

Can Mediation Do Harm?

Conflict Sensitivity in International Peace Negotiations

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Summary

While the concept of conflict sensitivity has been largely accepted in humanitarian and development aid and in peacebuilding, it remains widely neglected in international peace mediation. Most practitioners assume that a mediation process automatically has a positive impact on the wider conflict context. This assumption is, however, questioned by the fact that mediation processes can lead to further escalation and violence of a conflict. Such examples point to the relevance of conflict sensitivity in mediation. This article presents such a conflict sensitive approach to mediation based on a three-step-model. Thereby, it proposes guiding questions that a mediation team should ask during the planning, implementation and adaptation of an intervention in order to avoid doing unintentional harm and to increase its positive impact.

Can international peace mediation do harm? Or does mediation – one of the instruments for the peaceful settlement of conflicts – inevitably have a positive impact on a conflict and its wider context? Thus far, these questions have been widely ignored in the field of mediation. Among other reasons, this is due to the fact that both, literature as well as practice, have attributed largely positive effects to mediation.¹ International peace mediation is defined as a process whereby a third party assists two or more parties, with their consent, to prevent, manage or resolve a conflict by helping them to develop mutually acceptable agreements.²

The assumption that mediation only yields positive results does not withstand an in-depth analysis of past processes. A brief screening of past mediation engagements reveals that mediation can indeed, under certain circumstances, have a negative impact on a conflict context. Potential negative consequences are the perpetuation of a conflict, the intensification of violence or the splintering of conflict parties and the consequent development of new fault lines.

The first potential negative consequence, the perpetuation of a conflict, is illustrated by the Dayton Agreement on Bosnia, which was signed in 1995. Critics claim that the agreement largely preserved the status quo, which intensified ethnicity-based politics and led to conflicts lasting to this day. The second potential negative consequence, the intensification of violence, is exemplified in the peace process to end the conflict in the Democratic Republic of Congo in 2002 and 2003. There is strong evidence that the decision to not allow any further rebel groups into the negotiations caused the excluded groups to escalate violence in order to have their voices heard. An example for the third potential negative consequence, the fragmentation of conflict parties and the respective creation of new fault lines, is provided by the mediation process between the

Sudanese Government and Darfurian rebel groups in Abuja in 2006. The negotiations actually led to a greater division of the rebel groups since several leaders had ambitions to represent their group at the negotiation table in order to secure their role within the new power structure. This substantially increased the complexity of the conflict. In retrospect, various representatives of the mediation team pointed out that enormous political pressure had been put on the parties in order to achieve quick results. This, however, prolonged and exacerbated the conflict and therefore, the mediation is said to have had a direct negative impact on the context.

These examples demonstrate that mediation does not always positively affect the larger conflict context. Conflict sensitivity focuses precisely on those aspects. Therefore, this article will first introduce this approach and its relevance for the field of peacebuilding more generally and will then present an adapted three-step-model for a conflict sensitive approach to international peace mediation.

1 Greig, M. / Regan, P. (2006). Who Mediates?: An Analysis of the Willingness to Offer and Accept Mediation in Civil Wars. Presentation at the annual meetings of the American Political Science Association in Philadelphia.

2 United Nations. (2012). UN Guidance for Effective Mediation. <<http://www.un.org/wcm/webdav/site/undpa/shared/undpa/pdf/UN%20Guidance%20for%20Effective%20Mediation.pdf>>.

The conflict sensitivity approach has its roots in the humanitarian and development field. With the publication of her book 'Do No Harm – How Aid Can Support Peace – or War' in 1994, Mary Anderson sparked a global debate that was taken up and further developed by numerous local and international non-governmental organizations in the 1990s. The 'do no harm' approach builds on the assumption that neither humanitarian aid nor development cooperation in fragile conflict zones can be neutral. Instead of alleviating existing tensions, those interventions often – unintentionally – reinforce them or even provoke new conflicts.

In the late 1990s, the 'do no harm' principle evolved into a minimal standard for actors in the field of development cooperation and later gave rise to the conflict sensitivity approach.

Conflict sensitivity is defined as an actor's or an organization's capacity to 1) understand the context in which it operates, 2) to understand how its own interventions interact with this context, and 3) to act upon this understanding. Based on this, the unintentional reinforcement of existing conflicts by the intervention can be avoided and the contribution to a peaceful society maximized.

