Introduction

On Mediation

Historical, Legal, Anthropological and International Perspectives on Alternative Modes of Conflict Regulation

Karl Härter, Carolin Hillemanns and Günther Schlee

Following the basic design of the International Max Planck Research School on Retaliation, Mediation and Punishment (REMEP),[1] the approach of this volume is to explore concepts and modes of mediation and related practices of conflict regulation such as arbitration in current, historical and international settings, with particular emphasis on the interdependence of judicial procedures, punishment and retaliation.[2] Current developments and research in the disciplines of the humanities, and especially law, testify to a growing interest in mediation.[3] Mediation is commonly defined as a non-violent, cost-saving mode of negotiating, regulating or settling conflicts and disputes between two or more actors using the help of a third party as mediator who, in contrast to an adjudicator, has no authority to pass final judgement.[4] Studies on mediation have been numerous and focused on practices and techniques of mediation, their efficiency, the training and qualification of mediators, questions of costs, challenges and shortcomings.[5] However, conventional normative and social theories often conceptualize mediation as a mode of extrajudicial alternative dispute resolution.[6] As a result, they undervalue its complex relationship with retaliation and punishment, which are interrelated and complementary concepts and logics that also seek to establish, negotiate, maintain and regain social order, peace and (human) security at different levels and in various settings.[7] This volume strives to fill this gap and to shed light on these complex relationships through an interdisciplinary approach that includes historical, legal, anthropological and international perspectives.

Mediation and related practices of third party conflict regulation are used in a variety of conflict-related scenarios, including social and economic disputes, in

ON MEDIATION: Historical, Legal, Anthropological and International Perspectives
Edited by Karl Härter, Carolin Hillemanns and Günther Schlee
https://www.berghahnbooks.com/title/HarterOn

the context of diverging normative orders, violence and crime or in international conflicts.[8] Thus, they are often embedded in plural normative orders and judicial hybridity, approached in this volume on different levels from historical, legal, anthropological and international angles.[9] Especially in these constellations, mediation and related practices of conflict regulation can influence or even challenge retaliation, punishment or formal legal procedures, and vice versa.[10] From the early modern period up to the present, authorities or legal systems have therefore attempted to regulate mediation and arbitration procedures by law or other control instruments. Since (private) parties do not only resort to mediation, but can also use negotiation, arbitration or the legal system to regulate conflicts, they are able to manoeuvre within or among these repertoires, especially in plural normative settings or conditions of legal hybridity or cultural diversity.[11]

The settings in which mediation and other forms of conflict regulation take place range from central political/judicial authorities, states, global governance institutions and transnational organizations to non-governmental, regional actors, ethnic or religious communities, kinship groups and local, diaspora, expatriate or migrant groups.[12] Within this broad field, a specific aim is to analyse the role and function of mediation with regard to the interdependences, overlaps, tensions and collisions between local societies characterized by the absence of a central political authority or areas of limited governance on the one hand – in particular studied from an anthropological perspective in the case studies of the second section of this volume – and, on the other hand, states and other central authorities which are manifested at local, regional and national as well as trans- and international levels, as presented in the third section. In combining historical, legal, anthropological and international perspectives, the volume shows that mediation and arbitration on local, national and transnational levels are undergoing a reconfiguration and challenging traditional concepts of conflict regulation as well as the respective normative orders and legal systems. Such current developments are also routed in specific historical settings, studied in the chapters by Karl Härter, Pia Letto-Vanamo and Jakob Zollmann. The modern state did not only abolish modes of 'private' mediation and arbitration, but also regulated or partly integrated them into the various legal systems. In this respect, the legal systems of modern states still produce hybridity, collisions or complementarities, as the anthropological case studies in Section II and the chapter by Hubert Rottleuthner on the privatization of the criminal justice system also demonstrate. This concerns large-scale conflicts and international security, studied in the section on mediation and arbitration in international arenas, as well as exchanges of violence or conflicts related to cultural diversity.

