

United States Institute of Peace

Certificate Course in
Negotiation and Conflict Management

Produced by the
Education & Training Center/International

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Chapter 1: Introduction

About the Course

This *Certificate Course in Negotiation and Conflict Management* is the second self-study course in a series that includes our *Certificate Course in Conflict Analysis* and *Certificate Course in Interfaith Conflict Resolution*, and will include courses in mediation and other elements of conflict management—all available online.

Our *Certificate Course in Conflict Analysis* is the first in the series, and we strongly recommend that you take it prior to taking this course. Effective action is invariably the product of insightful analysis. The *Certificate Course in Negotiation and Conflict Management* is the second course in the series because negotiation is a fundamental skill for anyone practicing conflict management and peacebuilding, perhaps the most important tool in a practitioner's toolkit. It informs other skills, such as mediation, and can be crucial to effectiveness at any point in the life cycle of a conflict.

Certificate of Completion

Throughout the course you will be prompted to test your understanding of terms and concepts. When the course is complete, you will have the opportunity to take a course exam. When you pass the exam, you will earn our ***Certificate of Completion*** in this negotiation course.

1.1: An Alternative to Violence

Protest Against Injustice

On March 21, 1960, in the township of Sharpeville, South Africa, police opened fire on a large but peaceful protest, killing and wounding scores of unarmed demonstrators. The day marked a particularly tragic event in a long, bitter struggle against racial oppression. On the anniversary of this massacre, 25 years later, police opened fire once again, killing and wounding more unarmed protestors. With this macabre replay of history, townships across South Africa erupted in a wave of desperation.

Like the generation before them, these desperate men and women were protesting *apartheid*, a brutal, comprehensive system that through a range of notorious laws and practices—including the Mixed Marriages Act, the Group Areas Act, the Bantu Education Act, and the Job Reservation Act—was designed to enforce racial privilege.

By 1986, in a determined attempt to hold on, the South African government declared a national state of emergency and launched a bloody crackdown. Tens of thousands of youths were detained without trial, and many were tortured and killed. In response, the Mass Democratic Movement, representing over 7,000 organizations and 2,000,000 individuals, called for general insurrection. The nation teetered on the edge of civil war.

The First Free Election

Yet in an extraordinary example of farsighted statesmanship, South African President F. W. de Klerk and African National Congress (ANC) leader Nelson Mandela found ways to negotiate their vast differences and curb the violence engulfing their nation.

In 1990, with security costs out of control and the economy in a tailspin, de Klerk surprised the world with his decision to release Mandela from his prison on Robben Island, where the graying leader had languished for 27 years. In their first face-to-face negotiation, de Klerk agreed to lift the state of emergency, while Mandela committed the ANC to restrain its supporters and help curb the nation's violence.

In their next encounter, the ANC agreed to suspend its armed struggle, while the government agreed to release political prisoners and allow political exiles to return to the country.

In December of 1991, the government and the ANC held the first Convention for a Democratic South Africa (CODESA), which included parties and stakeholders from across the country. Their mission: to negotiate a new constitution, one that would protect and empower all citizens, and to prepare the divided nation for its first multiracial election.

Dawn of the Nuclear Age

The South African example shows how courageous negotiations can curb violence within a state, but what about violence between states? In 1945, the United States became the first nation to test and use nuclear weapons. Just four years later, the Soviet Union detonated its first nuclear device.

In 1950, American President Harry S. Truman authorized the development of the first hydrogen bomb, which was detonated in 1952. The yield of this weapon was 500 times that of the original nuclear device. By 1955, the Soviet Union detonated its first H-bomb. The United Kingdom detonated its first nuclear weapon in 1952 and its first H-bomb in 1957.

By 1959, with French and Chinese nuclear weapons on the horizon, substantial concern about the spread of these devices was growing throughout the international community. To address this concern, the General Assembly of the United Nations called for an agreement to control the proliferation of nuclear weapons.

But the challenges to negotiating such an agreement were substantial. For example, aspiring nuclear powers would have to be convinced to forgo their efforts, while those who already had such weapons would have to accept constraints on their own strength in a still dangerous world. Also, such an agreement would require Cold War adversaries to work together in a way that seemed improbable during a prolonged period of confrontation.

The Nuclear Non-Proliferation Treaty

Yet by 1968, persistent negotiators completed the Nuclear Non-Proliferation Treaty (NPT), representing a substantial breakthrough in efforts to control the spread of these weapons. The agreement consists of three pillars. Through the first pillar, the five permanent members of the United Nations Security Council, which were the only five nations possessing nuclear

weapons at the time of the signing, would not transfer nuclear weapons technology to other states. For their part, the other signatories to the treaty would not seek such weapons.

Through the second pillar, those states already possessing nuclear weapons would pursue limits on their arsenals, with the ultimate goal of eliminating them, so that all treaty members would be of equal status.

The third pillar provided non-nuclear-weapons states with the promise of assistance in pursuing peaceful uses of nuclear technology, a crucial incentive for societies in search of scientific and economic development.

For roughly half a century, the NPT has provided a highly effective framework for controlling nuclear proliferation. More than 190 member-states have agreed to extend it indefinitely, although today the treaty faces some of the toughest challenges in its history.

The Negotiator's Challenge

These examples show how bold, farsighted leaders used negotiation to prevent violence, to resolve violent conflict, and to take significant steps forward in the process of reconciliation. Negotiation can be useful at each stage in the life cycle of a conflict.

In a way it sounds so rational, so simple: talking out differences, instead of fighting. Yet experience proves the difficulty of the task. Convincing potential foes to lay down their arms and negotiate is by no means a simple undertaking, especially for embittered combatants. Getting meaningful, mutually satisfactory, lasting results is usually very hard work, and is never guaranteed.

Negotiation and Risk

Moreover, negotiations of this kind are not without risk. They require vision and courage. Although negotiators in South Africa eventually succeeded, political violence actually increased in the few short years following the release of Mandela. Likewise, success looked doubtful at many points in the negotiations over the NPT. In both cases, it was never evident throughout the course of negotiations that agreement would eventually emerge.

In his writing, Herbert Kelman discusses the kinds of stakes involved in long-running, intractable conflicts where both sides often fear, rightly or wrongly, that “negotiations and concessions might jeopardize their national existence.”¹ Harold Saunders also observes that negotiators are sometimes “reluctant or even fearful to reach out to the other side,” noting that “governments risk vehement backlash,” while “citizens in some situations risk assassination.”² In this context, Charles Freeman calls compromise “a weighty matter.”³

¹ Kelman, Herbert. “Social-Psychological Dimensions of International Conflict,” in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 73.

² Saunders, Harold. “Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 490.

³ Freeman, Charles. *Arts of Power: Statecraft and Diplomacy* (Washington, DC: United States Institute of Peace Press, 1997), 101.

Perspectives

It's important to analyze a conflict because if you haven't analyzed it, if you don't understand it, you're not in a position to know what to do about it. But analysis, from our perspective, is not an end in itself. It's just the basis to then actually do something about the conflict—to reduce the violence; to cause the conflicting parties to find ways to work together; if you are one of those parties, to advance your own interest, but in a way in which you reach some kind of agreement, in which there's a reasonable prospect that the other side will be prepared to implement in good faith. That process of dealing with the other side is called a negotiation.

-Mike Lekson

In any negotiation in which violence has taken place—or even at a minimum, bad feelings, feelings of hurt—you always have to think about how that is going to have an impact upon your negotiation; how it's going to impact not only on the negotiator, the person you are dealing with, but how it's going to impact upon the positions they are going to articulate and the needs they are going to have, to be addressed in the course of the negotiation. Any negotiator who ignores the emotional quotient, is ignoring a very important part of the negotiation.

-Ted Feifer

Purpose of this Course

In any environment of actual or potential conflict, finding common ground and building bridges can be difficult, risky tasks.

Fortunately, to help negotiators improve their chances of success, there is a substantial body of experience from which to draw. Since ancient times, diplomats and political philosophers have written extensively about negotiation. Since the latter half of the 20th century, the subject has been studied systematically by both academics and practitioners. Drawing on academic studies and practitioner experience, this course will focus on the techniques and skills of successful negotiation.

Some people appear to be born negotiators. Others don't like negotiating and may even find the process intimidating. But you don't have to have any kind of special gift to hold your own in a serious negotiation; negotiating techniques can be learned. It helps to realize that we all negotiate as part of our daily lives—at home with friends and family, at work with colleagues and supervisors, and in the marketplace with partners and competitors. Most of the principles that apply in these negotiations apply in every context at all levels.

Context and Scope

Courses and books on negotiation typically focus on specific contexts, such as negotiation in business settings, within the legal profession, concerning personal matters, etc. This course will draw upon wide-ranging scholarship and practice from these and other fields; however, it will focus on negotiation as it applies to the prevention and management of international conflict—negotiation as an alternative to violence.

The course will explore challenges facing top-level leaders in developing specific, formal peace agreements, but our scope will not be limited to this level of leadership. The course will also examine vital roles that can be played by midlevel leaders, local leaders, and individuals in paving the way for peace. The principles covered in this course will also apply to related forms of international negotiation, such as trade talks, as well as to the kinds of negotiations faced by those who work in zones of conflict every day: soldiers, civilian police, legal professionals, business leaders, civil society leaders, aid workers, and local government officials.

In their scale, these day-to-day negotiations may not be comparable to comprehensive peace agreements, but they are very important to those involved, as when soldiers and aid workers must negotiate safe passage for food and medical supplies through hostile territory. Moreover, in their cumulative effect, these day-to-day interactions can determine what is and is not possible in wider peacemaking and reconciliation.

Perspectives

There are people who are born negotiators. They just relish the engagement, the give and take, it's a game to them maybe, or they feel they have powerful rhetorical skills so they enjoy it. But I do think that negotiation can be learned, so there is hope for the reticent and the doubtful. I think the way to learn it is to first of all understand the elements of negotiation, to feel that you understand the process and that it's not a big mystery to you. But also with seeing that negotiation is a normal part of everyday life and not part of something that only a top-notch ambassador or special envoy does or only the president or his specific designee does. We all negotiate with our friends and family everyday, all the time. So if you are alive to that and alert to the negotiation in your everyday life—that it's a part of how you navigate your friends, life, family, and relationships with other people—negotiation is a form of human relationship. Knowing that and being alert to that, I think, it may intimidate some people but I think it's also a way of realizing that none of us is completely new to negotiation. And I think it is also important for those who feel that they may not be good negotiators to realize that there is always a kind of power that can be used even if you are not the one with the money or the military or the international community at your back. There are always forms of power that can be used in a relationship situation because negotiation comes from human relationships. There is a way to have a human relationship and make something out of that.

-Linda Bishai

Everyone knows how to negotiate. You can't go through life without it because everyone deals with conflicts in every aspect of their lives. Negotiation is a process where you try to reduce the differences between you or whoever you're representing and the other parties with which you're interacting. So, everyone has some intuitive knowledge at least, even if they haven't studied it, of what negotiation is. What we're trying to do is give people a systematic way of analyzing the negotiating process just as we analyzed conflict in a previous course. And then, reduce that to certain steps that you need to consider and how you might go about considering those steps in order to be more effective as you negotiate.

-Mike Lekson

I believe there are several things people can do to enhance their negotiation skills. One of them is simply through training and learning the different techniques that go into negotiating both in optimal and impossible types of circumstances. Another one is to prepare yourself for negotiation. Another one is experience—the more you practice the better you get. Another one is that the more confidence you have the better negotiator you'll be. Part of building confidence is experience and knowing the skills, it's also preparing and having all the facts at your disposal, and having a good understanding of the context in which you are negotiating—the history, the background, and as much as you can learn about the party with whom you are negotiating—the more confidence you'll have and the better job you'll do.

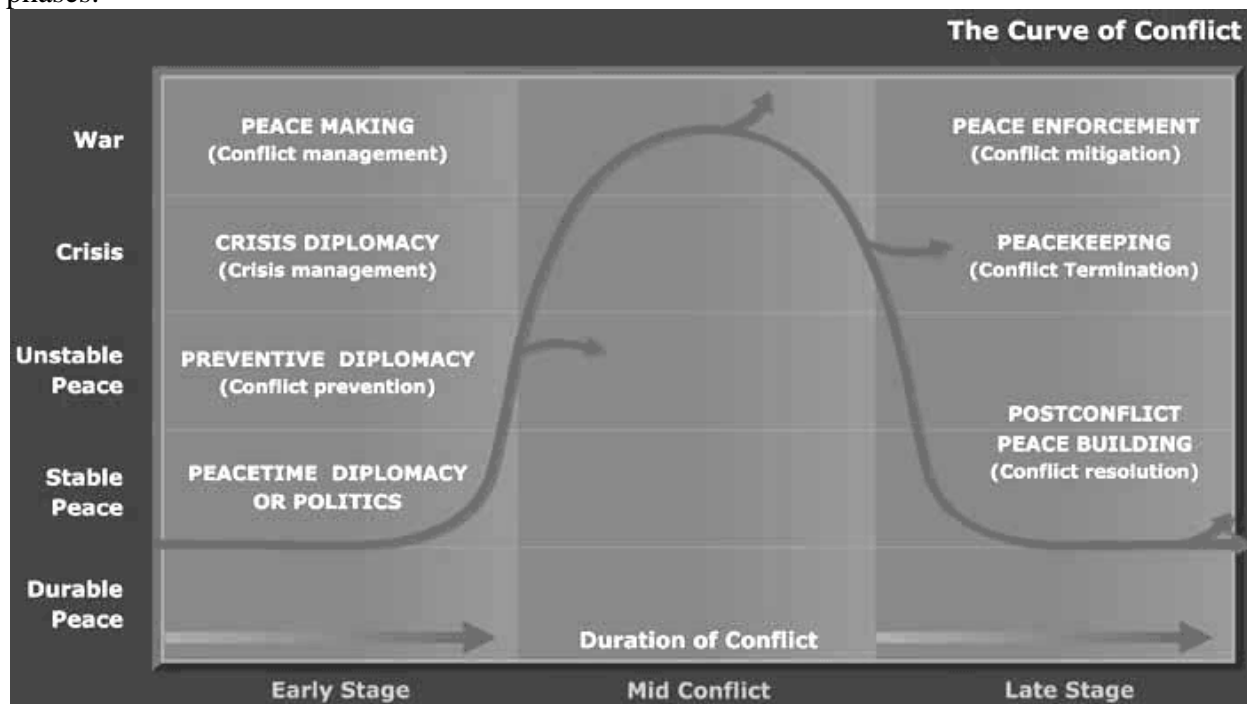
-Mary Hope Schwoebel

Course Sequence

This course in negotiation is the second in a series produced by the *Education and Training Center* of the *United States Institute of Peace*. It follows our course in conflict analysis and precedes our course in mediation. Although our courses may be taken in any sequence, we've designed them so that ideas and concepts covered in one course are built upon in the courses that follow. We strongly recommend that the conflict analysis course be taken before this one, and this course in negotiation before the course in mediation.

Conflict Analysis

In the conflict analysis course, we presented the *Curve of Conflict*,⁴ which shows how the use of force in violent conflict tends to rise and fall over time, how to recognize different phases of conflict, and how to characterize conflict management and peacebuilding efforts used in different phases.



⁴ United States Institute of Peace, "Certificate Course in Conflict Analysis," Page 9, http://origin.usip.org/training/online/analysis/2_0_2.php.

Negotiation is a principal tool used in conflict management and resolution. Negotiation can be used to prevent violence before it has taken hold (upward slope of the curve), to stop violence once it has begun (top of the curve), and to prevent its recurrence and create conditions for a lasting peace in the aftermath of violence (downward slope of the curve). In this course, we will discuss how the context for negotiation can vary depending on a conflict's phase.

In the conflict analysis course, we also introduced a framework to help dissect a conflict into fundamental component parts, including its *actors*, *issues*, *root causes*, *scope*, *resources*, *relationships*, and *history of peacemaking efforts*.⁵ In this course, we'll show how each of these can affect and be affected by efforts at negotiation.

Mediation

For all their efforts, negotiators often do not succeed. In some cases, primary actors won't even come to the table without the help of an actor who is not a party to the dispute. This is particularly true for the kind of existential conflicts previously described by Kelman, Saunders, Freeman and others.

This outside actor is often called a "mediator," although mediation is just one type of intervention that may be appropriate; alternatively, the outside actor might play another role, such as conciliator, facilitator, arbitrator, etc. The general term for such an actor is "third party."

Third parties help disputants reach agreement when they cannot come to terms on their own. Many of the examples that we use in this course—and many of the principles apply to them—will come from negotiations that were conducted with the help of a third party.

Our next course will focus specifically on how third parties can assist in negotiation and will draw substantially on elements from this course. Mediation and other third party roles are often highly complex and require full separate treatment. First and foremost, though, a mediator must have a thorough grounding in the principles, processes, and best practices of effective negotiation.

1.2: Purposes of Negotiation

Long-Range Goals

At the outset of this course, it's fair to ask how these skills will help you, particularly in the context of conflict management and peacebuilding. What kinds of aims, long- and short-range, will this course help you achieve?

Depending on the subject of the negotiation, these aims will be defined in various ways. When focused on conflict management and peacebuilding, negotiators generally come to the table with a few broad goals in mind:

⁵ United States Institute of Peace, "Certificate Course in Conflict Analysis," Page 48, http://origin.usip.org/training/online/analysis/5_0_1.php.

Preventing or stopping violence. When a conflict escalates, negotiators will try to prevent potential violence or stop actual violence, either through preventive or crisis diplomacy, often resulting in cease-fires or other rapidly negotiated agreements. When successful, such agreements are substantial accomplishments that immediately start saving lives. However, by themselves these agreements generally do not address the root causes that led to violence in the first place.

Advancing and protecting interests. Thus, another motive for negotiators is to accomplish around a table what they might have otherwise tried to gain on the battlefield. In Kelman's words, "each party seeks to protect and promote its own interests by shaping the behavior of the other." To illustrate, he describes U.S./Soviet relations during the Cold War, where for several decades negotiators for both sides angled to advance their various interests.⁶

Parties also negotiate to reduce their exposure to risk or to limit damage. The NPT described earlier is a good example of a treaty aimed at mutual risk reduction, in this case by enhancing overall international stability.

Building durable peace. To the extent that negotiators are successful in advancing and protecting their interests by talking through problems, their efforts put them in position to build the kind of long-term durable peace that we described in our conflict analysis course.⁷

⁶ Kelman, Herbert. "Social-Psychological Dimensions of International Conflict," in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 71-72.

⁷ United States Institute of Peace, "Certificate Course in Conflict Analysis," http://origin.usip.org/training/online/analysis/2_1_1.php.

Perspectives

The purpose of negotiation is to try to reduce differences between parties. If differences between parties are increasing, if, in the curve of conflict (which we address in the conflict analysis course) the conflict is moving up that curve on the left hand side, so that you might be going from the situation of unstable peace to one of crisis or even from crisis to war, that is clearly a time in which negotiation certainly needs to be considered and needs to move forward as fast as possible, if the differences are going to be resolved in a way which produces a peaceful outcome rather than a violent one.

That isn't to say that negotiation is guaranteed to succeed because obviously it is not. There's no guarantee a negotiation will succeed. Nor is it to say that any negotiated outcome is better than none. The negotiated outcome at the Munich conference in the 1930s was clearly a failure on its own terms. It did not bring peace in our time as was proclaimed, but negotiation can be tried. It has to be tried with a very cold-eyed and clear sense of what you're trying to achieve, what your objective is, and what you have to bring to bear, what leverage you have to bring to bear in the process. So, everyone will say it's the time for diplomacy when an agreement is necessarily going to produce the result that people hope for.

-Mike Lekson

Why are you negotiating? It's the first basic question you have to ask yourself. Can I achieve my goal without negotiation? Do I need something from the person I'm thinking about negotiating with? Do they have something that I want? Can they block me from getting something I need? Do I want them to legitimize something that I can achieve by myself but I want them to legitimize my getting it?

-Ted Feifer

Tactical Objectives

To accomplish these broad, general goals, negotiators may start with a range of more specific objectives:

Changing attitudes and behaviors. Negotiation can help to change attitudes and behaviors, for example to break down false stereotypes. Saunders sees this principle at work in Mikhail Gorbachev's attempts to change attitudes about his society toward the end of the Cold War. A decade after the end of détente, the Soviet president "recognized the need not just to negotiate arms control agreements but to address directly the deep distrust Americans felt toward the Soviet Union."⁸ The U.S. tried this as well.

Defining a process. Through the course of a negotiation, parties may at times focus on procedural achievements. As Kenneth Stein and Samuel Lewis point out, "putting together a negotiating process is almost as difficult as trying to negotiate the actual substance of a peace settlement." Parties tend to see procedural and substantive issues as "fundamentally entwined,"

⁸ Saunders, Harold. "Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process," in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 486.

with each side calculating how “a particular procedure might affect the eventual substantive outcome.”⁹

Jointly solving problems. If negotiators are particularly insightful and creative, they will find ways of advancing interests that seem, at least at first, to be divergent or incompatible. Reconciling opposing interests requires determined efforts at joint problem-solving. John Paul Lederach states, “Negotiation means that the various people or groups involved recognize they can neither simply impose their will on nor eliminate the other side, but rather must work with one another to achieve their goals.”¹⁰

Building relationships. Joint problem solving usually helps improve the relationship between parties. Because an improved relationship can often lead to continuing achievements, this improvement can be as important as any single specific agreement. Richard Solomon and Nigel Quinney explain, “The chemistry that developed between Reagan and Gorbachev, and between Shultz and Shevardnadze, was reinforced a little lower down the diplomatic ladder. Richard Schifter formed a remarkably close and productive relationship with Anatoly Adamishin as the two negotiated human rights issues from 1987 through 1991. Working together, the two pushed successfully for Soviet reform on human rights issues such as emigration and the abuse of psychiatry for political purposes.”¹¹ In broad overview, these are typical goals and objectives of negotiation in the context of conflict management and peacebuilding. Throughout this course, our aim will be to provide information and impart skills to help you reach goals and objectives such as these when you negotiate. We will begin with a look at principles of effective negotiation, drawing on a range of current scholarship and practice. We’ll follow this with extended application to two real-world case studies: the South African negotiations to end apartheid, and the U.S., Soviet, and worldwide negotiations to establish the NPT. We’ll close with a section on practical steps, focused on helping you negotiate more effectively in real-world situations.

⁹ Stein, Kenneth W. and Samuel W. Lewis. “Case Study: Mediation in the Middle East,” in *Managing Global Chaos: Sources Of and Responses To International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 1996), 468.

¹⁰ Lederach, John Paul. *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, DC: United States Institute of Peace Press, 1997), 65.

¹¹ Solomon, Richard H., and Nigel Quinney. *American Negotiating Behavior: Wheeler-dealers, Legal Eagles, Bullies, and Preachers* (Washington, D.C.: United States Institute of Peace Press, 2010), 53.

Chapter 2: A Study of Strategy

Defining the Term “Negotiation”

Before discussing strategy in detail, it’s helpful to define several key concepts, including the term “negotiation” itself. Daniel Druckman notes that negotiation can be viewed in various ways: as a method of handling conflict, “a puzzle to be solved,” or a “bargaining game involving an exchange of concessions.”¹

Communication process. Richard Shell defines negotiation in plain, uncomplicated language, calling it “a communication process that may take place whenever you want something from someone else or they want something from you.”²

Interests. Fred Ikle introduces the concept of *interests* in his definition, calling negotiation “a process in which explicit proposals are put forward” for the “realization of a common interest where conflicting interests are present.”³ This brings up the crucial point that your fundamental purpose as a negotiator is not necessarily to reach an agreement, but rather to protect or advance your interests, which may or may not be served by an agreement.

The distinction is critical. A savvy negotiator never forgets that the other side might have come to the table with no intention at all of reaching agreement. The offer to sit down might have simply been a ploy—to create appearances, silence critics, stall for time, divert attention, marshal forces, and/or create new facts on the ground. The offer to negotiate might have been genuine, but throughout the process the other side might not show any flexibility, or not enough flexibility for both sides to find a productive way forward, or not be able to implement it. Or an agreement might be signed, but the other side might simply choose not to implement it.

BATNA. Thus, a good negotiator must always be prepared for the possibility that the effort will not show positive results. Roger Fisher and William Ury have introduced the helpful term *BATNA*, which stands for *best alternative to a negotiated agreement*. BATNAs are the alternatives that both sides would take if they did not negotiate—or will take if the negotiation fails.

This concept is helpful in a number of ways. As Fisher and Ury state, “The reason you negotiate is to produce something better than the results you can obtain without negotiating”; therefore, your BATNA is “the standard against which any proposed agreement should be measured.”⁴

For this course, we will use a definition of negotiation that draws from these various ideas.

¹ Druckman, Daniel. “Negotiating in the International Context,” in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 111.

² Shell, Richard. “Your Negotiation I.Q.,” in *World Negotiation Forum: Innovative Negotiation Strategies to Maximize Results: Speakers Presentations*: November 8-9 (New York: HSM, 2005).

³ Iklé, Fred Charles. *How Nations Negotiate* (Millwood: Kraus Reprint, 1985; first published Harper and Row, 1964), 3-4.

⁴ Fisher, Roger and William Ury, *Getting to Yes: Negotiating Agreement Without Giving In* (Boston: Houghton Mifflin, 1992), 100.

Negotiation is

- A process of communication ...
- Aimed at achieving specific goals ...
- Where parties in conflict undertake to work together to shape an outcome ...
- That meets their interests better than their best alternatives.

This definition uses uncomplicated language, like Shell's definition, and includes the concepts of *communication*, *goals*, *interests*, and *best alternatives* described by Shell, Ikle, Fisher and Ury.

James E. Laue includes the *relationship* between parties in his definition, calling negotiation an "exchange of information, ideas, and promises by two or more parties with differing interests, with the aims of, first, developing a mutually acceptable resolution of their differences that is stable over time and, second, improving their ongoing relationship."⁵ Parties do not always pay close attention to long-term relationships as they negotiate, so this consideration is not always included in general definitions. However, as we shall see, relationships are usually important to the successful implementation of an agreement, and tend to be particularly important in negotiation as an alternative to violence.

Related Resources from USIP: [*Peacemaking in International Conflict*](#)

Edited by I. William Zartman

This updated and expanded edition of the highly popular original volume describes the tools and skills of peacemaking that are currently available and critically assesses their usefulness and limitations. The field's preeminent researchers and practitioners, including a United Nations undersecretary-general on the threat and use of force in peacemaking, present not only the more traditional approaches to peacemaking (bargaining and negotiation, third-party mediation, and arbitration and adjudication) but also newer, "nonofficial" approaches that have attracted considerable attention for their innovativeness (social-psychological approaches, problem-solving workshops, conflict transformation, peace education, and training).

Defining Success

It's also useful to discuss what we mean by success in a negotiation. Success can be defined in several different ways.

Short term vs. long term. For example, some negotiations, particularly those over small stakes, may not require much time or preparation in order to be completed successfully. But other negotiations, including those aimed at political settlement, typically involve substantial detail. Pressure to produce results in the short term can prove counterproductive over the long term. As

⁵ Laue, James E.. "Contributions of the Emerging Field of Conflict Resolution," in *Approaches to Peace: An Intellectual Map*, ed. Scott W. Thompson, Kenneth M. Jenson, Richard N. Smith, and Kimber M. Schraub (Washington, DC: United States Institute of Peace Press, 1991), 313.

Freeman states, “In negotiation, pressure to produce a result to adorn a political event can dull judgment, weaken resolve, and lead to concessions that prove unsustainable.”⁶

Paul Hare describes the 1975 Alvor Agreement in Angola as an example of an agreement arrived at and implemented in excessive haste:

The new regime in Lisbon was determined to dismantle Portugal’s empire with virtually no regard to what would follow. The Alvor accords, which provided an unduly compressed timetable and organization for the transition to independence in Angola, never got off the ground. Portuguese security and police forces were withdrawn from the interior, and only a skeleton police presence was maintained in Luanda. ... By the time independence arrived, hundreds of thousands of Portuguese had left Angola in haste, leaving behind a power vacuum and three contending liberation movements to fight it out among themselves. When a steady hand could have made a difference, Portugal demonstrated that it did not have the will and commensurate resources to maintain law and order during the crucial transition from colonial to independent rule.⁷

Win/lose vs. win/win. For many people, the word “negotiation” conjures one main image: that of a buyer and seller haggling over price. Consequently, negotiation is frequently conceived in zero-sum terms, where, as Kelman states, success for one side is “measured by how much the other side is losing.”⁸ But in some negotiations, particularly those with a long-term horizon, excessive disregard for the other side’s interests can threaten prospects for agreement and/or cause significant problems for implementation. This is particularly true in negotiations aimed at resolving violent conflict. As Fen Hampson points out, if one party appears to have won everything at another party’s expense, “the loser will have strong incentives to turn to a renewed campaign of violence in pursuit of political objectives.”⁹ Of course, a negotiation can be *mutually* beneficial without being *equally* beneficial. In other words, each side might strive to win more than the other, and one of the two might succeed. However, if both sides don’t feel that they are winning something, one of them is likely to walk away.

Agreements vs. relationships. In some cases, such as the one-time purchase of a particular item, two negotiators might expect that they will never see one another after the transaction has been completed. Thus, they might not be thinking beyond the one agreement to a longer-term relationship and possible future agreements that such a relationship might facilitate. But in other instances, such as disputes between neighboring countries, individual negotiators are likely to work with each other again and again on complex, difficult issues. When possible, improving

⁶ Freeman, Charles. *Arts of Power: Statecraft and Diplomacy* (Washington, DC: United States Institute of Peace Press, 1997), 103.

⁷ Hare, Paul. “Angola: The End of an Intractable Conflict,” in *Grasping the Nettle: Analyzing Cases of Intractable Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2005), 213.

⁸ Kelman, Herbert. “Social-Psychological Dimensions of International Conflict,” in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 89.

⁹ Hampson, Fen Osler. *Nurturing Peace: Why Peace Settlements Succeed or Fail* (Washington, DC: United States Institute of Peace Press, 1996), 218-219.

relationships among these individuals can be a useful, far-reaching result of a successful negotiation, and in any case the countries themselves cannot avoid having long-term relationships.

Addressing fundamental substantive divides often requires restructuring counterproductive relationships between whole groups of people.¹⁰ To the extent that relationships are improved, agreements also tend to be longer lasting. In Laue's words, "Agreements terminate conflicts; relationships implement agreements."¹¹

Perspectives

Generally a negotiation has a number of elements, all of which have some connection with each other but for the most part can be analytically differentiated. To some extent, that's what we are trying to talk about in the conflict analysis course, where you look at a conflict or a problem and try to get to its basic elements. In negotiation, you are dealing with a conflict or a problem and if you've done that kind of conflict analysis that we recommend, that was covered in more detail in the other course, you're then able to look at the negotiation and break it into parts.

-Mike Lekson

One of the things I think is really important to do is to take time before you enter into a negotiation situation and really think about what's important to you in terms of what's at stake; to really prepare before you go into it. If the negotiation is around something that's really important to you, or maybe you have feelings about, you want to be able to process that a little bit, to understand really why this is important to you.

-Maria Jessop

If you think about the other parties' interests, for example, not just your own, you understand where they are coming from, you understand what they really want or what they really need—and it might not be in conflict with what you want or what you need. So just thinking about your own interests is actually less effective of a strategy than taking into account your other

parties' interests as well. Once you know the interests of the other party, it benefits you in achieving your goals.

-Nina Sughrue

With a definition of negotiation and a range of options for defining success, our next four chapters will focus on key elements of negotiation: **Approach**, where we'll examine conflict and negotiation styles; **People**, where we'll discuss relationships and culture; **Leverage**, where we'll cover inducements, coercion and normative standards; and **Process**, where we'll discuss different phases in a negotiation.

¹⁰ Lederach, John Paul. *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, DC: United States Institute of Peace Press, 1997), 66.

¹¹ Laue, James E. "Contributions of the Emerging Field of Conflict Resolution," in *Approaches to Peace: An Intellectual Map*, ed. Scott W. Thompson, Kenneth M. Jenson, Richard N. Smith, and Kimber M. Schraub (Washington, DC: United States Institute of Peace Press, 1991), 302.

2.1: Approach

Establishing a Tone

How a negotiator defines success will influence how he or she approaches the effort. In this next chapter, we'll review several different approaches and discuss how each might relate to different negotiating circumstances. On this subject, no comparison has generated more discussion and analysis than the distinction between competitive bargaining and collaborative problem solving, so we'll begin there.

Competitive Bargaining

Negotiation is most often viewed as a process of competitive bargaining, as when haggling over price. Terrence Hopmann helps explain this approach with the aid of the following diagram.

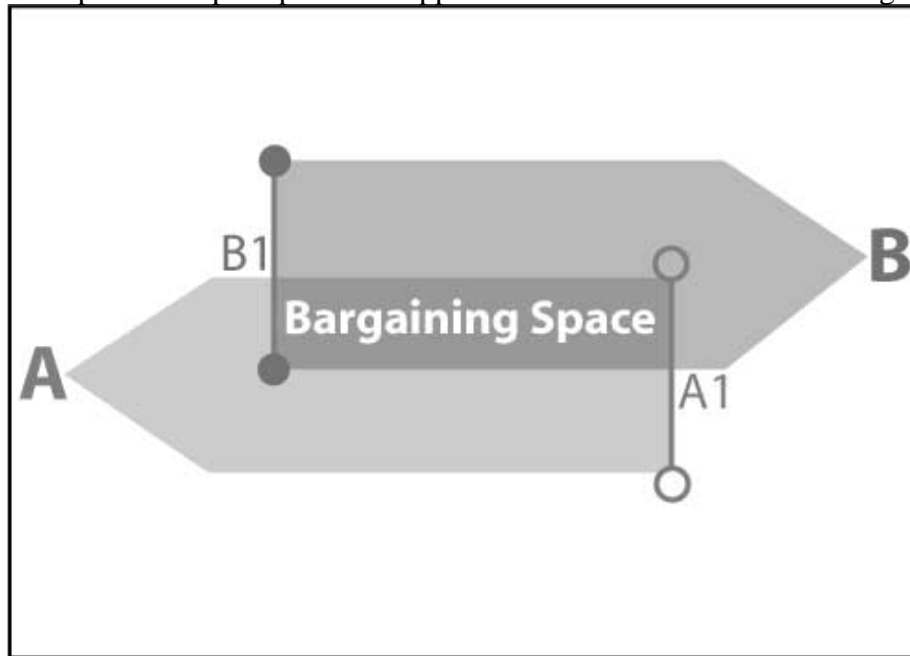


Diagram: A Simple Model of Two-Party Bargaining¹²

In this diagram, *Point A* represents the best-case result for one party, and *Point B* the best-case result for the other party. In a negotiation to buy a car, *Point A* would be the low price desired by one party, and *Point B* the high price demanded by the other. As suggested by the arrow shapes, both parties pull in opposite directions.

Points A1 and *B1* are their best alternatives—Fisher and Ury's BATNA (**b**est **a**lternative to a **n**egotiated **a**greement)—or the points at which each would walk away from the negotiation. If the price is too high, *Point A1*, the buyer will walk away. If the price is too low, *Point B1*, the seller will walk away.

¹² Adapted from Hopmann, P. Terrence. "Bargaining and Problem Solving: Two Perspectives on International Negotiation," in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 451.

In this model, negotiation is a kind of verbal tug of war. Each side pulls as hard as possible, trying to secure an outcome closest to its best-case result and furthest from its BATNA. In Hopmann's words,

(1) Initial offers are made by each party to the other, (2) commitments are made to certain positions in an effort to hold firm, (3) promises of rewards and threats of sanctions are issued to induce other parties to make concessions, (4) concessions are made as one party moves closer to the other, (5) retractions of previous offers and concessions are issued as parties draw apart, and (6) finally, if the dynamics of concession making overcome the pressures to diverge, the parties tend to converge upon agreement somewhere between their opening offers. Alternatively, the centrifugal forces may prevail, producing either a stalemate or a breakdown of negotiations.¹³

This diagram also helps illustrate other key terms:

Bargaining space. The *bargaining space* is the area between the two BATNAs. Any agreement within this space should result in an acceptable deal for both parties.

Reciprocity principle. As each party makes a move away from its opening position and towards the center, it will expect the other to *reciprocate*.

Contrast principle. As each party moves toward the center, it will emphasize what it has given up, or *contrast* its new position with its old one.

Splitting the difference. This model helps illustrate that some kind of equitable compromise is often possible, that two sides can agree on *splitting the difference* as a relatively fast and efficient way to get to an agreement that both can accept. Splitting the difference can be defined as agreeing on either the mathematical median between the parties' interests.

Zero-sum. In this model, there is an implicit assumption that one side's gains must come at the other's expense, providing fuller illustration of the *zero-sum* nature of this kind of bargaining. In Hopmann's words, "The goal of a competitive bargainer motivated to seek the highest possible relative gains is to reach agreement just inside the opponent's point of minimum acceptability, where their preferences overlap, but where one party gains a lot and the other party gains relatively little."¹⁴

"Hard bargaining." Thus, to arrive at outcomes closest to their opening positions, parties will frequently engage in a number of *hard-bargaining tactics*. Some of these may seem familiar and

¹³ Hopmann, P. Terrence. "Bargaining and Problem Solving: Two Perspectives on International Negotiation," in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 446.

¹⁴ Hopmann, P. Terrence. "Bargaining and Problem Solving: Two Perspectives on International Negotiation," in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 452.

natural, but when taken to excess, they can be counterproductive. Robert Mnookin provides a list, including¹⁵:

- Extreme claims followed by small, slow concessions
- Commitment tactics: committing to a course of action that ties one's hands, thus forcing the other side to accommodate
- Take-it-or-leave-it offers: stating that one's offer is nonnegotiable— that the negotiation will end if it's not accepted
- Personal insults and feather ruffling: using personal attacks to play on the other side's insecurities
- Bluffing, puffing, and lying: trying to influence the other side's perception of what would be acceptable by exaggerating or misrepresenting the facts
- Threats

Dean Pruitt gives a comparable list¹⁶:

- Persuasive arguments aimed at changing the other's attitudes on the issue
- Putdowns, aimed at trying to impress the other with one's higher power or status
- Positional commitments, designed to persuade the other that one cannot or will not move from one's current proposal and hence that the other must concede if he or she wishes to avoid a deadlock
- Threats, having the purpose of persuading the other that failure to concede will be punished

Hopmann's model illustrates a two-party negotiation, but the same principles can apply to multiparty negotiations as well. Overall, the competitive bargaining model provides useful insights into certain types of negotiation, especially negotiation over the price of a single item. It is the most common conception of negotiation, and as we will see, there are many cases where a negotiator's most productive approach is in holding the line or splitting the difference, two approaches that this model helps to clarify.

But other approaches are possible as well, and as this model is applied in various cases, it is frequently criticized on three main points. First, its simple, linear nature does not encourage negotiators to study the conflict in depth in order to find better trade-offs than simply splitting the difference. Second, because all possible gains for one party are presumed to come at the expense of the other, it often encourages the use of hard-bargaining tactics, which can be detrimental to the long-term relationship between the two parties—a particularly important consideration when negotiation is attempted to resolve violent or potentially violent disputes. Finally, in these cases in particular, simple competitive bargaining may not lead to sustainable agreements, because both sides need to feel motivated to implement such important agreement in good faith, which typically will not happen if one side feels it was tricked or intimidated into submitting to a bad deal.

¹⁵ Mnookin, Robert H., Scott R. Peppet, and Andrew S. Tulumello, *Beyond Winning: Negotiating to Create Value in Deals and Disputes* (Cambridge, Mass.: Belknap Press of Harvard University Press, 2000), 24-25.

¹⁶ Pruitt, Dean G. *Negotiation Behavior* (New York: Academic Press, 1981), 181 (italics omitted).

Collaborative Problem Solving

The problem-solving approach is very different. This diagram below is adapted from Susan Collin Marks, and illustrates the collaborative nature of this approach.¹⁷

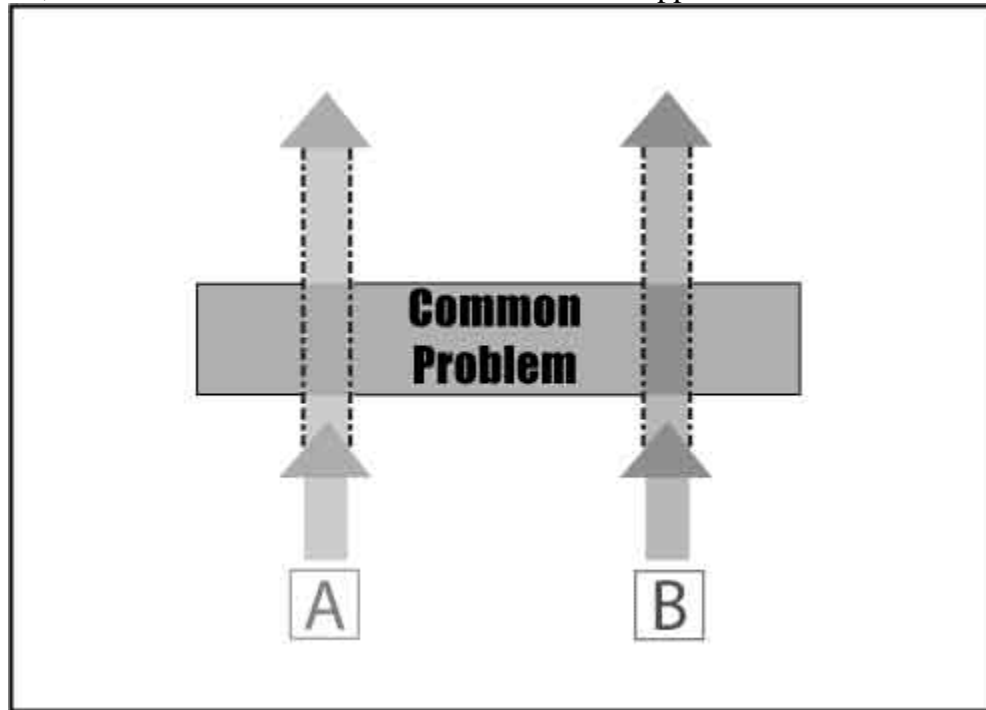


Diagram: Collaborative Problem Solving

Marks describes this approach as a way to “turn and face the problem as a joint problem,” an approach that she credits for much of the success in the negotiations to end apartheid in South Africa.¹⁸ In Hopmann’s words, “The goal of negotiation from the problem-solving perspective is to solve common problems that the parties face in order to benefit everyone. Therefore, the issue under negotiation is best defined not as a conflict between parties that must be resolved but rather as a common problem confronting all parties that must be solved.”¹⁹

While it’s always essential to consider such ideas as BATNA, bargaining space, and the reciprocity principle, other concepts become important as well:

Reframing. Getting to better solutions often requires the parties to reconsider or *reframe* the issues. In intractable conflict, the issues as originally defined have led the parties to deadlock; for a variety of reasons, all potentially valid, neither side is willing or able to make the kind of compromises necessary to find common ground. Reframing means looking at the problem from

¹⁷ Marks, Susan Collin. *Watching the Wind: Conflict Resolution during South Africa’s Transition to Democracy* (Washington, DC: United States Institute of Peace, 2000), 17.

¹⁸ Marks, Susan Collin. *Watching the Wind: Conflict Resolution during South Africa’s Transition to Democracy* (Washington, DC: United States Institute of Peace, 2000), 17.

¹⁹ Hopmann, P. Terrence. “Bargaining and Problem Solving: Two Perspectives on International Negotiation,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 456.

new perspectives in order to find ways to break the deadlock. The difficulty of reframing, especially in intractable violent conflicts, is a principal reason for the use of third parties.

Information exchange. This kind of reframing can be very difficult. To have a realistic chance at success, the problem-solving approach requires both parties to share information more freely than they would in competitive bargaining. The parties will perceive risks in this kind of openness; in fact, there may be risks. However, successful reframing requires as much new information as possible. Just as important—perhaps more important—both sides must listen carefully to the concerns of the other side.

Joint gains. In the best cases, reframing leads the parties to find value that was not previously apparent. In Hopmann's words, "Problem solvers emphasize that negotiators should not be content just to divide up some 'fixed pie' among themselves. ... Instead, they ought to consider what is at stake for each of them in the dispute and then search for ways to fulfill their needs and interests to the greatest extent possible." Crucially, Hopmann emphasizes that this approach still usually requires the parties to make some compromises, but it encourages them to seek joint gains in a collaborative spirit: "While both parties seldom win everything simultaneously—that is, most of the time they need to settle for less than their maximum objectives—it is often possible for them to achieve simultaneously benefits that when aggregated exceed 100 percent of the original value."²⁰

As a hypothetical example, Hopmann describes an estate to be distributed among heirs. If the estate's value is viewed in purely monetary terms, then the best that might be hoped for is a split, with each heir accepting an equitable fraction of the total dollar amount. However, by viewing the estate in other ways, the heirs might end up with a division that each finds personally much more rewarding: "If the heirs value money, property, heirlooms, personal mementos, and the like differently, then the very differences in preferences among the items may suggest a way to enlarge the value of the estate by seeing that each heir receives what he or she values relatively most highly."²¹

Enlightened self-interest. A collaborative, problem-solving approach is not undertaken merely out of generosity, but also for reasons of self-interest—or "enlightened self-interest"—a term that describes the concept of helping others in order to help oneself. In Eileen Babbitt's words, "Effective negotiation usually requires ... [an] understanding of the other side, not for altruistic purposes but out of the necessity to respond to the other party's concerns in order to get one's own needs met."²²

²⁰ Hopmann, P. Terrence. "Bargaining and Problem Solving: Two Perspectives on International Negotiation," in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 456-457.

²¹ Hopmann, P. Terrence. "Bargaining and Problem Solving: Two Perspectives on International Negotiation," in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 456.

²² Babbitt, Eileen. "Contributions of Training to International Conflict Resolution," in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman, and J. Lewis Rasmussen (Washington, DC: United States Institute of Peace Press, 1997), 366.

Perspectives

When parties enter negotiation, just bringing people to the table or to the same room sometimes can be a tremendous accomplishment. And an analogy or a picture that I like to bring to the minds of the participants is that by entering a negotiation that what you're doing is, as opposed to approaching the conflict or the situation as antagonists, that they should see themselves as coming side by side and working together toward a mutually satisfactory resolution of the situation. And just visually, as opposed to a face-off, it becomes a process of teamwork and so from that perspective I think just having parties engaged in a negotiation is often a success. It may be the first step, but it is a successful one.

-Jacqueline Wilson

The best sort of negotiation is one in which you and your partner feel that you're both working on an issue together. In that case, a conflict is not between you, but you're both working a conflict. You're both trying to find a solution to a conflict, to solve a problem. It is much more difficult when you and your partner, the other one in the negotiation, feel that you have a conflict between you and that could be the issue you are dealing with, or a personal conflict.

-Ted Feifer

Perspectives on the Two Approaches

There are other approaches to negotiation, several of which we will review, but no distinction has generated as much discussion among academics and practitioners as bargaining vs. problem-solving. Various authors have examined this fundamental insight in different ways.

Positions, Interests, and Needs

Fisher and Ury put their emphasis on the differences between positions and interests. Their work has been highly influential in the study of negotiation.

Positions	Interests
Ambitions	Needs
Explicitly stated	Often unstated
Presented as solutions	Often difficult to discover
Often narrow and short-term	Often broad and long-term

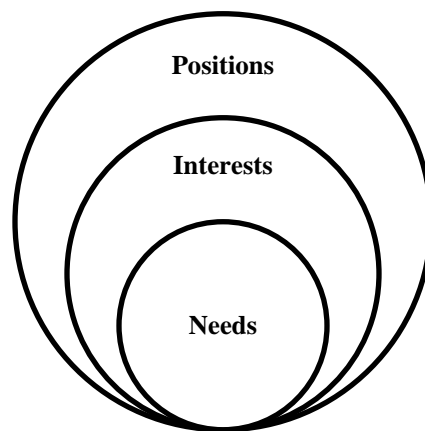
Positions. When negotiators come to the table, they usually arrive with a full set of positions. Positions are what negotiators say they want; they are ambitions. They are usually presented as comprehensive solutions to the problem in question and tend to be expressed as concrete statements or narrow demands, often in specific dollar amounts. They can reflect posturing on the part of the negotiators, and they can sometimes be presented in extreme terms. In Hopmann's competitive-bargaining diagram, *Points A* and *B*, the best-case results for each side, are positions.

One problem is that positional bargaining can contribute to the kind of win/lose, competitive deadlocks described by Hopmann and others. According to Chester Crocker, Hampson and

Pamela Aall, positions often acquire “totemic status and may, deliberately or otherwise, constrain leadership flexibility, thereby contributing potentially to intractability.”²³

Interests. Interests are the fundamental needs that inform positions. In the words of Fisher and Ury, “The basic problem in a negotiation lies not in conflicting positions, but in the conflict between each side’s needs, desires, concerns, and fears. ... Such desires and concerns are *interests*.” Interests are “the silent movers behind the hubbub of positions. Your position is something you have decided upon. Your interests are what caused you to so decide.”²⁴ Crocker, Hampson, and Aall add, “The interests of the parties may, in fact, be quite different from their stated positions, and disentangling the two is a central challenge.”²⁵

Needs. Interests themselves can be further analyzed and shown to represent even more fundamental component needs, a concept frequently illustrated with the following diagram:



By this model, interests are conceived as means to an end. For example, one group might have an interest in a particular dam in order to satisfy their basic human need for water, or the same group might have an interest in representative government to satisfy their basic human need for self-determination. In Kelman’s words, “International or ethnic conflict must be conceived as a process in which collective human needs and fears are acted out in powerful ways. Such conflict is typically driven by nonfulfillment or threats to the fulfillment of basic needs.”²⁶

Tangible and intangible needs. Where positions are stated explicitly, interests are often very difficult to uncover and name, for while interests include easily identifiable physical needs, such as security, food, shelter, and economic well-being, they also include intangible needs, such as autonomy, self-determination, justice, equal treatment, and recognition, along with different forms of belonging, like ethnic, religious, national or regional identity. In our conflict analysis

²³ Crocker, Chester, Fen Osler Hampson, and Pamela Aall, *Taming Intractable Conflicts: Mediation in the Hardest Cases* (Washington, DC: United States Institute of Peace Press, 2004), 99.

²⁴ Fisher, Roger and William Ury, *Getting to Yes: Negotiating Agreement Without Giving In* (Boston: Houghton Mifflin, 1992), 40-41.