Conflict sensitive project planning has become a high priority in the fields of humanitarian aid and development cooperation, and has also taken root in peacebuilding. However, many practitioners still implicitly assume their interventions to be conflict sensitive by definition, since they are actively working towards peace. But experience shows that even peacebuilding programs have unintended consequences on conflict dynamics. While this possibility is increasingly acknowledged within the peacebuilding field, it is still commonly ignored in mediation.

This neglect has meant that crucial aspects of conflict sensitivity are only partially applied to mediation. This is mainly based on the fact that there are arguably some fundamental differences between mediation endeavors and other peacebuilding, development or humanitarian programs. First, mediation is often undertaken in response to requests from conflict parties, third parties or other involved actors on very short notice which may not leave time and space to assess the context and interactions thoroughly. Second, since mediation is based on the principles of consent and ownership, mediators have only limited control over the content of a final agreement. Third, it is often considered challenging to find empirical evidence for the causal relationship of an intervention and its effects – including potential harm caused.

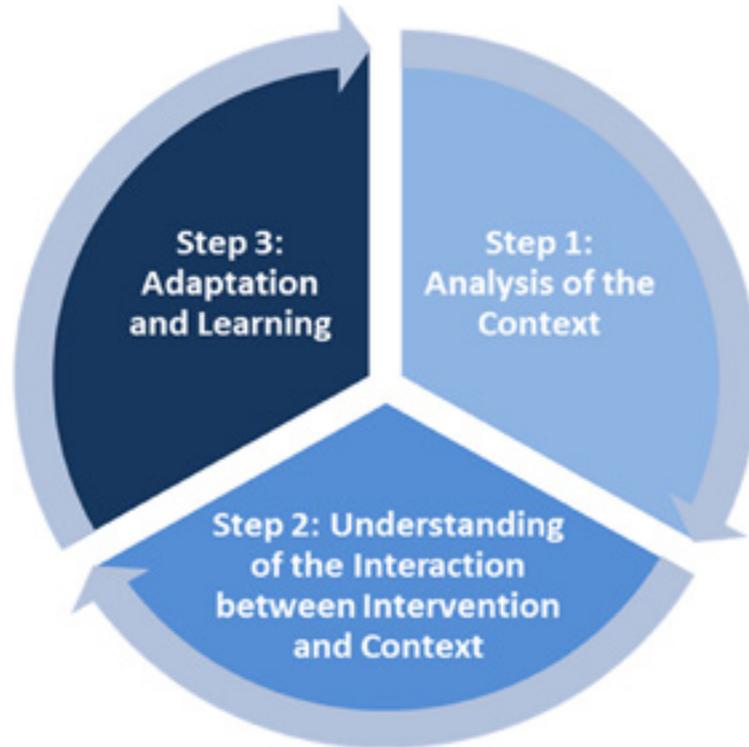
Nevertheless, there are indicators that point to the potential damage that mediation can cause. Mediators thus need to be particularly attentive to potential positive and negative effects that their actions can have. A three-step-model for conflict sensitivity in the fields of humanitarian aid and development cooperation can serve as a reference frame for the mediation field. Adapted to mediation, the steps are:³

1. Analysis of the context
2. Understanding the interactions between intervention and context
3. Adaptation and learning

The following explains how these adapted three steps can ensure that mediation processes are conducted in a conflict sensitive way.

³ See Helvetas and swisspeace. (2013). Manual: 3 Steps for Working in Fragile and Conflict-Affected Situations (WFCS), p. 64ff. https://assets.helvetas.ch/downloads/2013_hsi_manual_3_steps_wfcs.pdf.

3 Conflict Sensitivity in Mediation



Adapted from © Helvetas and swisspeace.⁴

Step 1

Analysis of the Context

Any mediation process must inevitably start with a comprehensive analysis of the context – the first step of the model introduced above. A conflict analysis serves to explore the conflict context and to shed light on the various actors, their relationships, interests and positions as well as dividing and connecting factors. Such analyses are crucial as they allow for an assessment of how an intervention in a given context may influence the conflict dynamics. For that purpose, the main focus is on factors that could act as ‘connectors’ or ‘dividers’.⁵ Measures can then be taken early on in the process in order to strengthen the connectors and alleviate the risk that dividers may pose. Applied to mediation, such connectors can for instance be coordinated efforts by civil society groups who exert pressure on the negotiating parties to come to an agreement. On the other hand, acts of sabotage by parties who feel excluded can represent a divider if they derail the process.