As a consequence, the chapters in this volume explore mediation in the context of institutional and normative hybridity as well as plural normative configurations, often conceptualized or manifest as state-based or non-state normative orders and modes of conflict regulation.[13] Local or customary law, religious law,

ON MEDIATION: Historical, Legal, Anthropological and International Perspectives
Edited by Karl Härter, Carolin Hillemanns and Günther Schlee
https://www.berghahnbooks.com/title/HarterOn

private or criminal law or supranational norms are reference points, as are diplomacy and political considerations. Although traditionally considered as 'alternative' private dispute resolution, mediation, analysed in the context of normative hybridity, verifies (as a general result of this volume) the interplay, conjunctions, overlaps, collisions or blurred boundaries between extrajudicial and judicial conflict resolution and the ways in which conflicts and disputes are addressed within, beyond, across or even independently from state legal orders and institutions.[14]

This allows the contributors to this volume to explore the variety of actors that have resorted to mediation and arbitration or acted as mediators and arbitrators in different historical, legal, social, political or transnational settings, and to examine and compare the different roles and functions of various 'third parties'. All chapters provide an analysis of how these actors manoeuvre in the complex web of informal and formal procedures, practices of mediation and other modes of conflict regulation. They illuminate forms of communication, languages employed, logics and techniques of mediation and conflict regulation as well as analyse questions of access, the social construction (or labelling) of conflict parties, and the strategies for inclusion and exclusion in situations of conflict.

A relevant example constitutes the interrelation between private, non-governmental mediators/arbitrators and formal legal systems/institutions, studied in particular in the chapters of the first and second sections by analysing historical and current developments as well as through anthropological case studies. These examples also demonstrate the ambiguous function of mediation within formal/legal procedure, manifested, for instance, in victim–offender mediation, out-of-court settlements, various attempts to legally regulate mediation, and transitional or restorative justice and related reconciliation processes. Hence, the chapters in this volume examine the complex interplay between mediation and other modes or institutions of conflict regulation, notably with regard to their function and capability to regulate, solve or reconcile disputes (particularly in settings of cultural diversity) and to provide actors with different options to manage conflicts.

This is related to the problem – also addressed in several chapters of this volume – of whether and how mediation and other practices establish or construct 'the truth' and an adequate sense of justice, and whether and how they produce acceptable, viable and sustainable results concerning the regulation of conflicts, the resolution of disputes and reconciliation after violence, or whether they induce other modes and logics of conflict regulation. This leads back to a comparison of the capacity of mediation to establish social order, peace and security with the interrelated and complementary concepts of retaliation and punishment. Hence, in this collected volume, external experts from different disciplines as well as members of the International Max Planck Research School on Retaliation, Mediation and Punishment present basic theoretical and empirical approaches, recent research and case studies in current as well as in historical, in local as well as in international settings, with a focus on the interdependences and

ON MEDIATION: Historical, Legal, Anthropological and International Perspectives
Edited by Karl Härter, Carolin Hillemanns and Günther Schlee
https://www.berghahnbooks.com/title/HarterOn

interrelations to other judicial and extrajudicial practices of conflict regulation. Reflecting on the variety of disciplines and approaches, the chapters are organized in three sections.

Mediation, Arbitration and the Criminal Justice System: Historical and Current Developments

Current studies usually conceptualize mediation as the prime mode of alternative dispute resolution, clearly separated from other practices (such as arbitration) and the judiciary of the state. However, as the chapters in the first section demonstrate, historical perspectives on the development of the criminal justice system in Europe reveal a different picture. Not only were mediation, arbitration and other modes of conflict regulation closely intertwined with formal procedures, but current criminal justice systems are still characterized by the participation of private actors and practices of mediation and arbitration.

