**Democracy and Deep-Rooted
Conflict: Options for Negotiators**

Democracy and Deep-Rooted Conflict: Options for Negotiators

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Handbook Series 3. The International IDEA Handbook Series aims to present information on a range of democratic institutions, procedures and issues in an easy-to-use handbook format. Handbooks are primarily aimed at policy-makers and practitioners in the field.

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Preface

Most of today's violent conflicts are not the wars between contending states of former years, but take place within existing states. Many are inextricably bound up with concepts of identity, nation and nationalism, and many stem from the competition for resources, recognition and power. While these conflicts may appear very differently from place to place, they often have, at their base, similar issues of unmet needs, and of the necessity to accommodate the interests of majorities and minorities alike.

Despite the many excellent studies on how to build peace in divided societies, there remains a dearth of practical advice for policy-makers on how to design and implement democratic levers that can make peace endure. Conflict is a normal part of any healthy society, but a great deal of attention has been focused in recent years on how to prevent conflict, and less on finding peaceful methods of conflict management. In particular, there needs to be more attention given to the type of political choices that those negotiating an end to a period of violent conflict have to make to rebuild their country, and how they can build an enduring *democracy* – the only sustainable form of government – from the ashes of conflict.

This handbook attempts to meet this need by providing negotiators and policy-makers with detailed information on options for building democracy in post-conflict societies. We have brought together international experts, both academics and practitioners, in many fields – from negotiation techniques to power-sharing formulas, from questions of federalism and autonomy to electoral systems and parliaments – to provide practical, policy-relevant advice. The handbook draws on the experience of peace settlements and democracy building from places such as Bosnia, Fiji, Northern Ireland and South Africa to illustrate the many, often unrecognized, options that negotiators can draw upon when attempting to build a nascent democracy.

International IDEA was created in 1995 with precisely this objective – to make available practical instruments for building
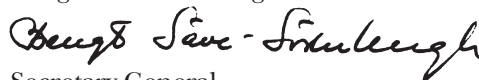
sustainable democracy so as to enhance the prospects for democracy's growth world-wide. We strongly believe that the way democratic procedures and institutions are developed and implemented can play a much more important role in post-conflict peace building than has been the case to date. This handbook has therefore been written and presented so as to ensure maximum accessibility for busy policy-makers.

Many good people have contributed to this handbook. We are grateful to all of them, but particularly to David Storey for his early conceptual input, to David Bloomfield, who was the lead writer on a number of chapters, to Tim Sisk for his many excellent suggestions for improving the text, and to Salma Hasan Ali and the publication team at IDEA, who turned the raw material into a usable publication.

My greatest thanks, however, must go to the two IDEA staff members, Mr Peter Harris and Dr Ben Reilly, who developed, and edited the handbook from its inception. Between them, they have produced a publication which we hope will be of great utility in the coming years, when the challenge of building sustainable democracy has never been more pressing.

We are very much aware of the huge scope of a subject like democracy and deep-rooted conflict, and would welcome your comments, ideas and suggestions on any aspects of the handbook.

Bengt Säve-Söderbergh

Secretary-General
International IDEA

Foreword

The United Nations exists, among other reasons, for the fundamental purpose of maintaining peace and security in the world. One of its main activities, therefore, is the resolution of conflicts – a task which has become more complex in recent times when many conflicts take the form of internal factional and civil strife, though often with very serious external repercussions.

This has obliged the international community to develop new instruments of conflict resolution, many of which relate to the electoral process and, more generally, to the entrenchment of a democratic culture in war-torn societies, with a view to making peace sustainable. This handbook lists an impressive range of such instruments, based on lessons learned from recent experience in the field.

The United Nations system as a whole is focusing on avoiding relapse into violence, especially in intra-state conflicts, by establishing the foundations of a lasting peace. That focus is admirably reflected in this handbook. It shows that building stable and solid internal political structures is not a separate task from crisis management, but needs to be part of it; and it proposes an array of practical resources for those of us engaged in the search for comprehensive and lasting settlements in specific conflicts. Competing forces have to be brought to discuss their differences within a legal and administrative framework, and to seek solutions based on systems of rules which derive their legitimacy from the will of the people, and from universal principles of human dignity. That in turn requires the creation of institutions built to last.

Happily, there is a growing trend throughout the world towards democratization and respect of human rights. Some 120 countries now hold generally free and fair elections, and a large number of internal conflicts end with a negotiated peace which includes an electoral process aimed at building political structures acceptable to all. The parties themselves agree to deliver a sustainable peaceful settlement through a democratic transition.

Democratic principles provide the essential starting point for implementation of such settlements, which usually involve not

only democratizing the state but also giving more power to civil society. Once political actors accept the need for peaceful management of deep-rooted conflicts, democratic systems of government can help them develop habits of compromise, co-operation and consensus building. These are not abstract statements, but practical conclusions drawn from UN experiences of conflict resolution in the field. This handbook, which presents systematically the lessons learned by the UN and other organizations, constitutes an invaluable addition to the literature on conflict prevention, management and resolution.

Kofi A. Annan

Secretary-General
United Nations

Table of Contents

CASE STUDIES

Menus, Factsheets, Boxes, Graphs and Maps

Overview

The nature of violent conflict in the world has changed in recent decades, both in its actual subject-matter and in the form of its expression. One of the most dramatic changes has been the trend away from traditional *inter-state* conflict (that is, a war between sovereign states) and towards *intra-state* conflict (that is, one which takes place between factions within an existing state). Whereas most violent conflicts over the course of the twentieth century have been *between* states, in the 1990s almost all major conflicts around the world have taken place *within* states. Between 1989 and 1996, for example, 95 of the 101 armed conflicts identified around the world were such internal disputes. Most of these conflicts were propelled, at least in part, by quests for self-determination or adequate recognition of communal identity rather than by ideology or the conquest of territory. This represents a major shift in the manifestation of human conflict, especially compared to the world wars and major inter-state conflicts fought over the course of this century.

By comparison, our methods of managing such intra-state conflicts have evolved much more slowly. Peaceful management of domestic conflicts needs approaches which recognize the importance of building sustainable *internal* political structures, rather than those designed and implemented primarily by external actors. This means that issues about the internal political organization of a state are of much greater importance in managing conflicts today than in the past, and accordingly there is now a greater focus than ever on the role of domestic political actors engaged in a deep-rooted conflict. Traditional approaches all too often fail to address the needs and interests which fuel such conflicts, resulting in attempts to impose unsuitable solutions in ad hoc and inappropriate ways. There is a tremendous need for new and better tools that will more effectively address the new context of intra-state conflict.

This handbook contains practical resources for those involved in bringing intra-state conflict out of a prolonged phase of violence and designing a feasible and sustainable model for its peaceful management. Unlike many works on the subject, it is

The question that concerns us in this handbook is: how do we get an agreement at the negotiating table that will deliver a sustainable and peaceful outcome to a violent conflict? Our answer is: by structuring both the process of the negotiations and the agreed outcomes in such a way as to maximize the prospects of democracy taking root in the post-conflict period.

not primarily concerned with the role of the international community. Rather, its focus is on what happens at the negotiating table between the parties to the conflict themselves. It offers politicians, negotiators, mediators and other political actors a range of tools and materials needed for the construction of a settlement. These can assist both in the negotiation process itself – *how* one works towards an agreement; and in the building of a settlement – *what* one reaches agreement about. It is not concerned with preventive diplomacy, conflict early warning systems, conflict prevention in the narrow sense, and so on, important though those topics are. The question that concerns us in this handbook is: how do we get an agreement at the negotiating table that will deliver a sustainable and peaceful outcome to a violent conflict? Our answer is: by structuring both the *process* of the negotiations and the agreed *outcomes* in such a way as to maximize the prospects of democracy taking root in the post-conflict period.

The Need for this Handbook

The end-game of violent conflict is perhaps the most difficult phase of transformation in a hugely difficult process. In that phase, parties need two overall aids. They need to be able to avail themselves of the most effective and appropriate dialogue process to facilitate their negotiations; and they then need to successfully negotiate a sustainable settlement by putting in place effective and appropriate democratic structures and political institutions. Our aim is to assist the users of this handbook in the difficult task of creating comprehensive and durable solutions to long-term violent conflicts. In so doing, we draw on the experience of a number of recent peace settlements in Northern Ireland, South Africa, Bougainville, Guatemala and elsewhere.

Negotiators need practical, accessible options for building a sustainable democracy.

However, this handbook does not provide any panacea. It would be ludicrous to prescribe one overall single design for use across a variety of situations, each in many ways unique. Rather than offer some universal recipe for success, or reinvent the wheel for every new situation, the handbook offers options for the construction of solutions, helping to focus attention on the core issues, providing many examples and lessons from other contexts, and in very practical ways assisting creativity in solution building. This is not an academic thesis. It is presented in readable, straightforward language, and is grounded in wide experience of real negotiation situations, the better to be of interest and practical use to the practitioner and the policy-maker.

Anyone can suggest *ideal* solutions; but only those involved can, through negotiation, discover and create the shape of a *practical* solution.

Negotiation and mediation skills and processes have been the subject of a great deal of academic study in recent years. The practicalities of these processes have also been studied in depth at inter-group, institutional and international levels. In addition, the study of democratization and democracy building, both as a concept and in its varied applications in the world, has become a major field of academic interest. This project aims uniquely to bring together all three areas, adapting the best work from each, and constantly using each related area of knowledge to shed light on the other areas. Our aim here is to synthesize them into a unified approach in the form of a practical handbook. Above all, we want to bridge the gap between the worlds of theory and of policy, using the best of the former to strengthen the latter in a practical, policy-oriented approach.

The Aims of the Handbook

The handbook will be of primary use to negotiators and politicians representing conflicting parties, but also relevant to third-party intervenors, to civil servants and policy analysts, to scholars and specialists of deeply divided societies, to journalists and advisers, and so on. It is designed specifically for use with conflicts which are, in the terminology, in the *pre-negotiation* or *negotiation* phase: that is, situations which have reached a stage where negotiation has become at least a serious possibility, if not an imminent eventuality. Put simply, the handbook aims:

– To assist parties who are in, or about to enter, the process of negotiating a political settlement following a period of violent conflict, by helping them to generate creative scenarios for progress towards an acceptable outcome.

– To provide them with a wide range of practical options, both for designing the most appropriate negotiation process for them, and for choosing the democratic structures most suited to their situation and their future. Using the resources offered in the handbook in this construction process, they can thus engineer an appropriate sequence of events, a path to progress, which will co-ordinate the difficult but vital process of peace building through democracy building.

– To assist them in developing solutions which are not only feasible, acceptable and appropriate during the conflict

Among the aims of this handbook is to provide negotiators with a wide range of practical options, both for designing the most appropriate negotiation process for them, and for choosing the democratic structures most suited to their situation and their future.

3

management phase, but which are also viable and sustainable in the long term, via appropriately designed democratic institutions which protect and strengthen human rights within the new post-conflict society.

– More generally, to provide information on the range of varied approaches to building sustainable democracy that have been used in post-conflict situations around the world, for the benefit of domestic actors and the international community alike.

How to Use the Handbook

Building peace is an immense challenge. Our aim is simply to offer support and guidance, options and examples along the way to those involved in the task.

The layout of the handbook is practically orientated. It is accepted that building peace is an immense challenge, and our aim is simply to offer support and guidance, options and examples along the way to those involved in the task. In Chapter 1, we examine the changing nature of conflict in recent decades and discuss how democratic values and institutions provide the framework for building effective and lasting settlements. The handbook then consists of four consecutive stages: analysis, process design, outcome design, and sustainability. Each stage is given a chapter.

Analysis

First, we analyse the conflict in question and reach a descriptive understanding of its issues and elements. Chapter 2 initially provides some insights on the nature of deep-rooted conflict, on various typologies of conflict, and on the process of analysing conflict. It then offers a range of analytic tools, so that readers can be assisted in making a diagnosis of their specific conflict. This involves reaching a detailed understanding of its issues, themes, actors, dynamics, history, resources, phases, and so on. The result should provide a rich and informative "snapshot" of the conflict.

Process

Once diagnosis is complete, Chapter 3 guides readers through the design of the most appropriate negotiation process to suit their situation. It offers important general considerations about designing good process, and then some specific factors to be considered in building the process most suitable to the particular conflict. It assists readers to identify and design the basic building blocks of their process, such as choice of venue, participants, agenda design, the structure and ground-rules for talks, and so on. It offers specific tools for breaking deadlock, and a menu of negotiation/facilitation techniques from which readers

can choose the most appropriate options according to their previous diagnosis, the better to construct a solid talks process best suited to their specific needs.

Outcome

Once *process* has been agreed, the next phase is to address *outcome*. Here we consider, in particular, the forms and functions of the wide range of practical democratic institutions and structures which can make up the ingredients of a high-quality outcome negotiated by means of the process designed in Chapter 3. Chapter 4 reviews the value of such structures, and the issues involved in their design. Then it offers a detailed and wide-ranging menu of the possible democratic "levers" which those engineering an outcome can consider, use and adapt. The list of options ranges from key questions about the structure of the state such as the distribution of power, forms of executives and legislatures, federalism and autonomy, electoral systems, judiciaries, etc.; to mechanisms which address specific issues or interests such as truth and reconciliation commissions, language boards, gender commissions and so on.

Sustainability

Finally, Chapter 5 looks at how to sustain the outcome in the long term, and identifies the obstacles and pitfalls that may affect the implementation of the agreement as well as the specific mechanisms that will sustain and nourish the negotiated settlement. It also offers some underlying principles for supporting the implementation phase. The role of the international community in promoting and assisting democratic settlements in post-conflict situations is also discussed and analysed from a policy perspective.

Case Studies

The handbook includes a wide range of case studies from deep-rooted conflicts around the world. These case studies offer insights into both successes and failures in peace building and democracy. All of them, both successes and failures, contain important lessons for those attempting to build an enduring settlement to their own crisis. Most of these case studies – from places ranging from Bougainville to Bosnia, and from South Africa to Northern Ireland – are classic examples of "intra-state" conflicts discussed earlier, in which a focus on negotiated outcomes based on democratic principles were key to building a lasting peace. As the case studies illustrate, building democracy in such circumstances is extremely difficult, but the alternatives to it almost inevitably mean a return to bloodshed.

Tools

Our goal is to make this handbook as accessible and easy-to-read as possible – to make it a handy instrument that negotiators and policy-makers can turn to in order to understand the range of options available to them in negotiating deep-rooted conflicts. Therefore, we include throughout the book what we refer to as "A Menu of Options", and factsheets. These are one- or two-page overviews that present the main options, issues, or lessons discussed in each section in a clear and concise manner. Also, we include at the top of each page the number and title of each main section heading so readers can situate themselves anywhere in the the book easily and quickly.

Sources and Acknowledgements

The two main sources of material for this handbook are practical examples of contemporary conflict and its management from around the world, and academic scholarship. At every point along the way, the handbook illustrates its procedures by extensive use of examples and case studies drawn from real events and situations. One reason for this is obviously to help illustrate the points the handbook is making. Perhaps more importantly, the examples offer readers the opportunity to learn from instances of past and present successes and failures, and to compare other diagnoses and designs with their own situations.

With the academic material, the handbook aims to synthesize the best in contemporary scholarship and offer it in an accessible and practical form to policy-makers. It bridges the gap between theory and policy by offering a composite of the best and most practically oriented work of theorists. The best theories are always those that inform, and are informed by, reality and practice. First and foremost, readers will bring their own expert knowledge of their conflict to the handbook; this is then complemented both by expert knowledge and analysis of other real situations, and by the best of the relevant theoretical work.

To make the handbook as immediately practical as possible to its readership we have listed all reference material at the end of each chapter. Readers can pursue their particular interests further through these many authors on whose work we have drawn. We are deeply indebted to all of them.

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1

CHAPTER

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In this first chapter we examine the changing nature of conflict – conflict that is increasingly taking place within states (intra-state) rather than between states (inter-state) and that is posing a severe challenge to traditional conflict management techniques.

**David Bloomfield
and Ben Reilly**

1.1 Characteristics of Deep-Rooted Conflict

I n recent years a new type of conflict has come increasingly to the fore: conflict that takes place within and across states, or *intra-state* conflict, in the form of civil wars, armed insurrections, violent secessionist movements and other domestic warfare. The change has been dramatic: in the last three years, for example, every major armed conflict originated at the domestic level within a state, rather than between states. Two powerful elements often combine in such conflicts. One is *identity*: the mobilization of people in communal identity groups based on race, religion, culture, language, and so on. The other is *distribution*: the means of sharing the economic, social and political resources within a society. Where perceived imbalance in distribution coincides with identity differences (where, for example, one religious group is deprived of certain resources available to others) we have the potential for conflict. It is this combination of potent identity-based factors with wider perceptions of economic and social injustice that often fuels what we call "deep-rooted conflict".

A striking characteristic of such internal conflict is its sheer persistence. And this arises, above all, because its origins often lie in deep-seated issues of identity. In this respect, the term *ethnic conflict* is often invoked. Ethnicity is a broad concept, covering a multiplicity of elements: race, culture, religion, heritage, history, language, and so on. But at bottom, these are all *identity* issues. What they fuel is termed identity-related conflict – in short, conflict over any concept around which a community of people focuses its fundamental identity and sense of itself as a group, and over which it chooses, or feels compelled, to resort to violent means to protect that identity under threat. Often, such identity-related factors combine with conflicts over the distribution of *resources* – such as territory, economic power, employment prospects, and so on. Cases where the identity and distributive issues are combined provide the opportunity for exploitation and manipulation by opportunistic leaders, and the highest potential for conflict.

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9

Increasingly this kind of conflict, rooted in ideas of human identity and often expressed with frightening intensity, is the major threat to stability and peace, whether at the individual, local and communal levels, or in the collective terms of international security. Of the 27 conflicts in 1996 classified as "major armed conflicts" (essentially, over 1000 deaths per year), for example, fully 22 had a clear identity component to them. These included conflicts in Russia (Chechnya), Northern Ireland, Iran and Iraq (with the Kurds), Israel, Afghanistan, Bangladesh (Chittagong Hill Tribes), Indonesia (East Timor), Sri Lanka, Burma, Algeria and elsewhere. Only guerrilla-based struggles in Peru, Cambodia, Guatemala, Colombia and Sierra Leone appeared to be straightforward contests for power. Even amongst these cases, there is no shortage of identity-based conflicts. In sum, the vast majority of contemporary examples of violent intra-state hostilities exhibit such characteristics.

Such conflicts are clearly very different from the more straightforward wars between states – over land, resources, political power, ideology, etc. – of earlier times. (Such wars included identity elements as well, of course, but usually not in the same centrally motivating way.) Identity-related conflict is far more complex, persistent and intractable, instantly much less amenable to compromise, negotiation or trade-off. These conflicts involve claims of group rights: national groups, gender groups, racial groups, religious groups, cultural groups, and so on. A conflict in which one's community is deprived of certain resources is bad enough; but one may hope to negotiate a better deal over those resources. A conflict that also threatens our very sense of who we are is much more difficult to manage.

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Such complex and fundamental issues, then, fuel wars that are smaller in scale than the ideological or geopolitical struggles of the past, but which flourish with much greater intensity. That is due not only to the depth of meaning invested in them by combatants, but also to the proliferation and easy availability of lethal weapons. Since World War Two, cheap, mass-produced, small-calibre weapons have killed far more people than the heavier, more traditional battlefield weaponry. With arms markets flourishing, the Armalite, the Kalashnikov and the land mine have brought war within the reach of any community with the will and the means to organize an armed force. This proliferation of small arms has exponentially increased the intensity of identity-related conflicts.

Intra-state conflict over identity tends to be persistent over the long term, alternating between latent phases and outbursts of

1.1 Characteristics of Deep-Rooted Conflict

sustained violence for periods of years or decades. The scale of human suffering is breathtaking in this new context. During World War One, just five per cent of casualties were civilians; by World War Two the figure had risen to around 50 per cent. But in the 1990s, the proportion of civilian war casualties has soared to around 80 per cent. By 1992 there were around 17 million refugees pushed by war across borders into foreign countries, and a staggering estimate of a further 20 million displaced persons rendered homeless by internal war but remaining within national boundaries (Bosnian victims of ethnic cleansing, for example). The long-term effect is to militarize the entire society: violence becomes accepted and institutionalized. Society becomes brutalized: civilian casualties multiply, rape and starvation become organized weapons of war, and non-combatants – traditionally children and women – bear the brunt of the dehumanizing processes involved in this type of conflict. Such communal trauma breeds deep and festering wounds and establishes heroes and martyrs on all sides whose memories and sacrifices serve to deepen the real and perceived divide between the conflicting identities.

1.1.1 Identity-driven, emotionally charged

What makes this kind of conflict so prevalent, so pervasive, so durable and so insoluble, is the way in which the issues of the dispute are so emotionally charged. They go right to the heart of what gives people their sense of themselves, defining a person's bond with her or his community and defining the source of satisfaction for her or his need for identity. Since such conflict is by no means restricted to the so-called developing world, an example will serve from the heart of the Western establishment. In the United Kingdom, people in Scotland debate widely among themselves about the ideal degree of autonomy from England. The argument ranges from complete independence from, to complete integration with, Britain. The political debate over these important issues is spirited; but it does not mobilize into violence.

Meanwhile, in another part of the UK, people have been dying violently for centuries over just such a question. Irish nationalists in Northern Ireland fear that under British rule they can never achieve full self-expression of their communal identity as Irish people. Their counterparts, the pro-British Unionists, fear their disappearance as an identity group if they lose the union with Britain and join an Irish republic. So while Scots argue over political control, economic resources and so on, they do not violently struggle over matters of communal identity and

What makes deep-rooted conflict so prevalent, so pervasive, so durable and so insoluble, is the way in which the issues of the dispute are so emotionaly charged.

self-expression, since the UK has apparently satisfied these needs. In Northern Ireland, the same question goes so deep – to the heart of people's fears of who they are and where they belong in the world – that they leave political debate behind and resort to violence.

1.1.2 Beyond borders

Internal as its origins may be, however, such conflict has ramifications far beyond its own geographical borders. Because of the increasingly complex interdependence among states, such conflict tends not to be confined within the boundaries of the particular state for long, if at all, but rapidly diffuses. It spills over across frontiers and enmeshes other states, or parts of states, in its grip. This process of diffusion and contagion means that low-level intra-state conflicts can potentially escalate into more intense inter-state ones.

In the interconnectedness of the modern world and the instantaneous transmission of news (the so-called "CNN effect", conflict respects few boundaries, borders or jurisdictions.

Several factors contribute to this spillover effect. Neighbouring governments will have a strong self-interest in supporting one side or another of an adjacent civil war, and their own reasons for seeing the stabilization or destabilization of the state in conflict. Quite apart from governments, population groups do not necessarily neatly reside within state borders. There may be large diaspora populations outside the state – refugee or emigrant communities, or a section of a community cut off by partition – who engage with the conflict through close identification with one side or another. Hutus and Tutsis outside Rwanda, Tamils outside Sri Lanka and Basques outside Spain are only a few among many examples. Beyond the immediate context, of course, there exist more distant states, powers or regional blocs, whose interests are directly concerned with the outcome of the conflict: for instance, the European Union's security concerns over Bosnia, US interests in Central America, Russian involvement in Georgia, and so on. Such factors immediately extend the geography of the conflict, adding to its complexity as well as its scale. In the interconnectedness of the modern world and the instantaneous transmission of news (the so-called "CNN effect"), conflict respects few boundaries, borders or jurisdictions.

When it comes to managing such conflict, its complexities cause immense difficulties. There can even be a difficulty in correctly identifying the parties to the conflict. The picture is even more confused when we factor in the external sponsors of the conflict. Sponsors, regional allies, kin states or whatever, will

usually be operating in general support of one side's agenda, while also bringing their own specific agenda and interests to the conflict. The result can be a degree of interference, which actually reduces the disputing parties' chances of resolving the conflict. With so many factions involved, both internal and external, the task of satisfying the key interests of the various actors makes a solution far more difficult to achieve. It also makes the conflict management process more prone to abuse and disruption.

1.2 New Tools for Conflict Management

Many existing conflict management tools were constructed during, and in response to, world wars and the Cold War. The narrow, containment-oriented strategies of coercion and crisis-management that prevailed during the era of superpower rivalry have been exposed as arthritic, inflexible and increasingly impotent against a wave of reinvigorated intra-state, identity-driven, deep-rooted conflicts. The Cold War froze many such deep-rooted conflicts, so that they simply went into a latent phase, invisible on the surface but with their roots as deep as ever. Cold War strategists focused on short-term stability rather than longer-term sustainability. What is needed now is a new range of flexible and adaptable instruments that can take into account the more subjective, complex and deep-rooted needs and interests that underpin identity-related conflict.

It is the aim of this handbook not to engage too deeply in the somewhat philosophical, if important, argument about overall approaches to conflict management, but to concentrate on developing the resources and the materials for doing the job by assisting the construction of settlements that properly address all the aspects of a conflict. To this end, the following chapters offer tools for designing good conflict management processes, and the basic building blocks for putting in place sustainable, durable and flexible solutions to conflict. There is a premium placed on democratic outcomes, but democracy itself is not a panacea. Democratic states suffer from conflicts just as others do, and the presence of democracy is no guarantee of a society without political violence. But – and this is a major theme of this handbook – democratic societies tend to develop the institutions, resources and flexibility, in the long term, to peacefully manage these kinds of conflict.

Today's predominant pattern of conflict is proving resistant to the available and accepted tools of conflict management.

13

THE NEW STATE OF CONFLICT: SOME FACTS

Deep-Rooted Conflict: *Conflict, originating largely within states, which combines two powerful elements: potent identity-based factors, based on differences in race, religion, culture, language and so on, with perceived imbalance in the distribution of economic, political and social resources.*

Characteristics: complex, persistent, and intractable; much less amenable to compromise, negotiation or trade-off; rapidly diffuses beyond the boundaries of the particular state.

Intra-state, not inter-state. In the last three years, every major armed conflict originated at the domestic level within a state (intra-state), rather than between states (inter-state).

Of the 101 armed conflicts during 1989-1996, only six were inter-state. The remaining 95 took place within existing states.

Identity-based. Of the 27 conflicts in 1996 classified as "major armed conflicts" (more than 1,000 dead per year), 22 had a clear identity component to them.

New weapons of war. Since World War Two, cheap, mass-produced, small-calibre weapons have killed far more people than the heavier more traditional battlefield weaponry.

Civilian casualties. During World War One, five per cent of casualties were civilian; by World War Two the figure had risen to 50 per cent. In the 1990s, the proportion of civilian casualties has soared to 80 per cent.

Refugees. By 1992, there were about 17 million refugees, and a further 20 million people who were internally displaced.

Examples. Deep-rooted conflicts include Russia (Chechnya), Northern Ireland, Iran and Iraq (with the Kurds), Israel, Afghanistan, Bangladesh (Chittagong Hill Tribes), Indonesia (East Timor), Sri Lanka, Burma, Algeria and elsewhere.

FACTSHEET 1 [P. 14]

THE NEW STATE OF CONFLICT: SOME FACTS

Rising Rate of Civilian Casualties

The percentage of civilian casualties soared from five per cent during WWI to 80 per cent during the 1990s.

Source: Ramsbotham, Oliver, and Tom Woodhouse. 1996.

- 5% — WW I
- 50% — WW II
- 80% — '90s
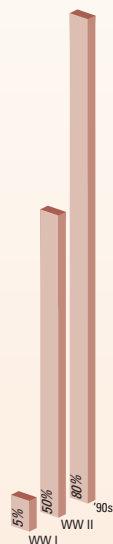
Cost of United Nations Peace-keeping Operations 1986–1997

The cost of peace-keeping has risen from less than $US 200 million to over $US 1 billion in the last ten years.