If a conflict analysis is to be relevant for mediation, it needs to explore some additional aspects that must be incorporated into Step 1 of the circular model. The concept of ripeness developed by William Zartman is of particular use in this respect.⁶ According to Zartman, the moment of ripeness defines a situation in which conflict parties have the biggest incentive to resolve their dispute peacefully. This requires three conditions. First of all, the parties to the conflict must perceive their situation as a ‘mutually hurting stalemate’. Hence, parties find themselves in a situation that inflicts a high degree of pain while they have no possibility to unilaterally escalate the conflict towards their victory on the battlefield. The continuation of the status quo thus comes with high costs. Secondly, both conflict parties need to recognize negotiations as a possible way out of



⁴ Ibidem.
⁵ Situations of conflict are characterized by two ‘realities’: Dividers and Connectors. There are elements in societies which divide people from each other and serve as sources of tension. There are also always elements which connect people and can serve as local capacities for peace. http://koff.swisspeace.ch/fileadmin/user_upload/koff/Publications/KOFF_Factsheet_Conflictsensitivity_Sept2012.pdf
⁶ Zartman, W. (2000). Ripeness: The Hurting Stalemate and Beyond. In Stern, P. / Druckman, D. (Hrsg.), International Conflict Resolution After the Cold War (p.225-245) Washington, D.C.: National Academy Press, p. 228.

7 Greig, M. (2001). Moments of Opportunity: Recognizing Conditions of Ripeness for International Mediation between Enduring Rivals. *The Journal of Conflict Resolution*, 45(6), p. 692.

their situation. Thirdly, all actors require credible representatives who can make reliable commitments at the negotiation table. While the existence of ripeness is by no means a guarantee for a positive outcome of a mediation process, it increases its chances.⁷ Therefore, a thorough assessment of the above mentioned three factors is indispensable.

In case this evaluation shows that the conflict is not 'ripe' yet, this should not be interpreted as an indication to not act at all. Rather, the motivations of actors who are hesitant to participate in negotiations can be analyzed and based thereon activities can be identified that contribute to ripening a conflict. Measures to ripen the conflict can then take different forms, depending on the context. They range from informal contacts and discussions through shuttle mediation over the preparation of individual actors for specific agenda items of potential negotiations to activities aiming to change the international context, for instance through political lobbying. In other words, the focus should not only be on the question of whether a conflict party is ready for negotiations, but also on *why* it is or is not. This should figure in the conflict-context analysis (Step 1).

It has to be remembered, however, that even the formal consent to negotiate does not automatically mean that the parties have a genuine interest in solving a conflict by peaceful means. It may also reflect the parties' fear of losing legitimacy within the international community or their desire to use a temporary ceasefire to get a breather from fighting and rearm militarily. Looking closely at parties' underlying intentions and motivations is paramount when preparing a mediation intervention in a conflict sensitive way. However, conflict and context analyses should not only be made at the beginning of a process, but throughout the mediation since it takes place in a dynamic environment where parties, issues as well as the context can change quickly.

In order for a mediation process to be conflict sensitive, a mediation team should assess the following exemplary questions:

- Is the decision to intervene based on a conflict analysis that assesses the conflict context but also sheds light on parties' relationships, interests, power and positions?
 - Have connectors and dividers been identified and has the team developed strategies to empower connectors and mitigate dividers?
 - Based on the three criteria of ripeness, are parties 'ripe' for a mediation process and what is the rationale behind if they are/are not?
 - If they are not, what measures can be taken to ripen the conflict?
 - Has there been a thorough analysis of actors involved and their respective underlying motivations?
 - Is the analysis made subject to frequent adjustments according to developments on the ground?
-

Step 2

Understanding of the Interaction between Intervention and Context

To ensure that an intervention is implemented in a conflict sensitive manner, its interaction with a given conflict context needs to be closely examined. The main points of reference for this examination are the mediation team, the conflict parties and the mediation process.⁸



8 The stated points of interest are meant to serve as an illustration and are not conclusive. Their presentation here borrows from the *UN Guidance for Effective Mediation* published in 2012, which summarizes the main principles of peace mediation in eight fundamentals.

The Mediation Team

When planning an intervention, third parties are faced with the challenge of quickly changing dynamics and the unpredictability of a peace process. In this respect, three aspects are of particular importance because neglecting them may cause damage. First of all, the organization deploying a mediation team needs to make a long-term commitment with adequate financial and human resources. Based on the conflict analysis, the composition of the mediation team needs to be appropriate for the context. Second, the mediation team needs to have expertise on process design and topics such as transitional justice, security and statebuilding as well as a good understanding of the context, its dynamics, actors, connecting and dividing factors. If needed, these can be complemented with tailor-made trainings, coaching on mediation techniques or analyses of past approaches and experiences. Third, the coordination of different actors is equally key. Today's peace processes are marked by a multitude of organizations eager to intervene, however with different intentions and approaches. If damage is to be avoided, there is a need for a coordinated strategy. This helps to capitalize on the various comparative advantages of the different actors involved in peace negotiations and thus counteracts a competitive dynamic that leads to duplication.