²⁵ Crocker, Chester, Fen Osler Hampson, and Pamela Aall, *Taming Intractable Conflicts: Mediation in the Hardest Cases* (Washington, DC: United States Institute of Peace Press, 2004), 99.

²⁶ Kelman, Herbert. “Social-Psychological Dimensions of International Conflict,” in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 64-65.

course, we introduced an analytical framework to help you look for the root causes of a conflict.²⁷ Root causes are often difficult to determine because they are closely associated with these deep, often unexpressed interests and needs.

It's difficult to compromise on interests or needs in any kind of bargaining. Kelman describes the perceptions in play:

Exploration of collective needs and fears is particularly helpful in understanding why it is so difficult for parties to change course in conflicts. ... Having reluctantly gone to the table, they are afraid to make the necessary concessions or accommodations for the negotiations to move forward. Once they make certain concessions, they will find themselves on a slippery slope ... inexorably moving, concession after concession, toward an outcome that will leave their very existence compromised.²⁸

The problem-solving approach, with its emphasis on deeper exploration, better lends itself to addressing fundamental needs. According to Ury, "Joint problem-solving revolves around interests instead of positions. You begin by identifying each side's interests—the concerns, needs, fears, and desires that underlie and motivate your opposing positions." Instead of arguing over opening positions, "you then explore different options for meeting those interests. Your goal is to reach a mutually satisfactory agreement in an efficient and amicable fashion."²⁹

Perspectives

When countries or parties are negotiating on land, negotiating on borders, with money, generally those are positions, and the real question is "Why do you want this particular land?" or "Why do you want this amount of money?" And then when you get to that why, "Well, we want this because we need this land for security" or "We need this land because it is a sense of our identity," then you're getting to interests.

-Nina Sughrue

²⁷ United States Institute of Peace, "Certificate Course in Conflict Analysis," http://origin.usip.org/training/online/analysis/5_2_1.php.

²⁸ Kelman, Herbert. "Social-Psychological Dimensions of International Conflict," in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 65-66.

²⁹ Ury, William. *Getting Past No: Negotiating Your Way from Confrontation to Cooperation* (New York: Bantam Books, 1993), 6.

Visually, it's fascinating to see parties involved in a negotiation where they are focused on interests versus one where they are focused on positions. For example, in one of our workshops, there were parties to a negotiation that had been engaged in an active discussion for a long period of time, and clearly they were in an adversarial situation because they were focused on positions and they had not achieved anything. The discussion was vibrant, lively, loud; it was very similar to an argument, a heated discussion. Whereas a discussion focused on interests—I knew I was watching a discussion on interests because I saw a woman in Afghanistan leaning forward in her chair and just listening to what the other person was saying, the other party to the negotiation. It was clear she was making eye contact, she was leaning forward in her chair, she was clearly trying to understand what was important to the other party to the negotiation. That, visually, was a great picture for me of the difference between positions and interests.

-Jacqueline Wilson

I'll give a very concrete example to how thinking about positions and interests can be useful in a very local context. If one looks at the situation in Kosovo, you may have a Serb village, an enclave, which is very sensitive about their security and they may prefer for their security to have a Kosovo force, NATO force, military position, fixed position, at the entrance to the village. So their position is, "We want this military force there to provide security." But if you think about it and you try to get to what is the real need, it's not to have a military unit at the entrance of the village, but it's to have security. And so there may be many other ways to provide security, which differ from putting a fixed military position at the entrance to the village. It could be to have a police post in the village; it could be having roving military and/or police patrols, which would satisfy their need and their interest in security, but without the position they had originally articulated.

-Ted Feifer

Creating Value vs. Distributing Value

Several writers expand on the fundamental distinction between arguing over the division of a fixed set of goods and finding creative solutions that create greater overall value. James Sebenius describes it as the tension between claiming value and creating value.³⁰

Max Bazerman and Margaret Neale call it distributive negotiation versus integrative negotiation. As Hopmann and others do, they contrast haggling over a "fixed pie," where "one person gains at the expense of the other" with an integrative solution, which involves finding an agreement "that is better for both parties" through the joint search for intelligent trade-offs. They note that parties "often don't find these beneficial trade-offs because each *assumes* its interests *directly* conflict with those of the other."³¹

Claiming Value	Creating Value
Dividing the Pie	Expanding the pie
Maximizing your gains	Finding joint gains
Competitive Approach	Collaborative Approach

³⁰ Sebenius, James K. "International Negotiation Analysis," in *International Negotiation: Analysis, Approaches, Issues*, ed. Victor A. Kremeneyuk (San Francisco: Jossey Bass, 2002), 241.

³¹ Bazerman, Max H. and Margaret A. Neale, *Negotiating Rationally* (New York: Free Press, 1992), 16.

Bazerman and Neale provide a real-world illustration of this limitation with the example of an American congressman who, in discussing the U.S.-Soviet Strategic Arms Limitation Talks of the early 1970s (SALT I), said, “I have had a philosophy for some time in regard to SALT, and it goes like this: the Russians will not accept a SALT treaty that is not in their best interest, and it seems to me that if it is in their best interest, it can’t be in our best interest.”³² In fact, the real issue was not “best interests,” but whether each side found a SALT agreement better served its interests than no agreement at all.

The distinction between claiming value and creating value is often illustrated with the hypothetical example of two cooks negotiating over a dozen oranges.

Claiming Value. In classic hard-bargaining mode, both cooks make maximalist claims for all 12 oranges, and both hold as firm as they can. At best, through much effort, cajoling, and hand-wringing, they may arrive at a 50/50 split, each taking six oranges, a distribution of the existing value. It’s quite common for people to walk into a negotiation with the idea that they are there to distribute value.

Creating Value. But a wise third party then comes along and asks each cook *why* he wants the oranges. The first answers that he wants to make orange juice, and the second that he wants to make marmalade. Without speaking, the third party takes all 12 oranges and begins to peel them. She gives all 12 peels to the cook who wants to make marmalade, and all the pulp to the cook who wants to make orange juice. Here, the third party has not simply distributed existing value; rather, she has created new value in the sense that each cook got twice as much as he was prepared to accept through their initial “split-the-difference” approach. This wise third party has used a problem-solving approach to get at each party’s fundamental interest and in so doing has left each one much better off.

This is a simple but powerful example. Analysts do not use it to suggest that every negotiation can end in such a perfect “win-win” outcome. After all, sometimes fundamental interests are themselves in conflict. For example, what if both cooks had wanted to make orange juice?

Rather, this example is best used to suggest that, for reasons of self-interest if nothing else, those negotiating should try to look below positions to underlying interests and needs in order to see if any joint gains are possible.

³² Bazerman, Max H. and Margaret A. Neale, *Negotiating Rationally* (New York: Free Press, 1992), 19.

Perspectives

There usually is some kind of common interest in any agreement that is going to have a sound basis to last. But there are not one hundred percent overlaps of interest because negotiations wouldn't take place, they wouldn't need to take place, in those circumstances. So what a savvy negotiator should look for is: where are interests which are compatible and offsetting, where an interest on your side as a negotiator might be something which doesn't really make that much difference or isn't that important to the other side or the other parties with which you are negotiating; and what is on the other side or sides, that they really care about, that might not make that much difference to you. So a well-founded agreement might include an area where common interests have been identified and protected and then each side is either able to advance or to protect an interest that is important to it and less important to the other side or sides.

-Mike Lekson

The advantage in using joint problem solving, collaborative problem solving, is that you don't assume that everybody only wants the same thing, that you have a pie which is only a certain size. By focusing on people's or parties' interests, you may find ways to satisfy them by looking at not only commonalities, what they have in common, but perhaps differences. And that way maybe you have to put together a package that would make both sides more satisfied than if you just focused on either positions or commonalities.

-Ted Feifer

Comparing Approaches

In comparing approaches, we have already said that collaborative problem solving is more likely to get at fundamental interests and needs, and more likely to lead to joint gains, than competitive bargaining. However, we have also noted that problem solving almost always involves more time and effort, and may also involve more risk. The analysts we have discussed so far have expanded on these insights in a number of publications.

However, it would be too simplistic to say that competitive bargaining is a "cautious" approach and collaborative problem solving a "bold" one, and it would be erroneous to call either one a "good" or "bad" approach. Everything depends on the situation.

Competitive Bargaining

For example, in some cases it can be useful and productive for a negotiator to take an inflexible, competitive stance.

In times of crisis or urgency: In the kinds of crises that require quick, firm decisions, a leader may find it necessary to take a strong competitive approach, rather than opening matters to long debate. Such an approach may also be helpful for making important but unpopular decisions.³³ Both of these cases assume that the competitive individual is empowered to make unilateral decisions.

³³ Thomas, Kenneth W. and Ralph H. Kilmann. *Thomas-Kilmann Conflict Mode Instrument* (Palo Alto, Calif.: CPP, Inc., 2002), 12.

One-time negotiation: Daniel Shapiro notes that competitive behavior carries little potential downside in a negotiation where no long-term relationship is at stake, “such as when trying to buy a car or haggle for the price of vegetables in the marketplace. To get the best agreement in such exchanges, one should: expect a lot, give up little, show you’ll walk.”³⁴

When defending vital interests and essential principles: When matters of vital interest or essential principle are at stake, negotiators typically hold fast in a competitive manner. In Hopmann’s words, “There can be little doubt that the [competitive] bargaining approach has tended to dominate in most actual international negotiations, especially in those involving issues in which the security and well-being of the state is at stake and bad agreements may undermine essential state interests.”³⁵

On the other hand, when negotiating to prevent or stop violence, or to address particularly volatile issues, competitive behavior has some costs, particularly when there is close parity between the parties.

Incentives for posturing and deception. In the hard-bargaining approach, there are strong incentives for posturing. The tactics described by Mnookin, Pruitt and others—maximalist claims, tiny concessions, etc.—will slow a negotiation, lead to prolonged stalemate, or grind everything to a halt. As Hopmann points out, the parties may be reluctant to offer concessions “for fear that their flexibility will be interpreted by others as a sign of weakness.”³⁶ The hard-bargaining approach also creates powerful incentives for deception. In the words of Crocker, Hampson, and Aall, parties will often “articulate the issues in terms that mask rather than reveal” where they stand.³⁷ For example, hard bargainers typically give the impression that they have better alternatives than they really do.

Potential loss of credibility. If this kind of deception is revealed, credibility can be seriously compromised. Hopmann considers the case where both sides lie about their bottom lines, leading to stalemate: “A party engaging in deceptive behavior could change this appearance of stalemate by revealing the ‘truth,’ but generally negotiators are reluctant to do this since it reduces the credibility of all future bargaining moves.” Negotiators may find themselves “between a rock and a hard place: to concede at this point reveals their deception, whereas to hold fast ensures that no agreement will be reached, even one that may have been beneficial.”³⁸

³⁴ Shapiro, Daniel L. “Supplemental Joint Brainstorming: Navigating Past the Perils of Traditional Bargaining,” *Negotiation Journal* 16, no. 4 (2000): 410.

³⁵ Hopmann, P. Terrence “Bargaining and Problem Solving: Two Perspectives on International Negotiation,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 455.

³⁶ Hopmann, P. Terrence. “Bargaining and Problem Solving: Two Perspectives on International Negotiation,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 453.

³⁷ Crocker, Chester, Fen Osler Hampson, and Pamela Aall, *Taming Intractable Conflicts: Mediation in the Hardest Cases* (Washington, DC: United States Institute of Peace Press, 2004), 99.

³⁸ Hopmann, P. Terrence. “Bargaining and Problem Solving: Two Perspectives on International Negotiation,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 453.

Shell calls such deception a “high-risk strategy” because credibility, one of a negotiator’s most precious assets, can be lost.³⁹

Souring of relationships. Relentlessly self-serving competitors typically earn few friends among their negotiating counterparts, particularly if they use insults and threats. If negotiators push too hard, they run the risk of alienating the other side—potentially to a degree that undermines an otherwise attractive deal.

Ineffectiveness for addressing deep-seated interests. Even if hard bargainers are not deceptive, their approach is typically not effective for getting at the kinds of deep-seated, unstated interests that are usually at the heart of intractable conflict. According to Hopmann, bargaining does not “differentiate sufficiently between these varying sources of conflict, and thus its solutions are not likely to respond to the many layers of conflict.”⁴⁰ According to Sebenius, “mutual hardball generally impedes value creation,” and thus, “competitive moves to claim value individually often drive out cooperative moves to create it jointly.”⁴¹

Perspectives

Very often we have an approach to dealing with differences with other people that has worked for us in the past and so we continue doing it. And that might be the approach we follow for all differences. It is good for us to know what it is and it’s good for us to think, “Maybe there are other approaches we could use, especially when we are dealing with other people who have their own style. What can we do to make it more likely that whatever approach we take, whatever style we use, we’ll make it more likely that we’ll achieve our goals with someone else?”

-Ted Feifer

There is a time when being competitive is very constructive. Richard Holbrooke, and at the time General Wesley Clarke, were very competitive when dealing with Slobodan Milošević. And they went to Belgrade and they told Milošević that “You will end all of the atrocities you are committing; you will end your support to the Bosnian Serbs in Bosnia; you will stop launching artillery in civilian areas.” And at first Milošević didn’t listen, and then when those words were backed up by NATO force and General Clarke and Richard Holbrooke again went to Belgrade and were very much in Milošević’s face, that’s when Milošević began to change his policies. So, people skills are important, but that does not mean that you shouldn’t be abrasive, forceful and competitive at times, because at times that’s what the situation calls for and that’s what works.

-Jonathan Morgenstein

³⁹ Shell, G. Richard. *Bargaining for Advantage: Negotiation Strategies for Reasonable People* (New York: Penguin Books, 2000), 151, 219, 233.

⁴⁰ Hopmann, P. Terrence. “Bargaining and Problem Solving: Two Perspectives on International Negotiation,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 459.

⁴¹ Sebenius, James K. “International Negotiation Analysis,” in *International Negotiation: Analysis, Approaches, Issues*, ed. Victor A. Kremenjuk (San Francisco: Jossey Bass, 2002), 241 (italics in original).

Collaborative Problem Solving

Collaborative problem solving also has its strengths and limitations.

Unrealistic expectations. The phrase “win-win” helps make the point that one side’s gains do not always have to come as the result of another’s losses. But the phrase has gotten wide use in popular culture, and separated from the rigor of its original application. It can create unrealistic expectations, particularly the notion that disputes can often be settled without either side accepting less than what it originally wanted. Such a result is theoretically possible and does sometimes happen, but not often.

Time-intensity. When it happens at all, expanding the pie tends to be a time-intensive process, where creative minds from both sides must build substantial trust with one another and re-conceptualize their problems from the ground up. This process usually requires numerous rounds of reciprocal information exchange, brainstorming sessions, etc., not to mention the challenge of selling novel ideas to potentially leery domestic constituencies. Especially for long-standing disputes, arriving at this sort of outcome may require the help of a third-party—a topic which we will cover in an upcoming course. Often, neither side can justify the time and resource commitment required for the collaborative, problem-solving approach, and both may end up happy just to split their differences.

These important caveats aside, the collaborative problem-solving approach may be useful in a number of situations, particularly for those attempting to use negotiation as an alternative to violence.

When bargaining has already been tried and failed. In intractable conflict, bargaining has almost certainly been tried. A problem-solving approach can open up new perspectives. Hopmann states, “If there appears to be an absence of bargaining space, which can reflect either a ‘real’ conflict of interest or ‘misperception’ of the situation by one or more parties, then the parties must go beyond pure bargaining in order to open up negotiation space and ‘discover’ options for agreement that may not be evident at first sight.” He goes on to note that this is “particularly relevant in those deep-rooted conflicts.” In these cases, innovative solutions “need to be created or discovered, since the problem as originally defined has long defied solution through standard bargaining techniques.”⁴²

When relationships have deteriorated. Where bargaining is often adversarial and antagonistic, problem solving tends to be open and collaborative. New solutions often become apparent when parties try to see the world through their counterpart’s eyes, empathize with one another’s dilemmas, and develop a relationship based on trust. In Laue’s words, “Solutions are more likely to improve if the mode is collaborative.”⁴³ As Kelman states, “Skilled and experienced

⁴² Hopmann, P. Terrence. “Bargaining and Problem Solving: Two Perspectives on International Negotiation,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 463.

⁴³ Laue, James E. “Contributions of the Emerging Field of Conflict Resolution,” in *Approaches to Peace: An Intellectual Map*, ed. Scott W. Thompson, Kenneth M. Jenson, Richard N. Smith, and Kimber M. Schraub (Washington, DC: United States Institute of Peace Press, 1991), 313.

negotiators know that if the process is to succeed, the other side must achieve substantial and visible gains and its leadership must be strengthened.”⁴⁴

When conflicts center on interests that are difficult to quantify. The problem-solving approach also deals more effectively with the kinds of fundamental interests that are hard to quantify. In Hopmann’s words, “Problem solving tends to assume that conflicts, especially those that lead to violence, usually involve more than just the clash of geopolitical interests.” Such conflicts also include “the basic need for identity—the feeling of belonging to a national, ethnic, or kinship group—and for fundamental personal security in both a material and a spiritual sense,” all drivers that tend to be “felt emotionally rather than rationally.” In these cases, “only a problem solving orientation is likely to be successful in resolving the underlying conflicts rather than simply papering them over.”⁴⁵

When implementation may be particularly problematic. After a bitter hard-bargaining contest, there may well be problems implementing the agreement, particularly if the parties have employed deception, insults or threats, or the agreement is seen as too one-sided. This is particularly true for peace agreements, where enforcement mechanisms may be weak, if they exist at all.

By contrast, there tend to be fewer problems implementing agreements arrived at through a problem-solving approach. Hopmann attributes this in part to “a process that builds rather than undermines mutual confidence.”⁴⁶ Hampson describes collaborative agreements as “self-enforcing” because the parties “recognize the benefits of the peace process for themselves.”⁴⁷ In Kelman’s words, “A joint problem-solving approach is conducive to agreements that are inherently satisfactory to the parties because they meet their fundamental needs, and that are lasting because they create a sense of ownership and commitment.”⁴⁸ For an example, Aldo Ajello cites the peace process in the late 1980s and early 1990s between the Mozambican government and the Mozambican resistance movement (RENAMO), noting that after two years, “they had come to know each other well and had learned to work together harmoniously. This proved very useful in the early phase of the implementation.”⁴⁹

⁴⁴ Kelman, Herbert. “Social-Psychological Dimensions of International Conflict,” in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 90.

⁴⁵ Hopmann, P. Terrence. “Bargaining and Problem Solving: Two Perspectives on International Negotiation,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 459.

⁴⁶ Hopmann, P. Terrence. “Bargaining and Problem Solving: Two Perspectives on International Negotiation,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 460.

⁴⁷ Crocker, Chester, Fen Osler Hampson, and Pamela Aall, ed., *Managing Global Chaos: Sources of and Responses to International Conflict* (Washington, DC: United States Institute of Peace Press, 1996), 544.

⁴⁸ Kelman, Herbert. “Social-Psychological Dimensions of International Conflict,” in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 77.

⁴⁹ Ajello, Aldo. “Mozambique: Implementation of the 1992 Peace Agreement,” in *Herding Cats: Multi-Party Mediation in a Complex World*, ed. Chester A. Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 1999), 623.

When the relationship will likely be long term. Finally, balanced agreements are more likely to lead to future cooperation. Freeman states, “Agreements that are unfair, one-sided, or contrary to the long-term interests of one or more parties to them, breed resentment and sow the seeds of future dissension and conflict.” He strongly cautions against using tactics that “are seen by one side as either high- or under-handed” because they “leave memories that complicate the resolution of future disagreements.”⁵⁰

Perspectives

Sometimes you don’t have the time to come up with creative solutions and really to come up with a win-win, based on time. Then you have to come to a compromise where both parties are equally satisfied and equally a bit dissatisfied. But if you have the time and you have the resources to collaborate and think outside the box and expand the pie, then you’re able to again achieve a more satisfying win-win agreement.

-Nina Sughrue

The trouble is that a lot of people get caught up in the arguments of these positions and they see these positions as being absolutely immovable. And they don’t realize why they want what they are saying they want. There is a story that I heard while in Africa about two families, two men heads of the families, heads of the household, who were fighting over a plot of land. The land became such a big issue, there was violence between the two families and so they brought it to the tribal leaders after a number of people had been killed. And the tribal leader said, “Why are you fighting over the land?” And one man said, “I need the land because there is a drought. I’m running out of water on my land; I don’t have any more water; I know there’s an underground river that goes under that land. I want to build a well.” The other man said, “I don’t have enough grazing land for my animals. This land has grass on it. So, I need it to graze my animals.” Those two were fighting over the position of who was going to get a control over the land, when in reality, the interests of the men were completely different and could both be satisfied while both using the land at the same time.

-Jonathan Morgenstein

Win-win is the ideal outcome of a negotiation. It means that you get something that you need that’s important to you and I get something I need that’s important to me. So how do you make that happen in the context of a negotiation? First of all, you really try to find out what it is that people need most. What is important to them, both to yourself and to the other person. As a negotiator you really want to enter into that with a true spirit of curiosity, not pre-judging the other person and whether or not their needs are important. But to really try to understand them because once you do that, then you can get creative on how you meet those needs. You might be able to think of things that you would never think of otherwise if you give yourself the freedom to think outside the box, to generate different options and ideas, to find out what the possibilities are, rather than just being focused on getting what you want, which is what

⁵⁰ Freeman, Charles. *Arts of Power: Statecraft and Diplomacy* (Washington, DC: United States Institute of Peace Press, 1997), 90.

we call getting your position. Focus on what you really need and then opportunities and ideas will open up.
-Maria Jessop

Sinai

The dispute between Egypt and Israel over the Sinai is a good example of the interest-based approach applied in an international context.

The dispute was mediated by U.S. President Jimmy Carter at Camp David in 1978. Initially, both sides laid full claim to the Sinai, which is Egyptian land captured by Israel during the 1967 war. Their positions were thus incompatible. However, through a problem-solving approach, Carter recognized that the fundamental interests informing their positions could be reconciled.

Israel made its case on the basis of self-defense, arguing that it needed the territory as a buffer zone to defend against future attacks. For Egypt, fundamental questions of identity were at stake: the Sinai was sovereign ground, and Egypt's claim was based on international norms regarding territorial integrity. In this case, splitting the difference, returning half the Sinai, would simply not have worked. But by going beyond positions to explore their fundamental interests, both sides came to realize that if the Sinai were demilitarized and carefully monitored by third parties, it could be returned in a way that satisfied Egypt's legitimate territorial interest and Israel's equally legitimate security interest. The agreement, a first of its kind between Israel and an Arab neighbor, has held since it was signed in 1979.

Applying this approach can be quite difficult. Tellingly, it required the help of a third party in this instance. On the other hand, this example helps illustrate that for identity-based conflicts—and other conflicts that are difficult to quantify—an interest-based, problem-solving approach has several advantages. The approach is well suited to:

- Finding solutions that meet both sides' fundamental needs
- Restructuring counterproductive relationships
- Producing agreements that are easier to implement
- Leading to future agreements

These advantages can apply to negotiation in any context—including business, legal, and personal ones—yet even more so in international peace negotiations, where enforcement mechanisms are often weak and problematic, if they exist at all. Freeman notes that unlike domestic law “there is seldom any court other than that of continuing common interest to which a state can appeal for enforcement.”⁵¹ In Tony Armstrong's words, “nation-states are not physically bound by signatures on treaties; agreements that exploit the flexibility of the adversary can be easily undermined if a government feels that a rapprochement has become a one-way street.” And even if a government wishes to implement an agreement in good faith, to do so generally requires broad support, or at least the absence of hostility among those on whose behalf it is acting. This requirement is most obvious in democracies, but is not unique to them. In

⁵¹ Freeman, Charles. *Arts of Power: Statecraft and Diplomacy* (Washington, DC: United States Institute of Peace Press, 1997), 91.

the long term, Armstrong concludes, “the mutual perception of fairness and reciprocity can bring far more benefit than a lop-sided agreement.”⁵²

Conflict Resolution Style Matrix

The competing and collaborating approaches described by Hopmann, Kelman, Fisher, Ury, and others are not the only ways of handling conflict. In the mid-1960s Robert Blake and Jane Mouton developed a classification system to describe conflict resolution and negotiating styles, using the labels *forcing*, *problem solving*, *smoothing*, *withdrawal*, and *sharing*. In the mid-1970s, Kenneth Thomas and Ralph Kilmann modified this scheme, and developed new labels, *competing*, *collaborating*, *accommodating*, *avoiding*, and *compromising*. Shell, Ury, and others use versions of Thomas and Kilmann’s classification,⁵³ which is illustrated in the following diagram:

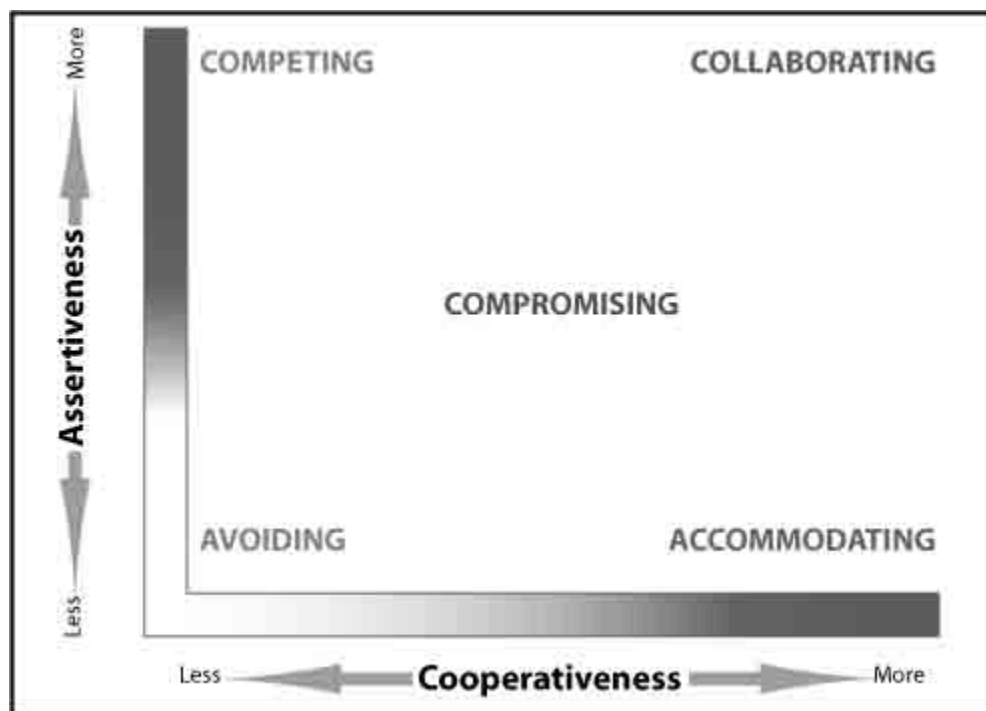


Diagram: Adapted from Kenneth Thomas and Ralph Kilmann, William Ury, and Richard Shell versions

The diagram’s vertical axis represents assertiveness, with the lowest level at the bottom and the highest at the top. The horizontal axis represents cooperativeness, with the lowest level on the left and highest on the right. Each of the labels represents a conflict-handling style.

It’s interesting and useful to learn about your own individual conflict style. At CPP, Inc. (www.cpp.com), a leading publisher of self-assessment tools, you can obtain a copy of the

⁵² Armstrong, Tony. *Breaking the Ice: Rapprochement Between East and West Germany, the United States and China, and Israel and Egypt* (Washington, DC: United States Institute of Peace Press, 1993), 141.

⁵³ Thomas, Kenneth W. and Ralph H. Kilmann, *Thomas-Kilmann Conflict Mode Instrument* (Palo Alto, Calif.: CPP, Inc., 2002), 7.

Thomas-Kilmann Conflict Mode Instrument. With this simple self-evaluation product, you can learn about your own natural conflict-handling tendencies.

The assessment provides an individual profile for each person who takes it: we all approach conflict in our own unique ways. Assessment results show that most people tend to favor one or two of the conflict-handling styles, with lesser tendencies in all the others.

Collaborating. The collaborating style is at the high end of both the assertive and cooperative axes. It correlates to the “problem-solving” approach that we discussed earlier.

Competing. The competing style is as high as collaborating on the assertive axis, but on the low end of the cooperative axis. The competing style correlates to the “hard-bargaining” approach.

Accommodating. Accommodating is in the reverse corner from competing, low along the assertive axis and high along the cooperative axis. Unlike competing, accommodating entails showing high attentiveness to the needs of one’s negotiating counterpart but less assertiveness in pursuing one’s own interests.

Avoiding. Avoiding is the least assertive and least cooperative of the styles. As the name suggests, avoiding means showing the least tendency to initiate action of any sort in response to a conflict situation or any other kind of problem.

Compromising. Compromising is in the very center of the diagram, at the midpoint along both the assertive and cooperative axes. Compromising is splitting the difference, or “giving a little to get a little.”

Effective negotiators inevitably use all five approaches at one point or another. What is most helpful for those studying negotiation is to get a sense of the kinds of situations where each approach may be used most effectively, as we have already done for competing and collaborating.

Avoiding

In Western culture in particular, there is a general tendency to counsel against avoidance as a conflict-handling approach. Certainly, avoiding conflict entails a set of risks that a good negotiator must take into account. In some cases, inaction only gives problems time to grow worse. Avoiding can also send the signal that a negotiator considers an issue unimportant. Some might interpret avoiding as a sign of weakness.

When tensions are high. On the other hand, even those with strong tendencies in the proactive styles of competing and collaborating will find themselves in situations where not acting on an issue—avoiding it—is the best option. For example, when tensions between parties are particularly high, it can be helpful to take time out to let passions cool, to take a step back for greater perspective.⁵⁴

⁵⁴ Thomas, Kenneth W. and Ralph H. Kilmann, *Thomas-Kilmann Conflict Mode Instrument* (Palo Alto, Calif.: CPP, Inc., 2002), 14.

When one issue holds up several others. It can also be helpful to put off difficult issues while building momentum with easier ones. Armstrong notes that U.S./China relations made great progress in the 1970s because both sides deliberately set aside the difficult issue of Taiwan, as we will see later in the course.⁵⁵ Over the course of time, negotiators inevitably find themselves in certain situations where no available course of action plausibly leads to an improved situation. In these cases, avoiding can be the best option, at least until new options become available.

Accommodating

Like avoiding, accommodating is often criticized as a conflict-handling approach. It is true that those who accommodate risk neglecting or under-representing their own interests in an honest effort to attend to the interests of their negotiating counterparts. Accommodating will often be interpreted as a sign of weakness, and those who accommodate excessively will be accused of “selling out” by their own constituents, and may correspondingly have trouble implementing an agreement.

When the relationship is more important than the issue. On the other hand, there are cases when negotiators will derive more value from their general relationship with their counterparts than from a single specific issue. In these cases, it might make sense to take an accommodating stance. For example, junior coalition partners often make significant accommodations to senior partners in order to maintain their alliance. Accommodation of this nature can take place both at the macro and micro levels, for example, in the context of a broad international conflict, or within a single organization among coworkers.

When the other side has a valid point. Moreover, if a negotiator comes to realize that the other side has a compelling argument—perhaps a better argument—the best move may be to demonstrate flexibility and make a concession on the point, with the idea that a flexible negotiator gains what Thomas and Kilmann call “social credits” for use at another stage in the process.⁵⁶

Perspectives

All the styles can be useful and that’s one of the points we would like everyone to get from this course. If it doesn’t seem intuitively right, I think, the more you consider it, you’ll see that, yes, there are times when each style is appropriate just as there are times when each style is not. Avoiding can be a case where the issue really isn’t important to you. You just don’t care and you don’t see why you want to get dragged into it. Or it could be a case where another party would actually be better suited than you to deal with it. The key part of avoiding to consider is: Is there a problem which is going to get worse if you don’t take some step to deal with it? We’re talking here about negotiation, though you could apply more broadly to any kind of problem or conflict in which you’ve become involved or in which you may become involved. The question you have to ask yourself is: Is this important to me? If it is important to me, are there steps I can take, or should someone else be taking them, or should I

⁵⁵ Armstrong, Tony. *Breaking the Ice: Rapprochement Between East and West Germany, the United States and China, and Israel and Egypt* (Washington, DC: United States Institute of Peace Press, 1993), 114-120.

⁵⁶ Thomas, Kenneth W. and Ralph H. Kilmann, *Thomas-Kilmann Conflict Mode Instrument* (Palo Alto, Calif.: CPP, Inc., 2002), 13.

encourage that to happen? If I do take steps in this, is it going to cost me time, because time is an asset which is highly limited.

-Mike Lekson

You know, I think that when you are at that point where you have realized that you currently have serious incompatible negotiating agendas that it is, there are two options, one is you can just give up. You can say, okay, I'm sorry, but we're just not going to be able to reach any kind of agreement here. Obviously we have, this is going to be a battle instead of a negotiation. That's rarer and rarer that you will get parties who have already come to a table to negotiate willing to publicly announce that they are just going to go back to the gun. Usually they'll just keep sort of beating the dead horse without being able to acknowledge that there's no progress left. But I think perhaps another thing to do is to focus on the common projects that are possible for the moment and to, not to ignore, but to let sit and perhaps ripen and

mature a little more the issues that are completely incompatible at least as the current situation will reveal it. In other words, I think it may be helpful to let certain incompatible agendas rest and focus on ways of building collaboration, building productive relationships, getting things to work so that the calculus will look different later and I think it goes back to time. Often we are in a hurry and we don't, we think that if we have to let these agendas rest that we will have failed. But in fact letting them sit aside for a few years, a decade even, may actually be the best, least bloody alternative if you are willing to then turn to focus on smaller but more constructive relationships with each other and then in ten years the calculus is different and the way you will assess those incompatible agendas may well have shifted and the actors may change as well. So every generation sees its problems and its agendas and its interests differently.

-Linda Bishai

Accommodating can be very useful if what you're given either is not very important to you, and it can be very important to someone else, or the payoff that you receive for giving whatever you're providing will give you infinitely more than what you are giving up. Sometimes when I was working as a diplomat, when I was negotiating language in a document, the specific words that another party wanted, were not terribly important, they weren't meaningful to me. And so I was very happy to give them to the other side to accommodate what they felt as preferable language. I thought that was giving up very little, they thought they were getting a great deal. And so from my perspective, it paid to be accommodating.

-Ted Feifer

Compromising

Compromising may be looked at in two different ways. In its more limited sense, compromising refers to splitting differences along a linear continuum, as we illustrated earlier.

Splitting differences is not always the most effective approach. Some issues, particularly the kinds of identity issues that drive many modern conflicts, can be very difficult to quantify, making equitable divisions hard to determine. Also, negotiators are always reluctant to split

differences over what they see as essential principles or vital interests, and rightly so. In these cases, negotiators will want to explore other approaches.

On the other hand, like the other conflict styles, splitting differences can be very effective for certain situations.

When negotiations are deadlocked. If two sides approach a negotiation by staking out extreme claims and clinging to positions, they may quickly find themselves stuck in a competitive deadlock. In cases like this, they may achieve a balanced, effective agreement if both move toward the middle.

When there is parity between parties. Deadlock can be more likely when there is parity between parties. Often, though not always, one side will take an accommodating stance when it perceives itself to be in a weaker position, or behave competitively when it perceives itself to be stronger. When two parties perceive themselves to have roughly equal strength, they may recognize the potential for deadlock and come to an agreement by splitting differences.

When time is short. When neither side feels pressure to produce an agreement, both may hold fast to their opening positions, giving ground only when it looks like the other side might walk away. However, negotiators more typically work under some form of time constraint, and often under difficult deadlines. Splitting differences usually offers the quickest and most balanced way to move past deadlocks when agreements must be produced under time pressure.

When issues are easily quantifiable. Compromise of this nature tends to work best for trade negotiations, certain kinds of arms control negotiations, or any other negotiations where issues are at least conceptually quantifiable. Splitting differences is most practical along one or several graduated continua. To be sure, finding mutually acceptable numbers will not necessarily be easy—it may not even be possible—but it will be more feasible if outstanding issues lend themselves to numerical assessment.

Special Role of Compromise

In concluding this discussion, it's useful to note that compromise holds a unique place among the five styles. *Competing*, *collaborating*, *avoiding*, and *accommodating* all describe extreme points on the conflict styles matrix. Yet almost every real-world negotiation involves some blend of these approaches, along with a significant element of compromise. A second look at the diagram provides visual illustration of the centrality of this concept.

In the final outcome of the hypothetical case of the orange, both parties got exactly what they wanted. Neither sacrificed anything at all. It's also possible for a negotiation to be so uneven that one party enjoys all the gains while the other suffers all the losses. Both of these cases are theoretically possible. Both can and do happen, but both are generally rare.

In real-world agreements, each side almost always settles for an outcome that is in one way or another less than what it wanted at the outset; so in the broadest use of the term, almost every negotiation ends in compromise. In some ways, it's simply a matter of what kind of compromise, and how to get there.

Perspectives

Most negotiations end up in a compromise. Compromise is part of life; we all have to compromise. Even when we are looking for a collaborative approach, many times, there is a compromise on an issue. A compromise is when parties are leaving a negotiation a little bit satisfied and a little bit dissatisfied. It's a fifty-fifty. So, parties are a little bit satisfied with the outcome but they are also a bit dissatisfied. So, a compromise is appropriate when there is, for example, no way to reach a collaborative approach, there must be a compromise on a particular issue. If, for example, your time is limited, you don't, perhaps, have enough time to investigate, to analyze, to research a win-win solution, then a compromise would be effective if your time is limited. Compromise can be less effective if, perhaps, there is that opportunity to reach a win-win. If there is that potential for a win-win solution, and you are working with a counterpart who is willing to work with you on a win-win solution, then compromising would be a less effective strategy.

-Nina Sughrue

Compromise is actually the way most negotiations are conducted and the way most of them wind up. You give a little; you get a little. The other party or the other parties, give a little, get a little. In most cases, whatever the fundamental problem was isn't completely resolved or if there are a series of fundamental problems, they are not completely resolved. You see this frequently in constitution-building. The U.S. constitution has a whole series of compromises where fundamental issues weren't absolutely and satisfactorily and totally addressed. Nonetheless, I think everyone would agree, the U.S. constitution has had a pretty satisfactory run.

If you look at the Iraqi constitution right now, it is nothing but compromise. That was the best that could be achieved. When you have fundamental interests of how a state is constructed, how rights are allocated, what the responsibilities are, you're probably going to wind up compromising a whole lot more than you're going to wind up with a completely satisfactory, collaborative outcome where everyone says, "Yes, I got everything I needed." If you don't have a compromise, you're either going to have something that's one-sided and doesn't have a whole lot of lasting power. If one side or several sides get much too much and others don't get enough it won't have any staying power. Or if you just avoid the whole problem, then you have nothing at all.

-Mike Lekson

Mini-Quiz

You have completed all the material for this section. Now try this mini-quiz.

BATNA stands for which of the following concepts:

- a. Beliefs, Attitudes, and Tactics in Negotiating Agreements
- b. Best Attempt To Negotiate Agreement
- c. Best Alternative To a Negotiated Agreement
- d. Better Action Through Negotiated Alternative

For answers, see Appendix A.

2.2: Relationships

People in Negotiation

As our last section has shown, many considerations go into how effective negotiators approach their various tasks. Their approach also depends on relationships, a significant factor that deserves its own treatment. While people can at times know and understand one another, they can also find each other inscrutable and unpredictable, particularly when they come from different cultural backgrounds.

In our *Certificate Course in Conflict Analysis*, we introduced an analytical framework that asks first and foremost about the many different kinds of actors in a conflict.¹ Daniel Druckman describes how the presence of multiple actors complicates a negotiation:

The international negotiator occupies several roles simultaneously. As a representative of his or her government's interests, the negotiator must be responsive to its demands or requests. The negotiator must also take into account the interests of the other governments involved in the talks. ... The dilemma is further complicated by ... the presence of multiple parties, including alliance partners, opponents, and third parties and their own interests in particular agreements.²

To Druckman's description, we could add cleavages between parties, as well as factions within all the governments represented by negotiators, to his list of considerations.

Ury observes that the most successful negotiators, when faced with this complicated tangle of relationships, often play the role of psychologists, carefully analyzing the motives of their counterparts.³ Jacob Bercovitch agrees, pointing out that "issues, whether tangible or intangible, become indistinguishable from each party's perception of the world and its vision of history."⁴ Shell notes that while strong transactional skills frequently lead negotiators to helpful breakthroughs and good outcomes, strong interpersonal skills offer the possibility of substantial breakthroughs and extraordinary outcomes—particularly if negotiators can restructure historically mistrustful and dysfunctional relationships.⁵

¹ United States Institute of Peace, "Certificate Course in Conflict Analysis," http://origin.usip.org/training/online/analysis/5_1_1.php.

² Druckman, Daniel. "Negotiating in the International Context," in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 125.

³ Ury, William. "Negotiation and Conflict Manager," in *World Negotiation Forum: Innovative Negotiation Strategies to Maximize Results: Speakers Presentations*: November 8-9 (New York: HSM, 2005).

⁴ Bercovitch, Jacob. "Mediation in the Most Resistant Cases," in *Grasping the Nettle: Analyzing Cases of Intractable Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2005), 108.

⁵ Shell, G. Richard. *Bargaining for Advantage: Negotiation Strategies for Reasonable People* (New York: Penguin Books, 2000), 58-75.

In a long-standing, intractable conflict, breakthroughs of this nature are very difficult to achieve. A negotiator will need skill, experience, determination, and luck to make any substantial progress. Because strong interpersonal skills can be so important, this section of the course will review the various kinds of people involved in a negotiation, with an emphasis on culture and other factors that influence how they communicate priorities and make decisions.

Perspectives

I think one of the factors that a negotiator needs to consider is the cultural methods, culturally appropriate methods of solving problems or reaching consensus in the particular environment in which this negotiation is taking place. And I think that a negotiator has to respect those traditions. I think the negotiator needs to try to understand the way things are done in this particular community. And that involves knowing who the broader actors in this community are that are influential, knowing where people go when conflict arises. Do they go to their religious leaders for advice? Do they respect the wisdom of the tribal elders? And so, in terms of who needs to be present at the negotiating table, it behooves any party to a negotiation to understand culturally how solutions are reached and how solutions or agreements are enforced and supporting mechanisms that will stand behind this agreement. Because if they are not on board very early on in the process, then you are really climbing an uphill battle to achieve a successful negotiated agreement.

-Jacqueline Wilson

One the reasons that in fact it's so important to stop violence is because as violence escalates and the longer it continues, the worse the relationship becomes. The history of negative destructive interactions become longer, people remember those things, there is more negative than positive to remember—and that's why it's so important to stop violence by any means possible in order to prevent not only further loss of life or property, but also to prevent further destruction of that relationship.

In terms of building relationships, one of the first things is that both parties will have in fact many painful memories. It is very critical that the negotiator—or in the case of the third party negotiation, the mediator—would almost act in the role of a psychotherapist in the sense of coming back to listening, really enabling each party to tell their stories to the other, to be acknowledged, to be recognized, to be validated. They may not yet have reached the point of an apology but certainly to listen to their stories. That's a very critical first step in relationship building where relationships have long negative and destructive histories. The next step is in fact taking the time to build the relationship based on mutual respect and I think this phrase “mutual respect” is very key. As much as listening I would say, showing respect how ever one shows respect in the culture, context and the society in which you're negotiating is also very critical.

-Mary Hope Schwoebel

Well, building trust and building rapport, leads to building relationships during negotiation. And this is something that is extremely important and, it's also extremely important in domestic negotiation and also cross-cultural negotiation, depending on the country or the nationality. Building that trust and building that rapport is extremely important, and I

experienced this often in my negotiation when I was posted to the Embassy in New Delhi. I did a lot of negotiating, cross-cultural negotiation, and the first meeting was generally just chatting, talking about one's family, talking about politics, and so forth. The second meeting was the families would get together and talk and at the time, I thought, well, when are we going to talk about the actual substance? And looking back on that, that was part of building the relationship, getting to know me as a person, and for me, getting to know them as well and building that trust. So, building relationships is extremely important depending on the country, the nationality, the negotiator.

-Nina Sughrue

Tracking Relationships

We'll start by looking at various types of relationships in a negotiation.

Counterparts

Counterparts sit across from one another at the negotiating table and represent opposing viewpoints in a conflict. The relationship may be simple and adversarial, but it is typically more complex than that. Bertram Spector and William Zartman observe that good personal rapport usually makes it easier for counterparts to discover, comprehend and find ways "to bridge gaps between conflicting interests." Also, good counterpart relationships often carry through into the implementation phase of an agreement. In Spector and Zartman's words, "Many of the same people involved in the initial negotiations often continue to represent their parties in the aftermath. After all, as individuals they have amassed a valuable base of knowledge through the experience of the initial talks that would be difficult to replace or pass on to others."⁶

Constituents

Constituents are those whom negotiators represent, and in many cases those to whom they report. Like counterpart relationships, constituent relationships tend to be complex. As negotiators study the moves of their counterparts, Druckman notes, they simultaneously "monitor their own side for evidence of changes in positions." They study changes in personnel, policy and public opinion among their own constituents, as well as the constituents of their counterparts. Negotiators play a pivotal role in a complex process, working "in both directions—influencing both their opponents and their constituents."⁷

Stakeholders

A *stakeholder* is anyone who has something at stake in a negotiation. For example, constituents for all the parties are stakeholders. There may also be stakeholders who are not formally represented at the table. If so, it's almost always a good idea to seek them out, hear their views, and help shape their expectations. It's wise, if not essential, to have the interests of all stakeholders represented; any left out may have little incentive to assist in implementation, and may even challenge the agreement on the grounds that they had no role in it.

⁶ Spector, Bertram I. and I. William Zartman, *Getting it Done: Postagreement Negotiation and International Regimes* (Washington, DC: United States Institute of Peace Press, 2003), 56-57.

⁷ Druckman, Daniel. "Negotiating in the International Context," in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 126.

Ratifiers

Ratifiers, are special constituents who have final approval over whatever deal finally emerges. It's crucial for negotiators to have clear and consistent communication with all constituents, but particularly with the ratifiers whom they represent, to know when they expect to receive updates and, more importantly, what kinds of decisions require their approval. It's important to note as well that each counterpart has its own set of ratifiers who must be taken into full account throughout the course of the negotiation. The deal isn't done until it passes muster with all decision makers, and the agreement won't be implemented successfully unless the ground has been properly prepared.

Spoilers

The term *spoiler* is used to describe anyone who seeks to block or sabotage an agreement. Especially in long-standing, intractable disputes, there are certain individuals who grow accustomed to the status quo and learn to profit from it. Spoilers may be at the head of political or other factions that draw support by playing on fears. They may run criminal enterprises such as smuggling scarce goods or illegally trading arms. They may be extremists with an ideological animus toward the other side. Spoilers can be any who calculate that their wealth, power, standing, or identity will be augmented by continuing conflict and threatened if an agreement is reached. Spoilers often work behind the scenes; as a consequence, when initially analyzing a conflict's actors, effective negotiators will take special care to ask who might have a motive to play the role of spoiler, and will throughout the negotiation consider each actor's choices from this perspective, particularly actors who repeatedly seek to block progress.

Channels of Communication and the Media

In its discussion of relationships among actors, our conflict analysis course asks about communication channels.⁸ In negotiation, it's important to settle in the early stages who will communicate from each side, what the scope of their communication will be, and how they will communicate. If lines of authority are not clear confusion will result, especially when large delegations are broken up into smaller working groups.

It's also important for negotiators to make explicit decisions regarding how they will work with the media, decisions that typically involve a number of complex considerations. As Solomon notes, "When it comes to using mass media, the official negotiating team is usually directly involved, but its goal is to communicate with its negotiating counterpart indirectly, inspiring stories, briefing journalists, and otherwise shaping or 'spinning' media coverage to influence the negotiating agenda or put pressure on the negotiating counterpart."⁹

Solomon identifies six different audiences that American negotiators often try to influence through the media, including "the negotiating team on the other side of the bargaining table; the other side's key decision makers, who are not likely to attend the talks in person; the other side's public; third-party governments and publics, and international opinion makers, such as nongovernmental organizations; the American public; and other players within the U.S.

⁸ United States Institute of Peace, "Certificate Course in Conflict Analysis," http://origin.usip.org/training/online/analysis/5_4_1.php.

⁹ Solomon, Richard H., and Nigel Quinney. *American Negotiating Behavior: Wheeler-dealers, Legal Eagles, Bullies, and Preachers* (Washington, D.C.: United States Institute of Peace Press, 2010), 93.

government and bureaucracy.”¹⁰ Solomon notes the growth of media outlets, which “are far more numerous and varied than before, have a much greater geographical reach, and operate in real time, with ‘news updates’ 24/7—every hour, every day of the week. The Internet has also reshaped the global communications landscape. All kinds of organizations—from al Qaeda to Amnesty International—can reach a global audience swiftly and directly without having to persuade the gatekeepers of public access (media editors and, in many countries, governments) to air their agendas, concerns, and opinions.”¹¹

Negotiators will have more success managing the media if they agree on a deliberate strategy at the outset, deciding who will talk to the media, under what circumstances (for example, joint press conferences, etc.), and with what frequency. It is practically impossible to stop all leaks and back channel communication; it is not even always desirable, as these unauthorized forms of communication can be used for productive purposes. But to avoid disorganization and chaos, it is best to have an overall communications and media strategy. In Solomon’s words, “While the virtues of back channels are many and varied—from strengthening personal ties, to providing an opportunity to float ideas without running the risk of public embarrassment if those ideas are rejected, to enabling communications to be opened with governments with which the United States has no formal relations — they also have several shortcomings. One is the difficulty of maintaining secrecy in an age of intrusive media and ‘leaky’ administrations. When a back channel is exposed, the front channel is usually undermined and discredited—or at the very least embarrassed.”¹²

The role of the press is to deliver information to their customers as quickly as possible. Journalism is a competitive business and a journalist must often be aggressive and clever in order to get his or her report in first. Kelman stresses that the process of working towards solutions can be “undermined by public reports” because each side will be under pressure to “stress how much it is winning—at the other side’s expense.”¹³

While it is the job of media professionals to seek out information and get the best story first, parties to the negotiation must maintain control of their relationships with the press. To prevent distribution of misinformation that may negatively impact the course of the negotiations, or to relieve pressure on themselves, they may agree to withhold all information until a final settlement is reached. The negotiations in 1787 that resulted in the U.S. Constitution were conducted behind closed doors; the role of the press was to disseminate and analyze the resulting text. Those days are largely gone, and it is a rare negotiation now for which a media strategy of total blackout works completely.