Source: Peace-keeping Financing Division /DPKO/UNHQ.

(millions of US$)

- 183.7 — '86
- 180.4 — '87
- 205.2 — '88
- 568.5 — '89
- 357.7 — '90
- 427.9 — '91
- 1,675.8 — '92
- 2,970.2 — '93
- 3,226.4 — '94
- 2,565.4 — '95
- 1,467.5 — '96
- 1,175.1 — '97
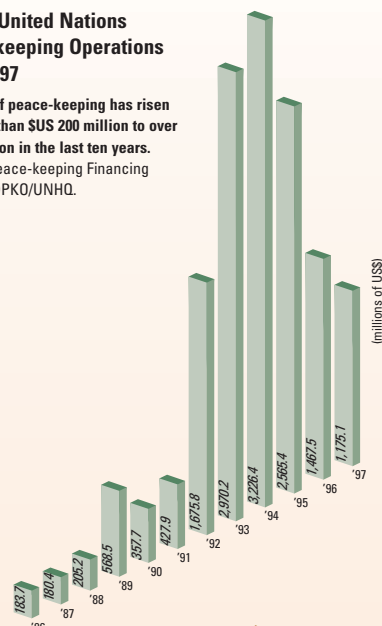
Global Refugee Population 1978–1997

The number of refugees has nearly quadrupled in the last two decades.

Source: UNHCR

Statistic at January each year. Totals do not include other groups of concern to UNHCR and Palestinians assisted by the UN Relief and Works Agency for Palestine Refugees in the Near East.

- 3,778,000 — '78
- 4,576,000 — '79
- 5,692,000 — '80
- 8,229,000 — '81
- 9,826,000 — '82
- 10,376,000 — '83
- 10,883,000 — '84
- 10,506,000 — '85
- 11,613,000 — '86
- 12,396,000 — '78
- 13,272,000 — '88
- 14,779,000 — '89
- 14,916,000 — '90
- 17,198,000 — '91
- 17,008,000 — '92
- 18,189,000 — '93
- 16,402,000 — '94
- 14,489,000 — '95
- 13,237,000 — '96
- 13,200,000 — '97
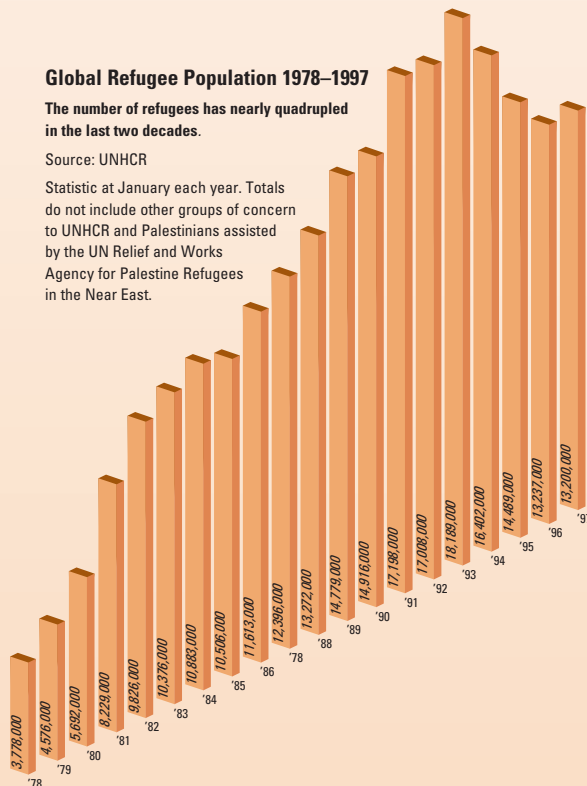
Internally Displaced Persons During the 1990s

The number of internally displaced persons (IDPs) reached 26 million in 1994.

Source: U.S. Committee for Refugees. (Figures taken from: World Refugee Statistics.)
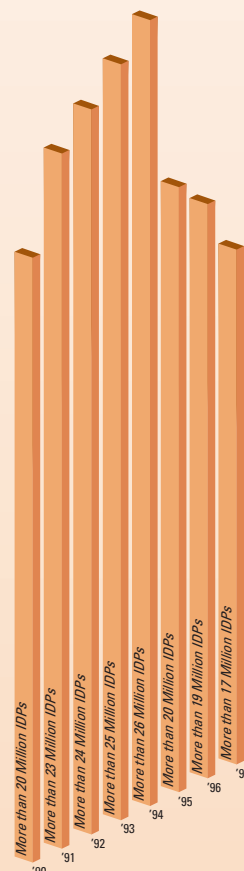
- More than 20 Million IDPs — '90
- More than 23 Million IDPs — '91
- More than 24 Million IDPs — '92
- More than 25 Million IDPs — '93
- More than 26 Million IDPs — '94
- More than 20 Million IDPs — '95
- More than 19 Million IDPs — '96
- More than 17 Million IDPs — '97

FACTSHEET 1 [P. 15]

1.3 The Importance of Democratic Institutions

Three central themes dominate this handbook. The first is the crucial role that appropriate democratic political structures play in forging an enduring settlement to an internal conflict. It is important to understand that there is no single or simple model of democracy. Those wishing to build a sustainable settlement to a conflict have often overlooked the importance of making appropriate institutional choices about systems of governance. Seldom do they have access to all the information necessary to make informed decisions about *which* institutions might best suit their particular needs. This handbook attempts to fill this gap. The choice of appropriate democratic institutions – forms of devolution or autonomy, electoral system design, legislative bodies, judicial structures, and so on – designed and developed through fair and honest negotiation processes, are vital ingredients in building an enduring and peaceful settlement to even the most intractable conflict. Conversely, the international scene is littered with post-conflict settlements that broke down in part because of inappropriate and unsustainable institutional choices for deeply divided societies. Selecting unsuitable institutions can increase the possibility of a conflict persisting or even escalating.

At Bicesse in 1991, for example, parties to the Angolan conflict built an agreement by focusing on the goal of holding democratic elections which, it was presumed, would lead to a subsequent power sharing among the parties in a coalition government. However, the Angolan constitution was unsuited to support the power-sharing government which the Bicesse process aimed to bring about, since it concentrated political power not in a broad-based and inclusive parliament but in the hands of one person – the president. With both the incumbent government of President dos Santos and guerrilla leader Jonas Savimbi competing for the office of president – the only prize worth having in the context of the Angolan Constitution – the loser had a greater incentive to opt out of the political transition and resume fighting than to stay inside the process in a powerless position. And this was precisely what happened: Savimbi expected to lose the second round of the 1992 election and the fighting immediately resumed. One of the reasons why this settlement did not last may have been the lack of a system that realistically enabled both parties to share power (although as we are seeing

Democratic structures can offer an effective means for the peaceful handling of deep-rooted conflict through inclusive, just and accountable frameworks.

at the time this publication goes to press, August 1998, it may
not have been the only reason).

Democracy, like any other political system, is not without its
flaws in this imperfect world. But in the absence of a better alter-
native, experience from around the world convinces us that de-
mocratic structures, in their myriad permutations, can offer an
effective means for the peaceful handling of deep-rooted differ-
ence through inclusive, just and accountable social frameworks.
Democratic systems of government have a degree of legitimacy,
inclusiveness, flexibility and capacity for constant adaptation
that enables deep-rooted conflicts to be managed peacefully.
Moreover, by building norms of behaviour of negotiation, com-
promise, and co-operation amongst political actors, democracy
itself has a pacifying effect on the nature of political relations
between people and between governments.

Despite the importance of democracy and democratic solu-
tions, however, poorly designed democratic institutions can also
inflame communal conflicts rather than ameliorate them. And
the introduction of "democratic" politics can easily be used to
mobilize ethnicity, turning elections into "us" versus "them" con-
flicts. In deeply divided societies, a combination of majoritarian
political institutions and elections can often make things worse.
Other democratic institutions that lend themselves towards divi-
sive, yes or no political campaigns, such as referendums, can also
have negative effects in divided societies. That is why basic
democratic values such as pluralism, tolerance, inclusiveness,
negotiation, and compromise are keys to building lasting settle-
ments to conflicts. Often, the institutional embodiment of these
values requires institutions that emphasize different features
than simple winner-take-all majority rule: features such as power
sharing, autonomy, proportionality, forms of group recognition,
and so on. These themes will reappear throughout this hand-
book.

1.4 Democracy and Conflict Management

The second theme of this handbook concerns moving away
from thinking about the *resolution* of conflict, towards a more
pragmatic interest in conflict *management.* This is an important
distinction. *Conflict resolution* suggests the ending or removal of a
conflict. The implication is that conflict is a negative phenome-
non, which should be resolved, ended, and eradicated. On the
contrary, conflict can be positive as well as negative. Conflict is
the interaction of different and opposing aspirations and goals

Democracy operates as a conflict management system without recourse to violence.

in which disputes are processed, but not definitively resolved. It is a necessary part of healthy democratic debate and dialogue, provided it remains within the boundaries of the commonly accepted "rules of the democratic game". The violent expression of conflict is its destructive side. But conflict can be the starting point for energizing social change and improvement. *Conflict management*, then, is the positive and constructive handling of difference and divergence. Rather than advocating methods for removing conflict, this handbook addresses the more realistic question of managing conflict: how to deal with it in a constructive way, how to bring opposing sides together in a co-operative process, how to design a practical, achievable, co-operative system for the constructive management of difference.

This handbook is relatively unusual in putting a premium upon the need for negotiated settlements that are based on democratic outcomes. But there are good historical reasons for skepticism about the track record of negotiated settlements to deep-rooted conflicts. Scholars point to 20th century experience that reflects the fact that only 15 per cent of internal conflicts end in negotiated settlements. Most have ended in military victories. Moreover, many (roughly half) of those that have ended in negotiations fail within five years (disputants return to the battlefield, as they did in Sudan in 1984 following a peace accord that had been reached in 1972). For this reason, some scholars point to partition as the only answer to identity-based conflict. However, in the post-Cold War period, there have clearly been many more settlements to violent internal conflicts than in the past, and almost half of the internal conflicts that have ceased in the last eight years ended through negotiation. We know intuitively that negotiated settlements are much more likely in the post-Cold War era than before. Moreover, even when military victory occurs (as in Zaire/Democratic Republic of Congo), issues of democracy continue to be raised making a resumption of conflict far more likely. Although it is important to keep the historical record in mind, recent experience shows a clear swing towards negotiated settlements in which issues of democracy building are paramount.

Our emphasis on democracy is not an ideological conviction. On the contrary, it is a pragmatic argument based on wide experience and study. Democracy is presented in this handbook not only as a guiding principle, but as a workable system for the positive management of conflict. Our definition of democracy is a

1.4 Democracy and Conflict Management

practical one. For a system of government to be considered democratic, it must combine three essential conditions: meaningful *competition* for political power amongst individuals and organized groups; inclusive *participation* in the selection of leaders and policies, at least through free and fair elections; and a level of *civil and political liberties* sufficient to ensure the integrity of political competition and participation. Participation and contestation are crucial: while democracy can take many forms, no system can be called democratic without a meaningful level of both.

A 1993 study of 233 internal conflicts around the world found that democracies had a far better record of peacefully managing such conflicts than alternative systems. The evidence for the "democratic peace" proposition – the empirical fact that democracies are far less likely to go to war with each other than other regime types – lends further support to this relationship between conflict and democracy. Authoritarian or totalitarian systems simply do not have the institutions by which such conflicts can be peacefully expressed and resolved. They generally try to deal with such conflicts by ignoring or denying them, by suppressing them or by attempting to eliminate them. While some conflicts can indeed be controlled in this way, albeit usually at severe cost, deep-rooted conflicts generally cannot. The type of fundamental issues of identity and cultural integrity inherent in such conflicts mean that almost nothing, short of mass expulsions or genocide, will make them disappear. The ethnic conflict that erupted in the former Yugoslavia in 1990, for example, had been suppressed and held in check for almost 50 years during the years of the Eastern Bloc, but it was always present and unresolved. Authoritarian systems can present an illusion of short-term stability, but are unlikely to be sustainable over the long term.

Under a democracy, by contrast, disputes arise, are processed, debated and reacted to, rather than being resolved definitively and permanently. All outcomes are temporary, as the loser today may be the winner tomorrow. Unlike other systems, democratic government permits grievances to be expressed openly and responded to. In short, democracy operates as a conflict management system without recourse to violence. It is this ability to handle conflicts without having to suppress them or be engulfed by them which distinguishes democratic government from its major alternatives. This does not mean that democracy is perfect,

or that democratic governance will itself lead to peaceful outcomes. There are a number of cases of democratic institutions being hastily "transplanted" to post-conflict societies without taking root, or with a subsequent resumption of hostilities – the case of Burundi, for example, or Cambodia. But it is equally true that these cases have many lessons in terms of how deals are struck and which choices are made that are of crucial importance to building a sustainable outcome. Democracy is often messy, incremental, and difficult, but it is also by far the best hope of building sustainable settlements to most of the conflicts being fought around the world today.

Box 1

THEMES OF THIS HANDBOOK

Three central themes dominate this handbook:

1. **Importance of Democratic Institutions**

   Democracy provides the foundation for building an effective and lasting settlement to internal conflicts. Therefore making appropriate choices about *democratic institutions* – forms of devolution or autonomy, electoral system design, legislative bodies, judicial structures, and so on – is crucial in building an enduring and peaceful settlement.

2. **Conflict Management, not Resolution**

   There needs to be move away from thinking about the *resolution* of conflict towards a more pragmatic interest in conflict *management*. This handbook addresses the more realistic question of managing conflict: how to deal with it in a constructive way, how to bring opposing sides together in a co-operative process, how to design a practical, achievable, co-operative system for the constructive management of difference.

3. **The Importance of Process**

   The *process* by which parties reach an outcome impacts significantly on the quality of the outcome. Attention must be paid to every aspect of the process of negotiations in order to reach a durable outcome.

1.5 Addressing the Real Causes of Conflict

Conflict management is one of the most difficult and complex tasks that can face human beings, both individually and col-

1.5 Addressing the Real Causes of Conflict

lectively. Even without time-pressures and political tensions, it is a supreme challenge. But in the real world, such factors are always present. Their effect is manifest as intense pressure to produce results, irrespective of the difficulty of the task. The near-irresistible temptation is to respond by simplifying the task, and focusing on surfaces and symptoms, searching for the fastest way to some result. But speed does not equate with quality. A simplistic approach cannot wholly succeed in addressing a complex problem. The kind of conflict we are addressing here – that which results in prolonged violence, that which comes about over deep-seated and profound differences – is caused at a much deeper level. Hence the term *deep-rooted* conflict. If conflict were simply a surface phenomenon, it would be easily dealt with at the surface level. But deep-rooted conflict demands deep-rooted conflict management. A doctor who treats a patient's symptoms may bring short-term relief of suffering. But a doctor who treats and cures the underlying illness that caused the symptoms brings a long-term solution to the patient's problem. In conflict management there needs to be a shift of focus, beyond the surface approach of treating *symptoms*, to a deeper level where underlying *illnesses* are directly addressed.

However, any doctor will rightly argue that treating symptoms is a vital humanitarian act, bringing short-term relief of suffering. A negotiation process that fails abysmally in its attempt to design a long-term settlement, but achieves a six-month cease-fire, has saved many lives. We must therefore not decry the genuine value of short-term measures, especially in situations of desperation and suffering. But the point is simply that short-term pain relief should not be confused with long-term cure. This is not to blame politicians and negotiators for yielding to pressures that are part and parcel of political life but simply to acknowledge that, within the pressures of the situation, a shift in focus beyond the immediate to the longer term, a reorientation from the surface symptoms to their underlying cause, is vital for both the short-term process and the long-term future. Failure to make this shift will inevitably harm the entire process as well as the future result. Ultimately, it may even make the situation worse than before. The challenge then, for domestic and international actors, is to seriously consider the temptation of short-term stability (and quick rewards and success) and move towards the long-term objective of a sustainable settlement.

A shift in focus beyond the immediate to the longer term, a reorientation from the surface symptoms to their underlying cause, is vital for both the short-term process and the long-term future.

*Process asks: how do
we get to a solution?
Outcome asks: what
do we include in that
solution?*

1.6 Process and Outcome

The third theme of this handbook is that the *process* of design-
ing negotiations is critical to the success and durability of the
outcome. In thinking about the search for a settlement, a useful
distinction can be made between *process* and *outcome. Process* is
the business of negotiation and dialogue. If conflicting parties
now need to discuss the elements of a solution, how exactly
should that discussion be structured? For example, would the
intervention of a third party be useful or distracting? What types
of third-party intervention might be used, and how have they
worked, or failed, in the past? Who exactly should participate in
the talks process? Leaders only? Political parties? Non-govern-
mental agencies? Outside observers? Would a time-limit on talks
help or hinder the process? Should the talks be secret or public?
What are the issues involved in choosing a venue for negotia-
tions? These and many other pertinent questions need to be
addressed in order to design the optimum process, the one that
offers the best hope of a successful outcome.

The answers depend on the specific situation under discus-
sion. From an analysis of the conflict – identifying its history, its
core issues, its participants, and so on – one identifies the factors
which need to go into the design of a suitable process. From an
overview of many conflicts and peace processes around the
world, this handbook directs readers to the most critical factors
that they will need to consider, and then helps them to find the
answers pertinent to their specific context.

Process involves every aspect of the way parties get to an out-
come. The type of process used, of course, impacts significantly
on the quality of the outcome. In particular, a sound process
helps to contribute to the legitimacy of the outcome. For exam-
ple, if the process employed is an inclusive one, where all parties
who claim an interest in the conflict feel involvement in it, feel
they have been heard and their views respected, and feel that
the process has permitted them to make a contribution to the
ultimate settlement, they are far more motivated to put subse-
quent effort into making that settlement work. In contrast, a
group who feel excluded from the process will be far more like-
ly to question the legitimacy of the settlement and to obstruct
efforts to implement it. So good process not only makes for effi-
cient working practice, it also strengthens the outcome. It is an
essential ingredient for a durable, long-term solution.

Outcome focuses not on the way to reach a solution, but on the
substance of that solution itself. Democratic structures and insti-

1.6 Process and Outcome

tutions offer practical components for a successful outcome, because their democratic nature implies a degree of consensus and accountability in their implementation. As with good process, the design of a sound outcome again lessens the chance of any party subsequently feeling the solution has been imposed upon them and thus questioning its legitimacy. What sort of political structures will be the components of the solution over which the parties negotiate during the process? What are the various kinds of democratic institutions that have been negotiated as settlements in the past? What were their strengths, and their weaknesses? What roles can outside agents usefully play in implementing or supporting these institutions? The business of mutually thinking these questions through to agreement will contribute to a better method of building sustainable and just systems of democratic government. In sum, the sustainability of a solution depends both on its outcome – its character and its content – and on the process by which it was agreed.

It is an analytic exercise to separate process and outcome completely. The distinction is offered as a useful method of concentrating on different but equally important aspects of conflict management. But in reality they are tightly intertwined and interdependent. Bad process will greatly impede agreement. It can even contribute to ultimate failure, no matter how well designed the outcome, simply because the way in which the talks were structured may cause friction and distrust and leave at least some parties questioning the legitimacy of the whole venture. Likewise the best process cannot guarantee success or sustainability if the outcome is poorly designed, is imposed on some of the parties or does not satisfy their real interests, no matter how fairly the process of dialogue was constructed. In practice, some parties will want assurances on what the broad parameters of the outcome will be before they agree to talks.

It is worth noting here that many of the conflict situations which readers will bring to the handbook have attracted the attention and involvement of the international community, increasingly in the form of third-party intervention or mediation. Third-party intervention can be of significant assistance in a conflict situation and is dealt with in more detail in Chapter 3. But parties need to be aware that there may also be dangers. Third parties may bring their own agendas, benign or otherwise: their own substantive interests in the issues of the conflict, perhaps their own desire for international acclamation as directors of the peace process, and so on. Mediators may focus too much on

process at the expense of outcome and often lack the necessary expertise in relation to institutional options. In addition, powerful intervenors may be tempted to force parties into a superficial agreement that fails to address underlying interests and needs, thus simply storing up trouble for the future.

1.7 Maximizing Women's Participation

In all conflicts, particularly those in which deep-seated identity issues are prominent, it is the most vulnerable members of society who often pay the highest cost. One of the characteristics of contemporary, intra-state conflicts is that the most marginalized social groups – small ethnic minorities, indigenous peoples and so on – are the most affected. Indeed, in some conflicts it is these very groups, such as the Kurdish peoples who are often described as the world's largest stateless ethnic group, who are directly targeted as victims.

Women should be included around the negotiating table because their experiences, values and priorities, as women, can bring a perspective that can help find a solution to the conflict.

Similarly, in almost all contemporary within-state conflicts, civilians in general, and women and children in particular, feature disproportionately amongst the casualty list. This makes the issue of gender a particularly salient feature of peace building. While the aggressors in today's conflicts, and the armies that fight them, continue to be predominantly male, the high casualty rates of civilians means that it is often women who bear the brunt of the consequences of the conflicts, a factor only emphasized by the effect of such conflicts on children.

It is therefore vital that any attempt at rebuilding democracy in the wake of a violent ethnic conflict builds women into the process as much as possible. In fact, in many cases this does not happen – the same people who started the conflict are also those who negotiate its end. This has detrimental effects on the long-term sustainability of a settlement, because vital voices and interests are not heard. This can be addressed by building gender considerations into every aspect of the peace process.

In the pre-negotiation phase, for instance, it is important to identify all constituencies, and to structure the process so as to maximize their participation. During the negotiations itself, it is essential that efforts are made to include considerations of gender, both thematically and via the representation of women as parties to the negotiations – rather than as being observers locked out of a process driven and dominated by men. During the implementation phase, each and every political institution needs to be structured such that it incorporates issues of gender and addresses wider issues of equality. This can take place both at a

macro-level – through, for example, consideration of issues of gender and equality when designing political institutions – and at a more micro-level, via the establishment of specific mechanisms for gender equality (see the specific section on this issue in Chapter 4).

Beyond such structuring of mechanisms, however, there needs to be a recognition of the importance of involving women in the negotiation process because of what they, as women, can bring to the process of finding peace. Women should be included around the negotiating table because their experiences, values and priorities, as women, brings a perspective that is important and valuable to both process and outcome.

1.8 Short- and Long-Term Planning

The management of post-conflict democratic peace building is first and foremost the management of political *time* in a complex and highly volatile context. From the moment peace negotiations start, the pressure is intense on those involved to reach agreement as quickly as possible. That pressure often becomes irresistible. Time may be very limited. Political demands for fast results may be overwhelming. In a context of ongoing violence, many lives may be at stake. The temptation is to push for superficial success at the expense of concentration on the *outcome.* The need to reach an agreement – *any* agreement – becomes more important than the quality of the agreement, especially its all-important elements of sustainability and durability. Long-term stability is sacrificed for short-term expediency. This pressure can build from many sources: a limited window of opportunity for talks; a tenuous cease-fire agreement that may collapse without quick results; the influence of outside actors who need their own results; the limited patience of a constituency who demand immediate improvements or guarantees; military issues, economic needs and contingencies, and so on.

These pressures are genuine and difficult to resist. Nonetheless, time spent in the dialogue phase pays off afterwards. There is always a trade-off between the urgent pressure for a result in response to the immediate circumstances, and the time needed to build a sustainable outcome with long-term stability. A *slow-fast* approach to conflict management is one where the initial stage of reaching agreement is done as slowly as necessary, to ensure that the agreement, when reached, is as comprehensive and detailed as possible. This permits more speed subsequently in implementing the agreement. By contrast, many agreements

There is a need to balance the necessity of achieving results from negotiation against the stability and longevity of the outcome – a need, in other words, to balance short- and long-term goals.

are reached in a *fast-slow* mode: pressure for results encourages the parties to rush through the negotiation phase and reach a less than optimum agreement, so that problems remain which slow down, or altogether obstruct, the implementation phase.

The *fast-slow* approach was exemplified when, in November 1995, Bosnian leaders endured intensive pressure from their US hosts during negotiations in Dayton, Ohio. The US agenda – which included, in significant part, a strong White House desire for demonstrable negotiating successes in Bosnia, the Middle East and Northern Ireland – as well as the domestic constituencies of the Bosnian parties, placed a premium on an agreement being reached. This agenda, coupled with the extreme urgency of ending a vicious and devastating war, meant that intense pressure was applied on the three Bosnian leaders and their delegates at Dayton not to leave the site without a signed result on paper. The resulting Dayton Peace Accords were acclaimed as the framework for a comprehensive settlement of the conflict in Bosnia. But in the rush to reach an agreement, many details had to be overlooked. The effect was to sacrifice long-term planning for short-term results: the insistence on a fast result at the negotiation stage simply piled up problems which remained to obstruct and delay the implementation of the Accords (see Bosnia Case Study). On the other hand, it stopped the war and the killing, which was a great achievement. It is not suggested that these two approaches are necessarily exclusive, rather that they need to be balanced as much as possible.

In some important ways, the South African constitutional negotiations of the early 1990s stand as a successful example of the reverse, a *slow-fast* approach. The negotiation process was at times painstakingly slow, not least because of the wide range of participating groups and factions as well as the complexity of the issues. Undoubtedly, an outcome could have been designed much more rapidly between just the major participants, the government and the African National Congress (ANC), and by leaving certain aspects for later resolution. But the apparently interminable talking between so many parties and the variety of issues addressed, which made the negotiation stage so slow, paid considerable rewards in the implementation phase, when the multilateral nature of the talks made the subsequent "sell" much faster and avoided breakdowns as a result of "constituency lag" between leaders and their supporters. When eventually signed,

1.8 Short- and Long-Term Planning

the legitimacy of the outcome was far stronger than a more exclusive version would have been.

Perhaps in an ideal world, conflicting parties would have the luxury of a *slow-slow* approach – one where every stage of the settlement process is given sufficient time to attend to every detail. But such luxury is rarely available. Indeed, the most frequent pressure is for a *fast-fast* approach, the worst possible scenario, where there is no time to do justice to any aspect of the conflict management process. Avoiding both of these unlikely or unproductive extremes, we simply highlight the tension between fast-slow and slow-fast, and emphasize the long-term value of the latter.

There is a need, then, to balance the necessity of achieving results from negotiation against the stability and longevity of the outcome, a need, in other words, to balance short- and long-term goals. So a compromise that may appear to be the best achievable result in the urgent present tense of the negotiating process can often prove too weak to be sustainable in the future. The effect is simply to postpone, rather than solve, problems. While recognizing the difficulty of the advice, experience from around the world repeatedly teaches the value of retaining a strong sense of future ramifications during the design stage. Attention paid to detail in that earlier negotiation phase will save much time, and possibly the whole settlement, during the subsequent phase of implementation.

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CHAPTER 2

Most conflicts feature complex interactions of different forces. Each requires the crafting of well-designed structures that are purposely oriented to the needs of the specific situation.

Analysis is a necessary prelude to problem-solving. This chapter focuses on the process of analysing a conflict in all its aspects – from looking at how conflicts in general are expressed (macro-level) to examining how a particular conflict can be understood by examining its component parts (micro-level).

