On Inclusivity

The Role of Norms in
International Peace Mediation

Corinne von Burg

Essential

Table of Contents

Summary

This Essential sheds light on the norm of inclusivity within an analytical framework that was developed as a result of a research project investigating the growing influence of norms in international peace mediation processes. Subsequently, it highlights practical considerations with regards to the design of a mediation process as well as the role of mediators and their sphere of influence in striving for an inclusive process.

Inclusivity, defined in the UN Guidance for Effective Mediation as the "extent and manner in which the views and needs of conflict parties and other stakeholders are represented and integrated into the process and outcome of a mediation effort" received increased attention in the past few years and has been the subject of several academic studies. However, the ambiguity of the term inclusivity and the resulting range of interpretations and underlying assumptions make a conceptualization rather challenging; the same applies to the discussion on practical implications. It proves to be necessary to not only distinguish between the inclusion of actors (process-related) and topics (content-related), but also to recognize that the generally accepted notion of inclusivity cannot be understood as including all actors and topics at all times at the main negotiation table. Having said this, a much broader and more nuanced field of interventions opens up.

The analytical framework used in this Essential not only affects the implementation of the norm as such, but also the understanding of the role and sphere of influence of a mediator. In cases where an inclusive process is strived for, mediators and those supporting a mediation process need to be aware that imposing additional actors and topics to a mediation endeavor would run against the definitional norm of consent, and therefore runs the risk of undermining the very definition of mediation.

1 Introduction - Debates around Inclusivity

1 Inclusivity and inclusion are often used interchangeably. In this Essential, the term 'inclusivity' is used to describe the norm, while the term 'inclusion' is considered as the activity of including actors and topics in a mediation process.
2 United Nations. (2012). Guidance for Effective Mediation.
3 Studies from T. Paffenholz, D. Nilsson, J. Packer and C. Barnes, among others.
4 Nilsson, D. (2012). Anchoring the Peace: Civil Society Actors in Peace Accords and Durable Peace. International Interactions 38(2): 262.
5 See the final report Hellmüller, S. / Palmiano Federer, J. / Zeller, M. (2015). The Role of Norms in International Peace Mediation. Bern/Oslo: swisspeace / NOREF.

In most ongoing civil wars around the globe, exclusion from power as well as the inability to secure access to scarce resources through peaceful means are major conflict drivers. In order to avoid the recurrence of the patterns of marginalization, oppression and neglected grievances that are driving groups to conflict in the first place, an inclusive approach in conflict resolution is often seen as an adequate remedy.

Therefore, inclusivity[1], defined in the UN Guidance for Effective Mediation as the "extent and manner in which the views and needs of conflict parties and other stakeholders are represented and integrated into the process and outcome of a mediation effort"[2], has attracted increased interest in the recent years. Publications drawing on past experiences suggest that an inclusive approach to mediation fosters the legitimacy and sustainability of a process. Several academic studies that underline the benefit of including various actors, among them political parties and civil society, into peace negotiations have been published in recent years.[3] While on a discursive level it only gained attention in the past few years, in practice it does not seem to be such a new concept. For example, concerning civil society, research found that out of 83 peace agreements signed in the period of 1989 to 2004, one third had at least some kind of involvement of civil society.[4]

In academia, the inclusion of stakeholders beyond the main belligerents is increasingly regarded as a necessity to obtain a durable peace. Having said this, practitioners still have divergent opinions when it comes to the process-oriented discussion around inclusivity versus efficiency. Some argue that a larger number and a more diverse set of participants in peace negotiations complicate a settlement and increase the duration of talks. Others emphasize the importance of inclusion in order to strengthen the sense of ownership and legitimacy of the peace process among large parts of the population, as well as to enhance the sustainability of

a peace agreement. Yet others state that efficiency, in the sense of a cost-benefit ratio, does not decrease through the inclusion of other actors and topics, as the high costs of involving more actors and topics also results in a noticeably higher benefit when looking at sustainability rates.

Commonly, the first strand of argument is attributed to mediators and in some parts also parties to a conflict, both having the same aim, albeit different motivations, namely to protect the mediation space. Hardly any mediator questions the benefit of including a variety of actors. However, remaining concerns often rotate around practical implications, such as the role and leverage of a mediator in advancing an inclusive process, the question of who and what issues to include as well as how and when to include them.

Therefore, the important aspects to assess are the various challenges that practitioners (mediators, mediation teams and mediation supporters) face when it comes to inclusivity in a mediation process. This Essential is based on a research project that interviewed more than 20 mediators and mediation experts.[5] It sheds light on conceptual as well as practical challenges, and underlines certain key questions that can help guide mediators and mediation supporters.