¹⁰ Solomon, Richard H., and Nigel Quinney. *American Negotiating Behavior: Wheeler-dealers, Legal Eagles, Bullies, and Preachers* (Washington, D.C.: United States Institute of Peace Press, 2010), 107.

¹¹ Solomon, Richard H., and Nigel Quinney. *American Negotiating Behavior: Wheeler-dealers, Legal Eagles, Bullies, and Preachers* (Washington, D.C.: United States Institute of Peace Press, 2010), 102.

¹² Solomon, Richard H., and Nigel Quinney. *American Negotiating Behavior: Wheeler-dealers, Legal Eagles, Bullies, and Preachers* (Washington, D.C.: United States Institute of Peace Press, 2010), 99.

¹³ Kelman, Herbert. “Social-Psychological Dimensions of International Conflict,” in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 89.

Thus, in an alternative approach, as Pfaffenholz, Kew, and Wanis point out, negotiators may choose to involve the public at an early stage in order to gain buy-in and make a peace settlement more sustainable.¹⁴ For example, in the negotiations that ended apartheid in South Africa, the Constitutional Assembly used the media to help shape public opinion about the new constitution by providing information about the new government to all South Africans.¹⁵

In peace talks, a good media strategy for negotiations can help negotiators reach several key objectives:

- Promote understanding and support for the peace process among the local community
- Counteract negative messages regarding the peace process that a party to the conflict may be projecting
- Transform local civil society and media by promoting a rational, fully informed, and transparent view of the conflict and the resolution, leading to a lasting peace¹⁶

Perspectives

One area where it's very easy for a negotiator to go astray is thinking that the most important relationship is that which he/she has with his/her negotiating counterpart, in the actual negotiation. That is an extremely important relationship and one which requires lots of attention, but what you can't afford to forget is that you're out there negotiating on behalf of stakeholders back home, wherever home is. In cases I'm most familiar with, having been a U.S. diplomat, it's Washington, D.C. and its many policy communities. You're out there representing them and you need to ensure that what you're doing is going to be accepted by them as advancing the interests they sent you out there to advance and protect. You need to [go] around and talk to everyone who's involved in that and make sure they understand what you're doing and that you're out there to help them, and that you understand their concerns. And you need to keep communicating with them as you negotiate, especially as you move ahead and make progress, as it seems to you, in the negotiation. If you're making progress, by definition that means that you're moving away in some degree from your position, in pursuit of your interests, but you're moving away from your position. It's very important that people back home know what you're doing, why you were doing it, and that you're doing it with their interest in mind. And you want that communication to come from you or from someone representing you; you don't want it to come from some other source representing whatever that other source may wish your stakeholders to hear.

-Mike Lekson

In many cases, there are parties to a conflict who continue to gain benefit from the conflict. If you have a gross disparity of power, one side oftentimes sees no need for themselves to negotiate because they benefit from the violence and therefore any attempt to peacefully resolve the situation is damaging what they view as what they want. Sometimes it's not the

¹⁴ Hayner, Priscilla. *Negotiating justice: Guidance for Mediators*. (International Center for Transitional Justice, 2009).

¹⁵ Deegan, Heather. *South Africa Reborn: Building a New Democracy* (University College London Press, 2009).

¹⁶ Lehman, Ingrid. *Managing Public Information in a Mediation Process* (Washington, DC: United States Institute of Peace Press, 2009).

two major parties to a specific conflict over an issue, sometimes there are outside spoilers. In a lot of places around the world, international organized crime plays this role or international non-state actors play these roles where they benefit in the midst of the chaos. They benefit economically from their ability to provide services that otherwise can't be provided. But in the context of a peace agreement, they would be outlawed for their illegal activities.

-Jonathan Morgenstein

Following the tsunami in Aceh, the government of Indonesia and Aceh, and the GAM, the separatist group in Aceh, signed a peace agreement. It was immediately recognized that all sectors of society had a role to play in consolidating that peace. If we talk about the media for example, it was very important that the media play a role in a society where the radio in particular is listened to by almost all segments of society: urban, rural, wealthy, poor, etc. It is important in informing the public about the agreement, informing the public about what the different components and elements of the agreement were, promoting peace also and working as peace advocates to encourage people to be patient. In that case it was very important for people to be patient and recognize that changes were planned, that it was going to take time to implement them in all locations and all levels of society. It is important that the media be, what we call peace and conflict sensitive, in other words that it monitor its language so that it changes from a language of war to one of peace, in the sense of beginning to recognize the common humanity, the common citizenship, etc. of all the parties. Promoting tolerance, promoting patience, promoting peace, promoting peaceful relationships, is another important role that the media can play. How the media covers peace negotiations can make or break that peace negotiation—how well it does and doesn't inform the public about a peace negotiation that's taking place, and also informing the public about what role the public has to play in terms of supporting and implementing peace agreements.

-Mary Hope Schwoebel

If you haven't really thought about how you're going to deal with the media, one side may feel this is a negotiation, we're not going to brief, we're not going to tell the media anything, and then another side may say, we're going to tell the media everything but with our own twist. And once that appears in public, you have one side which could think, "We have been fooled and cheated by the other side," damaging the negotiations before they've even started.

-Ted Feifer

Multiparty Negotiations

All of this gets more complicated when there are multiple parties in a negotiation, which may include parties with multiple constituent groups, such as the European Union, the North Atlantic Treaty Organization (NATO), the Organization of American States, the African Union, etc.

Increased complexity. Simply having more voices at the table makes negotiating more complex. As Saadia Touval notes, "The larger the number of participants, the greater the likelihood of conflicting interests and positions, and the more complex the interconnections among the parties." For this reason, "Each participant is likely to experience difficulty orchestrating the

different signals that are to be sent—sometimes simultaneously—to different audiences, and interpreting the statements and signals made by the other participants.”¹⁷

Coalitions. Moreover, when several parties are present, they often engage in side negotiations. These side deals often lead the parties to form coalitions, which they then use either to advance shared interests or to block moves made by other coalitions.¹⁸ Coalitions can quickly multiply, and the relationships can become highly complex. Partners in one coalition may simultaneously be opponents in another one. With multiple parties at the table, process becomes even more important. Negotiators may find themselves in what Druckman calls “a managerial role that requires consensus building, leadership, and horse trading much in the manner of a lobbyist.”¹⁹

There can be a positive side to this complexity. With more parties and interests at the table, there may be more possibilities for creative deal making.²⁰ As often as not, however, the presence of multiple parties tends to make the negotiator’s task harder. Steven Burg cites the effort in Bosnia in the mid-1990s as one of several examples to illustrate the difficulties involved in multiparty negotiation.²¹

Related Resources from USIP: [*Herding Cats: Multiparty Mediation in a Complex World*](#)
Edited by Chester A. Crocker, Fen Osler Hampson, and Pamela Aall

An illustrious cast of practitioners here describe their personal experiences in working to bring peace in significant conflicts across four continents. As James Baker, Richard Holbrooke, Max van der Stoep, Alvaro de Soto, Aldo Ajello, and others make clear, the mediator must operate in an environment of daunting complexity, insecurity, and uncertainty. The editors have framed the volume with discussions that link the practitioner cases to the scholarly literature on mediation, thereby situating the case studies in terms of theory while also drawing lessons for both scholars and practitioners that can help guide future endeavors.

Cultural Differences

As we’ve seen, even in a simple, two-sided dispute, negotiators typically find themselves with a range of difficult relationships to maintain; managing these relationships grows even more challenging in a complex, multiparty context. When considering relationships in a negotiation, another important complicating factor is the influence of culture.

¹⁷ Touval, Saadia. “Multilateral Negotiation: An Analytic Approach,” *Negotiation Journal* 5, no. 2 (April 1989): 163.

¹⁸ Shanteau, Cherie P., Gail S. Brooks, and Kirk Emerson. Multi-Party Negotiation and Conflict Management Training Framework: United States Air Force Office of the Deputy General Counsel for Dispute Resolution. (SAF/GCD) and the Air Force Negotiation Center of Excellence (US Institute for Environmental Conflict Resolution, 2005), 22.

¹⁹ Druckman, Daniel. “Negotiating in the International Context,” in *Peacemaking in International Conflict: Methods and Techniques*, eds. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 125.

²⁰ Shanteau, Cherie P., Gail S. Brooks, and Kirk Emerson. Multi-Party Negotiation and Conflict Management Training Framework: United States Air Force Office of the Deputy General Counsel for Dispute Resolution (SAF/GCD) and the Air Force Negotiation Center of Excellence (US Institute for Environmental Conflict Resolution, 2005), 22.

²¹ Burg, Steven L. “Intractability and Third Party Mediation in the Balkans.” In *Grasping the Nettle: Analyzing Cases of Intractable Conflict* (Washington, DC: United States Institute of Peace Press, 2005), 197.

Culture can be defined broadly to include beliefs, patterns of thought, and patterns of expression transmitted in a society from one generation to the next, but several points are particularly relevant when discussing culture as it relates to conflict and negotiation.

Tip of the iceberg. In this context, analysts often invoke the image of an iceberg: what we see on the surface is only the small tip of something bigger and much more profound. As Gary Weaver explains, different dress and custom are visible. Below the surface are habits of mind that determine how people assemble and communicate their perceptions of the world.²² Raymond Cohen calls culture “the grammar that governs the creation and use of symbols and signs,” which form “meanings, conventions, and presuppositions.”²³

Learning about culture. Because so much of culture lies below the surface, outsiders tend to have substantial difficulty grasping how those within a culture perceive the world. Weaver describes two ways that people acquire culture. “Enculturation” is how people learn their own primary culture. It is a natural, organic process that begins at birth. “Acculturation” is how people learn other cultures. Like learning languages, it can be difficult to do, particularly as an adult.²⁴

Culture and negotiation. Cultural differences introduce significant complexity and potential for misunderstanding to a negotiating effort, as Kevin Avruch describes:

When two actors meet who have different models for recognizing and dealing with ... problems, and when their respective models are backed up in their eyes by some special authority, authenticity, or feeling of rightness that may range all the way from ecclesiastical or sacred morality to self-evident common sense, *then* we may begin to speak of cultural difference.²⁵

Lack of attention to cultural difference can make a difficult negotiating challenge even harder, often causing, in Cohen’s words, “a loss of credibility and damage to the wider relationship.”²⁶ Freeman points out that, by job description, international negotiators usually practice their craft “in a foreign language, and on persons and peoples whose moral and political outlook is always different from, and often at odds with, their own.” Thus, it falls to the negotiator “to build a common vocabulary and to translate disparate perspectives into shared expectations.”²⁷

²² Weaver, Gary. *Culture Communication, and Conflict: Readings in Intercultural Relations* (Needham Heights, Mass.: Ginn Press, 1994), 1.

²³ Cohen, Raymond. “Negotiating Across Cultures,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 470.

²⁴ Weaver, Gary. *Culture Communication, and Conflict: Readings in Intercultural Relations* (Needham Heights, Mass.: Ginn Press, 1994), 1-2.

²⁵ Avruch, Kevin. *Culture and Conflict Resolution* (Washington, DC: United States Institute of Peace Press, 1998), 58.

²⁶ Cohen, Raymond. *Negotiating Across Cultures: International Communication in an Interdependent World*, rev. ed. (Washington, DC: United States Institute of Peace Press, 1997), 221.

²⁷ Freeman, Charles. *Arts of Power: Statecraft and Diplomacy* (Washington, DC: United States Institute of Peace Press, 1997), 92.

Anticipating cultural differences. The task is not to judge a particular culture, but to understand what Cohen calls “the chemistry that occurs when negotiators representing mutually discordant traditions come into contact” and “typical patterns of miscomprehension can be observed to recur.” By knowing these patterns, negotiators can anticipate and circumvent potential problems.²⁸ Solomon explains that cultural distinctiveness “does not make cultural analysis impossible or irrelevant—just harder, as well as potentially more useful in disentangling the various strands that shape negotiating behavior and negotiating outcomes.”²⁹

There are two ways to meet this challenge. One is to develop deep knowledge of other specific cultures. As part of its *Cross-Cultural Negotiation Project*, USIP has examined negotiating styles of several different cultures, including those found in the U.S., China, Russia, North Korea, Japan, Germany, France, Israel, Palestine, and others. We’ve made these studies available in a series of publications (see below), and we highly recommend them for culture-specific study.

It is beyond the scope of the current course to go into this level of detail for any single, specific culture. Instead, we will focus on general ways that substantive misunderstandings often have their origins in cultural differences, a discussion that should apply in many contexts.

Related Resources from USIP: [*American Negotiating Behavior*](#)

By Richard H. Solomon and Nigel Quinney and part of the [*Cross-Cultural Negotiation Project*](#)

This landmark study offers a rich and detailed portrait of the negotiating practices of American officials. It assesses the multiple influences—cultural, institutional, historical, and political—that shape how American policymakers and diplomats approach negotiations with foreign counterparts and highlights behavioral patterns that transcend the actions of individual negotiators and administrations.

With its *Cross-Cultural Negotiation Project*, the Institute has examined in detail negotiating styles of several specific cultures, including those found in the US, China, Russia, North Korea, Japan, Germany, France, Israel, Palestine, and others.

The project, initiated by Institute president Richard H. Solomon, analyzes the influence of culture on international negotiations, employing Institute grants, fellowships, and in-house research. In addition to country-specific studies, the project also includes more comprehensive research into language, culture, and the art of diplomacy.

Generalization vs. Stereotype

Before beginning this analysis, it is necessary to highlight very important differences between useful generalizations and misleading stereotypes.³⁰

²⁸ Cohen, Raymond. “Negotiating Across Cultures,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 472-473.

²⁹ Solomon, Richard H., and Nigel Quinney. *American Negotiating Behavior: Wheeler-dealers, Legal Eagles, Bullies, and Preachers* (Washington, D.C.: United States Institute of Peace Press, 2010), 8.

³⁰ Weaver, Gary. “Cross-Cultural Communication” (PowerPoint presentation, United States Institute of Peace, Washington, DC, n.d.).

Generalization	Stereotype
Complex Characterization	Simple Caricature
Majority of Individuals	All Individuals
First Guess	Permanent Crutch

Complexity. In making any kind of generalization there is always a danger of oversimplifying, a pitfall that can lead to inaccurate and counterproductive caricatures. For a generalization to be useful the observer must keep in mind that cultures are highly complex systems and that individual behavior must be understood within the context of the whole. As Avruch points out, there is a tendency to assume that culture is “free of internal paradoxes and contradictions,” provides “clear and unambiguous behavioral ‘instructions,’” and can be “characterized in relatively straight-forward ways.” These assumptions are generally inadequate.³¹

Applicability. To stereotype is also to assume that each and every individual who belongs to a particular group will exhibit a certain behavior, with no account taken of unique personal traits, nor the complete range of cultures and subcultures that in their various mix influence each person differently. Again, Avruch provides insight:

There are indeed limitations to making the structural level of national culture our main one, even if it has the advantage of providing us with handy labels—Mexican, Japanese, Somali, and so on. Culture is not monolithic and restricted in its effects to a single level of social structure, including the nation-state; culture does not map transparently onto something called nationality. And “it” never determines individual behavior in a monocausal way. Individuals, as we have said, are carriers of multiple cultures.³²

To make a useful generalization is simply to note that members of a group tend to share certain common characteristics, not that they invariably do. In negotiation, it can be very helpful to know if individuals within a particular culture typically interpret signs and behaviors in certain ways. But negotiators will only make more problems for themselves if they confuse a tendency with a rule. In Guy Olivier Faure’s words, “Treat people as individuals, not as cultural robots.”³³

Duration. Another difference between a misleading stereotype and a useful generalization has to do with duration. As Weaver puts it, a generalization is only useful as “a first guess.” Subsequent experience will tell much more about the individual, no matter how accurate the generalization might be when applied broadly. A generalization becomes a stereotype when people hold onto it out of habit, even though it has proven “no longer accurate or useful.”³⁴

³¹ Avruch, Kevin. *Culture and Conflict Resolution* (Washington, DC: United States Institute of Peace Press, 1998), 14.

³² Avruch, Kevin. *Culture and Conflict Resolution* (Washington, DC: United States Institute of Peace Press, 1998), 44.

³³ Faure, Guy Olivier. “International Negotiation: The Cultural Dimension,” in *International Negotiation: Analysis, Approaches, Issues*, ed. Victor A. Kremenyuk (San Francisco: Jossey Bass, 2002), 413.

³⁴ Weaver, Gary. “Cross-Cultural Communication” (PowerPoint presentation, United States Institute of Peace, Washington, DC, n.d.).

In the next section, we will cover generalizations that some experienced negotiators have over the years found useful. They should not be oversimplified, applied too broadly, or retained past their usefulness.

Perspectives

Using stereotypes and caricatures, it's something we all do and it's not always a bad thing. It's a shortcut in a way. It's a shorthand for, in a way, of reflecting our lessons on what we perceive to be the other culture. Sometimes these stereotypes and caricatures actually reflect our understanding of the culture and they can be harmful when the spirit in which they are used is meant to, rather than to seek to understand or seek to illuminate or serve as short hand, when the spirit in which they are used is actually meant to be derogatory, to be negative, to assert social power, social difference to [the] other, to exclude or somehow, pin a negative connotation on. So I think it's the intent and the spirit in which they use that really differentiates, you know, useful shorthand, broad categories, generalizations which can be false but serve as some sort of basis for understanding, from really derogatory caricatures and stereotypes. It's the spirit in which they are used.

-Linda Bishai

Culture is very important to take into account in any negotiation. Culture is not just the way people look, or the language they speak, the way they like to greet each other. Culture has to do with what people value, and how they value, what they place importance on. And that will be different culture to culture, it will also be different person to person, but in general it is very important to get a sense of what the cultural dynamics are in a negotiation. The purpose of becoming culturally sensitive is not to just put people in a box and say, all people from Angola act this way, and think this way, and value this or that. That is not the purpose. The purpose is to give us an idea of where the differences are in terms of values, of where they might be. To not necessarily assume that they're going to be true for that particular person or group of people you're working with, but to know that that might be operating. And always check your assumptions. So you're saying, this is something that I know about this culture, or I have read about this culture or heard about it, and maybe checking with a local partner or some cultural interpreter to see if that is at play. That is a very important strategy for negotiators. Not just to work with cultural interpreters, people who know the culture, who are from that culture, who can decipher some things for you that you would not be able to decipher if you are not from that culture. I think that a lot of mistakes get made because of a lack of awareness of culture.

-Maria Jessop

Clearly, cultural differences raise challenges for negotiators. And one element of culture to remember is that we are all much more complex than we appear to be. So, simply reminding yourself that the person across the table from you in a negotiation may have different values, may have different interests than you do at a variety of levels, and accepting those differences as real and not imagined or not important, will help you to achieve success in a negotiation.

-Jacqueline Wilson

High- and Low-Context Communication

Significant misunderstandings can be generated by differences in what are often termed high- and low-context styles of communication.

Low-context cultures. In low-context cultures—typically North American and European cultures—communication tends to be highly straightforward and direct. As Cohen describes it, “what has to be said is stated explicitly. Indirect language is strongly disliked; ‘straight-from-the-shoulder’ talk is admired. ‘Get to the point’ is the heartfelt reaction to small talk and evasive formulations. One has little time or patience for ‘beating around the bush,’ but wishes to get down to business and move on to another problem.”³⁵

High-context cultures. The reverse tends to be true in many non-Western, so-called high-context cultures. Again, Cohen describes this particularly well:

The high-context culture communicates allusively rather than directly. As important as the explicit content of a message is the context in which it occurs, that is, the surrounding nonverbal cues and nuances of meaning.... Directness and contradiction are greatly disliked. Speakers in this kind of culture feel acutely uncomfortable about delivering a blunt no. They want to please others and prefer inaccuracy and evasion to painful precision; the substantive element of a message, though elliptical and encoded, will be unmistakable to insiders.³⁶

Faure provides examples, noting that “Chinese and Japanese belong to *high-context* societies, resorting more, for instance, to indirect action and implicit expressions, whereas Westerners live in *low-context* societies where action is far more direct and their expressions are more explicit.”³⁷

Misreading. Faure also explains that “people who belong to one type of society encounter substantial difficulties in decoding the messages and behaviors of those in the other type and making the right assumptions about what is behind them.”³⁸ In Solomon’s words, “The line between bluntness and rudeness, of course, can be blurry, and what sounds like straight talking to Americans can sound like arrogance, insolence, or abuse to some negotiating counterparts.”³⁹ High-context negotiators often try to indicate “no” simply by *not saying yes*, or by giving a weak yes followed by lengthy inaction—what Cohen calls a “social affirmative.” Confronted with an undesirable but persistent request (from a Westerner who “won’t take no for an answer”), the

³⁵ Cohen, Raymond. “Negotiating Across Cultures,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 472.

³⁶ Cohen, Raymond. “Negotiating Across Cultures,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 472.

³⁷ Faure, Guy Olivier. “International Negotiation: The Cultural Dimension,” in *International Negotiation: Analysis, Approaches, Issues*, ed. Victor A. Kremenyuk (San Francisco: Jossey Bass, 2002), 395 (italics in original).

³⁸ Faure, Guy Olivier. “International Negotiation: The Cultural Dimension,” in *International Negotiation: Analysis, Approaches, Issues*, ed. Victor A. Kremenyuk (San Francisco: Jossey Bass, 2002), 395.

³⁹ Solomon, Richard H., and Nigel Quinney. *American Negotiating Behavior: Wheeler-dealers, Legal Eagles, Bullies, and Preachers* (Washington, D.C.: United States Institute of Peace Press, 2010), 82.

high-context individual will use this social affirmative as “the line of least resistance in order to escape from an uncomfortable situation.” Westerners are likely to interpret a yes followed by inaction as insincere and duplicitous, but in the high-context culture, this behavior is “simply part of the veneer of courtesy and indirection essential for preserving social harmony.” The obligation, however, is not one-sided. Both parties should attempt to understand and adapt to their counterpart's culture, be it high- or low-context. It may be more reasonable to expect this of representatives of a country with long experience in intercultural interaction than to expect it of those who have not had that experience. Cohen places the fault with the “unobservant interlocutor, who has failed to draw the correct conclusion from the hesitancy and unenthusiastic nature of the reply.”⁴⁰

For an example, Cohen describes negotiations between the U.S. and Egypt over passage of nuclear-powered warships through the Suez Canal. The Egyptian side procrastinated for almost a decade “without the U.S. Defense Department grasping that the Egyptians wished to let the matter drop.” Under continuing pressure, the Egyptians finally moved forward with the deal in 1984, only to call it off as soon as word leaked. In the end, the whole process simply created bruised feelings all around.⁴¹

The U.S. decision to grant military aid to Pakistan in 1954 is another case where differing communication styles caused an unfortunate episode of diplomatic misreading. Before the official public announcement, U.S. Ambassador George Allen hand-delivered a personal letter from President Dwight Eisenhower to Indian Prime Minister Jawaharlal Nehru, making clear the President's hope “that friendly relations between the two countries would in no way be impaired.” After carefully reading and expressing appreciation for the letter, “Nehru proceeded to a judicious and calm explanation of his concerns. ... For all the dignity and restraint of his manner, Nehru was, in fact, revealing his innermost fears. The American decision was a nightmare come true.” Unfortunately, the American ambassador mistook Nehru's polite restraint for tacit acceptance and “completely missed the true meaning of Nehru's words. ... The subsequent Indian reaction was vehement: demonstrations, official protests, and an extended period of strained relations.”⁴²

⁴⁰ Cohen, Raymond. “Negotiating Across Cultures,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 472-473.

⁴¹ Cohen, Raymond. “Negotiating Across Cultures,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 473.

⁴² Cohen, Raymond. “Negotiating Across Cultures,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 474-475.

Related Resources from USIP: [*Negotiating Across Cultures: International Communication in an Interdependent World*](#)

By Raymond Cohen

For this substantially revised edition of his 1991 book, Raymond Cohen has added two new chapters, updated previous examples, and added numerous recent ones, especially concerning U.S. trade agreements. Newly added cases include the negotiations over NAFTA, China's most-favored-nation status, the nuclear non-proliferation treaty, and the Okinawa bases. All in all, about 40 percent of the text is new.

Cohen explores how cultural factors have affected U.S. dealings with Japan, China, Egypt, India, and Mexico. He demonstrates that there are two quite different models of negotiation: "low context," a predominantly verbal and explicit style typical of individualistic societies such as the United States, and "high context," a style associated with nonverbal and implicit communication more typical of traditionally interdependent societies. He concludes the book with ten specific recommendations for the intercultural negotiator.

Conceptual Dissonance

Communication styles are not the only source of misunderstanding between cultures. Some problems have their origins in language itself. Most people with foreign language experience realize that translating complex concepts cannot usually be done on a word-by-word basis, particularly not between languages that are fundamentally dissimilar, such as English and Chinese.

The lens of language. The problem is more than just one of translation. Different language systems carve up meaning in their own ways, bundling and prioritizing concepts according to different historical, philosophical, and even accidental precedents. For this reason, language is much more than a medium of communication. It is a fundamental lens through which people perceive the world. Faure explains, "A basic function of language is to structure reality and organize experience. Language also reflects society's values and acceptable ways of behaving."⁴³ In Cohen's words, "Every society can be observed to possess a specialized negotiating vocabulary loaded with affective and metaphorical connotations."⁴⁴

Guanxi. As an example, Cohen discusses the Chinese concept of *guanxi*, a word that has no exact English equivalent but can be loosely translated as "interpersonal relations." For Westerners, negotiation typically begins with an *opening proposal*, proceeds through an exchange of *bargaining chips*, and ends with the signing of a *final agreement*. But in a Chinese context, these concepts lose their "well-defined (and for native English speakers, self-evident)

⁴³ Faure, Guy Olivier. "International Negotiation: The Cultural Dimension," in *International Negotiation: Analysis, Approaches, Issues*, ed. Victor A. Kremenyuk (San Francisco: Jossey Bass, 2002), 396.

⁴⁴ Cohen, Raymond. "Negotiating Across Cultures," in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 470.

significance.” For the Chinese negotiator, cultivating *guanxi* is the principal task at hand.⁴⁵ Solomon provides more insight:

Chinese officials are single-minded and highly disciplined in their pursuit of PRC interests; yet as Chinese they are distrustful of impersonal or legalistic negotiations. The most fundamental characteristic of dealings with the Chinese is their attempt to identify foreign officials who are sympathetic to their cause, to cultivate a sense of friendship and obligation in their official counterparts, and then to pursue their objectives through a variety of stratagems designed to manipulate feelings of friendship, obligation, guilt, or dependence. This reflects the workings of a culture that has developed to a high level the management of interpersonal relations (*guanxi*), a society that stresses interdependency rather than individuality, and a political system that sees politics as the interplay between superior and dependent rather than the association of equals.”⁴⁶

Cohen sees language-based challenges at work in Arab-Israeli negotiations, which have at times stalled over “profound differences in the meaning and resonance of the equivalent Hebrew and Arabic terms for such concepts as ‘normalization,’ ‘withdrawal,’ ‘land,’ ‘water,’ and ‘peace.’”⁴⁷

Perspectives

If negotiators feel comfortable with each other even if they're from different cultures, they will be able to work out a relationship with each other that's productive. They will be able to come to agreements in a more fruitful fashion. If, on the other hand, they're just never quite sure that they're interpreting the other person's gestures appropriately, then it will be much more difficult. Negotiations are all about meaning and intent and if culture is blocking you from understanding the meaning of the other person because you don't understand their culture, the cultural context is keeping you from fully interpreting their meaning properly, that will have a great influence on your ability to reach an agreement. An agreement must be a meeting of your minds. Your minds will have a harder time meeting if you haven't done the work of getting to understand the different cultures involved.

-Linda Bishai

How one learns another culture is certainly the million-dollar question, in a way. Ideally, one is negotiating in a culture, not necessarily one's own culture but in a cultural context in which one understands the culture. But if you do not, clearly doing as much research as possible beforehand is essential. It also involves listening. We often talk about active listening, which involves listening with an open mind and asking probing questions. I think we often tend to rush in a negotiation to start addressing the issues long before we ever properly understand

⁴⁵ Cohen, Raymond. “Negotiating Across Cultures,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 470-471.

⁴⁶ Solomon, Richard H. “China: Friendship and Obligation in Chinese Negotiating Style,” in *National Negotiating Styles*, ed. Hans Binnendijk (Washington, DC: Foreign Service Institute, U.S. Department of State, 1987), 3

⁴⁷ Cohen, Raymond. “Negotiating Across Cultures,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 471.

what the meanings are for the other person. And also before understanding what the issues are beyond the obvious external ones rather than understanding what the internal meanings of the issues are for the people. I think that that is key.

-Mary Hope Schwoebel

The other important thing to mention around culture in the context of negotiations is that cultural sensitivity is not just being sensitive to another culture that you're working in, and being understanding of it. It's also being aware of how people in that culture, in that country, in that context, view your own identity and different facets of your identity. How do they view women? How do they view Americans? How do they view the field of conflict resolution? How do they view the institution that you represent? These also can impact the negotiation [in] terms of the level of trust and comfort with you. Sometimes you might want to deal with that by considering if you are the best person to negotiate in the situation. Or can you compensate for your weaknesses by pairing up with somebody who will compensate, who will give some credibility or legitimacy that you might not have on your own for whatever reason. I think the first step to becoming culturally sensitive and culturally aware is really to take a good look at your own culture. We tend to forget that we're cultural beings. We just say this is how I am, I am an American, and this is the way things are, and this is what I believe. We don't necessarily take a look at how culture has influenced our values or opinions or the way we do things, or what we think is important. And so it is the job of any good negotiator to really take a serious look at that, to really educate themselves and spend time [to] see how culture affects who they are and what they do. And then we can start to be more sensitive to how culture impacts other people and to see people through a cultural lens. It can only strengthen your skills as a negotiator.

-Maria Jessop

Differing Definitions of Interests

Misunderstandings can come into play when interests themselves are defined differently. The concept of an interest may be universal, but how a people view their interests clearly varies. In Avruch's words, "what is universal seems to be that we humans all reason in much the same way, for example, associatively, and in linked, prioritized, valorized, and networked schemas about the world. What is not universal, however, what is cultural, is what these schemas are about."⁴⁸

Interests and culture. As we have noted, it is often difficult to see past specific positions to identify the fundamental interests that inform them. Cultural differences make pinpointing fundamental interests even more difficult. As Avruch notes, "In deep-rooted conflicts (often ethnic, racial, or nationalist ones), the parties will never be able to get to the point of negotiating interests ... until prior problems of perception and emotion—of interpretation—addressed. And here, we are in the domains of affect, language, metaphor—of culture."⁴⁹

⁴⁸ Avruch, Kevin. *Culture and Conflict Resolution* (Washington, DC: United States Institute of Peace Press, 1998), 94.

⁴⁹ Avruch, Kevin. *Culture and Conflict Resolution* (Washington, DC: United States Institute of Peace Press, 1998), 100-101.

Many examples can be found in the long and troubled history of relations between the U.S. and India. Lalit Mansingh, a distinguished Indian diplomat and scholar, provides his country's perspective in a chapter in Solomon and Quinney's *American Negotiating Behavior*: "Washington's problems with India...arose out of its inability to comprehend that India's cultural and national sensitivities outweighed its desire to conclude favorable 'deals' with the United States. ... American leaders were baffled that while Indians were desperately in need of food, they would not explicitly ask for it. And further, when they received food, they appeared reluctant to express their appreciation. 'With an acute sense of national pride,' Cohen has commented, 'India developed a unique strategy for saving face: it would accept needed assistance, but it would not say please or thank you.' This is a telling example of a genuine cultural gap, between Eastern face-saving and Western expectations of good manners."^{50/51} Mansingh describes this and other case studies in his chapter in the Solomon/Quinney book; an American perspective on India's food crisis in the 1960s can be found in chapter 10 of President Johnson's memoirs, *The Vantage Point*.

In this section, we have covered high- and low-context communication, conceptual dissonance, and differing definitions of interests. These tend to be among the most common sources of cultural misunderstanding, although the list is by no means comprehensive, and there is no guarantee, for example, that understanding will be complete between two parties who are both from high- (or low-) context cultures. Knowing the potential for these miscues helps very much in avoiding them.

To go with this general knowledge, you should learn as much as possible about your counterpart's specific culture, and as Faure reminds us, "help the other become more familiar with your own culture." Faure adds that "culture is not just some external constraint negotiators have to bear but rather an active element that can play a conclusive role in reaching an agreement."⁵²

⁵⁰ Cohen, Raymond. *Negotiating Across Cultures: International Communication in an Interdependent World*, rev. ed. (Washington, DC: United States Institute of Peace Press, 1997), 20, 36-38.

⁵¹ Mansingh, Lalit. "Negotiating Bilaterally: India's Evolving Experience with the United States," in *American Negotiating Behavior*, ed. Richard H. Solomon and Nigel Quinney (Washington, DC: United States Institute of Peace, 2010), 252.

⁵² Faure, Guy Olivier. "International Negotiation: The Cultural Dimension," in *International Negotiation: Analysis, Approaches, Issues*, ed. Victor A. Kremenjuk (San Francisco: Jossey Bass, 2002), 413.

Related Resources from USIP: [*Culture and Conflict Resolution*](#)

By Kevin Avruch

After years of relative neglect, culture is finally receiving due recognition as a key factor in the evolution and resolution of conflicts. Unfortunately, however, when theorists and practitioners of conflict resolution speak of “culture,” they often understand and use it in a bewildering and unhelpful variety of ways. With sophistication and lucidity, *Culture and Conflict Resolution* exposes these shortcomings and proposes an alternative conception in which culture is seen as dynamic and derivative of individual experience. The book explores divergent theories of social conflict and differing strategies that shape the conduct of diplomacy, and examines the role that culture has (and has not) played in conflict resolution.

Gender

Our final discussion of people involved in negotiation focuses on the question of gender.

Women’s Underrepresentation

It is important to note that women tend to be substantially underrepresented in local and national governing structures around the world, as well as in formal negotiations for peace. A report by the United Nations Development Program indicates that when women do get opportunities to participate in a negotiation, they are often limited to minor roles. The report notes that “women often organize themselves at the grassroots level in order to promote activities for peace, but they do not get access to the negotiation table in the formal peace process.”⁵³

The United Nations (U.N.) itself does not have a good track record in this area and has recognized the necessity of formally supporting women’s integration throughout the peace process. In 2000, the U.N. Security Council passed Resolution 1325 which urges all U.N. actors and member-states to adopt measures “that support local women’s peace initiatives” and “that involve women in all of the implementation mechanisms of the peace agreement.” The resolution also urges measures “to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management and resolution of conflict.”⁵⁴

Women’s exclusion in these arenas can derive from a number of sources: deeply held stereotypes, an undervaluing of women and girls in certain societies, lack of access to girls’ education and a lack of resources being devoted toward preparing girls and young women to engage in the political process. In the words of Antonia Potter, “Many men—and some women—still find it hard simply to picture a woman in certain roles, leading often to unconscious preferences and choices of men over women for leadership positions.”⁵⁵

⁵³ United Nations Development Programme, Bureau for Crisis Prevention and Recovery, *Gender Approaches in Conflict and Post-Conflict Situations* (New York: UNDP, 2002), <http://www.undp.org/women/docs/gendermanualfinalBCPR.pdf>, 11.

⁵⁴ United Nations Security Council, *Resolution 1325* (October 31, 2000), <http://daccess-ods.un.org/TMP/7458470.html>, 2-3.

⁵⁵ Potter, Antonia. “We the Women: Why Conflict Mediation Is Not Just for Men,” Opinion, *Centre for Humanitarian Dialogue*, October 2005. <http://www.hcdcentre.org/press>, 8.

Women's Issues

This kind of underrepresentation needs to be addressed, for women have important perspectives that must be included in any peace process. As Kevin Clements notes, “Women’s experiences of conflict and war differ to those of men. Their needs and concerns are also often different, and should be taken account of in the processes leading to peace.”⁵⁶

To be effective in preventing a resurgence of conflict, the negotiation of peace agreements must address the needs of the entire population. The inclusion of women at the negotiating table is particularly important in order to take advantage of the space that is created in conflict and post-conflict settings to expand traditional gender roles and to mainstream issues that typically affect women disproportionately, such as gender-based violence or single-headed households. The inclusion of women’s voices in peace negotiations also increases the likelihood that issues affecting children, the elderly, and the disabled will be addressed, as women worldwide tend to act as the primary caretakers for these groups.

As Potter notes, women should certainly be well-represented in the discussion of any issues aimed at “achieving durable peace and stability such as the promotion of human rights, education, social service provision and security issues such as disarmament and reintegration.”⁵⁷ The exclusion of women from a formal peace process, particularly negotiations, serves to reduce the possibilities for sustainable peace and durable solutions.

Perspectives

There’s quite a lot of material on cross-cultural negotiation and how different countries and different identities, different nationalities, negotiate differently, how they build trust differently, how they communicate differently. Gender is also a topic that, there’s some material on gender now and [whether] women and men negotiate differently, and my view on that is that men and women do not negotiate differently. If there are differences, personally I believe that it’s based more on power and these are things that come into play even before the negotiation begins. So, if a woman is at the negotiation table but in her culture or in her community she is not seen as powerful as the man at the negotiation table, these are things that would affect her negotiation techniques and strategies. So, it’s really more of a question of power.

-Nina Sughrue

We have to recognize that how we practice negotiation in diplomatic circles, business circles have largely been influenced by Western and more male ideas of how negotiations are supposed to happen. And that's just by virtue of the fact that power issues and who is in power in business and diplomacy for the most part. And so we tend to neglect the fact that women also negotiate in different contexts and may have different strategies for approaching negotiation based on their experience in negotiating in more family settings historically or more communal settings, that can also apply to the diplomatic setting or business setting, but may not necessarily be as well known yet. I think, and this is a generalization, but women are

⁵⁶ Clements, Kevin P. “Women, Violent Conflict, and Peacebuilding,” (keynote address, Women and Peacebuilding Conference, Government of Greece, Athens, August 10, 2000).

⁵⁷ Potter, Antonia. “We the Women: Why Conflict Mediation Is Not Just for Men,” Opinion, *Centre for Humanitarian Dialogue*, October 2005. <http://www.hdcentre.org/press>, 14.

known to be a little bit more relational and that's because of their historical role as nurturers and caregivers over the centuries. They tend to be very motivated by relationships. And negotiation the way it is usually taught as a task-oriented activity, to focus on breaking down the issues and examining the interests and analyzing those, and coming to an agreement. Not that that is not as effective; it is extremely effective. But I think that very often if we could capitalize on some of the strengths that women bring to negotiation around relationship and communication, and marry that [to] existing or more traditional negotiation strategies, we would have a much richer way of negotiating, and a much more effective way of negotiating. And so having a woman there, can actually put people in the frame of mind of thinking outside the box—this is unusual—and that can work to your advantage in a negotiation. The other thing is that when there are issues of history, grievance, fear, or in other words a lot of emotions, is something that traditionally, women are more comfortable dealing with and have some skills. A lot of them have been in helping professions and again, that traditional nurturing role. They can be particularly effective in a negotiation role that is very tense in terms of helping people to process those emotions, to communicate in a way that validates those emotions and yet keeps the process on track.

-Maria Jessop

Mini-Quiz

You have completed all the material for this section. Now try this mini-quiz:

Understanding cultural differences can be helpful to negotiators. Of the following statements, which correctly describes a key difference between useful generalizations and counterproductive stereotypes?

- a. A useful generalization is streamlined and easy to remember and apply; stereotypes are counterproductive because they are too complex for practical use in the field.
- b. A useful generalization applies to all individuals within a group; stereotypes are not as reliable because they apply only to some.
- c. A useful generalization will remain valid over time; stereotypes are only good for first guesses.
- d. None of these statements is generally true.

For answers, see Appendix A.

2.3: Leverage

Relative Strength

Along with different approaches to negotiation and various kinds of relationships, leverage is also a principal concern for anyone preparing to negotiate. There are several different types of leverage.

Carrots and Sticks

“Carrots and sticks” is an expression that refers to various types of persuasion that a party can use in a negotiation to try to change the cost/benefit calculation of its counterparts so as to produce agreement.

Carrots. Carrots are rewards, or positive inducements. These inducements might include anything that a counterpart values. As Alexander George points out, “The magnitude and significance of the carrot can range from a seemingly trivial face-saving concession to substantial concessions...that bring about a stable settlement of the crisis.”¹ Kelman provides a list of typical carrots, including “economic benefits, sharing essential resources, international approval, integration in regional or global institutions, or a general reduction in the level of tensions.”²

Sticks. Sticks are punishments, essentially anything that might harm the counterpart’s interests. In international negotiations, sticks tend to take three primary forms: political-diplomatic sanctions, economic sanctions, and military force, although coercion can take other forms as well. Along with deliberate, punitive action, the coercing party might threaten to withhold something that the target of coercion highly values.

Solomon explains, “It is the ability to determine which carrots and sticks will carry most weight in a given situation, to combine them in just the right proportions, and to deploy them in just the right sequence that is the hallmark of an effective negotiator.”³

Walk-Away Leverage

Another important way to view leverage is to consider who has the most attractive BATNA. In this case, the BATNA is sometimes called “walk-away leverage.” To determine leverage, Shell uses a simple test, asking “which party has the most to lose from no deal. The party with the most to lose has the least leverage; the party with the least to lose has the most leverage; and both parties have roughly equal leverage when they both stand to lose equivalent amounts should the deal fall through.”⁴ Walk-away leverage is considered to be a kind of “stick” because in threatening to end negotiations the party with more walk-away leverage is sending a signal that its counterpart will be left in a worse position—although walking away can backfire, as it did when the Soviet Union walked away from arms control negotiations in the early 1980s, only to see its position on the ground steadily erode.

¹ George, Alexander L., David K. Hall, and William E. Simons, *The Limits of Coercive Diplomacy*, 2nd ed. (Boulder: Westview Press, 1994), 17.

² Kelman, Herbert. “Social-Psychological Dimensions of International Conflict,” in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 72.

³ Solomon, Richard H., and Nigel Quinney. *American Negotiating Behavior: Wheeler-dealers, Legal Eagles, Bullies, and Preachers* (Washington, D.C.: United States Institute of Peace Press, 2010), 87.

⁴ Shell, G. Richard. *Bargaining for Advantage: Negotiation Strategies for Reasonable People* (New York: Penguin Books, 2000), 104-105.

Related Resources from USIP: [*Coercive Inducement and the Containment of International Crises*](#)

By Donald C. F. Daniel and Bradd C. Hayes, with Chantal de Jonge Oudraat

The concept of a “middle ground” between simple peace enforcement and traditional peacekeeping by lightly armed observers has been both ill defined and controversial. But the authors of this thoughtful yet challenging volume make a strong case for both the practicability and the desirability of such operations.

After first laying out general principles, the book explores four recent U.N. operations (in Somalia, Rwanda, Bosnia, and Haiti) in which coercive inducement was particularly relevant, and then presents operational guidelines for its use. Clear-sighted and pragmatic throughout, the authors conclude by suggesting when and to what extent the international community should commit itself to undertake coercive inducement.

Combining Carrots and Sticks

Negotiators often employ a strategy that combines carrots and sticks.

Risks associated with coercion. Coercion alone can work, but the strategy carries high risks. Robert Art and Patrick Cronin discuss numerous cases where military threats have proven effective, yet they add a strong note of caution:

Next to outright war ... coercive diplomacy represents the most dangerous way to use a state's military power because if coercive diplomacy fails, the state that tries it then faces two stark choices: back down or wage war. The first risks loss of face and future bargaining power; the second, loss of life and military defeat. Because both outcomes are possible, a state should never undertake coercive diplomacy lightly.⁵

Benefits of positive inducement. Kelman observes that coercive strategies tend to predominate in international conflict, in spite of the risks. He notes that in many cases positive inducements can entail “smaller short-term risks and greater long-term benefits than the use or threat of force,” in part because positive incentives “create an atmosphere more conducive to negotiation and provide greater opportunities for building a new relationship.” He calls for “broadening the repertoire of influence strategies, at least to the extent of combining ‘carrots and sticks’—of supplementing the negative incentives that typically dominate international conflict relationships with positive incentives.”

Kelman also notes that positive incentives are likely to be most effective if they address fundamental interests of the counterpart. He states, “Effective use of positive incentives requires more than offering the other party whatever rewards, promises, or confidence-building measures

⁵ Art, Robert J. and Patrick M. Cronin, ed., *The United States and Coercive Diplomacy* (Washington, DC: United States Institute of Peace Press, 2003), 7.

seem most readily available. It requires actions that address the fundamental needs and fears of the other party.”⁶

Crocker, Hampson, and Aall cite the Dayton Accords in Bosnia as an example where a mediator, in this case U.S. Ambassador Richard Holbrooke, made use of “a tremendous amount of leverage—both positive and negative.” He used this combination of carrots and sticks “to impress upon the parties the absolute necessity of coming to a settlement.”⁷

Bargaining with Less Leverage

What do experienced negotiators do when they simply have less leverage? And what if their counterparts, who have more leverage, choose to employ the full range of hard-bargaining tactics, including insults and threats? People who don’t like negotiating, or feel uneasy with it, typically picture themselves in this difficult scenario, facing a hard bargainer who has more leverage. Yet experienced negotiators have various ways of improving their chances of success, even in this unenviable situation.

Understanding leverage. Seasoned negotiators understand that they always have some leverage, even if they have less than their counterpart. There wouldn’t be a negotiation if one side had no leverage at all: the stronger side would simply impose its will. As a negotiator, remember that your counterpart came to the table because they want something. This is your leverage.

Ignoring intimidation tactics. Negotiators sometimes use specific hard-bargaining tactics that are designed to intimidate you. They might make you wait and then rush you along, make offers and then retract them, claim more authority than is warranted, belittle your proposals, insult you, or make threats. When your counterpart has more leverage, these intimidation tactics can be hard to ignore. But you must ignore them—or better, to the extent possible, try to analyze them for what they tell you about the strengths and weaknesses of your counterpart’s position. With each of these tactics, the hard-bargainer is trying to make you forget that he or she wants something from you, which, again, is the source of your own leverage. Don’t be intimidated.

Roy Lewicki, David Saunders and John Minton recommend that you “explore the other party’s perspective with questions designed to reveal his or her needs and interests,” noting that it is “very much to your advantage to understand what the other party really wants.” They also recommend a focus on the other side’s strategy and tactics, pointing out that “although it is unlikely the other party will reveal his or her strategy outright—particularly if he or she is intending to use distributive tactics—you can infer this information.”⁸

Improving leverage, or BATNAs. There are ways that negotiators attempt to improve their leverage. In some cases, they try to change facts on the ground; in others, they try to form

⁶ Kelman, Herbert. “Social-Psychological Dimensions of International Conflict,” in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 71-77.

⁷ Crocker, Chester A., Fen Osler Hampson, and Pamela Aall, ed., *Herding Cats: Multi-Party Mediation in a Complex World* (Washington, DC: United States Institute of Peace Press, 1999), 38.

⁸ Lewicki, Roy J., David M. Saunders, and John W. Minton, *Essentials of Negotiation*, 2nd ed., (New York: McGraw-Hill/Irwin, 2001), 152, 51.

coalitions with parties who share their interests. Experienced negotiators know that their BATNA, or walk-away leverage, is the best measure of their negotiating strength, even better than whatever inducements or coercion they might be able to bring to bear. Fisher and Ury state,

People think of negotiating power as being determined by resources like wealth, political connections, physical strength...military might. In fact, the relative negotiating power of two parties depends primarily upon how attractive to each is the option of not reaching agreement. ... Developing your BATNA is perhaps the most effective course of action you can take in dealing with a seemingly more powerful negotiator.⁹

Ury also emphasizes that an effective negotiator will try to develop several alternatives to a negotiated settlement, along with attractive contingency plans in the case of a partial agreement.¹⁰

Perspectives

Well, if you feel yourself in a weak position in a negotiation, you can seek out allies, you can seek to become part of a coalition, you could emphasize your power to say no—the essence of negotiation is that both sides want something. They wouldn't be there if they didn't want something. Your ability to say no, to deprive the other side of its goal, may increase your leverage. This is the leverage of the weak.

-Ted Feifer

The first thing to remember is that even though you don't have as much power, it doesn't mean that you are powerless. Generally, you have more power than you think or you know. And people bluff in negotiation as well. So, it's important to test the other person's power. They may claim that they have the support of a person or a group that they have things that you don't have, but those things should be tested. And power dynamics change throughout negotiation. You may be in a weak position but then after research or events, all of a sudden now you have more power. So, those power dynamics can change.

-Nina Sughrue

Normative Leverage

Normative leverage is important because it has the potential to strengthen negotiators who are in a weaker position: those who have poor BATNAs, little to offer as inducement, or potential to become targets of coercion.

Negotiators apply normative leverage when they base their persuasive strategy on generally accepted norms or standards:

⁹ Fisher, Roger and William Ury, *Getting to Yes: Negotiating Agreement Without Giving In* (Boston: Houghton Mifflin, 1992), 102, 106.

¹⁰ Ury, William. "Negotiation and Conflict Manager," in *World Negotiation Forum: Innovative Negotiation Strategies to Maximize Results: Speakers Presentations: November 8-9* (New York: HSM, 2005).

Scientific Norms

- **Scientific evidence.** Scientific evidence has wide acceptance as a standard in the international community. To be accepted, scientific results must be repeatable; therefore, all sides may independently verify claims based on science.
- **Physical human needs.** One major achievement of science has been to quantify basic human needs with great accuracy and precision.
- **Principle of efficacy.** By this simple standard, proposals are judged on their ability to provide solutions that will work.
- **Principle of efficiency.** By this related standard, proposals are judged on their ability to provide solutions that use the fewest resources.

Social Norms

- **Equal treatment.** That every person deserves equal treatment is a principle with widespread acceptance in the international community. It can be interpreted in different ways, and often is; nevertheless, it informs several foundational standards of social interaction and good governance.
- **Rule of law.** Following from equal treatment, rule of law affirms that every person in a society should be held accountable to the same set of laws.
- **Democracy.** Following from equal treatment and rule of law, democracy affirms that every person deserves a voice in the creation of the laws that everyone in the society must live by.
- **Self-Determination.** Related to democracy, self-determination affirms the right of whole peoples to govern themselves.
- **Sovereignty and territorial integrity.** Following from self-determination, territorial integrity affirms the right of peoples to live within consistent, sovereign borders.
- **Market value.** Market value applies when private property is collectively defined and protected, and values are determined in a market by supply and demand.
- **Customary law or common practice.** Like codified law, customary law or common practice also appeals to basic notions of equal treatment.

