Part I

Ethical Stakes of Mediation Practices

2

Historical Contribution to the Ethical and Methodological Principles of Mediation

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I. INTRODUCTION

IN THE FINAL quarter of the twentieth century, the figure of the mediator as a professional that plays a role in conflict management and intervention emerges. In his introduction, Faget (2005) emphasises the broad definition of mediation in the field of political conflicts and its close relationship to the ethics of mediation.

This issue of the variety of models of action for mediation, and of ethical and methodological principles, occurs in all fields of mediation. The typologies that classify the role of the mediator as *facilitator*, *interventionist* (negotiator, formulator) or *expert* (therapist for the family mediators (Roberts, 1988), evaluator for commercial mediators or manipulator for political mediators (Slim, 2007)) are noteworthy. In this last model, the *expert mediator*, regardless of his field of intervention, focuses on the agreement to be reached with great risk of instrumentalisation, while the *facilitative mediator* is oriented towards the process and emphasises communication between the 'parties to the conflict'[1] more than the result to be obtained.

Is it possible, within this diversity of models and practices of mediation in different contexts, to establish ethical principles and deontological common rules?

There is a European tradition of mediation of political conflicts that is firmly rooted in history, which defines the ethical principles of a mediation practice that is similar to the meaning of the definition proposed in the introduction to this book: 'a consensual process of conflict regulation in

[1] According to the terminology used by Duss-von Werdt, J, *Einführung in Mediation* (Heidelberg, Carl-Auer Verlag, 2007).

which an impartial, independent third party without any decision-making power help people or institutions to improve or set up relations through exchanges and, as far as possible, to solve their conflicts'.

This chapter will consider the figure of the mediator in European history (I) and the links that can be established presently with the ethical stance of the mediator (II). Across the centuries, European political history has been replete with wars, the handling of which has happily culminated in the form of treaties. These treaties, in turn, have had a tremendous impact, as they have been the source of nations' legislation, a topic that been widely studied in the work of Lesaffer (2004). But what is of most interest to us here is not so much their impact but the *process* of their gestation, and specifically the advance work of mediators in reaching their conclusion.

II. THE FIGURE OF THE MEDIATOR IN HISTORY

This short historical overview of the figure of the mediator will be mainly based on the work of Professor Duss-von Werdt (2005), one of the rare authors with Murray and Lacey (2008), to our knowledge, who has conducted in-depth research on the written sources of the European history of mediation.

(a) On the Traces of the Homo Mediator

According to Duss-von Werdt, mediation in Europe can be documented back 2600 years, with the first hard copies of the action of Solon, 'mediator and archon',[2] in the sixth century BC. Admittedly, such research can lead to a-historical considerations, since the author is not a historian but rather a mediator and a philosopher, and the sources are insufficient to explain all. Therefore, his line of work is to seek 'the spirit of mediation' and show how a *homo mediator* develops. He is committed to emphasising a constant: they are always human beings who are called on to work, whether or not they have a personal interest, encouraging dialogue between human beings, sometimes successfully. The continuous development of a concept that would lead to improvement of mediation cannot be identified. However, it can be shown that in European history there is a practice that, for twenty-first century mediators, allows one to become aware that the current deontological standards have already been applied for over two millennia.

[2] Aristotle in 'State of Athenians' in Athens.

In this study we will be analysing two chapters in history that have left us with documentary evidence written by direct witnesses of the work that took place in the lead up to peace treaties. The first of these was the Treaty of Münster and Osnabrück (1648) which marked the end of the Thirty Years' War, which was sparked off in 1618 as a result of a 'local' dispute in Prague (the Kingdom of Bohemia) between the Catholic king and the Protestant princes and then mushroomed into a Europe-wide war. And the second treaty, though not quite as significant as the first, was the Treaty of Ryswick (1697) which put an end to the Grand Alliance war involving England, Spain, the Holy Roman Empire and the United Provinces, also known as the Nine Years' War.

Before going into the methods used to put these treaties together, it is necessary to make a few observations on their scope and subsequent impact. First, we need to start by looking at the massive complexity of the underlying causes that spark off wars. A broad-ranging study (Holsti, 1991) shows that in many cases the reasons, or 'issues' as he calls them, are not fully considered in the treaty agreements and therefore the original conflict is not properly resolved, breaking out again at a later date. Holsti says that we need to go beyond the question 'Why war?' and ask ourselves 'What are they fighting about or over'. The explanation then becomes teleological: wars occur not 'because of' but 'in order to'. He therefore believes that if the end objectives being sought by the war are not achieved, they will emerge once again.