In order for a mediation process to be conflict sensitive, a mediation team should, based on the conflict analysis undertaken in Step 1, assess the following exemplary questions:

- Can the mediation team commit to a long-term engagement and does it dispose of the necessary resources?
 - How is the mediation team composed? Which organizations does it represent?
 - Do the team members have the required expertise and can the team bring in external expertise if needed?
 - Is the team familiar with the standards of conflict sensitivity and its implications?
 - Are team members sufficiently familiar with the conflict context, dynamics, relationships, actors, connecting and dividing forces?
 - How can the different actors supporting the peace process coordinate their activities?
-

The Parties

Mediation is a voluntary process by definition. Any process will undoubtedly be perceived as more legitimate and any negotiated agreement will be more sustainable if parties consent to the negotiations.⁹ The level of parties' consent – and linked to this their motivation to engage in negotiations – depends on various factors. Parties will base their decision on how adequately prepared they feel for the process, on the level of trust they have in others involved in the conflict and on whether they perceive the mediation process as impartial.

A particular challenge is posed by the fact that mediation processes often take place in asymmetric conflicts in which the parties involved have different levels of international recognition, financial resources

⁹ Mediation Support Network (2013). Translating Mediation Guidance into Practice: Commentary on the UN Guidance for Effective Mediation by the Mediation Support Network. http://mediationsupportnetwork.net/wp-content/uploads/2013/06/Discussion-Points-2_Translating-Mediation-Guidance-into-Practice.pdf, p. 11.

and technical knowledge. Targeted trainings can help to diminish this asymmetry. Non-state actors may perceive a mediation process as partial from the outset because they are intimidated by the government's level of expertise. In this case, capacity workshops can provide them with more confidence to negotiate, meeting their need to feel on par with the state party. Throughout these engagements, the mediation team must constantly pay attention to the implicit messages that it may be sending out. Who is invited to workshops, where they are organized and who pays for them can have an immense impact on how a process is perceived. As illustrated in the examples in the introduction, these decisions can also lead to power struggles within the conflict parties. Thereby, they can provoke an intensification of violence if different splinter groups stage violent attacks in order to gain access to exclusive processes, including specific trainings.

In order for a mediation process to be conflict sensitive, a mediation team should, based on the conflict analysis undertaken in Step 1, assess the following exemplary questions:

- Do the parties feel adequately prepared to enter negotiations?
 - If not, how can the mediation team (or associated actors) gain their consent and/or contribute to the ripening of the conflict?
 - Is the mediation team and the process perceived as impartial by the conflict parties?
 - Which factors could contribute to the parties' perception of the mediation team and/or process as partial?
 - Which signals could possibly be sent out unintentionally by technically supporting one or the other party and what impact may this have on the conflict context?
-

The Process

Regarding the process, inclusivity is a central aspect of conflict sensitive mediation. Since the main adversaries of a conflict can never represent the entire population during peace negotiations, the inclusion of other relevant actors can make the process more legitimate and hence also sustainable. If a process is inclusive, the risk that actors want to undermine it because they feel excluded is lowered. In parallel, however, actors already involved in a process may fear a dilution of their power through the addition of new actors. Moreover, incorporating new and diverse actors in a process will unavoidably add new layers of complexity to negotiations. In general, mediation teams must be aware that every contact they have with actors in a conflict will send implicit messages with regard to the latter's legitimacy. It is therefore essential to carefully evaluate the negative consequences that could be associated with broadening the participation in a process. In sum, the overbearing focus on a few central actors may consolidate the status quo and potentially perpetuate the conflict. At the same time, opening the process up may in turn cause more actors to compete for attention – sometimes with an increase in violence.

In order for a mediation process to be conflict sensitive, a mediation team should, based on the conflict analysis undertaken in Step 1, assess the following exemplary questions:

- Who do the parties included in the negotiation process represent?
- How can the process account for the largest possible array of views and priorities without jeopardizing the attainment of an agreement?
- Which actors should be included in the process along with the warring parties in order to provide the process with legitimacy and local ownership and make the resulting agreement sustainable?