To be useful in negotiation, these standards don't have to be universally accepted, but they must be widely accepted.

Perspectives

There are some strategies that are useful to adopt if you think your position is weaker vis-à-vis your negotiating partner than you would wish it to be. In fact, these are probably the same kinds of things you should at least consider doing, even if you think your relative strength is about equal, or even if you think that you are bargaining from a position of strength. One of them is appealing to common standards. I used to think that that was the kind of thing that would work if you were dealing with a nice, civilized, friendly counterpart, but that in a lot of real tough negotiations, doesn't have any promise. But, in fact, you can take that a long way. The idea of an equal outcome was one, which, even when we disagreed on everything else, the Soviet Union and the U.S. were able to subscribe to in arms control negotiations. And then the negotiation could be: What is the unit of account? Or, how do you define the quality? And so forth and so on. But the idea of an equal outcome was one which the other side was prepared to subscribe to and it was a basis of the successful arms control agreements of the late 80s and early 90s.

-Mike Lekson

A good example of using normative leverage is if you were having a negotiation with regard to water usage. One side says we need a certain quantity for our personal use: individual drinking and cleaning. There are such standards by organizations like World Health Organization which would state that an individual needs such and such amount of water per day. This is an objective standard by health professionals. It's not something that one can easily dispute by saying it's wrong. This could strengthen your hand in a negotiation in which you are trying to argue for a certain quantity of water.

-Ted Feifer

Normative leverage is an important consideration in negotiation because it has to do with different notions of fairness. What might be fair to you may not be fair to me. And through

the process of negotiation you really want to understand what is considered fair for people and not necessarily pre-judge other people's opinions and notions of fairness. If you really want to come to a settlement, you have to be willing to be flexible and to really try to honor other people's sense of fairness within your capacity. In negotiation, we talk a lot about leverage and strategy and sometimes we tend to think of it as a bit of a game. I think a lot of people approach negotiation as sort of game, manipulation—how do I get what I want, maybe I will keep some things to myself and not reveal—and I think that that is ultimately destructive to the relationship, to the outcome and to the credibility of the process. If people feel like they are just participating in a game and not in a genuine dialogue or genuine process, they are not going to really have much faith in it or that it will hold.

-Maria Jessop

A Strategy Based on Norms

Well-prepared negotiators typically spend significant time and effort determining which norms apply—or can be made to apply—to their case, and how those norms should be interpreted.

Determining applicable norms. In developing your strategy, it's helpful to study the negotiating history of your counterpart. As Shell states:

You maximize your normative leverage when the standards, norms, and themes you assert are ones the other party views as legitimate and relevant to the resolution of your differences. ... By positioning your needs within the normative framework the other party uses to make decisions, you show him respect and, as a result, gain his attention and sympathy.¹¹

Shell adds that it's particularly effective to base your persuasion on norms that the other party "has used to his or her own advantage in the past."¹²

Often, disputes revolve around competing norms. In these cases, determining which norms are applicable, and which take precedence, is the most important part of the negotiation. For example, in cases where a minority population seeks secession from a larger state, the standard of self-determination clashes with the standard of territorial integrity—a common source of conflict in the world today. Such is the case in Nagorno-Karabakh, where a largely Armenian population, which argues for its right to self-determination, seeks independence from the larger state of Azerbaijan, which argues for its right to territorial integrity. Often, as Spector and Zartman point out, "preagreement negotiations deal primarily with inventing a package of principles and norms that is accepted as fair and just by the parties."¹³

Interpreting norms. Determining which norms apply is only part of the challenge. Interpreting norms is just as important. As Shell notes, "If the accepted standards lend themselves to a variety of interpretations (and most do), the other party will come prepared to argue the interpretation that most favors him or her."¹⁴ As a negotiator, you must anticipate your counterpart's interpretation in order to develop an effective response.

¹¹ Shell, G. Richard. *Bargaining for Advantage: Negotiation Strategies for Reasonable People* (New York: Penguin Books, 2000), 43-45.

¹² Shell, G. Richard. *Bargaining for Advantage: Negotiation Strategies for Reasonable People* (New York: Penguin Books, 2000), 42.

¹³ Spector, Bertram I. and I. William Zartman, *Getting it Done: Postagreement Negotiation and International Regimes* (Washington, DC: United States Institute of Peace Press, 2003), 59.

¹⁴ Shell, G. Richard. *Bargaining for Advantage: Negotiation Strategies for Reasonable People* (New York: Penguin Books, 2000), 42.

Perspectives

What would be a problem is if we have different standards that we both agreed on: basic human rights should be taken into consideration. We may have very different views on what's involved in basic human rights. In any situation where I think there might be basic differences, I would want to be very, very clear and precise about what I'm speaking about and what I expect from the other side.

-Ted Feifer

The Belarusians in OSCE had signed up to all sorts of normative principles, which the people who signed up to them had no intention of actually living up to. At least, that is my opinion; I don't think anyone I know would disagree. But when they were held to those principles, they found that they valued their good names sufficiently that then, when we were bargaining about the nature of the OSCE involvement in trying to make Belarus less unfriendly to democratic movements as they were advancing, they found that they had to bargain, they had to negotiate, on the basis of these principles. So, I wouldn't understate the value of having some kind of normative framework to which you can appeal and the widest array of countries or other negotiating partners will tend to agree to those kinds of principles, thinking that they don't really mean something and then find out they actually do.

-Mike Lekson

Interests, Needs, and Norms

For a number of reasons, normative leverage is often highly effective in negotiation.

Movement beyond positions. Ury notes that a discussion of norms can be used to steer your exchange beyond positions and toward more fundamental conceptions of equity and justice. Instead of simply rejecting the other party's argument, "you can use it as a jumping-off point for a discussion of standards of fairness." And if you propose a standard that your counterpart rejects, you can "challenge them to come up with a better one." Ury adds that by shifting to a discussion of standards you achieve one objective of "shifting the focus from positions to fair outcomes."¹⁵

Relating interests and needs to normative standards. Many of the most compelling normative standards are precisely those that relate to human needs.

Avoiding loss of face. If both sides focus on shared standards, the negotiation is less likely to become a competitive contest of wills and more likely to evolve toward a genuine problem-solving effort. In the end, basing an agreement on shared norms helps both sides accept something different from what they were originally hoping for without losing face. Both are able to claim rightly that they did not "cave" to the other, but simply compromised to legitimate principle.

Movement beyond self-interest. Normative leverage allows you to press your case in terms that go beyond just your own self-interest. As Shell notes, "If you set up your own needs, standards,

¹⁵ Ury, William. *Getting Past No: Negotiating Your Way from Confrontation to Cooperation* (New York: Bantam Books, 1993), 85, 87.

and entitlement as the only rational approaches to a negotiation, you will not inspire agreement. Instead, you will have a fight on your hands.” By contrast, “Finding the standards that apply in a negotiation and doing your homework on how to make your best case using these standards gives you a ‘speaking role’ in the negotiation process. You have something to talk about beyond your self-serving assessment of what you want.”¹⁶

Appeal to moral standards. Lewicki, Saunders, and Minton follow up on this point, noting that “it is easy to assume that people are driven by simple and direct self-interest. There is plenty of evidence, however, to indicate that people are motivated to behave consistently with their values, that is, their religious, social, or ethical standards.”¹⁷

Appeal to enlightened self-interest. Moreover, with an argument based on standards, you can appeal to your counterpart’s sense of enlightened self-interest. For example, if you can base your arguments on the normative standards of equal treatment, rule of law, and democracy, you might be able to show how in other contexts, your counterpart will benefit from application of these same standards.

Use in coalitions and global institutions. Normative leverage is particularly powerful when combined with coalition building. Coalition partners are more likely to support a negotiator whose case is based on widely accepted normative standards. Global institutions, which often help negotiators frame their disputes, are founded on widely accepted standards. Hopmann states “International regimes and organizations create a set of norms within which negotiations take place that facilitate an atmosphere of cooperation. ... So, for example, negotiations between the United States and Japan on trade issues within the World Trade Organizations (WTO) are conditioned by the history, set of prior agreements, and institutional structures already provided by the WTO system.”¹⁸

¹⁶ Shell, G. Richard. *Bargaining for Advantage: Negotiation Strategies for Reasonable People* (New York: Penguin Books, 2000), 42-43.

¹⁷ Lewicki, Roy J., David M. Saunders, and John W. Minton, *Essentials of Negotiation*, 2nd ed., (New York: McGraw-Hill/Irwin, 2001), 143.

¹⁸ Hopmann, P. Terrence. “Bargaining and Problem Solving: Two Perspectives on International Negotiation,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 459-460.

Perspectives

Another approach is to actually change your relative strength vis-à-vis the negotiating partner you have. One way to do that is to form a coalition with others who might have a similar interest as you have and in what you are trying to do; bring more parties into the negotiating process; or if it's a multi-party process to begin with, identify those parties with whom you wish to be allied in this negotiating and bargaining session and see how you can use that to build up collective strength, which is stronger than what you had to start with. Sometimes negotiating partners, they always bring their own agendas, they always bring their own issues; there's almost never a case when their interests are totally compatible with yours—but you have to find the ones that overlap to a maximum degree and with which you can deal and then see whether you can form some kind of a process where greater bargaining leverage can help you out.

-Mike Lekson

Probably the most interesting leverage is moral leverage. This is the kind that negotiators often feel they have no power except they have the side of “right”—they have the moral backing of the international community, the mythical international community. So moral leverage is [what] I think comes up most often. I think it's easy to put moral leverage aside as an issue that it's not really true leverage because it's not tangible or something you can see or feel. But in fact, I think that we do see the impact of moral leverage. It may not be visible to the naked eye but its effects can be visible. So, I think moral leverage is not something to shun or to feel that it's not as much leverage as an army and that if all you have is moral leverage then you have no business negotiating. I think there may be a tendency by some parties to feel that if moral leverage is all they have, then they better sell it for an army because an army is real leverage. I think that would be a great mistake. I think we're seeing in the international community that a great deal of social and political space can be opened up in negotiations when one or both of the sides has a moral leverage that can be brought to bear.

-Linda Bishai

Mini-Quiz

You have completed all the material for this section. Now try this mini-quiz.

Which of the following describes an important consideration for negotiators who are contemplating use of “carrots and sticks”?

- a. Threatening military force is a low-risk strategy that shows your counterpart how seriously you take the issues.
- b. In the wrong context, threats may simply stiffen resistance and prove damaging to long-term counterpart relationships.
- c. Positive incentives always send a signal that you see yourself in a weaker position and must “bribe” your way to a positive outcome.
- d. All of the above.

For answers, see Appendix A.

2.4: Process

Steps in Negotiation

In this last section of our study of fundamentals, we will focus on process. Negotiation is often complex and time-consuming; breaking the process down into component parts helps to clarify the whole.

Shell offers a good general purpose model. Negotiators, in his conception, move through a series of steps: 1) *Preparation*, 2) *Exchanging Information*, 3) *Opening and Concession Making*, and 4) *Closing and Commitment*.¹ The arrows in the diagram that connect *Exchanging Information* and *Opening and Concession Making* show that negotiation is a recursive process; these steps are often repeated several times before negotiators get to *Closing and Commitment*.

It’s also important to note that this model, like all models, simplifies the process to some extent for clarity. Shell states, “In complex bargaining encounters, people vary the sequence and pacing of the steps.” He also notes that “some aspects of a deal may move faster than others—commitments may come on issues ‘A’ and ‘B’ while information exchange and concession making continue on issue ‘C’.”²

With this diagram, Shell provides a helpful model that applies to negotiation in all its various contexts—personal, business, legal, and so forth—including international negotiations over trade, access to resources, and various other issues, which if not handled well could lead nations or groups within nations to more serious confrontation. With some additions, this model can

¹ Shell, G. Richard. *Bargaining for Advantage: Negotiation Strategies for Reasonable People* (New York: Penguin Books, 2000), 119.

² Shell, G. Richard. *Bargaining for Advantage: Negotiation Strategies for Reasonable People* (New York: Penguin Books, 2000), 119.

become even more useful for illustrating negotiation in the context of conflict management and peacebuilding.

Perspectives

Time is a very valuable and important commodity in negotiation. How much time do you actually have to achieve your goal? No negotiation is really open-ended—you don't have forever to do it. Negotiations may continue because people haven't reached an agreement, but whenever you are involved in a negotiation, you're usually involved in a certain stage. You have a certain amount of time to achieve a certain objective; meetings last for a certain time; process lasts for a certain time. You may have a window of opportunity, which lasts for a certain time. And you should always be thinking about time. How can you use it most effectively? Because at a certain point it runs out.

-Ted Feifer

People would sometimes lament the fact that the negotiations to end the Vietnam War basically deadlocked at the beginning over the procedural question of what was the shape of the negotiating table. Everybody involved in that process understood that what was being debated there had real substantive impact on the outcome of negotiation: What was the status of the government of South Vietnam? What was the status of the National Liberation Front, which was representing the Vietcong? And it was not simply a procedural issue. This is one where no one could accommodate, just to be nice, and say we don't care. All the parties to that process recognized that they needed to maintain positions of principle on this until it was worked out.

-Mike Lekson

Levels of Leadership

To build on Shell's model in this way, it is necessary first to distinguish between different levels of leadership in a political context.

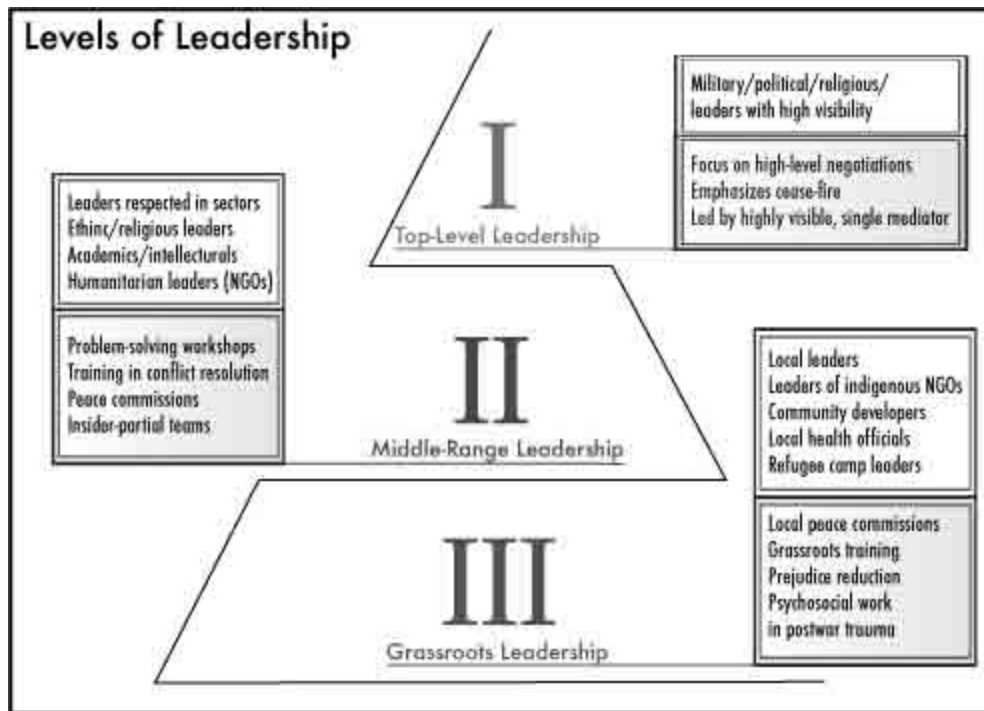


Diagram: John Paul Lederach's Levels of Leadership Model ³

Track I: Top-Level Leadership

Track I comprises the very top level of political and military leaders and their designates. As Lederach notes, Track I leaders are typically drawn from “the highest representative leaders of the government,” or alternatively, as Armstrong adds, they might be “senior government officials with direct access to the head of government.” ^{4/5} Their representatives might be officials acting on behalf of a government or inter-governmental body, typically seasoned negotiators with years of experience in a specific subject matter. Track I leaders might also be top-level leaders in opposition movements, along with their own representatives. In peacemaking, Track I leaders representing various constituencies concentrate their efforts at the highest levels of negotiation: cease-fires, comprehensive peace talks, and final settlements.

Track II: Middle-Range Leadership

Track II leaders are those who are not officially connected with governments or organized opposition, but who hold positions of very high respect within their societies. There are several ways to define Track II leadership, as Lederach explains:

One approach is to focus on persons who are highly respected as individuals and/or occupy formal positions of leadership in sectors such as education, business, agriculture, or health. A second approach is to consider the primary networks of groups and institutions that may exist within a setting, such as those linking (formally or otherwise) religious groups, academic institutions, or

³ Lederach, John. *Peacebuilding: A Field Guide*. (Colorado: Lynne Rienner Publishers, 2001), 146.

⁴ Lederach, John Paul. *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, DC: United States Institute of Peace Press, 1997), 38.

⁵ Armstrong, Tony. *Breaking the Ice: Rapprochement Between East and West Germany, the United States and China, and Israel and Egypt* (Washington, DC: United States Institute of Peace Press, 1993), 28.

humanitarian organizations. ... A third approach is to concentrate on the identity groups in conflict, and to locate middle-range leaders among people who are well-known as belonging to a minority ethnic group, or who are from a particular geographic region.⁶

Track II leaders focus on creating a shared vision of a peaceful future, building relationships, and long-term communal ties among opposing parties, and undertaking the difficult work of reconciliation. To do this work, they might form highly structured peace commissions or more informal problem-solving groups, depending on the particular circumstances. Diana Chigas notes that “in times of increasing tensions, these fora [Track II dialogues] may be a significant channel for parties to clarify misperceptions and correct miscommunication that could lead to further escalation.”⁷

Track III: Grassroots Leadership

Track III leaders often come from professions similar to those in Track II, except at a local rather than national level. Track III leaders typically include local professionals, community activists, local clergy, organizers of grassroots NGOs, etc. They often focus on the same type of work as their counterparts in Track II, with particular focus on the difficult work of reducing prejudice, stopping cycles of retribution, attending to the immediate humanitarian needs of refugees and internally displaced persons, and helping build a broad-based reconciliation process.

News media typically focus on negotiation at the Track I level, often to the neglect of Tracks II and III. However, as we shall see, Track II and III leaders can play a very important role in any peace process, in part because their work tends to draw less scrutiny.

⁶ Lederach, John Paul. *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, DC: United States Institute of Peace Press, 1997), 41.

⁷ Chigas, Diana. “Negotiating Intractable Conflicts: The Contributions of Unofficial Intermediaries,” in *Grasping the Nettle: Analyzing Cases of Intractable Conflict*, ed. Crocker, Chester, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2005), 142.

Perspectives

I like to show this Track 1, 2, and 3 pyramid from John Paul Lederach because I often will put it up on the screen or I'll have a handout with it. And I will show it to my participants and ask them which part of the pyramid they think they're in. Typically the way the pyramid goes is that the apex, the point, is Track 1 and the reason it's at the top is because it represents the highest political leaders with great political authority and power, the state leader, the president, the ministers, people really doing these international U.N.-led negotiations. Track 2 in the middle of the pyramid, a slightly larger number of people, tend to be the educated elites, university professors, leaders of organizations, researchers, wealthy businessmen, people who can mobilize society and have influence with the Track 1 leaders but are not representative of the grassroots or the bulk of the community. They are somehow privileged, a little bit above the average citizen. And then Track 3 are the bottom, the broad base of the pyramid. That is your grassroots community level population. That is the bulk of the community and sometimes my participants say, oh, we're in grassroots, we're at the bottom, we're just average citizens. But I usually tell them that in fact they're Track 2 because they're being trained and they've been identified as participants who are likely to actually go out and provide that very necessary link between the grassroots and the bulk of the population and the top-tier political leadership. So Track 2 really is the social node of transformation, of political and social transformation. It is very important to work at the Track 2 level.

-Linda Bishai

Track I diplomacy refers to government-level official diplomacy between state actors and representatives. In our own country they are represented by the State Department in the U.S. Second track diplomacy is a term coined by Joe Montville, an American diplomat, and it really refers to unofficial diplomacy, unofficial actors. It involves people in the professional conflict resolution field, academics; it could involve clerics or anybody who is really trying to sort of impact the conflict in a positive way and others in terms of making peace and in terms of trying to advance or create the conditions for negotiation. The term multi-track diplomacy came a little bit after that. There was the idea that it was useful to sort of distinguish the unofficial actors. For instance, educators can be a track by providing workshops in conflict resolution for the people who are involved in the conflict. There can be people who are focused on the traumatic effects of the conflict and are working to provide psychosocial help; healers that are helping people and the dynamics of the conflict in that way. So the concept is still evolving and it's a very rich side of peacebuilding in negotiation. The general public generally sees the official diplomacy that's going on between the state actors and they know very little about all the work that second track and other track actors are doing, and it's incredibly important work.

-Maria Jessop

At this point I think we come to the issue of culture. Our basic human needs, other than physical needs, are the universal. Can we even know that? I don't believe that we can even know. Generally speaking, there appear to be certain needs that are held in common by most people: the need for belonging, the need for community, the need for identity, the need to practice one's faith, the need to speak one's [own] language. Those kinds of needs are the needs we see people going to war over, certainly. But in general, if we take a look at this from the perspective of culture, then I think we can agree that there is a universal need for meaning.

However people in any given society or culture fulfill that need for meaning, that's where we find the variation. So we might say simply that there is the universal need for meaning.

Modeling Negotiation with Tracks I, II, and III

With these tracks in mind, Harold Saunders offers a model of negotiation more specifically focused on conflict management and peacebuilding than Shell's.

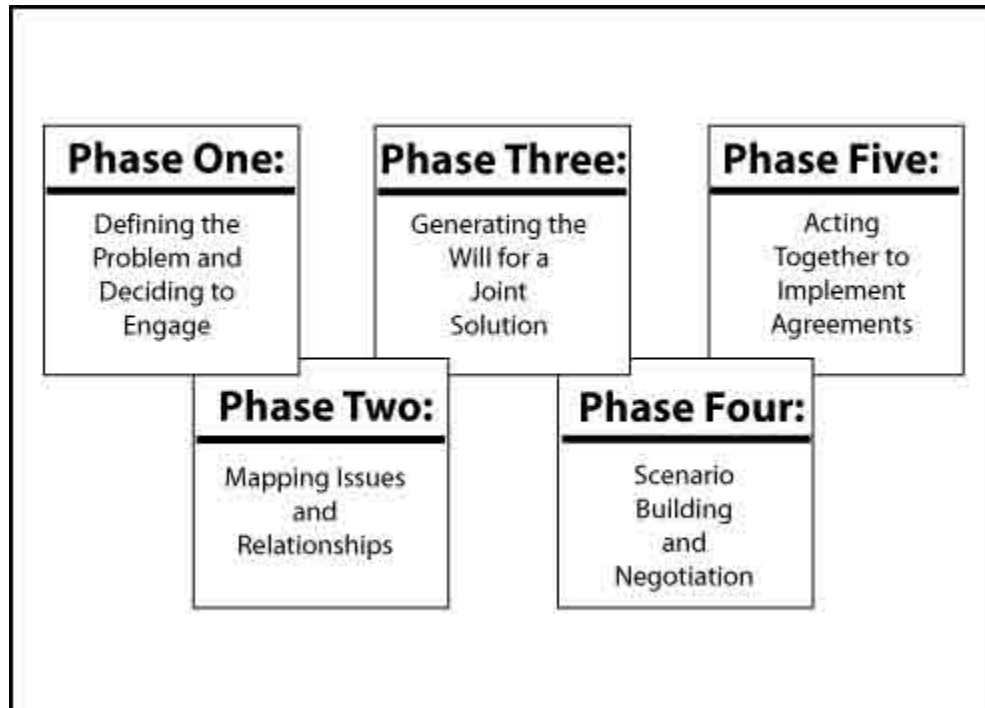


Diagram: Adaptation from Harold Saunders' Model⁸

In Saunders' model, negotiation goes through a slightly different set of steps: 1) *Defining the Problem and Deciding to Engage*, 2) *Mapping Issues and Relationships*, 3) *Generating the Will for a Joint Solution*, 4) *Scenario Building and Negotiation*, and 5) *Acting Together to Implement Agreements*.⁹

The importance of process. Why so much focus on process? Not all negotiations will follow a series of steps as complex as those described by Saunders, but for maximum illustration, we have chosen to illustrate a highly detailed process in order to show users of this course the wide variety of roles that actors at different levels can play.

And while process is important to negotiation in any context, negotiations to end violence and bring peace tend to be highly complex undertakings with substantial potential for deadlock, raw emotional outburst, and adverse unintended consequences. This difficult activity has much

⁸ Saunders, Harold. "Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process," in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester A. Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 490-495.

⁹ Saunders, Harold. "Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process," in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 490-494.

greater chance of success if it is conducted with some kind of structured process in mind. As Crocker, Hampson, and Aall state, “Much depends on whether or not there is an available mechanism for negotiating, reaching, and sealing a deal.”¹⁰ Druckman adds that the process can be used to “provide a recognized pattern of expectations and behavior” and also to chart progress.¹¹ Finally, decisions over process can significantly influence substantive outcomes.

“Peace Process.” The term “peace process” is sometimes used to suggest the complexity of this undertaking. John Darby uses the term to indicate “that the cycle of activities necessary to produce a just and lasting agreement stretches both backward and forward from the actual period of negotiations, and that the steps involved are not linear but often occur simultaneously and at different speeds.” He notes that peacemaking tends to be a “protracted business” and that “negotiators must be committed to a sustained process.”¹² It is easiest to understand the interlinking activities of Track I, II, and III leaders within the context of a peace process.

Related Resources from USIP: “Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process” in [*Turbulent Peace*](#)

By Harold Saunders

Edited by Chester A. Crocker, Fen Osler Hampson, and Pamela Aall

Like its predecessor, *Managing Global Chaos*, this comprehensive volume explores the sources of contemporary conflict and the vast array of possible responses to it. The authors—50 of the most influential and innovative analysts of international affairs—present multiple perspectives on how best to prevent, manage, or resolve conflicts around the world.

Phase One: Defining the Problem and Deciding to Engage

The first phase of Saunders’ process is used to clarify the problem and determine how much chance the negotiation has of success.

Saunders describes it this way:

Phase one is a time when those involved in a conflict—citizens both in and out of government—decide whether they can allow a situation to continue as it is or whether to reach out to the other side. ... Policymakers recognize that they cannot get what they want by unilateral action and decide to explore whether negotiation—an effort with the other side to find a joint solution—may be possible.¹³

¹⁰ Crocker, Chester, Fen Osler Hampson, and Pamela Aall, ed., *Taming Intractable Conflicts: Mediation in the Hardest Cases*, (Washington, DC: United States Institute of Peace Press, 2004), 105.

¹¹ Druckman, Daniel. “Negotiating in the International Context,” in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 121.

¹² Darby, John. *The Effects of Violence on Peace Processes*, (Washington, DC: United States Institute of Peace Press, 2001), 11.

¹³ Saunders, Harold. “Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 490.

These deliberations often come when both sides are experiencing what Zartman calls a “mutually hurting stalemate,” a condition that arises when military solutions for both sides are seen as unachievable, and both sides are losing people and resources. When the parties realize that they “can’t go on like this,” the conflict comes to a “ripe moment” and negotiation begins to look like an attractive alternative.¹⁴

Other relevant factors, which may add to the sense of stalemate or precipitate interest in pressing for a negotiated outcome on their own, include:

- A change in facts on the ground, prompting recalculation of interests
- A change in leadership, for either side or both
- The proposal of a promising formula, or at least process, that might lead to settlement
- Perceptions that catastrophe may be imminent

Track I. Track I negotiations typically won’t actually begin unless leaders are convinced of their necessity. As Crocker, Hampson, and Aall note “stalemates, even bloody ones, can be all too comfortable for those in power.” For parties to consider talks in earnest, “the hurt and the stalemate must be mutual—affecting both sides—and must be felt by top elites.”¹⁵

Ironically, however, Track I leaders often have the most difficulty making opening moves. As Lederach points out, Track I leaders typically find themselves “under tremendous pressure” to maintain the appearance of strength, and are therefore “locked into positions.”¹⁶ Saunders adds that “the symbolism of talking with an enemy” can by itself make direct negotiations difficult for Track I leaders to initiate or agree to.¹⁷

Tracks II and III. For these reasons, effective peacemaking, and reconciliation must not be the sole province of Track I leadership. Track II and III leaders sometimes take an early lead. Along with Crocker, Hampson, and Aall, Saunders cites the peace process in Tajikistan in the mid-1990s as an example where leaders in Tracks II and III held a series of unofficial dialogues—in this case for over a year—before official Track I negotiations gained the momentum to begin. In a number of ways, the unofficial dialogues were central to the Track I effort. The dialogue group wrote the influential “Memorandum on a Negotiating Process for Tajikistan,” two dialogue participants were signatories to the official platform put forward by the opposition, and three eventually became delegates in the formal process.^{18/19}

¹⁴ Zartman, I. William, *Ripe for Resolution: Conflict and Intervention in Africa* (New York: Oxford University Press, 1985), 268.

¹⁵ Crocker, Chester, Fen Osler Hampson, and Pamela Aall, ed., *Taming Intractable Conflicts: Mediation in the Hardest Cases*, (Washington, DC: United States Institute of Peace Press, 2004), 103.

¹⁶ Lederach, John Paul. *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, DC: United States Institute of Peace Press, 1997), 40.

¹⁷ Saunders, Harold. “Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 490.

¹⁸ Saunders, Harold. “Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 487.

Related Resources from USIP: [*Breaking the Ice: Rapprochement Between East and West Germany, the United States and China, and Israel and Egypt*](#)

By Tony Armstrong

Taking an in-depth look at cases of the two Germanys, the United States and China, and Israel and Egypt, Armstrong examines why initiatives by Brandt, Nixon/Carter and Mao, and Sadat and Begin succeeded where previous attempts at rapprochement had failed.

The book looks first at the available theory and then at rapprochement in practice. Were there, the author asks, similarities between the three cases in terms of the prevailing international circumstances, the strategies and tactics adopted in the pursuit of improved relations, and the formal negotiations that ushered in the new relationships? Armstrong concludes that some underlying principles did indeed govern the shift from mutual antagonism to mutual acceptance—principles that may apply equally in today's post-Cold War world.

Phase Two: Mapping Issues and Relationships

If the parties decide that it is worthwhile to move forward, the next phase consists of mapping issues and relationships.

As in the first phase, Tracks II and III can play an important role, in some cases even moving ahead of Track I. Saunders explains:

In this phase, both officials and citizens design an exploration of possibilities on the other side, but each group moves differently. Officials must be able to stop at any time. They need to estimate the chances of success in order to build political support for a commitment to negotiate, but they may have to do this without serious discussion with the other side. Citizens, on the other hand, begin face-to-face dialogue to develop a firsthand picture of how issues and priorities are defined and begin to judge the possibilities of working together.²⁰

Track I. At this point, Track I leaders have often not yet decided whether to commit themselves to a negotiated settlement. Like those in Tracks II and III, Track I leaders attempt to clarify issues and relationships; however, as Saunders notes, “while citizens outside government can make this determination in dialogue with the adversary,” Track I leaders are sometimes constrained by the responsibilities of high office. They conduct their analysis in an environment where “the mere act of shaking hands or meeting casually with an adversary carries symbolic significance,” and for this reason they may be forced to work “from their perceptions (or

¹⁹ Crocker, Chester A., Fen Osler Hampson, and Pamela Aall, ed., *Herding Cats: Multi-Party Mediation in a Complex World* (Washington, DC: United States Institute of Peace Press, 1999), 674.

²⁰ Saunders, Harold. “Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 491 (bolded in original).

misperceptions) of the other side's positions and motives.”²¹ Formal diplomacy, conducted by ambassadors whose job it is to conduct dialogue with actual or potential adversaries, have been charged with bridging these gaps throughout history. But there are often limits to what official diplomacy can do on its own.

Tracks II and III. Usually, at this stage leaders at the Track II and III levels don't face the same kind of constraints and can work together to identify and prioritize areas of concern. Saunders describes a process where “participants ‘map,’ or draw a mental picture of, the main problems that affect their relationships.” In a series of meetings, the two sides are typically encouraged to listen actively to one another, acknowledge loss and pain on all sides, and gradually learn “to see those in their dialogue as human beings.”²² Spector and Zartman note that it's often easier in this prenegotiation environment for the parties to find “mutually acceptable approaches to solving problems or disputes,”²³

Timothy Sisk cites Northern Ireland as an example of effective prenegotiation, noting that “the ultimate outcome of the shaky peace process—a power sharing assembly in Northern Ireland, along with North-South (Northern Ireland and Ireland) and East-West (Ireland and Britain) institutions—has remained the same since the early stages of prenegotiation in 1993.”²⁴

²¹ Saunders, Harold. “Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 491-492.

²² Saunders, Harold. “Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 491.

²³ Spector, Bertram I. and I. William Zartman, *Getting it Done: Postagreement Negotiation and International Regimes* (Washington, DC: United States Institute of Peace Press, 2003), 58.

²⁴ Sisk, Timothy. “Democratization and Peacebuilding: Perils and Promises,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 795.

Perspectives

Preparation is the single most important step in the negotiating process. You need to very thoroughly think through what the underlying interests are that you have. And then you need to work out with whoever is a stakeholder in the process, a position that you're going to go forward with. This takes a lot of time if it's done right, and a negotiator needs to be as engaged as possible to understand where individual elements of his or her position are coming from, who it is that really cares about that back home, and how strongly they feel about it. And also to develop a kind of personal relationship of trust with the people back home whom you're going to be representing—so that they have confidence in you when if you come back and say I want to change this element, or, I want to try this, or, the other side suggested this and I actually think there's a promise of going that direction—that they will have confidence that what you're giving them is good advice and that what you're doing is thinking about their interests that you're out there to protect and represent.

-Mike Lekson

When I enter into a negotiation, I know why I'm there. I know what I seek to achieve. I usually assume I'm going to have to deal with this person or the other side at some point in the future. So, I am fairly clear about what I'm doing in that room. I would only be cautious if I didn't know why I was there. If I didn't understand my objectives, I didn't know what my interests were, that would make me cautious.

-Ted Feifer

Phase Three: Generating the Will for a Joint Solution

With issues and potential relationships mapped out, negotiators begin examining what is required to generate the political support, or “will,” for a joint solution. Each track approaches the task differently.

Track I. At this stage, Track I leaders may be moving forward with preparations, even if they have still not fully committed themselves to negotiate. Some of their focus will probably be on logistical questions, such as where and when negotiations might take place. They might also begin to work through the types of substantive and procedural considerations that we have studied so far in this course:

- **Approach:** What issues have been identified, and what are the stated positions for each side? What are the interests underlying those positions, and where might there be opportunities for joint gain?
- **People:** Will all relevant stakeholders be represented at the table? Which specific individuals will be involved in the negotiations? What is known about them? What potential coalitions might be formed?
- **Leverage:** What norms and standards will the various parties find compelling, and how can a case be framed to conform to those norms?

At this point, Track I leaders sometimes insist on “preconditions,” which often amount to concessions that the other side must make before negotiations can proceed. Preconditions will usually slow a negotiating process, if not arrest it completely, and they are often used

deliberately for this purpose. But on matters of essential principle or vital interest, one side may consider them necessary.

One side may also have no real interest in reaching agreement on terms acceptable to the other side, and may only be interested in negotiation only as a means to provide diplomatic cover while it continues actions that the other side wishes to limit. In this case, the other side may seek a suspension of those actions as a precondition to negotiation. Or, on the other hand, one side may seek to gain a concession through preconditions without the bargaining interest in actual negotiations.

Negotiating teams may also begin to consider packaging and timing. How can various trade-offs be bundled? Which issues should be considered first and which should be saved for last? Zartman describes three principles that guide this process: “simplification,” or “reducing the number of elements to the most important”; structuring, or “giving these elements some priority and relation to one another”; and giving direction, or “moving these components toward an intended policy goal.”²⁵

For Track I, the end-point of all this deliberation is a decision to go forward. As Saunders explains, “A crucial purpose has been to accumulate evidence that the risk of negotiation is justified—that negotiation can succeed, that the outcome could improve the situation, and that failure would be manageable.”²⁶

Tracks II and III. By this point, Track II and III leaders may have already begun working together to get to interests, key relationships, and solutions. As Saunders notes, for Tracks II and III:

The main purpose in this stage is to generate the will to change conflictual relationships in order to deal with the problems that face the group. The tasks are (1) to shift discourse from explanation of positions to real dialogue in which participants begin interacting constructively; (2) to probe the problems that participants have agreed need most work and to use that analysis as a vehicle for illuminating the dynamics of key relationships; and (3) to create conditions in which participants can muster the will to design ways of changing destructive relationships that block change by asking them to assess where present relationships are leading.²⁷

²⁵ Spector, Bertram I. and I. William Zartman, *Getting it Done: Postagreement Negotiation and International Regimes* (Washington, DC: United States Institute of Peace Press, 2003), 34.

²⁶ Saunders, Harold. “Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 493.

²⁷ Saunders, Harold. “Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 492-493.

In Spector and Zartman's words, the parties now begin the "difficult tasks of identifying the necessary trade-offs, finding common ground, and achieving consensus."²⁸

Perspectives

Early in the process, or before you get to a stage where you have the actors in a formal negotiation, there's a lot of groundwork that needs to be laid as we talked about before. There are sometimes a lot of things that are keeping people from negotiating or wanting to negotiate. It can be pressures from the groups that they represent to not negotiate or not make peace. There can be just historical grievances, the degree of polarization that exists, degree of distrust. There are just lots of obstacles that can keep people from showing up at the table, so to speak. So what multi-track diplomacy actors, or unofficial actors, can do is really prepare the ground for negotiation. For instance, they can, first of all, build capacity for negotiating if the group lacks, isn't sure how to go into this, are intimidated by the process or are not sure what their interests are. They might benefit from some training and that might make them more likely to participate. There can also be, what we call play a role in building a constituency for peace. In the Israeli-Palestinian conflict there are numerous groups on both sides of the conflict that are engaged in peace activities and they've been doing it for decades now. They engage in dialogue groups, long-term dialogue groups, that bring together members of each side to talk about the conflict, talk about how it affects them, what they can do together to make a difference to show that cooperation and peace are actually possible. There are efforts to reform curricula that is taught in the schools so that it acknowledges different historical narratives around the conflict. That could be another way of preparing the ground for peace. There can be nonviolent protests that people engage in to draw attention. I'm talking about constructive ways to sort of set the stage for peace. Now, unfortunately, the example of Israel-Palestine, is a difficult one because this is considered an intractable conflict and one that people are having difficulty seeing an end in sight, at least at this time. What people need to understand is that these conflicts didn't happen overnight. They took a long time to manifest into the state that they're in and it takes a long time and a concerted and prolonged effort on behalf of many different people and actors and groups to really move peace along. It's not just up to the state governments; it's up to everyone.

-Maria Jessop

Everybody knows about the great peacemakers and some people may have told stories about the very poor illiterate people who made an impact, but very often we don't tell the stories of the community leaders who actually did the hard work over the long term of changing their societies. These are people who end up making the peace a success. If it's going to be a success it's going to be this middle tier who have either taken the transformation or rejected it—they are the ones who will really hold the social power. It's possible that tier one negotiators can sign a piece of paper and call it a peace but unless your middle level intellectuals really change what they are doing and really feed that down in their social engagements, then your society isn't really going to transform. You can say that this is what's happening in Sudan right now, these are the people we're working with, that we're targeting

²⁸ Spector, Bertram I. and I. William Zartman, *Getting it Done: Postagreement Negotiation and International Regimes* (Washington, DC: United States Institute of Peace Press, 2003), 55.

track II in Sudan in order to do this, in order to make the comprehensive peace agreement take hold as a firm social peace, as a condition of peace in daily life. And what we're working with is trying to get the academics and civil society leaders to cooperate together so that universities and students are seen as social resources. Traditionally in Sudan, universities had been seen as ivory towers where only the very elite had been able to get in and then they would feed right in, up to foreign ministry or a very important political position if they graduated. Now, we're trying to cultivate a concept of the university as an institution that reaches down not just up, so that the students who go have a sense of civic responsibility, civic engagement and understand that their education is for their society and not just for their own personal benefit. When you've reached that kind of social change, then I think you've made a big difference. But those aren't the stories you hear in newspaper.

-Linda Bishai

Phase Four: Scenario Building and Negotiation

In this phase, Track I leaders will begin official negotiations with the goal of gaining formal commitments and signing a written agreement, while Track II and III leaders will concentrate on changing destructive relationships.

Track I. Although developing relationships will be important in Track I, the parties will focus on the formal process of writing a specific agreement. Even at this stage, Track I leaders should be looking ahead to implementation, especially concerned that whatever emerges be politically palatable and practically enforceable. This process tends to be difficult and time-consuming, typically involving a number of steps. As Druckman notes, negotiators will find themselves absorbed in “resolving impasses, signing framework agreements, developing formulas and bargaining over details.”²⁹

Deadlines. The question of timing and deadlines often comes up during this phase. Deadlines might be required by external circumstances, or they might be imposed deliberately by the negotiators themselves or the stakeholders they represent. In some cases, artificial deadlines can be less effective, and as Cohen points out, can even be counterproductive. According to one analyst, in the U.S./Chinese normalization talks (discussed further below), “China successfully concealed its own sense of urgency while the U.S. acted as though it faced an immutable deadline.”³⁰

Tracks II and III. Track II and III leaders can focus on the complementary work of changing relationships. Saunders characterizes four elements of this process:

- List obstacles to changing relationships in the ways needed; the obstacles may be physical or psychological.
- Develop a parallel list of steps that could help erode or remove those obstacles. Some of these may be official steps; most will be steps to be taken by citizens' groups.

²⁹ Druckman, Daniel. “Negotiating in the International Context,” in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 122.

³⁰ Cohen, Raymond. *Negotiating Across Cultures: International Communication in an Interdependent World*, rev. ed. (Washington, DC: United States Institute of Peace Press, 1997), 176.

- List those groups that can take the steps envisioned.
- To change a relationship, the steps must be arranged in a realistic, interactive sequence—a pattern of action, response, and further response.

Saunders adds, “The critical part of the scenario is not the action list, but the idea of reinforcing interactions. It is important because relationships change in the course of those interactions.”³¹

Track I leaders may use Track II and III negotiations to develop options, float trial balloons (offering a proposition in order to gauge the other side’s response), etc. Also, leaders in Tracks II and III may take part in official Track I efforts, particularly in working groups focusing on specific subject areas or regions. As in previous phases, work at the Track II and III levels can often be important to the success of the Track I effort. Saunders notes, “There is a sharp difference between working out formal solutions to concrete problems and changing the human relationships that create many of those problems. Governments must tackle the formal solutions, but they cannot decree changes in human relationships. That is the task of citizens.”³²

Phase Five: Acting Together to Implement Agreements

In this final phase, leaders in all three tracks take the necessary steps to implement hard-won agreements.

Track I. Track I negotiators should focus on gaining formal commitment and ensuring that implementation, monitoring, and enforcement steps will be carried out as envisioned. As Saunders notes, “Governments will carefully watch each other to ensure that agreements reached have been scrupulously carried out. The process of implementation may last a number of years.”³³

Tracks II and III. By contrast, Track II and III negotiators will focus on ways of implementing changes within society at large, asking how particular organizations and institutions can take specific, practical steps to encourage and reinforce changing relationships.

As in the fourth phase, Track I negotiators and implementers will often gain significantly from the work done in Tracks II and III. Saunders again notes that steps agreed upon in Track I “will be limited to changing juridical and physical arrangements; governments can also take steps to change perceptions in each body politic, but changing human relationships will still be primarily citizens’ business.”³⁴

³¹ Saunders, Harold. “Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 494.

³² Saunders, Harold. “Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 494.

³³ Saunders, Harold. “Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 494.

³⁴ Saunders, Harold. “Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 495.

“As opposed to ‘getting to yes,’” Spector and Zartman conclude, “postagreement negotiation focuses on ‘getting it done.’”³⁵

Perspectives

I think it's really important to remember that just because you can get trust between the negotiators in a room enough to sign their names to a document doesn't mean you are going to get trust out in the society where you're trying to make it real, in a real sense in the community. So you have to remember that just after you've done all the work of building trust and building relationship between your negotiators, you're going to have to go outside and build that trust in the community where the people weren't in the room. And they may well be ready for peace because they're tired of war but that doesn't mean that they're ready to trust each other. The difference between being tired of war and being ready to trust is still pretty substantial and I think it's important when you're talking about implementation to remember that trust building and peacebuilding, confidence building measures, are a very important part of it.

-Linda Bishai

If you're talking about peace agreements that are not negotiated on the international level, it's sad to say that most of them don't last. That's what the statistics tell us, and I think we're still trying to figure out how to make them last and make them more effective. That's what a lot of people in the field are trying to do. One of the things, one of the criticisms is that there isn't sufficient monitoring of peace agreements and follow-up. I mean, peace agreements are supposed to be, to some extent, a blueprint for how this society is going to recover from conflict, what exactly needs to happen, and it's really a platform for peacebuilding. It's not an end product, and a lot of people, including the general public, seem to think that peace agreements are just you sign it and we got peace, and everybody's happy and we can all put our guns away and everything is good. But a problem in a country where a peace agreement is signed is very often sufficient time isn't taken to really explain what the peace agreement is and a lot of people's hopes get raised and they think it's all over, but not realizing that really the work of peace has just begun after the signing of an agreement. That's just the beginning. So we need to really focus in and get better on the implementation of agreements and I think the international community sometimes again loses attention. Their attention gets shifted somewhere else and they may not follow up. So we need a long-term commitment to following up on a peace agreement.

-Maria Jessop

Summary

In this study of strategy, we've covered four major areas of concern:

Approach. We started by considering five approaches to negotiation: *competing*, *accommodating*, *avoiding*, *compromising*, and *collaborating*. While examining contexts where each style could be appropriate, we focused on two different kinds of negotiation: *competitive bargaining*, the more common, where both sides stake out extreme positions and conduct a kind

³⁵ Spector, Bertram I. and I. William Zartman, *Getting it Done: Postagreement Negotiation and International Regimes* (Washington, DC: United States Institute of Peace Press, 2003), 55.

of verbal tug-of-war in order to make their concessions as rare and as small as possible; and *collaborative problem solving*, a very different approach that can be useful in a number of contexts, including negotiation as an alternative to violence. We noted that this approach is not always possible and sometimes not appropriate to the problem, but when it is, it can help negotiators find solutions that meet both sides' fundamental interests, restructure counterproductive relationships, produce agreements that are easier to implement, and help develop future agreements. Finally, we discussed how negotiators typically use a mix of all five styles in real-world exchanges, and we emphasized the all-encompassing role of compromise.

People. We then looked at the various types of actors involved in a negotiation, including *constituents, counterparts, stakeholders, ratifiers, spoilers, and the media*. We discussed several factors that influence how actors make decisions. After reviewing the substantial difference between *useful generalization* and *counterproductive stereotype*, we discussed various ways that culture can complicate a negotiation, including *differences between high- and low-context communication, conceptual differences*, and *differing definitions of interests*. We looked at gender and negotiation, pointing out some of the major issues that affect women differently from men in zones of conflict, and we emphasized the importance of including women in peace negotiations.

Leverage. In the third section, we considered the question of leverage. We introduced *carrots, sticks, and walk-away leverage*. We discussed risks involved in coercion, along with the advantages of mixing carrots and sticks. We also discussed the difficult question of what to do when bargaining with less leverage, especially when faced with a competitive counterpart intent on using the various high-pressure tactics of hard bargaining. To answer this question, we discussed ways of improving conventional leverage. We also discussed various types of *normative leverage*, including widely accepted norms that fit in both scientific and social categories. We examined how to build a persuasive strategy around these widespread norms. We also discussed the general efficacy of normative leverage, along with advantages of combining this kind of leverage with coalition building.

Process. Finally, we considered process. We took a general model of negotiation presented by Shell, introduced levels of leadership in a political context as described by Lederach and others, and then presented Saunders' model of negotiation as one more tailored to a peace process. In addition to high-level Track I negotiation, this model shows the potential role of Tracks II and III at each stage of the process: 1) *Defining the Problem and Deciding to Engage*, 2) *Mapping Issues and Relationships*, 3) *Generating the Will for a Joint Solution*, 4) *Scenario Building and Negotiation*, and 5) *Acting Together to Implement Agreements*. Saunders' model is a complex one; most negotiations will include only a subset of the roles and relationships that he describes. Our presentation is intended to have wide application, to illustrate the roles that individuals at various levels of leadership can play in a peace process.

In the next section of the course, we will apply these concepts to two real-world case studies: first, the South African negotiations to end apartheid; and second, the U.S., Soviet, and worldwide negotiations that led to the Nuclear Non-Proliferation Treaty.

Mini-Quiz

You have completed all the material for this section. Now try this mini-quiz.

In which of the following ways do Track II and Track III leaders often contribute to peace negotiations?

- a. In informal settings, Track II and III leaders may be the first to explore creative solutions to long-standing problems.
- b. With specialized expertise, Track II and III leaders may be called on to serve in working groups in formal negotiations.
- c. With broad ties to their communities, Track II and III leaders can be helpful in rebuilding relationships once a peace agreement has been reached.

For answers, see Appendix A.

Chapter 3: Case Study: The End of Apartheid

Historic Change

On February 2, 1990, South African President F. W. de Klerk surprised the world with his stunning announcement to release Mandela from prison on Robben Island—after nearly three decades of incarceration.

De Klerk's decision set off a series of negotiations that eventually culminated in the dismantling of the apartheid system and the establishment of an inclusive, multiracial democracy.

But South Africa's historic and relatively peaceful transition was in no way guaranteed by Mandela's release. On many occasions, the country teetered on the edge of civil war, requiring exceptional vision and bold statesmanship from individuals in de Klerk's ruling National Party (NP) and Mandela's African National Congress (ANC), along with many other organizations that in various ways contributed to the extraordinary negotiations.

Nor was de Klerk's decision actually a starting point for this process. Rather, it was the product of a long and difficult series of negotiations involving his predecessors, Mandela, and others. Moreover, the decision must be viewed in the wider context of a decades-long struggle to end apartheid in South Africa, a struggle within political and racial groups as well as between them, a struggle that began peacefully but at times involved armed engagement, and a struggle that itself must be seen in the context of the country's long and difficult history of bitter race relations.