In his study, Holsti analyses wars between 1648 and 1989, obviously including the two wars that led to the treaties we will be looking at later on, and he concluded that in most cases peace treaties only achieve the objective of ending the war (armistice) and do not envisage any possible future conflicts. To quote him: '(peace treaties) provide a pause until the next round of war', and he finishes his work by stating quite categorically: 'peace then becomes the father of war'. While respecting his conclusions, and accepting the limitations of peace treaties, this gives us no reason to underestimate the work that goes into their preparation and the role of the mediators who, as we know, are not responsible for the content of these agreements which is incumbent upon the parties who sign them.

Having put forward these considerations, we will now take a look at how mediators intervene in the process of reaching agreements that lead to peace treaties. On 24 October 1648, the treaties of Münster and Osnabrück marked an end to the Thirty Years' War. This was the first time that the relations between the states with regard to the absolute sovereignty of each state were defined (the principle of non-interference). After extensive preparations, this peace, which was known as the Peace of Westphalia, inaugurated a new era; that of the balance of powers and the coexistence of several Christian faiths. It was also the time of emergence of the Nation States with their corollary, the principle of national sovereignty.

(i) Alvise Contarini and Fabio Chigi, Mediators of the Peace of Münster

The modalities of success of this treaty were remarkable: this peace was concluded thanks to mediation rather than on the battle field by the triumph of one party and the defeat of the other. The negotiations were conducted for several years (1643–48) by two mediators, the nuncio Fabio Chigi (1599–1667, the future Alexander VII), a cardinal mediator designated by the Pope and the ambassador Alvise Contarini (1601–84), designated by the Republic of Venice. The former was to conciliate the Catholic powers, the latter to manage the United Provinces, Sweden and the German Protestant princes. Contarini, who worked on this conflict from 1636,[3] settled in Münster in 1643, where he remained for six years. The nuncio Chigi was only named later—although he also arrived in Münster in 1643—because the French remained strongly opposed to the idea of mediation and were wary of the mediators proposed by the Pope. Contarini succeeded in negotiating the ongoing presence of Chigi in Münster. If Contarini received his instructions from the Venetian Senate in 1643, 'interposition and mediation to facilitate and remedy the difficulties arising that could be opposed to the conclusion of peace' (Duss-von Werdt, 2005: 272), Chigi only received his instructions in 1644.[4] His mission was not clearly defined. He was to encourage the Catholic interests and could not negotiate with the 'heretic' Protestant princes, although he himself was assigned to negotiate a 'European *pax universalis*'. Chigi received the following specific instructions:

— To maintain an even temper (*indifferentia*) towards the parties in order to never lose their confidence.
— To avoid proposing solutions to the parties.
— To maintain secrecy about what one party said, except about that which he was authorised to communicate to the other party to support peace (at the time of the shuttle mediation).
— Not to agree to arbitrate, either on his own behalf or in the name of the Pope, in order not to renounce the idea that His Holiness is the Father of all.
— To seek the peace of religions, the good of each Catholic prince, and fight together against the common enemy, the Turks.
— To overcome difficulties with patience and forbearance.
— To propose that the weapons be laid down in order to better negotiate

[3] The Pope and the Republic of Venice attempted mediation from 1636 and proposed that a peace conference be held in Cologne; this did not take place due to lack of agreement by the parties to the conflict. The structure was nevertheless maintained, and Contarini worked on it until the conclusion of peace in 1648.

[4] In fact, Rome initially gave this instruction about mediation to its legate (Cardinal Ginetti) to prepare the Cologne conference in 1636.

The working method of the two mediators can be summarised as follows:

Shuttle Mediation

It was usual that the mediator would meet the parties to communicate the negotiation offers of the other party. It is believed that Contarini held over 800 individual interviews with this method.

Diplomatic Communication

Contarini, a career ambassador, was an experienced negotiator. He held talks between 'four eyes' in his residence in order to advise the parties on negotiation tactics. Chigi worked skilfully in his role of negotiator with regard to specific issues and his mission of mediator, in which he maintained a distance from representation of the political interests of the Church.