- Based on the understanding of the conflict context, do the intended mediation activities run the risk to intensify or sustain tensions, or do they have the potential to bring positive change to the existing conflict dynamics?



Step 3

Adaptation and Learning

In order to adapt a mediation process and learn from it, it is important to know its impact. However, due to the near impossibility to directly link the results of a peace process to singular factors of a mediation process, it is difficult to measure impact. When a peace agreement is signed, for instance, it is hard to assess what contributed most to it: is it the overall context, the parties or the mediation team's strategy? In most cases, it will be a combination of diverse factors. Against this backdrop, the peacebuilding field has increasingly been using the 'theory of change' approach, which focuses on an impact-driven planning rather than the direct measuring of impact. By doing so, it provides an explicitly formulated explanation for the decisions that are taken. This helps to examine the causes for negative developments and allows for easier and quicker corrections than if interventions are based on improvisation. The 'theory of change' approach is not part of the original conflict sensitivity three-step-model currently applied to peacebuilding that was introduced at the beginning. However, it is relevant for a conflict sensitivity approach to mediation since it is a method which makes the various levels of intended change explicit.

Overall Objective

As a starting point, the 'theory of change' formulates the overall objective of a project, which generally makes reference to the larger context and cannot be directly

influenced by a mediation team. This point already illustrates how using the 'theory of change' approach in mediation may lead to more impact-oriented planning. A quick overview of mediation organizations and their respective goals shows that most of them aspire to peacefully resolve conflicts and contribute to a sustainable peace.¹⁰ These are very broad concepts. The more vaguely a desired impact is described, the more difficult it is to analyze it in terms of its success.

When defining an overall objective, one needs to decide first whether the focus is on the short or long term. For example, a training for conflict parties may support them in defending their interests and thus enable them to find a mutually acceptable solution to their conflict in the short run. In the longer run, however, and as soon as the impact of a mediation process is slowly waning, conflicts may erupt anew, sometimes with even higher intensity.¹¹ Insofar, it remains to be clarified what it means to peacefully solve a conflict or to achieve a sustainable peace: is it the signing of a peace agreement, the development and democratization of a country or rather a complete transformation of the conflict parties' relationships? Anderson offers one possible approach to simplify the definition of an overall objective.¹² She suggests that actors working on conflict be more moderate and focus on a small contribution that targets a very specific area. This will also facilitate the identification of potential damaging effects.

Preconditions and Activities

After having defined an overall objective, the next step contains the identification of required preconditions to achieve this objective while avoiding unintentional damage. In mediation, these preconditions mostly pertain to the conflict parties. Their internal cohesion, their motivation to negotiate, their previous and current relationships as well as the balance of power among them deserve special attention.¹³ No mediation can be successful if the parties have no intention to resolve

- 10 See <http://mediation-supportnetwork.net>.
- 11 Beardsley, K. (2008). Agreement without Peace? International Mediation and Time Inconsistency Problems. *American Journal of Political Science*, 52(4), p. 723-724.
- 12 Anderson, M. (2001). Reflecting on the Practice of Outside Assistance: Can we know what good we do? *Berghof Handbook for Conflict Transformation*, p. 18.
- 13 Bercovitch, J./ Lee, S-M. (2003). Mediating International Conflicts: Examining the Effectiveness of Directive Strategies. *The International Journal of Peace Studies*, 8(1).

their conflict and to respect the agreement signed.¹⁴ As a next step and in order to allow for the preconditions to develop, concrete activities are developed, that the mediation team can directly influence. These are predominantly related to the design of the strategy and the form of the process.¹⁵

Implicit Assumptions

Besides the definition of an overall objective, required preconditions and respective activities, the ‘theory of change’ also spells out the implicit assumptions made. It thus sheds light on the assumed correlations between activities, preconditions and the overall objectives. For example, it is widely assumed that elections as an activity create democratically legitimate governments, which is seen as a precondition that will contribute to the overall objective of sustainable peace. However, this assumption should be met with caution given numerous recent examples (e.g. Afghanistan, Egypt, Iraq) in which political actors have interpreted elections as ‘winner takes it all’ processes and taken them as justification for their authoritarian style of governing.

The ‘theory of change’ needs to be developed and made explicit at the outset of a mediation. Assumptions in terms of how the process and context interact – apart from the concrete actions themselves – can only be critically challenged and adjusted once objectives and the expected interrelations of preconditions and activities have been clearly formulated. This is the only way one can learn from past and ongoing processes. The reflections presented here also illustrate why conflict sensitive project management is best understood as a cycle: measuring results starts with planning.