Perspectives

Our country is still plagued by violence. One of our commitments is to ensure that this violence is ended. The fact that we have these different religions, different languages, different cultures—we wanted to use that diversity as the source of strength, as the source of building national unity. Because, as I have said before, I am very firm in the belief that we have men and women, from all population groups in this country, who are bound together by a common loyalty, a common love to their common fatherland. We are one country. We are one people. And I want you to take that message away with you.

-Nelson Mandela

One of the things we've done since we've taken our democracy in 1994 was to get involved precisely in helping other people to resolve conflicts peacefully through negotiations. Bringing with us our own experience—in a situation where nobody thought that was possible because of the manner in which the country was developing and the divide that was there, the hatred that was being generated through these divisions, the manipulation by the apartheid system and the violence that accompanied it.

-Welile Nhlapo

The discrimination against indigenous people, against blacks in South Africa goes all the way back to the 17th century when the early settlement, first by the Dutch and then the British. The system of systematic discrimination embodied in the apartheid laws doesn't come until 1948, but

well before that, blacks were displaced from the best farmland, they were forbidden to vote in most of South Africa, etc. So there is a long history there. And during the apartheid period there were a great many major human rights violations and oppression and people killed in the middle of the night and all kinds of oppression. So you could have said, that with a build up of that much hatred and discrimination over such a long period of time, it would have been almost impossible to somehow move almost immediately into a system of unity government and efforts of reconciliation. But it can be done. People are able to rise above that if they have the leadership and encouragement to do so and if they're not encouraged, as some were trying to do in South Africa, if they're not encouraged to take vengeance.

-Princeton N. Lyman

Historical Timeline

As codified government policy, apartheid was enacted in the late 1940s and early 1950s.

Thorough study of the history of South Africa is outside the scope of this case study, but a brief sketch helps to show that as in the U.S. and other parts of the world, the attitudes, practices, and justifications that made policies like this possible developed over several hundred years.

Colonization. In 1652, the Dutch East India Company established a station on the Cape of Good Hope, which over many years grew into the first white colony on the southern tip of Africa. Some of the colonists established farms and ranches along the coastline. Eventually known as “Boers,” which means farmers, they met little opposition from the indigenous Khoisan people, who were largely hunters and gatherers. However, the Dutch faced stiff resistance from indigenous Xhosas, who used the land for cattle. The groups clashed repeatedly, with the better-armed whites slowly gaining the upper hand. As conquered people, the Khoisan, Xhosa, and

others were often used as slave labor, a common practice of the day in South Africa as elsewhere.

British arrival. The British occupied the Cape in 1795 and gained permanent control in 1815 as an extension of the ongoing colonizing competition among European states. The British, who had also established a settlement on the eastern coast in Natal, constituted a distinct linguistic and cultural white group in South Africa, one that often though not always pursued more progressive policies on race, including the abolition of slavery in 1834. Responding to this and other socio-economic changes, the Boers sought new lands, starting an inland journey that they called the Great Trek. Their migration led to more violent clashes, including repeated confrontations with the Zulu, whom the British also fought.

Discovery of gold and diamonds. In 1869, diamonds were found at Kimberly in the center of modern-day South Africa. Soon after, gold was discovered in Johannesburg. The finds were enormous, inviting a new rush of industrialists and workers. Black entrepreneurs made progress in this fervent period, but their nascent gains were thwarted by official segregation, labor classification, hut taxes, and a variety of other measures. The British laid claim to the newly rich territories, which among other causes led to two Boer Wars, both won by the British, the second in 1902 after a long, bitter contest.

Constitution of 1910. With the constitution of 1910, the British united the region's several states into a single political entity, the Union of South Africa. But for Africans and others, who had hopes for an improvement to their political and economic status, the union represented another step backward.

Mines and Work Act. The new government passed the Mines and Work Act in 1911. This act, along with a number of amendments and other related legislation, was part of a system known as job reservation, a practice of keeping high-skilled, high-paying jobs reserved for whites. The practice was not covert discrimination; rather, it was explicitly codified in national law and in the bylaws of many businesses and industries.

Natives Land Act. The Natives Land Act was passed in 1913, formalizing practices dating back to the mid-1800s that put limits on the amount of land that could be owned by native Africans. Whites, who made up 20 percent of South Africa's total population, laid claim to 93 percent of the land. Blacks, who constituted 70 percent of the country's population, were only allowed to own property on 7 percent of the land. The Natives Land Act moved blacks into overcrowded, unproductive reserves. To make a living, they were forced to work in mines, on farms, and on ranches owned by whites. This system guaranteed cheap labor for white interests.¹

Election of 1948. The worldwide depression of the 1930s hit South Africa hard. Unemployment and poverty rates were among the worst in the industrialized world. White South Africans, especially Boers, found themselves in competition with lower-paid blacks for scarce jobs. Economic hardship strengthened long-running arguments that whites needed protection from a growing "black menace." In response, leaders of the all-white NP developed the policy of

¹ Du Toit, Pierre. *State Building and Democracy in Southern Africa: Botswana, Zimbabwe, and South Africa* (Washington, DC: United States Institute of Peace, 1995), 155.

apartheid, a plan to favor poor whites while guaranteeing a supply of cheap black labor by extending and further institutionalizing the worst practices of racial discrimination. The NP won the election of 1948 and quickly enacted its far-reaching plan.

Related Resources from USIP: [*Watching the Wind: Conflict Resolution during South Africa's Transition to Democracy*](#)

By Susan Collin Marks

A compelling, inspiring account of peacemaking in action, *Watching the Wind* takes us to the front lines of South Africa's struggle to manage the tempestuous transition from apartheid to democracy. As Marks explains, “something extraordinary happened.” The international community had expected a bloodbath, but what it saw instead was a near-miraculous process of negotiation and accommodation.

Apartheid Laws

In Afrikaans, the Boer language, the word *apartheid* means “separation.” It was used to describe a policy that in English was called “separate development.” The government maintained that each race would be treated in a way that would conform to the normative standard of equal treatment. But in practice, separate never was equal. Rather, apartheid was used to justify an inhumane policy of racial discrimination.

Group Areas Act. In 1950, the government passed the Group Areas Act. Its aim was to keep blacks from living in white cities by moving them into newly-created black townships. Although the white cities prospered in the postwar boom, the government invested little money into the townships. Housing was substandard and always in short supply, many people lived in shanties, there was no running water or sewage, schools and clinics were rare, and blacks who lived in long established areas—often with legal deeds of ownership—were in many cases driven out of their homes and resettled.

Bantu Authorities Act. In 1951, the Bantu Authorities Act set up a series of reserves, or “homelands” to which native Africans were assigned on the basis of tribal affiliation. The government portrayed these homelands as independent nations, separate from the Union of South Africa, in this way arguing that its policy conformed to the normative standard of self-determination. Yet like the Natives Land Act before it, the Bantu Authorities Act consigned the black majority to a tiny percentage of the country’s overall land. Homelands were invariably poor and overcrowded.

Pass Laws. Pass Laws were introduced in 1952 to enforce the separation mechanisms of the Group Areas Act while maintaining a constant supply of inexpensive labor. Nonwhites were allowed into cities during working hours, provided they carried special employment passes.

Bantu Education Act. The government passed the Bantu Education Act in 1953 to put limits on the curriculum taught to native Africans. Since job reservation limited blacks to low-skilled, low-paying jobs, it was thought unnecessary and even dangerous to give them too much education. In an infamous use of biblical citation, Minister of Native Affairs Hendrik Frensch Verwoerd, who was later prime minister, claimed that blacks were meant simply to be “hewers of wood and

drawers of water.”“ The repressive system demoralized young people; many simply rejected Bantu Education and didn’t go to school.

Separate Amenities Act. In 1953, the government introduced the Separate Amenities Act. Under this law, different races were not allowed to use the same facilities, including drinking fountains, bathrooms, beaches, benches, or other public amenities.

Public Safety Act and banning orders. Through the Public Safety Act, Treason Act, Suppression of Communism Act, Criminal Law Amendment Act, Riotous Assemblies Act, and many other measures, those who protested the system of apartheid were often brutally mistreated by the government’s security apparatus. They ran the risk of being served with a banning order, a kind of long-term house arrest. People who were “banned” were kept from meeting in groups, and it was illegal to distribute their writings or photographs. Repeat offenders were often beaten, tortured, and sometimes killed. In the struggle against apartheid, there was little recourse for black protesters. They were excluded from the political process, and when they tried to speak out, they were usually punished.

Perspectives

I was born in 1948 in a township called Alexander Township, surrounded by one of the most affluent suburbs within the Johannesburg area. When I entered school in 1954 that’s when the Bantu Education Act was promulgated, and then what was called the Group Areas Act restricted the movement of people and people were arrested for Pass Law. Now Pass Laws, it’s a—every African beyond the age of 18 had to have a reference book. And that booklet will indicate who you are and will determine whether you can have a work permit and of course because of the response to that by the African National Congress at the time, and the banning of the ANC, and the people that we knew getting detained for 90 days without trial, and others beginning to die in detention, it became clear that there is a problem. And by that time we are growing up and understanding certain things and started also questioning what was happening.

So even at the university level, we are confronted with these things, that’s when we’re entering university, getting confronted with this problem. Education ultimately got disrupted because—in opposing this thing—then you are inviting security police on the campus and they started harassing students who were being pulled out of the campus for interrogation and all sorts of things. So, I am saying from my own experience, born at a time when the nationalist party came into power, started promulgating all of these policies that were actively opposed during the 50s and the 60s, I have not known anything else for that period except the apartheid system. Until 1973 when I was slapped with a banning order and I had to go into exile myself. I had not known any other life except the apartheid system, the segregation that we had to suffer, and growing up in that township, surrounded by all this affluence, there was no way that I could have escaped this thing. So, from my own experience and this is a broader experience of many people of my generation.

-Welile Nhlapo

In terms of a system codifying racism, Apartheid was very explicit. Blacks and non-whites, which is to say, coloured and the Indian population, had to carry passbooks to go from one township to another. They could not move freely. There were limits on employment, on who could join labor unions. There were limits on where they could live. The black population was moved out of their traditional homelands into what were the Bantustans, which are so-called black homelands, and there was a very concerted move to physically and legally separate the black population from the white minority population. It was a very explicit determination to do that.

-Dorina Bekoe

There was a split in the white community between the largely Anglo-based white community coming out of England and eastern Europe and the longer term Afrikaans community which drew its roots all the way back to Netherlands and France in the 19th century. It was the second group that felt most threatened by black economic advancement and any change in the political system, and they brought about the campaign in 1948. Coming to power and systematizing in a much, much stricter way the kinds of discrimination that rolled back any progress that had been made earlier. Jobs were classified for whites, coloured, blacks. None of the blacks or coloureds were allow to get high level jobs. Education was firmly segregated. Citizenship was changed. People were moved out of their areas. So what had been a somewhat subtle system with some room for change became solidified into a purposeful and well articulated system of racial, what they called separation, that's what apartheid means, but was in fact racial oppression.

-Princeton N. Lyman

Normative Leverage: **Peaceful Opposition**

To understand the violence that eventually engulfed South Africa—as well as the subsequent negotiations between Mandela and de Klerk—it's necessary to review the decades-long, peaceful struggle to end apartheid. In their various attempts to negotiate for more equitable conditions, apartheid's opponents made several attempts to apply normative leverage.

Early opponents of discrimination. South Africa's best known early opponent of discrimination was Mohandas Gandhi, who worked to improve conditions for nonwhites in South Africa before his work for independence in India. From 1893 to 1914, he launched a series of nonviolent campaigns in the South African city of Durban. The campaigns were not designed to change society directly, but rather to raise awareness that the South African government was grossly violating evolving standards of equal treatment. Gandhi was very influential on many South African leaders who came after him, including Mandela.

African National Congress (ANC). Several political parties were active in the struggle against apartheid; however, no political movement did as much as the ANC. As early as 1914, even before apartheid became official policy, the organization sent a delegation to Britain to petition the Crown, once again basing its argument on standards of equal treatment, but the petitioners were turned down. Along with Mandela, other important ANC leaders included Albert Luthuli, who was awarded the Nobel Peace Prize in 1955, and Oliver Tambo, who ran the ANC from exile.

Nelson Mandela. Mandela was born July 18, 1918, in the village of Qunu near the Bashee River in the Transkei. Qunu was a rural village of thatched huts, cornfields, and cattle in the Xhosa heartland. Mandela's great-great-grandfather had been a king in the Transkei.² In spite of rural poverty, Mandela's position enabled him to attend school and receive a good education. He distinguished himself early and was sent to Fort Hare University, the only university for blacks. He became involved in the struggle against apartheid and eventually moved to Soweto, where he and Tambo set up the nation's first black law practice. Mandela soon met Walter Sisulu, who urged him to join the ANC. In the early 1940s, they helped organize its Youth League, a new generation of leaders who argued that letters and petitions were not working and that stronger measures were necessary. Mandela's training as a lawyer made him a natural candidate for leadership.

Defiance campaigns. In the Defiance Campaign of the early 1950s, the ANC and its allies staged a series of nonviolent protests, calling for equal treatment of all races, including blacks, whites, Indians, and mixed races. Inspired by the nonviolent resistance of leaders such as Gandhi, the volunteers in the Defiance Campaign deliberately set out to violate specific apartheid laws, in a peaceful, well-disciplined manner. In particular, they targeted measures of the Separate Amenities Act, using doors that were reserved for whites, sitting on benches reserved for whites, using drinking fountains reserved for whites, etc. Over 8,500 volunteers peacefully overfilled jails throughout the country. The government responded with a vicious crackdown, beating protesters to the point that the campaign had to be stopped. It was, however, an important publicity coup for the ANC, drawing world attention to the violation of what by then were widely accepted norms, many codified into U.N. documents. International support for the anti-apartheid movement would eventually become a critical factor strengthening the ANC's hand in its negotiations with the government.

Freedom Charter. After extensively surveying the population, the ANC and several allies put together the Freedom Charter, a document based on normative standards of equal treatment, rule of law, and democracy that went out of its way to accept all South Africans, including whites, as equal citizens in a nonracial society. The government rejected the document on the basis of its own principle of separate self-determination for whites, a standard which was widely rejected around the world but had a few adherents, including in the American south. The government also reacted severely to the presence of communists in Mandela's coalition, putting over 150 people on trial for treason, including Mandela and Luthuli. The trial continued for five years until 1961, when all were acquitted for lack of evidence.

Pan Africanist Congress. Not all black leaders embraced the philosophy and tactics promoted by the ANC and embodied in the Freedom Charter. Following a split with the ANC in the late 1950s, the Pan Africanist Congress (PAC) was formed and pursued a political agenda focused more on Africans determining their own future. Its charismatic leader Robert Sobukwe was one of the most highly respected liberation leaders at the time.

² Mandela, Nelson. *Long Walk to Freedom: The Autobiography of Nelson Mandela* (London: Little, Brown, 2006), 3-4.

Religious opponents. Although the Dutch Reform Church and several other denominations provided religious cover and rationale to justify the apartheid system, other religious groups and leaders were among its strongest opponents. Courageous religious leaders suffered deprivation, imprisonment, and loss of life in the struggle. Among them, Archbishop Desmond Tutu used his position in the Anglican Church to criticize the apartheid system based on broad standards of compassion and justice. His invectives occasionally landed him in jail, but his words inspired many. He won the Nobel Peace Prize in 1984.

Perspectives

For us it has always been a principle that resolving the problems of our country through negotiations and discussions among all of our people, was the best option out of it. It's the principle that we've always embraced. And when that principle was set up, at a time when we were calling upon, what was then called an "all in" conference, to sit and find a solution, and the proposals were put on the table as to what is it we think ought to be done. But the regime was not interested. The response of the regime was to impose a ban on the political movements that were in existence, both to the African National Congress and the Pan-African Congress, into the townships, intimidating people, imposing 90 days arrest without any cause to the courts and it could be extended for any other period, 90 day law it was called. So it was quite clear that the regime was not ready. It was prepared to unleash more violence, leaving us with no option but then to look at other means of dealing with the situation. So violence was imposed and the option of an armed struggle was imposed on the African National Congress and hence in December 1961, the "Spear of the Nation" was established in order to respond to this determination to use violence as a method of political control. It became clear that there is no turning back and we might as well get into this thing. So people started preparing for this option which is what led to Nelson Mandela and them in the end, ending up in Robben Island.

-Welile Nhlapo

The early challenges to apartheid took more peaceful forms of protest. There were certainly legal challenges to the system. There were demonstrations. There were movements to raise the consciousness of people to the oppressiveness of apartheid. So a type of, sort of educational component to protest.

-Dorina Bekoe

There's a whole history of efforts. You remember that Mahatma Gandhi began his career in South Africa on behalf of the Indian population in South Africa. He, returning as a credentialed lawyer, found himself discriminated on the train when he first comes back to South Africa. And he organizes the Indian community into passive resistance in order to change the laws and build more rights for the Indian community. That's the birth of the Mahatma Gandhi movement. He then goes home to India, and of course, carries it out on a larger scale. The Indian National Congress had a very important historical role in South Africa and they later became an ally of the African National Congress. And the efforts that went on, as I said, for many years. Through peaceful efforts, demonstration, petitions, the charter that the African National Congress created to try and bring about peaceful change.

And only when the people later on, the newer generation, despaired of progress in that direction did things begin to change toward a more violent confrontation.
-Princeton N. Lyman

Coercive Leverage: **The Armed Struggle**

By 1960, 50 years of pleas, petitions, and nonviolent protest had not moved the white government—on the contrary, it focused on coercive leverage, its repressive tactics growing more vicious with each passing year.

Coercive leverage: The Sharpeville Massacre. In 1960, the ANC and the PAC organized a peaceful nationwide protest against the Pass Laws. But in the town of Sharpeville, where thousands of demonstrators gathered, the police panicked and opened fire on an unarmed crowd, which included many women, children, and senior citizens. In all, 69 people were killed and 180 were wounded in what became known as the Sharpeville Massacre.³ Luthuli, though banned, called for a national day of mourning. The government feared a mass uprising and declared a broad state of emergency, banning the ANC and the PAC, and arresting over 2,000 people, including Luthuli.

Coercive leverage: *Umkhonto we Sizwe*. At this point, the ANC's senior leaders felt they were running out of options. Decades of nonviolent protests had only prompted the government to use harsh and lethal means of coercion. By 1960, it had banned all political organization by nonwhite opponents. In response, Mandela and the ANC formed a military wing known as *Umkhonto we Sizwe*, which in Zulu means "Spear of the Nation." The organization was no match for the better-armed South African Defense Forces, but Mandela hoped that the ANC could apply coercive leverage of its own to pressure the government into negotiating. Mandela, along with other ANC leaders Joe Slovo and Sisulu, studied guerrilla tactics and launched a steady campaign of sabotage against government installations.

Normative leverage: The Rivonia trial. In 1962, Mandela and several colleagues were captured by security forces at the Rivonia farm in Johannesburg. At trial, Mandela convinced his co-defendants to admit to their actions and to turn the courtroom into a forum to air their grievances before the wider world. On the witness stand, he expressed admiration for such documents as the British Magna Carta and the U.S.'s Bill of Rights, asserting that his only goal was to bring the norms and standards represented therein to all people of South Africa. Though he impressed many outside the country, his arguments fell on deaf ears within the courtroom, and he and his colleagues were convicted of sabotage. At the age of 44, Mandela was sentenced to life plus five years in prison. He was sent to the maximum security prison on Robben Island. But his campaign for public opinion did have an effect. Governments and newspapers throughout the world called for the release of Mandela, which strengthened the position of his overseas colleagues as they sought to build an anti-apartheid movement coalition from exile.

³ Deegan, Heather. *South Africa Reborn: Building a New Democracy* (Padstow: University College London, 1999), 42.

Black Consciousness Movement. Throughout the 1960s and 70s, many leaders from the ANC and PAC were either in prison or exile, temporarily slowing anti-apartheid resistance. But with fundamental conditions unchanged, a new generation of leaders predictably rose to challenge the system. The Black Consciousness Movement (BCM) was formed in the late 1960s and focused on raising black awareness and reducing black dependence on support from liberal whites.

Coercive leverage: The Soweto uprising. In 1976, the government decided that black students would be forced to learn their lessons in Afrikaans, the language of the white Boers. This decision touched off massive nationwide demonstrations. When security forces shot and killed a young student, riots erupted in Soweto and quickly spread throughout the country. The government responded with a vicious crackdown. Over 1,500 young people were killed in the first two months, and thousands were arrested. Approximately 10,000 eventually lost their lives as protests continued to erupt over the course of two years.⁴ However, in spite of this repression, the Soweto uprising was a turning point in the struggle. Those who were sent to prison made their first contact with the previous generation of apartheid's opponents, while thousands escaped the country to join the military wings of the ANC and the PAC. Blacks who worked to change the system from within either gave up or generally lost their influence, and the government's network of informers eventually fell away. The death of Black Consciousness Movement leader Steve Biko in police custody in 1977 further galvanized anti-apartheid resistance. A new generation of activists was mobilized, one whose leverage would ultimately force the government's hand.

Coercive leverage: State of emergency. In 1983, the government imposed a new constitution on the country, one that allowed limited political participation for Indians and those of mixed-race descent, but still refused to recognize blacks. This was an unsuccessful attempt to divide the opposition. A coalition of thirty multiracial groups was formed to boycott the elections. Turnout was insignificant, representing a major defeat for the regime. Soon after, on the 25th anniversary of the Sharpeville Massacre, police opened fire on an unarmed procession, killing 20 and wounding many more. With this incident, the townships erupted. By July of 1985, the government was forced to declare a state of emergency in certain areas, an order that spread to the entire country within a year. In response, over 7,000 organizations launched a defiance campaign representing over two million individuals. Many protests were carried out in the name of the Mass Democratic Movement (MDM), a point of intersection between the resurgent ANC and BCM groups like the South African Students Movement, the Black Peoples Convention, the Congress of South African Trade Unions, the Black Theological Movement, and the Black Community's Programme, all of which had dominated the black political scene from the mid-1960s until the late 1970s, during the ANC and PAC exile years. The MDM remained loosely defined in order to frustrate the government's banning orders. These campaigns did not end until the release of Mandela.

⁴ McDonald, Steve. Interview. 29 September 2009.

Perspectives

I was involved in the student movement. Never thought that I would ever, one day, entertain the possibility of bearing arms and fighting that regime. But, simply for protesting against the education system, I was given a five-year banning order. It was stipulated that I cannot be in the company of more than two people. I cannot enter any school or any place where there's education. I cannot enter any place where publications, any form of publication is taking place. I ask myself, "What is it that I am supposed to have done?" And then, under the suppression of the communism act. There are a number of things that start affecting you as an individual. You ask yourself, "but what is this crazy thing that is happening here?" You know, living like a criminal and a fugitive, simply because you are questioning the system. So I'm saying a lot of people had to go through that thing.

Steve Beiko, who was a very close associate and a friend, was killed, when he was still serving a banning order himself, was brutally and ruthlessly killed simply because he led the student movement, which we were all a part of, that questioned this imposition of this Bantu education at the university level. So I'm saying that this violent response to peaceful protest and questioning what the regime was doing, is what led to this polarization. In 1976, became even the breaking point, the tipping point in this whole situation. Where the regime, instead of managing or dealing with the situation that was emerging, it decided to impose Afrikaans as a medium of education in high schools. Now Afrikaans is not a very developed language. It was in the process of developing, and you impose it on people who it's not their mother tongue, it's not their language, simply because you want to manipulate and destroy them psychologically and intellectually. So the students rose against the imposition of Afrikaans as a language and an instrument of oppression in that sense for education. And that became the last straw in a sense because their response, as it is well known, was to shoot the students. A number of students were killed all over, starting in Soweto and what is now known June 16, as the Soweto uprisings of 1976. And the whole world responded because even then it became clear that this could not be acceptable. And that's why sanctions were intensified. And the whole process of mobilizing the international community against the apartheid regime and the imposition of sanctions and bringing to their attention the plight of the oppressed people of our country.

-Welile Nhlapo

The beginning of the political activity among the majority comes about early in the twentieth century, the African National Congress, which is now the ruling party of South Africa, was formed in 1912 as a peaceful, political body trying to influence the government of the time. It remained that way for a very long period of time, trying to get redressed through petitions, through peaceful marches, through all that kind of activity. It isn't until you get to the 1950s and 1960s that the younger generation says, "No, this is not good, this is not right, we're not going to get anywhere this way". And so you have people like Nelson Mandela saying that we have to form an armed struggle, and you have other groups forming an armed struggle, and you have more violent protests taking place in the townships where most blacks lived. So you had a shift, a discouragement if you will by the 1950s of peaceful change, and the feeling particularly among the younger generation that it had to be brought about by at least pressure of force and violence.

-Princeton N. Lyman

The apartheid system banned a lot of black-led parties like the African National Congress (ANC) and the Pan African Congress. Many of these groups worked underground or worked in neighboring states or countries. Neighboring countries also helped to finance them out of a spirit of liberating a black population from apartheid. The Mozambicans helped or supported the ANC for example and many ANC leaders lived in exile in other parts of Southern Africa.
-Dorina Bekoe

3.1: Fundamental Recalculations

Mutually Hurting Stalemate

By the end of the 1980s, the government and the ANC found themselves in a mutually hurting stalemate of the kind described by Zartman and others.¹ Violence was costing the ANC precious lives, while isolation and security costs were destroying the state economy—and neither side appeared likely to make gains.

Government’s predicament. In Peter Gastrow’s words, the government “controlled substantial resources and had its hands on the levers of power,” but “had little public support or legitimacy and was isolated internationally.” Eventually, de Klerk came to understand that the government’s “coercive security option would not provide lasting solutions.”²

ANC’s predicament. For years, Mandela and his colleagues broke rocks in a limestone quarry. They were served substandard food and deprived of basic amenities. But Mandela never lost his sense of pride or personal discipline. Every day he studied, taking correspondence courses in law, economics, and history. After the Soweto uprising, his isolated prison on Robben Island was flooded with a new wave of activists who studied under him, whispering debates and passing notes on scraps of paper. There was also an international campaign for his release, culminating in a U.N. Security Council resolution.

As Gastrow explains, the ANC was “banned, had meager resources, and was unable to get its hands on the levers of state power,” and over the years it came to realize that “its armed struggle was incapable of delivering victory.” But unlike the government, the ANC “enjoyed broad legitimacy, public support, and wide international recognition.”³

Matters of vital principle. For decades, Mandela and his supporters bore the brunt of this stalemate, but by the late 1980s, the government started to feel the pain as well. It made several conditional offers to release Mandela—if he would renounce his struggle, if he would go into exile, etc. Over the years, Mandela had proven himself a cooperative, flexible negotiator, willing to compromise and solve problems at different times on various issues. However, on matters that he considered vital, such as the standard of equal treatment, he took an uncompromising,

¹ Zartman, I. William. *Practical Negotiator* (Yale Univ Press, 1983), S1.

² Gastrow, Peter. *Bargaining for Peace: South Africa and the National Peace Accord* (Washington, DC: United States Institute of Peace Press, 1994), 4.

³ Gastrow, Peter. *Bargaining for Peace: South Africa and the National Peace Accord* (Washington, DC: United States Institute of Peace Press, 1994), 4.

competitive stance. Eventually, he negotiated his release on his own terms, requiring as a precondition that the government commit itself to an irreversible transition to multiracial democracy based on internationally recognized norms and standards.

When he was released in 1990, he was 71 years old.

Perspectives

By the close of the 1980s, both sides were paying a big price for the confrontation. For the black community there were losses of life, a loss of jobs, there were great many people going to prison; life was very difficult. Within the black community, there was a lot of violence between those who were more radicalized than others, who would enforce stay-at-home days and go after those who they thought were collaborators. The education system was collapsing, there was a great debate in the African community—do we boycott the school systems as a sign of protest or do we go to schools because we need the next generation's education? So a big price was being paid. The exile movement abroad was getting hit by South African attacks across the border; they were not really an effective army. So the black community was paying a big price, the government was paying a big price and the white community was paying a big price. South Africa was becoming ever more and more an international pariah. The international banks stopped rolling over South African credit which meant that the central bank had to put a freeze on South African debt payments, undermining their whole credit rating. Governments abroad began to pass sanctions: the United States in the late 80s, Scandinavia, other European countries, the U.N. was pushing for more sanctions. The government was becoming more isolated. And the white population in South Africa, which sort of always felt itself part of the international community and the Western international community, was feeling psychologically the pain of isolation.

-Princeton N. Lyman

There are times we have to rise above self interest and issues about yourself and look at the nation in its broader context. Not only are we mobilizing ourselves and the international community about what we stand for in terms of the constitutional principles that we think, and provide a basis for nonracial, nonsexist, democratic South Africa. That was the major objective, the objective that we want to pursue. If those are the values that you commit yourself to and the opportunity presents itself for you to go in that direction, which is what you wanted in the first place anyway, then it becomes irresponsible to pursue a path that is not going to lead toward the attainment of those objectives. But to begin to reflect very, very seriously and say, "Maybe it's about time we have to consider these options". When that possibility arose and the time came, there were very, very difficult decisions that the leadership of the ANC had to make. There were very difficult decisions that the nationalist party and the government that it was presiding on had to make; very difficult even for them. But both sides realized that this war couldn't be won by either. At the end of the day, for the sake of peace and for the sake of our people, let's explore these possibilities.

-Welile Nhlapo

Government's Positions

De Klerk's decision to release Mandela and pursue a negotiated settlement was based on several fundamental recalculations. This rethinking can be best understood by studying the government's positions along with the fundamental interests and needs underlying them.

Since the establishment of apartheid, the government maintained that the tiny Bantu homelands essentially held the status of independent nations, providing an institutional framework for self-determination for their peoples.⁴ The international community did not accept the homelands as such, nor did the black majority in South Africa. In fact, most blacks lived in townships, which the government had created to provide nearby labor for white cities. Nevertheless, the government clung to its position for almost 40 years.

By maintaining that native Africans were citizens of the homelands, the government could argue that they were not citizens of the South African republic. Instead, they were regarded as guest workers, and as guests had no legitimate claim to equal treatment with whites: no political rights, no equal consideration in employment, no equal access to education, no freedom of movement, no right to comparable infrastructure, and so on. If nonwhites petitioned for such rights, the government argued that it had sufficient justification to ignore them. If they took stronger measures, such as protests or rioting, the government felt justified in using whatever means were necessary to keep public order.

Government's Interests and Needs

For decades, the government weathered severe criticism over these positions, convinced that they were helping to secure the following fundamental interests and needs of the white community.

Economic security. Throughout South African history, discrimination against nonwhites always took place in the context of competition over resources, land in the first place and later jobs. The economic policies of apartheid, conceived during the worldwide depression in the 1930s, were substantially motivated by the desire to protect high-paying jobs for whites, while maximizing profitability in white-owned agriculture, industry, and mines through guarantees of a steady supply of low-wage labor.⁵

Denying political rights to blacks also had another economic component. As individuals with inherited wealth and privilege, whites were fearful that a black-majority government would not only roll back apartheid, but might also enact laws to redistribute wealth and opportunity.

Identity. The white community also felt an identity interest in maintaining its tight control. Though they arrived in southern Africa well after most black groups, whites had nevertheless made homes and built communities in the region for several centuries. These whites considered themselves Africans—especially those who called themselves Afrikaners—and feared that a black-majority government might enact laws that would in one way or another make them unwelcome and drive them out. In many cases, decades of propaganda through cultural, religious, and other organizations convinced whites that they were in fact racially superior, and therefore just beneficiaries of the apartheid system.

⁴ Byrnes, Rita M. *South Africa: A Country Study* (Washington, DC: GPO for the Library of Congress, 1996), 54.

⁵ Byrnes, Rita M. *South Africa: A Country Study* (Washington, DC: GPO for the Library of Congress, 1996), 48-49.

Physical security. Inherited wealth and privilege also made whites fearful of violent crime. Moreover, the government's harsh crackdowns against what were often peaceful protests created considerable fear that a black-majority government might seek retribution for the political violence committed against it.

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First you have to understand the fears of the people who are benefiting from [the] system. That's why we engaged in the white community in particular and proposed to them our own set of principles that we thought would take us out of this thing, as opposed to the status quo. And once they also started questioning, even those within the system itself started questioning, and even some of the key ministers there pronouncing themselves openly, and getting chastised for saying that one day there will be a black president in this country; that's what Botha did, he was the foreign minister at that time. He was one of the most arrogant and very tough representatives of that system. But yet, he realized that this thing is going away. And a number of others within the nationalist party were questioning this thing as to "Where is this thing going to go?" So they had to debate this among themselves. It also became clear that it is becoming increasingly difficult to convince the population that they are on the right path and that they are fighting against terrorism, fighting against communism, because that used to be their propaganda instrument. When the Berlin Wall collapsed the change in the engagement in international relations and all that they used to cling on disappeared. They had to come to the brass tacks of what exactly is the situation; the propaganda machine that arose was beginning to collapse. People no more believed in what they were being told because it was becoming increasingly clear that there is something more of a positive alternative, also because we had [to give] thanks to most of the countries', including the U.N.'s capability to broadcast directly into the country from the neighboring states. So people could, even through their radios, get the message and understand what the ANC stands for and what the ANC is saying to counter the propaganda of the regime.

-Welile Nhlapo

In the system of apartheid as it later became systematized but which had been existing for a long time, blacks were deprived of their citizenship in South Africa itself. They were all assigned citizenship supposedly [in] their ethnic homelands, which were set up as quasi independent states but were way away from the major cities. Therefore, every black or coloured person who needed to work in the cities needed a passbook, almost like a passport to come into the city. If you were caught without your passbook you could be arrested and thrown into jail. You weren't allowed to bring your families with you so people generally were kept away from living anywhere near where all the work was and the so-called homelands were on the worst possible agricultural land so they weren't able to really be self-sufficient there either. It was a kind of a conscripted labor situation. Second, there was a great deal of oppression, of violence, of people being thrown into jail, of people being held for long periods of time, leaders mysteriously dying in prison, etc. So, there was a long period of discrimination—racial, political, and economic—in which you had a minority, 10 percent of the population, oppressing basically 90 percent of the population.

-Princeton N. Lyman

Apartheid was justified on the principle of racial superiority at its very basic level. That led to so many other characterizations of the black community—that the white and black population shouldn't mix. There was also a certain level of fear particularly in the Afrikaner community that they had to somehow protect themselves from the black population; economically, politically, certainly physically, so restricting where the black population could live and where the white population could live. Those two sentiments, fear and domination drove this huge system to what it became in the early 1990s, which was a very repressive and brutal system.

-Dorina Bekoe

Apartheid's Failure

De Klerk and his associates came to realize the failure of this logic. In the long run, the government's positions, and the policies that were derived from them, were working against its fundamental interests and needs.

Throughout the late 1970s and 1980s, South Africa's security and economic situation continued to deteriorate.

Security costs. Under apartheid, crime rates in South Africa grew to be among the highest in the world, threatening the physical security of both blacks and whites.⁶ While political violence was largely confined to the black townships, the government realized by the late 1980s that it could not contain the bloodshed indefinitely. With the vast population differential between blacks and whites, the economic costs of suppressing violence grew to unsustainable proportions.

Economic sanctions. At a time when the government desperately needed money, the international community was tightening economic sanctions, a key result of the ANC's effort to highlight the government's violation of widely respected standards. The sanctions movement started early and gained momentum over the years. In 1946, the U.N. General Assembly passed its first resolution criticizing the apartheid system. The Security Council followed in 1960, deploring apartheid policies after the Sharpeville Massacre. In 1962, the General Assembly voted for economic sanctions and called on member nations to break relations. After the Soweto uprising in 1976, the Security Council imposed a mandatory arms embargo on the country, and during the state of emergency in the 1980s, individual nations began to impose tighter economic sanctions.

Divestment and capital flight. Moreover, broadly-respected worldwide campaigns targeted South African commercial interests. Capital flight and divestment from the South African businesses were determined by the cold calculation that return on investment would not be stable during repeated states of emergency, with their associated loss of labor, decreased productivity, and increased security costs.

⁶ Byrnes, Rita M. *South Africa: A Country Study* (Washington, DC: GPO for the Library of Congress, 1996), 388.

Identity costs. Over the years, apartheid policies were making white South Africans outcasts in the international community. Their all-white soccer, rugby, and cricket teams were not allowed to compete on the world stage. South Africa was also barred from competing in the Olympic games, a step that the International Olympic Committee takes only rarely. Social sanctions such as these might seem merely symbolic, but they take a significant toll on a people's identity. White South Africans began to perceive themselves as pariahs in the world community, and this caused many of them to ask fundamental questions about the moral basis of the apartheid system.

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When F.W. de Klerk took over in 1989, he faced a divided national party, which was the ruling Afrikaner party in South Africa. There were some members who felt it was time to change and there were others who thought that this was no time to change and they should forge ahead with the policy. But the reality was that South Africa was quite marginalized from the international community and was being squeezed economically. He inherited a weak and questioning South Africa that I think provided an opening to the changes that happened later on.

-Dorina Bekoe

They had a particular problem also, where white young men were beginning to refuse to be drafted into the army. The only people who had been drafted started refusing. They first had an organization called the conscientious objection where they would plead on the basis of "I cannot do this thing." But at the end of the day it became a political thing; a movement where we are not going to fight our fellow South Africans to save this particular system. And a lot of them left the country, some of them went to jail, others went underground. They simply refused to respond. Of course there were those who could not escape and continued to be drafted into the army. Another time it was mainly for Namibia; some of them had problems, "Why are we fighting people who are not even South Africans and we are going to die outside of what was called the border?" But when it came closer to home it became a very serious difficulty, and that's what we took advantage of. We also started encouraging them that there is an alternative to being part of this army. And the groundswell of that movement began to raise a lot of questions where young white people were saying; "We are not prepared to die for this system any more." And a lot of them were dying in Namibia, they were dying all over. The truth was not being told as to what is happening; people are being buried secretly, families just told not to say anything to anybody, no compensation. So there was also dissatisfaction within the white community. The kids were dying elsewhere, in active duty, on the border. They discovered the kids who died in Angola because the apartheid regime had invaded Angola and was occupying Namibia. So a combination of all those factors including their own internal dynamic—the conflicts that were taking place, armed conflicts—people are questioning because they began to realize that this apartheid machine, as strong as it is, is incapable of protecting them.

-Welile Nhlapo

ANC's Interests and Needs

In their various homelands and townships, the ANC's constituents had deep, unaddressed needs, including economic security and upward mobility, respect for their identity as equal citizens, and unconstrained political avenues to redress legitimate grievances.

ANC's Positions

Political positions. The ANC's political positions remained consistent during its long years of opposition. In large part due to the temperament and calculation of Mandela and other leaders, the ANC did not adopt an agenda centered on revenge. Rather, the movement focused on equal treatment for South Africans of all races in accordance with norms and standards prevalent in the industrialized world, including universal franchise, freedom of assembly, freedom of speech, freedom of the press, and so on. From the beginning, ANC leaders proved highly skillful in framing its political positions in the normative language used throughout the international community, and this made it very successful in garnering large-scale international support.

Economic positions. By contrast, the ANC's economic positions were more ambiguous. For example, in the Freedom Charter, the ANC and its allies seemed to express support for large-scale nationalization: "The mineral wealth beneath the soil, the banks and monopoly industry shall be transferred to the ownership of the people as a whole." Yet two lines later the document seemed to express support for market-oriented policies: "All people shall have equal rights to trade where they choose, to manufacture and to enter all trades, crafts, and professions."⁷ At various times, Mandela embraced the support of communists, but he struggled to keep them from gaining too much influence within his movement.

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The ANC evolved during Mandela's years in prison. By the time de Klerk came into power they themselves were divided. It was clear to the leadership that they would not be able to win the war, so to speak. So the choice was to continue fighting or try to reach an agreement through other means. But just as the national party was divided the ANC and the other liberation movements were also divided on whether to continue on the current path or change course and engage the government in direct negotiations.

-Dorina Bekoe

You can't get away from the importance of leadership—the shift came from Nelson Mandela in 1991 when he had been out of prison for a year and went to the World Economic Forum in Davos, Switzerland. He went with a prepared speech, saying all the things about nationalization and all of that but when he went up to talk he gave a totally different speech. He gave a speech about welcoming the private sector, the importance of private investment, of having an open economy—his backers in South Africa were stunned, what had happened? And Nelson Mandela came back and said, "Look, I went there and I went from table to table like they do in Davos and I talked to all these people and I realized that if we stuck to our old ideas, we wouldn't get any foreign investments in South Africa at all. We were just behind the times." He set the ANC on a different path and it wasn't easy and it is still being debated in South Africa to this day. The shift toward market economy systems and openings to the private sector remains a very contentious point within the ANC. But Mandela opened that

⁷ African National Congress, "The Freedom Charter," <http://www.anc.org.za/ancdocs/history/charter.html>

door by saying, “The world’s changed, and we’ve got to change with it.”

-Princeton N. Lyman

There are countries, including this one, we feel are very close to the apartheid regime and supported the regime. Because it presented itself as a bastion against communism and that they will deal with it from the southern tip of the continent, taking advantage of the Cold War. The Cold War politics created a lot of problems because it was easy to build allies on that basis. That’s how the apartheid regime won and lost friends because they were talking about the communist onslaught, precisely because the liberation movement supported by China and the Soviet Union, in particular some of the countries that were aligned to that. So the whole thing ended up being looked in that way and that is one way in which we are trying to get this kind of support and allies. But also to help the groundswell of people in the same countries like here, one of the strongest anti-apartheid movements of this kind, in Europe and many other places. And as I’ve said to you earlier, 1976 was a tipping point. What happened in Soweto made it easier for many people to realize that that system of apartheid had to be defeated and that their governments, particularly international, should take a stand and a position. And then ordinary people started rising and putting pressure on their governments and all sorts of different institutions. The U.N. was put under pressure; they had to take a stand on that issue and the U.N. led the process. There was support for those resolutions of the U.N. from everywhere else except those countries that had a relationship with the apartheid regime. So they also want friends on the basis of pleading that this is a communist onslaught but as I indicated earlier again, when the Berlin Wall collapsed and the disintegration of the Soviet Union, that excuse could not be used anymore because during that period, it’s a period when the ANC began to engage the different contingents of South Africans: the business people, students, leaders, community, and broader sectors to put to them constitutional principles the ANC had developed. So it was not only convincing the international community but working amongst our own people to bring the issues to them—that these are the issues that can give us the possibility of developing certain principles around, and on the basis of which we can save our country.

-Welile Nhlapo

Changing Climate

In the late 1980s, changes in the international climate influenced the ANC’s calculations, much as they had the government’s.

End of the Cold War. To whatever extent the ANC may or may not have been swayed by communists, the issue was becoming moot in the late 1980s as the international influence of communist ideology began to wane. During this time, Mandela went to great lengths to impress upon South African and international leaders his embrace of market-oriented economic principles, while maintaining that substantial investments in infrastructure and education for nonwhites would be essential in any new dispensation.

Problems with other transitions. Other African states had considerable problems in their transitions to majority rule, and these problems also made an impression on Mandela and the ANC. For example, the upheaval associated with Mozambique’s large-scale nationalization

suggested that highly aggressive attempts to alter the economic landscape could simply lead whites to flee, taking their money and expertise with them.

Opportunities for Joint Gain

Starting in the mid-1980s, both ANC and government leaders were starting to see potential for common ground and opportunities for joint gain. However, as might be expected based on Saunders' description of the first stage of the negotiating process, no one in the top leadership for either side was ready to discuss these ideas publicly.

Track I and II Efforts

Rather, as Saunders would predict, Track I and II leaders from both communities met jointly in secret, often to test the waters and explore options. In these meetings, an outline for a deal was starting to become apparent.

Majority rule/minority rights. White leaders were beginning to appreciate that in the context of a rapidly deteriorating economy and security environment they could not protect their own constituency or be welcomed back into the fold of nations if they did not embrace change and at least move in the direction of meeting political aspirations of the black majority. At the same time, black leaders, who as a matter of principle generally sought to build a nonracial society, also realized that for practical reasons majority rule would have to be accompanied with protections for minority rights; otherwise, whites would simply leave the country, taking their expertise and capital. Any new government would have its hands full of problems associated with rebuilding, and could not afford such a loss.⁸

Property rights and social investments. For similar reasons, black leaders came to realize that it was in their best interest to resist the urge to embark on the kind of large-scale redistribution of wealth that would send whites packing. Correspondingly, white leaders came to see that without substantial investments into infrastructure, education and job opportunities for nonwhites, the struggle would continue and with it South Africa's international isolation.

Common identity. Both sides were coming to realize that they needed a bold new narrative. For decades, black leaders like Mandela called for an inclusive society and spoke of a common identity for all South Africans. If most white leaders were not ready to embrace this, they at least sought to end their international status as pariahs. Both came to understand that a new narrative would begin to take shape with their own actions in the months and years ahead.

Bargaining Space

As important as these conceptual breakthroughs were, the bargaining space was still quite large. There were many difficult questions to be answered and much hard work ahead.

- Through what specific mechanisms would majority rule be expressed?
- In what ways would minority rights be protected?
- What levels of social investment would be adequate?

⁸ Byrnes, Rita M. *South Africa: A Country Study* (Washington, DC: GPO for the Library of Congress, 1996), 75

- Could adversaries in such a long, bitter dispute really learn to live together as compatriots?

Answers to these questions would have ramifications for generations of South Africans, and no one had any illusion that negotiating them would be easy.

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I think the shared interest they had during this time, although it took a long time to build confidence in that, was that they all cared about South Africa. Now that sounds a little romantic but one of the things that struck me each time the country came to a brink of what I would call wholesale violence, people stopped on both sides. And it's because they knew they didn't want to destroy South Africa; they knew they had something phenomenal there, it's a gorgeous beautiful country, it's a beautiful country, it has wonderful resources. The people who were oppressed knew that they had a potentially rich country in which they could live. Many of the whites said, "We don't have anywhere to go, we've lived here for generations, this is our country too." And it took a while to build up enough sense that both sides really did care enough about the country to try and find a common ground. I think also, and this was the hardest of all, for the white community and it took a long time, to accept and take the risk that there wouldn't be a blood-letting vengeance once the change took place. It took a long time for people to come to that acceptance and they didn't really come to it until after the election and the blood-letting didn't happen.

-Princeton N. Lyman

It started from ordinary academics, African academics, who were raising the question- testing the water about the prospects. That there is this possibility where the African academics wanted a discussion with the ANC, to find out if there is no possibility of them playing some mediating role as a go-between to see if they cannot influence their leadership. Because they were becoming aware that doubts were being raised even within the regime itself as to whether these policies [were] going to help or destroy the country, and whether they were going to be able to win that war. Now a total strategy was evolving, meaning a total onslaught. By then division was beginning to happen within the nationalist party itself. The intellectual element, the academics looking at the situation, thought that maybe they can step in and be helpful. Everything was held in Dakar with the delegation of the ANC and these Afrikaner intellectuals that explored this possibility. So that they can take the message back that the ANC would be ready to deal with that eventuality but there are a number of things as signals of seriousness that they should be able to do: release all political prisoners including Nelson Mandela. Because once they do that then we are able to bring the whole leadership of the ANC, those who are in Robben Island and those who are outside, to negotiate as one. You can't start engaging Nelson Mandela in prison in order to talk to the ANC outside making offers that were not necessarily the same. It became clear that some game was being played. And we said no, if you are going to be serious then this is the way to go. And in the end they had to succumb, because even amongst themselves there were problems that were developing. When de Klerk ultimately came in to replace P.W. Botha it became clear that those who were for negotiation and the peaceful settlement of the problem of our country were beginning to win the day. But there was also a groundswell within the white community itself and certain sectors in business and within the religious community. They began to question the morality of apartheid even purely from a theological foundation, because that was also being used as a reason for why this particular system had to survive and was put in place. They used biblical texts and doctrines to try and justify this and which started isolating the churches also. They had to start speaking out. The business community could not do business anymore, the economy was shrinking, they were getting into serious problems, the academics were in trouble because of the academic boycott and the economic sanctions were beginning to hurt the business community. So all of them had an interest in this issue.

After the meeting of the academics, there was a trickle of different sectors, the students, the business community, religious leaders, even all sorts of social categories and movements coming to the saga, defying the regime to meet with the ANC to say, “What exactly do you want and where do you want to steer our country to?” And by that time we were [able] to develop a set of constitutional principles to say these were the principles that we believe if we adhere to and we develop a constitution along these lines, then we can be able to get out of all this mess of armed struggle or sanctioning or whatever, and lay the basis toward resolving our country, and all of us should get involved in this process. And all of us must call for these negotiations to take place. So it was also the mobilizing of our people.

-Welile Nhlapo

Importance of Leadership:

The Release of Nelson Mandela

White governments prior to de Klerk’s made no efforts at reform, and de Klerk himself was not known as a visionary. When he came to power, black leaders and the international community were naturally skeptical. But de Klerk and other NP leaders came to grasp the need for a bold new move to change the conflict’s dynamics.

Confirming Mandela’s willingness to negotiate. In quiet meetings with ANC leaders, his representatives, including top-level cabinet ministers, confirmed that Mandela was willing to negotiate on the basis of principles that would be compatible with the interests of the white community, if nevertheless requiring substantial concessions from it. De Klerk and other NP leaders came to recognize Mandela as possibly the government’s best hope for a negotiated settlement.

Making a bold move. In many negotiations, both sides make incremental, reciprocal steps, slowly building confidence. But in some instances, confidence building requires a bold move. With the government’s having lost so much credibility, in the eyes of both its opponents and the international community, de Klerk recognized such a situation. In his campaign to the white electorate, he had run on a policy of inclusion; even so, he surprised everyone with his quick announcement to release Mandela and lift the ban both the ANC and the Pan Africanist Congress. De Klerk’s speech came on February 2, 1990, just five months after his election. Mandela was released February 11.

This move alienated de Klerk from the most diehard supporters of apartheid, who were represented by the white Conservative Party (CP). Among everyone else, the new president was given credit for swift and decisive action. Mandela was paid a hero’s welcome by his own people and in capitals around the world.