Co-Mediation

Contarini and Chigi worked together a great deal, shuttling between the parties to the conflict. They followed the same rules, particularly that of showing complete impartiality. They never accepted gifts, nor invited the parties to their table. Nevertheless, since both of them were Italian, they were regularly subject to judgement by France, which reproached them for failing to oppose Spain. As a result, they made proposals to overcome the rivalries (for example, in 1645 Contarini proposed that the future Louis XIV and the Spanish Infanta should marry).[5]

Contarini was about to abandon his role on several occasions. However, he always maintained the will to be a mediator of peace. Finally, he was very proud of his work and reported that these 12 years of pre-mediation and mediation were a 'singular period in the world'. Indeed, it can be said that since the Peace of Westphalia, 'the principle of mediation for peace by one or more third parties not involved in the conflict can be valued ... as a European standard' (Duss-von Werdt, 2005: 43). Chigi had received a mission of mediation, which he considered incompatible with the arbitration that the parties wished him to endorse. Like Contarini, he found it difficult to work in a climate of mistrust, intrigues and diplomatic falsification, and to follow his principles when the parties continuously attempted to instrumentalise the mediators.

With Duss-von Werdt we can conclude retrospectively that these two mediators succeeded in developing political mediation by establishing new

[5] Peace between France and Spain was not concluded until 10 years later, in 1658, and the marriage between Louis XIV and the Spanish Infanta in 1660 sealed the peace.

requirements between the states and the faiths. These developments are still valid today and take on new dimensions of interculturality with regard to the need to regulate common life and activities on the local as well as the global level, while negotiating the diversity of traditions and cultures.

(ii) Abraham de Wicquefort—A Theoretician of Practice

We will continue this journey with a Dutch seventeenth-century author, Abraham de Wicquefort (1606–82) who theorised about the practice of the mediators of his time in his posthumous work, *L'Ambassadeur et ses fonctions* (1686). Diplomat and 'trainer' of diplomats, he worked primarily at the service of France, where he lived for over 30 years. His highly rigorous relationship with the authorities led him to be sent to prison on several occasions. Nevertheless, he was a successful posthumous writer. His work was written in ancient French, republished several times and translated into German.

This book includes a chapter entitled 'On Mediation and Ambassador Mediators'. This contribution to the practice and theory of mediation included many examples from the fifteenth to the seventeenth century. The value of his writing lies in development of a specific theory about the activity of mediation and evaluation of the practice of this theory. He refers particularly to the peace treaty of Westphalia. As a Brandenburg diplomat in France, it is likely that he witnessed the treaty. His work comprises specific examples of the difficulties encountered at the time of the peace of Münster and proposes an extensive reflection on mediation. It contains deontological elements that are used regularly by present-day mediators. In this respect, it represents the first handbook for mediators. Therefore, it seems to us to be particularly interesting to reproduce lengthy excerpts that, after more than 300 years, are still highly topical for contemporary mediators, regardless of the type of conflict they must deal with. Quotations from the original text of the main rules of mediation are shown below.

The Absence of Power of the Mediator

> Power is not required by the Mediator at all, and these two ministers had none of it. The word Mediator expresses the function quite well: it consists strictly of intervention in the situation to bring together the parties that have become distant.
>
> The position of Mediator is one of the most difficult that the Ambassador must hold: and Mediation is one of his most tiresome tasks. The Prince that he represents must be disinterested, and his Minister should lack passion, which is neither effortless nor very common (...) That is why one must be extremely cautious in offering to intervene, and adjust one's behaviour so that there can be no suspicion of bias in any way.
>
> He should gain the confidence of the parties, so that that they discover their true sentiments.

> The instruction ... [given] ... recommends moderation and patience.
>
> It can be truthfully said that it is not the Mediators that make the treaties: it is the goodwill of the parties that allows them to be concluded.

The Independence of the Mediator

> The Princes did not always accept the proposed mediation (...) the real reason was that the Emperor did not wish to have a Mediator between himself and the Protestant Princes, since he considered them to be subjects.
>
> The Minister Mediator should be as disinterested as the Prince that assigns him this task (...) In fact, the Mediators had great difficulty in Münster, with little success, and even less honor. Their intentions were good, but they encountered animosity from all sides, which the strongest reasons in the world were unable to temper (...) they were considered as suspects by some and unpleasant by others.
>
> He should not arbitrate nor allow the matter to be undertaken by the Pope as, instead of a Mediator, he would become a judge.