¹⁴ This point is closely related to the theory of ripeness (see Step 1), which emphasizes the theory’s significance for the initial analysis.

¹⁵ Lanz, D./ Siegfried, M. (2012). Mediation Process Matrix. Bern: swisspeace.

In order for a mediation process to be conflict sensitive, a mediation team should, based on the conflict analysis (Step 1) and the interaction analysis (Step 2), assess the following exemplary questions:

At the outset:

- Is there a clearly formulated ‘theory of change’ on which the intervention is based?
- What are the overall objectives, what preconditions are required to achieve them and what activities will bring about these preconditions?
- What are implicit assumptions and have they been made explicit?
- What elements present a potential for damage and what preventive actions could help to mitigate them?

During (and after) a mediation process:

- Are activities continuously evaluated regarding their potential for doing harm?
 - Have the desired changes materialized?
 - What lessons can be derived from the experiences made?
 - Are the formulated assumptions critically assessed and adjusted on a regular basis?
 - In case an objective has not been met, what changes to activities or underlying assumptions need to be made in order for the objective to be met?
-

Conflict sensitivity is a fundamental principle for a conscious and responsible way of working. It should thus be applied to all peacebuilding fields. However, it is still in its infancy in the practice of mediation, with many practitioners remaining under the misbelief that mediation will inevitably yield positive results.

Despite the best intentions, there is a prevalent risk that mediation might further exacerbate a conflict or that it might fail to resolve it most effectively. Therefore, the principles of conflict sensitivity should be systematically applied also to the mediation field. Doing so should include all steps ranging from the analysis of the context over the implementation to adaptation and continuous learning. This would allow for the systematic evaluation of progress made, which in turn lends itself to making targeted adjustments. This helps practitioners derive lessons from the past and feed them back into future interventions.

The approach of a conscious decision-making process is far from being the silver bullet that guarantees success. Rather, it is a first step towards the recognition of certain challenges and risks that come with any mediation activity. To induce this sort of change, mediators need to start by acknowledging that their interventions can cause damage. Furthermore, they need to recognize where exactly and how this is the case, and how they can most effectively mitigate these effects. However, this requires an environment and a culture of mediation that does not sweep failures under the carpet but takes them as an opportunity to learn from the past.

This plead notwithstanding, mediation in highly escalated international conflicts should not be submitted to overly rigid standards that may severely limit and hinder the required flexibility in quickly changing conflict contexts. The peculiarity of each process already asks for a degree of creativity and

freedom of action. Nevertheless, it has become apparent that acting in today's complex and politically volatile environments can only be effective with a consciously chosen and conflict sensitive approach.

About the Authors

Sara Hellmüller holds a first MA in International Relations from the Graduate Institute of International Studies in Geneva and a second MA in Law and Diplomacy from the Fletcher School at Tufts University in Boston. She has a PhD in Political Science from the University of Basel. Her doctoral research focused on how the interaction between local and international peacebuilding actors in DR Congo influences the effectiveness of their programs. In 2013, she was a visiting scholar at the Saltzman Institute of War and Peace Studies at Columbia University in New York and an affiliate doctoral student at the University of Bunia, in Ituri (DR Congo). She has interned with United Nations Development Program in eastern DR Congo, the Swiss Embassy in Abuja and with local NGOs in Mongolia and South Africa. Sara joined swisspeace in December 2009. She works as a program officer in the Mediation Program and is the swisspeace research coordinator.

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About swisspeace

swisspeace is an action-oriented peace research institute with headquarters in Bern, Switzerland. It aims to prevent the outbreak of violent conflicts and to enable sustainable conflict transformation.

swisspeace sees itself as a center of excellence and an information platform in the areas of conflict analysis and peacebuilding. We conduct research on the causes of war and violent conflict, develop tools for early recognition of tensions, and formulate conflict mitigation and peacebuilding strategies. swisspeace contributes to information exchange and networking on current issues of peace and security policy through its analyses and reports as well as meetings and conferences.

swisspeace was founded in 1988 as the “Swiss Peace Foundation” with the goal of promoting independent peace research in Switzerland. Today swisspeace engages about 40 staff members. Its most important clients include the Swiss Federal Department of Foreign Affairs (FDFA) and the Swiss National Science Foundation. Its activities are further assisted by contributions from its Support Association. The supreme swisspeace body is the Foundation Council, which is comprised of representatives from politics, science, and the government.

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