Box 2   Analysing a Conflict: Three Approaches (p. 40)

**David Bloomfield,
Yash Ghai and
Ben Reilly**

2.1 Introduction

Throughout this handbook, our approach is based on an assumption that democratic governance is key to developing sustainable settlements. But the relationship of many deep-rooted conflicts to democracy is complex, and indeed democracy can encourage or even aggravate civil conflicts. The political mobilization of people for electoral or other purposes is frequently achieved by narrow identity appeals (as demonstrated, again and again, in Sri Lanka, India, Fiji, the former Yugoslavia and elsewhere). In that sense mass politics, associated with the rise of modern democratic states, has given a particularly sharp edge to identity. Ethnic animosities can often lie dormant until groups perceive themselves to be competing in a "zero-sum" game for resources, rights or territory. Issues of identity often provide a convenient cloak for other issues that concern the distribution of these resources.

Most conflicts feature complex interactions of different forces. Some are sustained by the separation of hostile groups, so that antagonisms are reinforced by ignorance and suspicion fueled by a lack of contact between contending parties. The traditional approach of the international community in such situations has been the imposition of "peace-keeping forces" between the groups – such as those stationed in Cyprus, Bosnia or Lebanon – a useful but blunt and surface-oriented instrument which often does not address the underlying needs of the groups in question. In other cases, the problem is not separation but proximity and day-to-day interaction that breeds mutual antagonisms – such as in relations between Malays, Chinese and Indians in Malaysia or between indigenous and Indo-Fijians in Fiji. All of these cases represent relatively familiar types of deep-rooted internal conflicts, and all of them require different approaches and different types of political institutions to manage disputes and build a sustainable peace. Further, each requires the crafting of well-designed structures that are purposely oriented to the needs of the specific situation. It is therefore surprising that sometimes a "one size fits all" conflict management package is still prescribed by even the most informed of practitioners.

A "one size fits all" conflict management package cannot be prescribed for all conflicts.

31

2.2 Conflict as Both Positive and Negative

Cultural or ethnic claims and identities are not always negative. Identity itself can act as both a constructive force and a destabilizing one. Nationalist movements involved in the construction of new states during the struggle for independence, for example, are often based on dynamic combinations of both identity and nationalism. The emotional and cultural bonds thus forged have proved to be a major factor in ensuring the legitimacy and support of many potentially fragile new states.

Similarly, basic identity-related factors such as religious and ethnic affiliations, for example, are often of fundamental importance to the psychic and moral well-being of communities. Cultural identity is a vital and enriching part of human life; and cultural diversity can be as energizing as it can be threatening. Many of today's functioning multicultural societies – such as Canada, Australia and the United States – have built their success on being a melting pot of many different cultures and religions. Elsewhere, divided communities with distinct religious or cultural traditions, as in Belgium, Mauritius, Trinidad and Tobago, and so on, have nonetheless been able to maintain competitive but cordial relations between different groups.

While such differences can lend themselves to political manipulation by *ethnic entrepreneurs,* who seek to mobilize and capitalize on ethnic differences for their personal or political gain, this exploitation is likely to be successful only in specific circumstances – such as where a community perceives reasons to fear the policies or activities of other communities, or experiences its economic or social position as clearly inferior to that of other groups with little prospect of amelioration, or where its abiding experience is one of disempowerment and vulnerability. Sometimes such manipulation results in a genuine galvanization of the community into an energizing force for positive and necessary social change; sometimes it fails to move beyond a surface reaction to intimidation and violence. Just as denial of identity-related claims can be a way to harass other groups, assertions of them – such as civil rights campaigns – can be a useful device to secure more justice and equity. Ethnic mobilization is a doubled-edged sword.

In the same way, conflict itself is not necessarily a negative process. Indeed, conflict is one of the most powerfully positive factors for change in a society. Conflict tells us that something is wrong; conflict is the generator of change and improvement.

Conflict is one of the most powerfully positive factors for change in a society. Without conflict, we would have stagnation.

Without conflict, we would have stagnation. The nature of competitive representative democracy, for example, involves a certain degree of conflict between opposing forces, ideologies and parties. This is healthy because this conflict takes place within a forum of bounded behaviour – there are "rules of the game" that need to be observed. This handbook is based on the assumption that even very intense conflicts are capable of being managed, given the right combination of procedures and institutions, in a way that is both peaceful and sustainable. But we do not pretend that it is easy, or even likely. We simply argue that it is possible. This is especially the case in the immediate post-conflict period, where negotiations between conflicting groups are beginning to take place. It is precisely in this interim period, where new patterns of interaction are possible, when parties are most amenable to the consideration of novel alternatives and different solutions, that the best hope for making sustainable settlements lies.

2.3 Patterns of Deep-Rooted Conflict

Three main areas of dispute often appear to dovetail with identity-related issues. The first are broadly *economic factors.* Economic slumps are often accompanied by an upsurge in inter-ethnic conflict. The post-communist movement from a controlled economy to a free market in Eastern Europe and parts of Asia and Africa in recent years has created a host of social problems that provide fertile breeding ground for sectarian sentiment. Similarly, the racist anti-immigration movements which have arisen in a number of western countries over the past decade have their root causes in increasing economic insecurity for many of the established population, particularly those at the lower end of the socio-economic ladder. In other areas, there are deliberate policies that discriminate economically for or against certain groups. These include the "affirmative action" policies for certain castes in India, or for *bumiputra* (literally "sons of the soil", i.e., Malays) in Malaysia, which have created resentment among those who feel such policies threaten their place in the economic system. Elsewhere, deliberate economic discrimination against what are seen as a privileged group, such as the Tamils in Sri Lanka, has been evident.

A second group of conflicts revolve around questions of *culture.* A classic issue is the question of minority language rights or religious freedoms. The conflict over language rights in the Baltic states between the local and Russian-speaking populations

Three main areas of dispute often appear to dovetail with identity-related issues: economic insecurity, cultural conflicts and territorial disputes.

described in Chapter 4 is a good example of this. Often, such conflicts are manifested via a demand for some form of group autonomy, such as culturally specific schooling for minorities, freedom to establish communal places of worship, or application of traditional or religious law. Many multi-ethnic countries have faced this issue in recent times, as demands for cultural autonomy increase and "assimilationist" policies are increasingly regarded with suspicion. More unusual variants of this issue have occurred in demands for culturally specific forms of law by threatened indigenous groups trying to maintain their own cultural integrity (e.g., punishments of criminal offences by traditional forms such as "banishment" or even spearing in some aboriginal cultures).

The third broad area of conflicts concerns disputes over *territory*. Territorial disputes are likely to mesh with ethnic ones when ethnic groups are territorially concentrated. In such cases, the manifestation of self-determination is often secession from the existing state altogether. Secession requires the dismemberment of the existing state, and for this reason has often been strongly opposed both by dominant members of an existing state and by the international community. If a state is to stay together under such circumstances, it requires the use of innovative institutional arrangements that deliver forms of devolution of power, federalism or autonomy. In Spain and Canada, for example, "asymmetric" federal arrangements for the Basque and Quebecois regions respectively have been used to try and dampen calls for secession, while federalism has been promoted as an institution of conflict management in countries as diverse as India, Malaysia, Germany, Nigeria, South Africa, and Switzerland.

2.4 National and International Factors in Deep-Rooted Conflict

Many of the world's most bitter deep-rooted internal conflicts have a significant international dimension. The fact that the boundaries of a state, particularly in post-colonial societies, rarely match the boundaries of a "nation" – an identity group – means that it is rare for domestic conflicts to stay entirely within the boundaries of the state. The Sri Lankan conflict has been fueled by the proximity and involvement of India; the Northern Ireland conflict by the competing claims of Britain and the Irish Republic and the involvement of Irish Americans; the Cyprus conflict is intertwined with the dispute between Turkey and

Greece, and so on. Understanding these international dimensions is key to any analysis of the conflict itself.

Tension between "settler" and "indigenous" groups is present in almost all states in which such terms are meaningful. Indian settlers in Fiji; Chinese and Indians in Malaysia; Russians in the Baltics and Central Asian Republics: all are examples of groups who are seen as being less than fully legitimate members of a multi-ethnic state by their indigenous counterparts. The legacy of colonialism thus plays a role in many of the current eruptions of identity-related conflict.

2.4.1 Decolonization

The process of decolonization after World War Two left a vast range of disputed territories and arbitrary boundaries in the developing world, leading inevitably to conflict over the adjustment of boundaries and over the legitimacy of states formed during colonization. Post-colonial polities suddenly found themselves in the position of sovereign states, but often with too diverse an ethnic mix to build easily the shared values and identities that might make a functioning nation. More often, their populations consisted of more than one nation, or parts of several. Given the potent impact of the decolonization process upon ethnic antagonisms, it is no surprise to find that "ethnopolitical" conflicts have been steadily increasing since the "winds of change" in the early 1960s led to independence for former colonial states in Africa, Asia and the Pacific.

One example among many is the legacy left in Western Sahara by the departing Spanish in 1975: an artificial frontier between Morocco and "Spanish Sahara" which became the subject of a long dispute between the Moroccan state and the Polisario Front, the army of the Saharawi people. Put simply, their sense of themselves as a community – their ethnic identity – contradicted the arbitrary maplines drawn by the colonizer, and they set about correcting the map as soon as they were free to do so. A difference of identity, combined with a dispute over territory, resulted in violent conflict, which remains unresolved today. Similarly, as Britain left the Indian subcontinent in 1947, bitter fighting erupted between identity groups organized along religious lines. The result was the partitioning of the area between India and Pakistan. But, as so often, simple partition has failed to satisfy the underlying root-causes of the conflict: in Kashmir and elsewhere, fighting continues as peoples contest their identity and disagree over self-determination *versus* territorial integrity.

It is rare for domestic conflicts to stay entirely within the boundaries of the state since the boundaries of a state rarely match the boundaries of a "nation", an identity group.

2.4.2 End of the Cold War

The end of the Cold War further intensified these conflicts over boundaries. The Soviet Union disintegrated into multiple states. Its influence, which had served to glue together imperfect nation-states within its realm, dissipated and permitted the rise of ethnic frustrations and tensions which expressed themselves in bitter conflicts over Yugoslavia, Georgia, Chechnya and elsewhere. The dissolution of the Soviet Union also left large populations of Russian speakers in a number of new republics in the Baltics, Eastern Europe and Central Asia, many of whom became a focus for the long-standing grievances of the indigenous populations. Discrimination and conflict between Russians and local populations became a potent issue in a number of these states, with language and citizenship rights an area of particular concern.

2.4.3 The state in crisis

Additionally, the state itself has been facing a crisis for some time. The deep contradictions or anachronisms of the nation-state have led it now to face a crisis of legitimization. To retain its legitimate position of power, a state must inspire some sense of shared identity among all its diverse population, as some have argued is the case in India. It must also ensure the participation of all groups in the affairs of the state as well as equity in the sharing of its resources. Identity groups tend to demand self-determination, or assert their rights to be treated equally with all citizens, precisely when a state is not fulfilling these objectives. Democratic states suffer these problems just as others do: democracy is no guarantee of a conflict-free existence. But democratic societies tend to have built-in institutional mechanisms and the requisite flexibility to manage this kind of conflict by non-violent means.

But what turns such ethnically based dissatisfaction into actual violent conflict? Unscrupulous leaders have realized the value of mobilizing dissent along the powerful fault-lines of race, religion, language and so on. The ideas of human and civil rights, of self-expression and self-determination, have flourished in the hearts of many people, permeating societies and making oppression more difficult and its resistance more energized. Indeed, self-determination can often be used by dissidents to express their case and mobilize their resources along ethnic divisions. Certainly, increased international media attention can raise the temperature of dispute, as it can help to sustain rigid positions within a conflict.

With intra-state conflict, most often the state itself is a disputing party, even a major source of violence. This makes internal processes for conflict regulation difficult, since state organs may be delegitimized by their involvement in the conflict. Often governments will be much more powerful than the rebels they face: such asymmetry of power can mitigate the chances of bringing the sides together, and can encourage both sides to strengthen themselves as far as possible by violence or its threat, prior to entering negotiations. A referee is difficult to find within the state who will hold the respect of both sides. The type of inclusive, power sharing and devolutionary mechanisms examined in detail in Chapter 4 are thus particularly necessary to building a sustainable settlement.

2.5 Difficulties in Managing Identity-Related Conflicts

2.5.1 Indivisibility

A central problem in trying to manage or transform identity-related disputes is the "indivisibility" of such conflicts: they are often not amenable to split-the-difference, cake-cutting solutions based on compromise. Conflicts based upon historical identities, religious beliefs, language or symbolic territory are particularly difficult: it is hard to compromise over a question as basic as the nature of the one true God, for example, or whether a particular sacred site is to be the property of one group or another (e.g., the conflict between some Moslems and Hindus in India over the Ayodhya mosque). Moreover, the very nature of identity-related appeals, what one scholar calls the "relentless drumbeat of ethnic propaganda", itself tends to distort the usual modes of political discussion.

2.5.2 Escalation

A second problem is the cyclical nature of many deep-rooted conflicts. Mobilization of groups by one side of a conflict typically leads to a corresponding counter-mobilization by their opponents. Escalation of a conflict on one side almost guarantees a countervailing reaction on the other. The actions of one group are responded to by their opponents: violence begets violence, and the conflict steadily escalates in a series of tit-for-tat exchanges, as in Burundi. The originally divisive issues get augmented, often even replaced, by new and more intense issues arising out of this intensification process. Such issues are amenable to manipulation by leaders and politicians, who may use them to mobilize communities on ethnic or other fault-lines. It

Two recurrent problems make it extraordinarily difficult to manage identity-related disputes: their indivisibility and their tendency towards escalation.

is extremely hard to break these cyclical patterns and de-escalate back to the original issues.

2.5.3 Leadership

Managing deep-rooted conflicts requires far-sighted leadership. Just as many conflicts are exacerbated by ethnic entrepreneurs who fan the flames of group animosities, so to bring conflicts to a sustainable settlement requires leaders who are prepared to do just that – lead. To do this, they must often be ahead of the sentiments of a large portion of their followers in counselling for peace, and they must have the authority to carry their supporters with them through difficult times. This is especially difficult when the leaders at the negotiating table are often the very same ones who provoked or maintained the conflicts in the first place. It also requires leaders to put the long-term interests of their nation in achieving a durable settlement before the short-term gains that could be achieved by prolonging the conflict. This handbook carries a number of instances of such behaviour, with the examples of South African leaders Nelson Mandela and F. W. de Klerk particularly apposite. This is not to suggest that leaders will do other than make rational decisions about their own group's core interests when negotiating a settlement. All the negotiating techniques outlined in Chapter 3 are based upon this assumption, as are the designs of the democratic institutions in Chapter 4.

Our attention now turns from the macro-level to the micro-level, from looking at how conflicts in general are expressed, to examining how a particular conflict can be understood by examining its component parts. Successful analysis of a specific conflict in terms of its generic structure enables us to diagnose appropriate methods to successfully negotiate a lasting settlement.

2.6 Analysing Conflict

Before an outcome to conflict can be considered, before even a process to reach that outcome can be designed, we need to have a clear view of the conflict. That sounds like stating the obvious. Actors in a conflict are intimately acquainted with their particular conflict, from possibly a lifetime of involvement in it. They have consciously struggled with it, and with attempts to end it, for prolonged periods of time.

This in-depth knowledge of the conflict is vital. But, for completely understandable reasons, combatants in prolonged and

2.6 Analysing Conflict

deep-rooted conflict have a particular view of the causes, dynamics and effects of their conflict. For very good protective reasons, they have a partisan view of things. This is as it should be: their job has been to be partisan, to represent, support, direct and sustain their community and their struggle.

But we are assuming with this handbook that the conflict phase is reaching a hiatus. Negotiations are at least looming, if not actually in process. To move straight from struggle into dialogue, with the same aims and attitudes intact, will almost guarantee failure. Completely partisan approaches will produce completely competitive talks, with each side still as committed to winning the peace as they were to winning the war. Such negotiations are simply war by other means. But peace, by definition, is not winnable in the same terms as war. To make negotiations work, we must supplement competition with co-operation. Negotiation, by its very nature, implies movement: it is a process in which people, their attitudes and their positions move and change. Negotiation is not merely a matter of convincing the opposition that your position is right: it demands a degree of co-operation with that opposition to move creatively from stalemate towards a new position.

To engender that co-operation, in oneself or in others, is not easy, nor automatic. It requires, as a first step, a wider view of the conflict than the strictly partisan one that served during the war. It is a basic requirement of conflict management to try to better understand each other's motivations. Not to agree with each other's viewpoint, not to give up any cherished beliefs about the causes and blame involved in the conflict, but simply to approach an understanding of the opposite viewpoints, without necessarily in any way endorsing them.

This requires adopting new models for thinking by the actors: looking at their subject matter through new lenses. Conflict analysis here is not about learning something new (although that might happen). It is about understanding the same thing in different and deeper ways. This section offers some lenses to facilitate such understanding. One lens concerns how we actually go about the analytic process itself. Quite irrespective of the content of the conflict and the subsequent analysis, this model argues that our attitude and approach in coming to analysis itself significantly affects the results. In brief, there are three ways for actors to analyse their conflict: the *adversarial* way (blaming everything on the other side); the *reflexive* way (looking inward to reflect on one's own sides position in the conflict); and the *integrative* way

Conflict analysis is not about learning something new. It is about understanding the same thing in different and deeper ways.

(looking both at one's own side and at the need to also understand the views of the opposition).

The latter approach (integrative) is really one that proposes that there be movement away from the entrenched attitudes and positions of the parties towards a situation where the real needs and interests of the parties are focused on. There needs to be an acceptance by the parties that there should be movement from what is known as "positional-based" negotiation to "interest-based" negotiation. In reality, however, the ebb and flow of negotiations tends to take the parties through a number of phases, attitudes and positions that will impact on their tactics. Depending on the nature and maturity of the parties, they will generally include a range of elements from all three approaches in their negotiation strategy.

Box 2

ANALYSING A CONFLICT: THREE APPROACHES

There are three ways for actors to analyse their conflict. Typically, the ebb and flow of negotiations will include a range of elements from all three approaches.

— **Adversarial.** Viewing the conflict as "us vs. them", either win or lose, all or nothing.

— **Reflective.** Looking inward and reflecting on the hurt and pain the conflict has caused and considering the best way to achieve real goals.

— **Integrative.** Looking both at one's own side and the need to understand the views of the opponents.

Entering negotiations, as Chapter 3 will emphasize, involves swallowing the bitter pill of co-operating with what used to be the enemy. In preparation for this, assembling a broad analysis of the conflict is a crucial first step. If one is truly committed to negotiation as a way of solving the problem, then a step away from adversarial approaches is a necessary starting point. The closer one can get to an integrative analysis, the better the prognosis for those negotiations.

One of the results of the integrative approach is that it encourages creative negotiation. Parties are more likely to build on each other's proposals than be preoccupied with advancing their own. A full analytic understanding of the conflict is both a prerequisite for going into the process of negotiation – negotia-

tors need to know their subject matter – and a valuable resource to keep in mind during negotiation. First, it is important to grasp and analyse all the relevant factors that go to make up the conflict and give it its shape.

2.7 Factors for Analysis

In this section, our aim is not to solve the conflict, merely to draw out all the elements that must be part of the subsequent solution. Outlined below are some of the questions that need to be asked and answered. Consideration of these various elements will better equip negotiators to devise appropriate strategies to manage the conflict.

ACTORS

Who are the various *actors*, internal and external, in the conflict?

– What are the *identity groups* involved? How do they define themselves, and what are the core features that make up their identity?

– Who are the real *leaders* of these groups? Are they politicians, soldiers, religious leaders, intellectuals, etc.? What pressures are they subject to from followers and opponents?

– How do these identity groups *mobilize*? How do they pursue their needs as communities (i.e., political parties, paramilitary groups, armies, etc.)? What *alliances* have they forged? What interests do they serve (external, regional, global)? What pressures are they subject to?

– What *factions* exist within parties?

– Are there *spoilers* (groups opposed to the peace process)? How great a threat do they represent? What resources exist to deal with them?

– Are there *single-issue groups* (those who represent a strong opinion on a particular aspect of the conflict)? Are there actors who remain internal geographically, but are removed from, or opposed to, the conflict (e.g., peace groups, business interests. etc.)?

– Who are the *external actors* (governments, states, regional blocs, etc.)? Which *outside interests* and groups affect the conflict?

The first step in analysis is acquiring all the raw data, making sure everything relevant is included, the better to see the scope and shape of the problem.

41

ISSUES

What *issues* are involved in the conflict?

– What issues arise over the *distribution* of economic, social and political resources?

– What is the conflict about in *political terms*?

– Is there *discrimination* at work in the distribution process?

UNDERLYING FACTORS

What are the *needs* of the parties? What are their *fears*?

– What *drives* each of the parties and why? (For example, do they really want secession, or is it an expression of a deeper need for security?)

– What do they *fear* under the present situation? What are the fears each group currently has of the other groups?

SCOPE

What is the *extent* of the conflict's effect, both within and outside the conflict area?

– What is the *scope* of the conflict in its effects on the population? Which sections suffer most, and why? Are some sections of the country relatively untouched, and why?

– What are the implications of the conflict for other states? For regional or global alliances?

– Who is affected by the conflict's continuance, and who might be affected by its settlement?

PREVIOUS ATTEMPTS AT SETTLEMENT

What is the *history* of the conflict regarding attempts to resolve it?

– What structures were previously tried? Why did they fail? Do the flaws relate to who authored the settlement, or with how it was implemented, or what it contained?

– Can *patterns* be identified among previous attempts at settlement?

2.7 Factors for Analysis

PHASES AND INTENSITY

Is it possible to identify *phases* of the conflict?

– Does the conflict have distinct *phases,* for example in relation to experiments in particular forms of governance, patterns of violence, or outside influences?

– Did the *intensity* of the violence shift over time?

BALANCE OF POWER

What is the nature and extent of the *balance of power* between the parties?

– Who is *stronger?* Who has more support? (The perception of the parties of their own power and their own estimation of the "balance" between them is critical.)

– Has this balance changed over time, or has it remained constant?

– Is the dominant position of one party *sustainable?*

– Is it possible that one party may win outright victory in the near future?

CAPACITY AND RESOURCES

What are the current *capacities and resources* of the parties?

– Have the resources shifted for each side over time? Will they change in the near future? Are they internal sources or external?

– What is the *financial situation* of the differing parties?

– What resources will they need to conduct effective negotiations?

STATE OF THE RELATIONSHIP

What is the nature of the *relationship* between the adversaries?

– What is the nature of the relationship between leaders?

– What are the *mutual images* of one another that the parties hold?

– Where do they get information about each other? How accurate is their information?

– What *communication channels* are available between the groups?

– What, if any, degree of trust exists?

2.8 Analytic Lenses

What follows is designed to help put some structure, some organization on the raw data generated by the questions of the previous section. Most of the ideas presented here originated from academic research. The aim is to extract some of the better academic thinking on conflict analysis, and to present it in a useful and practical manner.

As soon as one analyses anything, one simplifies. This is an occupational hazard and necessary element of the analytic process. As long as one recognizes the limitations this implies, then analysis can still be a very useful tool for gaining perspective, for organizing information, for reaching a coherent understanding of the conflict. Simplicity is sometimes a strength, even with the most complex subject matter.

What is offered here are a few simple analytic tools – sometimes called models or theories by their originators. But they are not panaceas: if a model seems inappropriate to the subject matter, one should know when to drop it in favour of another. Again, no one model will explain everything; one chooses models as they work and replaces them when they don't.

Moreover, conflict has a constantly shifting dynamic. Many of the factors outlined in the previous section may change in themselves and alter in their relative importance over time; wholly new factors may arrive and previously important factors disappear. So the analysis process is never completely over. There is a need to go back to it and reassess it regularly. Likewise, the analysis must be projected into the future, to see which current factors will persist, and which will shift with time, over the short, medium and long term.

2.8.1 The conflict triangle

One of the simplest ways to look at conflict is to imagine it as a triangle, with three points:
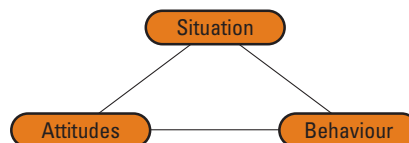
It thus has three elements, any one of which can generate conflict:

Situation. The situation refers to the objective positions that can cause conflict. For instance, if political power resides in the

One of the simplest ways to look at a conflict is to imagine it as a triangle with three points – situation, attitudes and behaviour – any one of which can generate conflict.

2.8 Analytic Lenses

hands of one section of a population, to the exclusion of the other; or if one group has exclusive access to all the natural resources in an area; or if a country is partitioned in such a way as to privilege one group over another. Eventually, the groups involved find that the situation has brought them into conflict.

Behaviour. Behaviour relates to the actions of people. One group acts in an aggressive manner towards another: killing their members, or oppressing them, or discriminating against them. Perhaps the second group retaliates. Eventually the behaviours of both spiral into war. Thus the behaviour of those involved, action and reaction alike, generates a context of conflict.

Attitudes. Here, we speak of the attitudes and perceptions of groups, particularly their images of, and attitudes towards, each other. A belief that another group is less valuable than our group, or that they are plotting our destruction, or that their own beliefs offend our moral code, or that they generally are a danger to us, will generate conflict between them and us.

These three elements, then, can each be the root of conflict: the situation people find themselves in, the behaviour they demonstrate, or the beliefs and perceptions they hold about each other. Conflict can begin at any of these points on the triangle. Once conflict begins from one point, however, it quickly spreads to the others. Indeed the three points become mutually reinforcing elements in the conflict. We can then more accurately portray them as interconnected, and reinforcing in both directions:
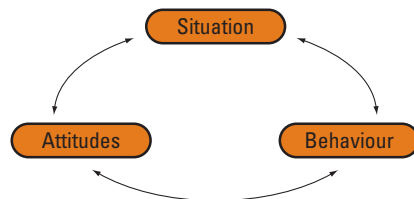
Wherever the conflict originates in the triangle, it begins to circulate in both directions. Aggressive behaviour will reinforce negative attitudes; negative attitudes will make the situation worse; a worsened situation will stimulate more defensive or aggressive behaviour. And likewise, aggressive behaviour will make the situation worse, a worsened situation will reinforce negative attitudes, and negative attitudes will be expressed in more aggressive behaviour. (Despite the danger of overloading such a basic concept as our triangle, this model can then be reversed to show that a reduction in aggressive behaviour, or an easing of

negative attitudes, or an improvement in the material situation will logically lead to a reduction in tension and conflict.)

This is a very simple tool. Its purpose is less to do with tracing the origins of a conflict – in prolonged conflict, the cyclical interaction around the triangle in both directions may very quickly muddy any possibility of pinning down a single source. More pertinent is the simple lesson that these three elements add together to form conflict, and that their interaction and interdependence fuel the dynamic of its growth and intensity. Using the triangle as a basic framework may help to separate the complex elements of conflict and to see a little more clearly where the pieces fit.

2.8.2 Stages of escalation

Conflicts tend to escalate and de-escalate over time, bursting out into violence, retreating into latent periods, and so on. It is a vital piece of information, in analysing a conflict, to know where in the escalatory spiral the conflict currently stands, and in which direction it may be heading. Another tool offers a way of doing this. This model says that there are four basic stages that a conflict moves between, listed in rising order of escalation: Discussion, Polarization, Segregation and Destruction.

Discussion stage. Parties are disagreeing, but still close enough to work together. Communication hopefully consists of direct debate and discussion between parties. Mutual perceptions are both accurate and reasonably benign. The relationship is one with a modicum of trust and respect. The issues being empha-sized in the dispute are substantive, objective ones. The possible outcome is assumed to be one that can please both sides: a win-win solution. The preferred method for managing the con-flict is through co-operation to reach a joint solution. For inst-ance, Canadian-Quebecois tensions over linguistic and cultural rights are deep, abiding and complex. But, by and large, the ar-gument is waged within the parameters of low-escalation discus-sion.

