as the United States, other powerful states, middle powers such as Norway and Canada, international organizations such as the United Nations, or nongovernmental organizations (NGOs)—should do when confronted with an intractable conflict.¹⁰ In considering the causes of intractability, we are therefore looking to solutions. A useful point of departure is to contrast our own perspective on the problem with what others have said about the challenges of mediation in problematic conflict situations. These approaches can be summarized as (1) let it burn; (2) engage only when national interests clearly dictate; (3) engage wherever there is violent conflict; and (4) leave it to others.

Let It Burn

Some argue that intractable conflicts should be allowed to burn themselves out.¹¹ There is no point, the argument runs, in meddling in the internal affairs of others if they are not interested in seeking a negotiated way out of their difficulties. These experts believe in giving war a chance in order to bring the parties to their senses. Indeed, according to this logic, the best possible outcome for a conflict may be the decisive victory of one side over another. In the eyes of the proponents of this view, unquestionable victory would certainly lead to a much more preferable state than an uneasy, negotiated cease-fire, in which the parties use the breathing space to rearm before resuming violence with even greater intensity and loss of life than before.

This argument ignores an increasingly important characteristic of contemporary warfare. The battlefield itself does not necessarily lead to a durable peace except in fairly unusual—and, arguably, increasingly unobtainable—circumstances: when the victor wins overwhelmingly and then rigorously assimilates (or annihilates) the loser, who gets little support from any quarter; when the victor is magnanimous in co-opting and sharing with the loser; or when the weaker side has the foresight to sue preemptively for a deal. These

are not common conditions in the modern era. Losers and victims in an era of globalization are less isolated and have more friends, enabling their causes to be sustained and reopened.

Engage Only When You Have To

A variation on the “let it burn” argument is the contention that big, powerful countries such as the United States should scale back their global commitments and focus only on interventions, including mediated ones, that are of extremely high strategic importance.¹² Because the conflict presents a direct threat to the intervenor’s national security, responding to it becomes a natural part of the intervenor’s foreign policy. The benefits to the intervenor of a conflict’s successful resolution are clear from the start, and therefore the intervenor will find it much easier to establish priorities and to gain popular support for the intervention. This approach also diminishes the temptation or pressure to become a global supercop, a role that demands a huge amount of resources, resolve, and willpower.

It is, however, exceedingly difficult to parse the world into conflicts that meet some imaginary A, or B, or C list in the ranking of U.S. strategic priorities, especially in a post-9/11 world, where traditional C-list countries, such as Afghanistan and Sudan, have suddenly moved into the major league of U.S. and allied concerns. Lists such as these have often ignored the fact that ongoing conflicts have been breeding grounds for forces that have challenged regional and international stability. The stubborn reality is that wars in these and other places serve the interests (however defined) of those who choose to fight them. Choosing to ignore these wars on the grounds that they will burn themselves out or that no compelling national interest is involved to warrant intervention is no longer a risk-free option.

Intervene Wherever Fighting Is Taking Place

Another third-party approach to intractable conflicts is to intervene in every conflict to the extent possible.¹⁵ This is an approach associated more with international organizations and NGOs than with large states. International organizations such as the United Nations are under considerable pressure to agree to engage if the conflict parties

request such help.¹⁴ If this engagement has only tepid support from the Security Council or powerful member-states, the institution will have only limited resources to devote to the intervention. This was the United Nations' situation in East Timor before the Australians decided to launch a muscular peacekeeping mission to protect the East Timorese from the Indonesian military. Although the United Nations had a presence in Dili and Jakarta, it was a very weak one, incapable of bringing the parties to the negotiating table and serving mainly to demonstrate international irresolution about responding to the mounting crisis.

Unlike the United Nations, NGOs are not obliged to respond to crises, but they often stand accused of becoming involved in conflicts without compelling reasons to do so. Their critics accuse them of parachuting in to deliver some conflict resolution services and disengaging as soon as funding runs out.¹⁵ The resulting interventions are weak and unsupported, and usually not connected to any other ongoing effort to make peace in that conflict. Unless there is close coordination and support between the "track-two" (i.e., unofficial) and "track-one" (i.e., official) negotiation channels, these efforts will not generate the requisite political momentum or lend traction (and public support) to a formal negotiation process once the latter gets under way.¹⁶ And a congestion problem may well arise if there is too much uncoordinated activity at the track-two level and parties are buried with invitations to participate in problem-solving workshops, dialogues, and other kinds of activities hosted by well-intentioned players following their own agendas.