The conceptual part is divided into three subsections; first, a categorization of norms is provided as analytical framework; second, the norm of inclusivity within this framework is further elaborated; third, the relation between the norm of inclusivity and other norms is discussed. In the second part, the theoretical insights gained are used to draw conclusions on matters concerning who and what issues to include in peace negotiations, how and when to include them, and to delineate the limited sphere of influence of a mediator.

2 Norms in International Peace Mediation – a Categorization

Nowadays, a mediator is not only supposed to bring a violent conflict to an end by brokering a mutually acceptable agreement, but is often also encouraged to factor in a wide range of norms that are expected to shape a mediation process. Classifying these norms helps to better understand their role as well as how they relate to each other. The categorization below offers one way of doing this.

2.1 Analytical Framework

Academia commonly refers to norms as "collective expectations about proper behavior for a given identity".[6] Therefore, norms do not necessarily mirror actual behavior but rather give guidance on the appropriate and expected behavior. The analytical framework used here to categorize norms is based on three distinctions as illustrated in graph 1[7]: content-related versus process-related, settled versus unsettled, and definitional versus non-definitional norms.
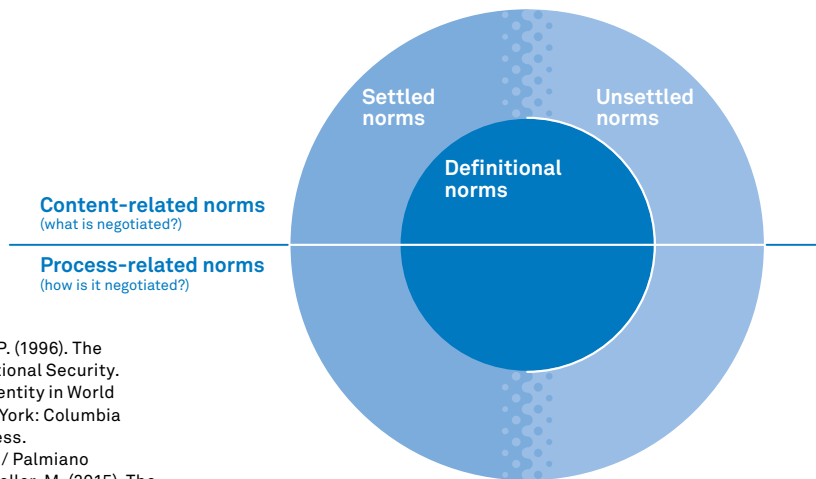
Graph 1: swisspeace / NOREF

6 Katzenstein, P. (1996). The Culture of National Security. Norms and Identity in World Politics. New York: Columbia University Press.
7 Hellmüller, S. / Palmiano Federer, J. / Zeller, M. (2015). The Role of Norms in International Peace Mediation. Bern/Oslo: swisspeace / NOREF.

The first distinction is between content-related and process-related norms. Content refers to what might (and might not) be negotiated during a mediation process, and what will eventually figure in the final peace agreement. Process-related norms define how a mediation process is planned and conducted.

Second, academic literature makes a distinction between settled and unsettled norms.[8] A norm is considered settled in international relations when "it is generally recognized that any attempt to deny it requires special justification."[9] These norms have become internalized[10] and behavior is usually in line with the norm; they are thus no longer hotly debated in the public sphere. In contrast, as long as norms remain contested and can be overridden without such justification, they are considered unsettled.[11] Settled and unsettled norms can be both, process- or content-related. To add to the complexity of it, different people have different understandings of which norms can be considered settled or unsettled. This perception greatly influences the behavior of mediators and parties, and therefore also the mediation process.

The third distinction is made between definitional and non-definitional norms. The definitional norms pertain to the nature of a mediation process and thus underpin the very definition of a mediation process. A process that does not respect these norms would hence not be called mediation anymore. The definitional norms form the core of the framework, while non-definitional settled or unsettled norms are surrounding it.