In the first chapter on 'Infrajudicial Modes of Conflict Regulation through Negotiation, Mediation and Arbitration in Early Modern European Criminal Justice', Karl Härter gives a historical overview of the various modes of conflict regulation related to deviant behaviour and crime, such as arbitration, mediation, negotiation, supplicating, intercession, petitioning, pardon and criminal asylum, which were closely intertwined with the criminal justice system in early modern (continental) Europe. These internal and external practices are conceptualized as 'infrajudicial' modes of conflict regulation, since the pre-modern state had not yet established a monopoly on the use of force and justice. They were used by different actors and 'infrajudicial agents' to negotiate and mediate compensation, agreements, reconciliation, support, grace and pardon. In this regard, 'infrajudicial' conflict regulation provided alternatives to formal criminal procedure and adjudication, substituted to some extent lacking legal remedies, made possible the flexibilization of public punishment and served to prevent retaliatory violence as well as to mediate compensation. However, this was not independent from the criminal justice system that gradually incorporated and controlled negotiation, mediation and arbitration, which, as a result, obtained 'public' purposes and helped to maintain social control and social order. It could therefore be concluded that, on the one hand, these early modern practices of infrajudicial conflict regulation offered similar functions to 'mediation' and related practices in modern societies. On the other hand, the historical analysis shows comparable limits and ambivalences, also mapped out in other chapters of this volume: negotiation, mediation and arbitration could fail to produce a permanent resolution of conflicts or to establish the 'truth' of a crime, and, to some extent, they were characterized by arbitrariness, legal uncertainty and social inequalities.

The chapter on adjudication and forms of mediation in the history of conflict resolution in the Nordic countries consolidates and exemplifies the general

ON MEDIATION: Historical, Legal, Anthropological and International Perspectives
Edited by Karl Härter, Carolin Hillemanns and Günther Schlee
https://www.berghahnbooks.com/title/HarterOn

historical developments observed in the first chapter. In her case study on 'Mediation as Non-modern Element in Conflict Resolution in the Nordic Countries', Pia Letto-Vanamo demonstrates that modern alternative conflict resolution is rooted in long-lasting historical settings that reach back to the late Middle Ages. The pre-modern legal system of Sweden and Finland was characterized by a hybrid mixture of local communities and the state, of 'old' consensual, negotiated law and 'new' authoritative law. Hence, the actual practices and procedures in the local assemblies as the main arenas of conflict regulation in various matters (land, violence, manslaughter) were characterized by formal modes, but also by the participation of 'private' parties and representatives of the *ting* community. They were elected by the community and/or proposed by the parties and performed different functions as jurors, assayers, oath-helpers, truth-seekers, arbitrators or mediators, who negotiated solutions that could range from economic redress and private compensation to harsh punishment. The participation of such 'third party' actors and private parties in a formal procedure that was based on traditional and authoritative law created a communitarian and consensual nature of conflict resolution and substantiated legitimacy and acceptance. In the long term, these historical experiences shaped the relation between the judiciary and a 'mediation system' in the Nordic countries that is still considered as complementary, rather than as antagonistic competition. Hence, it should be stressed as a general result of this chapter that mediation and other modes of 'infrajudicial' conflict regulation, which are based on the participation of parties and non-state actors, not only complement formal procedures but could be integrated into the judiciary.

As Hubert Rottleuthner in his study on 'Mediation, Extrajudicial Conflict Regulation and the Privatization of the Criminal Justice System' demonstrates, recent developments in Germany seem to partially confirm the conclusions of the former chapter. However, the German mediation law does not extend to criminal justice, although 'private agents' are participating in various roles in proceedings, of which some could be characterized as rudimentary forms of 'mediation', in particular 'victim–offender mediation' and the regulation through arbitrators. Beyond that, the chapter presents various practices of 'private' actors dealing with criminal issues and related conflicts, often in order to avoid criminal justice: churches, companies, sports arbitration courts, 'honour courts' of the military, craftsmen and other professions as well as recently the so-called Muslim 'parallel justice' are negotiating, mediating and arbitrating religious, cultural, social and honour conflicts and deviant behaviour. In particular, cultural diversity and honour conflict not only seem to intensify extrajudicial 'private' dispute resolution but they also influence the criminal justice system, for instance through the acceptance of religious norms and cultural defence. Rottleuthner concludes that the various modes of extra- and infrajudicial conflict regulation, on the one hand, provide advantages of private, mutually agreed settlements of criminal conflicts and help to maintain social order, but, on the other hand, can be interpreted as a

ON MEDIATION: Historical, Legal, Anthropological and International Perspectives
Edited by Karl Härter, Carolin Hillemanns and Günther Schlee
https://www.berghahnbooks.com/title/HarterOn

privatization of criminal justice. The latter threatens the state monopoly of power and the rule of law, since mediation and other 'secret' practices of extrajudicial conflict regulation are violating the principles of publicity and legality.