The Impartiality of the Mediator

> And in fact, it was only the Papal nuncio, who received all the written statements, proposals, responses and replies, and kept them in his home: it was he that communicated them to the parties, and signed only the replies.
>
> He should maintain secrecy, and only communicate to one of the parties that which the other party wishes.
>
> If the Mediators are required by one of the parties to make a proposal to the other party, they must not hesitate, although it may be misinterpreted. (...) The Office of the Mediator obliged them to report promptly to one of the parties the proposal that the other party had instructed them.
>
> The Mediators (...) told them that they were not able to judge the content of the proposals. That the duty of the mediation allowed them only to report faithfully what was said, not to judge the fairness or righteousness of the proposals, or make proposals in order to facilitate conclusion of the treaty, as this would exceed the power of their mission.
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> [The instruction ... given] recommended first and above all, indifference, [so] that no partiality would be seen in his conduct, and no meaning would be attached to the words and actions of the servants.

(iii) François de Callières—French Diplomat

Almost 40 years after the Münster Treaty, the Ryswick Treaty was signed (1697) and hence the end of the war known as the War of the League of Augsburg. A direct witness of the preparation process of that treaty was the French diplomat and cabinet secretary to King Louis XIV, François de

Callières (1645–1717). As a result of his experience with this treaty, he left an invaluable work that also has merit today: *De la manière de négocier avec les souverains* (de Caillères, 1716).

In this work, he describes in meticulous detail the method of dealing with a prince, taking into account both political and personal factors. Issues as specific as 'the natural pride inherent in their status as princes' can be translated in the present day to mediation between two parties between which there is an obvious imbalance of power. The ethical stance of the mediator in these situations is a complex one, and has given rise to many doctrinal discussions on the limits of mediation. De Callières is illuminating on this point, although in a different historical context, but one which can be seen today in nations with different degrees of power.

Meanwhile, the process that leads to obtaining a satisfactory treaty is a laborious one, and requires meticulous preparation, the result of which is its efficacy—in other words, that it endures. However obvious this may seem, it is important to state the following:

> It is impossible for a treaty to exist unless it is based on reciprocal benefits; and when this maxim is not fulfilled, these agreements will not endure and will end up self-destructing. Thus the big secret… entails knowing how to find the means to allow benefits to be shared and, given these circumstances, to try to increase them at an equal rate for both parties.
>
> (de Caillères, 1716: 90)

From this we can extrapolate a maxim that is a factor in present-day mediation: focusing more on the process, 'letting common interests prosper' than worrying too much about the end result. And from the two authors mentioned above, whose words we have used as an example though others could be found in the details of the treaties, we take the leap into the present day.

(b) Lessons to be Learnt from History?

Called on to handle an international conflict, dealing with many states, kingdoms, principalities and paramilitary organisations, the mediators worked for five years without departing from certain standards of action, namely:

— To maintain impartiality (impartial neutrality).
— To refuse to be used by the parties and not assume any role other than that of mediator—not to become an arbitrator.
— To not be involved in the conflict, nor to have any course of action other than accompanying the parties in finding a peace agreement.
— To gain the trust of the parties by ensuring confidentiality.
— To never make proposals and to report the proposals made by either of the parties without judging them.

— To be without power, to handle the in-between position to attempt to bring together the parties that have become distant.
— To believe in the good faith of the parties in order to reach an agreement.

As a result of this, at the time of the Hague Peace Conference in 1907, a declaration in favour of just mediation in order to prevent wars was drafted within the framework of the Convention for the Pacific Settlement of International Disputes. This Convention provided a whole part dedicated entirely to good offices and mediation:

> [I]n case of serious disagreement or dispute, before an appeal to arms, the Contracting Powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly Powers (....) The part of the mediator consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the States at variance.[6]

In connection with this Convention, Nicolas Politis, in his article entitled 'The Future of Mediation' (1910) estimated that for mediation to be successful, it was necessary above all for the mediator to gain the confidence of the two parties and the recognition of his impartiality and wisdom. The author considered that such qualities were so rare that in most cases it was not possible to find a mediator.

III. THE ETHICAL POSTURE OF THE MEDIATOR

Is this figure of the wise and impartial mediator impossible to find nowadays? Other fields of mediation such as family, commercial or civil mediation, which have consolidated over the past decades, are supported by ethical principles that are not much different from those described above. While drawing a historical parallel, we will reconsider the three ethical subjects dealt with in the first chapter 'The Metamorphosis of Peacemaking' that should play a central role in any mediation: independence, impartiality and the lack of decision-making power of the mediator (often described as the principle of neutrality in many deontological codes) and set these against some present-day mediation situations in political conflicts.