Leave It to Others

If great powers will not engage, and NGOs and international organizations cannot do so, they can always hope that others will fill the breach and shoulder the peacemaking burden.¹⁷ The trouble with this approach, of course, is that someone else rarely takes up the challenge, and as a consequence the conflict becomes forgotten. In addition, internal wars have qualities that push them toward stalemate. Chechen and Dagestani warlords began battling Russians during the reign of Catherine the Great; Sudan has been at war for

most of the past fifty years, Colombia for much of the past forty; the conflict in Kashmir festers more or less on its own except for rare bursts of external “meddling.” As we argue later in this book, the lack of responsible third-party engagement in intractable conflicts can serve to reinforce their intractability until it seems as if these conflicts will never end.

STRATEGIC ENGAGEMENT

Three of the four above approaches — let it burn, engage only when it is impossible not to, and leave it to others — might be said to demonstrate a *laissez-faire approach* to intractable conflicts. Our own view of the intractability problem is that a *laissez-faire approach* to these hardened cases of international conflict is neither a desirable option nor, ultimately, a sustainable one. This is because the parties to an intractable conflict have already amply demonstrated that they are incapable of reaching out to each other and devising negotiable solutions to the issues that divide them. If the parties can't do it themselves, leaving them to their own devices in the hope that negotiations will one day suddenly emerge is the height of wishful thinking. And as we have argued above, letting a conflict fester risks spreading the contagion to others, infecting whole neighborhoods, with potentially devastating global consequences.

A *laissez-faire approach* by great powers toward other intermediaries, such as small powers or NGOs, on the grounds that it is best to “let a hundred flowers bloom” in the hope that some of these efforts to launch dialogue may bear fruit, is also unwise. Although there is much to be said for encouraging helpful fixers in the absence of alternative intermediaries, they will not help matters if they trip over one another and subject the parties to endless rounds of dialogue that lead nowhere and that could discredit both the negotiating process and the ideas needed to end the fighting.

In this book we argue for a *strategic approach* to conflict management, especially when dealing with intractable disputes. We argue that mediation is an important instrument in the foreign policy toolkit of state-based mediators and that it can serve broader national and

international interests when it is used wisely and judiciously. Moreover, a strategic approach to mediation also belongs in the best-practice toolkit of international organizations and NGOs. For all parties, a strategic approach requires careful research, planning, and preparation before the effort begins. It demands a clear articulation of goals. It involves reaching out to potential allies and engaging stakeholders, including those who may act as spoilers. It means recognizing that intervening in an intractable conflict, be it interstate or intrastate, has regional and international ramifications that should be understood and, if possible, managed by the mediating party.

We also argue in this book that mediated interventions in intractable conflicts require a clear sense of strategic direction from those who are in a position to make the parties see the costs and benefits of continued fighting in a different way. In some circumstances, the third party may change the equation through coercion — the threat or use of sanctions and military force. In many circumstances, however, the third party will help the antagonists recalculate the costs through persuasive means. Mediators may persuade the parties in an intractable dispute to come to the negotiating table through a process of incremental, trial-and-error learning that elicits trust and builds confidence in the negotiation process. They can help the antagonists make difficult decisions by being willing to provide a road map, share the burdens, and lessen the risk of the journey ahead. They can introduce resolving formulas that package and sequence the handling of difficult issues in new and acceptable ways. Moreover, they can coax, cajole, and browbeat with various inducements and/or threats that help secure and sweeten the prospects of a deal. Just as important, they can devise creative ways to strengthen confidence in the process and in the resulting settlement, enabling parties to make credible commitments for peace.

A strategic approach to mediation does not mean that mediation is a sport for the privileged few based on their rank in the international system's hierarchy of power. It does not mean that mediation is the sole province of the U.S. government or former imperial powers such as France or Great Britain. In some cases, a strategic approach might advise that an international organization, an NGO, or a small

state get the negotiation on track before the United States or another major power gets involved.¹⁸ The same reasoning may hold for mediation attempts following earlier failure by great powers, especially in cases in which presidential reputations have been involved. A collective approach may be particularly appropriate for intractable conflicts because it is unusual for one mediator (state-based or otherwise) to possess all of the qualities— influence, leverage, relationships, staying power, political stamina, and resources— required to sustain a negotiation process over the many months or years that it may take to reach a negotiated settlement. That said, it is vital that this orchestra have a conductor— whether drawn from the ranks of government, the United Nations, or the NGO community— who can persuade the independent members of this group to play in harmony.