Definitional norms are also divided into content- and process-related. With regard to content-related definitional norms, the objective of a mediation process is based on a norm that values a non-violent resolution of conflicts over military action and thus upholds the right to life. If this is not the case, the process would not be called mediation and therefore, the norm of the right

8 Frost, M. (1996). International Relations - A Constitutive Theory. Cambridge: Cambridge University Press, pp. 97-105.
9 Raymond, G. (1997). Problems and Prospects in the Study of International Norms. Mershon International Studies Review 41(2): p. 224.
10 For further literature on the development and establishment of norms, see Finnemore, M. / Sikkink, K. (1998). International Norm Dynamics and Political Change. International Organization 52, 4: pp. 887-917.
11 Björkdahl, A. (2010). Norms in International Relations: Some Conceptual and Methodological Reflections. London: Routledge, p. 20.

to life can be characterized as definitional. An example for a process-related definitional norm is consent. If a process happens without a minimal consent by the main belligerents, the process is no longer compatible with one of the core principles that underpins mediation, and it can be at least disputed whether it would still be called a mediation process. In this case, a third-party intervention would more accurately be described as high-powered diplomacy, sanctions or another form of engagement.

2.2   Inclusivity within the Analytical Framework

The categorization of inclusivity in the suggested normative framework depends heavily on the way mediation and inclusivity are understood. There is a great variety of approaches and definitions, which renders the effort to categorize the norm of inclusivity challenging.

Normatively, inclusivity is based on the norms of political participation and equality. Equality emphasizes the idea that inherently equal human beings possess equally valid needs, interests and aspirations. Therefore they should enjoy equal say with regard to the organization of society in terms of establishing rules, systems and arrangements. In addition, political participation demands that affected persons or groups participate, i.e. are present and meaningfully engaged in considerations and decisions about matters relating to their needs, interests and aspirations.[12]

Pragmatically, the norm of inclusivity underlies the assumption that an inclusive process has the best chance to be seen as legitimate, to address all substantive issues and to reach a comprehensive and sustainable peace agreement.[13] According to advocates of the norm, an inclusive process seems to not only enable a just and right process but also a fair and balanced outcome.

Content-related or process-related

Whether inclusivity is a process- or content-related norm within the above-described analytical framework depends on the exact understanding of the term. On the one hand, the extent and manner of inclusivity in a peace process can be measured with the number and diversity of actors involved; thus classifying it as a process-related norm. With regard to the widely accepted UN Guidance definition, this means the involvement of the conflict parties as well as other stakeholders. While the main belligerents are easier to define, it often remains unclear which actors belong to the second category of 'other stakeholders'. In this Essential, they are defined as those who have decision-making power over issues related to the process and its outcome, and those who are likely going to be most affected by it. In contrast, public discourse often equates inclusivity with civil society inclusion, which adds to the confusion around the notion of inclusivity.

On the other hand, inclusivity can be understood in terms of including issues, referring to the diverse views and needs of actors at the negotiation table that would then classify it as a content-related norm. In standard practice and discourse, inclusivity most often refers to the number and diversity of actors sitting at the table and is thus perceived as process-related norm.

Settled or unsettled

The categorization of inclusivity as settled or unsettled certainly depends on diverse factors; not only the way one defines inclusivity itself influences the categorization but also how mediation is perceived as well as the cultural context in which a mediation process takes place.

Concerning the perception of mediation, today many different interventions are labelled mediation, ranging from transformative to power diplomacy

---

12 Packer, J. (2013). Challenges and Opportunities of Inclusivity in Peace Processes. Civil Society Dialogue Network Discussion Paper No. 7, pp. 5-6.
13 OSCE (2015). Mediation and Dialogue Facilitation in the OSCE – Reference Guide, p. 48.

14 If those instances can still be labelled mediation is under discussion and heavily depends on whether consent is seen as definitional norm.

approaches. In cases where the latter approach predominates, inclusivity is usually not considered settled.[14] The definition of mediation is closely linked to the intended objective of a mediation process; while some see a mediation process as the starting point to design the future of a country and strengthen the social contract between the state and its citizens, for others a mediation process is first and foremost to stop the ongoing violence. While those advocating for the first would argue for inclusivity as being settled, the latter tend to argue that a process does not necessarily need the inclusion of stakeholders other than the main belligerents.

In addition, the different cultural settings and the degree to which the underlying norms of political participation and equality are contested or already embedded in the value system affect the way inclusivity is perceived.

Thus, when it comes to the categorization of inclusivity as settled or unsettled norm, opinions diverge. Following the argumentation of the majority of experts that were interviewed for the research project, inclusivity as a norm can be considered settled. Among most mediators and mediation experts, the necessity of having an inclusive mediation process, even if not throughout all stages, is no longer fiercely debated. At the same time, it is noticeable that in recent years many mediators seem to feel the need to justify themselves or refer to a parallel or subsequent process if the current process is not considered inclusive. This possibly points toward a trend that inclusivity has become settled, as transgression is being publicly justified.

Definitional or non-definitional

Inclusivity can be defined, within the proposed normative framework, as non-definitional norm.