Polarization stage. The parties have started to put distance between them, to withdraw and turn away from each other. Be-cause of that distance, communication is now more indirect and reliant on interpretation (or, increasingly, misinterpretation). Mutual perceptions of each other are hardening into rigid ste-reotypes, especially since these are no longer challenged by the evidence of direct interaction with each other. The relationship has deteriorated from one of respect to a cooler one where each sees the other as still important but increasingly unreliable. The

2.8 Analytic Lenses

emphasized issues have moved away from the objective elements to the more psychological concerns about the relationship. The possible outcome is no longer one where everyone wins, but one where each must compromise to win some things and lose others. The preferred method of managing the conflict has moved from co-operative decision-making to competitive negotiation. The Soviet-US relationship during periods of Cold War detente fits the polarization stage fairly closely.

Segregation stage. The parties have moved away completely from each other. Communication is now restricted to the issuing of threats. Mutual perceptions have hardened into a picture of us-as-good and them-as-evil. The relationship is now one of mistrust and disrespect. The issues now being emphasized in the dispute are the core needs and values of each group: thus the stakes have been rapidly raised in this stage. The outcome is now perceived as a zero-sum calculation: a simple win-or-lose situation. And the preferred means of managing the situation has become one of defensive competition, where each protects its own interests above all, while trying to outwit or outsmart the other side. To a degree, the tense stand-off in early 1998 between Iraq and the US over UN weapons inspections reflected an instance of escalation up to the polarization stage, but one which then de-escalated without tipping over into the outright violence of destruction.

Destruction stage. This is one of all-out antagonism. Communication now merely consists of direct violence or complete silence. In order to justify violence, perceptions of the other side have become abusive descriptions of them as non-human, psychopaths, and so on. The relationship is seen as being in a completely hopeless state. The only issue being emphasized now is the ultimate survival of one's own side in the face of the other's aggression. Perceived possible outcomes now are all lose-lose: the situation is so bad that both sides will bear a heavy cost. The chosen method of managing the conflict at this stage is simply that of trying to destroy the opposition: we are in a state of war. the world sadly abounds with examples of conflicts manifestly in the destruction phase.

2.9 Conclusion

Conflict analysis is not easy. At the very beginning of it, adopting the integrative analytic approach is itself a challenge. It is a difficult process, requiring time and effort to unpack the complexities and multiplicities of this kind of conflict. Indeed, it can seem extremely daunting. But it must be borne in mind that, more often than not, what we are in fact looking at is complexity rather than impossibility.

Analysis is complete when we have become aware of all the elements and factors – the actors, the issues, the relationships, and so on – which will need to be taken into account in order to develop a process for managing the conflict peacefully. From the analysis, in other words, we can then move to a consideration of all the ingredients which must be part of (a) a workable process for reaching agreement among all those involved, and (b) a viable outcome which covers all the elements, needs and interests identified. We move on now to the first of these – process design – in the next chapter.

Analysis is complete when we have become aware of all the elements and factors – the actors, the issues, the relationships, and so on – which will need to be taken into account in order to develop a process for managing the conflict peacefully.

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SOUTH AFRICA

ANGOLA

ZAMBIA

Lusaka ○

MOZAMBIQUE

Livingstone ○

ZIMBABWE

Grootfontein ○

Mutare ○

○ Otjiwarongo

○ Bulawayo

○ Omaruru

Maun ○

Francistown ○

Orapa ○

Gobabis

Serowe ○

Messina ○

○ ○

Windhoek

BOTSWANA

Palapye ○

Northern Province

Kalahari Desert

Molepolole ○

○ Pietersburg

○ Mariental

Gaborone ○

Lobatse ○

○ Lydenburg

NAMIBIA

○ Pretoria Mpumalanga

Keetmanshoop

Mafikeng ○

Gauteng

○ ○ Johannesburg SWAZILAND

○

North West

Sharpeville

○ Mbabane

Karasburg

○ Welkom

○ Vryheid

Upington ○

Free State

○ Alexander Bay

○ Kimberley

Kwazulu-Natal

○ Port Nolloth

Bloemfontein ○

○ Maseru

○ Pietermaritzburg

Northern Cape

LESOTHO

○ Durban

Carnarvon ○

Eastern Cape

○ Calvinia

○ Victoria West

○ Umtata

Queenstown ○

Bisho ○

○ East London

Paarl

Western Cape

○ Oudtshoorn

○ Kirkwood

Cape Town ○

○ Port Alfred

Hermanus

Port Elizabeth

ATLANTIC OCEAN

Mark Anstey

SOUTH AFRICA

Introduction

Conflict was evidenced early in South Africa's recorded history, both between and within racial groupings. Migrations by black and white groupings took place under Zulu and British expansionism, and black tribes engaged in a series of skirmishes and battles with Boers (Afrikaners) and British settlers throughout the 1800s. Tensions between the British and the Boers culminated in The Boer War (1899–1902). The discovery of diamonds (1867) and gold (1886) opened the economy and added to the competition over resources and power.

In 1910, the Boer republics (Transvaal and Orange Free State) and the British colonies (Natal and the Cape) were unified, a tenuous white unity achieved at the expense of black suffrage. The exclusion of blacks however sparked the formation of the African National Congress (ANC) in 1912, and the beginnings of a long struggle for political participation.

During the 1930s several investigative commissions questioned the sustainability of economic growth in a system founded on racial discrimination. A degree of liberalization resulted in relaxation of the pass laws, an erosion of the job colour bar, moves towards a closure in the racial wage gap, and some extensions of labour rights. But this stalled after 1945. The National Party (NP), elected in 1948 on a wave of Afrikaner nationalism, enforced a hardline policy of formal racial separatism: *apartheid*. African, Asian and coloured resistance strengthened. In 1957, Africanists opposed to non-racialism split from the ANC to establish the Pan Africanist Congress (PAC), pursuing a more militant line of resistance. The shooting of pass-law demonstrators in Sharpeville by police sparked strikes and riots nationally, an international outcry and a flight of capital from the country. The government hardened its stance, banning the ANC and the PAC, which went underground and shifted their strategies from passive resistance to violence against the state.

But social and economic realities eroded the apartheid dream. Rapid economic growth during the 1960s produced a shortage of workers and demanded more rather than fewer black urban dwellers. Manufacturing required a literate, technically capable workforce. Economic development requirements ran counter to population, labour and education policies. Economic growth stalled as security and military expenditure rose sharply during the 1970s to cope with internal unrest, increasingly costly border protections, and investment in the Angolan conflict.

Heavy-handed and violent repression of demonstrations sparked widespread unrest and resistance which escalated through the late 1970s. On 12 September 1977, Steve Biko, the Black Consciousness leader, was assaulted and died violently in police detention. By the mid-1980s a massive groundswell of resistance was in evidence, led by student and worker activists. South Africa's isolation increased across

South Africa

51

a broad front of sporting, economic and cultural activities. Multinational companies started to repatriate earnings rather than reinvest and major capital flight became evident.

In the face of internal and international pressure, the government embarked on a confused route of repression and reform, coercion and liberalization. A fast-growing and increasingly militant labour movement escalated strike action. Guerrilla attacks and consumer, rent and school boycotts proliferated. A government initiative to introduce a tricameral parliamentary system excluding blacks but incorporating Asian and coloured populations was rejected with massive demonstrations, but nonetheless forced through by the government.

The Conflict Management Process

High levels of militance both energize progress in political transition and put it at risk. Not uncommonly, countries in transition utilize short-term pacting arrangements at military, political, and social-economic levels to stabilize the change process even as they struggle over its final outcome. In effect, pacts represent mutual guarantees on the part of powerholders to temporarily restrain their capacity for inflicting damage on each other in their own and others interests, and to foster progress in the transition. They represent the moment of interaction at which all major stakeholders realize that they are at risk – there is no returning to the previous system and power needs to be carefully used in order to secure their future. Neither retreat nor outright confrontation is feasible for either party.

The South African case reflects such a *"pact-building process"* – firstly it to open the door to negotiations, and then it to manage the negotiation process itself. This produced a network of stabilizing forums and institutions through which negotiations could occur and conflict could be better regulated. These arrangements were fragile. Progress was continually threatened by suspicions of treachery, by violence and by breakdowns in the negotiation process itself. When this occurred, the scale of violence, and the threat of chaos were such as to oblige parties back to the table.

President de Klerk's opening speech to parliament in February 1990 opened the door to a complex transition process in which stakeholders had to convince themselves and each other of their shared commitment to a jointly negotiated future. De Klerk removed bans on political parties, and signaled new freedoms in political activity. The leader of the ANC, Nelson Mandela, was released from prison, immediately making statements to reassure and cohere his constituency.

Key leadership figures of the ANC were flown into the country to work in a joint committee with government representatives on an indemnity arrangement, but deep suspicions continued to shroud dealings. The ANC group feared that it was being "tricked" into the country under false pretences and would be arrested; the government team feared that amnesty arrangements would be used as a smokescreen to cover ongoing infiltration and a major revolutionary onslaught. Both sides

South Africa

Case Study: South Africa

hedged and kept contingency plans in place.

Nevertheless the process was sustained and a three-day meeting ended in the Groote Schuur Minute, which facilitated the release of political prisoners and the return of exiles, and amended security legislation. This was followed by the Pretoria Minute in which Mandela announced the suspension of the armed struggle. Conservative elements on both sides feared that too much had been conceded. Previously banned liberation groups had the problem of transforming themselves into legal actors in a country still under the control of the Nationalist Party Government. The government faced problems in moving from an approach of vilifying the ANC as "communist terrorists", to one which acknowledged it and other political groupings as legitimate political players. Partly to contain these problems, the ANC and the NP entered a deal – the DF Malan Accord in February 1991 – in which the government accepted that Umkhonto We Sizwe, the armed wing of the ANC during the struggle, would not be disbanded before transition to a democratic government.

The government wanted a new constitution to be negotiated by a convention comprising all political groupings. The ANC held that it should be carried out by "legitimate representatives" of all the people. The NP recognized that in the ANC scenario it would be reduced to the part of small player. The ANC recognized that in the NP scenario it would be participating with players whose constituencies were either very small or nonexistent (as illegitimate products of the apartheid system) and its own influence would be reduced. This impasse was broken through a compromise in which the "either-or" scenario was transformed into an "order of events". An all-party convention would negotiate the route to a constituent assembly and an interim constitution, leading to the election of the assembly by universal franchise. The assembly would then negotiate the final constitution, but on the foundation of binding principles laid down in the interim constitution on the question of majorities required for decision-making purposes. The Convention for a Democratic South Africa (CODESA) convened late in 1991 to initiate discussions.

It was quickly recognized that building a viable democracy would require institutions and forums for consensus building at all levels within a fractured society. These assumed the major task of institutionalizing the transition, and of managing associated tensions in a manner which would support and indeed carry the political process. Their very existence was confirmation in many ways that change was irreversible. Management of the process was not simply in the hands of the regime. Steadily it moved into a period of joint control through peace accords, economic pacts, local government forums and a transitional executive council which laid the foundation for the advent of majority rule.

In 1992, after lengthy behind-the-scenes discussions and in the context of progress on the political front, the trade union movement entered the National Economic Forum (NEF) with the government of the day and business. Its purpose was to seek consensus over economic policy, especially during the transition period. In this

South Africa

forum, organized labour rather than political opposition groups held sway and sought to entrench their influence over economic and social policy-making. In making these moves the trade unions made the decision to retain an identity separate from that of government and to participate in the change process on its own terms, even as it supported opposition political parties. This strategic move laid the base for a later post-election social corporatism.

Pacting extended to areas of government as well. In 1992, representatives of central, provincial and local government established a Local Government Negotiating Forum to devise a viable and democratic future local government system. A National Education and Training Forum was founded to seek agreement on restructuring the education system to meet the country's development needs. All these forums embedded democratic values and processes of negotiation in the wider society and supported the unfolding political process.

Of central concern was the role and legitimacy of police and security forces. How could they be entrusted as custodians of transition to a new democracy – and what were the alternatives? Several important steps were taken to address this dilemma. A Police Board comprising representatives from political parties, civil society, government and the police was established in 1991 to review police policy and structure and recommend changes for a police service into the future. A National Peace Accord was achieved as a non-aggression pact between key stakeholders involved in the transition process. A detailed written agreement brokered by the churches, the Congress of South African Trade Unions (COSATU) and big business, the Accord sought primarily to end political violence in the country, making provision for codes of conduct for political parties and organizations, a code of conduct for police and the security forces, guidelines for the reconstruction and development of communities, and mechanisms to implement its provisions. It committed parties to a multi-party democracy and to respect for the fundamental rights and freedoms underpinning a democracy, and provided for a system of peace committees at all levels of society to monitor adherence to the Accord and resolve disputes using mediation and arbitration. The Police Board was entrenched as a measure of civilian control over policing activities.

The effectiveness of the Accord has been questioned. High levels of violence continued, particularly in Kwazulu-Natal and the East Rand. If the Accord failed to stop violence, it at least reduced it, and certainly through its conflict resolution mechanisms in the regions, it saved many lives. It contributed to the building of grass-roots peace structures, brought hope and participation in the transition process to many people otherwise alienated from the larger political exchange, and defused many volatile, and potentially fatal, political confrontations. Most importantly however, it represented a joint commitment on the part of all the stakeholders to values and standards which were difficult to walk away from or openly reject.

South Africa

The Political Negotiation Process

CODESA's beginnings were unsteady. The Inkatha Freedom Party (IFP) leader Chief Buthelezi personally boycotted the process. De Klerk and Mandela opened with a heated exchange, accusing each other of bad faith. And so it continued. The ANC wanted a short "phase one" leading to elections and democratic government. The NP, recognizing that its major influence lay in the front rather than the back end of negotiations, wanted a more detailed and protracted process. Increasingly, opposition groups suspected the NP of deliberate stalling tactics, and uneasiness developed as to whether the process was in fact irreversible. De Klerk called a referendum amongst whites in March 1992, and achieved a resounding two-thirds majority for continuing negotiations. But when he returned to the bargaining table, it was with a tougher, rather than a softer line.

Negotiations bogged down on the issue of which matters were "basic principles" to be enshrined as constraints in the final constitution. The NP in effect wanted as much binding agreement as possible up front. The ANC wanted as much latitude as possible retained for a later, more "legitimate" process following elections. The major deadlock was over percentages required for a majority to change the constitution. The ANC demanded two thirds as the international norm; the NP wanted 75 percent. Deadlock continued, and in June 1992, in the township of Boipatong, armed IFP supporters massacred 38 people in their homes. Serious allegations were made that security forces had assisted in the massacre, and there were signs of a police cover-up. De Klerk's visit to the township to placate residents deteriorated into violence, further angering the populace and pushing the ANC to a more militant public position. CODESA collapsed with the ANC withdrawing from the process.

Following the breakdown of CODESA, the ANC, responding to a rising level of grass-roots militance, embarked on a campaign of mass action. Tensions between the IFP and the ANC sparked massive violence in Kwazulu-Natal and the East Rand. Police and security forces were accused of either assisting IFP forces or simply standing by. ANC suspicions of a "third force" were voiced, reflecting a strong view that there were deliberate efforts to sabotage the negotiation process and the ANC's mobilization campaign.

The ANC responded with a formalized "rolling mass action" campaign of strikes, stayaways and boycotts. They turned their attention to the homelands and on 7 March organized a march on Bisho, the Ciskei capital. Ciskei troops opened fire, killing 28 people.

Tragically it was the rise in political deaths, culminating in the Bisho killings, which sobered relations, facilitating the return to prominence of softliners and a reconvening of talks. It obliged the leadership on all sides to face the realities of fail-

South Africa

ing to achieve a political accord. Mandela and de Klerk reduced preconditions for a resumption of negotiations, and talks restarted.

The political violence continued right up to the election period, with the white right playing an increasing role as it sensed the negotiations moving to a close. The threat of rightwing action was ever-present in the process, given the unresolved question of who was really in charge of the country at the time – the government was in place but a Transitional Executive Council (TEC) had established mechanisms to ensure that in effect it governed by consent in the lead-up to elections.

The peace process was conceived in two phases – an interim constitution leading into elections, after which a final constitution would be negotiated. The *interim constitution* provided the foundations for a constitutional democracy, guaranteeing universal suffrage and fundamental democratic rights to be guarded by a constitutional court. The final constitution was to be approved by the *Constitutional Assembly* (national assembly and the senate), and checked by the constitutional court against constitutional principles before being adopted.

The interim constitution provided wide-ranging protection of human and civil rights. It provided for a parliament comprising a *National Assembly*, with 400 members elected by proportional representation; a *Senate* comprising 10 senators for each of nine provinces, also elected by proportional representation, and a *National Executive* headed by a president elected by a majority in the national assembly. The president could appoint two deputies and a cabinet. All parties achieving more than a five per cent vote had a right to be part of the cabinet, and cabinet posts were allocated in proportion to national assembly seats.

Provincial governments were to have their own legislatures elected on the basis of proportional representation, making decisions by simple majority vote. They could pass laws for their provinces, but they could not exceed powers granted by the constitution. Should national and provincial laws clash, the provincial one was to prevail. *Local governments* were to be autonomous according to conferred powers. A *Council of Traditional Leaders* at national level, and *Houses of Traditional Leaders* at provincial level, would advise parliament on traditional and customary law. By agreement the interim constitution was to come into effect on the day of the elections of the national and provincial parliaments.

Founding Elections

During the transition process, the existing government remained in office but acted in consultation with the Transitional Executive Council (TEC) drawn from the parties involved in the negotiating process. An *Independent Electoral Commission* (IEC) was appointed to conduct the country's first democratic elections in April 1994. Its first meeting was held on 20 December 1993 and the actual work of setting up systems of delivery at grass-roots level was only started two months before the elections. Constraints included not only an unreasonably short timeframe, and the

South Africa

absence of a voters roll, but the absence of infrastructure in large areas of the country, a lack of trained personnel, few existing administrative structures, and inadequate demographic data. Over the four days of the April 1994 elections, 8,493 ordinary voting stations supplemented with 950 mobile, 1,047 special, and 187 foreign voting stations were in operation in South Africa, and in 78 other countries. A third of the voting stations had no electricity or regular telephone service. It was a difficult process with shortages of materials, logistical problems, sabotage of the counting process, and systems failures. The IEC were acutely aware that failure to deliver a free and fair election might lose South Africa's democracy at the very moment of its delivery. Efficient and credible internal and external (United Nations, European Union, etc.) monitoring was important, as was the creative capacity of the IEC to respond to last minute crises in administration and counting processes.

Consolidating Democracy

South Africa has taken important steps to embed its democracy in political and civil life. A final constitution confirming the spirit of the interim constitution has been negotiated. A number of state institutions exist to strengthen and protect the new democracy, including: a Public Protector; a Human Rights Commission; a Commission to Promote and Protect Rights of Cultural, Religious and Linguistic Communities; a Commission for Gender Equality; an Auditor General; and an Electoral Commission. The public service is being transformed to more fully represent and serve the country's population; new labour legislation adhering to international standards has been introduced and a National Economic, Development and Labour Council has been established to seek consensus on social and economic policy.

An important initiative has been the Truth and Reconciliation Commission (TRC). The TRC offered a means of surfacing the atrocities of the apartheid system in a manner directed at reconciling a deeply divided nation rather than simply exacting revenge or seeking retribution. It has given people at all levels and on all sides the opportunity to declare their part in the conflict, to shed light on disappearances, murders, tortures and lesser human rights transgressions, and importantly to express regret and seek forgiveness and amnesty.

Lessons for Managing Transitions to Democracy

Building and sustaining a democracy in the context of deep-rooted conflict with limited violence is a tough task. The South African experience described here offers some lessons including the importance of:

– A precipitating crisis in the authoritarian system (internal and external pressures);

– A recognition of power realities by leadership (joint acknowledgement that negotiated change offers the best option to all parties);

– An extensive period of pre-negotiation;

– A significant gesture on the part of the government to break the deadlock of

South Africa

preconditions (the extension of meaningful political freedoms/suspension of armed struggle);

– Integrity of leadership and willingness to take risks for peaceful over violent change;

– Reframing deadlocks into common problems (e.g., changing "either-or" into sequence options);

– Pacting on multiple fronts to stabilize the change process and manage conflict relations;

– Embedding democratic participation (civil society participation beyond the political elites);

– The negotiation of a constitution which provides sufficient security for a governing regime to cede power through elections;

– Properly resourced electoral processes;

– Effective institutions for consolidating a new democracy and reconciling interests, moving from a past of deep and often violent division.

Although the tendency is to dissect constitutions and bargaining structures for lessons in managing transitions to democracy, perhaps the really important lessons lie less in these areas of analysis, and more in the attitudinal elements of key stakeholders, the quality of leadership and the skills they reveal in managing processes of negotiation and problem-solving both with adversaries and within constituencies. South Africa was indeed fortunate in these areas. The protracted process which facilitated the development of trade unions, the emergence of struggle structures and leaders with developed bargaining skills before political change was entertained may not have motivated early reform initiatives but, in the end, served the country well in the search for a viable democracy.

South Africa

C H A P T E R

3

If a process is designed
that is not appropriate to
the context, then it is
defeated before it begins.

Our focus now turns to process – the question of designing best how to reach a settlement. What is offered in this chapter is a range of negotiation techniques and procedures which can be selected, rejected or adapted depending upon what contending parties regard as most helpful in advancing the management of their conflict.

**David Bloomfield,
Charles Nupen and
Peter Harris**

3.1 Introduction

Conflicts differ so markedly in history and context, issue and character, intensity and outcome, that processes to address them must be responsive to each circumstance. If a process is designed that is not appropriate to the context, then it is defeated before it begins. This assertion comes from a recognition of the uniqueness of each situation, which should save us from universal prescriptions. But the process of comparison can still be invaluable. The fact that an approach works in, say, Eritrea is no guarantee that it would be in any way effective in Palestine or Fiji. But certainly at a more specific level we might well look at the elements of a cease-fire in Chechnya for clues as to how to achieve a cease-fire in the Philippines. For all their differences, there are also common or comparable elements: regional armed insurrection against a central government, claims for self-determination, deep-rooted identity issues intertwined with perceptions of social and economic discrimination, a recent end to authoritarian structures of government, and so on. So while respecting the uniqueness of a particular conflict, we can still learn important lessons from other situations. Even developing an answer to the question, "Why *wouldn't* that work here?" engenders an analysis of the situation that promotes definition of what could succeed.

3.2 Key Issues in Process Design

3.2.1 Commonly perceived deadlock

Conflicting parties come to the table only when they perceive it – willingly or grudgingly – to be in their interests. A confluence of factors must be operating to make this so. In particular, negotiation only tends to come about when there is a mutually perceived notion of deadlock. This is often referred to as a "hurting stalemate". In many cases, only when the conviction grows on both sides that neither will win outright and that to continue with violent means will be costly without achieving victory, does the option of negotiation gain attraction. This does not require that the two sides be evenly matched in their military power and resources. That is rarely the case in internal conflict. All it requires is that the weaker can at least prevent the outright

victory of the stronger – this is the rule rather than the exception in most internal conflicts.

Various internal and external factors produced this kind of stalemate in South Africa. The rapprochement between the US and the Soviet Union, followed by the latter's eventual break-up, was highly significant. As the East-West dichotomy began to crumble, some of the traditional support bases for both sides were removed. The international imposition of punitive sanctions and "pariah status" was chipping away cumulatively at the economic viability and moral legitimacy of the South Africans State. Internally, the costs of sustaining apartheid and separate development were spiraling. Population shifts to urban centres made implementation and control more problematic than ever, while the development of the various homelands and assorted separate councils and assemblies produced a vast and hopelessly inefficient bureaucracy. Internal and external resistance to the state escalated and gained huge momentum through the 1980s, proving ever more difficult and expensive to repress.

Similarly, after 25 years of continuing violence in Northern Ireland, by the 1990s both the paramilitary forces of the Irish Republican Army (IRA) and the generals of the British Army realized that neither side was capable militarily of securing total victory. The best each could do was to prevent the other from winning. The choice then became one between continuing to fight without hope of victory and at continuing high cost in human and financial terms, or to look at other non-military options.

An effective process is one that will prove itself resilient and durable in the face of delays, deadlocks, walkouts, raised hopes, false expectations and angry words.

So together a range of factors acted in both South Africa and Northern Ireland to bring about perceptions on all sides both of the pain of continued stalemate and of the attraction of negotiation. The second does not, of course, follow automatically from the first. In Sudan, in terms of human lives and suffering, environmental degradation, internal and external economic burdens, and so on, the cost of remaining in an ongoing stalemate has been huge; and yet, in the words of one scholar, even though Sudan "is a nation at the brink of total collapse ... leaders themselves have apparently not felt the personal threat of imminent demise".

3.2.2 Seizing opportunities

Just the existence of stalemate, then, is not enough. It can produce a window of opportunity, a "ripe" moment for solution, but ripe moments must be recognized, seized and used. Negotiations do not simply emerge from the ashes of conflict. A commonly perceived notion of deadlock leaves contending parties with a perspective that they cannot win by war, but not necessarily with incentives to search for peace. So acknowledging stale-

mate is one thing. But other factors must act on the parties to move them towards negotiation. Stalemate is usually experienced as a sterile situation, which, by definition, precludes any opportunities for change or progress. But almost paradoxically, stalemate can be precisely the beginning of opportunity. That depends on the confluence of factors operating that will make negotiation viable. These factors can come from any aspect of the process, internal or external.

In Mozambique, the intervention of the Roman Catholic church, using the organization Sant'Egidio, via pastoral letters, its own contacts, and its active encouragement and persuasion of the actors, led to its success in facilitating talks involving FRELIMO and RENAMO in Rome between 1990 and 1992. In the Angolan context, the Bicesse accords of 1991 grew directly out of a major shift in superpower perspective which led to Soviet pressure on the MPLA, and US (and South African) pressure on UNITA to go to the table. In South Africa in 1990, President de Klerk abruptly announced the release of political prisoners and the unbanning of the ANC and other outlawed parties. Similarly, Anwar Sadat's famous "flight to Jerusalem" in 1977 stunned the world by breaking the universal Arab taboo on Israeli recognition: he flew to Jerusalem and addressed the Israeli parliament. So much was implicit in the gesture – putting a huge crack in the universal Arab rejection of Israel's right to exist, putting an equally heavy burden of reciprocation on Israel, and so on – that, like de Klerk's speech, new possibilities and parameters for movement were developed out of long-standing stalemate.

So, while stalemate often comes about because of the absence of change, negotiation becomes an attractive proposition precisely because of changes in context – a new government or leader, a shift in support for one side or the other, a unilateral "circuit-breaking" initiative, and so on. Such a turning point in perceptions is required to transform a stalemate into a search for alternatives. There has to be a perception, originally conceived or induced, of the distinct possibility of a negotiated solution.

It is therefore important that an ongoing conflict be constantly evaluated and assessed to ensure "windows of opportunity" are not lost. Generally, such opportunities are rare and should be seized. The parties themselves, because of their proximity to the conflict, may not see such openings, and it may therefore require a third party to take the initiative.

3.2.3 The importance of trust

Negotiations tend to focus on issues, but their success depends on people. So good process also seeks to enhance the re-

lationship between the conflicting parties. This is not a matter of asking enemies to become friends. But there must be a functional working relationship between the parties so that, minimally, they can negotiate with a degree of good faith. To reach that minimal working level of respect is often an incremental process between old enemies. During violent struggle, demonization of the enemy is a standard tactic: visions of the other side as "psychopaths", "terrorists" and "evil empires" help to legitimize the use of violence against them. But such visions must be dismantled in order to hold dialogue. Perceptions must be changed. Small concessions, often with low intrinsic value in themselves, can serve as tokens to demonstrate both one's commitment to the process and one's inclination and ability to deliver on one's promises. When that is done reciprocally, both sides can be seen to be mutually as good as their word. The role of accurate information and the manner of its presentation to the parties can greatly assist the breaking down of incorrect perceptions.