As the chapters in this section have already shown, the historical development and the current situation can be characterized as an ongoing struggle to establish a balanced relation between mediation, arbitration and other modes of extrajudicial conflict regulation and the criminal justice system, through autonomy, complementarity, integration and juridification. Moreover, these current developments are not only deeply rooted in the history of mediation, arbitration and other modes of conflict regulation, but they also show structural similarities to agents, procedures and fundamental issues analysed in the chapters in the following sections.

Mediation: Anthropological Perspectives and Case Studies

The expectation that anthropologists might only deal with the small scale and the local is not confirmed by the four contributions in this section. They all have a global dimension, be it a comparison across continents or the interaction of institutions and forms of human interaction connecting different scales from the local to the national, the transnational and the global.

In the chapter 'What Is Mediation? Definitions and Anthropological Discomforts', Andrea Nicolas analyses concepts and models of mediation, a field increasingly systematized, professionalized and dogmatized. She contests the universal claims with which European and North American models come along and contrasts these with her own ethnographic experience from Ethiopia, which does not fit these models and concepts. She also digs deep into another regional example, the Ifugao of the Philippines. Here she shows how the misfit between Ifugao forms of conflict regulation and scholarly models is explained away by temporalizing the anthropological findings. They are said to represent an earlier and less differentiated form of mediation and therefore do not diminish the validity of the models claimed to be universal.

Stefanie Bognitz in her chapter on 'Mediation in Circumstances of the Existential: Dispute and Justice in Rwanda' shows how tightly mediation is interwoven with the state and state-administered adjudication in Rwanda. She pursues this close interconnection both in the symbolic dimension (like the role of the national colours in the clothing worn by mediators) as well as in the analysis of procedure. As mediation has become an obligatory step before access to state courts is granted, proactively written documentation, rules of evidence inspired by what can be observed in court, and state law in general are taken into account in forms of mediation that derive parts of their legitimacy from the claim to 'tradition'. Her account links a case history described in rich detail with a complex account of such institutional extensions and interconnections.

ON MEDIATION: Historical, Legal, Anthropological and International Perspectives
Edited by Karl Härter, Carolin Hillemanns and Günther Schlee
https://www.berghahnbooks.com/title/HarterOn

Günther Schlee, in his discussion of 'Mediation and Truth', explores the logic of mediation in different settings, from plea bargaining in the administration of penal law in Western countries to African politics. Contrary to the idea of 'Truth and Reconciliation', the economy of negotiation (effort in relation to outcome) often seems to favour short-lived successes in making peace at the expense of the recognition of historical facts. Moreover, deals are elite driven and also at the expense of ordinary people, including the victims of earlier elite-driven mass violence. Like the other contributions to this section, this one bridges the gap between micro and macro, involving not only local but also global actors such as the International Criminal Court at The Hague.

In her chapter 'Crossing the Boundaries of Mediation', with a focus on Indonesia and West Sumatra (Minangkabau) in particular, Keebet von Benda-Beckmann describes mediation and statehood in interaction. This interaction may take the form of state personnel with the implicit threat of use of state power silencing claims against state justice in mediation processes, or, taking us further through Indonesian political history, people with experience in administration using improvements in communication to participate as mediators in local settings and to strengthen local institutions. She also describes miscommunication and the failure of imported models ('US mediation'). Needless to say, in its focus on the relationship between state, state personnel and 'tradition', this chapter resonates with the one by Bognitz, and the critique of imported models resonates with Nicolas' critique of universalist claims.

Mediation and Arbitration in International Arenas

This section offers three contributions, which analyse mediation and arbitration practices in different historical periods and on different scales, making it apparent that the boundaries between these interrelated conflict resolution modes are blurred and less clear-cut than one might expect.