It is put into that category because even if a process is not inclusive throughout, it can still be considered mediation.

2.3 Prioritization

The categorization of the norm of inclusivity also influences the way in which it is prioritized. In the interviews, it became apparent that mediators usually implicitly prioritize definitional over non-definitional norms. How the latter come into the process then depends on whether they are perceived as being compatible with the definitional norms. This has certain practical implications for the norm of inclusivity which is usually considered non-definitional, namely in cases where it is incompatible with the definitional norms of consent and the right to life.

«I think that all our mediators ought to make an effort to encourage parties to involve women, and mediators to talk to women. But can we insist? [...] I don't think it's appropriate at all. It's not our conflict. It's not our peace agreement, it's theirs. We must understand the nature of mediation [...]»

Interviewee (research project)

For example in cases where no consent of the parties on the inclusion of actors and topics is given, a mediator will not be able to push for an inclusive process. In those specific circumstances, the norm of inclusivity would be relegated to a second level of priority, as the definitional norm of consent will clearly be prioritized.

The same would also apply in case an inclusivity endeavor runs against the right to life norm. The right to life as a norm means that ending violence is usually prioritized as an immediate goal in mediation processes. This does not mean that mediators do not strive for more than stopping violence and also try to bring about long-term social change. Nevertheless, the interviews showed that when push comes to shove they prioritize ending violence. If inclusivity in the sense of including more actors or issues risks at a certain time of the process to bring the mediation to a halt or to provoke its failure, then it will not be pushed for by mediators. On the contrary, since exclusion often leads to an increase in violence and if therefore inclusivity is considered as preventing excluded actors from threatening the negotiation process, it can be seen as crucial for protecting the right to life. This is especially true when it comes to the exclusion of different armed groups, as they are anyway often under the impression that they can only make themselves heard through violent means.

The above shows that most mediators consider questions of inclusivity only in cases where they do not contradict definitional norms such as consent and the right to life. In reality it is, however, hardly ever a question of either-or. When handled carefully and embedded in a long-term strategy, inclusivity is per-ceived as largely compatible with definitional and (other) settled norms. Therefore, mediators usually conduct a balancing act by trying to design an effective process that ends violence as fast as possible while also allowing

for the creation of a stable foundation for longer-term sustainability. Because if the latter considerations are ignored completely, then chances are high that violence will break out again soon after the process has ended – which then again runs against the norm of the right to life.

Key questions for a mediator

Process or content:

> What is my understanding of inclusivity? Do I tackle it mainly from a process- or content-related angle?
> What is the parties' understanding of inclusivity? Do they tackle it mainly from a process- or content-related angle?
> What is the mandate giver's understanding of inclusivity? Do they tackle it mainly from a process- or content-related angle?

Settled or unsettled:

> Do I consider inclusivity (or part of it) as settled?
> Do the parties consider inclusivity (or part of it) as settled?
> Does the mandate giver consider inclusivity (or part of it) as settled?

Relation to definitional norms:

> What norms do I consider as definitional and how does this influence my understanding of inclusivity?
> What norms do the parties consider as definitional and how does this influence their understanding of inclusivity?
> What norms does the mandate giver consider as definitional and how does this influence their understanding of inclusivity?

Practical Considerations around the Norm of Inclusivity

15 Fischer, M. (2011). Civil Society in Conflict Transformation: Strengths and Limitations. In: Advancing Conflict Transformation. The Berghof Handbook II., edited by Austin, B / Fischer, M. and Giessmann, H. J. Opladen / Framington Hills: Barbara Budrich Publishers, pp. 287-314.

16 Nilsson, D. (2012), p. 259.

On the basis of the conceptual insights gained, the following part of this Essential elaborates on the practical considerations that come into play in cases where a mediator or those supporting a mediation process strive for an inclusive process.

3.1 Inclusive Mediation Processes – Who, What, How and When

It is certain that not all stakeholders can be included at all times and in every phase of a process. A sound conflict analysis and, based on this, a sophisticated mediation strategy can give clearer guidance on who is to be involved, what is to be discussed, and how and when the identified actors and topics need to be included.

As discussed above, the norm of inclusivity is increasingly being considered settled; what remains subject to debate is which actors, what kind of topics, and how and when they are included. The above-mentioned distinction between different norm categories and the prioritization among them have major practical implications on the design of a mediation process.