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F.W. de Klerk surprised everyone. If you look at Allister Spark's first book, *The Mind of South Africa*, a brilliant book about South Africa, the first edition ends with F.W. de Klerk coming to power and replacing P.W. Botha; and he's not very optimistic. When he puts out the second edition a year later he says, "I was taken by surprise." F.W. de Klerk seemed to be, if anything, an apologist for apartheid; his father had been an architect of it. But F.W. de Klerk realized that things were changing and that things had to change. This was not a sudden decision on his part; he found that he couldn't get the negotiation going, because remember they're in conversations with Nelson Mandela now for two or three years, unless they unbanned not only the ANC but the communist party, the Pan African party, all of them and release Mandela unconditionally. That was Mandela's condition and de Klerk could have done it half way but then the process would have dragged on and on. So he decided that he would do it all at once, and he had already known that once he did that he was opening the door to a serious negotiation.

-Princeton N. Lyman

By releasing Nelson Mandela, de Klerk sent a message that he was prepared to break from the past. He was releasing the man who had certainly threatened the state. So in the eyes of the white South Africans, he was reaching out to a group that they had perceived as their enemy. But he was also showing that he reflected a new generation of South Africans. It was definitely a bold move on his part.

-Dorina Bekoe

It had to take Mandela and de Klerk to also lead the process even in the height of very serious risks. This is because they were prevailing upon an organization where a lot of serious misgivings were there, even in this whole question of negotiations. I remember in one conference where Nelson Mandela was called a "sell-out" and he said "call me whatever, this is the direction I am going. And that we are going to suspend all armed activities whether you like it or not because this is the only way, in all seriousness, we can take this country in the direction in which we want it to go." And those who are ready to continue the fight were seriously disappointed—totally against the negotiations. But in the end, they had to understand and accept "Well hey, let's give this process a chance. The leadership is convinced, let's see where this process will take us." And indeed people are being mobilized and explaining—look this is the option; we have to pass through it.

-Welile Nhlapo

Building Momentum:

Groote Schuur Minute and Pretoria Minute

To capitalize on the momentum generated by de Klerk's bold move, the government and the ANC moved quickly on areas of agreement. From the ANC's perspective, the first step was to remove obstacles to negotiation, such as ending the state of emergency, repealing apartheid laws, allowing political exiles to return to the country, and releasing other political prisoners. For the government, these demands were acceptable provided that the ANC suspended its armed struggle.

Lifting the state of emergency curbing violence. The first agreement between the ANC and the government came in 1990 and was called the *Groote Schuur Minute*. Both parties made “a common commitment towards the resolution of the existing climate of violence,” along with “a commitment to stability and to a peaceful process of negotiations.” The two sides agreed to remove all obstacles to the negotiation process, and as a result started specific processes for the release of political prisoners and the opening of channels of communication. The government reiterated “its commitment to work towards the lifting of the state of emergency.”⁹

Repealing security laws and suspending the armed struggle. In their next agreement, the *Pretoria Minute*, both sides endorsed a working group report from the *Groote Schuur Minute* detailing specific conditions under which the government would release political prisoners and allow political exiles to return to the country. Both sides also agreed to reach out to all other parties and stakeholders in South African society to promote the understanding that problems can and should be resolved through negotiations. The government also agreed to repeal its Internal Security Act, which eventually led to the dismantling of two notorious organizations in the state’s security apparatus, the National Security Management System of Joint Management Committee and the Civil Cooperation Bureau of South African Defense Forces.¹⁰ For its part, the ANC agreed to suspend “all armed actions,” announcing that “as a result of this, no further armed actions and related activities by the ANC and its military wing *Umkhonto we Sizwe* will take place.”¹¹

Repealing apartheid laws. On the first anniversary of his announcement of Mandela’s release, de Klerk made another historic speech to Parliament, this time expressing his intention to scrap all the major apartheid laws. The last two, the Group Areas Act and the Population Registrations Act, were removed from the books in June of 1991.

Accommodation. In this case, de Klerk made effective use of accommodation, gaining social credit for conceding on issues that were most flagrantly at odds with international norms and standards. Any attempts to “bargain them away” would only have reinforced the image of his side as hopelessly out-of-step with the rest of the world. Scrapping them unilaterally helped signal his abrupt break with the past. Though some international sanctions were still in place, he was received with pomp and circumstance around the world, as Mandela had been before him.

⁹ African National Congress, “Minutes and Accords between the ANC and the South African Government, May 1990 - February 1991: Groote Schuur Minute,” <http://www.anc.org.za/ancdocs/history/minutes.html#GSM>.

¹⁰ Du Toit, Pierre. *State Building and Democracy in Southern Africa: Botswana, Zimbabwe, and South Africa* (Washington, DC: United States Institute of Peace, 1995), 202.

¹¹ African National Congress, “Minutes and Accords between the ANC and the South African Government, May 1990 - February 1991: Pretoria Minute” <http://www.anc.org.za/ancdocs/history/minutes.html#PRM>.

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The interesting thing about the whole process is that as we negotiated for the other side to prove that they are serious, we didn't demand for the dismantlement of the apartheid parliament. They must pass legislation that will repeal all these laws that parliament had passed, through the same parliament and the same people who are sitting there. That parliament legislated itself out of existence and ushered in an interim constitution which created a new set of institutions that allowed us to have elections. This same apartheid parliament—we didn't dismantle it because there would have been chaos. Let them prove their seriousness, let them go back and legislate on the basis of the decisions that they are taking in the negotiations forum. And they were willing to do that and they did that.

-Welile Nhlapo

They had to do several things: they had to settle the problem of how you bring the exiles home and an amnesty, temporary, permanent for all the people coming home who the government has charged with killings, guerilla attacks, sabotage, terror, etc. That took a long time because it was a backlash to some extent among the government and white population, "Are you going to let all these murderers back in, the communists and all the rest and just let them come back free?" So they had to work out who could come back, was this a permanent amnesty—that was a very tricky thing. There were political prisoners, people who had been arrested by the government, some of them had committed bombing attacks. Others were arrested for other things. A long, very difficult negotiation over freeing political prisoners, with the ANC saying, "We're not going to go forward on all the negotiations until that issue is settled."

Disarmament—that was another one. The [South African government] wanted the ANC to give up all its arms and another group, a more radical group, the Pan Africanist Congress to give up its arms as a condition. The ANC said, "No, we're not going to do that because we don't know whether these are going to be successful." They had to finesse that in a way, sort of like let's move the arms negotiation over here so we can get on with it. The ANC didn't have many arms really but the principle of it was very important. So these things had to be thrashed out. Then, who sits at the table? The ANC said, "We're the guys who count" and the government said, "Oh no, there's Buthelezi, there's our homeland governments that we created, there's this party and that party." Somehow they had to bring all these other people in, but in fact work out a way where the real negotiators were the government and the ANC. That took a lot of time; it took a year, more than a year.

-Princeton N. Lyman

Track II and III Efforts:

National Peace Accord

Mandela's long, patient preparation, coupled with de Klerk's bold action, created swift, unprecedented change in South Africa.

Disorientation. The change was needed, and long awaited, but for many it was also disorienting. In the words of Marks, "The institutions of apartheid were crumbling and apartheid legislation was being wiped from the statute books, creating uncertainty and confusion in the absence of any new institutions or legislation to take their place." With passions running high, "The centuries of

oppression, discrimination, and deprivation erupted in a burning rage. Political opposition found violence useful. ... The crime rate skyrocketed, the political death count rose, gangs proliferated, and marginalized youth went on the march. Euphoric release from the cruel past gave way to endless crisis.”¹²

Building relationships. In the manner described by Lederach, Saunders, and others, Track II and III leaders took the lead in attempting to calm the waters and build new relationships among historic antagonists. Religious leaders from the South African Council of Churches and business leaders from the Consultative Business Movement joined forces with the NP, the ANC, and labor unions in order to develop the National Peace Accord (NPA). Marks outlines the complex organization created by the NPA:

- **National Level:** National Peace Committee (NPC), National Peace Secretariat, Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation, Police Board
- **Regional Level:** Regional Peace Committees (RPCs), Socio-Economic Reconstruction and Development, Police Reporting Officers
- **Local Level:** Local Peace Committees (LPCs), Special Criminal Courts¹³

According to Gastrow, the NPA covered five principal areas: 1) code of conduct for political parties, 2) code of conduct for security forces, 3) socioeconomic development, 4) implementation and monitoring, and 5) process, the secretariat, and mass media. Within two years, 11 RPCs were formed, along with 180 LPCs whose ranks included over 8,000 volunteers from virtually all groups in society.¹⁴

Collaborative Approach

Marks, who served on the RPC in the Western Cape, describes the spirit in which these individuals tackled local problems: “Instead of seeing ourselves locked in a zero-sum, win-lose competition in which only one side could win, we started to see ourselves as partners in a problem-solving relationship.” This change in perspective “changed the way we dealt with our problems—and one another—and the basis for much of the peace work we undertook.”¹⁵

In spite of notable successes, however, the NPA could not contain violence in all the provinces, as spoilers with vested interests in the old system fiercely resisted change. Soon negotiators would turn their attention to the writing of a new constitution, one that would embody the structure of the country’s first majority-rule government. With shocks of rapid change rippling through the country, the parties looked ahead with a mix of confidence and trepidation.

¹² Marks, Susan Collin. *Watching the Wind: Conflict Resolution during South Africa’s Transition to Democracy* (Washington, DC: United States Institute of Peace, 2000), 6.

¹³ Collin Marks, Susan. *Watching the Wind: Conflict Resolution during South Africa’s Transition to Democracy* (Washington, DC: United States Institute of Peace, 2000), 18-19.

¹⁴ Gastrow, Peter. *Bargaining for Peace: South Africa and the National Peace Accord* (Washington, DC: United States Institute of Peace Press, 1994), 32, 94.

¹⁵ Marks, Susan Collin. *Watching the Wind: Conflict Resolution during South Africa’s Transition to Democracy* (Washington, DC: United States Institute of Peace, 2000), 16.

Perspectives

The violence was a major concern of everybody; civil society, of the negotiators and of course it was a major concern of everyone caught up in it. And it worried everybody about what it foretold about the situation. Mainly through the drive of civil society and particularly the strong religious organizations in South Africa, the politicians came together and created what was called the National Peace Accord. The business community contributed a great deal to this both in people, money, etc. The National Peace Accord had several layers. At the top, all the leaders said, "We will oppose violence, we will do everything possible to avoid it, etc." Then you had provincial and local level chapters that were supposed to bring all the parties together around violence. The real heroes of the National Peace Accord are the people at the local level, the people at the provincial level. When violence broke out they called the police, they called the church people and they called the other people together. You had these extraordinary times when people would sit across the table from the police chief who had tortured them and said, "Now how are we going to stop the violence in our community?" It's an extraordinary story. *Watching the Wind*, a book by Susan Collin Marks, tells the story of how at the local level they did this and kept the pressure on the leaders at the top, saying, "You're not doing what you can to help us out."

The violence became heavy in only two areas: KwaZulu-Natal, where there was an all-out fight between the Incatha Party and the ANC for control, and in the suburbs of Johannesburg, where the same two parties were fighting.

-Princeton N. Lyman

For us, the lesson was to do it at home, do it ourselves, let our people be the ones who manage our process and we have to consult and agree on how to deal with certain elements and aspects of it. We didn't have to rely on any U.N. force that would have to come in and do anything.

The security forces of the regime were forced to commit themselves to protecting the process. But you also had what you called the National Peacekeeping Force, which was composed of elements of different armed elements—from us from the regime, from the army, from wherever—to try and deal with the situation of violence in our country. We also had a National Peace Committee that established peace committees everywhere so they can monitor violence and be able to bring the results to the negotiating table and say who is responsible. This way the parties don't monitor themselves but have representatives in these peace committees that were established in most parts of the country, particularly where violence was more prevalent. You had these peace committees where locals were involved in them but you also had international representatives that were drawn in from the anti-apartheid movements and in some cases from governments, the OAU [the Organization of African Unity] and even the U.N. had its own presence there. This was a presence that monitored who was responsible for undermining and creating conditions that mitigate against what we believe existed to allow us to have this peaceful negotiation.

-Welile Nhlapo

Inclusion of Stakeholders: **Convention for a Democratic South Africa**

In keeping with their commitments in the *Pretoria Minute*, the ANC and NP took the lead in establishing a multiparty negotiating forum.

Getting buy-in. Both parties understood that all major stakeholders had a legitimate right to take part in negotiations. Moreover, both realized that the best way to get buy-in, both to the process and to the anticipated changes in society, was to be as inclusive as possible. Consequently, Mandela and de Klerk made a priority of convincing leaders across the spectrum to attend the multiparty conference.

In December 1991, the Convention for a Democratic South Africa (CODESA) was convened with a mandate to establish a broad set of constitutional principles, make preparations for a smooth transition, and prepare for the country's first free election. In the words of Hassen Ebrahim, "The importance of the first plenary meeting of CODESA cannot be over-emphasized, for it represented the first formal multilateral meeting to negotiate a settlement of the conflict in South Africa."¹⁶

Spoilers. In spite of these efforts, however, not everyone was persuaded. On one side, the white CP claimed that de Klerk had sold out his people; even De Klerk's predecessor, former President P.W. Botha of the NP, rejected the approach. On the other side, the PAC, which had been both ally and rival to the ANC for decades, and the Inkatha Freedom Party (IFP), organized by former ANC member Mangosuthu Buthelezi, also raised several objections. Buthelezi had led the KwaZulu homeland as an appointed official of the NP government and was criticized for it by many black leaders. De Klerk and Mandela made numerous attempts, including personal entreaties, to reassure and encourage these parties. However, the CP, PAC, and IFP ultimately boycotted CODESA, pulling the ANC and NP toward opposite ends of the political spectrum, and substantially undercutting their efforts to forge a new and more just political dispensation.¹⁷

¹⁶ Ebrahim, Hassen. *The Soul of a Nation: Constitution-Making in South Africa* (Cape Town: Oxford University Press, 1998), 105.

¹⁷ Du Toit, Pierre. *State building and democracy in southern Africa: Botswana, Zimbabwe, and South Africa* (Washington, DC: United States Institute of Peace, 1995), 202, 210.

Perspectives

Certainly Mandela and de Klerk met face to face at a very high level. But during the constitution making process, it was not just between the two leaders of their respective parties, this was really an invitation to the members of the both groups and even some of the smaller groups to participate in the constitution writing of South Africa. So reconciliation happened at many different levels in South Africa.

-Dorina Bekoe

We are confident that the principles we have developed would pass. We entered those negotiations clearly committed and convinced that there is no argument against that. Nobody could have if they were serious. And therefore in organizing for the negotiations process, one of the things that we are to agree on is no external mediators; we do it ourselves, inside the country, chaired by judges, from that very system and identify the parties that will then come to the table. The ANC identified a group of parties, some of them who were working on the side of the regime and heading the Bantu stance. They were able to mobilize them and win the move into what was called the Patriotic Front. Then the others remained in between. Some allied themselves with the nationalist party government. So you have a broad negotiation process where everybody came to the table, all these opposing forces—it was not easy.

-Welile Nhlapo

3.2: Attempts to Use Leverage

Procedural Deadlock: Interim Governance

In negotiations over the new constitution, the parties encountered a series of significant early challenges. One procedural deadlock concerned the question of interim governance. How would the nation be governed during the transition to a more democratic system?

NP's proposal. Early in the negotiating process, the NP declared itself competent to run the government while negotiating, and proposed to do just that. According to the NP negotiator Gerrit Viljoen:

The continuous, complex and most responsible business of governing a nation remains the task of the National Party government until such time as the proposed changes have taken place. The same applies to the present constitution and its institutions. The government will continue to govern and the National Party will negotiate.¹

On the question of an interim government, Viljoen maintained that there was “no possibility” of the government’s “simply disappearing from the political stage and handing over to one or other

¹ Ebrahim, Hassen. *The Soul of a Nation: Constitution-Making in South Africa* (Cape Town: Oxford University Press, 1998), 75.

potentate or group with no experience of what the governance of a sophisticated country involves.”²

Impact of process on substantive outcomes. But the ANC and its allies did not believe that the NP could be both a negotiator and referee of the process. In particular, they were concerned that institutions such as the South African Broadcasting Company were too tightly intertwined with NP interests, and more importantly, they were highly distrustful of the state security forces, whom many believed were involved in the arming and training of extremists. In the view of the ANC and others, the NP would have too much potential leverage in the negotiation if it also held exclusive access to the reins of power, and therefore this procedural issue had direct bearing on potential substantive outcomes of the negotiation.

Perspectives

We had learned from the Namibians what had happened in their own negotiations, which were mainly managed principally by the U.N. because it was a United Nations trust territory in the end. How the U.N. managed the negotiations, and to some extent, SWAPO, South West Africa People Organization, Namibian Liberation movement not being involved in all the process, was why we were able to make this decision that we will manage negotiations inside our country. We will have our own people chairing which is why we ended up with two permanent judges being the chair of that negotiation process, and relying on our own resources. We did not rely on outside sources because once they dry out nothing continues to happen.

-Welile Nhlapo

De Klerk hoped that somehow through this transition that he could preserve in effect a veto power for the white population, about 10 percent and with their allies the black population was somewhat more. But he wanted to give them a veto power. You may recall that in the settlement of Zimbabwe's independence, in the first constitution whites were automatically given a certain number of seats in the parliament. De Klerk wanted more than that, for example, one of his proposals was that the new government would be a triumvirate. It would be Mandela, Buthelezi, and de Klerk, and they would have to decide things by consensus, in effect giving him a veto in the new government. There were all kinds of variations of that which he kept putting forward in one way or another in the negotiation and which the ANC could not accept, and which we said to de Klerk, "It won't work, you can't do that under these circumstances and you've got to find another formula." It took form in another way, for example over the constitution, how many votes would you need in the parliament to change the constitution once it was agreed? De Klerk pushed for 75 percent, figuring he would get

² Ebrahim, Hassen. *The Soul of a Nation: Constitution-Making in South Africa* (Cape Town: Oxford University Press, 1998), 76.

enough votes with his allies to at least have 26/27 percent of the parliament and thus could block the ANC from ever changing the constitution. For the ANC it ought to be a majority, 60 percent or etc.—they ended up settling on two-thirds. But it was indicative of whether the whites could guarantee constitutionally or in some other way a degree of veto or quasi veto over future policies.
-Princeton N. Lyman

Procedural Deadlock:

Supermajority

Negotiators for the ANC and the NP agreed that a new parliamentary body should write and establish the nation's new constitution, but they reached a difficult impasse in determining rules under which the body should operate.

Supermajority. De Klerk's NP wanted a provision requiring a 75 percent supermajority in the new body in order to approve a permanent constitution. Given the NP's apparent electoral strength, this would have effectively given the NP veto power over the document's adoption. De Klerk's team held firm on this point, a very strong assertion of the principle of minority rights.

In Princeton Lyman's words, the ANC "sensed a trap." By this proposal, the NP would "be able to block adoption of a majority-driven constitution."³ With so much history of representing a majority without a voice, the ANC could not accept the NP's proposal, considering it too much of a constraint on the principle of majority rule.

Constitutional plebiscite. For its part, the ANC proposed that if the consensus could not be reached on a draft constitution, the draft would be put to a plebiscite, or popular vote, decided by a simple majority. Lyman states that here "the government sensed a trap: the ANC could deadlock the parliamentary process and quickly move to the popular vote."⁴ Knowing that its supporters were outnumbered, the NP was not willing to accept the ANC's proposal, considering it an over-assertion of majority rule.

Competitive behavior. At this point in the process, both sides engaged in highly competitive behavior. According to Ebrahim, negotiations eventually "deteriorated into a verbal brawl. The NP accused the ANC of being intransigent and wanting to draft the final constitution on its own" while "the ANC accused the NP of bad faith and wanting to ensure that the special majorities it insisted upon would not allow the final constitution to be adopted."⁵ The second round of talks foundered on these points and ended in failure.

³ Lyman, Princeton N. *Partner to History: The U.S. Role in South Africa's Transition to Democracy* (Washington, DC: United States Institute of Peace Press, 2002), 59.

⁴ Lyman, Princeton N. *Partner to History: The U.S. Role in South Africa's Transition to Democracy* (Washington, DC: United States Institute of Peace Press, 2002), 59.

⁵ Ebrahim, Hassen. *The Soul of a Nation: Constitution-Making in South Africa* (Cape Town: Oxford University Press, 1998), 129.

In spite of repeated attempts to heal these rifts, the NP and the ANC remained far apart. Stymied at the bargaining table, both sides attempted to alter the negotiating dynamic by applying coercive leverage on the ground.

Perspectives

Minority groups tend to feel threatened under a majority rule system because there is fear that their specific needs and interests might not be addressed. Those fears and concerns were certainly present in the South African peace making process. Mandela recognized that and was very clear in saying that he did not want to strip white South Africans of economic power, did not want them to leave South Africa. Unlike other instances where the minority population had to flee, he emphasized that they wanted this *rainbow nation*, is how it's been categorized. So there was a very overt effort on the part of the majority group, in this case the black South Africans, to not see this as some opportunity to avenge the white South Africans. While some white South Africans did leave South Africa, there wasn't a mass exodus of white South Africans from the country.

-Dorina Bekoe

People were making references to existing constitutions in different countries. And that's why they were advocating, the Nationalist Party in the beginning, strongly advocating for a federal constitution to allow and give room to this. We looked at the German constitution, we looked at the Swiss constitution; joint delegations from the negotiating parties went on study tours to look at different constitutions in which reference was being made that these minority rights were protected in a particular way. To go and study there and engage people to understand what is the relationship between the constitutional principles and what they experience on the ground. And to see if this is going to help in a particular way. You can't just borrow from existing constitutions when you don't know the history and the problem they are trying to solve. Now, in our instance people wanted to preserve the benefits of apartheid and that was unacceptable. That was the silent argument and that was totally unacceptable.

-Welile Nhlapo

***ANC's Coercive Leverage:* Rolling Mass Action**

For its part, the ANC applied coercive leverage by mobilizing supporters for massive demonstrations and work stay-aways.

Large disruptions. The ANC used these protests to release pent-up tensions within its restive constituency, as well as to pressure the government. The gatherings were generally peaceful, but because the ANC and PAC were now unbanned, the huge demonstrations, or rolling mass actions, tended to be even more disruptive than they had been in the past, paralyzing the country, increasing security costs, and causing further economic disruptions for a government still coping with international sanctions.

De Klerk's dilemma. The mass action campaigns were very effective at boxing in de Klerk, who was still simultaneously answerable for the negotiating stance of the NP and head of the South African state. He had few options for dealing with these protests and their resulting economic disruption. He could not go back to the large-scale crackdowns of earlier years without

ruining his reputation as a moderate, a reputation that he had worked hard to cultivate both within South Africa and in the wider international community. At the same time, the repeated protests undercut his image as a leader in full control, furthering the ANC's claims that the country needed fresh, balanced leadership sooner rather than later.

By applying coercive leverage on de Klerk in this way, the ANC hoped to soften his positions at the negotiating table.

Perspectives

On the ANC side, even after the ANC was un-banned, Nelson Mandela suspended but did not completely revoke violence. He urged that the U.N. not lift sanctions until the parliament voted to lift apartheid. So there were a number of external pressures that were applied to keep the process going.

-Dorina Bekoe

The ANC from time to time, when the negotiations reached an impasse, would pull off a massive demonstration. And they were important because what Mandela is saying is, "We are the majority, we are the vast majority of this country and you can't continue to govern this country and defy the majority. We can mobilize them; we may mobilize them peacefully now but if I can bring a hundred thousand people down to the Union building (it's like the White House in the U.S.), you have to know that we have the real power over the long term." His ability to use that and keep it under control was a very important negotiating tactic.

-Princeton N. Lyman

***NP's Coercive Leverage:* Arming Antagonists**

In response, the government found its own methods for applying leverage on the ground.

NP/IFP cooperation. Buthelezi and the IFP had cooperated with the NP for years. ANC supporters accused Inkatha of selling out, and when Mandela was released—and then took the lead in negotiations with the government—Buthelezi chafed at his diminished role. Despite repeated personal attempts, Mandela had little success in placating Buthelezi. On the contrary, after supporting negotiations at the outset, the Zulu leader eventually took the IFP out of CODESA and became a leading critic of the emerging process. Tensions between ANC and IFP supporters grew increasingly violent.⁶

Government involvement in violence. Some white conservatives began to argue that the country was not yet ready for majority rule in the midst of what they called "black-on-black violence." However, evidence emerged that the government itself was creating and manipulating conditions to validate this storyline. In an early scandal that became known as "Inkathagate," the government was caught funneling public money to support IFP activities, including arming and training its members and fomenting violence between ANC and IFP loyalists. Although de Klerk

⁶ Byrnes, Rita M. *South Africa: A Country Study* (Washington, DC: Federal Research Division, Library of Congress, 1997), 286-289.

claimed ignorance of the activities, Inkathagate became a major embarrassment for his government, resulting in the reassignment of several senior officials.⁷

Boipatong massacre. On June 16, 1992, while the ANC led nationwide commemorations of the Soweto uprising, 39 ANC supporters, including women and children, were massacred by IFP activists in the community of Boipatong. Once again, reports emerged that the government had armed and aided the IFP, provoking an even greater crisis.

Like the ANC with its rolling mass action, the NP attempted to apply coercive leverage to soften its counterpart's positions. But as we noted earlier, applying coercive leverage frequently involves some risk. In this case, the Inkathagate revelations caused the NP plan to backfire, weakening its own position.

Perspectives

First of all they tried to play off different factions. They clearly tried to play Buthelezi against Mandela and try to build up Buthelezi as an alternative to Mandela, and we know secretly gave him arms as well. They pointed to differences within the ANC movement. They appealed to [the] coloured population which is a mixed blood population saying, "Watch out when the blacks are in the majority, you're going to be hurt." Of course they also had the power of the military and the police. And the hint that if the negotiations didn't go well they had the military power of force to stay in power. So they had several elements of leverage. Also, de Klerk traveled abroad and built up credibility; Margaret Thatcher was very supportive of de Klerk. He got good recognition elsewhere and de Klerk could come back and say, "See, I'm not the evil guy. People want a peaceful, careful transition, etc." So he had sources of leverage as well.

-Princeton N. Lyman

In negotiating in a situation where violence was being unleashed through what was then described as a third force. It was not directly coming from the ANC or from the government but there was a third force, an element in which the security forces of the regime were also involved. There was killing of the people in trains and attacking people in townships using the hostels, at times through the support of some elements within the police forces. That's why I was talking about the peace committees that were established to monitor and report on that violence because it was there. That was meant to undermine that process and to temper the hope of people that in fact you can't have a peaceful transition; that violence is going to be the order of the day. We had a lot of that and many people lost their lives at the time when there was an agreed suspension of hostilities. But you found these elements coming through. Part of it was established through the Goldstone Commission. Elements within the security forces of the regime were responsible.

-Welile Nhlapo

***The ANC's Normative Leverage:* The International Community**

⁷ Bouckaert, Peter. *The Negotiated Revolution: South Africa's Transition to a Multiracial Democracy* (Stanford, California: Stanford Center on Conflict and Negotiation, 1997), 246.

Arguing that the Boipatong massacre was only the latest incident in an ugly, systematic campaign on the part of the NP to apply coercive leverage, Mandela pulled the ANC out of CODESA on June 23, 1992, demanding greater security for his people along with an international investigation into the government's involvement in violence.

U.N. mission. The international community was quick to respond to Mandela's calls, appointing a high-profile U.N. mission to investigate. The mission was headed by former U.S. Secretary of State Cyrus Vance.

Goldstone Commission. The U.N. mission worked closely with the Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation, which had been created as part of the National Peace Accord. Popularly known as the Goldstone Commission, after Richard Goldstone, a prominent South African jurist who was well respected by all sides, the local commission eventually turned up fresh evidence, endorsed by Vance and the U.N., of police and military involvement in the incitement of black-on-black violence. According to Lyman, Goldstone's inquiry revealed "a vast network of military intelligence and police units engaged as provocateurs, killers, and supporters of hit squads."⁸

As he had during Inkathagate, de Klerk denied wide NP involvement and claimed that rogue elements had infiltrated his security institutions. This time, he sacked the specific individuals who had been implicated. Nevertheless, Goldstone's findings changed the dynamics of the negotiation, adding substantial normative leverage to Mandela's arguments.

Along with normative leverage, Mandela and the ANC benefited in this case from the efforts of a third party. In our next course, we will discuss in detail contributions such as this, as well as the many other types of contributions that a third party can make in a difficult negotiations.

Perspectives

You also had a commission that sat and investigated violence that was happening in the country—this was called the Goldstone Commission; Judge Goldstone, the one who is now dealing with the Middle East situation. He was the chair of that commission. They produced a report indicating the scale of violence and who was responsible. So that in negotiating we do not get bogged down in finger pointing but we have independent institutions led by prominent in our own country.

-Welile Nhlapo

Also a commission was another vehicle, a very important way in which South Africans dealt with obstacles by creating institutions to deal with them so that they didn't intervene in the fundamental negotiation. You had the National Peace Accord which was dealing with violence up and down the community involving civil society. You had a separate finessing of

⁸ Lyman, Princeton N. *Partner to History: The U.S. Role in South Africa's Transition to Democracy* (Washington, DC: United States Institute of Peace Press, 2002), 106.

the disarmament process, sort of putting it off somewhere where it wouldn't get in the way. The Goldstone Commission was a response to the charges made that some of the violence, particularly the violence between Buthalezi's people and Mandela's was being fostered by rogue elements within the military and police. And Judge Goldstone, a judge on the high court was put in charge of an investigatory commission and his commission revealed exactly that—that there were rogue elements within the police, that they were fomenting the violence, that this wasn't just black on black violence and that this was a serious problem within the government. It cost the government a great deal of credibility but it also on the other side said that there are institutional ways to deal with this; you don't have to deal with it by overthrowing the government and taking revenge. So, it was again an example of an issue where you create a credible institution to deal with it, and Goldstone was very courageous in doing this.

-Princeton N. Lyman

3.3: Collaboration and Trade-Off

Personal Relationships

For several long months in 1992, negotiations were at a standstill. The momentum of early agreements had dissipated, the parties remained far apart on substantive issues, and much goodwill had been soured by various attempts to apply leverage, particularly the NP's.

Yet there seemed no alternative but to find a way to press on. To help get the effort back on track, negotiators drew on the strength of personal relationships that they had developed over time.

Mandela/de Klerk. As leaders of communities that had long been at odds, Mandela and de Klerk were in many ways rivals, and Mandela was furious at de Klerk for not doing more to stop the violence. Yet even in very difficult moments, each man had substantial respect for the other. Mandela knew de Klerk as the first South African head of state to acknowledge the moral and practical failings of apartheid, a courageous stand in a society where many diehard supporters were still eagerly spoiling for a fight. De Klerk knew Mandela as a man who had lost 27 years of his life, yet still preached peaceful reconciliation with his former jailors. The international community took substantial steps to help cement their stature. In Philadelphia, they were jointly awarded the prestigious Liberty Medal. Later in Stockholm, they were jointly awarded the Nobel Peace Prize.

Ramaphosa/Meyer. Mandela and de Klerk were not the only ANC and NP leaders who established strong working relationships in the course of the negotiations. With official talks at a standstill, Cyril Ramaphosa, lead negotiator for the ANC, and Roelf Meyer, lead negotiator for the NP, went trout fishing together, continuing their discussions informally.

Only days after the fishing trip, 28 ANC supporters were killed in skirmishes at Bisho in the Ciskei homeland. With fresh determination drawn significantly from these personal relationships, both ANC and NP leaders found the will to return to the negotiating table.

Related Resources from USIP: [*Bargaining for Peace: South Africa and the National Peace Accord*](#)

By Peter Gastrow

Signed by all the major political and labor leaders in 1991, the National Peace Accord—a countrywide network of peace committees at the local, regional, and national levels—served as an extraordinary and daring experiment in conflict resolution. Gastrow describes the initiatives and events that led to the signing of the accord, exploring in particular the important roles played by religious groups and the business community. Noting that the NPA is without precedent internationally, he examines its impact on political violence, the democratization process, and socio-economic reconstruction and development in South Africa.

Interest-Based Reciprocal Concessions **Record of Understanding**

Less than a month after Ramaphosa and Meyer's fishing trip, Mandela and de Klerk signed a Record of Understanding.

The NP was greatly weakened by the findings of the Goldstone Commission. Most analysts concluded that de Klerk's party had lost ground in its bilateral negotiations with the ANC. In the words of Pierre du Toit, the Record of Understanding contained "major concessions by the NP" and, conversely, formalized "substantial gains by the ANC."¹

Interim government. In talks on the form of interim government, the NP made a significant concession to the ANC, agreeing that a constituent assembly, popularly chosen in a nationwide election, would serve as the country's interim parliament and would be charged with writing a permanent constitution. In another concession to the ANC, the constituent assembly would be bound only by general constitutional principles, operating under much less control than the NP had wanted. The ANC made a significant concession of its own. Executive functions during the transition period would be carried out by a government of national unity, where the ANC, as the clear majority party, would have to give up ministries to be shared among smaller parties, including, in all likelihood, the NP and Inkatha. Though the NP may have given up more, both sides gained through this intelligent exchange of concessions. The ANC was able to advance the principle of majority rule, its primary interest, while the NP and smaller parties were able to advance the principle of minority rights, their primary interest.

Right to peaceful protest. De Klerk reaffirmed the right of all parties and organizations to hold peaceful protests, as well as the government's responsibility to protect such protesters throughout the country. Specifically, he committed the government to a number of security steps long demanded by the ANC. On his side, Mandela agreed to review the ANC's program of mass

¹ Du Toit, Pierre. *State Building and Democracy in Southern Africa: Botswana, Zimbabwe, and South Africa* (Washington, DC: United States Institute of Peace Press, 1995), 204.

action to discourage supporters from marching in the most sensitive regions, including KwaZulu-Natal, where support for Inkatha was high. Again, they found a formula that allowed them to advance their respective primary interests. Thus, Mandela maintained—and de Klerk acknowledged—the right of the ANC and others to demonstrate anywhere in the country, a key point in their claim to common South African identity. With this principle acknowledged, Mandela was able to make a practical concession that aided the government in its effort to reestablish order and regain credibility.

Bilateral meetings. As the two principal parties in the negotiation, the ANC and NP agreed to hold additional meetings, several of them informal, which further built trust between the two sides. According to Ebrahim, these meetings allowed individual leaders from both sides “to strike up a personal rapport with each other,” which “proved invaluable in allowing them to work with each other through difficult negotiations.”²

The parties did not come to agreement on other questions, including the supermajority. However, the Record of Understanding breathed new life into the ANC’s and NP’s efforts; both sides acknowledged the significant progress they had made and committed themselves not to let violence disrupt their talks again. Their next step was to bring the other parties back to the table and keep them there, an effort that proved much more difficult than anticipated.

Perspectives

Peaceful negotiation in the heat of one of the worst and least organized violence that we've ever experienced in our country in 1993-1994 - so called black-on-black violence. The violence continued. It never stopped. We had one of our leaders killed Chris Hani and there are people being slaughtered in Sebokeng. People are being killed in the trains by nameless, faceless people, armed. Hostels were being used as bases where violence was being unleashed. Police escorting people. The killings were continuing. But even, at that time, at that stage, there's no more turning back. Even under the circumstances, we have to persevere. We have to find a solution to the problem. We have a basis for it.
-Welile Nhlapo

When there were impasses in the reconciliation process, many times both sides seemed to think that it's not going to work, there is no reason to continue engaging, we should resume our armed struggle and there is no incentive to continue disassembling the apartheid system. When there were setbacks they certainly planted seeds of doubt in their respective parties, but because there was so much to gain and because the stalemate was really unsustainable there was much more incentive to return to the negotiating table. There were instances where both leaders, Mandela and de Klerk, met separately or sent messages even though the formal reconciliation process had been suspended. So there was a frequency of communication between both leaders of the parties that I think really helped keep the peacemaking process going.
-Dorina Bekoe

² Ebrahim, Hassen. *The Soul of a Nation: Constitution-Making in South Africa* (Cape Town: Oxford University Press, 1998), 145-146.

They created something called CODESA, a congress of parties of South Africa (Convention for a Democratic South Africa), and they brought all the parties together. It took them some time just to agree on that. So Mandela comes out in early 1990 and CODESA doesn't start until 1991. That becomes the official negotiating process and then a year later, as I mentioned earlier, it breaks down entirely because of violence and disagreements over the constitution. So you have another long hiatus and then you bring it back in. They had to overcome another obstacle. De Klerk wanted a full constitution before the election while the ANC wanted a transition law, an election, and then, "We'll write the constitution because we're going to win the election." That took a long time to thrash out; they in effect wrote and called it an interim constitution, but it was a full-fledged constitution that took months and months of work. And then they got into an issue of federalism, do we have a federal system or do we not have a federal system. The ANC felt that federalism was a cover for protecting apartheid in different parts of the country. The government argued, although they had never practiced federalism, that federalism was a way to check the power of a new government. So, all these things went through CODESA but the government made a decision, and the ANC, by what they called a "sufficient majority." If a sufficient majority of the parties, and there was 20 of them in this CODESA, agree on something, then it's agreed. What that meant was the ANC and the government.

-Princeton N. Lyman

Hard-Liners and Potential Spoilers

Throughout the negotiations, smaller parties continued to pose problems. De Klerk and Mandela also had difficulties with their own constituencies.

Restiveness within the ANC. By this time, Mandela, Sisulu, and Tambo were legends within the ANC. Still, they represented a much older generation of leaders than those who had led protests in the late 1980s. Mandela was 71 when he was released from prison. On that day, many of his ardent supporters, including many influential leaders within his movement, were barely in their twenties. In all of his decisions, he had to consider the potential restiveness of this constituency.

Defections by the PAC. Typically, the PAC took a harder line in its opposition to the government, and in a significant disappointment to Mandela, it chose to boycott CODESA. The PAC was popular in the townships, particularly among youth, putting additional pressure on Mandela and his negotiators.

Defections by the CP. Early in the process, de Klerk's NP lost a key by-election to the white CP. The CP had been formed in the early 1980s specifically to stop any kind of power-sharing with those who had been historically dispossessed. The party's by-election victory was widely interpreted as a slap in the face to de Klerk and his policy of reform. In response, the president acted quickly, calling a whites-only referendum to confirm whether or not a majority within his constituency was truly in favor of reform. De Klerk's NP campaigned hard and soundly defeated the conservatives, a major event giving de Klerk a mandate to pursue reform. De Klerk and Mandela were also successful in the difficult task of bringing Constand Viljoen, a highly influential former general and right wing leader, into the process. Nevertheless, the CP maintained a tight hold on its smaller constituency. There were also several white groups with

even more extremist views contributing to nationwide violence, including Eugene Terreblanch, an inflammatory populist without a serious following whom both de Klerk and Mandela effectively ignored.

Defections by IFP. Buthelezi was not happy with the Record of Understanding and the rapprochement between the ANC and NP. He broke off negotiations with them and eventually created his own forum, the Concerned South Africans Group (COSAG), which included other homeland leaders who stood to lose power in a new dispensation, as well as conservative whites.³

Persepectives

You had spoilers on both sides. You had a strong grouping of various factions on the whites' side that felt that de Klerk had betrayed the white community and was selling out the country. It took its political form with the Conservative Party, but it became more dangerous when it drew in former general named Constand Viljoen and when it began to talk about, in effect, local militia; white militias being prepared to resist the implementation in their communities of any change that was going to take place. There was also talk that Viljoen, who was very popular within the military, might encourage the military to step in and stop the process. So you had a very strong, not majority whites, but a very strong, determined, diehard group on the white side threatening at least violence. On the black side you had in particular an organization called the Pan Africanist Congress (PAC) who had been somewhat of a rival of the ANC. It was not a multi-racial organization. It believed that you should have a black organization. Mandela's had Indians, he had whites; he really does believe in nonracial democracy. But the PAC had its own armed wing and said, "We are not going to take part in these negotiations, we're not going to give up the armed struggle." And they carried out some terrible bombing attacks; they attacked a church and killed a lot of people in Cape Town and they did some other attacks. The government had to negotiate separately with the PAC to try and finally bring them into the process and we put a lot of pressure on them, as did others. In the end, they proved not to have a great deal of following among the black community but they were an important force during this time of violence and opposition. Then within the ANC itself you had people who really wanted to put more pressure on the government through big marches that were sure to start confrontation, particularly against these homelands the government had created. That was a very delicate situation because if those marches had gone too far they would have created a kind of widespread violence. And Mandela had to control that within his own party, as well as deal with people farther to the left if you want to call them that.

-Princeton N. Lyman

³ Byrnes, Rita M. *South Africa: A Country Study*. (Washington: GPO for the Library of Congress, 1996), 202, 210.

You had what was called Afrikaners who were fighting for an Afrikaner state. It was a very violent group, the ones who disrupted the negotiations. They declared certain areas Afrikaner states or areas where they on their own wanted to live. They wanted to indicate that this group's rights could work. It is something that had to be fought very fiercely and debated very strongly while in the end it was not in the constitution and they wanted it there. But it continues to be a debate even from time to time from some of these right-winged elements. Some of them are now going through a trial because they still wanted, by force of arms, to bring about what they call the *Boerstadt*, which means the "State of the Afrikaners", the most right-winged elements within the Afrikaner community. So I am saying that there were a number of difficulties, like in this particular instance, where people wanted to preserve the Afrikaners identity, situations and everything. This was the very foundation of apartheid and how apartheid was first allowed. And that had to be resisted.

-Welile Nhlapo

Political Violence

In spite of renewed efforts by moderates to control political violence, problems continued in this difficult environment.

Intimidation by extremists. Extremists with very small constituencies continued to defy the political center. By the end of 1992, the Azanian People's Liberation Army, the military wing of the PAC, declared war on whites. In 1993, several hundred white extremists raided the World Trade Center in Johannesburg, where the peace negotiations were taking place. They destroyed government property and physically roughed up negotiators from all sides, injuring several.

Assassination of Chris Hani. On April 10, popular ANC leader Chris Hani was assassinated outside his home by a white extremist.⁴ In the words of Marks, "all over the country, black communities boiled over, releasing the pent-up rage of their oppression under apartheid rule." In a march in the Southern Cape, two factories were burned to the ground, workers refused to return to their jobs, and "the relationship between workers and industrialists hardened into a tense standoff." At difficult moments like this, the National Peace Accord proved its worth. The Regional Peace Committee of the Southern Cape was asked to intervene. Two representatives and a U.N. observer from Belarus arranged a meeting with 40 community leaders, "a local peace committee was formed, and within three or four weeks, the town was back to normal."⁵ Noting that it was a white woman who identified Hani's white assassin, Mandela addressed the nation and appealed for calm in a speech that was widely admired. Serious efforts such as this helped contain the violence, but still could not prevent it. Violence reached a high point in July and August of 1993, when over 1,000 people were killed. By the beginning of 1994, the total number of political deaths had reached over 13,000.

⁴ Bouckaert, Peter. *The Negotiated Revolution: South Africa's Transition to a Multiracial Democracy* (Stanford, California: Stanford Center on Conflict and Negotiation, 1997), 249.

⁵ Marks, Susan Collin. *Watching the Wind: Conflict Resolution during South Africa's Transition to Democracy* (Washington, DC: United States Institute of Peace, 2000), 28-29.

Perspectives

Well, to give you a sense of the level of violence in South Africa—had Nelson Mandela and de Klerk, and the National Party and the African National Congress, not reached an agreement—between 1990 when Mandela was released until about '93 or '94, there were 13,000 people who died in South Africa during just that transition period. And that's not to say how many countless thousands others died before then, through the security apparatus of the apartheid state or through being denied access to medical care or other resources.

-Dorina Bekoe

Several things were going on during this time. The ANC was determined to bring down the governments of those homelands that the government had created. So several of the marches, some of those that were the most dangerous, were marches on the homeland—Transkei, Bophuthatswana—these little homelands that the apartheid government had created and claimed for independent states. That's where all the blacks had their citizenship and they were all lackeys of the government. Several of them collapsed during that period or the guys just went over to the other side. Bophuthatswana was the last one to collapse and when it collapsed that took away some of the allies that the government was trying to use. The toughest one was Buthelezi and the Pan Africanist Congress (PAC). The PAC finally realized that if they didn't get in on the election they had no future. They came late to the game, they did it badly and they ended up with two percent of the vote. Buthelezi, for a lot of reasons, was determined to hold on to his own province KwaZulu-Natal but also a big piece of the future government leadership. He and Mandela had become bitter rivals with each other. That was not resolved until within a week or 10 days of the election when Buthelezi finally, under [an] enormous amount of international pressure and internal pressure, agreed not to oppose the election. If he had not made that decision there could have been civil war in South Africa after the election.

-Princeton N. Lyman

Problem Solving

Interim Constitution

In the face of intimidation and violence, committed negotiators kept at their difficult work, addressing fundamental needs, pervasive fears, and vital interests of all sides in a series of continuing problem-solving sessions. Their labors resulted in hard-earned formulas that eventually formed the basis of the interim constitution and the nation's new order.

Interim government. A final agreement over the formation of an interim government reflected the intelligent trade-offs reached between the NP and the ANC in their Record of Understanding. A directly elected Constituent Assembly would serve as interim parliament, and would be charged with writing a new constitution following a set of principles agreed by all parties in advance and subject to the oversight of a Constitutional Court. Executive power would be carried out by a state president, elected by the Constituent Assembly and presiding over the Government of National Unity, with cabinet ministers allocated to all parties based on electoral strength.

Supermajority. On the difficult question of whether to require a supermajority to pass a final constitution, negotiators finally came to a balanced numerical compromise. A simple majority,

avored by the ANC, would have given the ANC unchecked power, whereas a three-fourths supermajority, favored by the NP, would have given the NP veto power over anything that emerged. Negotiators compromised on “a majority of at least two-thirds of all the members of the Constitutional Assembly.”⁶ With two-thirds expected to be a little over the ANC’s anticipated electoral strength, the compromise helped ensure that both sides would take a consensus approach.

Federalism. Through a limited application of federalism, negotiators found another constitutional mechanism to reconcile the norms of majority rule and minority rights. Although the ANC was certain to win power at the national level, the NP stood a good chance of winning a majority in the Western Cape province, where it had a concentration of supporters, and Inkatha was virtually certain to win in KwaZulu-Natal. Through a long and often difficult process, negotiators agreed on distribution of political power between the central and regional governments, balancing majority rule in a one-person/one-vote national system with respect for the legitimate local concerns of all South Africa’s disparate populations. According to the interim constitution:

Each level of government shall have appropriate and adequate legislative and executive powers and functions that will enable each level to function effectively. The allocation of powers between different levels of government shall be made on a basis which is conducive to financial viability at each level of government and to effective public administration, and which recognises the need for and promotes national unity and legitimate provincial autonomy and acknowledges cultural diversity.⁷

Mixed economy. On the principle of a mixed economy, one that combined free market growth with significant investments for under-served populations, a broad consensus had emerged. In fact, the NP ran its 1994 campaign on an economic plan that promised increased spending in the townships, while the ANC ran on a plan that was endorsed by members of the white business community and reassured many who feared large-scale economic disruption. On this point in particular, both sides had come a very long way toward recognizing each other’s fundamental interests and needs, along with the interdependence of their various constituencies.

Inclusion of Inkatha. With only months to go before the election, Buthelezi still had not agreed to bring the IFP into the process. High-level delegations, including a mediation attempt by U.S. envoy Henry Kissinger and British envoy Lord Carrington, failed to convince him to rejoin the process. At the very last minute, Kenyan envoy Washington Okumu finally prevailed upon him. According to Lyman, Okumu was frank in “laying out the political realities for Buthelezi and his party. If Inkatha stayed out of the election, Okumu argued, the results would be either political oblivion for Buthelezi and his party or a long, and almost certainly unsuccessful, guerrilla campaign.”⁸ In this case, avoidance was not an effective approach.

⁶ The Constitutional Court of South Africa, South Africa’s 1993 Interim Constitution, Chapter 5, <http://www.constitutionalcourt.org.za/site/constitution/english-web/interim/ch5.html>

⁷ The Constitutional Court of South Africa, South Africa’s 1993 Interim Constitution, Schedule 2, <http://www.constitutionalcourt.org.za/site/constitution/english-web/interim/schedules.html#sched2>.

⁸ Lyman, Princeton N. *Partner to History: The U.S. Role in South Africa’s Transition to Democracy* (Washington, DC: United States Institute of Peace Press, 2002), 209.

Inkatha's eventual agreement was not reached until April 19, only eight days before the vote.⁹ Still, not everyone had been brought on board. Small groups of white extremists started a terrorist bombing campaign that continued right up to the day of the elections. But with the inclusion of Inkatha, it became safe to conclude that widespread violence—indeed, civil war—would be avoided.

Perspectives

But what I am saying at the end of the day is that there were commitments on both sides to move away from violence. When de Klerk had a problem talking to his military commanders and convincing them about the need for moving in this direction, they asked Nelson Mandela to go and talk to them. He's the one that went to talk to them and started engaging and convincing them that this thing is not going to go anywhere and all of us have to explore peaceful negotiations. Stop this violence and all other activities of promoting what was called a third force at the time and the police. Some of them understood us and some of them didn't, they didn't abandon that cause.

-Welile Nhlapo

The settlement that came about again took courageous leadership on both sides. The critical issue came down to how you create a majority-led government with all the rights that a majority deserves and still preserve the rights of the minority. In particular, in South Africa, the white minority and other ethnic groups were also worried about this. There were several very important steps that had to be made. One was the constitution itself that had been painstakingly hammered out over three solid years of negotiation and which had certain guarantees of human rights, of an independent judiciary, creating [a] human rights commission and a number of institutional measures. Now you have to hope they would work but the constitution was very clear. Second, in that period of negotiation it was necessary to build up enough trust. Nelson Mandela agreed that for the first five years after the election there would be a government of national unity. Any party that garnered as much as 20 percent of the votes would be represented in the cabinet. Now to some of his supporters that was anathema. "You mean we fought all these years, all these decades, all this sacrifice, and F.W. de Klerk is going to be vice president of the new government? This is just unacceptable and horrendous. We envisioned marching onto Union building and throwing them all out the window."

Now what about de Klerk - de Klerk couldn't get the veto. What he got from Mandela was a promise, "I will try as much as possible that major decisions are made by a consensus within the cabinet. No guarantee, if we have to go a majority vote we will, but I am going to make a pledge that we will try to make every decision by consensus." De Klerk had to trust that, and he accepted it and said this is the best bargain we can get, I'm going to campaign, get 20 percent of the votes and be a vice president, which he was for several years.