In his chapter 'Interstate Mediation and Arbitration: Concepts, Cases, and Actors of Third Party Dispute Resolution (Seventeenth to Nineteenth Century)', Jakob Zollmann sketches the practice of third party dispute resolution between states during the seventeenth and nineteenth centuries with a focus on what was at the time interchangeably called arbitration and mediation. Zollmann observes that even though the modes of both conflict regulation practices were historically connected and blurred, noteworthy differences became increasingly visible. Mediation was rather perceived as diplomatic manoeuvring. In contrast, arbitration – that is, the issuing of a binding arbitral award by a third party to which the disputing states had previously submitted their conflict – he claims, was hailed as the progressive means to achieving sustainable peace between civilized nations; the peace movement had successfully pushed for an increasing juridification of the conflict settlement process. He then identifies conditions under which states

ON MEDIATION: Historical, Legal, Anthropological and International Perspectives
Edited by Karl Härter, Carolin Hillemanns and Günther Schlee
https://www.berghahnbooks.com/title/HarterOn

tended to resort to arbitration rather than to negotiation, mediation or military force. In so doing, he addresses one of the core questions of international relations, as do Nathan Danneman and Kyle Beardsley. In their chapter, 'International Mediation and the Problem of Insincere Bargaining', the authors look at intrastate conflict resolution processes and observe that parties to such a conflict often use negotiation as a stalling tactic in order to improve, for instance, their armed conflict capabilities and/or to resolve it. They argue that mediators can use leverage – threats or uses of retaliation and punishment – to enhance the possibility that the conflict parties negotiate in good faith. Evidence supportive of this hypothesis is explored empirically using cross-national data on intrastate disputes, including civil wars, from 1944 to 1999. Danneman and Beardsley claim that third parties who are geographically proximate and major powers – characteristics of third parties that are both willing and capable to enforce good faith bargaining – greatly improve the likelihood that a mediation initiative will achieve an agreement. This finding is consistent with Zollmann's observation, according to which primarily those states with a direct political interest in the dispute undertook mediation of interstate disputes during the eighteenth and nineteenth centuries.

Pierre d'Argent provides the third and last chapter of this section with a contribution on 'The International Court of Justice and Mediation'. He focuses on the International Court of Justice (ICJ), the principal judicial organ of the United Nations. D'Argent discerns some mediating effects of the court in international relations even though he contends that neither the contentious jurisdiction of the court nor its advisory jurisdiction has much to do with the institution of mediation as traditionally understood in international relations and law. He makes out an appeasing and conciliatory effect of the judicial procedure he sketches, despite being by nature contentious and adversarial. The author shows that choosing adjudication from the menu of available peaceful means for the settlement of international disputes never entirely excludes mediation from a substantive point of view; the separation between adjudication and mediation is even nowadays less clear-cut and more blurred than those categories suggest when they are idealized as distinct processes, and separately envisaged.

The volume ends with a brief conclusion that addresses the different scales involved in our topic, the different logics of action and the interaction between different modes of conflict regulation. Readers who want more guidance can read our conclusions before proceeding to the single chapters, while those who want to come to their own conclusions are invited to read the chapters first and then to compare their conclusions with ours.

Karl Härter is Professor, Research Group Leader and Senior Research Scientist at the Max Planck Institute for European Legal History in Frankfurt/Main. He is a member of the International Max Planck Research School on Retaliation, Medi-

ON MEDIATION: Historical, Legal, Anthropological and International Perspectives
Edited by Karl Härter, Carolin Hillemanns and Günther Schlee
https://www.berghahnbooks.com/title/HarterOn

ation and Punishment, the Association for Constitutional History, the Commission for Hessian History and other academic and historical institutions.

Carolin Hillemanns is scientific coordinator at the Max Planck Institute for the Study of Crime, Security and Law (formerly Max Planck Institute for Foreign and International Criminal Law). She is a trained mediator. She has given presentations and conducted research in the fields of corporate social responsibility, international criminal law and policy, transitional justice, international human and victims' rights law, institutional law of the European Communities, democracy and federalism, globalization, and German constitutional law.

Günther Schlee is one of the Founding Directors of the Max Planck Institute for Social Anthropology in Halle, Germany. His main publications include *Identities on the Move: Clanship and Pastoralism in Northern Kenya* (Manchester University Press, 1989) and *How Enemies Are Made: Towards a Theory of Ethnic and Religious Conflict* (Berghahn Books, 2008).