In other words, good process moves the parties beyond an exclusive focus on the competition of bargaining to include a degree of co-operation: without co-operation, there will be no satisfactory outcome. Negotiation, in itself, implies movement and should be a problem-solving process. Participants must, to some degree, co-operate to find a solution to their problem.

The classic example of such a working relationship was that which grew between the chief South African negotiators, Roelf Meyer for the National Party and Cyril Ramaphosa for the ANC. Such was the substance of their relationship that it arguably salvaged the peace process in its darkest days. In the midst of negotiations, a serious outbreak of violence at Boipatong in June 1992 led the ANC to break off all contact with the government. For almost 18 months thereafter, the "Roelf and Cyril show' remained the only open channel of communication between the sides. Meyer himself reflects on this point:

Negotiators need to develop a common understanding of each other's positions. In the case of Cyril and myself, that common understanding led to friendship. But what is very important in this process of coming to understand each other is that you have to put yourself in the shoes of the person on the other side ... The personal chemistry between negotiators is ... a very important ingredient of successful negotiations.

In deep-rooted conflict, parties who come to the negotiating table carry with them an abiding experience of conflict, struggle and war. The exercise of force has been their dominant, perhaps only, mode of engagement. The key challenge in process design is to invert that experience, to get the contenders focused on fears, concerns and interests and the importance of reconciling them, on issues and the importance of resolving them. An effective process is one that will prove itself resilient and durable in the face of delays, deadlocks, walkouts, continuing violence, raised hopes, false expectations and angry words.

3.2.4 Flexibility

Negotiation is a creative process, a precarious journey of discovery. This means that the final outcome cannot always be foreseen at the beginning of the process. Clearly, the parties will have their own views on what they want to achieve, their own "models" of desirable settlements, but only those in a privileged or extremely powerful position will be able to define their objectives and get one hundred per cent of what they want. This is a daunting prospect for a negotiator or process designer. Consequently, while the parameters for the process need careful design and agreement (and will be examined in this chapter) the process needs to be flexible enough to cope with the unforeseen. A naturally protective mind-set at the start of negotiations means that negotiators often look to establish *preconditions for dialogue* – but too many preconditions make the process brittle and can inhibit or even throttle it at birth. Preconditions have a habit of turning around to bite their promoters. In some cases, negotiators have had to go back to their constituencies and attempt to persuade them that the conditions that they were so firm and voluble on were now not so important after all. If the negotiations really move into new territory, then pre-conditions, which made sense at the start, may become irrelevant or worse.

During the talks process, goals and targets can change, and the basic parameters and ground-rules of the process may need to be adapted. Over several years, for example, Sinhalese-Tamil dialogue in Sri Lanka shifted, according to what was possible, acceptable or appropriate, from bilateral negotiations through third-party mediation and an all-party conference, to informal and private engagements and subsequently to formal talks brokered by India. Needs will change, and so must process. Flexibility in process design does not mean lack of resilience or even a

lack of guiding principles. But it does require that parties consciously avoid painting themselves into corners, or leaving themselves no alternative to breaking off dialogue. By taking a wider view of the whole peace process, what looks like the end of talks can often prove to be a catalyst that reinforces efforts to get negotiations back on track. Then we may be able to recognize what has been called a step-break-gesture-step pattern. Conflicting parties enter negotiations and take a step towards progress; then the negotiations are broken off over some disagreement; later, outside the talks process, some gesture is made that facilitates a resumption of talks and a further step of progress at the table, before another break occurs, and so on. While not easy to achieve, the greater the flexibility in the design, the greater the chances of progress.

Box 3 | **KEY ELEMENTS IN DESIGNING A NEGOTIATION PROCESS**

1. **Commonly Perceived Deadlock**. Negotiation tends to come about when there is a mutually perceived notion of deadlock, often referred to as a "hurting stalemate".

2. **Seizing "Windows of Opportunity"**. But the existence of stalemate is not enough. It can produce a "ripe" moment for solution, but ripe moments must be recognized, seized and used. An ongoing conflict must be constantly evaluated and assessed to ensure "windows of opportunity" are not lost.

3. **Importance of Trust**. Enemies do not need to become friends. But negotiation does demand a minimum of co-operative effort.

4. **Flexibility**. The process of negotiation needs to remain flexible. Too many preconditions can become obstacles to dialogue.

3.3 Pre-Negotiation

Pre-negotiation is, in the Irish phrase, "talks about talks". It is concerned with setting up the framework within which issues can subsequently be discussed, not with the issues themselves. In this handbook's terms, pre-negotiation does not address the design of an outcome – that will wait until the forthcoming talks actually begin – but focuses on process. It is, in effect, *negotiation*

3.3 Pre-Negotiation

over process. Its subject matter will concern procedures, structures, roles, and agendas. One aim of pre-negotiation is to reach a joint definition of the problems and subject matter that will have to be addressed – but it does not tackle those issues beyond defining them for future reference. It can be carried out by very small delegations (or even individual representatives) either talking face-to-face or through a third party.

The importance of pre-negotiation cannot be overstated. Bad process will almost definitely lead to failure: what may seem dry and technical procedural questions need to be resolved prior to talks, otherwise they can become hugely significant or symbolic issues which may abruptly derail the process. In the handbook's terms, good process facilitates good outcome; in practical terms, good procedural pre-negotiation facilitates good substantive negotiation. Additionally, an effective pre-negotiation phase helps to develop the vital working relationship discussed earlier. Especially if it is held out of the glare of publicity, quiet pre-negotiation offers an all-important opportunity to develop the habit of dialogue between opponents while no substantive issue is at stake.

Pre-negotiation is, of course, less neatly distinct in the real world than in this analytic presentation. Pre-negotiation can shade into negotiation if it goes extremely well, or substantive negotiation may need to recede back to procedural pre-negotiation temporarily. Like the entire dialogue process, it can arise through a voluntary desire among conflicting parties, or it can be imposed from outside by a powerful third party who enters the conflict and sets the terms for engagement.

Pre-negotiation can take place even if there is no intention to move on to full negotiations. Perhaps the sides are still too far apart for proper negotiation. Nonetheless initial contacts, aimed at simply increasing mutual understanding of the issues that divide through joint definition of the problem, can establish progress that may make negotiation more feasible at some future stage, or even bring the possibility of direct talks closer to reality. The Norwegian back-channel negotiations to broker the 1993 Middle East peace accord is an example. Initiated by a Norwegian diplomat, this involved highly confidential meetings in the diplomat's private house in Norway between a high-ranking PLO member and an Israeli adviser. The two protagonists acted in completely unofficial capacities. Their conversations focused

Pre-negotiation is concerned with setting up the framework – the procedures, structures, roles and agendas – within which issues can be discussed. Its importance cannot be overstated.

67

on exploring mutual definitions of their problem, and then examining the obstacles to settlement and the possibilities for overcoming such obstacles. Such matters were in reality the ingredients of the pre-negotiation process of defining the agenda. The talks were exploratory, unofficial, deniable, without formal sanction, and included no expectation or commitment that they should lead further. However, when this pre-negotiation took on its own momentum (not least because of the developing trust between the two interlocutors), it made sense to feed it back in to their respective formal structures: the PLO and the Israeli government. In the end, the dialogue led to full-blown negotiation within the official peace process. The point is that the small, private, exploratory pre-negotiation initiative had no conscious goal of a peace agreement at the time.

In a more formal example of pre-negotiation, the agenda for talks in South Africa was effectively outlined in preparatory form in three important statements that, to a large degree, outlined the agenda and the process for discussion. As one participant noted:

A common perception of deadlock seems to be critical, and the first phase of negotiation [i.e., pre-negotiation] seems to be taken up in exploring this deadlock and developing a common mental map. In the South African case the Groote Schuur Minute, the Pretoria Minute and the Record of Understanding were key moments when the major parties to the conflict spelt out their common perception of deadlock, and how to proceed away from it.

3.3.1 The pre-negotiation agenda

Developing a "common mental map", and then devising the means to travel is the business of pre-negotiation. Putting the design of the negotiations together requires careful consideration and planning. The resulting process should be accepted by all parties as legitimate.

Box 4

MAJOR ELEMENTS FOR PRE-NEGOTIATION

The following list represents the major elements to be pre-negotiated, from the hugely complex to the apparently straightforward:

– agreeing on the basic rules and procedures;

– participation in the process, and methods of representation;

– dealing with preconditions for negotiation and barriers to dialogue;

– creating a level playing-field for the parties;

– resourcing the negotiations;

– the form of negotiations;

– venue and location;

– communication and information exchange;

– discussing and agreeing upon some broad principles with regard to outcomes;

– managing the proceedings;

– timeframes;

– decision-making procedures;

– process tools to facilitate negotiations and break deadlocks;

– the possible assistance of a third party.

We will examine each of these issues in turn, presenting a menu of options for developing a negotiation system. At all times bearing in mind the influence of context and its potential to inspire completely novel options, parties should be able to design a process which will prove both resilient and durable. They must also, of course, be aware of the possibility that there exists within their own culture indigenous dispute resolution mechanisms: these can be adopted or adapted to further strengthen the whole design.

3.4 Developing a Specific Negotiation Process

3.4.1 Participants

In Nelson Mandela's famous advice to Northern Irish politicians, "You don't make peace by talking to your friends; you have to make peace with your enemies". While it is tempting to exclude more extreme parties from the process, for fear of their disrupting or obstructing talks, the risk then increases that they will act as spoilers in undermining the agreement reached. Moderates will negotiate more easily, but what is implicit in Man-

dela's words is the need to deal directly with those who are causing trouble, rather than to exclude and subsequently try to marginalize them. This was one reason for the failure of Northern Irish negotiations in 1991 and 1992. While the moderates tried to negotiate agreement around the table, armed extremists on both sides were excluded. The surrounding atmosphere, heavy with the threat of paramilitary violence, undermined the significance and efficacy of the talks.

Reviewing negotiation processes between various permutations of the parties to the Lebanese conflict since the mid-1970s, two leading scholars make the point convincingly:

In terms of structure, the most important deal in the Lebanese conflict revolved around who was included in the negotiations and who was excluded or chose not to join … [N]o solution to the conflict is likely to be successful if all the major parties to the conflict are not involved in the negotiations. Nor are substitutes likely to succeed … because they do not have the real power to implement the agreements.

The need to be inclusive refers not only to differing parties, but also to different opinion strands *within* parties. Especially for outsiders, it is tempting to see the sides to a conflict as homogenous, monolithic blocs. This is rarely the case. There are usually a variety of constituencies within any one disputing party – political factions, old and young generations, gender groups, radicals, fundamentalists, peace-activists, business interests, military interests, and so on. Spoilers can come from within one's own broader community – whether they are more extreme or more moderate members than one's own faction – just as easily as from some totally excluded conflicting party.

Furthermore, those who carry out the negotiations must possess – and be seen by the opposition to have – adequate power and authority mandated to them from their own side. They need to be able to speak with authority, to offer deals with the capacity to deliver. To be, in short, the legitimate representatives to the talks. Often the most obviously powerful individuals for this role would seem to be the party/faction leaders themselves.

3.4 Developing a Specific Negotiation Process

However, their own public personas and positions may in fact constrain their capacity to talk flexibly: their role outside the talks requires an integrity of position that cannot appear negotiable for fear of appearing "weak". The judicious selection of negotiators who can bring to the table their leaders' authority while retaining their own capacity for flexibility is a vital ingredient.

It simultaneously makes life at the negotiating table more difficult, but increases the chances of producing a successful outcome, to include all those who can influence the process. But realistically, the minimum requirement is to include the mainstreams from all sides. Subsequently, those included either can strive to bring more of their excluded or unwilling strands into the process as talks gather momentum, or ultimately they can persuade, cajole or coerce their respective extremes into acceptance of the final outcome.

One element of inclusion is to forge *cross-party coalitions* among those in favour of the talks. Within any one camp in a conflict, there are likely to be differing opinions about the value of negotiation. To make the process work, it is important to build a coalition with all who support the *process*, however much they may still disagree about outcome. This applies not only within one's own party, and among one's allies, but – just as importantly – between opposing sides. Building momentum in favour of negotiation across the divide increases the possibility of effective outcomes, and feeds into the process of building trust and a good working relationship between opponents.

All those parties with a genuine stake in the conflict have a claim to be included, as have those whose co-operation and endorsement is needed to ensure that the outcome of talks becomes a reality. If they are not drawn in, they remain outside the camp, temporarily sidelined but ready (and motivated) to undermine the outcome. The list of participants may thus be extensive: political parties, faction leaders, external actors, and so on. Bigger numbers usually mean a slower process, but there are methods outlined in subsequent sections which will offset the tendency of size to work against efficiency.

Participation is a core issue, and remains a difficult one to resolve. Not only are there usually multiple parties and opinions within any deep-rooted conflict, but additionally both the nature of those parties and their permutations alter over time. An extreme example of an inclusive definition of participants is the number of participants in the Basque conflict in Spain. As many

"You don't make peace by talking to your friends; you have to make peace with your enemies."

Nelson Mandela

as two dozen identifiable groups had a stake in the negotiations, which could be grouped into four categories: ETA itself, with all of its factions, members in prison or in exile, and their families; other Basque groups, including the Basque autonomous regional government and the political parties and media associated with it; the Spanish government and its associated political parties and media; and international groups, including governments of other nations (neighbouring France, which also has a Basque population, and Algeria) and organizations such as Amnesty International and Interpol.

Such a bewildering "universe of parties" is typical of the complexity of long-standing and deep-rooted conflicts. This may indicate a need to subgroup the participants, for example into external and internal parties, or to subgroup the issues around which negotiations can be structured. Techniques to do this are addressed in later sections. To take the Ethiopian example, the deep divisions between the groupings fighting for self-determination produced a situation in 1989 where two separate and distinct sets of dialogue processes were opened with the government: one with the EPLF and one with the TPLF. To divide the talks groups in this way can be effective, as long as its overall effect is not divisive. But the main point remains that exclusion, abstention or withdrawal of parties needs to be acknowledged, addressed and provided for during the pre-negotiation phase of process design.

A related and pressing question refers to the proportions in which parties should be represented. Does every party get an equal number of delegates? Or do bigger parties get more? Is there a good reason to assign spokesperson roles to some parties or some negotiators, and observer status to others? Is there a basic accreditation process which determines entry to talks?

AMONG THE OPTIONS FOR RESOLVING THE QUESTION OF PARTICIPATION ARE:

– to open channels of communication, however small or informal, in an attempt to start the contact and communication;
– to take the time to include all parties with a serious claim to be involved;
– to build a sufficient mainstream-based pro-negotiation coalition to open talks with some substantial hope of

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achieving an outcome, and hope to co-opt abstainers, or persuade excluded parties to adapt their behaviour to fit the rules of entry;

– to open negotiations with a less than comprehensive range of parties, with the aim of achieving a settlement that excluded parties can be persuaded to live with;

– to limit participation only to those parties who enjoy substantial support, whether that is defined electorally or otherwise;

– to specify equal numbers of delegates per party;

– to allow variable delegation sizes based on electoral strength or status (where elections have been held);

– to place an electoral or other threshold to restrict or enable participation;

– to allow for different degrees of status in the process (e.g., participant and observer) for different parties;

– to distinguish any groupings within the negotiation process who may be opposed on some, possibly major, issues but share positions on others.

3.4.2 Preconditions and barriers to negotiations

Preconditions are core areas of concern that must be dealt with before initiating negotiation on the substantive issues. The early settling of certain preconditions – particularly regarding the use of violence – are frequently a necessary part of bringing negotiation into being. For many "rebel" groups in conflict with a government, the precondition of a cease-fire, or of disarmament, is deeply threatening. And yet it can be a vital requirement for the government, who may see it primarily as a question of legitimizing their opposition. But for the rebels, participation in their rebellion has become a defining element of their identity. To give that up threatens their sense of self, their group coherence, the core of their existence, and the source of their power. Nonetheless, in various contexts, solutions to these core concerns have been devised.

In South Africa, the ANC's agreement to *suspend* their armed struggle – notably and consciously distinct from abandoning it – facilitated a move towards dialogue. A government insistence on permanent disarming would have made progress impossible at

that stage. In Angola, El Salvador and elsewhere the UN has effectively acted as a third-party recipient of decommissioned weaponry. In Northern Ireland, the question of paramilitary disarmament stalled negotiations for two years. Eventually, an independent commission devised a set of six principles of non-violence that every party would have to endorse to gain access to the negotiation process. These included a commitment to exclusively peaceful means of resolving political issues, and – significantly – a renunciation of force either to influence the negotiations or to alter their outcome. With all parties signed up to the principles, the obstacle of the disarmament precondition was bypassed, and its significance reduced to more manageable proportions. Inclusive talks began.

A similar, yet slightly different, problem can produce *barriers* to negotiation. This is where a party refuses to enter negotiations for one of two reasons: a refusal to talk to a particular person or group, or a refusal to accept a particular issue as negotiable. The first problem, rejection of a person or group, is usually based upon their actions in the history of the conflict. Someone now in a negotiating team is seen as responsible for inflicting particular wounds, physical or otherwise, on their opponents. The opponents feel they will not, or cannot be seen to, deal with such a person. They may be reacting to a past leader of a violent guerrilla campaign, or perhaps to a government minister who was responsible for particularly harsh oppressive measures. For whatever reason, something in the person's past actions makes him or her unacceptable. It may be that persuasion, or pronouncements by the person concerned, will be enough to remove the objection. Perhaps some actions by them in the present can go far enough to soften the perception of them. But perhaps not.

Mandela's words come to mind again in this instance: that one must make peace with one's enemies. By definition, in this kind of context, enemies tend to have blood on their hands. One approach to this barrier is to set the personalities aside long enough to discuss and agree the general terms for admission to talks. Britain's refusal to negotiate with the IRA in formal session was based in large part on the IRA's history of killing British soldiers and the British tradition of, in the Thatcherite mantra, "not talking to terrorists" (or at least not being seen to be doing so). As noted, this proved an insuperable obstacle to progress until the issue was broadened to the more general level of the terms of admission to which all parties, including the IRA's political party Sinn Fein, could agree.

3.4 Developing a Specific Negotiation Process

There is a need to be creative when it is clear that the presence of a party is critical to the success of the talks and there is a refusal on the part of one party to even talk to the other. Thus the refusal by the Indonesia's Suharto Government to enter into talks with the East Timorese over the issue of independence has led to a situation where the talks are now between Portugal and the Indonesian Government. Clearly the exclusion of the East Timorese is a major hurdle to the conducting of effective negotiations and needs to be addressed before substantive progress is likely to be made.

The problem can be just as difficult when one side identifies a particular issue as *non-negotiable.* They will talk with the opposition about a variety of other subjects, but this one in particular is too precious to them and they cannot compromise. Governments tend to feel this way about territorial integrity: rebels demanding secession are, to the government, asking the impossible. Conversely, anything that can be interpreted as surrender – including the handing in of weapons prior to a settlement – may be an impossibility to the rebels. No facile technique can be prescribed for progress. Either compensation can be offered, so that both sides resist or yield equally on the issue, or a broader debate on the underlying issues can bring wider perspective and redefinition of the terms for entry. But at bottom, the readiness or otherwise to enter talks with the enemy comes down to the parties' real readiness to make peace or their depth of frustration in continuing to make war. Indeed, such barriers may be an expression that parties are not ready to enter a full talks phase.

Rather than try to achieve a settlement while such subjective and perceptual antagonisms remain strong, time might be best spent by a third party, through unofficial communication channels, facilitating intra-party discussion on the potential benefits of talks and the distance yet to be travelled before those benefits materialize. A parallel pre-negotiation process focused only on procedural issues may help to build the foundations of a working relationship and place distance between the violence of the past and the potential of the present.

On the other hand, there may be issues which are important to the parties and which can be agreed in advance as guiding principles that may serve as the basis for further possible discussions. In the conflict in the Sudan, which is still continuing, the contending parties nonetheless reached agreement in September 1994 on a "Declaration of Principles", including matters

such as the maintenance of the unity of the Sudanese State and rights relating to self-determination.

THE OPTIONS REGARDING PRECONDITIONS COMPRISE:

– to drop preconditions to negotiations, and accept all comers and issues;

– to use the pre-negotiation process to work through preconditions and questions of legitimacy and recognition of spokespersons;

– to open out preconditions initially aimed at one party into a principled statement to which all parties can and must agree;

– to address preconditions and the commitment to the negotiation process in an unofficial discussion process prior to formal negotiation.

3.4.3 Levelling the playing-field

All too often, conflicting parties approach the end-game of conflict – the hurting stalemate – in an *asymmetrical* relationship. Asymmetry refers to their relative power positions: one is disadvantaged where the other holds formal power. They are not evenly matched, not symmetrical. William Zartman offers the classic scenario of asymmetrical power, where rebels contest with government: "The government has ... sovereignty, allies, arms, and access to resources. The insurgents have to fight for all of these. Moreover, the government determines ... the rules of the game for the rebellion's struggle … It is both participant and umpire".

So while a government or central authority has ready access to power, controlling the nation's financial and military resources, their opponents' access to resources is usually a more difficult matter, often reliant on covert sources. But at the same time, the asymmetry is modified by several factors. First, the rebels' intense commitment to their cause as the single defining mission of their existence creates an obvious challenge to the other's straightforward application of its power. As any government knows well, a very small force, given adequate arms and training, can create a destabilizing effect out of all proportion to its size. That potential, of the small to thwart the powerful, constrains in very practical terms the government's ability to exer-

3.4 Developing a Specific Negotiation Process

cise its considerable power. Second, most governments have a multifaceted agenda whose scope reaches well beyond just containing or ending the rebellion; with their responsibility for all the other business of governing, their resources are spread broadly over a wider range of interests. Third, external factors can work indirectly to mitigate the differences in the power relations. An international perception of the justness of the rebel cause can constrain the government's wielding of its power. Economic and other sanctions exercised against the South African and Rhodesian (Zimbabwean) regimes are clear examples of this. Fourth, weaker parties themselves often address the question by finding powerful allies, sometimes internal but more frequently external, to the conflict. The Liberation Tigers of Tamil Eelam (LTTE) drew at one stage of their struggle active support from powerful elements in India, including elements within the Indian Government itself. Similarly, in the cases of UNITA in Angola and of RENAMO in Mozambique, their continued ability to fight depended for some considerable time on the support of the South African regime. In a reverse example, in 1991 the PLO suffered a considerable setback and lost considerable resources from traditionally supportive Arab states when it declared itself in favour of Iraq during the Gulf War.

How do we make the playing-field level? How do we ensure that all parties regard the process as legitimate? The main concentration here is not in the power balance in the great scheme of things, but in the situation at the negotiating table. One levelling effect comes from the parties' acceptance of each other's right to be at the table. Simply agreeing to talk confers recognition and legitimacy on spokespersons. This mutual acceptance is an admission of some kind of equality. And even if that equality exists only while the parties are in the negotiation situation (and it may often be impossible for a powerful party to acknowledge such legitimacy anywhere else) that may be enough to facilitate talks.

However, simply within the talks context, there will often still remain a *resource asymmetry*. Good process design entails ensuring that resources on all sides are distributed equitably. That will mean allowing time for preparation, education and familiarization with the process of negotiation. A government with its full-scale administrative capacity, advisors and resources, is obviously at a huge negotiating advantage over a small insurrectionist movement with a handful of lieutenants more familiar with military tactics than political discourse. Suddenly, they must act as a

fully fledged political party, when in fact they have had little opportunity to develop such skills.

And so time may be needed for preparation before talks. Political and technical education may be vital in order to reduce the relative disadvantage. This is not a patronizing expression of sympathy for the underdog; rather it is in everyone's interests. If one side in the negotiation process is at a serious disadvantage in terms of skill and experience, the likelihood of either side coming away from the table satisfied is dramatically decreased. In any case, the need for such assistance and familiarization in political and negotiating processes – in particular, within the social context of the conflict – is by no means restricted to the relatively small or the weak.

Levelling the playing-field is about establishing equity in the negotiating process between all parties. It promotes equitable participation at the negotiation table, so that no party has a monopoly or a preponderance of legitimacy or authority. The procedural rules, agreed in advance, must deal with this.

IN ORDER TO LEVEL THE PLAYING-FIELD AND PERMIT EQUITABLE NEGOTIATIONS, THE OPTIONS INCLUDE:

– to accept, at least within the negotiation context, the right of all sides to be present;

– to agree on procedures permitting the involvement of previously excluded or restricted persons;

– to schedule time and resources to permit all parties to come to the table prepared;

– to make contact with, and learn from, counterparts from other contexts;

– to look to an external powerful mediator or chairperson both to bestow at least temporary legitimacy on all parties equally for the duration of talks, and to underwrite the equality of all parties at the table.

3.4.4 Resourcing the negotiations

Negotiations must be adequately resourced to ensure effective participation and efficient conduct of the proceedings. That means not only such mundane but important provisions as secretarial backup, financial support, communication and informa-

tion-gathering channels, residential facilities, and so on, but providing these resources equally to all parties. The larger the scale of the negotiations – because of a wide variety of parties and sizeable delegations of each – the greater the need for such practical and material resources on an equal footing. Prolonged negotiations will not come cheap, and it is almost assured that some parties will find it much easier to meet the cost than others. An external funder – an interested government or international agency, or a relevant NGO or foundation – may be in a position to underwrite the costs.

Experience overwhelmingly teaches that the negotiation process tends to be neither quick nor economical. Provision must be made for considerable time spent away from the formal sessions at the table. Many parties will have other responsibilities (running a country, dealing with constituents, maintaining press relations, and so on) which do not cease to intrude just because of the talks.

THE OPTIONS FOR RESOURCING COMPRISE:

- negotiations which are self-funded by each side;
- negotiations in which one party offers to resource most or all of the negotiations;
- negotiations in which contributions from other domestic actors are sought;
- negotiations funded by international bodies.

3.4.5 The form of negotiations

The form the negotiations take will be determined by the number of participants and the range of issues to be addressed. A brief survey of negotiations over the last quarter-century indicates a wide range of options, from internal and private discussions, through indirect (i.e., not face-to-face) talks, proximity talks (on the same site, but with bilateral communication mediated by a third party), round table discussions, all-party conferences, conventions and summits, to full-fledged direct and official negotiations, whether assisted by third parties or not.

The context will indicate some possibilities more than others. As ever, the best formula may be a mixture of several options at different stages.

Large-scale conferences can be immensely useful in signalling the opening of a negotiation process, as they can be appropriate

for the presentation of a final settlement. They do not in general facilitate substantive discussions and deal making, because of their size and formality. (However, see the section on National Conferences in the following chapter for some counter-examples).

Summits of key spokespersons – high-profile short-term events with small numbers of delegates – can be useful for talking through key issues. The high rank of those present can guarantee their immediate official endorsement of any agreement. The public nature, however, raises the stakes considerably by putting extreme pressure on the participants for a result by the end of proceedings.

Round table discussions including all parties are a key element of any negotiation process. But the breadth of attendance and the formality of proceedings can encourage a stiff, rhetoric-based atmosphere not particularly conducive to real deal-making. Plenaries, however, can be the ideal place in which to formally endorse conclusions and agreements reached on agenda items.