-Princeton N. Lyman

⁹ Bouckaert, Peter. *The Negotiated Revolution: South Africa's Transition to a Multiracial Democracy* (Stanford, California: Stanford Center on Conflict and Negotiation, 1997), 250

3.4: The First Free Election

An Achievement for the Ages

On April 27, 1994, for the first time in South African history, all people were allowed to vote—all people, regardless of race. From the townships, from the hostels, and from the homelands, they came in staggering numbers. Polling booths couldn't keep up, but new voters didn't mind. They'd waited all their lives.

On May 2, outgoing President de Klerk conceded defeat and sent congratulations to Mandela, South Africa's new president. After thanking de Klerk, Mandela challenged his fellow South Africans, whatever their ethnic roots, religious convictions, or individual backgrounds, to work together in the creation of a new, multicultural, multiracial society.

Truth and Reconciliation Commission. Agreements negotiated by top-level leaders do not necessarily translate into peace on the ground, especially in very difficult cases such as the transition away from apartheid. But because political participation levels were so high, buy-in among South Africans was widespread. Even many who had been opponents of the process, such as Chief Buthelezi, had been brought into the governing structures along with their supporters, and therefore had a stake in their success.

Nevertheless, there was much trauma to overcome in post-apartheid South Africa. To help individuals tell their difficult stories, be heard, apologize, forgive, and move on with their lives, Mandela's new government established the Truth and Reconciliation Commission (TRC). Chaired by Archbishop Desmond Tutu, a widely respected Nobel Prize winner, the TRC provided a forum where any who had been a victim could tell their stories and be heard, and where those who perpetrated political violence could be granted amnesty from prosecution in exchange for full, honest disclosure.

Though it has been subject to what many consider fair criticism, the TRC is widely understood to have made a substantial contribution to the process of reconciliation. It is often studied as a potential model by other societies facing similar challenges.

South Africa today. South Africa continues to struggle with severe problems of poverty, HIV/AIDS, crime and violence, yet it is generally regarded as the most economically developed and socially advanced nation on the African continent, an amazing accomplishment considering its history. The country has been seriously discussed as a candidate for a permanent position on an expanded U.N. Security Council, if the permanent representation is ever expanded. Other nations on the continent regularly look to South Africa to provide regional leadership; the South African currency, the rand, is actively traded on world markets; and the country that for so many years was excluded from world sporting events was selected to host the 2010 Football World Cup, the first time that the tournament will ever be held in Africa. By following the path of peaceful negotiation, South Africa has come a long way.

Perspectives

Since the days of Gandhi, and since the days of the coloured leader, Dr. Abdurahman, the coloured and Indian communities have taken part in our struggle. We have resisted racial oppression together. We have waged a defiance campaign together. In the ANC leadership and at all levels, we are together—Indians, coloureds, whites—the ANC can never lose this election. The ANC is going to emerge with an outright majority.

-Nelson Mandela

Violence was largely between the Inkatha party of Chief Buthelezi and elements of Mandela's African National Congress. But the suspicion was later found out to be true that Inkatha was receiving training and arms from within the South African government. There were elements within the South African government provoking the violence. So the government could say, "See this black on black violence, they are not ready. You don't want to turn over to these people, they are killing each other in the streets." And Mandela became convinced that de Klerk could have stopped it and didn't. And that created a breach between them and made the negotiations more difficult. But then they made the most important decision and the most important lesson that South Africa could give anyone else in this kind of situation. From now on they said, "We will not interrupt the negotiations because of outbreaks of violence. We will deal with violence, it's very important, but we won't let the outbreak of violence stop the negotiations." What that did was take the power away from the people who didn't want the negotiations to succeed, whether it was on the white side or the black side. If you look at the Israeli-Palestinian problem or any other problem where the people who want to stop the negotiations stop them, by a suicide bomb or by an attack, and then everyone says, "Oh we have to stop." When Mandela and de Klerk made that decision, they went for two more years of tough negotiations, even tough violence was breaking out here and there, causing great problems between them, etc.—they never for a day closed down the negotiations. That I think is the most important lesson South Africa could give.

-Princeton N. Lyman

The military victory alone does not constitute a solution because one of the lessons learned from the negotiations is that the victim will always come back. So when you go for a win-win situation it means that we have to compromise in the process. Yes, we have to have clearly defined principles but you have to be very flexible in your tactics and very sensitive about the fears of the people that we are dealing with. Right is might does not work in that situation. If we want to go for a win-lose situation then we will be in it forever. But if you go for a win-win then you have a chance of getting nearer to solving the problem or laying the basis for the solution for the problem.

-Welile Nhlapo

Summary

From the late 1980s through the early 1990s, negotiators in South Africa accomplished an amazing feat in peacefully transforming a pariah among nations into a successful example for others to follow. Their efforts illustrate several of the negotiating principles we covered in the first part of our course.

Upon taking power as president, de Klerk had the insight to recognize that the specific positions his government had clung to for several decades were in fact subverting rather than advancing his constituents' fundamental interests and needs. Further, when given the opportunity, he had the courage to make a bold break from the past, even if he did not envisage the complete transformation to majority rule.

Even more important, Mandela had anticipated this shift for decades, and in one of history's most remarkable examples of personal strength and fortitude, held his ground and patiently laid the foundation for his ascension from long-suffering political prisoner to celebrated state president. Through his unrelenting, principled negotiating stance, he forced the apartheid government to go much further than its supporters ever anticipated. Moreover, his passionate leadership in urging his long-oppressed supporters against seeking revenge, along with his corresponding focus on the future of all South Africa's people, including whites, has cemented his reputation as a great world leader who will be studied and admired for ages.

Both men's accomplishments have been extensively celebrated. In the difficult work of day-to-day negotiations—analyzing issues, determining the root causes of problems, working with constituents, responding to facts on the ground, making effective use of standards, leveraging personal relationships, building coalitions, forging consensus, etc.—both men also showed exceptional skill as negotiators. Tens of thousands of local leaders and millions of individuals also deserve credit for the nation's accomplishments.

De Klerk's release of Mandela started the formal negotiation process in dramatic fashion, and both sides made substantial progress early by listening to each other and making moves to address fundamental interests on both sides. In particular, the government moved quickly to repeal individual apartheid laws and expressed commitment to social investments in the country's underserved populations, while the ANC suspended its armed struggle and expressed commitment to free market policies that would encourage whites to stay in the country and contribute to the building of a new South Africa.

Following several early successes, negotiations then bogged down over the form of an interim government and the process of writing a new constitution. The collaborative spirit that characterized much of the early phase broke down, both sides held fast to incompatible positions, and on a few occasions negotiations were suspended as individuals from both sides exchanged accusations and insults. Both sides then attempted to apply leverage on the ground, the ANC through intimidating mass demonstrations, and the government by secretly arming and funding ANC opponents in the homelands and townships.

But as violence increased, both sides stepped back from the precipice, leveraged personal relationships that had developed over the course of the negotiation, used internationally recognized norms and standards, succeeded in bringing most of South Africa's organized constituencies into the process, and found solutions that met the fundamental interests and needs of all sides to the greatest degree that seemed possible. In some cases, solutions were developed through innovative structures, such as the National Peace Accord and the Truth and Reconciliation Commission; in others, through tailored application of tested governing principles, such as limited federalism and the Constitutional Court; and in yet others, by basically

splitting numerical differences, such as the question of the constitutional supermajority. No side got everything that it wanted, but all sides ended up much better off than if there had been no negotiated agreement. Many of their specific solutions stand as useful examples for those facing similar problems.

Our brief case study on the peaceful end of apartheid in South Africa helps illustrate negotiation as an alternative to violence for resolving long-standing, intractable conflict within a single state. Our next case study on the Nuclear Non-Proliferation Treaty will illustrate negotiation to reduce the risk of violence between states.

Mini-Quiz

You have completed all the material for this section. Now try this mini-quiz.

Which of the following was the most successful attempt to use leverage?

- a. The African National Congress's staging of massive strikes, which demonstrated the movement's popular support.
- b. The National Party's covert military and financial support to the Inkatha Freedom Party, which helped to build a broad coalition.
- c. The Inkatha Freedom Party's threat to boycott national elections, which forced substantial concessions from the other parties.
- d. The Afrikaner Weerstandsbeweging's raid on the official negotiating forum in Johannesburg, which demonstrated the level of commitment felt by white conservatives.

For answers, see Appendix A.

Chapter 4: The Nuclear Non-Proliferation Treaty

The U.N. and the Bomb

In the summer of 1945, a series of events took place that would change the world.

On June 26 in San Francisco, delegates from around the globe reached unanimous agreement on the U.N. Charter. Less than three weeks later, on a deserted plain in New Mexico, scientists from the U.S., working in collaboration with counterparts from the U.K. and Canada, tested and successfully exploded the world's first atomic bomb.

Ten days later in Potsdam, Germany, the U.S., U.K., and USSR again called for the unconditional surrender of Japan, and ten days after that, following Japan's defiant rejection, the U.S. detonated the world's second atomic bomb on Hiroshima. U.S. President Harry S. Truman announced, "The force from which the sun draws its power has been loosed against those who brought war to the Far East."¹

¹ Bechhoefer, Bernhard G. *Postwar Negotiations for Arms Control* (Washington, DC: Brookings Institution, 1961), 27.

Two days later, Truman signed the formal document of the U.N. Charter, and the Soviet Union declared war on Japan, attacking Japanese forces in Manchuria. One day after that, with Japan still defiant, the U.S. dropped another atomic bomb, this time on Nagasaki. One day later, with two cities in ruin, the Emperor of Japan offered to surrender. In the space of less than two months, the U.N. was born, World War II came to an end, and the world entered the nuclear age, with the U.S. and USSR clearly emerging as the two strongest post-war powers.

Perspectives

I think what's particularly valuable about looking at the negotiation of a nuclear non-proliferation treaty is that it gives a good case of a multilateral negotiation dealing with a very serious global issue. Most of the negotiation that people do is going to be probably dealing with issues somewhat less global than nuclear proliferation, and a lot of the negotiation is going to be within a region or part of a country or just a country itself, or if it's more than one country involved, as often as not it's bilateral. Here you have a case where effectively, you're dealing with almost every country, effectively, as far as the issue goes, every country in the world, though as is often the case in multilateral negotiation, there was a core group that did it. So I think this sort of is one end of the spectrum where the other end might be something confined to a country, as important as the issue might be. You see different levels of complexity. You see some of the similarities and you see some of the differences.

-Mike Lekson

The Russians while accepting, or the Soviet Union as it then was, accepting the notion of a shared interest in preventing a nuclear war was not prepared to trust the United States that we would actually get rid of all our nuclear weapons and therefore were not willing themselves to forgo the development of nuclear weapons. The British who had been working with us on our nuclear program determined after World War II that while they also would prefer a world without nuclear weapons, if there were going to be two nuclear states, they thought three was a better number and began to develop their own nuclear weapons, and soon after that the French developed their own nuclear capability, and then in the early 60s it became clear that China was developing its own nuclear capabilities. So by that time the question was, "was there a common interest in preventing what was then called the *nth* country problem?" That is, the proliferation continuing first from one to two, then from two to four, then from four to five. The fear was, as President Kennedy said in a famous speech, that we would have 20 or 30 states with nuclear weapons and that then the shared interest in preventing the use of nuclear weapons would be much harder to maintain if many countries had nuclear weapons, including countries that might be in regional conflicts with each other and might be tempted to use nuclear weapons. So there emerged a notion, which was not universally shared that there was a common interest in trying to halt the spread of nuclear weapons.

-Mort Halperin

Shared Interests:

Formation of the UNAEC

U.S. Secretary of State John Foster Dulles stated in 1953, "When we were in San Francisco in the spring of 1945, none of us knew of the atomic bomb which was to fall on Hiroshima on

August 6, 1945. The Charter is thus a pre-Atomic Age charter.”² Nevertheless, those who committed themselves to the ambitious aims of the United Nations quickly began to consider how this new international organization might respond to the threat posed by nuclear weapons, as well as to the prospect that atomic power might play a major role as a supplier of energy for peaceful purposes.

Three-Nation Agreed Declaration on Atomic Energy. On November 15, President Truman, British Prime Minister Clement Attlee, and Canadian Prime Minister William Mackenzie King issued the *Three-Nation Agreed Declaration on Atomic Energy*. The document emphasized a predicament, interests, and responsibilities common to all nations, stating:

- We recognize that the application of recent scientific discoveries to the methods and practice of war has placed at the disposal of mankind means of destruction hitherto unknown, against which there can be no adequate military defense, and in the employment of which no single nation can in fact have a monopoly.
- We desire to emphasize that the responsibility for devising means to ensure that the new discoveries shall be used for the benefit of mankind, instead of as a means of destruction, rests not on our nations alone, but upon the whole civilized world...
- We are aware that the only complete protection for the civilized world from the destructive use of scientific knowledge lies in the prevention of war. No system of safeguards that can be devised will of itself provide an effective guarantee against production of atomic weapons by a nation bent on aggression...
- We believe that the fruits of scientific research should be made available to all nations, and that freedom of investigation and free interchange of ideas are essential to the progress of knowledge...³

United Nations Atomic Energy Commission. In the next month, U.S. Secretary of State James F. Byrnes and British Foreign Secretary Ernest Bevin asked the Soviets to co-sponsor a U.N. resolution incorporating these principles. The Soviets quickly agreed, and the U.N. Atomic Energy Commission (UNAEC) was formed on January 24, 1946 as the first official resolution passed by the General Assembly. The four central aims of the mandate were taken directly from the *Three Nation Agreed Declaration*:

1. For extending between all nations the exchange of basic scientific information for peaceful ends,
2. For control of atomic energy to the extent necessary to ensure its use only for peaceful purposes,

² Bechhoefer, Bernhard G. *Postwar Negotiations for Arms Control* (Washington, DC: Brookings Institution, 1961), 28.

³ United States Department of State, “Agreed Declaration by the President of the United States, the Prime Minister of the United Kingdom and the Prime Minister of Canada,” in *Department of State Bulletin Vol. XIII, No. 334* (Washington, DC: U. S. Government Printing Office, 1945), 781.

3. For the elimination from national armaments of atomic weapons and of all other major weapons adaptable to mass destruction,
4. For effective safeguards by way of inspection and other means to protect complying states against the hazards of violations and evasions.⁴

As subsequent events would demonstrate, the divergence of interests between the U.S. and USSR was so profound that it would soon lead to a new global confrontation; nevertheless, they had different but overlapping interests in seeking to manage this powerful new weapon of war.

Perspectives

Shared interest in preventing nuclear proliferation really goes back to the wartime days. It didn't begin after World War II, it began during World War II. If you remember the alliance bombed a heavy water plant in Norway. That was a non-proliferation action because they did not want the Germans to acquire the materials, which could be used in nuclear weapons. The British having proceeded a long way down the track towards knowing how to build an atom bomb, as they called it in those days, handed over this information to the Americans. This was a dramatic act of cooperation that saved us an enormous amount of time because the British had figured out, more or less, how you do this. They simply hadn't built the equipment and the factories to do this. So there was that type of cooperation. But even during those wartime days there was suspicion between the British and the Americans, and always has been this type of suspicion when it comes to weapons as powerful as this. So you have elements of cooperation and of competition inherently built into something as powerful as an atom bomb.

-James Goodby

There are a number of lessons that can be drawn from the whole NPT process. One is on an issue of this importance, and this really does get to the most fundamental questions of national security for any country involved, certainly for the two principal parties to the negotiation, it is that it's unlikely to be easy to agree on something that will address satisfactorily the interests of the parties concerned. If that's the case, what you need to do sometimes is step back, look at the factors, the external factors, which affect this, see whether something can be done to address them. Also look and see if you can do some piece-by-piece negotiations: take small parts of the problem, make some progress on them and then see both, "Can that build momentum, or by having solved this part of the problem, have we now made the rest of situation a little more manageable or opened up avenues which we might not have thought of before?"

-Mike Lekson

Impact of Process on Substance: **Retention of Security Council Veto**

From the beginning, the five permanent members of the U.N. Security Council—the U.S., the U.K., France, the USSR, and China—each retained a veto, while decisions in the U.N. General Assembly were made by majority vote. In the original proposal submitted by the U.S. and U.K.,

⁴ United States Department of State, "Agreed Declaration by the President of the United States, the Prime Minister of the United Kingdom and the Prime Minister of Canada," in *Department of State Bulletin Vol. XIII, No. 334* (Washington, DC: U. S. Government Printing Office, 1945), 782.

the UNAEC would have derived its operational authority from the U.N. General Assembly. However, the Soviets insisted that the commission derive its authority from the Security Council, and would only agree on this condition.

Veto power. In any contests of influence with the Soviets, the Western powers anticipated that they would hold sway in the General Assembly, a reasonable expectation in the early days after the World War II—though, as U.N. membership expanded with decolonization, not one that would last indefinitely. But in 1946, the Soviet move was a protective one.

Typically, conflicting parties find themselves having to make decisions about the process of their negotiation before engaging in substantive discussion. Some aspects of process can be of minor consequence; however, experienced negotiators know that this is not always so. The debate over where the UNAEC would derive its operational authority was crucial in that it resulted in the Soviets' retaining their veto power. In this case, a question of process thus had critical substantive ramifications, and it also sent a signal; wartime cooperation between the USSR and the West was not necessarily going to continue.

Perspectives

Well, as a point of process, what the Soviets were interested in was being able to control what such an authority might do. They clearly didn't want, and it's manifest not just in this negotiation but in any number of interactions the Soviets had with the rest of the world over the course of decades, they clearly didn't want to open their territory to international inspection. So on the Security Council they had a veto and would exercise it as they demonstrated repeatedly during the first 10 years of United Nations. So in one sense, it's a process question, in another sense it goes to the heart of the substance of the primary Soviet concern, or a primary Soviet concern, throughout the negotiations, but especially at the beginning, keeping what they would see as foreign spies off of their sovereign territory looking into their most sensitive secrets. So in that sense, process and substance, you can distinguish them analytically, but process and substance came to mean the same thing to the Soviet decision makers.

-Mike Lekson

People often say to me, how can two countries agree when they are so far apart on all kinds of things. Well the answer is that there is usually enough common interest, so that people can dismiss other issues or they can put together a package with enough in it for each country. And so it was for the [Nuclear] Non-Proliferation Treaty that both countries having been made aware of the hazards of the weapon itself, they were deeply aware of the harm that a nuclear weapon would cause. That was not the case in the early days. I think in the very early days the Soviet Union's leaders thought that nuclear war was something that one could live with. But they became quickly convinced otherwise. So you had two countries that were deeply aware of the disastrous consequences of a nuclear war, not wanting it to happen. They feared that if there was some risk of proliferation, some additional countries become nuclear weapons states, that the risk of nuclear war would increase. And so they had that common idea they shared.

-James Goodby

4.1: The Baruch & Gromyko Plans: Diverging Interests

The Acheson-Lilienthal Report

Byrnes then named Under Secretary of State Dean Acheson to chair a committee charged with formulating policy on the question of controlling atomic weapons. Acheson, who later became secretary of state, appointed David Lilienthal, the respected chairman of the Tennessee Valley Authority, and others to help. The subsequent report was written largely by Robert Oppenheimer, the scientific director of the Manhattan Project and chief scientific consultant to the committee, and was called the Acheson-Lilienthal Report.

International Atomic Development Authority. According to histories compiled by the U.S. Department of Energy, Oppenheimer took the lead in recommending the formation of an International Atomic Development Authority, a body that would have “a world-wide monopoly in most of the major areas of atomic energy.”¹ With far-reaching powers, the Authority would not simply develop safeguards and conduct inspections, but would exercise “proprietary authority over facilities, materials, and processes required for making atomic weapons.”²

Monopolistic control. As Barton and Weiler note, the new organization was to be “entrusted with all phases of the development and use of atomic energy, starting with the raw materials.” Oppenheimer and others felt that such a monopoly would be “the only way to ensure that nuclear materials were not diverted to weapons uses,” and thus “the Authority would have the power to manage, control, inspect, and license all atomic activities.”³ Once the organization was firmly established, the U.S. would reveal everything it knew about this new technology and begin destroying its stockpile of weapons.

Perspectives

Well, the question of what the shared interests were is in the perception of the people. The original American position after Hiroshima and Nagasaki was that we should try to end up in a world without anybody having nuclear weapons and we ended up proposing the Acheson-Lilienthal Plan, in which the United States in effect offered to give up its nuclear weapons if everybody else would refrain from developing nuclear weapons, on the grounds that we had a shared interest in preventing the kind of destruction that had taken place in Hiroshima and Nagasaki.

-Mort Halperin

¹ United States Department of Energy, Office of History and Heritage Resources, *The Manhattan Project: An Interactive History*, www.mbe.doe.gov/me70/Manhattan/international_control.htm.

² United States Department of Energy, Office of History and Heritage Resources, *The Manhattan Project: An Interactive History*, www.mbe.doe.gov/me70/Manhattan/international_control.htm.

³ Barton, John H. and Lawrence D. Weiler, ed., *International Arms Control: Issues and Agreements* (Stanford: Stanford University Press, 1976), 70.

The very first proposals that the Americans put forward after World War II were also based upon that premise. During the Second World War the leading scientists in the United States felt very deeply that we had to really internationalize this in a way that would mean that nations would not be able to acquire the capacity to build an atom bomb on their own. So they came up with something called the Acheson Report, which said we should essentially internationalize all means of production of nuclear materials from the mines right through to the production of enriched uranium or plutonium. And that was presented by the Truman administration to the U.N. in a special committee that was set up called the U.N. Disarmament Commission.

-James Goodby

The Importance of Constituents: **From Acheson-Lilienthal to Baruch**

The Acheson-Lilienthal Report, formally known as the *Report on the International Control of Atomic Energy*, was released on March 28, 1946. It was generally well-received, but its most far-reaching provisions, which some saw as visionary, were nevertheless difficult for some Americans constituents to accept—particularly the idea that the U.S. would give up its nuclear monopoly, turning over what was then thought of as “the weapon that won the war” and “the absolute weapon,” to an international body. With a strong strain of isolationism being part of the U.S. national experience, and with the League of Nations having been defeated in a Senate vote only a generation earlier, this was quite a leap to take for a country just beginning to help establish the multilateral institutions which are now so much a part of the international landscape.

Selection of Bernard Baruch. Prior to the first formal meeting of the UNAEC, President Truman asked respected elder statesman Bernard Baruch to be the lead U.S. negotiator. Baruch accepted and began to fashion his own proposal, which became known as the Baruch Plan. While he took many points from the Acheson-Lilienthal Report, he added key provisions to address what some in the U.S. had seen as its deficiencies.

Verification and enforcement. Like the Acheson-Lilienthal Report, Baruch’s plan called for the development of an international agency that would have monopolistic control over the entire process of producing nuclear weapons, from the mining of raw materials to the construction of functioning nuclear devices. He also agreed that the U.S. should surrender its advantage once the system of control was firmly in place. But while the Acheson-Lilienthal Report did not provide for sanctions against violators of the new regime, serious verification and enforcement were fundamental in Baruch’s plan. As George Bunn notes, this version “had presidential approval as well as support of important senators and the public in a climate of rising distrust of the Soviets.”⁴ Baruch presented his plan to the UNAEC during its inaugural meeting on June 15, 1946.

⁴ Bunn, George. *Arms Control by Committee: Managing Negotiations with the Russians* (Stanford: Stanford University Press, 1992), 61.

Perspectives

The basic idea behind Acheson-Lilienthal Plan is that no state should have nuclear weapons, that the United States would give up its nuclear weapons, that the Security Council would have authority to enforce that, and that the permanent members would give up their veto for the purpose of enforcing this ban on the use of nuclear weapons. At that point we not only looked at nuclear energy but also looked at peaceful nuclear explosions. There was the belief that you could find uses to build canals, for example, with nuclear explosives, so the notion was that the peaceful atom would be shared universally and all states would give up their possibility of developing nuclear weapons, including the United States, and that that would be enforced by a Security Council which would be capable of acting because the five permanent members would give up their veto and there would be extensive inspection that these provisions were being observed by all states.

-Mort Halperin

A lot of people when they think of Bernard Baruch, he was a very famous financier and very close to the Democratic party and had been involved in and out of government for a long, long time. He was brought in by Truman, who knew him well and thought of him as a consummate negotiator, which he was. Bernard Baruch looked at the Acheson-Lilienthal plan—Acheson, remember, became the secretary of state and in those days I think was the undersecretary of state. He teamed up with a man named David Lilienthal who had been the chairman of the Tennessee Valley Authority, a big power plant operation using dams to produce electrical energy. Those two men understood the situation very well. They produced a report that made sense in its own terms. Baruch on reading this decided he wanted to add to it in the way of a powerful verification mechanism and added to it what he called “condign punishment.” By that he meant that any country that got out of line would be punished somehow. It was not specified how but it was built into it.

-James Goodby

Opening Proposal: **The Baruch Plan**

In his presentation before the new commission, Baruch began with lofty aims. He proposed to the U.N. a treaty that would eliminate fully the threat posed by nuclear weapons, declaring that the U.S. “stands ready to proscribe and destroy this instrument—to lift its use from death to life—if the world will join in a pact to that end.” Moreover, he insisted that the peacetime benefits of atomic energy “should be open to nations and their citizens,” and he expected that denatured materials⁵ “should be furnished for such purposes.”*

Control mechanisms. In exchange, the Baruch plan required all nations interested in peaceful uses of nuclear technology to accept highly active and intrusive control mechanisms. Like Acheson and Lilienthal, Baruch called for the creation of an International Atomic Development

⁵ i.e., uranium and plutonium, which had been rendered unusable for explosive purposes without special facilities, would only be available to the International Authority.

* Baruch, Bernard. “The Baruch Plan,” presented to the United Nations Atomic Energy Commission, June 14, 1946, <http://www.atomicarchive.com/Docs/Deterrence/BaruchPlan.shtml>.

Authority, “to which should be entrusted all phases of the development and use of atomic energy.”⁶ The Authority would have comprehensive responsibilities:

- Managerial control or ownership of all atomic-energy activities potentially dangerous to world security
- Power to control, inspect, and license all other atomic activities.
- The duty of fostering the beneficial uses of atomic energy.
- Research and development responsibilities of an affirmative character intended to put the Authority in the forefront of atomic knowledge and thus to enable it to comprehend, and therefore to detect, misuse of atomic energy.⁷

In practice, the Authority would have wide-ranging powers, most importantly:

- The Authority should have as one of its earliest purposes to obtain and maintain complete and accurate information on world supplies of uranium and thorium and to bring them under its dominion...
- The Authority should exercise complete managerial control of the production of fissionable materials in dangerous quantities and must own and control the product of these plants...
- The Authority should be given sole and exclusive right to conduct research in the field of atomic explosives...⁸

Verification and sanctions. Going beyond the Acheson-Lilienthal Report, Baruch called for thorough verification mechanisms to build confidence and compliance with such a treaty. Every state would be subject to unrestricted inspections. Moreover, violators would be subject to stiff sanctions. In Baruch’s words, “If I read the signs aright, the peoples want a program not composed merely of pious thoughts but of enforceable sanctions—an international law with teeth in it.”⁹ Thus, he sought serious penalties for:

- Illegal possession or use of an atomic bomb;
- Illegal possession, or separation, of atomic material suitable for use in an atomic bomb;
- Seizure of any plant or other property belonging to or licensed by the Authority;
- Willful interference with the activities of the Authority;
- Creation or operation of dangerous projects in a manner contrary to, or in the absence of, a license granted by the international control body.¹⁰

⁶ Baruch, Bernard. “The Baruch Plan,” presented to the United Nations Atomic Energy Commission, June 14, 1946, <http://www.atomicarchive.com/Docs/Deterrence/BaruchPlan.shtml>.

⁷ Baruch, Bernard. “The Baruch Plan,” presented to the United Nations Atomic Energy Commission, June 14, 1946, <http://www.atomicarchive.com/Docs/Deterrence/BaruchPlan.shtml>.

⁸ Baruch, Bernard. “The Baruch Plan,” presented to the United Nations Atomic Energy Commission, June 14, 1946, <http://www.atomicarchive.com/Docs/Deterrence/BaruchPlan.shtml>.

⁹ Baruch, Bernard. “The Baruch Plan,” presented to the United Nations Atomic Energy Commission, June 14, 1946, <http://www.atomicarchive.com/Docs/Deterrence/BaruchPlan.shtml>.

¹⁰ Baruch, Bernard. “The Baruch Plan,” presented to the United Nations Atomic Energy Commission, June 14, 1946, <http://www.atomicarchive.com/Docs/Deterrence/BaruchPlan.shtml>.

No veto. In its most controversial provision, Baruch's plan would not allow use of the Security Council veto in matters specifically related to atomic weapons. Baruch was firm on this point, stating, "There must be no veto to protect those who violate their solemn agreements not to develop or use atomic energy for destructive purposes."¹¹

Elimination of U.S. monopoly. Baruch's plan called for the elimination of the U.S. monopoly in atomic weapons, similar to the initial principles expressed in the Agreed Declaration, but only when "an adequate system for control of atomic energy, including the renunciation of the bomb as a weapon, has been agreed upon and put into effective operation and condign punishments set up for violations of the rules of control which are to be stigmatized as international crimes." In this case, he proposed that:

- Manufacture of atomic bombs shall stop;
- Existing bombs shall be disposed of pursuant to the terms of the treaty; and
- The Authority shall be in possession of full information as to the know-how for the production of atomic energy.¹²

The U.S. offer was considered visionary and historically unprecedented. However, the Soviets rejected it. The idea of foreigners conducting on-site inspections in the Soviet Union was anathema to Stalin, and the Soviets strongly preferred to proceed with the development of their own nuclear weapons rather than accept a situation where American disarmament would ultimately depend on factors outside Soviet control.

Perspectives

The basic principle of the Acheson-Lilienthal report was that the process of making nuclear materials should be internationally owned and operated. They had the idea that there might be some utility in producing enriched uranium and plutonium for uses in civil nuclear power generation. They weren't too sure it could be done because that was in the very early days, but they anticipated that at some point in the future there would be a place in the economy for nuclear power plants as we've found out is the case. Rather than allow each country to develop that sort of capacity, they suggested that although reactors, power plants themselves, might be designed and operated by individual countries, the key to controlling nuclear energy was to have control of the materials themselves. And that should be under international ownership. They proposed an authority, as they called it, to control all of these materials, so from the mine through the enrichment process (at that time they used gaseous diffusion, today we use a centrifuge) but all of that kind of mechanism should be internationally owned under this authority that they saw as something like the U.N. but with tighter controls and with a complete cooperation of all of the countries that would have the ability to produce nuclear

¹¹ Baruch, Bernard. "The Baruch Plan," presented to the United Nations Atomic Energy Commission, June 14, 1946, <http://www.atomicarchive.com/Docs/Deterrence/BaruchPlan.shtml>.

¹² Baruch, Bernard. "The Baruch Plan," presented to the United Nations Atomic Energy Commission, June 14, 1946, <http://www.atomicarchive.com/Docs/Deterrence/BaruchPlan.shtml>.

materials. Nobody should be left out. It was not an East-West operation, it was supposed to be a universal operation.

-James Goodby

At one level the United States was serious about this and at another level it was not, because I think people understood that the problem we face now when people talk about general nuclear disarmament, that once a state has developed a nuclear weapon and has tested it, there's no meaning to getting rid of the weapon. This is because you can always make fissionable material or hide small quantities of fissionable material and then bring them out and make another weapon. So, the Soviet Union's perspective was that we weren't really giving them up, we were asking them to give them up because they would not be able to go forward and test while we had tested three—one before Hiroshima and Nagasaki and then the two weapons that we dropped on Hiroshima and Nagasaki.

-Mort Halperin

Counterproposal: **The Gromyko Plan**

During the commission's second meeting, five days after Baruch offered his proposal, Soviet delegate Andrei Gromyko offered a counterproposal.

The Gromyko plan shared some elements of the Baruch plan, prohibiting production and use of atomic weapons and calling for their eventual destruction. But it reversed the process in the Baruch plan, requiring commitment and actions to disarm before ensuring the creation of any machinery to ensure disarmament.

Prohibition on development or use. In strong terms, Gromyko's first point prohibited the development or use of atomic weapons: "The high contracting parties solemnly declare that they are unanimously resolved to prohibit the production and employment of weapons based on the use of atomic energy."¹³ Gromyko went on to specify commitments:

- Not to use atomic weapons in any circumstances whatsoever;
- To prohibit the production and storing of weapons based on the use of atomic energy;
- To destroy, within a period of three months from the day of the entry into force of the present convention, all stocks of atomic energy weapons whether in a finished or unfinished condition.¹⁴

For emphasis, the proposed treaty's second section declared any violation of his first point to be a "most serious international crime against humanity."¹⁵

¹³ United Nations Department of Political and Security Council Affairs, *The United Nations and Disarmament: 1945-1970* (New York: United Nations, 1970), 21.

¹⁴ United Nations Department of Political and Security Council Affairs, *The United Nations and Disarmament: 1945-1970* (New York: United Nations, 1970), 21.

¹⁵ United Nations Department of Political and Security Council Affairs, *The United Nations and Disarmament: 1945-1970* (New York: United Nations, 1970), 21.

No international role in verification or enforcement. Gromyko's third section addressed enforcement. States would monitor themselves, with no international role in verification or enforcement: "The high contracting parties shall, within a period of six months from the day of the entry into force of the present convention, pass legislation providing severe penalties for violators of the statutes of the present convention."¹⁶

Gromyko's final points ensured that the plan would be far-reaching, indicating that it would be of "indefinite duration," and stating that "after the entry into force of the present convention it shall be binding upon all States whether Members or non-members of the United Nations."¹⁷

In other words, in the Gromyko plan the U.S. would have to renounce the use of atomic weapons and destroy its stockpiles first. Only afterwards would there be consideration of penalties for violators, and only then through a system where each country would police itself.

Perspectives

And of course it was rejected right away by the Soviet Union, by Gromyko who was ambassador at that time, on the grounds that first of all, all the nuclear weapons in existence should be liquidated and then they'd think about what to do after that. Well, in those early days we actually had used up all the nuclear weapons we had (we hadn't produced any more), but still the principle that we'd have to surrender all these nuclear weapons before internationalizing the prospect was not one that appealed. So, there was a deadlock and that deadlock continued for a very long time. That was the beginning of the situation.

-James Goodby

I think what you can say about the Baruch plan and the Acheson-Lilienthal, which more or less underlay it, and then the Gromyko plan, is that in the beginning they pretty much demonstrated that the two sides, the U.S. and the Soviet Union, were looking at a very serious problem but had exactly the opposite ideas about what need to be done. This was in each case a reflection of the interests that the parties were bringing to this part of the discussion. The U.S. approach basically was to get a system in place, which is as close to fool-proof as it can be, having verification and enforcement measures. And then that authority which has these measures, these capabilities, we would then provide it with U.S. nuclear capability – at that point we would undertake nuclear disarmament. From the Russian side, the first point was to get the U.S. disarmed and then come up with whatever procedures necessary to make sure that situation stays in place.

-Mike Lekson

Attempts to Bridge Differences

Over the course of the next several months, the Baruch Plan earned wide support among delegates on the UNAEC, while the Soviets continued to promote the Gromyko plan.

¹⁶ United Nations Department of Political and Security Council Affairs, *The United Nations and Disarmament: 1945-1970* (New York: United Nations, 1970), 21.

¹⁷ United Nations Department of Political and Security Council Affairs, *The United Nations and Disarmament: 1945-1970* (New York: United Nations, 1970), 21.

During this time, several attempts were also made to find common ground, bridge differences, and develop a consensus agreement that would satisfy each side's fundamental interests.

Scientific Standards

In an important application of normative standards, the conflicting parties came to agreement on the technical feasibility of effective international control of atomic energy. On September 26, 1946, the Scientific and Technical Committee of the UNAEC, representing technical experts from all sides, reported unanimously that "we do not find any basis in the available facts for supposing that effective control is not technically feasible."¹⁸

The Molotov Plan

On October 29, senior Soviet diplomat Vyacheslav Molotov introduced a plan in the General Assembly covering all issues of arms control, conventional and atomic. Molotov maintained that production and use of atomic weapons must be prohibited as a first condition in any agreement, but as Bechhoefer notes, he conceded "the necessity of an international system of safeguards to ensure observance not only of the commitments relating to atomic energy but also of the limitation of armed forces and international armaments." For the first time, the Soviets "endorsed the principle of an international system of control."¹⁹

Yet in spite of general support for the Baruch plan and this concession offered by the Soviets, the talks continued to stall over the question of control before destruction or destruction before control.

Perspectives

And that was, so far as I could see, well received in the United States and well received in most places. I think the United States was perceived in both here in our own country and overseas willing to give up a monopoly that it had at that moment- I think it was perceived as a fairly generous thing to do – and I think for the Soviets to basically turn it down, was perceived as spoiling – basically spoiling an opportunity. That comes rarely in history, to head off an arms race before it happens. People have argued since whether we handled the diplomacy exactly right. And in fact, one could argue that we should have gone earlier to Moscow and give them some hint about what we had. That was a proposal made by Niels Bohr, this Danish physicist. He suggested to Roosevelt and Churchill, that not to give the secret of the bomb to Stalin, but we might want to sit down and tell him what we think we have here and try to seek his cooperation. I don't think in retrospect it would have worked but that was an idea, and of course from Churchill's standpoint, that was a crazy idea – he almost threw Niels Bohr out of his office. Roosevelt was a little more interested in it but being a partner at the time with Winston Churchill, basically Bohr's idea didn't go anywhere.

-James Goodby

¹⁸ Bechhoefer, Bernhard G. *Postwar Negotiations for Arms Control* (Washington DC: Brookings Institution, 1961), 43.

¹⁹ Bechhoefer, Bernhard G. *Postwar Negotiations for Arms Control* (Washington DC: Brookings Institution, 1961), 48.

Some of the smaller countries in the world were enthusiastic about the Baruch plan but the Soviet Union never took it seriously. They saw it as an effort to keep the Soviet Union from developing nuclear weapons while the United States would hide the nuclear weapons they already had. So it never really got through- it was never really a serious negotiation.
-Mort Halperin

Analysis of the Baruch and Gromyko Plans

An analysis of the interests, concerns, and fears that informed both the Baruch and Gromyko plans helps explain why a deal proved unattainable at this time.

Shared Interests

The original meeting in January of 1946 between American, British, and Soviet representatives about the establishment of the UNAEC made it clear that all sides had a shared interest in somehow managing the threat posed by nuclear weapons. But by March 1946, when Winston Churchill made his famous “Iron Curtain” speech, it was evident that many fundamental interests divided Moscow from its western World War II allies, and both sides were generally fearful, untrusting, and unwilling to take the significant risks required to bridge their differences.

American Fears

The Americans wanted to do something about nuclear weapons, but also felt the need to keep their own atomic weapons until completely assured that no other nation could develop them. Remembering Pearl Harbor all too well, as well as the failure of earlier efforts to outlaw war and restrict the sizes of navies, the U.S. did not want to entrust its security to another country’s promises. Still with only a limited peacetime intelligence establishment, the U.S. had come to rely on atomic weapons as a security guarantee, particularly in light of a growing Soviet advantage in conventional armed forces. Because of these concerns, the Americans were adamant about enacting strict verification measures in any nuclear agreement.

Soviet Fears

Similarly, it was in the Soviets’ interest to get some kind of limits imposed on America’s nuclear arsenal. However, the Soviets also saw it in their interest to catch up to the U.S. and gain atomic weapons of their own. They argued that the intrusive inspection regime detailed in the Baruch Plan would interfere with sovereignty and internal affairs—an attitude which Moscow was applying across the board, not just to nuclear matters—but it was widely and correctly assumed that in particular they simply did not want to have anyone interfere with their own large-scale nuclear development program. Later, Acheson would describe his reaction to the plans as thus:

The Soviet Union was undoubtedly doing all in its power to develop nuclear weapons at this moment. [Just under four years later, the Soviet Union exploded its first nuclear device.] If so, the “swift and sure punishment” provision could be interpreted in Moscow only as an attempt to turn the United Nations into an alliance to support the United States threat of war against the USSR unless it ceased its efforts, for only the United States could conceivably administer “swift and sure” punishment to the Soviet Union.”²⁰

²⁰ Acheson, Dean. *Present at the Creation: My Years in the State Department* (New York: WW Norton & Co., 1969), p. 155

According to Russian analysts Aleksandr' G. Savel'yev and Nikolay N. Detinov, Soviet policy was based more or less "on the principle that, 'if the Americans have something, we should have it as well.'"²¹ Moreover, because they were behind in the technology, the Soviets saw it in their interest to try to force the Americans to abandon their monopoly.²²

Barton and Weiler explain that the Soviets were also concerned that Baruch's proposal "would subject the Soviet economy, at least insofar as nuclear energy was concerned, to control by a body dominated by Western governments inherently interested in hampering Communist economic development."²³ Savel'yev and Detinov concur that "the problem also had an economic dimension."²⁴

Perspectives

The Acheson-Lilienthal plan was really utopian as I said, and probably really unlikely to be accepted by the Soviet Union in any case, but when Baruch added this other part of it- that countries could be punished in some fashion or that there would be truth and verification program, it completely undercut any prospects of the negotiation. You see the brilliance of the original Acheson-Lilienthal plan was that there was this idea of working together in terms of international ownership to the means of production. And that didn't really require a special verification unit. It required only that there be teams of internationally organized people so that they would work together and know what was going on. If you add the elements of this sort of cop looking over you, this sort of turned off a lot of people but especially the Soviet Union. So Bernard Baruch, whatever his other good qualities, was a tenacious negotiator and had a good gift of language. He said, "We are here to make a choice between the quick and the dead." This expression caught on. People understood what he was talking about. So he popularized the subject. He was good at that, along with many good qualities. In terms of creating something that was negotiable, I can't say that he added very much. I regret to say it.

Well, the difference was the Americans were saying "Let's set up a position of international authority, let's begin to organize the staff to get it in place and then we can eliminate nuclear weapons." That means the U.S. nuclear weapons; it doesn't worry about any others. The Soviet proposal said "Let's eliminate nuclear weapons first, then make sure they are eliminated, then we'll organize ourselves into who does what." There wasn't too much more to it than that.

²¹ Savel'yev, Aleksandr' G. and Nikolay N. Detinov, *The Big Five: Arms Control Decision-Making in the Soviet Union*, ed. Gregory Varhall., trans. Dmitriy Trenin (Westport: Praeger, 1970), 2.

²² Goldblat, Jozef. *Arms Control: The New Guide to Negotiations and Agreements* (Thousand Oaks: Sage Publications, 2002), 39.

²³ Barton, John H. and Lawrence D. Weiler, ed., *International Arms Control: Issues and Agreements* (Stanford: Stanford University Press, 1976), 71.

²⁴ Savel'yev, Aleksandr' G. and Nikolay N. Detinov, *The Big Five: Arms Control Decision-Making in the Soviet Union*, ed. Gregory Varhall., trans. Dmitriy Trenin (Westport: Praeger, 1970), 4.

Both of those prescriptions were deadlocked for about the next ten years. You know, interestingly enough, the Baruch Plan, as it became known, was tabled in something like 1946 and by 1957 it was still the official U.S. position even though it was modified – other things were added to it. The essence of the Baruch plan remained the U.S. position essentially until 1957 – ten years, 11 years.

-James Goodby

What the Baruch plan and the Gromyko plan, which was proposed in response, demonstrated – and it's easier as is usually the case, to see this in retrospect than it would have been at the time – was that the two parties who were fundamental to the negotiation on this subject had fundamentally different interests and concerns about what they thought needed to happen. From the Soviet standpoint, the most important thing was [that] no one else in the world and certainly not the U.S. have a military capability which appeared to be so decisive in ending the Second World War, if they didn't have it as well.

From the American standpoint, what was important was that this capability, which was very valuable to the U.S., not be surrendered unless there were very firmly established verification and then there were compliance measures in a U.N. body, U.N. agency, U.N. authority in this case, and the sequencing in this case were exactly opposite. It wouldn't work for the Soviets unless you took step one and then step two; and from the U.S. standpoint, what they called step two was our step one and vice versa. And there was no real way around that in 1946 and 1947 and the late forties. What had to happen was a step back, look at the issue, see what was important and see if there were smaller steps that could be taken, and then also circumstances needed to change. In the Soviet case, they acquired nuclear capabilities themselves. In the U.S. case, approaches to verification began to be a more serious part of what we looked at, and as those situations evolved it became possible to reach agreements dealing with the fundamental issues of each country.

-Mike Lekson

Impasse

In 1948, the U.N. General Assembly overwhelmingly approved the Baruch Plan. For a time it was even called the “plan of the majority.”²⁵ However, despite having shown a little early flexibility, the Soviets ultimately rejected it.

Soviet veto. The Soviets' original requirement that the UNAEC derive its authority from the Security Council, where they had veto power, proved a smart move for them. In spite of broad support for the Baruch Plan, the Soviets had the power to block it, and did.

End of the UNAEC. With no movement on either side over the course of the next year, the UNAEC adjourned itself for good in 1949. The Soviet blockade of Berlin, the U.S. airlift to counter it, and victory of the communists in the Chinese civil war had created an atmosphere of confrontation and mistrust that permeated negotiations, and the U.S. and the Soviets proved incapable of bridging their differences to fashion an agreement acceptable to both sides. As a result, the UNAEC efforts reached an impasse.

²⁵ Goldschmidt, Bertrand. “The Origins of the International Atomic Energy Agency.” *IAEA Bulletin* 19 no. 4 (1977): 13.

In Bunn's opinion, there never really was "serious negotiation over the Baruch plan. ... Each side adhered to fairly extreme, inflexible positions." He adds:

President Truman and Baruch misjudged America's lead in nuclear weapons and its bargaining strength, overestimating how long it would take the Soviets to catch up. The Soviets insisted on acquiring a bomb of their own even though the Americans offered to destroy their bombs after international inspections and control were in force, an offer the Soviets may have thought was phony. No amount of bilateral exploration of common interests would probably have made anything like it acceptable to the Soviets."²⁶

Edwin Brown Firmage shared this view, stating that although the U.S. was "offering to give up a tremendous (though temporary) strategic advantage, its monopoly of nuclear weapons, the Soviets saw this proposal as an attempt to insure that they would never possess nuclear capacity."²⁷

In fact, as the leaders of each country understood their interests, there increasingly became little to no basis for a negotiated agreement. The interests at play were fundamental, involving how to safeguard national security. Both countries had been the victims of catastrophic surprise attacks in World War II. Stalin spent most of the war complaining that the U.S. was not doing enough to defeat the Germans. The Americans spent the post-war period decrying Soviet actions that seemed to undercut wartime promises and threaten international security. As a result, there was no prospect that these two competing countries with opposing ideologies would find or create the trust and goodwill necessary to agree on a disarmament process.

The Soviet bomb. In the years that followed, the Soviets continued on their crash program to catch up with the Americans and detonated their first atomic bomb on August 29, 1949. From that point forward, Savel'yev and Detinov note, "the development of the Soviet strategic force to great measure paralleled that of the United States."²⁸

The nuclear arms race was well under way.

²⁶ Bunn, George. *Arms Control by Committee: Managing Negotiations with the Russians* (Stanford: Stanford University Press, 1992), 60.

²⁷ Firmage, Edwin Brown. "The Treaty on the Non-Proliferation of Nuclear Weapons," *The American Journal of International Law*. Vol. 63, No. 4 (Oct. 1969), 713.

²⁸ Savel'yev, Aleksandr' G. and Nikolay N. Detinov, *The Big Five: Arms Control Decision-Making in the Soviet Union*, ed. Gregory Varhall., trans. Dmitriy Trenin (Westport: Praeger, 1970), 2.

4.2: International Atomic Energy Agency: Partial Success

New Realities

With the collapse of the UNAEC, those concerned with the nuclear threat took some time to regroup and rethink the problem. In the late 1940s and early 1950s, new realities were becoming apparent.

The spread of nuclear weapons. It soon became clear just how quickly this new technology could spread. Predictions for how long it would take for the Soviets to detonate their first atomic device varied widely, with some even suggesting it would take decades; in fact, they did so, just four years after the United States. Moreover, they did not even announce this fact themselves, leaving it to America's slowly evolving technology to detect the test—further reinforcing the U.S. conviction that verification would be an essential element of any agreement limiting nuclear weapons. It then took only three more years for the British to detonate their first bomb. Though both countries were uniquely situated to develop nuclear weapons, the loss of the U.S. monopoly demonstrated that over the long run, neither the difficulty of the technology nor the scarcity and distribution of raw materials could be counted on to check the spread of such weapons.

East/West confrontation. These issues were all addressed against the background of growing confrontation between the U.S. and USSR, involving alliance systems of varying degrees of formality and free will. In April 1949, the North Atlantic Treaty was signed, committing the U.S. and Canada to the defense of Europe; it soon gave rise to the NATO (North Atlantic Treaty Organization) alliance. In 1955, following the entry of West Germany into NATO, the Soviets formalized their relationship with other European communist countries by establishing the Warsaw Pact. The role of nuclear weapons both as a threat to NATO and as a part of NATO's deterrence of that threat became a key part of the debate. Meanwhile, in June 1950, North Korea invaded South Korea, launching a war that quickly involved the U.S., U.N., and later China, and lasted for three years. In this war, the first that the U.S. had fought since the surrender of Japan, American leaders made the conscious decision not to use nuclear weapons, though the possibility of their use was indeed considered.

Changes of leadership. Dwight Eisenhower succeeded President Truman in January 1953; Joseph Stalin died in March of the same year. After a two-year period of committee government in Moscow, Nikita Khrushchev took over in the Kremlin.

Hydrogen bomb. On November 1, 1952, the U.S. detonated the first hydrogen bomb. Less than one year later, on August 12, 1953, the Soviets detonated their own hydrogen bomb, closing the technological gap and raising concerns about how readily others might also be able to surmount the technical challenges of developing nuclear weapons. The new bombs had explosive yields several hundred times greater than the bombs dropped on Hiroshima and Nagasaki, and scientists on both sides projected that future weapons could have far more explosive power. The stakes had clearly been raised.

United Nations Disarmament Commission. To create an institutional successor to the UNAEC, the Committee of Twelve was created representing all the members of the U.N. Security Council plus Canada in 1949. It was charged with creating a new, consolidated disarmament agency that would work together for the “regulation, limitation and balanced reduction of all armed forces and all armaments,” as well as “international control of atomic energy.” General Assembly Resolution 502 (section VI) created the new United Nations Disarmament Commission (UNDC) on January 11, 1952. However, the issues that plagued the work of the UNAEC did not go away. The work on this new commission was hampered by continued U.S./Soviet disagreements.