(a) The Independence of the Mediator

We saw that the choice of mediators for Münster was crucial and was the object of extensive negotiations. What occurs at present in political mediation? Who are the mediators? What sort of independence do the mediators

[6] Permanent Court of Arbitration, 1907 Convention for the Pacific Settlement of International Disputes, arts 2 and 4.

claim? How can they guarantee such independence if they have financial or political ties to a state that has geostrategic interests at stake in the area of conflict? Quite often, even the mediating NGOs impose a Western model. As mentioned ironically, we have evolved from the figure of the missionary that arrived, settled and learned the local language to the mediator that arrives, leaves and only speaks English.[7]

The mediator or team of mediators should guarantee sufficient autonomy to the parties in order to be able to intervene, as mediators, in the process of conflict management. The potential transformation of the conflict will be greater if the mediator is independent and freely accepted by all parties, outside any political pressure. The independence of the mediator means that he should not have any direct or indirect interest in the controversy and the financing for his activity should respect his autonomy of action. An obvious example is the community or citizens' mediation involved in disputes between neighbours, a service provided by a town council or public administration. The community mediator maintains his independence in managing the dispute, although he is paid by the public administration which evidently has an interest in resolving the conflict.

The question of independence is crucial for the mediator. The more his mission depends on powerful institutions (such as the public ministry for a penal mediator), the more the mediator will have to ensure that he will be above any partisan interests and not accept instructions from anyone. The mediator should be free to examine any relevant issue without seeking approval of governmental or international bodies.

Chigi and Contarini took years to gain the acceptance of the parties, although in some cases they remained wary until the end. However, while refusing to abandon their role as mediators, and not seeking to arbitrate the conflict, they maintained their independence in spite of their proximity to the Roman Catholic Church, which was a major actor of the conflict. Their only aim was that the parties would conclude a peace agreement on their own, in spite of the extremely complex nature of this political and religious conflict that kept Europe in blood and fire for 30 years.

This ethical principle of independence guides active mediators in all fields of mediation. Could it not be adopted nowadays by political mediators, regardless of their model of intervention and the complexity of the conflict considered?

(b) The Impartiality of the Mediator

To arrive at a peaceful and negotiated solution, the mediator should guarantee that his role will be that of an impartial third party. This impartiality

[7] This is mentioned by Faget in his chapter quoting Dag Hareide.

will allow him to gain the confidence of the parties and ensure his legitimacy. Our experience shows that the mediator is in danger, and with him the process of mediation, when the parties involve him in the conflict. In this case, the mediator is 'jointly responsible' for the conflict and, as a result, the process itself becomes distorted. The dynamic is lost and the risk of failure increases. Although it is difficult to remain outside the conflict, the mediator should always maintain his posture of a non-involved third party. He must resist, on the one hand, being part of the conflict, and on the other, judging it.

In order to achieve this, the mediator should preserve the confidentiality of the process. Confidentiality is a key element in the processes carried out by mediators of civil or criminal conflicts. The information obtained in mediation is confidential and cannot be used except by express agreement of the parties. The mediator is bound to secrecy with regard to third parties. He should not testify nor summon to testify before a legal body, or report to the governing institution. He should inform the parties of the limits of confidentiality, whether ethical or legal.

Nowadays, in the case of mediation in major business conflicts where confidential information is at stake (know-how, technology, patents, etc) that could put the actual continuity of companies at risk, it would be unthinkable for this mediation not to be based on the strict principle of confidentiality. This is exactly the same model as that described by de Wicquefort, which emphasises the absence of initiative and power of the mediator (often referred to by modern mediators as neutrality) as well as the confidentiality guaranteed to the parties.

In many political conflicts, peace talks are given a very prominent role in the media with enormous stakes in communication. Would political mediators not achieve a better result by maintaining the media at a distance and keeping strict confidentiality about the processes they carry out?

Slim (2007: 27) proposes balancing the principles of confidentiality and transparency. He recommends distinguishing between the general information about the process and the work of the mediator. Any information that is made available to the parties by the mediator should obtain the explicit consent of each of the parties involved, unless it is in the interests of the peace process. Lastly, the mediator, because of his duty of independence, should be free to establish contacts with all organisations or states that are likely to support the current peace process, while maintaining his duty of confidentiality.