Actors: Who to include

Within the broad definition of inclusivity of actors as involving the conflict parties and other stakeholders, it often remains unclear which actors belong to the category of 'other stakeholders'. Public discourse seems to almost exclusively refer to civil society representatives when talking about inclusivity. Thereby they are often rather uncritically being considered as pro-peace and apolitical.[15]

Civil society is, however, not always genuinely civic; this seems to be particularly true for societies in conflict contexts, where the space for such groups to exist

alongside and independently of the state is usually severely limited. Civil society can, for instance, simply act as an extension of the belligerents, meaning an extension of a particular set of interests that is already represented at the table. Moreover, civil society is often very fragmented and highly divided on the items they consider important, as seen in countries such as Guatemala, Syria and South Sudan. In practice, this makes a meaningful inclusion very challenging.

The current mediation process in South Sudan illustrates this challenge. Civil society representatives have been brought to the talks without providing them a protected space to consolidate their position and demands. Therefore, the different parties already holding a seat at the table could easily manipulate and instrumentalize the highly divided group of actors, nullifying the intention to bring in additional views and issues.

With this focus on civil society actors, the crucial role and contributions made by other actors are often overlooked. According to Nilsson's research, for instance, political parties should not be underestimated in their influence either. She found that for the durability of peace, including political parties alongside civil society is paramount.[16] With regard to the contributions of business actors to mediation processes, only very little information exists so far. Up to now, their presence has mostly been rather informal and behind-the-scenes, and therefore often neglected.

With regard to other armed actors, engagement with and inclusion of armed groups labelled as terrorists has become increasingly difficult. In the past few years, several states and international organizations have adopted counter-terrorism legislations, which categorize certain non-state armed groups as terrorist organizations. The US Supreme Court and the Holder v. Humanitarian Law Project case perfectly illustrates the

17 Lanz, D. (2011). Who Gets a Seat at the Table? A Framework for Understanding the Dynamics of Inclusion and Exclusion in Peace Negotiations. International Negotiations 16, pp. 284-285.

consequences this can have. Its decision states that any activities with groups designated as Foreign Terrorist Organizations may constitute a federal crime. This, in turn, has a direct impact on the possibility to include such groups into mediation processes.[17] It not only runs against the inherent logic of inclusivity, but does, in certain cases, profoundly restrain the potential of a mediation process to be truly inclusive.

When including any other stakeholders, it needs to be ensured that those who are included can deliver something that is valuable for the mediation process. This is not only linked to the issues they bring to the table, but also to whether they have the appropriate skills to negotiate. At the same time, limiting mediation processes to those who have the necessary skills bears the risk of only including the elites, which then again compromises the very idea of being inclusive.

In all these attempts, it has to be remembered that inclusion of actors can, if not applied thoughtfully and embedded in the overall strategy, do more harm to the process and the stakeholders than good. The mediation process of South Sudan is a case in point. There, a failed attempt to include additional actors through a multi-stakeholder symposium has led to a serious quarrel between the main belligerents, which not only resulted in serious reservations against including other actors in the future but also in a temporary halt of the process.

Content: What to include

It is important to differentiate the who- from the what-question and therefore the content- and process-related aspects of the inclusivity norm. There is often an inherent assumption that a representative of a certain community will bring the issues one assumes to be promoted by this community to the negotiation table. However, in past mediation processes it became evident that processes inclusive in their composition of

participants are not necessarily inclusive in terms of the range of issues addressed. For instance, experience shows that having minority representatives at the table does not automatically mean that minority issues are being discussed. In contrast, representatives of other communities might have an interest in taking up minority rights without having a minority group directly participating in the negotiations. Therefore, inclusion of representatives of a community (process-related) should be distinguished from inclusion of issues (content-related). If consultative processes, for example, are well linked to the main process, content can be brought to the table without direct representation of those raising the issue in the first place.

«[...] you can't just add women and stir. You really haven't accomplished anything by putting one or two women or civil society. That isn't inclusion.»

Interviewee (research project)

An additional challenge – and another reason why process and content should be analytically separated – is the fact that there often exists a wide range of heterogeneous issues within a certain group of actors and therefore members of the same group can bring different issues to the table. For example women, typically treated as constituting one single and coherent group, differ tremendously in their needs and grievances based on various influencing factors such as educational

background, social status, age and environment (rural/urban). Having this in mind, it is thus more appropriate to aim at "effective representation". This term captures both the content- and the process-related aspects of the norm of inclusivity by emphasizing that the mere presence of an actor at the table is not sufficient to make a meaningful contribution. Representation refers to the fact that actors and issues can be brought into a process without necessarily having a seat at the negotiation table. Effective means the need for the negotiating parties to have the appropriate skills and capacities to represent their constituency as well as for the latter to feel truly represented. Ensuring "effective representation" therefore helps to enlarge the circle of actors that feel their grievances and demands are being meaningfully reflected in the processes, without overloading the negotiation table and making its set-up too complex.