Subgroup or subcommittee discussions – where each party is represented but in much smaller numbers than in plenary – facilitate substantive negotiation over specific agenda items, while also allowing a much faster process of information exchange and decision-making. They can also be the place for more plain speaking than formal meetings. But their smallness of scale and narrowness of agenda means they need to be backed up with endorsement from the fuller plenaries.

Shuttle mediation – meetings between the mediator and one party at a time – is a very useful way of indirectly channelling information through the third party to the other conflicting parties. It also provides an opportunity to make clear one's own point of view without argument from opponents, in the knowledge that the clear expression of that view will reach them via the chair or mediator. If there is a problem bringing the parties into a face-to-face situation, either for the first time or because of some impasse reached in direct talks, then shuttling can be a very useful exercise in clarifying positions and maintaining contact. There is no strict rule here and the mediator may decide if it is necessary to put the parties together at any stage of the proceedings in order to clarify issues or to debate a point. *Proximity talks* are a similar, if not identical, version of this procedure: parties are located close by, in different rooms of the same building or perhaps in adjacent buildings. A chair shuttles between them one at a time, or calls them in separately for talks.

3.4 Developing a Specific Negotiation Process

Bilateral discussions – i.e., face-to-face talks between two parties directly – can be official or unofficial. When they are unofficial, co-ordinated through confidential third parties, through unofficial communication channels, or in secret face-to-face encounters, they may have great value in clarifying perceptions of one side by another, and in defining the priorities of each and the distance between them. Once that has been achieved, though, unofficial talks lack the official imprimatur necessary to produce any formal or lasting agreement. But they can be a vital requirement in paving the way toward that goal.

Disaggregation – i.e., a mixture of plenaries and subgroups – involves dividing the workload between subgroups whose task is to prepare specific proposals on particular parts of the agenda, for consideration in plenary sessions. It is still important that all parties should be involved at all levels of the negotiation process. Every effort should be made to resolve differences at the disaggregated level because resolution becomes more difficult in larger and more formal forums. But the plenary sessions still carry more formality and official sanction, and should remain the ultimate authority for approving subgroup proposals. The subcommittees can work on a much smaller scale to deal with a specific issue, and report back to the fuller table. This not only saves time and avoids rhetoric, but additionally functions to chip off workable pieces of what can seem an overwhelmingly complex and daunting agenda.

The Northern Ireland talks process of 1997–1998 is an example of disaggregating agenda items according to which parties they pertain most closely to. The agenda was separated (during previous pre-negotiation efforts) into three strands. Strand One, concerning power-sharing structures within Northern Ireland, involved the Northern Irish political parties and the British Government; Strand Two, concerning the relationship between the two parts of Ireland, also brought in the Irish Republic's Government; while Strand Three, focusing on a new British-Irish treaty, involved only the Irish and British Governments, with other parties included only as observers. The three strands were designed to run simultaneously, each with a different independent chair, and with regular reporting to full plenary sessions for appraisal.

In South Africa, a comprehensive disaggregating process was initiated in the Convention for a Democratic South Africa (CODESA), with three main elements. The negotiating forum formed the overall plenary authority in the process. Then five

working groups were given responsibility for specific elements of the agenda, reporting ultimately to the plenary forum. At a third level, technical committees, unlike the other elements, were explicitly *not* negotiating forums. They comprised not party negotiators, but rather non-party experts on the topic at hand, who were requested to prepare proposals for consideration by the plenary forum. Interestingly, while ultimate authority remained with the forum, the other levels exercised great influence on the process, with a "timeframes working group" virtually imposing deadlines on the process, and a "constitutional technical committee" completing the bulk of the all-important drafting of the new constitution.

Where disparate views emerge in subgroups, they may be reflected in alternative proposals that can be debated and decided upon in plenary session. Another strategy, although a potentially divisive one unless circumstances particularly encourage it, is to produce both majority and minority proposals or reports, which represent both the greater opinion grouping and the dissenting voice.

A WIDE VARIETY OF OPTIONS FOR THE FORM THAT NEGOTIATIONS CAN TAKE INCLUDE:

– Large-scale conferences;
– Summits of key spokespersons;
– Full round table sessions;
– Shuttle mediation;
– Bilateral discussions;
– A mixed formula of plenaries and subgroups;
– Acknowledgement of dissenting coalitions by means of minority reports;
– Defining different roles and capacities for negotiators and observers.

3.4.6 Venue and location

While the question of where to hold talks seems a straightforward consideration, it can become a highly divisive issue. A venue can carry deep symbolism. If talks are held on the "home territory" of one side, the other side may perceive an unfair bias against them. As with so many issues in the delicate dance of negotiation, even if in reality such a venue offers little or no advan-

3.4 Developing a Specific Negotiation Process

tage to the "home team", the perception of bias can be enough to obstruct progress.

A *neutral venue*, of course, circumvents this problem. But care needs to be taken in defining such neutrality. If talks are held in a third country, quite outside the conflict territory, is that third country perceived as being more friendly to one side than another? If so, neutrality disappears again. Even if the neutrality is accepted all round, is access to the host country evenly distributed? In a situation where the conflicting parties are a government and an insurgent movement, how free are the insurgents to travel across borders, in comparison to government personnel? While a government will usually have access to all the resources necessary – air transport, travel documents, finance, and so on – insurgents may, by definition, be denied passports and have limited resources for international travel. This was the position of West Bank/Gaza Palestinians for many years; since they were not permitted Israeli passports, unless they themselves possessed other nationalities which provided them with passports, it was difficult for them to travel to or from outside countries.

The arrangements at the venue itself need some consideration. The general principle holds that all manner of resources – from secretarial help to communication access, to private space, and so on – need to be seen to be provided equally to all. And thought needs to go into the situation beyond the formal facilities. Is there room for the equivalent of what was known at the 1978 Camp David talks between Israel, Egypt and the USA as a "walk in the woods"? This was the term coined for quiet, confidential and unofficial discussions between individuals away from the negotiating room. Former Finnish President Kekkonen was famous for holding sensitive foreign policy discussions with Soviet leaders in the relaxed and private environment of his estate's sauna. Such unofficial exchanges do much to lubricate the wheels of the formal negotiation process. This is what former Norwegian diplomat Jan Egeland said of the talks in Oslo:

> *One of the advantages of the Oslo channel over the traditional conference diplomacy was the informal and undisturbed venue … an atmosphere of mutual trust and affinity was allowed to develop between people who spent hundreds of hours working, quarrelling and eating together in front of Norwegian fireplaces and surrounded only by peaceful countryside.*

In general, then, both location and venue itself must be appropriate in terms of:

– *size* and *suitability*: from adequate space for plenaries and for formal as well as informal small-group work to such simple details as catering;

– *security*: of personnel as well as regarding confidentiality of discussions and papers;

– equal *accessibility*: to the venue as well as to means of travel to and from the location.

Some examples of differing venue formulas include the 1978 talks at Camp David, the isolated and well-protected presidential retreat in the US, where Israeli and Egyptian delegations could be housed in separate buildings within the compound, meeting in President Carter's building; the 1991 London conference on the Ethiopian conflict, hosted by Britain but mediated by the US; the neutral location of Geneva for a 1983 conference on Lebanon mediated by Saudi Arabia; the 1991 Madrid conference which launched the Arab-Israeli peace process; Northern Ireland negotiations in 1992 which moved between locations in Belfast, Dublin and London to satisfy competing aspirations over the symbolism of location; and the 1990 church-hosted talks in Rome on the Mozambique conflict.

OPTIONS FOR VENUE CONSIDERATIONS COMPRISE:

– identifying a neutral venue, of no particular symbolism or support to any one party;

– agreeing on a domestic venue acceptable to all parties;

– assuring equal accessibility to the venue for all parties;

– the supplementing of official or formal discussion forums by unofficial, off-the-record and possibly deniable channels of communication outside and around the formal table.

3.4.7 Communication and information exchange

Transparency and confidentiality produce a difficult tension in the negotiating process. But whether proceedings are open or closed, in whole or in part, will depend upon how the parties

3.4 Developing a Specific Negotiation Process

choose to reconcile the interests of keeping the public informed with that of creating an environment where they can explore options and proposals in a secure and uninhibited way. Public support may be a necessary spur to the momentum of the talks process, or an obstacle that reduces the freedom of parties to engage in serious negotiation. Transparency helps reduce outside suspicion aroused by the confidentiality of the process, and it can be a vital preparation to "selling" the resulting outcome to the population at large.

Where the media is excluded, and the talks held in complete confidentiality, participants are obviously more free to speak openly, and more able to explore positions and outcomes without committing themselves. As long as the end result of the negotiations is agreed by all, confidentiality during the process permits a party to accept a loss on today's agenda item in order to gain on tomorrow's, without any accusations from outside of weakness in concession. One's constituency outside the talks cannot constrain one's freedom of operation.

This was a major advantage in pre-negotiations during the "Oslo channel" talks between Israel and the PLO. But that final result may be more of a surprise to constituents when presented as a *fait accompli*, which may breed resentment. Caught up in the momentum of positive but confidential talks, a party can find they have a "re-entry problem" when they leave the heat of negotiations in order to explain an agreement, which may contain compromises, to their larger constituency. This aspect, which we shall call "constituency lag", can hold implications for the structure of the talks: it may be necessary to take frequent breaks to enable consultations with constituents.

On the other hand, the media can be actively used in order to make official one's bargaining position at any given point, and also to help keep one's constituency informed and abreast of progress. Regular media reports also serve to reduce suspicion among the public of "deals behind closed doors". In particular, if there are excluded fringe elements outside the talks, the appearance of secret negotiations might well fuel their antagonism; greater transparency, by keeping the public informed, can be a strong defence against such antagonism and help to defuse the spoilers' capacity.

The obvious way to inform the public is via the media. So the question of who deals with the media, and through what channels and processes, needs agreement prior to the beginning of

the process. The importance of this cannot be overstressed: lack of forethought on the topic in Belfast in 1991, beyond a hastily agreed press embargo, led to a situation where parties manipulated the news-hungry media to their own ends, leaking (and in some cases selling for cash) their opponents' confidential position papers.

Secondly, what facilities are there for communication *between* the conflicting parties? Away from the formal table, they may well need to communicate their thoughts on various topics to each other. This is often done by circulating position papers for consideration. Will a central secretariat fulfil such a function? Or can a subcommittee with members from all parties do the job?

> **DEPENDING ON THE SPECIFIC SITUATION, PROCESS DESIGNERS CAN CHOOSE AMONG THE FOLLOWING PROCEDURES WITH RESPECT TO COMMUNICATION AND INFORMATION EXCHANGE:**
>
> – secret negotiations out of all sight;
> – closed negotiation sessions, with occasional or regular progress reports to the outside world, agreed by all parties;
> – an agreed press embargo among all participants (with enforcement mechanisms to be negotiated among the parties);
> – relations with the media being at each party's discretion;
> – ceding the public relations role by agreement to the chairperson or mediator;
> – establishing a permanent press secretariat to manage media relations on behalf of all;
> – establishing a central secretariat to channel information between the parties;
> – forming a subcommittee with responsibility for inter-party communication.

3.4.8 Setting the agenda

Participants need to know and agree in advance the broad subject matter of the negotiations. It can be completely destabilizing to open up new and unforeseen substantive issues in the

midst of the negotiation process (unless, of course, it is part of extending or deepening the process by building on initial negotiating successes). So it is important to define the shape of the agenda, whether in a distinct pre-negotiation process, or in an initial phase of the formal negotiations. This does not involve actually addressing the substantive issues, but it does mean defining, listing and ordering them to the reasonable satisfaction of all.

The agenda for negotiations obviously depends very closely on the specific conflict. But at this preparation stage, it is important to agree at least minimally what the problems are, and what the requirements of their solution must cover. A generic example of the kind of basic structure needed is offered bellow.

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1. MEASURES TO ESTABLISH PERMANENT PEACE:

- Reconciliation
- Reparation
- Restoration
- Security
- Boundary drawing (where relevant)

2. MEASURES TO ESTABLISH A DEMOCRATIC STRUCTURE AND TO PROMOTE HUMAN RIGHTS:

- A Constitution
- A Bill of Rights
- Institutions and levels of government

3. MEASURES TO PROMOTE ECONOMIC RECONSTRUCTION AND DEVELOPMENT:

- Aid
- Inward investment
- Strategic deployment of resources
- External relations

Beyond the ingredients of the agenda, agreement is needed on how to address it. Can "easier" and more "difficult" items be identified? If so, context alone can tell whether it will be more productive to tackle easier items first, the better to build momentum and co-operative attitudes, or whether difficult but key issues, on which there is little current agreement, must be tackled first

because other issues cannot become clear except in the light of agreement over the core issues. A further aspect is what should happen if there is deadlock on a key issue: should it be deferred out to a separate structure for discussion or does it have to be resolved there and then? What is the correct approach to be taken? Is it desirable to start with "soft" issues to show the parties that the process can deliver, or is that not possible?

> **CHOICES ON AGENDA SETTING WILL HAVE TO BE MADE BETWEEN:**
>
> – establishing pre-negotiation processes, either public or private, and possibly with a reduced number of delegates, to define the agenda prior to formal negotiation;
> – using the formal negotiation process to resolve procedural and agenda matters;
> – ordering agenda items according to contentiousness and importance;
> – adopting a long-range policy of a series of negotiations, each building on the achievements of the last.

3.4.9 Managing the proceedings

Who will chair and referee the proceedings? Under what standing orders? How will time be allotted to speakers? Is there a finite deadline for the end of talks? What ground-rules need to be agreed? What recording process will be used? Who will be responsible for it?

The key question of *who chairs* the proceedings needs to be agreed early on. Parties may devolve the responsibility on a rotating basis among themselves, or the responsibility may be assumed by an acceptable individual, a representative from an international agency, a friendly country, a wholly non-involved state, or from the country hosting the negotiations. Elements that must be considered will include not only the acceptability of the individual, organization or state to all participants, but also the relevance and particular suitability and skills of the individuals concerned. Of course, sometimes the question of a chair is not a matter of choice for the conflicting parties but is imposed upon them by an external sponsor or mediator.

In South Africa, a system was devised of rotating the chair among all parties equally. In Northern Ireland, a former US sen-

ator was installed as overall chair of the process, with a Canadian and a Finn as vice-chairs. For Bosnia, the chair/mediator was a state – the US at Dayton. In Mozambique, the chair was a religious NGO, Sant'Egidio.

CONTEXT WILL SUGGEST WHICH IS THE MOST SUITABLE WAY TO MANAGE THE PROCEEDINGS:

- negotiation of a system of sharing the chair in such a way that no one party can benefit from their chairing either in general or on key specific agenda items;
- selection of a party totally suitable to all concerned;
- selection of a party minimally acceptable to all concerned;
- identification of the key skills necessary for the function;
- selection of a party with authority to overrule all concerned if necessary;
- selection of an unempowered party dependent on continuing consensus among all concerned.

3.4.10 Timeframes

The question of *time* is central. Are the negotiations to be limited by a prearranged deadline? Or are they to be open-ended, continuing for however long it takes to build an outcome? This varies depending on the context, but "ripe moments" for negotiation tend to be short-lived, in effect providing their own deadline.

One side of the argument insists that deadlines are necessary to push people towards success. The other side of the argument is that with endless time available, the urgency to pressure participants into concessions and agreement is missing. Moreover, participants may be tempted to use delaying tactics if there is little or no time pressure. A party which is a reluctant participant – which sees the *status quo ante* as at least no worse than a likely outcome – can effectively draw out discussions and delay progress, if there is no pressure on them to make progress or take the blame for failure. This is what Unionists did in Northern Ireland in 1991 (partly because they did not believe the seriousness of the official deadline), and arguably what Israeli Prime Minister Netanyahu has done regarding talks with the Palestinians.

On the other hand, deadlines may force people to move faster than they are comfortable with, producing a rushed and incomplete outcome. Surprisingly often, negotiations are given only days or weeks to put an end to years or even decades of bitter conflict. The fear of appearing to be the party who blocked a successful outcome by refusing to compromise can be a healthy spur, but it can also force an unwilling outcome which is subsequently undermined or disowned.

If there truly is a very limited time available, one response is to set limited goals for the negotiations – the establishment of a truce and verification mechanism, or the establishment of a body (agreeing on its participants, its procedural rules, defining its remit, and so on) which will subsequently continue the work. Achieving such limited but significant success can in itself renew the momentum for further negotiations and thus extend or enlarge the window of opportunity. The process becomes in effect one consisting of several negotiating stages.

The Dayton conference, hosted and tightly controlled by the US at all times, became almost the quintessential example of heavy deadline pressure being imposed from a third party (the US) on the negotiating Bosnian leaders. While the effect was to produce an agreement by the deadline, the quality, depth and applicability of the agreement, and the commitment of participants to its implementation, suffered as a result (see Bosnia Case Study). Similarly, the 1978 Camp David Accord was produced under very strong pressure from Carter on both Sadat and Begin to reach agreement before the end of the session or take the blame for failure. Such pressure has a positive side, focusing minds on the task at hand, and increasing the chance of concessions in order to avoid perceived failure. But again at Camp David, the breadth and long-term substance of the agreement suffered as a result.

OPTIONS ON TIMEFRAMES INCLUDE:
– no time-limits: participants remain until the job is done;
– a pre-agreed time-limit;
– a realistic limit on the goals to be achieved within the time available;
– aiming for a comprehensive settlement of all aspects of the dispute;
– an option for further negotiating period/s following success in the initial period.

3.4.11 Decision-making

At regular intervals during negotiations, decisions will have to
be made. Are we agreed on this agenda point, and can we then
build on that agreement to move on? Decisions must be reached
in such a way that all – or most – of the parties accept the legiti-
macy and binding nature of the agreement. But it is important
to establish this in advance. If a party can renege on an earlier
agreed point at a later stage, there is a danger of the entire pro-
cess falling apart before completion. Some mechanism must be
established for defining binding agreement in the negotiation
process.

Further, how is agreement to be confirmed? Do parties have
an overnight period to confirm acceptance of the point by others
(perhaps their political leaders) not present at the table? Again,
is each point agreed permanently before moving on to the next?
If that is so, it may mean that even if talks fall apart later, all the
agreements established prior to the break-up remain. Or is
there a banking principle at work, as in Northern Ireland?
Under that system, "nothing is finally agreed until everything is
agreed". The parties put the agreed points "in the bank" for
future reference, only to be finally agreed when the agenda had
been completed.

The plus side of this is that a party can see the value of con-
ceding on one point in order to gain on another, on the under-
standing that they will be able to calculate the balance of conces-
sions and gains before finally approving the whole agreement.
The down side is that this tends to produce an all-or-nothing
character to the talks: if negotiations break off before full com-
pletion, then most or all of the agreements reached up to that
point may be disowned, and any future process will have to be-
gin all over again.

Cyril Ramaphosa described the South African decision-mak-
ing formula thus: "All agreements and decisions were to be ar-
rived at by general consensus among all the parties. When gen-
eral consensus couldn't be achieved, decisions were to be taken
on the basis of sufficient consensus. Sufficient consensus was de-
fined as a process of reaching agreement that would take us to
the next step. Essentially, it finally meant that there had to be
sufficient agreement between two parties or within two parties.
Those parties were the National Party and the ANC. The parties
who disagreed with the decision could have their objections for-
mally recorded, but in the spirit of co-operation they understood

that they could not hinder the process from moving forward." Ramaphosa is quoted elsewhere more succinctly, admitting that, "sufficient consensus means if the ANC and the NP agree, the rest can get stuffed".

The point is well made that "sufficient consensus" needs to be worked out for the specific context, with regard to the number of parties present, their relative strengths, commitment to the process and potential for disruption. Effectively, in this instance, it was the reality that if the two mainstream parties managed consensus, it was difficult for the other, much smaller, parties to challenge it in any effective way.

Similar considerations about facilitating the mainstreams on both sides led to a more intricately defined formula in Northern Ireland in 1997. There, "sufficient consensus" was calculated according to the electoral strengths of the negotiating parties assessed at the pre-talks election, and boiled down to the requirement that any decision had the support of a straight majority on each side – that is, the support of parties representing more than 50 per cent of Unionist voters as well as more than 50 per cent of Nationalist voters.

And how will the final agreement – the completed and agreed outcome – be officially endorsed or ratified? Is it enough if all parties make a joint announcement giving their approval to the result? Or is a referendum necessary among all the represented constituencies in order to bestow public and official endorsement on the outcome? There might need to be a calculation of the risk involved in taking the agreement to the people. They might possibly reject it (but that would indicate its unsuitability, in any case). Or the debate leading up to such a referendum could give excluded or spoiling parties the chance to forge support for their arguments in public in order to undermine the outcome. But certainly such public endorsement gives the outcome an unquestionable legitimacy, as demonstrated by the overwhelming support for the Northern Irish settlment in a referendum in 1998.

> **THE MOST SUITABLE FORMULA FOR DECISION-MAKING MUST BE AGREED AMONG THE NEGOTIATING PARTIES. BUT SOME OF THE OPTIONS WILL INCLUDE:**
>
> – Total agreement: all parties must endorse a point for it to be agreed;

> – Simple majority acceptance: more than half the parties or delegates agree;
>
> – Consensus: the point is defined and refined until all can agree to it;
>
> – Sufficient consensus: a certain specified proportion of the parties or delegates must agree to the point (the exact proportion or criteria to be pre-agreed, and dependent on the number of parties, their relative sizes, and their ability to "sell" the agreement to their broader constituencies);
>
> – Secret ballots to discover the degree of consensus;
>
> – An open show of hands to discover the voting preferences;
>
> (NB: there is a slight difference between agreement and consensus. The latter implies that discussion continues until the parties find the best compromise that they can all live with. Agreement, of course, can be exactly that, but may also constitute the preference of one party who prevails over others, as opposed to a genuine compromise).
>
> – Final ratification by parties, or endorsement by referendum of the final outcome.

3.5 Basic Techniques for Negotiation

Techniques and strategies for negotiation are highly dependent on context. Both the context and the creativity of the participants must guide and provide the choice of on-the-spot reaction to the specific situation. Extensive, high-quality books on the topic already exist (see "References and Further Reading" at the end of this chapter). However, some general, simple advice can be offered which may prove useful and applicable in a negotiation. Some are very personal and individual tips; others are simple tactics for improving one's performance in talks. Depending on the situation, some are relatively straightforward while others will prove difficult. But all are worth considering throughout the process.

This advice is not aimed at helping a conflicting party win at the expense of the opposition. It is concerned with implementing good process, to the advantage of all. Underpinning every point mentioned in this section is one simple principle: good

Underpinning every point mentioned in this section is one simple principle: good process helps everyone involved, because good process increases the chances of good outcome.

process helps *everyone* involved, because good process increases the chances of good outcome. Good process complements the natural competition of negotiation by generating co-operation. These aspects will help nurture and sustain the difficult process of negotiation.

3.5.1 Promote confidence building between the parties

Negotiators need to have some confidence in each other and in the process. This does not rule out skepticism on both counts, but there must be a degree of mutual trust that permits a basic working relationship, and there must be at least a minimal expectation that a quality outcome can result from the process. The following are some basic rules of the negotiation game:

Ensure confidentiality. A standard ground-rule for negotiation is that what is said is not repeated outside the negotiating room without permission. Each side needs that reassurance in order to discuss serious and sensitive issues with confidence. This should be agreed beforehand and reassurance on this subject must come at repeated intervals from all sides, and be demonstrated by subsequent behaviour. Confidentiality is a keystone of negotiation.

Demonstrate competence and commitment. Mutual respect grows from an awareness of the opponent's ability to do the negotiation job and their willingness to stick with the process until the job is done. Competence and commitment in the negotiation process leads to confidence in the outcome. A party needs to demonstrate these qualities, early and repeatedly, in their behaviour, just as it needs to look for it in the other parties.

Empathize. Relating in a human way to old enemies is supremely difficult. There is no simple way to wipe out the history of previous warfare and the deeds it entails. But if one sees only demons across the table, agreement will never be reached with them. Although the effort required is often immense, it is important to view the opposing parties as human beings, to try at least to understand that they too have pain and anger stored up from the past, and to realize that they too must make the effort to overcome the same preconceptions of other parties.

Retain belief in a solution. If the frustrations of the process grow too great, consider the alternatives to negotiation. They will almost certainly be much worse than unpleasant and incessant talking. Remember the reasons that brought one's party to the table, and the unpleasant consequences of a hasty departure. Expect bumps in the road, but maintain a commitment to keep travelling.

3.5.2 Promote clarity

Accurate information, even unpleasant information, is vital. Without full information no comprehensive and lasting decision can be reached on any point. And without lasting decisions, no solution will be achieved.

Question the other parties. To avoid the appearance of interrogation, use open questions where possible. Closed questions invite simple, yes-or-no answers: for example, "Do you want a new constitution?" is unlikely to elicit much useful discussion. In contrast, open questions demand complex answers, and draw forth richer information: for example, "What sort of constitution do you envisage?" Open questions often begin with "why?", "how?", "what if?", and so on.

Paraphrase, clarify and summarize. After an open question is answered, play back a summary or a paraphrase to the responder, and check for accuracy. Paraphrases begin with, "So what you're saying is...", or "Am I right to summarize your point as...?", and so on. Ask further questions for clarification. Continue the process until the responder is satisfied. This not only elicits accurate information, it reassures the responder that their argument has been heard and understood – exactly the situation that has been missing during the rhetoric of conflict.

Maintain focus on the issues. For the conflicting parties, the bedrock issues are deeply significant beyond their objective content. Each side will have years of pain and anger interwoven around the issues. Those emotions need to be expressed and understood. But for clarification purposes, cool question-and-answer sessions that remain focused on the substance of the issues help to extract vital information without raising the emotional temperature.

Defuse anger. Anger will appear in the negotiation process. It is only natural that it should, given the importance of the issues at stake. Simple de-escalating manoeuvres can defuse the anger without detracting from the significance of the issues: taking a short break to let tempers cool; mutually acknowledging the emotions on both sides; recognizing deep-seated fear, pain and anger in all the communities involved as a mutual problem for the negotiation process, and so on.

3.5.3 Promote understanding

Without full understanding, the process is doomed to failure. All issues must be understood fully by all in order to begin the

problem-solving phase of building a solution. Most of this will come from the parties themselves. Additional information can be gathered from outside. Suggested techniques include the following:

Differentiate perceptions from issues. Naturally, many of the issues at stake in the conflict have deep emotional or psychological reverberations for the parties involved. These should not be excluded or de-emphasized. But it is vital that, first, all objective issues of substance in the conflict are laid out for all to see and understand; second, that perceptions – feelings, memories of hurt and sacrifice, mutual views of each other – are also expressed and heard; and, third, that the difference between the two is made abundantly clear. It may be useful to distinguish between these in terms of *objective* issues (resource discrimination, territorial disputes, and so on) and *relationship* issues (perceptions, beliefs and images held by one side of and about another). Building a settlement in the negotiation process will concentrate on the former; but attention to the latter will need to be addressed at some stage and in some way, and the parties need to understand this. As the working relationship develops in a good process, these issues may indirectly be defused to some degree. A good mediator will be able to judge the appropriate moment when it may be either necessary or desirable for one or both parties to blow off steam, or "let a little blood" as it is sometimes known.

Identify needs and interests. Deep-seated needs underpin the expressed issues and demands in identity-related conflict. Listen carefully to the other parties talk and try to dig below and identify these needs. A demand for self-determination may reflect a deep-seated insecurity about a community's future. A demand for political control may reflect an underlying need for recognition of identity through political participation. Political interests and issues are the stuff of political negotiation and settlement; but attention to and recognition of underlying needs can bring the parties to a fundamentally deeper understanding of their positions and their conflict. Additionally, often the underlying needs of all sides to the conflict, once reframed in terms of security or expression of identity, may be similar. This new perspective can provide important new information to parties, assisting the search for common ground and the drawing of parties into co-operative processes. By way of illustration, there is a tendency on the part of external actors, and, particularly the interna-

tional community, when an identity-based conflict arises to immediately jump to the conclusion that some kind of territorial autonomy may be the solution. This is sometimes a dramatic response to an issue which may have as its real cause a resource or security issue, and which could be addressed by mechanisms which do not necessarily go to the heart of the state and its territorial integrity.