In modern political conflicts, a link can be established between the figure of the mediator and his popularity. The more the political mediator bases his action on his personal notoriety, the more he will be tempted to value his role publicly and to make proposals to achieve the success of his mission quickly.[8] Organisations such as the Centre for Humanitarian Dialogue, on

[8] We think particularly of the role of mediator played in 2008 by the President of the European Union in the Georgian conflict.

the other hand, base their effectiveness on the absolute secrecy of the peace processes they direct, and even refuse to reveal the conflicts they are dealing with. They only report them when the peace agreement has been signed. Should a good mediator not be modest and humble regardless of his notoriety since, as recalled by de Wicquefort, 'in fact, the Mediators had great difficulty in Münster, with little success, and even less honor'? Should not the only role of the mediator be mediation?

(c) The Lack of Power of the Mediator

The question of the power of the mediator arises particularly depending on the model chosen and the status of the mediator. However, self-determination is an essential principle of mediation that is based on the capacity of the parties to conclude a voluntary arrangement without constraints, within the framework of the mediation process.

The experience of many mediators—regardless of their model of intervention and the complexity and gravity of the conflict they are dealing with—shows that the parties often wait for the mediator to resolve the conflict by providing the solution. Therefore, beginning the process of legitimisation from the posture of an expert and interventionist, as believed by the parties, is not ethically incompatible, if this leads to initiate the process of mediation and subsequently this legitimisation is transformed into the role of facilitator as the process develops. The mediator, as an expert in the process and without expertise in the contents of the agreements to be reached, will be very directive at the beginning of mediation. He will not negotiate the structure of his intervention, which he will impose on the parties especially if they consider the conflict cannot be resolved. At the same time, the lack of willingness decreases the involvement of the parties significantly, not only in development of the dialogue of mediation, but in that the future agreement will lack the guarantees required for fulfilment.

It may occur that even the willingness of the parties participating in a mediation process cannot be considered, due to a situation in which there is no protection of human rights, or in dictatorial states where intervention by a third party is limited or politicised. This is part of the mediator's ethical responsibility to plan his role, and decide whether if he must persist or desist with regard to the feasibility of the mediation, if his intervention may also be counterproductive.

The parties to the conflict should accept their responsibility and obligation to deal with the conflict, since it is theirs. The mediator is there to help them do so by facilitating dialogue. However, he cannot and should not take on a prominent role. An excess of support has a negative effect on assuming responsibility for the conflict, as well as the possible final agreement.

Finally, we would like to emphasise the power of the mediator in terms of directing the process, and not taking responsibility for the contents of the agreement, which corresponds solely to the parties. A peace process managed within the framework of mediation should aim to reach an agreement that is acceptable for all the parties to the conflict, without the mediator imposing his solution by force or constraint.

If we consider the conditions of the conclusion of the Treaty of Westphalia and the words of de Wicquefort: 'It can be truthfully said that it is not the Mediators that make the treaties: it is the goodwill of the parties that allows them to be concluded' can we not say they seem to be remarkably modern, regardless of the field of action of the mediator of conflicts and his model of intervention?

IV. CONCLUSION

Over 300 years ago, Chigi and Contarini, as mediators of the peace of Münster, developed a model of mediation that offers an appropriate response to current challenges. The work of de Wicquefort has left us a testimony of this, and other authors, such as de Callières, have added complementary elements. Admittedly, like many present-day political mediators, Chigi, as nephew of the Pope and future Pope, was a powerful mediator. However, in spite of his prestigious stature, he had to continuously ensure his legitimacy—particularly with regard to the French, who sought to use him in their conflict with Spain. As papal legate, he refused to arbitrate the conflicts between the Catholic powers. The sole objective of these two mediators was for the parties themselves to arrive at a peaceful resolution without resorting to coercion. They maintained a rigorous ethical stance of independence, impartial neutrality and absence of power to impose solutions. They believed that an agreement can only be reached as a result of the 'willingness of the parties'.

The ethical standards developed by de Wicquefort and used by the mediators Chigi and Contarini are still of interest for many twenty-first century mediators. These rules can be found in the deontological codes or European reference texts followed by most mediators of conflicts.[9] Ethical principles such as impartiality, confidentiality, independence and the lack of power of the mediator, which are the key elements of any mediation and are required to ensure successful development of a mediation process, are weak in many political 'mediation' processes. We might ask why the mediators of modern political conflicts could not also refer to this model of action developed by

[9] We are thinking particularly of the recommendations of the Council of Europe on family mediation (Rec 98(1)); mediation in criminal matters (Rec 99(19)) and civil matters (Rec 2002(10).

two of their counterparts, with regard to a conflict whose scale, difficulty and duration have few equivalents in the modern day world, in order to give a true chance to mediation.

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