How and when to include

In practice, the questions of actors and content are heavily interdependent and they are thus often conflated when talking about the how and when of inclusion. This is the case because in the majority of publications and in public discourse process-related inclusivity of actors is perceived as guarantor for content-related inclusivity of topics and therefore often the starting point for inclusive endeavors. However, while this assumptions might hold true in many cases, it should not be taken as a given as shown above.

A process will hardly ever be inclusive from the beginning until the end. The settled norm of inclusivity does not encompass the notion that all stakeholders have to sit and all issues have to be discussed at the table at any given time. It thus seems important to be flexible and creative when it comes to questions of inclusivity. A few publications[18] already exist on different formats of inclusion, shedding light on the question of

18 See for example Paffenholz, T. (2014). Broadening Participation in Peace Processes – Dilemmas and Options for Mediators. Geneva: Center for Humanitarian Dialogue, pp. 13-21; and McHugh, G. (2010). Integrating internal displacement in peace processes and agreements. Washington: United States Institute of Peace, pp. 39-41.

how to include different actors (and topics) without having them all directly sitting at the table. Some previous processes have created parallel spaces for separate discussion with and among additional important actors, thus allowing their views to be reflected in the process. Those can be either formal or informal, ad hoc or institutionalized, and can be linked in different ways to the process, either through the mediator or the parties themselves. These formats of inclusion might also be more acceptable to the main parties already sitting at the table, as they perceive it as a less direct threat to their own space at the negotiation table. At the end, it heavily depends on whether these parallel spaces are well connected to the main negotiation table and whether those voices and messages can truly influence decision-making.

«I cannot see a process taking place from A-Z without civil society taking part in some form or the other. And there are certain key chapters in which civil society must take part.»

Interviewee (research project)

Inclusion can be adapted according to the agenda points or the different phases of a mediation process. With regard to the first, inclusivity is highly dependent on the issues being discussed. For instance, for cease-fire negotiations the participation of other stakeholders than the main belligerents is often seen as less crucial than for discussions around the shape of the future

state structure. With regard to the different phases of a mediation process, it is paramount to look at questions of inclusivity in a broader timeframe. While the negotiation phase can be very inclusive, the decision making process and therefore the resulting agreement might not. In yet other cases, the whole mediation process is kept very exclusive but followed by a broad and inclusive constitution-making process. Therefore, different inclusion modalities are possible, ranging from having certain inclusive phases to being inclusive throughout the whole mediation process, or even throughout the whole peace process.

In all these discussions, it has to be acknowledged that those decisions highly depend on the consent of the main belligerents and will take shape according to their needs and the environment in which a given process takes place. A well-managed process design can alleviate some of the challenges that occur when including a broad range of actors and issues. Ultimately, the above discussed options to look at wider mechanisms of inclusion lead to the assumption that a mediation process should be seen as a multi-dimensional endeavor that consists of multiple 'tables'. This allows to not only focus on the one negotiation table but to see a mediation process as having multiple phases that are connected to each other.

Key questions for a mediator

Who and what:

> Which actors and issues do you consider important for the overall process?
> Which actors and issues do the parties consider important for the overall process?
> Which actors and issues does the mandate giver consider important for the overall process?
> What are the potential risks of including any actors or issues (do no harm principle)?
> What needs, with regard to the process set-up, the skills and capacities, do the different actors have to be effectively representative?

How and when:

> Looking at the agenda points and phases, who and what is needed at a given moment to be able to have a comprehensive discussion?
> What is the most appropriate format for inclusion in the given process?
> In cases where parallel spaces are created, how are they best connected to the main negotiation table?

3.2   Role of a Mediator

The above-mentioned distinction between different categories of norms and the prioritization among them also have practical implications on the realm of influence of mediators. Regarding the limits of power of a mediator in promoting or even pushing for certain norms such as inclusivity, it is important to clearly delineate the mediator's sphere of influence. Often, there seems to be a misperception of the role of a mediator when it comes to his or her function in norms

promotion. Generally, mediators are given a certain power by the parties, and within the realm of this power they can exercise their influence. This is based on the notion that the consent of the conflict parties is a definitional norm. Therefore, mediators can facilitate and enable parties to consider and look at wider questions of inclusivity if they believe this is important for the process and the outcome, but they cannot impose an inclusive process. Mediators can encourage parties to include marginalized voices but it would run against the very definition of a mediation process if they insisted on it and expected the parties to do it the way they think is 'right' or appropriate.