Notes

1. We thank the Max Planck Society for the generous funding of the REMEP programme over a period of twelve years and the Fritz Thyssen Foundation for generously supporting the project that resulted in this publication.
2. See Schlee and Turner (2008), Turner and Schlee (2017).
3. For an overview of the research on mediation, cf. Kressel and Pruitt (1989), Busch and Mayer (2012), Menkel-Meadow, Love and Kupfer Schneider ([2006] 2013).
4. For a comprehensive definition and an overview of the ongoing debate on how to define mediation, see Menkel-Meadow, Love and Kupfer Schneider ([2006] 2013), Hopt and Steffek (2013).
5. As an example, cf. Boulle (2011), Ade and Alexander (2017), Friedman and Himmelstein (2008), Menkel-Meadow ([2001] 2018).
6. See Goldberg et al. ([1985] 2012).
7. This refers to the basic concept of REMEP as outlined in Kohlhagen and IMPRS REMEP (2015).
8. For a comprehensive overview of the wide variety of disputes in which mediation and other forms of alternative dispute settlement are used, cf. Kressel and Pruitt (1989), Baruch Bush and Folger (2004), Goldberg et al. ([1985] 2012).
9. For a basic outline of these concepts, cf. Benda-Beckmann and Benda-Beckmann (2006), Schiff Berman (2012), Kötter et al. (2015), Duve (2017); on the various modes of dispute resolution and 'hybrid dispute resolution processes', see Goldberg et al. ([1985] 2012: 1–4).
10. On the complex relation of mediation and law/justice, see, for example, Zenk (2008), Goldberg et al. ([1985] 2012: 505–10).
11. On the concept of 'diversity and law' and the importance of mediation, arbitration and alternative modes of conflict regulation, see Foblets, Gaudreault-DesBiens and Renteln (2010), Ertl and Kruijtzer (2017); various examples and cases can be found in Goldberg et al. ([1985] 2012).

ON MEDIATION: Historical, Legal, Anthropological and International Perspectives
Edited by Karl Härter, Carolin Hillemanns and Günther Schlee
https://www.berghahnbooks.com/title/HarterOn

12. On the various actors in mediation processes and conflict regulation, cf. Menkel-Meadow, Love and Kupfer Schneider ([2006] 2013), Hopt and Steffek (2013), Kötter et al. (2015).
13. For this approach and the basic concepts, see, for example, Benda-Beckmann and Benda-Beckmann (2006), Benda-Beckmann (2009), Kötter et al. (2015), Duve (2017).
14. The various settings are exemplarily explored by Zekoll, Bälz and Amelung (2014), Wolfrum and Gätzschmann (2013), Goldberg et al. ([1985] 2012), Kötter et al. (2015), Wright and Galaway (1989), Rössner (2006).

References

Ade, J., and N. Alexander. 2017. *Mediation und Recht: Eine praxisnahe Darstellung der Mediation und ihrer rechtlichen Grundlagen*, 3rd edn. Frankfurt am Main: Wolfgang Metzner Verlag.

Baruch Bush, R.A., and J.P. Folger. 2004. *The Promise of Mediation: The Transformative Approach to Conflict*, 2nd ed. San Francisco: Jossey-Bass Publishers.

Benda-Beckmann, F. von. 2009. 'Gefangen im Rechtspluralismus: Zum Umgang mit Normkollisionen in rechtlich pluralen sozialen Räumen', in M. Kötter and G.F. Schuppert (eds), *Normative Pluralität ordnen: Rechtsbegriffe, Normenkollisionen und Rule of Law in Kontexten dies- und jenseits des Staates*. Baden-Baden: Nomos, pp. 169–89.

Benda-Beckmann, F. von, and K. von Benda-Beckmann (eds). 2006. 'Dynamics of Plural Legal Orders', *Journal of Legal Pluralism and Unofficial Law 53/54 (Special issue).*

Boulle, L. 2011. *Mediation: Principles, Processes, Practice*, 3rd edn. Chatswood, NSW: LexisNexis Butterworths.