MEDIATOR, KNOW THYSELF

The words *gnothi seauton* (“know thyself”) were inscribed in gold letters above the entrance to the Temple of Delphi in the ancient Greek world. Pythagoras’s injunction, which Greek philosophers from Plato to Aristotle viewed as the first and most important step to achieving genuine knowledge, has special salience for the international mediator. An important theme in the chapters that follow is that in order to be effective, mediators must understand themselves, their motives, and their resources in order to avoid exporting their own confusion, incompetence, and political baggage into the conflict zones in which they work. Although this precept applies to third parties in any conflict situation, it is more important in the intractable cases because one of the major sources of intractability may be the deleterious impact of previous unsuccessful attempts to reach peace. A critical self-awareness of what went wrong, of failed strategies and initiatives, and of the suspicions and antipathies that resulted is essential to any hope of success when mediation attempts begin anew.

Some conflicts, such as the Israeli-Arab conflict, rouse passions far beyond their national borders or regions. A special challenge faces mediators dealing with these conflicts. Groups outside the conflict

zone can derail a mediation effort as they pursue their own interests. Diaspora groups can provide funding that keep a conflict alive. Mediators who represent thriving democracies in which citizens and groups with strong passions lobby their governments and rally public (and foreign) policy in their favor must be alive to the risks that these partisans present. So, too, must the mediators' political masters, who, by currying favor with special interests, may undermine with sudden, catastrophic result the flexibility, autonomy, and credibility that a mediator must have to conduct high-level negotiations and fulfill his or her mandate.

"Knowing thyself" also means that the designated mediator has to assemble the requisite resources, including bureaucratic and political support on the home front, before trying to engage the parties to the conflict. Mediators who come to the realization that these core elements are not in place are well advised to spend their time getting their own mandate and line of responsibility in order before launching negotiations. The same logic and advice apply to NGOs, special representatives of small states, and other actors that choose to offer their intermediary services.

Mediators also have to go into a conflict with a plan and a commitment to see it through. They must be realistic about their limitations in extraordinarily difficult circumstances. At the same time, they must keep their eye on the final goal of a genuine settlement. Focusing on short-term measures will signal to the parties that negotiations are not grounded in a real sense of purpose on the mediator's part and, therefore, that the parties have little to lose by resisting initiatives or playing games at the negotiating table.

OUTLINE OF THE VOLUME

Because of their nature, intractable conflicts will rarely end in a fight to the finish. The parties are too evenly balanced—even if their power springs from very different sources—and the resources necessary to sustain the conflict too accessible. Intractable conflicts, more than other conflicts, call out for help from the outside. But that help must be competent and appropriate to local conditions. In many cases,

mediation may be the answer. There are many lessons to learn from examples of tradecraft in which mediators successfully brought nasty, prolonged wars to a negotiated end. There are also lessons we can learn from cases of inept meddling and bungled mediation in which outside help made a problem worse and undermined later peacemaking efforts.

The chapters that follow are grouped into two parts, both of which examine mediation in an intractable conflict from the mediator's point of view. Part I explores the context in which mediation occurs: chapters 2 and 3 investigate why mediators choose to become involved with a conflict and what happens when no one does, and chapter 4 reviews the mediator's environment and the kinds of challenges mediators face not only in their "home" environment but also on the ground as negotiations begin. Part II is devoted to examining the actual tradecraft of mediation in an intractable conflict at different stages: at the beginning of the engagement (chapter 5); when the going gets very rough (chapter 6); during the settlement negotiations (chapter 7); and in the postsettlement implementation stage (chapter 8).

Our purpose in writing this book is to help mediators in intractable conflicts think through and plan their mediation strategies. It is also to help students of international conflict management understand the important lessons of statecraft and the policies and bargaining strategies that mediators invoke to help bring these devastating conflicts to an end. These conflicts are resilient, stubborn, and ruthless in nature, but they are not hopeless cases. And sometimes—in fact, often—it is thoughtful, well-executed third-party interventions that make the difference.

Part I

Understanding the Context