«I think a good mediator [...] can cajole and influence the parties [...] but it is very much in the sense that 'you can lead a horse to water but you can't make it drink'.»

Interviewee (research project)

As a consequence, it is not mainly the mediators and their teams that need to be convinced about the necessity to include certain actors, but the negotiating parties already sitting at the table. All interviewees strongly argued that the norm advocates need to work with the parties, preferably at an early stage, instead of pressuring the mediators to enforce those standards, which would run against the definitional norm of consent that underpins their function as a mediator.

A mediator's sphere of influence

In cases where mediators highly value the norm of inclusivity but parties do not, there are two main approaches to foster an inclusive mediation process without violating the definitional norm of consent.

> Awareness raising

The definitional norm of consent does not handcuff the mediators but calls for a different approach. The way inclusivity can be brought up is not by blaming and criticizing the parties for not having certain representatives or discussing certain issues at the table, but by increasing the understanding of the potential benefits of having effective representation. Such a demand-driven approach also prevents the inclusion of certain stakeholders to become purely tokenistic. In the latter case, the risk is that representatives of a certain group are just included for the sake of it, having little to no influence on the substance being discussed and the decisions taken.

Mediators can therefore exert influence by making parties aware that highly exclusive processes limit their legitimacy and the sustainability of what they eventually agree upon. Because even if they are successful in negotiating an exclusive agreement, this will rarely lead to an accepted and sustainable outcome without having a broader buy-in or taking on broader agendas. Highlighting the interlinkages between inclusion, ownership, and the legitimacy of a process can serve as one of the main reasons why parties already having a seat at the table consider opening up a process. Although they might be afraid of handing over decision-making power and sharing some of the benefits of the final agreement, they potentially recognize the necessity to increase the legitimacy of the process and its outcome. Therefore,

such arguments can help to overcome initial refusal of the belligerents and can thus be a way to gain their consent for an inclusive process.

Bringing the issue of inclusivity and the different forms it can take to the attention of parties, at an early stage and in a way that is useful for them and the process, is certainly within the sphere of influence of a mediator or those supporting a mediation process. This can be achieved in manifold ways, for example by bringing in an expert that sits with the parties and explains different formats of inclusion or by commissioning a comparative study that explains the lessons and advantages drawn from other country contexts.

> Role model

Although the realm of influence of mediators is limited by the adherence to the definitional norm of consent, their potential as role model should not be underestimated. Mediators can, and should in cases where they declare inclusivity as being essential, mirror the inclusivity norm in the composition of their teams as well as in their own behavior. The set-up of their teams is their

«We can mention the fact that we find they are few women, but at the same time we are in an embarrassing situation because if you look at the mediation team [...].»

Interviewee (research project)

responsibility, while the composition of delegations is for parties to decide upon. Although many organizations plead for the inclusion of diverse groups into any peace endeavor, very few mediation teams show a balanced mix of social markers such as age, gender and ethnicity; the majority of mediation teams still consist of senior male mediators or advisors. Parties can hardly take a male mediator's claim about the importance of women's perspectives seriously if his team does not include a single female member.[19]

At the end of the day, it is the parties who make the final choice. It is their process and peace agreement and therefore they are the ones that decide to which degree other groups and concerns should be part of the negotiations. In the field of international peace mediation, however, those who give the official mandate to the mediators or finance the process also wield influence. This often puts the mediators in a difficult position, as they need to satisfy several mandate givers, some of them from within (the conflict parties and their constituencies) and some of them from outside (entity sending the mediator, donors, international contact groups and organizations).

Generally, in approaching parties with questions of inclusivity, mediators need to carefully consider contextual and cultural aspects. Especially when Western mediators push for the insertion of inclusion mechanisms and do not anchor their demands in the context, parties might complain that these are foreign values being imposed on them without taking into account their own understanding of inclusivity. Consequently, inclusivity but also other norms need to be discussed and implemented in a way that is sensitive to the specificities of a given context.

19 Nderitu, A. / O'Neill, J. (2013). Getting to the Point of Inclusion: Seven Myths Standing in the Way of Women Waging Peace. Washington: The Institute for Inclusive Security, p. 8.

4   Conclusion

Key questions for a mediator

> What is the sphere of influence of the mediator? How do the parties and the mandate giver perceive it? Is there a need for clarification?

> What kind of direct engagement with the parties is possible for norms advocates? Can this be facilitated by the mediator? If yes, how?

> On which actors and topics that are not yet included in the process does the mediator want to raise awareness? What are the parties' and the mandate givers' perspectives on these?