Take expert advice. Look outside the negotiating process for information, if necessary. This may be especially relevant to information about possible future scenarios or structures that are being debated at the table. This does not refer to information as ammunition to use against opponents, but rather information that can be shared and will enlighten discussions. By agreement with other parties, commission outside studies or reports for the negotiation process. *Fact-finding* projects can produce cool and impartial reports on subjects of contention within the talks. *Expert working groups* can take a contentious issue from the talks agenda, and produce clear proposals and possibilities for solution on the issue.

3.5.4 Promote movement

Eventually, when information gathering is over, when basic respect has been developed, and when positions have been made abundantly clear, the problem-solving phase begins. Some small techniques can simplify the daunting task in this difficult phase.

Fractionate. Often a major obstacle to movement is a sense of the overwhelming complexity of the agenda. Fractionating means to break down the elements of the agenda into smaller, more addressable issues. These can then be tackled in sequence across the table, or mandated to issue-oriented subcommittees for discussion and proposals, or delegated to outside working groups for attention and reports.

Prioritize issues. Another means to clarify a complex agenda is to order the items according to priority. They can then be addressed in order of importance, or in reverse order of difficulty, as the parties agree.

Separate proposals from authors. It is a characteristic of competitive negotiation that one side's proposal for solution can be unacceptable to another side simply because of its origin. It may be eminently sensible in its content, but impossible to accept, because to do so would feel like conceding or losing a point. Try to assess an opposition proposal on its merits, not its origin.

Box 5 NEGOTIATING TECHNIQUES: SOME BASIC PRINCIPLES

1. Promote confidence building between the parties – There must be a degree of mutual trust which permits a basic working relationship. This can be fostered by:
– *ensuring confidentiality*;
– *demonstrating competence and commitment*;
– *empathizing*; and
– *retaining belief in a solution.*

2. Promote clarity – Without full and accurate information, no comprehensive and lasting decision can be reached. Elicit useful and clear discussions by:
– *Asking open questions* (i.e., "What sort of constitution do you envisage?"), rather than closed or interrogative questions (i.e., "Do you want a new constitution?");
– *Paraphrasing or summarizing* the responder's answers to ensure accuracy, and asking further questions for clarification;
– *Maintaining focus* on the substance of the issues;
– *Defusing anger,* by taking short breaks and mutually acknowledging emotions on both sides.

3. Promote understanding – All issues must be understood fully in order to begin the problem-solving phase of building a solution. This can be furthered by:
– *Differentiating perceptions from issues.* First, all objective issues of substance must be spelled out and understood; second, perceptions, fears, mutual views of each other must be expressed and heard;
– *Identifying needs and interests.* Focus on and recognize the underlying needs of all sides;
– *Taking expert advice.* Outside information can be commissioned to enlighten discussions, through fact-finding projects or expert working groups.

4. Promote movement – Once information is gathered, respect has been developed, positions have been made clear – then problem solving can begin. This difficult phase can be facilitated by:
– *Fractionating,* or breaking down the elements into smaller, more addressable issues;
– *Prioritizing issues* either in order of importance or in reverse order of difficulty;
– *Building on other parties' proposals*;
– *Identifying common ground,* even small areas of commonality, which can serve to encourage all participants and generate momentum;
– *Brokering concessions,* particularly if views on all sides have hardened into set positions on a question.

A further mechanism to be considered is for a mediator or independent third party to listen to the parties and then prepare a draft for discussion, so that it is not perceived as coming from one particular party.

Build on other parties' proposals. If an opposing party offers a proposal with at least some merit, they are likely to agree more easily to another proposal that both builds on and acknowledges their input.

Identify common ground. While on occasion it may feel like the negotiation process is merely underlining the differences between opposing sides, it is still valuable to cast the net widely and search for even small areas of common ground. A pre-agreed agenda, or a joint definition of the problem, are examples of such common ground, and proof that commonality can and has already been built among former enemies. Identifying even small areas of common ground during negotiations can be surprising and encouraging to all participants, helping to generate momentum towards co-operation and further commonality.

Broker concessions. Particularly if views on all sides have hardened into set positions on a question, unofficial channels may be the appropriate place to take on a brokering role. Try to look for compensations, *quid pro quos*, tit-for-tats. Deal making and compromise is the life-blood of negotiation.

3.6 Tools to Break Deadlock

With or without third parties, whether motivation is low or high, negotiations can hit moments of deadlock. In general, if the process design has incorporated sufficient flexibility, deadlock is easier to address. But additionally, there are tried and tested techniques which may be useful for overcoming such situations.

3.6.1 Coalition building

The idea of building a coalition of commitment between all those who value negotiations was mentioned before in Section 3.4.1. Such a coalition should cross all boundaries: intra-party as well as inter-party. It will also benefit if it includes sections of the negotiators' wider constituencies: public opinion in favour of a negotiated settlement can be a powerful source of pressure, especially on politicians who need to court that public. Those who believe in the value of continued negotiation will be less strict about concessions than other less committed members. A strong pro-negotiation coalition can increase pressure on those causing

A number of tools can help break deadlock, including coalition building, unofficial channels and shuttle mediation.

99

deadlock by the implicit threat that they will take the blame if talks stall or collapse. More positively, members of a cross-party coalition can co-operate in pressing their respective backers to do what is necessary to facilitate a solution to the problem.

3.6.2 Unofficial channels

Also mentioned earlier, in Section 3.4.6, was the need for unofficial channels of communication. These channels supplement and can at times circumvent the more official channels across the table or through a secretariat. They can take any appropriate form, but the more they exist the easier it is to continue discussion of a problem that, in the official setting, cannot be openly negotiated. At Camp David, the "walk in the woods" served this valuable purpose for a variety of permutations of participants. (The term was quite literal: the venue was surrounded by forest, which provided the ideal place to take a break.) In Northern Ireland, the indoor version of the same thing was termed "voices in the corridors". In South Africa, the unofficial friendship that resulted in the "Roelf and Cyril show" permitted the development of what was somewhat prosaically termed "the channel": a parallel conduit for communication to supplement the official process. In Finland, the sauna became the channel. In Norway, it was a fireside chat.

These kinds of channels evolve organically through the pre-negotiation and negotiation processes, and cannot in any real sense be predicted or prescribed. But it is vital that participants both recognize the importance of such mechanisms to lubricate the formal talks process, and remain aware of their possibilities as the opportunities occur. These channels may need to be deniable, and therefore may not involve party leaders or those with a high profile, unless a particular personal chemistry permits it. More often, they are quiet, behind-the-scenes chats between second-tier delegates, for the purpose of explaining in fuller terms the positions, problems, restraints and perceived obstacles between rival parties.

3.6.3 Subgroups

The idea of subgroups or subcommittees has been mentioned at various times as a means to fractionate or subdivide the agenda into more manageable ingredients. More specifically, when a particular obstacle creates deadlock over a certain agenda item, an *ad hoc* subgroup may be usefully convened to address the point. Away from the formal table, the smaller group can discuss

the problem in more forthright terms, and speculate more freely about ways to overcome it. The members will of course report back to their respective delegations, but the subgroup's lack of formal minutes, the reduction in rhetoric, the removal of the need to protect public positions and the specificity of the one-item agenda can facilitate speedy, honest and co-operative deal making. In the words of one Northern Irish negotiator:

> *When you get three or four people sitting down with one chairperson, you can get stuck in to the business. Because you have an opportunity to say, 'Look, stop —ing around here, what is the problem with x?' And the other guy says, 'Well, what we're really bothered about is a, b and c.' And then you start addressing the issues. When you're sitting with 40 people in a room, it's much harder to say that.*

3.6.4 Shuttle mediation

When the formal plenary session of talks runs into problems over a particularly divisive issue, it may be best to leave the formal setting and enter into shuttle mediation: discussions held between the chair or mediator and one party at a time. This allows for a process of clarifying a given party's stance on the subject, communicating accurately other parties' positions (gained through other shuttle discussions) and defining each party's needs, expectations and possibilities around the deadlocking issue. The chair or mediator, by this means, may well be able to draw a clearer picture of the situation than can be done in plenary, and can then communicate this picture in further bilaterals, along with possibilities for movement.

3.6.5 Proximity talks

A similar procedure to shuttle mediation is proximity talks. The difference here is that the parties actually move to the same specific location for the purposes of the talks, rather than remain in their own geographical bases to be visited by a mediator. Here, the party delegations reside close by each other, possibly in different rooms of the same building, but communicate entirely through bilateral discussion with the chair. This can be particularly useful as a prelude to face-to-face negotiation or for

pre-negotiation. The nearness and accessibility of the parties makes it feasible, without the need for actual meeting (which may be publicly unacceptable at this stage). But it can also be a means to relax the pressure when deadlock is blocking plenary discussion. Proximity keeps the focus on the subject matter, in a way that would be lost if the parties actually left the negotiation venue.

3.6.6 Referendums, consultations and mandates

On a rather larger scale, but nonetheless pertinent in the right situation, parties may want to seek wider endorsement of a proposed move. Particularly if progress in negotiation has been substantial up to this point, the deadlock may be caused by a fear of the reception which a particular concession or agreement might receive in the broader constituency which negotiators represent. Fearing to go too far without the express support of their constituency, a delegation may need to seek approval from a wider membership of their party or movement, or indeed from their supporters or their public at large. While this can be time-consuming and complicated, it may be worthwhile to produce an energizing endorsement for change and progress which can move the negotiations on to the fast track. An example is the 1992 whites-only referendum called by South African President F. W. de Klerk to renew his mandate for negotiating with anti-apartheid organizations. The referendum result, a decisive vote in favour of continued reform, provided an important boost to de Klerk and served to renew confidence in the reform movement.

Such referendums, of course, must be approached with great care. Despite the best-laid plans, referendums always carry the risk of rejection: the calculation must be made carefully, since a negative response will hugely hamper, or altogether destroy, the negotiation process.

3.6.7 Unofficial supplements to negotiation

Well beyond the negotiation process, including any unofficial or ad hoc channels, there usually exists a broader population which comprises the civil society of the country in conflict. These people are normally not part of the negotiation process, and yet they are part of the conflict and part of its potential solution. Among that population will be organizations, groups and individuals who have their own processes and communication channels – and their own expertise – of which negotiators can avail themselwes. Such elements include religious institutions and

3.6 Tools to Break Deadlock

leaders, business interests, academic institutions, labour interests, peace groups, cross-community co-operative ventures, and so on. When deadlock ties the negotiations down, these elements remain available. They can function as supports for, or alternatives to, the talks process itself.

Box 6

BREAKING DEADLOCK

The following are some tried and tested techniques which may be useful in breaking deadlock:

1. **Coalition building –** Build a strong coalition of commitment between all those who value negotiations.

2. **Unofficial channels –** unofficial channels, such as the "walk in the woods" at Camp David, can supplement and at times circumvent the more official channels. The more they exist the easier it is to continue discussion of a problem that, in the official setting, cannot be openly negotiated.

3. **Subgroups –** When a particular obstacle creates deadlock over a certain agenda item, subgroups or subcommittees can discuss the problem in more forthright terms, away from the formal table.

4. **Shuttle mediation –** Discussions between the chair or mediator and one party at a time, which allows for a process of clarifying a given party's stance on the subject, communicating accurately other parties' positions, and defining each party's needs and expectations around the deadlocking issue.

5. **Proximity talks –** Party delegations reside close by each other, possibly in different rooms of the same building, but communicate entirely through bilateral discussion with the chair.

6. **Referendums, consultations and mandates –** Parties may want to seek wider endorsement of a proposed move, for example through referendums, before going too far without the express support of their constituency.

7. **Unofficial supplements to negotiation –** The broader civil society in a country, including religious institutions and leaders, business interests, labour interests and peace groups, can function as supports for, or alternatives to, the talks process itself.

There may be good reason to utilize the services of an academic institution to facilitate, say, a problem-solving workshop on the point in question, where a small group of representatives can meet to discuss the subject matter in neutral surroundings and try to use co-operative analysis to produce new alternatives to deadlock. Religious leaders or groups may be able to venture across boundaries where official negotiators cannot to keep communication alive. Business interests may have very practical and well-established bases of communication and co-operation which can be called upon to assist in breaking the deadlock.

Again, the possibilities for the use of such unofficial entities depends on what is available in the given situation. But parties need to be aware of these possibilities, alive to the opportunities to use them, and in general on the lookout for any available additional means to supplement the more official processes at the negotiating venue.

3.7 Third-Party Assistance

3.7.1 Introduction

Third-party intervention is increasingly popular in negotiation, either as a central feature of a talks process or as an ad hoc deadlock-breaking tool. Because of its wide potential applicability, it deserves attention as a mechanism in its own right.

A third party – a person, group, institution or country that is not identified directly or indirectly with any of the parties or interests to the conflict – can be very effective in chairing or facilitating the talks process. And a long-standing conflict, especially where there is considerable stalemate or just staleness of view, can benefit from the fresh perspective of newcomers. The first two important questions are: Do we need a third party? And, if so, who?

The South African peace process reached settlement without formal intervention by any third parties in the negotiation process itself, although third-party intervention did take place in relation to the participation of Inkatha in the election in 1994. A high-profile intervention by two former foreign policy heavyweights, Lord Peter Carrington of the UK and Henry Kissinger of the US, produced little result, while a lower high profile intervention by a Kenyan, Mr Okumu, was very successful. There is an increasing trend, voluntary or otherwise, to utilize intervenors or mediators from outside the conflict. Part of this trend must be attributed to a growing keenness in the international communi-

3.7 Third-Party Assistance

ty to play such roles, and the new context in which they have found themselves since the end of the Cold War. Moreover, intervenors increasingly operate in coalitions (for example, the collaboration of the Contact Group of States, the Organization for Security and Co-operation in Europe, the United Nations High Representative, the United States, the European Union and various NGOs in Bosnia).

Even if a third party is not used during negotiations, there may be a limited but effective role for such a person or group in enabling low-key discussion of a problem or sticking point. An independent mediator may well be ideal for this. The mediator will simply facilitate focused discussion of the deadlocked point, in order to increase communication and understanding and to generate possibilities for agreement. Again, small delegation sizes will help. Even where a third party mediates the formal talks, a small-scale subgroup discussion with a different mediator (or a secondary member of the official mediation team) can be useful.

Another way to use intervention is to seek arbitration on the sticking point, either by the existing mediator or, more effectively, by an outside person or group particularly relevant to the point in question. While arbitration can often be criticized for the impositional nature of its solutions, if deadlock is genuinely produced by a mutual despair, it may be seen as both necessary and acceptable by the parties as an alternative to a breakdown in the entire process.

In general, mediation is as much a tool as any other in negotiations. If it is inappropriate for the process as a whole, ad hoc mediation in a variety of forms can be brought in for particular problems. The problem itself will, as always, define the characteristics of the most suitable mediator or arbitrator.

First and foremost, third parties must be generally acceptable to all sides. Usually, this is voiced in terms of the third party's neutrality or impartiality. But no third party is truly impartial or neutral, since they will carry with them an agenda of their own – whether this is an external state with regional interests in the conflict, or simply an individual who may want to take credit for a successful outcome.

As important as impartiality or neutrality is the *acceptability* of the person or agency. Third parties can even come from within the conflict, even from one side of it – for example, religious figures or business or civil leaders – as long as there is sufficient

First and foremost, third parties must be generally acceptable to all sides.

respect for them from all sides and for their capacity to act in a neutral manner. Perhaps the easiest way to summarize this quality of acceptability is to talk in terms of building the same kind of trust which, we argued earlier, must be developed between conflicting parties in order to develop a satisfactory working relationship. The intervenor needs the working trust of all parties in order to function.

3.7.2 Types of intervention

Third-party intervention is a wide-ranging concept. We will borrow the work of leading scholars to get a more focused picture of what it can entail, while always remembering that such a neat analysis is a simplification of the real world. The terms used in the following discussion are somewhat arbitrary; we use them here to clarify distinctions between types of intervention, rather than as recognized definitions.

Essentially, we identify five different, if overlapping, intervention roles, each appropriate at different stages and phases, or for different elements, of the process. Each can be played by separate parties or, more likely, an intervenor will find themselves moving between, or combining, several roles.

Conciliation

A conciliator provides a communication channel between the parties. The main aims of conciliation are to help identify the major issues of contention, to lower tensions between parties, and to move the parties closer to direct interaction (i.e., negotiation) over the identified issues. In our framework, conciliation is particularly beneficial at the *pre-negotiation* stage, where it has the effect of clarifying the agenda for subsequent discussion, encouraging the building of a "common mental map"; reducing tensions and facilitating greater understanding of each other's aims and goals; and building the initial stages of a bridge between adversaries that will lead to more co-operative approaches. There is no requirement that the protagonists actually meet together during conciliation.

The work of the Quaker Adam Curle in the Nigerian conflict of 1967–1970 is an instance of conciliation. Although Curle and his colleagues never brought the Nigerian Government or the Biafran rebels together, they shuttled between the two sides with messages, engaging in bilateral discussions with each side in order to help them get a clearer picture of their position, their

3.7 Third-Party Assistance

view of the issues and their ideas for solution, floating possibilities for progress to each side, and so on.

Facilitation

A facilitator addresses the relationship and issues between conflicting parties. The facilitator brings representatives of the parties together, usually in a neutral environment. The facilitator chairs joint or separate meetings in order to examine mutual perceptions, and encourages communication in a safe and non-threatening way and joint analysis of the problem. Each party is encouraged to express its perceptions of the other, as well as its notion of the other's perception of it. The facilitator assists the setting of ground-rules and manages the process of the discusions; the participants retain control of the content. This can take place when the parties are not able to agree on a chair for the meetings or the process. With mutual understanding thus increased, the parties move on to joint discussion of their situation and their problem, and eventually to joint co-operative analysis and problem-solving. Facilitation assumes that improved mutual knowledge, improved understanding and trust, and strengthened communication channels will assist in clearing the way for the parties to engage in direct substantive negotiation over the issues that divide them.

The Norwegian back-channel arguably functioned as facilitation – confidential, unofficial discussion and relationship-building in a neutral venue, with no expectation that agreement had to be reached. The problem-solving workshops facilitated by Herb Kelman, a US academic, between Israeli and Palestinian groups over a twenty-year period are excellent examples. Kelman identifies individuals with influence within their communities – policy advisers, second-tier politicians, academics, opinion-formers, and so on. He hosts three- to five-day joint meetings with them on neutral ground. Importantly, they come as individuals, whatever their official status at home. Led by a team of facilitators, they work through the agenda of swapping understandings of the conflict and of each other, of identifying and discussing obstacles to progress and then jointly brainstorming possible solutions to those obstacles. The confidentiality of the meetings, and the control of process retained by the facilitators, make the meetings non-threatening. They contribute to issue clarification as well as relationship building. The individuals take the results of the workshop – increased understanding and respect, clari-

fied issues, scenarios for progress – back with them to feed into their official apparatus.

Arbitration

A third party that functions as an arbitrator brings authority and legitimacy to the proceedings which permit the arbitrator to impose a solution equally on all the conflicting parties. The arbitrator listens to all sides of the argument, considers the merits of the respective cases, and then constructs a settlement in a fair and just way. The key distinctions of arbitration are two-fold. First, the solution comes from the third party, not the conflicting parties. They do not necessarily engage in discussions to construct that solution, beyond advocating their own point of view to the arbitrator. Second, the authority of the arbitrator is such that the conflicting parties are bound to the ruling its solution as binding. They may well be faced with rewards for compliance and punishments for non-compliance.

Arbitration rarely, if ever, serves as the sole approach to managing deep-rooted conflict: because of the depth of feeling involved in such conflict, solutions which are not "owned" by the disputants are usually inappropriate. The legal nature of arbitration can, however, be useful in contributing to a settlement. Regional and international intergovernmental organizations, (such as the United Nations, Organization of American States, and so forth) and regional and international courts (such as the European Court of Justice, the International Court of Justice, etc.) can sometimes play an arbiter's role on more straightforward aspects of the conflict.

One recent example of the use of arbitration in a deep-rooted conflict situation was the appointment of an Arbitral Tribunal for Brčko, a war-ravaged multi-ethnic municipality in the northeast of Bosnia. When the Dayton peace agreement was signed, the issue of Brčko's status was considered too contentious to be settled, and was left to later arbitration. Although the Brcko Arbitral Tribunal was not without its problems, its establishment did have the useful effect of defusing the issue and removing a potential stumbling block from the original Dayton agreement, to be dealt with at a later time.

Pure mediation

A pure mediator's role is to facilitate direct negotiation on the substantive issues, with the aim of producing a lasting settle-

3.7 Third-Party Assistance

ment. The use of the word "pure" implies no judgement as to its quality or morality. Put simply, the pure mediator has no power outside the negotiation situation, and any power within the negotiations rests at all times on the continued permission of the conflicting parties. Pure mediation involves the use of process skills, techniques and experience to urge the parties on, or ease their path, towards a solution which they themselves design, refine and ultimately implement. The conflicting parties at all times hold the initiative. The mediator merely uses reasoning, unforced persuasion, the control of information and the generation of alternatives to encourage them to reach agreement.

Additionally, the mediator can play a vital role in outlining the consequences of proposals and options: by putting him or herself in the shoes of the other side, a mediator can effectively "reality-test" a party's proposal in advance. Throughout the process, the pure mediator's role is a major one, but their status is minor in comparison to the conflicting parties. The pure mediator controls process but, beyond suggesting options and scenarios, has little or no direct input into the substance of the outcome. Jimmy Carter's interventions in the Eritrean conflict, the Catholic church's facilitation of talks on Angola, and many other behind-the-scenes dialogue processes are examples of pure mediation.

Power mediation

This builds on pure mediation, but with one huge difference: the mediator has power, drawn from its position outside the negotiation situation, to persuade the parties to obey. The power mediator shares all the aims of the pure mediator, but the means are different: the power mediator has leverage over the conflicting parties. It uses incentives and punishments – carrots and sticks – to persuade the parties to yield inflexible positions and to embrace compromise. But such movement is based on the power relations between the mediator and each party, rather than on the inter-party relationship. The power mediator takes the initiative in the process, rather than leaving it with the conflicting parties. The mediator's status at all times constrains the activities of the conflicting parties; they need to consider carefully their relationship with the mediator, and the consequences of endangering that relationship. The power mediator has its own agenda, and frequently its own preferred outcome. And it has a degree of influence over the parties to move them towards

that outcome. Furthermore, unlike all the other intervenor roles except the arbitrator, the power mediator has the leverage to provide subsequent incentives (or punishments) to guarantee the agreed outcome and to ensure continued compliance.

Many examples exist. Indeed, most instances of hosted negotiations in the international arena tend to involve predominantly power mediation: President Carter at Camp David, US diplomats such as Richard Holbrooke at Dayton, joint US-Soviet influence at Bicesse, the UN Special Representative in the Iran-Iraq War, and so on. In reality, pure and power mediation are often not quite as distinct as our definitions here might suggest.

3.7.3 Official and unofficial intervention

The preceding five-part terminology, in which mediation represents only two types of intervention among five, is presented here in order to highlight the various approaches to third-party intervention. Another, simpler, way to distinguish between types of third-party roles is to group them under *official* and *unofficial* headings. Once again, such terms are offered only for the specific purpose of maintaining clarity in this discussion. *Official* intervention is also termed "track one" diplomacy (that is, part of the official international diplomatic discourse), in contrast to "track two" diplomacy, which is more of an *unofficial* or informal complement to the formal diplomatic process. Thus, formal negotiations convened between disputants by, say, a head of government are an instance of official intervention; informal dialogue between them assisted by, for example, a Quaker group, would constitute more unofficial intervention, which might supplement or lead to more formal dialogue.

Clearly facilitation, conciliation and, in particular, pure mediation have in common one central factor: the intervenor brings no real power or influence to bear on the proceedings, beyond that which is voluntarily given to them by the conflicting parties. In that sense, the mediator has no "official" status or power outside the negotiations.

By contrast, arbitration and power mediation base their authority on the "official" status and power levels which the intervenor wields in the outside world: as a judge, a regional leader or the head of an influential state, for example. To oversimplify for a moment, an unofficial intervenor might arrive and say, "I'm Bill, and I'm here to help". An official intervenor might say,

3.7 Third-Party Assistance

"I'm President Bill Clinton, and I'm here to help". Immediately, the latter brings with him all manner of influence and leverage over the conflicting parties that the former will not have. This is not to say, however, that the unofficial intervenor cannot have an influential effect on negotiations. Precisely the fact that they are unempowered from outside can give unofficial intervenors more ready access to the process – more acceptability to all sides – as well as free them to make suggestions without being suspected of ulterior motives or agendas. The point of being an official intervenor is to bring outside influence and legitimacy to bear on the negotiation. The point of being an unofficial intervenor is to operate free from such influence.

Both official and unofficial intervention – power and pure mediation – are valuable. Where all parties are anxious to reach agreement, unofficial intervention by a pure mediator might be best suited. Where there is reluctance to enter negotiations, or to offer substantive compromise towards an outcome, intervention by a power mediator may supply the muscle to overcome such obstacles. In the negotiation process, it is very important that the mediator's role is recognized and its terms of reference are accepted and agreed at an early stage, even if that includes an acceptance that different status and different terms may be needed at different stages. Naturally, the terms of reference of the mediator are set by the parties.

There is no set protocol for the way in which mediators go about their work, but in general terms they will clarify the issues that divide parties, determine the degree of flexibility which parties have on those issues and the importance which parties attach to them, identify interests that lie behind parties' stated positions, generate options and assist parties to formulate proposals, suggest trade-offs, communicate messages, reduce tensions, and encourage a rational appreciation of proposals that may be forthcoming. They will encourage concentration on the issues and constructive engagement between the parties. They may develop their own proposals for consideration by the parties which the parties do not own and therefore do not need to defend. They will reality-test parties' perceptions, positions and proposals, to develop a realistic appreciation of whether these things are tenable. Good mediators will have sophisticated problem-solving skills which enable them to help parties to determine key problems, diagnose them, develop a range of approa-

Box 7

FORMS OF THIRD-PARTY INTERVENTION

The following are five different, if overlapping, intervention roles, each appropriate at different stages of the negotiating process. The terms used are to clarify distinctions between types of intervention, rather than as recognized definitions.

"Track One" Diplomacy (official intervention): intervenor holds "official" status and power internationally.

1. **Arbitration –** The arbitrator listens to all sides of the argument, considers the merits of the respective cases, and then constructs a settlement in a fair and just way. In an arbitration, the solution comes from the third party, not the conflicting parties; and the authority of the arbitrator is such that the conflicting parties are bound to accept its solution as binding.

   For example: the Brčko Arbitral Tribunal in Bosnia.

2. **Power mediation –** In this case the mediator has power to persuade the parties to obey. It uses incentives and punishments to persuade the parties to yield inflexible positions and to compromise.

   For example: President Jimmy Carter at Camp David and US negotiators at Dayton.

   "Track Two" Diplomacy (unofficial intervention): intervenor brings no real power or influence to bear on proceedings.

3. **Conciliation –** The conciliator provides a communication channel between the two parties. He or she helps to identify the major issues of contention, to lower tensions between parties, and to move the parties closer to direct interaction. There is no requirement that the protagonists actually meet together during conciliation.