Busch, D., and C.H. Mayer (eds). 2012. *Mediation erforschen: Fragen – Forschungsmethoden – Ziele*. Wiesbaden: VS Verl. für Sozialwiss.

Duve, T. 2017. 'Was ist "Multinormativität"? Einführende Bemerkungen', *Rechtsgeschichte – Legal History* 25: 88–101.

Ertl, T., and G. Kruijtzer (eds). 2017. *Law Addressing Diversity: Pre-Modern Europe and India in Comparison (12th to 18th Centuries)*. Berlin: De Gruyter Oldenbourg.

Foblets, M.-C., J.-F. Gaudreault-DesBiens and A.D. Renteln (eds). 2010. *Cultural Diversity and the Law: State Responses from around the World*. Brussels: Bruylant.

Friedman, G., and J. Himmelstein. 2008. *Challenging Conflict: Mediation through Understanding*. Chicago: ABA Publishing.

Goldberg, S.B., F.E.A. Sander, N.H. Rogers and S.R. Cole. [1985] 2012. *Dispute Resolution: Negotiation, Mediation, Arbitration, and Other Processes*, 6th edn. New York: Wolters Kluwer Law & Business.

Hopt, K.J., and F. Steffek (eds). 2013. *Mediation: Principles and Regulation in Comparative Perspective*. Oxford: Oxford University Press.

Kohlhagen, D., and IMPRS REMEP (eds). 2015. *REMEP – Retaliation, Mediation and Punishment: Research Agenda and Projects*. Halle (Saale): Max Planck Institute for Social Anthropology.

Kötter, M., T.J. Röder, G.F. Schuppert and R. Wolfrum (eds). 2015. *Non-State Justice Institutions and the Law: Decision-Making at the Interface of Tradition, Religion and the State*. Basingstoke: Palgrave Macmillan.

Kressel, K., and D.G. Pruitt (eds). 1989. *Mediation Research: The Process and Effectiveness of Third-Party Intervention*. San Francisco: Jossey-Bass.

Menkel-Meadow, C. (ed.). [2001] 2018. *Mediation. Theory, Policy and Practice*. London: Routledge.

ON MEDIATION: Historical, Legal, Anthropological and International Perspectives
Edited by Karl Härter, Carolin Hillemanns and Günther Schlee
https://www.berghahnbooks.com/title/HarterOn

Menkel-Meadow, C., L.P. Love and A. Kupfer Schneider (eds). [2006] 2013. *Mediation: Practice, Policy, and Ethics*, 2nd edn. New York: Wolters Kluwer Law & Business.

Rössner, D. 2006. 'Konfliktregelung im Strafrecht', in J. Hengstl and U. Sick (eds), *Recht gestern und heute: Festschrift zum 85. Geburtstag von Richard Haase*. Wiesbaden: Harrassowitz, pp. 319–31.

Schiff Berman, P. 2012. *Global Legal Pluralism: A Jurisprudence of Law beyond Borders*. Cambridge: Cambridge University Press.

Schlee, G., and B. Turner (eds). 2008. *Vergeltung: Eine interdisziplinäre Betrachtung der Rechtfertigung und Regulation von Gewalt*. Frankfurt am Main: Campus.

Turner, B., and G. Schlee (eds). 2017. *On Retaliation: Towards an Interdisciplinary Understanding of a Basic Human Condition*. New York: Berghahn Books.

Wolfrum, R., and I. Gätzschmann (eds). 2013. *International Dispute Settlement: Room for Innovations?* Berlin: Springer.

Wright, M., and B. Galaway (eds). 1989. *Mediation and Criminal Justice: Victims, Offenders and Community*. London: Sage.

Zekoll, J., M. Bälz and I. Amelung. 2014. *Formalisation and Flexibilisation in Dispute Resolution*. Leiden: Brill.

Zenk, K. 2008. *Mediation im Rahmen des Rechts: Eine Herausforderung für die Justiz*. Baden-Baden: Nomos.

ON MEDIATION: Historical, Legal, Anthropological and International Perspectives
Edited by Karl Härter, Carolin Hillemanns and Günther Schlee
https://www.berghahnbooks.com/title/HarterOn