> In what ways does the mediation team act as a role model in terms of inclusivity? How do the parties and mandate giver perceive this?

In most mediation processes, although in various degrees and at different points in time, a range of measures are taken to include additional stakeholders and topics. However, the ambiguity of the term inclusivity results in a wide spectrum of different interpretations. The analytical framework presented in this Essential tries to create a basis for discussion by further clarifying the notion of inclusivity and its relation to other norms in a mediation processes. The prioritization of definitional norms, such as the right to life or consent of the parties, over others, such as inclusivity, not only impacts implementation but also the room of maneuver a mediator has.

Although inclusivity is more and more perceived as settled, uncertainty still prevails when looking at practical implications of this norm, namely who and what needs to be included, and how and when. Mediators and those supporting mediation processes should take into consideration that including representatives of a certain community will not necessarily bring to the table the issues one assumes to be promoted by this community. Therefore, the inclusion of representatives of a certain community should not be equated with the inclusion of certain issues and hence the content- and process-related aspects of inclusivity should not be confused. Designing an inclusive process also does not mean that all stakeholders have to sit at the table at all times. There are different formats of inclusion and mediators can be supportive in making sure that concerned stakeholders are adequately informed about these manifold inclusion mechanisms.

The role of a mediator is bound by definitional norms, such as consent and right to life, as first priority. However, in accordance with these norms, there is some room for maneuver for mediators in raising awareness about the interlinkages between inclusivity, legitimacy and sustainability, and in acting as role models. Both

About the Author

approaches can serve the purpose of making the parties more receptive to the idea of having an inclusive process. But when push comes to shove, parties are the ones that decide on the degree of inclusivity of their process. Consequently, norm advocates have to work with the parties, rather than with the mediators, in order to convince them of the added value of having a more inclusive process. This would allow for more inclusive processes, in the sense of ensuring effective representation, while respecting the definitional core norms of mediation.

Corinne von Burg
holds a MA in Social Anthropology, Modern History and International Law from the University of Zurich (2010). Based on a six-month research field trip, she wrote her MA thesis on community-based reintegration of former child soldiers in Nepal. From February-December 2011, she interned with the Office of the Special Envoy for Sudan, South Sudan and the Horn of Africa of the Swiss Federal Department of Foreign Affairs. In 2012-13, she worked for the Peace and Recovery Cluster of the United Nations Development Program in Colombo, Sri Lanka. Corinne joined swisspeace in April 2013 as a program officer in the Mediation Program.

About swisspeace

swisspeace, a practice-oriented peace research institute, strives to build civilian peacebuilding capacities of Swiss and international actors by conducting research on violent conflicts and their peaceful transformation, offering consultancies, training and space for exchange of experiences.

swisspeace sees itself as a centre of excellence and an information platform in the areas of conflict analysis and peacebuilding. We research the causes of war and violent conflict, develop tools for conflict resolution and formulate peacebuilding and conflict prevention strategies. swisspeace contributes to information sharing and networking on current issues of peace and security policy through its analyses and reports as well as workshops and conferences.

swisspeace was founded in 1988 as the "Swiss Peace Foundation" with the goal of promoting independent peace research in Switzerland. Today, swisspeace has about 50 staff members. Its most important clients include the Swiss Federal Department of Foreign Affairs and the Swiss National Science Foundation. Its activities are further assisted by contributions from its Support Association and the Swisslos-Fonds Basel Stadt. The highest swisspeace body is the Foundation Council, which comprises representatives from politics, academia and the government.

swisspeace is an associated Institute of the University of Basel and member of the Swiss Academy of Humanities and Social Sciences.

About NOREF

The Norwegian Peacebuilding Resource Centre (NOREF) in Oslo, Norway, is an independent foundation established to integrate knowledge, experience, and critical reflection to strengthen peacebuilding policy and practice.

NOREF supports the development of competence and resources for peacebuilding efforts in the fields of mediation, conflict prevention and resolution, post-conflict rehabilitation and humanitarian actors in conflict-affected areas. In order to provide resources on peacebuilding, mediation and humanitarian issues to the Norwegian and the international peacebuilding community, the centre collaborates with a wide network of researchers, policymakers and practitioners. It aims to contribute to linking peacebuilding research, policy and practice through the gathering and sharing of timely information and analysis by commissioning and publishing research carried out by experts in their fields, and by organising briefings and convening seminars and events.

NOREF was established in 2008 by the Norwegian Ministry of Foreign Affairs (MFA). It is a private foundation governed by a board, receiving funding from the Norwegian MFA and international donors.

Website: www.peacebuilding.no.