   For example: the work of Quaker Adam Curle in the Nigerian conflict of 1967–1970.

4. **Facilitation –** The facilitator brings representatives of the parties together. He or she chairs joint or separate meetings in order to examine mutual perceptions and encourages communication in a safe and non-threatening way.

   For example: the problem-solving workshops facilitated by Herb Kelman, a US academic, between Israeli and Palestinian groups over a twenty-year period.

5. **Pure mediation –** A pure mediator's role is to facilitate or direct negotiation on the substantive issues, with the aim of producing lasting settlement. The pure mediator uses process skills and experience to urge the parties on towards a solution that they themselves design, refine and implement.

   For example: the Catholic church's facilitation of talks on Angola.

ches to address them, and then settle on a way forward. Problem solving is the core skill of the mediator. Finally, they will assist the parties in recording outcomes in language which permits no ambiguity or consequent conflict of interpretation.

Mediation may add value in a number of respects to negotiation. By managing the manner of engagement between the parties, it can significantly enhance the quality of the engagement. Mediators will work with parties, in joint session or separately, and may bring chief negotiators together in one-on-one meetings. The simple test will always be what process design is most likely to enhance the prospects of progress.

3.8 Conclusion

This single chapter perhaps belies the amount of work required in process design. A wealth of detail needs to be addressed in order to get the optimum design for the circumstances. Nevertheless, the effort is vital. Without a properly designed and maintained process vehicle, the negotiations will never complete the journey towards a sustainable outcome. However, with sufficient work completed in analysing the conflict, and then in designing the process, we can finally move on to consider the question of designing an outcome. The contents of this outcome – the institutions and mechanisms which can be put in place to promote a sustainable democratic settlement – will be examined in the following chapter.

A wealth of detail needs to be addressed in order to get the optimum design for the circumstances. Nevertheless, the effort is vital.

Developing a Negotiation Process

Below we outline the major elements that need to be pre-negotiated and present a menu of options for each.

1. Participants

- Open channels of communication, however small or informal, in an attempt to start the contact and communication;
- Include all parties with a serious claim to be involved;
- Build a sufficient mainstream-based pro-negotiation coalition to open talks with some substantial hope of achieving an outcome, and hope to co-opt abstainers, or persuade excluded parties to adapt their behaviour to fit the rules of entry;
- Open negotiations with a less than comprehensive range of parties, with the aim of achieving a settlement that excluded parties can be persuaded to live with;
- Allow equal numbers of delegates per party;
- Allow variable delegation sizes based on electoral strength or status (where elections have been held);
- Set an electoral or other threshold to restrict or enable participation;
- Limit participation only to those parties who enjoy substantial support;
- Allow for different degrees of status in the process (e.g., participant and observer) for different parties;
- Distinguish groupings within the negotiation process who may be opposed on some, possibly major, issues but share positions on others.

2. Preconditions and Barriers to Negotiation

- Drop preconditions to negotiations, and accept all comers;
- Use the pre-negotiation process to work through preconditions and questions of legitimacy and recognition of spokespersons;

A Menu of Options 1 [p. 114]

- Open out preconditions initially aimed at one party into a principled statement to which all parties can and must agree;
- Address preconditions and the commitment to the negotiation process in an unofficial discussion process prior to formal negotiation.

3. LEVELLING THE PLAYING-FIELD

- Accept, at least within the negotiation context, the right of all sides to be present;
- Agree on procedures permitting the involvement of previously excluded or restricted persons;
- Schedule time and resources to permit all parties to come to the table prepared;
- Make contact with, and learn from, counterparts from other contexts;
- Look to an external powerful mediator or chairperson both to bestow at least temporary legitimacy on all parties equally for the duration of talks, and to underwrite the equality of all parties at the table.

4. RESOURCING THE NEGOTIATIONS

- Negotiations which are self-funded by each side;
- Negotiations in which one party offers to resource most or all of the negotiations;
- Negotiations in which contributions from other domestic actors are sought;
- Negotiations funded by international bodies.

A MENU OF OPTIONS 1 [P. 115]

5. FORM OF NEGOTIATIONS

- Large-scale conferences;
- Summits of key spokespersons;
- Full round table sessions;
- Shuttle mediation;
- Bilateral discussions;
- A mixed formula of plenaries and subgroups;
- Acknowledgement of dissenting coalitions by means of minority reports;
- Defining different roles and capacities for negotiators and observers.

6. VENUE AND LOCATION

- Identify a neutral venue, of no particular symbolism or support to any one party;
- Agree on a domestic venue acceptable to all parties;
- Assure equal accessibility to the venue for all parties;
- Supplement official or formal discussion forums by unofficial, off-the-record and possibly deniable channels of communication outside and around the formal table.

7. COMMUNICATION AND INFORMATION EXCHANGE

- Secret negotiations out of all sight;
- Closed negotiation sessions, with occasional or regular progress reports to the outside world, agreed by all parties;
- An agreed press embargo among all participants (with enforcement mechanisms to be negotiated among the parties);

A MENU OF OPTIONS 1 [P. 116]

- Relations with the media being at each party's discretion;
- Ceding the public relations role by agreement to the chairperson or mediator;
- Establishing a permanent press secretariat to manage media relations on behalf of all;
- Establishing a central secretariat to channel information between the parties;
- Forming a subcommittee with responsibility for inter-party communication.

8. SETTING THE SUBSTANTIVE AGENDA

- Establish pre-negotiation processes, either public or private, and possibly with a reduced number of delegates, to define the agenda prior to formal negotiation;
- Use the formal negotiation process to resolve procedural and agenda matters;
- Order agenda items according to contentiousness and importance;
- Adopt a long-range policy of a series of negotiations, each building on the achievements of the last.

9. MANAGING THE PROCEEDINGS

- Negotiation of a system of sharing the chair in such a way that no one party can benefit from their chairing either in general or on key specific agenda items;
- Selection of a party totally suitable to all concerned;
- Selection of a party minimally acceptable to all concerned;
- Identification of the key skills necessary for the function;
- Selection of a party with authority to overrule all concerned if necessary;
- Selection of an unempowered party dependent on continuing consensus among all concerned.

A MENU OF OPTIONS 1 [P. 117]

10. TIMEFRAMES

- No time-limits: participants remain until the job is done;
- A pre-agreed time-limit;
- A realistic limit on the goals to be achieved within the time available;
- Aiming for a comprehensive settlement of all aspects of the dispute;
- An option for further negotiating period/s following success in the initial period.

11. DECISION-MAKING PROCEDURES

- Total agreement: all parties must endorse a point for it to be agreed;
- Simple majority acceptance: more than half the parties or delegates agree;
- Consensus: the point is defined and refined until all can agree to it;
- Sufficient consensus: a certain specified proportion of the parties or delegates must agree the point (the exact proportion or criteria to be pre-agreed, and dependent on the number of parties, their relative sizes, and their ability to "sell" the agreement to their broader constituencies);
- Secret ballots to discover the degree of consensus;
- An open show of hands to discover the voting preferences;
- Final ratification by parties, or endorsement by referendum of the final outcome.

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NORTHERN IRELAND

The Plantation

Since English forces first arrived to claim the island of Ireland around 1170–1190 CE, centuries of complex Anglo-Irish history have produced Europe's longest-standing identity-related conflict. Space permits no more than a sadly inadequate nod to that rich narrative.

The indigent population at the time of the English invasion were descendants of the Celts who had swept westward across Europe in the pre-Christian era. They had been converted to Christianity during the 5th and 6th centuries. They were rural, agriculturally based and formed a largely decentralized society. The Protestant reformation which took deep root in England mostly passed Ireland by, and its population remained almost wholly Catholic.

As a means of later subjugation, the English introduced the Plantation, an early but obvious form of colonialism. From the early 1600s, hundreds of thousands of settlers from England and lowland Scotland were offered plots of fertile agricultural land if they agreed to be permanently "planted" in Ireland. In the process, most native Irish were displaced from their homes into the barren hills.

The Plantation had two key effects. First, the land displacements created a deep and abiding Irish sense of criminal injustice on the part of the English. Second, the native population was completely Catholic while the settlers were overwhelmingly Protestant. In the context of the times, religion was a central defining factor of culture and politics, and so the two groups, natives and settlers, were instantly alien to each other. Matters were not helped by the Protestant zeal with which the Planters set about subduing the angry but powerless Irish. Oliver Cromwell – in the British context, an heroic revolutionary figure in the development of western democracy – slaughtered Irish Catholics by the thousand in a vicious programme of ethnic cleansing.

The Plantation flourished best in north-east Ireland. For the next 250 years, the history of Ireland developed along two main themes. On the one hand, there were regular but unsuccessful attempts at rebellion by the dispossessed Catholic Irish, during which a cumulative sense of Irish nationalism developed. On the other, the British-sponsored industrialization and economic development of the north-east raced ahead. The region's central city, Belfast, became two things by Victorian times: a heavily industrialized port as integral to the British empire as Liverpool or Southampton (producing ships, textiles, heavy machinery, armaments and, later, aircraft) and a centre of strongly British-oriented culture dominated largely by Protestants. This abiding sense of a British identity translated itself politically into Unionism – support, that is, for the continued Union with Britain.

Northern Ireland

While Irish nationalism spread throughout the rest of Ireland, in the industrial north-east the Unionist focus remained resolutely tied to the British empire as the predominant source of wealth and international and domestic markets and as the channel of access to the outside world. While Irish Catholics increasingly mobilized around the cause of Irish independence, northern Protestants rallied to the cause of the British empire, busily filling its factories and patriotically fighting its wars. Religion had long ceased to be the issue of conflict between these two fundamentally opposed cultural communities, but continued to serve as the badge of identity for both sides.

So by 1900, there existed in Ireland two deeply separated communities, both with long-standing historical claims to the territory, both divided not only by religious labels but also in their politics, history, heritage, culture and economy, who saw their sources of support as different, their relationships to Europe as different, and especially their relationship with the superpower of the day (Britain) as diametrically opposed.

Partition

By the turn of the 20th century, Irish pressure for independence became irresistible. Northern Protestant opposition to the idea was equally strong. Both sides began to arm, each prepared to fight their cause against the British. Heavy-handed British suppression of an abortive 1916 rising in Dublin, the Irish capital, by rebels of the Irish Republican Army (IRA) produced the martyrs who inspired a mass liberation movement. In 1920, limited independence was granted to all 32 counties of Ireland, but the nine counties of the north-east (the province of Ulster) were given the option to opt out of the arrangement. Six of the nine, the ones with Protestant majorities, chose to remain with Britain in the UK, and the island was partitioned in 1921 between the 26 counties of the Irish Free State to the south, and the six counties of Northern Ireland. The Free State fought a bloody internal civil war for a year, before accepting the less-than-total independence on offer. (The Irish Republic declared full independence in 1937.)

Northern Ireland was given its own regional parliament in Belfast. Westminster, while retaining overall sovereignty, adopted a *laissez-faire* attitude and largely ignored Northern Ireland for the next 40 years. The 1.5 million population of the new sub-state had a 2:1 Protestant majority, reflected in its majority-rule parliament which effectively operated under permanent Unionist control. The discontented Catholics of Northern Ireland were viewed by this parliament – with some justification but much exaggeration – as subversive agents of the new and hostile foreign state to the south: they were not to be trusted or worked with, they were to be feared, controlled and excluded.

Northern Ireland

With its permanent majority, and its deep-seated insecurities, the Northern Ireland State practised decades of discrimination against Catholics in employment, voting, education, housing, and so on. A highly segregated society developed, ruled by a permanently Unionist government who controlled a highly armed and 90 per cent Protestant police force. For 40 years, the society remained stagnant, with two almost totally separate communities living parallel lives in a patchwork of small segregated areas, each with their own housing, schools, shops, churches, factories, clubs, sports, etc.

The Troubles

The stagnation ended in the 1960s. Catholic university students, influenced by the US civil rights movement, took to the streets to demand an end to the discriminatory practices of the Northern state. The "Troubles" thus began as a conflict between Catholics and the state over civil rights. It escalated rapidly as the state and police responded brutally to a largely peaceful protest movement. In 1969, the Unionist Government realized that the situation was out of control, and requested the British army to intervene. A burgeoning of hard-line Unionism frustrated any last-minute attempts at moderate reform which might have quelled unrest. By 1972 the government was in complete disarray, but still resisting demands for reform, and Westminster stepped in to close down the Belfast Parliament and assume direct rule over Northern Ireland.

Britain moved rapidly to redress the more glaring civil rights grievances; but the British army acted towards the Catholic community in extremely heavy-handed fashion, rapidly alienating the Catholics it had arrived to protect. As Catholics rushed to defend themselves against the threat of armed British troops and a Protestant backlash, the IRA – almost defunct in the 1960s – was reborn. The British army has remained ever since.

From 1972, what had begun as a civil rights protest by the Catholic community towards the Protestant/Unionist Government was transformed into a war of liberation waged by the IRA against the British Government and army, and against the local police.

The next 20 years form a history of failed political initiatives, occasional short-lived cease-fires, an ebb and flow in the level of violence, economic and social devastation to the region, the institutionalization of violence in Northern Irish society, and an eventual military stalemate that neither side could win outright. In the process, both communities grew more polarized than ever, the sense of stagnation prevailed, and more than 3,000 people died violently as each community mythologized its contemporary martyrs and heroes.

The battle-lines were clearly drawn up. Catholics overwhelmingly supported the Irish nationalist cause, which aspired to a united and independent Ireland. The

Northern Ireland

main nationalist political party, the Social Democratic and Labour Party (SDLP), espoused peaceful means towards a more just political system in Northern Ireland and towards eventual Irish unity. Within nationalism, the smaller Republican movement, consisting of the paramilitary IRA and the political party Sinn Fein (in the Irish language, "Ourselves Alone") advocated violent struggle to rid Ireland of the British presence. Protestants equally fervently supported the cause of Unionism (that is, a continuation of the union of Northern Ireland with Britain within the UK). Mainstream political opinion was represented by the Ulster Unionist Party (UUP), who had controlled the parliament until 1972, tempered by the smaller and more hard-line Democratic Unionist Party (DUP), formed in the late 1960s by Ian Paisley in response to perceived weakness within the UUP. On the fringes of Unionism were the loyalists, paramilitary and political counterparts to the Republicans, who adopted anti-nationalist violence to protect the Union.

Peace Initiatives

Having assumed direct rule of Northern Ireland in 1972, the British Government had managed by late 1973 to drag the mainstream political representatives of Unionism and Nationalism, and the Government of the Irish Republic in the South, to a shaky political agreement that involved a new power-sharing government in the North, and a new cross-border Council of Ireland to facilitate Southern input into the North's affairs. The new government, consisting of both the UUP and the SDLP, lasted for the first five months of 1974, before massive and militant protest by the Protestant community, enraged by the proposed Council of Ireland, brought it to collapse and control reverted to Westminster. Direct rule continued uninterrupted until 1998.

Throughout the 1970s and 1980s, Britain made several further attempts at political settlement. From time to time, elections would be held for a new parliamentary assembly, but the resulting bodies were always boycotted by one side or the other. British policy was two-pronged. One aim was to enable a power-sharing government which would bring nationalists into a share in government within Northern Ireland. The other aim was known as the "Irish dimension": placating nationalism by permitting the Irish Republic a degree of influence in Northern affairs. Unionists might accept some form of the first, but wholly rejected the second; while nationalists were deeply suspicious of the first without the second.

Throughout the period, paramilitaries in general, and Republicans in particular, were excluded from political consideration. By common consent, their adoption of violence precluded them from the democratic process. In return, the Republican movement totally and violently rejected any of the proposed solutions.

In 1981, in the relentless glare of international publicity, 10 IRA prisoners starved themselves to death in a stand-off with British Prime Minister Thatcher over their

Northern Ireland

Case Study: Northern Ireland

claims to be political prisoners of war (as opposed to criminals). The resulting wave of sympathy for Republicanism bolstered the fortunes of its political party, Sinn Fein which, at the same time, decided to end decades of abstentionism and begin contesting elections in both North and South.

In response to this perceived political threat from a resurgent Republican movement, the political parties of the Irish Republic and the SDLP met in the 1983 New Ireland Forum to develop a new definition of constitutional Irish nationalism. The resulting Forum Report effectively redesigned Irish nationalism, and its language and content were greatly influenced by the SDLP leader, John Hume. Old, simplistic anti-British sentiments were replaced with new tenets of commitment to peaceful politics and respect for the unionist tradition. The Irish Government took the thinking of the Report as a basis for entering negotiations with Britain over what became the 1985 Anglo-Irish Agreement, a melding of both governments' aspirations towards peaceful resolution of the Northern question. The Agreement established several key factors formally: the governments' commitment to work together for peace, an Intergovernmental Conference in which Irish ministers could regularly question and comment upon British policy in the North, and a secretariat of Irish officials located in a Belfast suburb.

This international treaty between the two sovereign nations had two powerful effects. First, it made the Republic of Ireland a partner with Britain in the process, in contrast to their previous history of antagonism over Northern Ireland. Political initiatives would now be authored not by Britain alone, but by both governments in partnership. The "Irish dimension" was thus moving closer to reality. But second, in contrast to Hume's close, if unofficial, involvement in the drafting of the Agreement, Unionists were not consulted about the intergovernmental negotiations. They reacted with shocked anger to an Agreement that had both ignored their opinion in its construction and, in their view, weakened the link with the UK by allowing a "foreign" government to meddle in their affairs. Deeply alienated, Unionist politicians withdrew from all contact with the British Government.

By 1989, however, Unionist opposition had failed to prevent the Agreement from becoming an established fact. The Irish Government was now an engaged partner in the political process with Britain, and Unionist anger, initially and tellingly mobilized around the slogan "Ulster Says No!", had turned to frustration. Realizing that continued non co-operation would only make things even worse, they finally agreed to enter discussions with the British about possible political structures, and eventually in 1991 the UUP and DUP entered British-facilitated negotiations with the SDLP and the small, cross-community Alliance Party. Those talks failed to make much progress, bogging down in early arguments over procedural issues. But they did serve to set and clarify the agenda for future discussions into three strands –

Northern Ireland

power-sharing arrangements for an internal Northern Ireland government under British rule as long as a majority of the Northern population voted to retain the Union; the practical shape of North-South institutions to strengthen the Irish dimension; and a more developed Irish-British treaty to replace the Agreement.

By the consent of all involved, paramilitary political parties from both communities were still excluded, until such times as they would renounce violence.

The following year, talks were resumed for a further four months, and made some progress on all three agenda strands, but eventually collapsed far short of agreement. Meanwhile, Hume had initiated dialogue with Sinn Fein with the ultimate aim of persuading them away from violence and into the political process. During these discussions, and even during subsequent secret British-Sinn Fein communications, IRA violence – bombs and shootings – continued against the British army and the Northern Ireland police, and spread to a devastating bombing campaign in England. At the same time, the two main loyalist paramilitary groups developed a new degree of sophistication both militarily, becoming much more active against Republicans, and politically, developing new political parties to represent their views and try to wean voters away from the mainstream Unionist parties. The Ulster Defence Association (UDA) developed the Ulster Democratic Party (UDP), and the Ulster Volunteer Force (UVF) produced the Progressive Unionist Party (PUP).

Sinn Fein, the UDP and PUP all began to increase their political profile, but all were strictly excluded from negotiations.

By 1994, however, Hume's dialogue with Sinn Fein had developed into a wider nationalist consensus involving their two Northern parties, the Irish Government and Irish America (where a new and much less pro-British President Clinton had been installed). The pressure intensified on Sinn Fein leader Gerry Adams to accept the military stalemate and the necessity to engage democratically in the political process. The result was the IRA's cessation of violence in August 1994, followed a month later by a loyalist cease-fire.

But political progress was too slow to satisfy Republicans. Supported by Unionists, the British at first demanded an IRA statement that the cease-fire was permanent – a concession which the IRA saw as tantamount to a surrender, and refused to give – and then insisted, equally ineffectually, that IRA weapons be handed over before Sinn Fein be permitted entry to negotiations. The British insisted on disarmament and then talks; the paramilitaries on both sides insisted on talks first and then subsequent disarming. All other discussions about progress foundered on this rock of the decommissioning of weapons. Until that issue was resolved, the British and the Unionists refused to admit paramilitary parties to any negotiations. Former US Senator George Mitchell was brought in to chair a commission into the question of

Northern Ireland

disarmament of paramilitaries as part of the broad peace process. The commission accepted that no group was going to disarm before talks, and suggested two compromises. First, disarming should happen *during* talks, in parallel to political progress and as part of confidence-building measures. Second, a set of six principles of non-violence were established, which all parties would have to endorse on entry to the negotiations. These included a commitment to purely peaceful means, and a renunciation of violence as a means either to achieve political ends or to undermine an unfavourable political outcome.

But attitudes all round had hardened in the period since the cease-fires, with all sides trying to use politics merely to wage war by other means. Eighteen months after the IRA cease-fire, Sinn Fein were no closer to inclusion in any substantive talks process, and in February 1996 the IRA suspended its cease-fire and returned to a limited military campaign, mostly aimed at British military and economic targets. The loyalist paramilitaries edgily maintained their own cease-fire agreement. Elections went ahead to identify participants to a talks process that started in June 1996, but Sinn Fein were excluded once again until such times as the IRA might call another cease-fire. The talks rambled on, but failed to get beyond the continuing procedural wrangles about decommissioning and the terms of Sinn Fein's admission. With his parliamentary majority down to one, Conservative Prime Minister Major could exert little influence over the traditionally conservative UUP parliamentary group led by David Trimble, whose 10 MPs held a potential balance of power.

Agreement

But with the June 1997 installation of a Labour government with an unassailable parliamentary majority, the pace picked up once more. A new IRA cease-fire was called the following month, and inclusive talks began in September under the chair of George Mitchell. No weapons were handed in, but all parties signed up to the Mitchell principles of non-violence. For the very first time, Sinn Fein, the UDP and the PUP were all included around the table. In response, the DUP and another tiny Unionist political newcomer, the UK Unionist Party (UKUP) walked out. Around the table, long-standing suspicions and antagonisms were rife, and progress was interminably slow as historic foes sparred nervously with each other in an uncomfortable process. The two earlier talks attempts had exclusively involved only the four mainstream and non-violent parties and the two governments. This time around, the inclusion of the paramilitary politicians increased the chances that any potential settlement could be more comprehensive in effectively addressing the issues of violence, and in finally removing the gun from Irish politics. But at the same time, inclusiveness greatly widened the distance between the viewpoints represented around the table, and made compromise all the more difficult.

Northern Ireland

Three months of talks became rapidly bogged down once again in procedural issues, with parties fighting every point. Delays and obstructionism continued, as politicians on all sides were deeply challenged at the prospects both of facing their long-standing enemies across the table and of finally accepting a less-than-perfect negotiated compromise after decades of promoting absolutist positions of outright victory. Confidence-building measures ran in parallel to the talks, consisting largely of concessions by the two governments over paramilitary prisoners, and a lowering of the British army profile on the ground.

As the talks inched forward painfully into 1998, frustration grew at the extreme fringes on both sides. New anti-cease-fire paramilitary groupings emerged from both republicanism and loyalism, and bombings and shootings began once more. After a series of murders by the UDA, its political party the UDP was suspended for several weeks from the negotiations for a period of "quarantine" until the cease-fire had been restored. Shortly thereafter, Sinn Fein was suspended for two weeks because of similar IRA activity. The violence of the politically represented paramilitaries again subsided, but that of the uncontrolled extremes continued sporadically.

In late March, Mitchell finally announced a two-week deadline for the talks process. By this stage, he argued, all the relevant issues had been discussed. There was no need for further discussion or elaboration: what was needed now was a demonstration of the political will to reach agreement. He set the deadline of midnight on 9 April for an agreement.

Amidst heightened tension, signs appeared that his ultimatum, backed up by pressure from London, Dublin and Washington, might indeed produce results. Both Irish and British premiers arrived at the talks venue, and a hotline to the White House was established. The midnight deadline passed, talks continued through the night and another day, and finally, to universal surprise, after 32 hours of straight negotiation, an agreement was announced on 10 April.

The Agreement ran to over 10,000 words. It reflected closely the three-stranded agenda upon which it was negotiated. At its heart were the design and fast-track implementation of new core political structures and constitutional changes, supported by various commissions, each with specific deadlines for implementation, to oversee issues whose detail was yet to be filled in. The Agreement would be offered to the people of both North and South in simultaneous referendums in May 1998.

Of the core changes, the first would be the removal from the Irish Constitution of the territorial claim to the North, in parallel with a British repeal of outstanding legislation claiming jurisdiction over Ireland as a whole.

In Strand One, in June 1998, a 108-member Northern Ireland Assembly would be elected by a single transferable vote form of proportional representation, thus enabling the election of smaller parties. The Assembly's consensus voting mecha-

Northern Ireland

Case Study: Northern Ireland

nism would require minimally 40 per cent support from each of the unionist and nationalist blocs, provided that comprised at least 60 per cent of the overall vote. Its early decisions would concern the election of a First Minister, Deputy First Minister and 10 ministers with departmental responsibilities. All these posts would be allocated in proportion to party strength.

In Strand Two, a North-South Ministerial Council would be established consisting of ministers from both the Irish Parliament and the Northern Irish Assembly. (The Assembly will not be permitted to continue in operation unless the Council is implemented.) Once constituted, the Council would devise cross-border implementation bodies with an "absolute commitment" to work together in at least 12 specified areas of common interest. Council decisions will be by agreement, and a strict timetable is specified for the operation of all these arrangements.

In Strand Three, a new Irish-British Treaty would replace and take over the workings of the 1985 Anglo-Irish Agreement, and would permit intergovernmental co-operation on Northern matters (including sensitive ones such as security, etc.) not yet devolved to the Assembly. A British-Irish Council to promote wider regional co-operation would be established, comprising representatives from the Irish and British governments, the Northern Assembly, and the forthcoming devolved assemblies to be established in Scotland and Wales.

Around these key structures, specific timetables were set for establishing other reinforcing mechanisms. The European Convention on Human Rights will be fully incorporated into Northern Irish law. A new Northern Ireland Human Rights Commission will co-operate through committee with its Irish counterpart. Commissions will also be established in Northern Ireland on equality, weapons decommissioning (to be completed within two years of the referendums), police reform, and the criminal justice system. Finally, mechanisms will be put in place by both governments to facilitate the accelerated release (within two years) of all paramilitary prisoners from groups continuing to observe cease-fires.

It was a tortuous document, produced through a tortuous process, and was not without a degree of the fudge that has characterized Irish negotiations for 10 years. When it came to voting in the Northern referendum and the Assembly election, the key divisive issues were not the core political structures that had entailed so much painstaking negotiation. Instead, the predominantly Unionist anti-Agreement vote rallied around the emotive issues of early prisoner release, victims' rights, and doubts over the effectiveness of weapons decommissioning. The referendum revealed fundamental divisions within Unionism. Nationalists, Republicans, Alliance, loyalist parties and moderate Unionists won a 71 per cent pro-Agreement majority in the referendum, and a narrow but workable majority in the Assembly. The UUP's Trimble was elected First Minister, with the SDLP deputy leader as his

Northern Ireland

Deputy. But the DUP, UKUP and significant UUP elements coalesced into a hard-line obstructionist tendency. The situation remained very tense throughout the summer of 1998. Anti-Agreement Unionist's street protests waxed and waned, threatening the fragile majority consensus. A small but well-armed anti-ceasefire group split off from the IRA and embarked on a devastating bombing campaign in the North. As the politicians returned to work in September to begin implementing the provisions of the Agreement, there was still no certainty of success.

Northern Ireland