

Report on Mediation Research in the Nordic Countries, May 2018¹

1. Introduction

Sixteen Nordic mediation researchers from eight universities in Denmark, Finland, Norway and Sweden met in three workshops in 2016-2017 to explore the state of Nordic Mediation Research in all fields except international peace mediation. The workshops were funded by NOS-HS The joint committee for Nordic Research Councils in the humanities and social sciences.

After providing a brief overview of mediation in the Nordic countries, the report outlines a summary of the result of the researchers' discussions regarding the state of the art of mediation research in the region and points to areas, where research is especially needed in the future.

1. Mediation in the Nordic Countries

Modern-day mediation dates to the early 1980s in Finland, Norway and Sweden and to the 1990s in Denmark. The ideology of contemporary mediation in the Nordic countries is often attributed to Nils Christie and his ideas of conflict and conflict resolution presented in *Conflict as Property* from 1977. His main idea is that conflict should be resolved by those involved or affected by it rather than by the judicial system. Additionally, mediation in the Nordic countries is inspired by the development in other countries, in general, and influenced by U.S. mediation efforts, scholars and practitioners, in particular.

Mediation exists in all of the Nordic countries. However, the level of activity varies. There is only minimal activity in Iceland. In Sweden, there is some activity but mediation has not quite caught on as a common conflict resolution practice. Both Norway and Finland seem to be moving towards a conflict resolution culture with mediation as a natural component. Denmark is somewhere in-between.

Mediation is offered by private providers as well as by public institutions but is most prevalent in public and highly institutionalised settings. For example, the judiciary in Denmark, Finland and Norway uses mediation as an alternative to litigation in civil cases. Similarly, many family disputes are resolved in mediation or mediation-like settings. In Norway, for example, parties must go to mediation prior to filing a lawsuit. Victim-offender mediation is a widespread practice in all countries except Iceland. In Sweden, victim-offender mediation is in place for young people under the age of 21 and, in Finland, regional mediation offices offer mediation all over the country. In the private sector, workplace mediation is on the rise and mediation is increasingly – albeit still only modestly – used to resolve commercial matters. In Denmark, for instance, attorney-mediators offer mediation services in commercial disputes along with two arbitration institutes. Mediation of consumer disputes is an area of emerging mediation practices. Consumers have traditionally had access to cheap and relatively informal and fast dispute resolution mechanisms in all Nordic countries and now mediation, too.

¹ This text is in part based on Anna Nylund, Kaijus Ervasti and Lin Adrian (2018) *Introduction to Nordic Mediation Research* in Anna Nylund, Kaijus Ervasti and Lin Adrian, eds. Nordic Mediation Research, Springer Open, p. 1-5.

2 Nordic Mediation Research – current state

Mediation research is a rather new field of research in the Nordic countries. It has emerged in step with the emergence of mediation practices and this has taken place in the last 10 years in particular. However, already today mediation research constitutes an established field of inquiry with contributions from several academic disciplines (e.g. law, psychology, history and anthropology).

The distribution of researchers and research seems to reflect the uneven distribution of practice in the Nordic countries: Most research is conducted Denmark, Finland and Norway, and only very little in Sweden and Iceland. In general, mediation research has not been coordinated cross-border unlike what we see in some other academic disciplines. In addition, the research is not particularly interdisciplinary and much of the research is published in the researchers' national languages only.

The empirical focus of the research reflects the proliferation of mediation in highly institutionalised settings and the strong connection between the justice systems and mediation. Much research focuses on some aspect of court-connected civil or family mediation, victim-offender mediation, and pre-action voluntary or mandatory family/child custody mediation. The methodologies reflect this empirical focus. Much of the research is derived from legal analysis, but at the same time we see an emergence of mediation studies using qualitative and quantitative data and studies that combine legal analysis with sociological approaches. Mediation is a field of inquiry that draws on many academic disciplines and we see this reflected in the theoretical approaches to studying mediation. Theories from a variety of disciplines are indeed used in the Nordic mediation research.

3. Nordic Mediation Research – some gaps

A number of practice areas have not been covered at all or only very little in research to date. This is for instance true for work place and organizational mediation, community mediation, business mediation, consumer mediation, school mediation, and mediation in the public sector and in the public administrative in particular. Hence, mediation is practiced every day without the benefits of research into the systems that the mediation activities are embedded in and research into the fabric of the mediations themselves.

There is a need to expand the focus of inquiry on the micro, meso and macro levels alike. Many questions remain concerning what works in mediation, what are adequate models, what are the long-term effects of mediation, what is appropriate regulation of practice, what is the role of gender and ethnicity in mediation, how does mediation and judicial systems effect each other, how is information technology integrated in mediation etc. etc.

Nordic mediation research has been primarily applied research with limited focus on theory development. This is a significant gap as theory often is contextual and we need to both test existing theory and develop new theory in the area. In addition, there is a need for more critical research.

Concerning methodology, we have limited quantitative research. The current emerging trend of combining methods in mediation research is a strength in a multidisciplinary field like mediation. Nordic mediation research would benefit from continuing this methodological development and it could be a unique contribution to international mediation research.

On behalf of all the researchers

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