Perspectives

The general way in which nuclear issues were looked at in the 1950s, probably in the late 1940s as well, was here is an amazing discovery of science which has great potential both for good and for bad. Clearly the use of nuclear weapons as a means of waging war is on one side of that equation. But the other side was the hope, the potential that you would have a source of power, which could be, in effect, unlimited. After World War II, everyone wanted more. They wanted higher standards of living, everyone had suffered during the war in what followed the Great Depression, and there was certainly a huge amount of interest in the developed part of the world for economic growth, which automatically carried with it a requirement of power.

People didn't quite understand how limited oil was going to turn out to be as a resource, but people knew it was polluting and they also knew it was concentrated in crucial areas of the world which had been one of the factors on peoples' minds during World War II. So the chance to have something that would get you past this whole problem, and provide in effect what was seen at the time as an unlimited source of energy, was extremely attractive to those interested in economic growth, which was basically the entire world. And there were even people saying, which we know turned out not to be true, that nuclear power, nuclear energy offered the power which was almost too cheap to meter. Now, as we know, that turned out not to be true for a number of reasons, but it really did look like here was another of those cases where science was offering one of those things which in one way was a blessing and in another a curse, and the opportunity to get access to nuclear power for peaceful civilian uses was deemed as a really, really important benefit which no one wanted to give up, even as they recognized the need to keep control on the use of nuclear power for the purposes of war.

-Mike Lekson

Eisenhower's Atoms for Peace program at first I think was an honest attempt on the part of Eisenhower to make use of the energy potential. It is argued now and it was argued then that this would contribute to proliferation. But it is also arguable that this idea that we need to have more energy than we get from fossil fuels is what was in real demand and we needed to respond to it. So I supported it at the time—I actually worked on that. One of the first jobs I had was working on the Atoms for Peace program.

-James Goodby

Atoms for Peace

On December 8, 1953, before a plenary session of the U.N. General Assembly specifically focused on peaceful uses of atomic energy, President Eisenhower took a new approach with his *Atoms for Peace* speech.

In the first part of his speech, Eisenhower discussed the destructive power of nuclear weapons. He noted that “the dread secret and the fearful engines of atomic might are not ours alone. ... The knowledge now possessed by several nations will eventually be shared by others, possibly all others.”¹

But instead of revisiting the deadlocks of the 1940s, he took a different approach, focusing on one original aim of the UNAEC where he might forge consensus:

It is not enough to take this weapon out of the hands of the soldiers. It must be put into the hands of those who will know how to strip its military casing and adapt it to the arts of peace. The United States knows that if the fearful trend of atomic military build-up can be reversed, this greatest of destructive forces can be developed into a great boon, for the benefit of all.²

Having consulted beforehand with U.K. Prime Minister Winston Churchill, Eisenhower proposed that the nuclear powers “should begin now and continue to make joint contributions from their stockpiles of normal uranium and fissionable materials to an international atomic energy agency,” one that “would be set up under the aegis of the United Nations.” The new agency, to be called the International Atomic Energy Agency (IAEA) would be responsible for the “impounding, storage and protection” of the contributed material, and would “devise methods whereby this fissionable material would be allocated to serve the peaceful pursuits of mankind.” In this way, the nuclear powers “would be dedicating some of their strength to serve the needs rather than the fears of mankind.” It is important to note here that Eisenhower had accepted the inevitability of proliferation of at least some knowledge about nuclear weapons. Consequently, he now sought to limit the construction of weapons, not just the spread of knowledge, as a safeguard against thermonuclear war. Among the nuclear powers, he referred specifically to the Soviet Union.³

Breaking a Problem into Components

When negotiations stall on one set of issues, it can be helpful to step away from them and focus on other aspects of the problem. Since discussions over disarmament had stalled, Eisenhower addressed another, perhaps achievable aim, making peaceful use of nuclear technology available to other states. Nations accepting material, equipment, and training envisaged by *Atoms for Peace* would have to agree to use their atomic knowledge only for peaceful purposes, but Eisenhower explicitly noted that “the proposal has the great virtue that it can be undertaken

¹ Eisenhower, Dwight D. “Atoms for Peace,” speech before the General Assembly of the United Nations on Peaceful Uses of Atomic Energy, December 8, 1953, http://www.iaea.org/About/history_speech.html.

² Eisenhower, Dwight D. “Atoms for Peace,” speech before the General Assembly of the United Nations on Peaceful Uses of Atomic Energy, December 8, 1953, http://www.iaea.org/About/history_speech.html.

³ Eisenhower, Dwight D. “Atoms for Peace,” speech before the General Assembly of the United Nations on Peaceful Uses of Atomic Energy, December 8, 1953, http://www.iaea.org/About/history_speech.html.

without the irritations and mutual suspicions incident to any attempt to set up a completely acceptable system of world-wide inspection and control.”⁴

With nations contributing fissionable material to the *Atoms for Peace* program, Eisenhower hoped that his proposal would reduce the amount of this dangerous material in stockpiles throughout the world. Just as importantly, he saw the effort as a way to break the deadlock surrounding the failed negotiations of the 1940s, and through success, build confidence in an international approach. In his speech, he emphasized his hope for “all peoples of all nations to see that, in this enlightened age, the great Powers of the earth, both of the East and of the West, are interested in human aspirations first rather than in building up the armaments of war.”⁵

Perspectives

The notion of sharing the peaceful atom goes back to Acheson-Lilienthal but then more clearly to President Eisenhower. The Atoms for Peace notion was one that was clearly included in the NPT—that if states would give up the right to develop nuclear weapons, they would be guaranteed access to nuclear energy for peaceful purposes such as nuclear medicine and a variety of other purposes. So that was the bargain that Eisenhower originally proposed and that came to be embodied in the Non-Proliferation Treaty.

-Mort Halperin

Eisenhower understood that there was this potential for proliferation. What he did at the same time as he proposed Atoms for Peace, he proposed that there should be an International Atomic Energy Agency. And the genius of that is he saw that as a way of controlling the fuel cycle. He saw it as a way of managing this proliferation problem, which he realized was inherent in the Atoms for Peace. So that was established, and it was fortunate it was, it has played a very important role ever since. The Non-Proliferation Treaty said nuclear powers will help provide other countries with the means to produce electrical energy from the atom. They will facilitate that in any way they can. In return, the other part of the bargain is that these countries that do not possess nuclear weapons will refrain from doing so. They will not build atom bombs with the knowledge which they have acquired through Atoms for Peace and they will forever remain a non-nuclear-weapon state. So that was the trade-off—nuclear weapons states will give help; other states that do not have nuclear weapons will refrain from becoming nuclear-weapon states.

-James Goodby

Points of Contention

Although there was widespread enthusiasm for Eisenhower’s concept, it took time to forge an agreement on the specific structure, responsibilities, and powers of the new agency.

⁴ Eisenhower, Dwight D. “Atoms for Peace,” speech before the General Assembly of the United Nations on Peaceful Uses of Atomic Energy, December 8, 1953, http://www.iaea.org/About/history_speech.html.

⁵ Eisenhower, Dwight D. “Atoms for Peace,” speech before the General Assembly of the United Nations on Peaceful Uses of Atomic Energy, December 8, 1953, http://www.iaea.org/About/history_speech.html.

Contribution of Materials. As Barton and Weiler note, the Soviets did not have the same access to fissionable materials as the Americans, and were therefore reluctant to make the kinds of contribution called for in *Atoms for Peace*.⁶

Inspections. More crucially, the Americans and the Soviets had divergent ideas on the kind of powers that international inspectors should have to ensure that materials were not diverted to military purposes. The Americans favored a rigorous inspection regime, the Soviets something substantially less intrusive.

Veto. Once again the Soviets insisted that any new agency derive its authority and take direction from the U.N. Security Council, where they could veto any action that they did not like.

General disarmament. The Soviets wanted to tie the new agency to a general disarmament scheme. As Barton and Weiler point out, this idea felt to the U.S. “much like the Soviet response that Baruch had received a decade earlier.”⁷

Gaining Soviet Support

American Secretary of State Dulles took the lead in negotiating with the USSR. He worked with a number of Soviet officials in the effort, including Foreign Minister Molotov.

Under Dulles’s lead, the U.S. responded to Soviet intransigence in two ways:

Improving its BATNA

First, the U.S. passed legislation that charged its own domestic Atomic Energy Commission (AEC) with a mandate, responsibilities, and powers comparable to the international agency envisaged by Eisenhower. Essentially, if the Americans could not get a deal on an international program, they would—as their *best alternative to a negotiated agreement* (BATNA)—establish bilateral programs with individual partners essentially identical to *Atoms for Peace*. AEC representatives played a key role in negotiations over the IAEA.

Building Coalitions

The U.S. then used this leverage to build a broad coalition in favor of its proposal. As Barton and Weiler explain, the Americans gained the support of all major world suppliers of uranium: Great Britain, Canada, France, South Africa, Belgium, Australia, and Portugal. The U.S. “had a good bargaining position with these nations, because of its own bilateral program, under which it could supply processed nuclear material for peaceful purposes under AEC-imposed controls.” Dulles was “thus able to obtain a draft agreement from these supplying nations and submit it confidentially to the Soviet Union.” Through the strength of his coalition, “he obtained Soviet agreement, and then worked the draft through broader and broader U.N. groups.”⁸

⁶ Barton, John H. and Lawrence D. Weiler, ed., *International Arms Control: Issues and Agreements* (Stanford: Stanford University Press, 1976), 290.

⁷ Barton, John H. and Lawrence D. Weiler, ed., *International Arms Control: Issues and Agreements* (Stanford: Stanford University Press, 1976), 290.

⁸ Barton, John H. and Lawrence D. Weiler, ed., *International Arms Control: Issues and Agreements* (Stanford: Stanford University Press, 1976), 291.

With a strong hand in the negotiations, the U.S. was able to prevail in establishing thorough safeguards for the IAEA to ensure that nothing supplied to recipient nations was devoted to military purposes. As Fisher notes, the safeguards were modeled on thorough safeguards developed for the U.S. bilateral program.⁹

Retention of Veto

At the same time, as the price for their agreement, the Soviets were able to extract concessions of their own. Fisher explains that above all they were able to maintain a prominent role for the Security Council in matters of inspection and control, enabling “the Soviet Union to exercise its veto in the Council if its interests so required (precisely what the Baruch plan had sought to avoid).”¹⁰ The Security Council veto was generally an important means of leverage to Moscow. In the U.N.’s first ten years, the Soviet Union cast 79 Security Council vetoes.*

Perspectives

I had the good luck of becoming a member of the drafting team, the team to draft the charter of the International Atomic Energy Agency, and it was an interesting process because Eisenhower, having launched this idea, turned it over to the State Department and the Atomic Energy Commission as it was then called—now it is the Department of Energy. So the Atomic Energy Agency, where I was then working, and the State Department, which I also had been working in, together assembled a group of, I think, eleven countries, all of whom had some inherent capabilities of building nuclear power plants and building nuclear bombs. So we had representatives of the Soviet Union and France, and India was there with a person named [Homi] J. Baba, who is now known as the father of the Indian atomic weapons program, and the idea was to establish a mechanism; a Board of Governors, the General Conference was part of it. This mechanism was essentially designed to facilitate the use of nuclear power by countries that didn’t have it or needed more help. So the idea was that the IAEA would be what we call today a fuel bank, a place where countries in need could go and get some nuclear fuel. It was seen as a place where technology would be exchanged.

-James Goodby

I think the International Atomic Energy Agency, which emerged from President Eisenhower’s Atoms for Peace initiative, I think that that shows one of the lessons of this course on negotiation, that if you try to break a problem down in component parts...you need some kind of body which will implement a treaty. We see that with any other kind of arms control treaty—the Chemical Weapons Convention that established an organization for the prevention of chemical weapons in order to implement the treaty. The NPT would need that as well and it’s usually a very difficult part of the negotiation to do that. In this case, what the IAEA was able to bring to this process was it already existed.

-Mike Lekson

⁹ Fischer, David. *History of the International Atomic Energy Agency: The First Forty Years* (Vienna: International Atomic Energy Agency, 1997), 42. Also available online at http://pub.iaea.org/MTCD/publications/PDF/Pub1032_web.pdf.

¹⁰ Fischer, David. *History of the International Atomic Energy Agency: The First Forty Years* (Vienna: International Atomic Energy Agency, 1997), 37. Also available online at http://pub.iaea.org/MTCD/publications/PDF/Pub1032_web.pdf.

* By contrast, there was only one lone veto from the other “Permanent Five” members; China (then represented from Taipei, not Beijing) cast one in 1955.

Interim Accomplishment

In one important respect, Eisenhower's hopes for *Atoms for Peace* failed to materialize. The nuclear powers' contributions of fissionable material to the IAEA did not significantly reduce their stockpiles of these materials. However, to the extent that peaceful uses of nuclear energy were likely to spread anyway, Eisenhower's contribution ensured that they would do so in a tightly controlled fashion.

The formation of the IAEA as a watchdog over the peaceful spread of nuclear technology was an important interim accomplishment on the way to a treaty on non-proliferation. Moreover, as an established multilateral institution, it stood ready to implement the Non-Proliferation Treaty (NPT) when it was finally negotiated over a decade later, and made it easier for countries which had not been part of the U.S./U.K./USSR bargaining process to accept that their own interests, would be addressed as the NPT was put into practice.

Final IAEA Statute. That all nations should benefit from peaceful application of nuclear technology was an important principle dating back to the original 1945 *Three-Nation Agreed Declaration on Atomic Energy* and reiterated in the first official resolution of the U.N. General Assembly. Where neither the Baruch nor Gromyko plan had adopted, with their very different comprehensive approaches to the problem, the statute forming the IAEA succeeded in institutionalizing this principle as a basis on which further work towards a comprehensive solution could be done. According to the final statute, the IAEA would:

- Take any action needed to promote research on, development of, and practical applications of nuclear energy for peaceful purposes (Article III.A.1);
- Provide materials, services, equipment, and facilities for such research and development, and for practical applications of atomic energy 'with due consideration for the needs of the under-developed areas of the world' (Article III.A.2);
- Foster the exchange of scientific and technical information (Article III.A.3);
- Establish and apply safeguards to ensure that any nuclear assistance or supplies with which the IAEA was associated should not be used to further any military purposes—and apply such safeguards, if so requested, to any bilateral or multilateral arrangement (Article III.A.5); and
- Establish or adopt nuclear safety standards (Article III.A.6).¹¹

Growing prominence. After its inception, the IAEA quickly grew in prominence. As Robert Penley, Lawrence Schneiman, and Richard Butler explain, most of the bilateral arrangements established by the U.S., along with bilateral arrangements established by other supplier countries in the West, were eventually transferred to the jurisdiction of the IAEA, with each grant or sale of materials "conditioned on the acceptance by the recipient state of controls over the *uses* of that material."¹²

¹¹ Fischer, David. *History of the International Atomic Energy Agency: The First Forty Years* (Vienna: International Atomic Energy Agency, 1997), 35-36. Also available online at http://pub.iaea.org/MTCD/publications/PDF/Pub1032_web.pdf.

¹² Pendley, Robert, Lawrence Scheinman, and Richard W. Butler, "International Safeguarding as Institutionalized Collective Behavior," *International Organization* 29, no. 3 (1975): 588.

Fear of proliferation. Fear of what began to be called “nuclear proliferation” grew more intense in the late 1950s and early 1960s. Fisher recounts several events that contributed to these fears, including “the addition in 1960 and 1964 of two States to the nuclear weapon club [France and China, respectively] ... the half-secret discussions between French, German and Italian politicians suggesting that Germany and Italy might also acquire the bomb, and rumors that Israel was about to do so.” He describes “a growing determination to halt the spread of nuclear weapons,” along with a general feeling that “IAEA safeguards could be a significant part of this effort.”¹³

Confidence-building measure. In the absence of progress on the most difficult issues of proliferation, the *Atoms for Peace* proposal and the creation of the IAEA allowed the parties to make progress where they could. The formation of the IAEA established important principles in monitoring and inspections, and its first several years of successful operation served as a confidence-building measure on the merits of an international approach. In both ways, the IAEA made further progress possible.

Perspectives

Later on when the Non-Proliferation Treaty was actually put into force, and that wasn't until after the IAEA was established, those people who negotiated the non-proliferation treaty were looking around for some kind of verification machinery. And there it was, the International Atomic Energy Agency waiting to be used because part of the idea was that in return for their supporting peaceful nuclear reporting it would put into effect some kind of observation of these nuclear power plants to make sure that the materials were not being diverted. So when the NPT came into force the IAEA in the terms of the treaty became in fact a verification mechanism. And that made a major turning force of course for the IAEA and what it was designed to do. It gave it sort of a split personality in a sense, because on the one hand it was supposed to promote nuclear energy, the civil uses of nuclear energy, and at the same time it was supposed to discourage the diversion of nuclear materials for weapons. So that has been one of the problems that the IAEA has had ever since, how to balance these two demands on what it does.

-James Goodby

By the time the Non-Proliferation Treaty itself was being negotiated, the international body addressing nuclear power, nuclear energy issues, it was already in existence. It had been negotiated involving the powers to the NPT and the international community writ large. It had status within the U.N. system, it was there already and it was relatively easy for the U.S., the UK, and the Soviet Union to agree that this would be the body that would implement the treaty. And it was also easy, it was relatively easy for the other parties to the NPT who weren't directly in the center of these negotiations to buy on to this concept because it was a body which they helped create in many cases and to which they belonged in almost every

¹³ Fischer, David. *History of the International Atomic Energy Agency: The First Forty Years* (Vienna: International Atomic Energy Agency, 1997), 86. Also available online at http://pub.iaea.org/MTCD/publications/PDF/Pub1032_web.pdf.

case, and it wasn't something being forced on them by a small group negotiating on behalf of a lot of people who weren't in the room.

So it both demonstrated a way of cooperating taking place, and operating a smaller step leading to a bigger step in dealing with the whole issue posed by the challenge of nuclear energy, and it also made the very important element of any negotiation of how do you actually get this negotiation to work? It made that much easier to do, in that the NPT negotiations themselves, by having the body already in existence rather than them having [to] come up with all the arguments that would have to take place and trying to create such a body within the negotiations and within the substance of the negotiations themselves, which was especially difficult.

-Mike Lekson

Chapter 4.3: Breakthrough to Non-Proliferation

Continuing Efforts

In spite of progress like *Atoms for Peace* and the establishment of the IAEA, the threat posed by evolving technology also grew during this period, spurring continuing efforts to prevent and control the spread of nuclear weapons.

Test bans. With their iconic mushroom clouds and the spread of fallout well beyond the barren areas where the explosions themselves occurred, nuclear tests became the focal point for worldwide popular anxieties over the nuclear threat. Although a complete ban was found to be too difficult a challenge, negotiators ultimately succeeded in curtailing the most damaging forms of nuclear testing (tests that resulted in nuclear fallout, electromagnetic pulses, etc.) with the 1963 Limited Test Ban Treaty, as discussed in greater detail below.

Antarctic Nuclear Free Zone. Elsewhere, negotiators made progress where they could. In 1959, the Antarctic Treaty was established. Along with establishing that continent as a zone for scientific exploration and prohibiting territorial claims there, the treaty prohibited testing of any kind of weapon, nuclear explosions of any kind (including peaceful nuclear explosions for engineering projects), or disposal of nuclear waste anywhere on the polar continent.*

New forums for non-proliferation. The UNDC experienced continual deadlocks throughout the 1950s and stopped meeting regularly in 1959. Late that year, the foreign ministers of France, the U.K., the U.S., and the Soviet Union decided to create a new forum for discussion, based on equal East/West representation, outside of but linked to the U.N. It became known as the Ten Nation Disarmament Commission. In 1962 it was expanded to include a larger and more geographically diverse group of nations, and was rechristened as the Eighteen Nation Disarmament Commission (ENDC). It began work in Geneva on March 14, 1962 and proceeded

* Article V of the Antarctic Treaty prohibits any nuclear explosion in the region, including for peaceful purposes. However, paragraph two of the agreement states that if all parties to the Treaty become party to an international agreement on the use of nuclear energy, "including nuclear explosions," that the latter agreement would apply in Antarctica, thus nullifying that aspect of the treaty if such an agreement were established.

for the next decade to provide an environment where some of the most fruitful negotiations on non-proliferation would take place.

Perspectives

Well I think there were several things going on in the wake of the late 1950s and early 1960s, there was [an] important intellectual development which came to be called arms control, and this was the notion that agreements limiting weapons, especially nuclear weapons, between hostile states, could actually be in the interest of both states or to a number of states by preventing accidental wars or by preventing things like the further proliferation of nuclear weapons that would be in their common interest even though they were adversaries. Up until then, most of the academic and theoretical groups had viewed arms control as simply a diplomatic game in which states competed to show that they were on the right side of peace yet no one was actually interested in reaching an agreement.

-Mort Halperin

A number of things happened. One was that other countries had become nuclear weapons states by then. Another was that it had become apparent to Eisenhower that we weren't getting anywhere with these grand ideas. So he actually appointed a man by the name of Harold Stassen to be his Special Advisor for Disarmament. He did that in 1955.

Stassen looked at the sea and realized there were a lot of near term steps that could be taken. One of the first near-term steps that could be taken was a test ban treaty. The reason that had come up was in 1954, the United States had tested the first thermonuclear devices. In March 1954, a thermonuclear device was designed for six megatons, a huge amount of energy—in fact detonated with 15 megatons of energy, still the largest nuclear explosion the United States had ever conducted. And that meant that the radioactive debris from this explosion went well beyond the danger zone in the Pacific that had been designated.

And Stassen said, and got Eisenhower's approval to say, now we favor partial measures as a way to get things moving. So the proposal that the Americans made in the five-nation disarmament conference in London in 1957 included a kind of free standing nuclear test ban along with some other things like inspections and things that had to do with conventional forces at about the same time as the Open Skies proposal that Eisenhower proposed; Nelson Rockefeller [helped] propose that. So the late 1950s became a time of ferment and it became a loosening up of all the old Cold War ideas. And part of it was that Soviet leadership had been consolidated under Nikita Khrushchev and he seemed to want to make changes so political change, new technological developments, accidents like the thermonuclear explosion, all those things contributed to what the time—to what the people were demanding. It was popular opinion so you can't just go on. In fact the Sputnik took place, the Soviet satellite in 1957, so it was a time when a lot of things were happening; the missile gap came as a political issue. It was a time when things were coming together in a way that had to change.

-James Goodby

A Fresh Start:

The Irish Resolution

On October 17, 1958, the Irish offered a draft resolution to the General Assembly on the "Further Dissemination of Nuclear Weapons," which was rejected by the U.S. The following year,

however, the Irish submitted another version; this initiative would form the center of the non-proliferation debate for years.

The Irish proposal was relatively simple in terms and modest in scope, which contributed to its appeal in light of the continual deadlock experienced by the UNDC.

Key Tenets of the Irish Proposal

- Nuclear-Weapons States (NWS), those that already possessed nuclear weapons, would refrain from sharing with their allies either the weapons or the technology behind them.
- Non-Nuclear-Weapons States (NNWS), those which did not have nuclear weapons technology, would not request from their allies either weapons or the technology behind them, and would refrain from developing the technology on their own.
- NNWS would accept inspections of their territories, including any facilities for peaceful uses of nuclear technology.

In part, the Irish contribution was to spell out in detail their considered view of the interests, needs, and fears, of all concerned:

Fears among NNWS. The Irish argued that without some kind of control mechanism, proliferation was highly likely. Their position was that NNWS would feel intensely vulnerable and would thus have strong incentive to try to get nuclear weapons to protect themselves. Irish Foreign Minister Frank Aiken later reflected:

The sudden appearance of nuclear weapons and their almost instantaneous long-range delivery systems in a previous nonnuclear state may be tantamount, in the circumstances of the world today, to be pushing a gun through a neighbor's window... It may even be regarded as an act of war by neighboring countries who have not the second strike nuclear capacity possessed by great nuclear powers...¹⁴

NWS support of allies. Under the circumstances described by Aiken, nuclear-armed states would have strong incentive to help their non-nuclear allies, particularly if rival nuclear-armed states were helping their own allies. Here, Aiken argued that NWS “may well be forced by mutual fear and the pressure of their allies, to distribute these weapons, and so increase geometrically the danger of nuclear war.”¹⁵

Dangers of proliferation. Proliferation would increase the chances of nuclear war, accidental or otherwise. Aiken envisions the world drifting into “a nightmare region in which man's powers of

¹⁴ Sokolski, Henry D. “What Does the History of the Nuclear Nonproliferation Treaty Tell Us About its Future?” in *Fighting Proliferation: New Concerns for the Nineties*, ed. Henry D. Sokolski (Maxwell Air Force Base: Air University Press, 1996), <http://www.fas.org/irp/threat/fp/b19ch1.htm>.

¹⁵ Sokolski, Henry D. “What Does the History of the Nuclear Nonproliferation Treaty Tell Us About its Future?” in *Fighting Proliferation: New Concerns for the Nineties*, ed. Henry D. Sokolski (Maxwell Air Force Base: Air University Press, 1996), <http://www.fas.org/irp/threat/fp/b19ch1.htm>.

destruction are constantly increasing and his control over these powers is constantly diminishing.”¹⁶

Another Partial Solution

Like Eisenhower’s *Atoms for Peace*, the Irish proposal was only a partial solution, but for the time it was a realistic one. Some noted that it did not address the troubling arms race among the NWS. To this Aiken argues that “it was ‘hardly realistic’... to expect any ‘early agreement on the abolition of nuclear weapons.’” But he maintained that it was possible “to reduce the risks which the spread of these weapons involves for this generation, and not to hand on to our children a problem even more difficult to solve than that with which we are now confronted.”¹⁷

Perspectives

There was an Irish Resolution—the idea that countries should not transmit information about nuclear weapons to other countries, kind of like the original U.S. legislation in that respect. And it was adopted and various people had different ideas. So it became kind of an instrument for non-proliferation at the UN. Of course the American administration, then Kennedy, picked up the idea and decided perhaps we can do something more formal than a resolution. Maybe we can have a treaty.

-James Goodby

So what you see there is a wish to have the benefits of nuclear power, peaceful nuclear power, a wish to be secure from the threat of nuclear weapons, both being important to the non-nuclear weapons-states. And the second of those two, the wish to be secure from the threat of nuclear weapons, is ensured both by everyone who might potentially be a security challenge or had historically been a security challenge to a given country, everyone else sort of adopts the same norm that if two countries in Central America or South America have traditionally been enemies, if both of them take the same pledge, and that it’s part of an internationally verified, monitored and enforced system, then if everyone is taking the same pledge as Western Europe, as Japan, as most of the countries in the world, it’s not really making them look less powerful, it’s making them look like a part of the responsible international community.

-Mike Lekson

Deadlock:

Nuclear Defense of NATO

In some ways, the original Irish proposal was relatively generous to the NWS. They were not required to make progress on arms control, nor were they subject to the same kinds of inspections as the NNWS. Nevertheless, the first countries to take issue with the Irish resolution were the U.S. and its NATO allies.

¹⁶ Sokolski, Henry D. “What Does the History of the Nuclear Nonproliferation Treaty Tell Us About its Future?” in *Fighting Proliferation: New Concerns for the Nineties*, ed. Henry D. Sokolski (Maxwell Air Force Base: Air University Press, 1996), <http://www.fas.org/irp/threat/fp/b19ch1.htm>.

¹⁷ Sokolski, Henry D. “What Does the History of the Nuclear Nonproliferation Treaty Tell Us About its Future?” in *Fighting Proliferation: New Concerns for the Nineties*, ed. Henry D. Sokolski (Maxwell Air Force Base: Air University Press, 1996), <http://www.fas.org/irp/threat/fp/b19ch1.htm>.

The balance of conventional armed forces in Europe very strongly favored the Soviet Union and Warsaw Pact over NATO. Moreover, NATO's strongest military power, the U.S., was an ocean away from the potential threat. Thus, as early as 1953, the U.S. began stationing nuclear weapons systems in Europe, including some which would be integrated into the militaries of non-nuclear European allies, as well as into strictly U.S. forces. As Bunn notes, NATO started planning collectively for how the weapons might be employed "in the event of overwhelming Soviet conventional attack." Use of the nuclear-capable weapons systems in allied hands was subject to what was described as dual-key control, where "the U.S. President had to release the nuclear weapons before they could be used in war, and the command authorities of the ally had to release the delivery vehicles."¹⁸

From the U.S. perspective, the extended nuclear deterrent which it provided NATO, embodied in part by its nuclear deployments in Europe and these dual-key programs of cooperation, was itself a means of promoting non-proliferation. Together with its Asian and Pacific alliances, these arrangements simultaneously provided security and thereby reduced the incentive for any of the other industrialized countries to pursue their own nuclear arsenals (with the exception of the U.K., which already had nuclear weapons, and France, which was striking an independent course). Unsurprisingly, this argument did not find ready acceptance in Moscow.

For their part, the Soviets kept their allies from acquiring nuclear capabilities by more direct command-and-control means. While the Soviets deployed nuclear weapons elsewhere in the Warsaw Pact, they never considered the sort of programs of cooperation that NATO employed. The one instance of direct Soviet assistance to an ally in acquiring nuclear capabilities, China, was broken off in 1959 as relations between the two countries soured, but China proved able to finish the task on its own, exploding its first nuclear weapon on October 16, 1964.

NATO opposes the first Irish resolution. In 1958, NATO allies opposed the first draft of the Irish resolution because they believed that it would interfere with the U.S. dual-key deployments and programs of cooperation. Sensitive to this issue, the Irish withdrew the resolution before a final vote.

Soviets abstain on the second Irish resolution. The Irish revised the draft and resubmitted it in 1959, but this time the Soviets abstained precisely because they understood that the revision would allow the NATO deployments, which they characterized as a clear case of nuclear proliferation.

U.S. abstains on third Irish resolution. In 1960, the Irish amended the 1959 resolution by removing inspection requirements. This move gained Soviet support, but caused the U.S. to abstain. However, U.S. interest in non-proliferation remained high. In his 1960 presidential campaign, John F. Kennedy famously said that by the end of 1964, "there are indications that 10, 15, or 20 nations will have a nuclear capacity..."¹⁹

¹⁸ Bunn, George. *Arms Control by Committee: Managing Negotiations with the Russians* (Stanford: Stanford University Press, 1992), 61-62.

¹⁹ Kennedy, John F. and Richard M. Nixon. Third Joint Television-Radio Broadcast, Thursday, October 13, 1960.

Consensus on the fourth Irish resolution. In 1961, the Irish submitted a fourth draft, which all could support. Barton and Weiler sum up the essence of the agreement, stating that “the nuclear powers would not transfer nuclear weapons or their control to non-nuclear weapons states, and the non-nuclear weapons states would not manufacture or otherwise acquire nuclear weapons.” In a nod to the Soviets, it did not require inspections, and as Bunn notes, its language was sufficiently general that the U.S. could interpret it to allow “the arrangements for NATO nuclear deployments then in existence.” Moreover, the Soviets also voted for a competing Swedish resolution suggesting that non-nuclear weapons states not accept nuclear weapons on their territory on behalf of another country, a resolution that the U.S. rejected.²⁰ These resolutions demonstrated the extent and also the limits of the existing consensus: much had been achieved, yet significant work remained.

Soviet Missiles and the Multilateral Force. In the mid-1950s, the Soviets began deploying, on their own soil, medium range bombers and missiles that did not directly threaten the U.S., but were capable of hitting London, Paris, Berlin, Brussels, and other European cities. In response, NATO members began drawing plans for a counter-balancing, sea-based deployment of medium-range missiles that became known as the Multilateral Force (MLF). Like other U.S. nuclear weapons systems already deployed in NATO Europe, the MLF would be subject to “dual-key” control. As well as responding to the immediate Soviet threat, the MLF was a potential substitute approach to aspirations of West Germany and other Western European countries for nuclear status.

Firmage highlights this crucial last point: “The United States had proposed the MLF as a means of partially fulfilling any need felt on the part of West Germany for the possession of nuclear weapons, while at the same time avoiding proliferation or independent German control.”²¹ It provided West Germany with a strong deterrent against invasion, as it was widely assumed that, should the Soviets attempt to advance, they were likely to begin on German ground.²² However, the Soviet perspective on MLF and U.S. deployment of weapons systems differed significantly. According to Bunn, Gromyko objected to any formula that would “permit the United States to arm ‘revanchist’ German forces with nuclear weapons under the cloak of NATO.”²³

Long debate. The impasse lasted for years. According to Sokolski, the U.S. “opposed a variety of non-proliferation resolutions backed by the Soviets, Swedes, and others, which, if accepted, would have jeopardized existing nuclear-sharing arrangements with NATO.”²⁴ Conversely, as Barton and Weiler note, “the Soviets opposed any non-proliferation agreement that would permit

²⁰ Bunn, George. *Arms Control by Committee: Managing Negotiations with the Russians* (Stanford: Stanford University Press, 1992), 65.

²¹ Firmage, Edwin Brown. “The Treaty on the Non-Proliferation of Nuclear Weapons,” *The American Journal of International Law*. Vol. 63, No. 4 (Oct. 1969), 716.

²² Freedman, Lawrence. *The Evolution of Nuclear Strategy* (New York: St. Martin’s Press, 1983). 325.

²³ Bunn, George. *Arms Control by Committee: Managing Negotiations with the Russians* (Stanford: Stanford University Press, 1992), 66.

²⁴ Sokolski, Henry D. “What Does the History of the Nuclear Nonproliferation Treaty Tell Us About its Future?” in *Fighting Proliferation: New Concerns for the Nineties*, ed. Henry D. Sokolski (Maxwell Air Force Base: Air University Press, 1996), <http://www.fas.org/irp/threat/fp/b19ch1.htm>.

the establishment of a multilateral nuclear force (MLF) in Europe.”²⁵ Bunn, who participated in the negotiations, describes the impasse this way:

Negotiations pursuant to the Irish resolution thus began with the two sides bargaining from divergent and inflexible positions. The authority of the American negotiators to compromise was sharply limited by the need to protect both the existing NATO nuclear arrangements and the proposed MLF. Yet those were the very things that the Soviet negotiators seemed most interested in prohibiting. So far as we could tell, they had no flexibility either.²⁶

Cuban missile crisis. In essence, both Washington and Moscow were addressing non-proliferation in the context of its impact on their respective security interests in their ongoing Cold War confrontations. Neither side wished the Cold War to become “hot,” a point which was dramatically highlighted during the Cuban missile crisis. The crisis forced the U.S. and the Soviets into their most serious consideration of the potential consequences of a nuclear showdown. According to Bunn, it was the Cuban missile crisis that “resulted in a dramatic change in the atmosphere for negotiations.”²⁷

Limited Test Ban Treaty. This new attitude was first reflected in the successful negotiation of a Limited Test Ban Treaty. Negotiations on banning nuclear tests began in the Eisenhower administration, but broke down for a number of reasons, including questions over verification. But the success of U.S. intelligence and what came to be known as “national technical means” in detecting the surreptitious deployment of Soviet nuclear missiles to Cuba using U2 reconnaissance aircraft offered a prospect that on-site inspections would not be needed to confirm that there were no atmospheric tests. A Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water, usually referred to as the Limited Test Ban Treaty (LTBT), or the Partial Test Ban Treaty (PTBT), was first proposed in 1960 and concluded in 1963. Primarily negotiated by the U.S., U.K., and USSR, it was then opened to accession by any other state. Given the widespread concerns in the 1950s and early 1960s about the health and environmental effects of atmospheric nuclear testing, this treaty was welcomed around the world. There were some significant exceptions, but for the most part, states that might have considered a nuclear option, along with those for which this was never a realistic prospect, wished to associate themselves with the first agreement that actually placed a serious limit on any aspect of the nuclear danger. Hoping to repeat the success of the LTBT, the leaders in Washington, London, and Moscow kept this in mind while negotiating the Nuclear Non-Proliferation Treaty.

²⁵ Barton, John H. and Lawrence D. Weiler, ed., *International Arms Control: Issues and Agreements* (Stanford: Stanford University Press, 1976), 296.

²⁶ Bunn, George. *Arms Control by Committee: Managing Negotiations with the Russians* (Stanford: Stanford University Press, 1992), 66.

²⁷ Bunn, George. *Arms Control by Committee: Managing Negotiations with the Russians* (Stanford: Stanford University Press, 1992), 66-67.

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So Europe, and we have to remember this is just two decades after World War II, which followed just two decades after World War I, so Europeans were not as prosperous and secure and confident then as they may be now in respect to this kind of question. The Europeans really, really wanted a U.S. security guarantee that was provided by a number of different means, [which] were the deployment of U.S. troops there, political commitments including a kind of cooperative arrangement, consultations—but nuclear weapons were a fundamental part of this too.

The Soviet Union had nuclear weapons, which clearly threatened NATO, and in order to demonstrate both the political will and military capability to deter any Soviet action, which might threaten the security of Western Europe, the U.S. had nuclear weapons deployed in Western Europe. And in some cases, because it made the Alliance even more effective as a cooperative mechanism, some of these nuclear weapons were deployed as part of units which would belong to the allies, not to the U.S. This was under dual key arrangement which in effect was not two fingers on the trigger—it was two fingers on the safety. But in each case, what the Soviets would perceive as U.S. nuclear weapons, not just under U.S. control but U.S. nuclear weapons in other Allied countries' militaries, and it's no secret that the West Germans were the ones that they were most concerned about but they were also concerned about any Allied country. They repeatedly tried, not just in this context but in others, if you're talking about nuclear non-proliferation it's a point which is going to come up, they repeatedly tried to end this arrangement that the U.S. had which was suppose to help guarantee the security in Europe. It had to come up in the context of nuclear non-proliferation and it was one of those issues where the U.S. was not going to abandon a NATO commitment in order to achieve a non-proliferation objective. A way had to be found to retain the one while achieving the other, and that took a lot of negotiating time.

-Mike Lekson

Well the problem that people thought we were facing was that the Soviet Union was rapidly developing a substantial nuclear capability and the problem was how to persuade the Soviet Union that the United States was ready to use its nuclear weapons to defend Europe against Soviet nuclear threats or nuclear weapons. And even more important, how to persuade European countries [to] feel that, so they would not all go get nuclear weapons. This concern related particularly to Germany after World War II. Nobody, many people didn't want to see Germany rearmed.

The multilateral force was a proposal was a proposal to have nuclear missiles on surface ships manned by as many of the NATO countries as wanted to participate with a dual key system so that the president of the United States and whatever other country shared the missile would have to authorize the firing. The United States government was deeply split. There was this group within the State Department that believed this was essential to prevent the Germans from getting nuclear weapons and that it would succeed in preventing the Germans from getting nuclear weapons. There was another group of people, particularly in the Pentagon and the National Security Council in the White House, that believed it would not succeed and that it didn't give the Germans any more control that they didn't have before and that the risk of whetting the German appetite for nuclear weapons and the risk that it would get out of hand

and that the Germans would antagonize the Russians for no reason. And so there was a deep split within the U.S. government. There were a few countries that were interested in discussing this; there were a few countries nervous about discussing it. The Russians condemned it from the beginning as a way of giving weapons to the Germans.

The Soviet Union was very unhappy now about all of these sharing issues because they were particularly concerned about the Germans getting nuclear weapons. They feared this process would keep going, and I always suspected that one of the main Soviet motivations was that, why the Soviets were interested in the Non-Proliferation Treaty, was exactly the mirror image of why the U.S. was against it; they saw it as a way to at least put some limit on the sharing of the United States of nuclear technology with Germany and with Japan and those were the *nth* countries which they were most worried about and continued to be most worried about.

-Mort Halperin

Well you know, when you go to a country and say, "Look, we understand you have a sovereign right to build a weapon that you think might increase your security but we don't want you to do it; On the other hand, we are going to continue to have nuclear weapons," [it] creates a certain issue. It's not easy to do that. We had a lot of discussions with a lot of the countries which was then called the European Communities, and I happened to be involved with that because I was attached then to the U.S. Mission to the European Communities. In fact, I had charge of overseeing our work with the Euratom, which is the European Atomic Energy Community. It was very clear that those countries that considered themselves as potential nuclear weapons states like Germany, and like Italy, Italy was very interested in this, did not like very much, that among European states France and Britain were allowed to have nuclear weapons, and the Soviet Union as well, but a leading scientific country like Germany couldn't have nuclear weapons. In particular, the people involved in the peaceful nuclear weapons program in Germany were very uncertain if this was something they really wanted to do. A similar situation in other countries, Italy mainly comes to mind.

Well the interesting thing is that the multilateral force, the MLF, was seen in Washington as another non-proliferation tool. It was considered to be an important non-proliferation tool because it was felt in Washington that this discriminatory practice of, in effect, of allowing some people to have nuclear weapons and others not to have them, was vulnerable and couldn't last forever. In particular, a leading country like Germany, which had a strong nuclear establishment and a powerful economy, that somehow or other, Germany and others who were leading countries in Europe would want to have access to nuclear weapons, and that they should have [a] specific handle over nuclear weapons so that they would feel they were part of this whole project. So how do you do that aside from just handing a nuclear weapon to a country like Germany? Well you do it by setting up a multilateral force, and the particular design they came up with was a ship, a multilateral crew, and that ship would be equipped with missiles, with nuclear warheads. The command arrangements would be that the Europeans would have a veto. The Americans would have a veto. But it would be a jointly owned enterprise. The Germans, the Italians, or anybody who took a part in it were in effect the owners of a force that was capable of launching a nuclear attack, or a response to a nuclear attack. And that was something that people in Washington supported that the non-proliferation treaty would make impossible. And it certainly would make it more difficult.

-James Goodby

Breaking the Impasse

In contrast to the Korean War period in the early 1950s, U.S./Soviet negotiations on a wide range of issues continued throughout the administrations of Presidents Kennedy and Johnson, even as the Vietnam War steadily escalated. The two countries each saw the virtue of making progress where it would serve their interests in areas where such progress was possible. In that context, there were several attempts to bridge differences and find compromise in language addressing the nuclear defense of NATO.

Eventually, the impasse was broken. An analysis of interests on both sides helps shed light on how agreement was reached.

U.S./NATO Interest: Collective Security

At the heart of the U.S./NATO interest in European nuclear defense and the MLF was the need for collective security arrangements. As members of a trans-Atlantic security alliance, each NATO member has a fundamental interest in the security of fellow members. The alliance was becoming increasingly reliant on nuclear weapons as a deterrent against Soviet aggression or political intimidation, especially in light of Soviet nuclear deployments targeting Western Europe and the Warsaw Pact's substantial numerical superiority in conventional forces. For this reason, the U.S. needed robust nuclear planning and coordination with its NATO allies while retaining its ultimate authority over the weapons themselves.

Soviet Interest: Preventing the Spread of Weapons Among European NNWS

In the words of Savel'yev and Detinov, the Soviets in this period "considered military—and, above all, nuclear—parity with the United States and the other North Atlantic Treaty Organization (NATO) countries as the main, and probably sole, means of strengthening national security."²⁸ To this end, the Soviet Union clearly wanted to constrain the nuclear weapons capability among Western European states, particularly West Germany. Moscow had suspended its nuclear cooperation with China, and had no interest in sharing nuclear know-how with its Eastern European allies; in essence, any new nuclear power would be seen by Moscow as a threat. This was especially true of Germany, whose invasion of the Soviet Union in World War II was branded in the memories of the current Russian leaders. For these reasons in particular, they could not be moved from their opposition to MLF.

Dwindling Prospects for MLF

Discussions about a non-proliferation treaty continued after the Kennedy administration, resulting in draft treaties being tabled in 1965 by both the U.S. and Soviet Union. Eventually, U.S. and European commitment to the MLF began to wane. Soviet opposition to the MLF made it clear that the U.S. could not negotiate a non-proliferation treaty that included support for a major new multilateral NATO nuclear defense system. According to Barton and Weiler, the U.S. was "divided on the choice between an NPT and the MLF." The U.S. Department of Defense "was skeptical of the MLF concept," while some in the State Department, "presumably responding to concerns over NATO, supported the MLF."²⁹ Bunn states that Kennedy "considered giving up the MLF plan in order to negotiate a non-proliferation agreement," but

²⁸ Savel'yev, Aleksandr' G. and Nikolay N. Detinov. *The Big Five: Arms Control Decision-Making in the Soviet Union*, ed. Gregory Varhall., trans. Dmitriy Trenin (Westport: Praeger, 1970), 1.

²⁹ Barton, John H. and Lawrence D. Weiler, ed., *International Arms Control: Issues and Agreements* (Stanford: Stanford University Press, 1976), 296-297.

National Security Adviser McGeorge Bundy “urged that the plan be retained to use later as a bargaining chip.”³⁰ Whether deliberate or not, it may have worked this way. In the words of Dean Rusk, Secretary of State for both Presidents Kennedy and Johnson, “I believe the MLF caused the Soviets to take greater interest in the non-proliferation arms control talks of the late sixties.”³¹

As it turned out, European interest in the MLF was less enthusiastic than its proponents had envisaged, and eroded over time. According to Bunn, “With the British seemingly opposed, the French adamantly opposed, and other NATO members besides Germany at best lukewarm in favor of it, an American-German sponsored MLF would have been divisive within the alliance.”³² As it was, the idea was left to “die on the vine.”³³

Barton and Weiler agree that over time, several NATO countries “lost their enthusiasm for the project,” and according to President Johnson, ultimately “[e]ven the West Germans, who had supported the idea most enthusiastically, concluded that the political costs exceeded the possible advantages.”³⁴ Moreover, Johnson held discussions over MLF with Congressional leaders and concluded that “Congress would not support the scheme.”³⁵

Focus on Fundamental Interests

According to President Johnson, by September 1966, the intense discussions surrounding MLF had identified some core NATO interests which there was some hope that the Soviets could ultimately accept: preserving existing dual-key arrangements, NATO’s practice of intensive joint nuclear consultations, and “preservation of the right of a united Western Europe, if it ever developed, legally to succeed the United Kingdom and France as a nuclear power.”³⁶ Thus while the U.S. and its NATO allies were willing to back away from their specific positions regarding MLF, they continued to focus on their fundamental interest in keeping a credible extended nuclear deterrent. According to Bunn, U.S. negotiators began to brainstorm a number of alternative formulas that would retain a robust deterrent within a framework that might be acceptable to the Soviets and others:

One was simply to ask non-weapons countries to agree among themselves not to seek nuclear weapons, leaving the nuclear powers out of the arrangement for the time being. Another was to propose a non-proliferation treaty that would preclude

³⁰ Bunn, George. *Arms Control by Committee: Managing Negotiations with the Russians* (Stanford: Stanford University Press, 1992), 67.

³¹ Rusk, Dean. *As I Saw It* (New York: Penguin Books, 1991), 265.

³² Bunn, George. *Arms Control by Committee: Managing Negotiations with the Russians* (Stanford: Stanford University Press, 1992), 70.

³³ Rusk, Dean. Oral History Interview IV by Paige E. Mulhollan. March 8, 1970. Internet Copy, Lyndon Baines Johnson Library.

³⁴ Johnson, Lyndon B. *The Vantage Point: Perspectives of the Presidency 1963-1969* (New York: Holt, Rinehart, and Winston, 1971) 477.

³⁵ Barton, John H. and Lawrence D. Weiler, ed., *International Arms Control: Issues and Agreements* (Stanford: Stanford University Press, 1976), 296-297.

³⁶ Johnson, Lyndon B. *The Vantage Point: Perspectives of the Presidency 1963-1969* (New York: Holt, Rinehart, and Winston, 1971) 477-8.

any collective nuclear force from adding to the number of entities capable of firing nuclear weapons independently.³⁷

At the same time, in meeting with Soviet counterparts, Bunn, who was the principal U.S. negotiator, emphasized that “attempts to change existing allied two-key arrangements and consultation through non-proliferation treaty language would stymie the negotiations.”³⁸

In Firmage’s narrative, “The Soviets finally agreed to wording permitting the continuation of NATO planning and participation based on the status quo. This would require no change in United States or West German participation in NATO but would preclude the creation of a Multilateral Force.”³⁹

Looking back, Bunn says:

We had to accept language prohibiting transfer to any MLF organization short of a new federated Europe or abandon hope for a non-proliferation treaty. The Soviets had to give up their attempts for the NPT to prohibit existing NATO nuclear arrangements or do likewise. When both evaluated their BATNAs ... they both chose agreement.⁴⁰

According to Sokolski, the U.S. then began extensive consultations with its NATO allies, explaining that the language “would not prohibit NATO consultation and planning on nuclear defense, nor ban deployment of U.S.-owned and -controlled nuclear weapons on the territory of non-nuclear NATO members.” To ensure no misunderstanding, a text covering the main points of these consultations was “provided to the Soviet Union, which did not challenge the U.S. interpretations.”⁴¹

Other issues reflected the multilateral impact of what had been largely a bilateral negotiation. Some were concerned about the effect of treaty provisions on the competitiveness of European firms exploring peaceful uses of nuclear energy, along with the role of the IAEA versus a comparable European agency called Euratom. Each of these problems proved possible to resolve, or at least defer. In the latter case, U.S. diplomat James Goodby and Euratom’s Enrico Jaccia reached “a compromise that allowed IAEA to monitor the work of Euratom’s safeguards agency.”⁴² The Europeans’ position that they could not accept IAEA safeguards was less important to them than their underlying interest in having this multilateral agreement recognize

³⁷ Bunn, George. *Arms Control by Committee: Managing Negotiations with the Russians* (Stanford: Stanford University Press, 1992), 71.

³⁸ Bunn, George. *Arms Control by Committee: Managing Negotiations with the Russians* (Stanford: Stanford University Press, 1992), 76.

³⁹ Firmage, Edwin Brown. “The Treaty on the Non-Proliferation of Nuclear Weapons,” *The American Journal of International Law*. Vol. 63, No. 4 (Oct. 1969), 723.

⁴⁰ Bunn, George. *Arms Control by Committee: Managing Negotiations with the Russians* (Stanford: Stanford University Press, 1992), 82.

⁴¹ Federation of American Scientists, “Nuclear Non-Proliferation Treaty [NPT] – Background,” <http://www.fas.org/nuke/control/npt/back.htm>.

⁴² Goodby, James. *At the Borderline of Armageddon: How American Presidents Managed the Atom Bomb*. (Lanham: Rowman & Littlefield Publishers, Inc., 2006), 83.

the validity of an existing European institution. Thus, on August 24, 1967, the U.S. and the Soviet Union agreed on common language for a Non-Proliferation Treaty.

Perspectives

It was clear from the very beginning that there was no one in the U.S. government that was willing to give up our right to continue with the current sharing arrangements with the Europeans, all of which meant the United States had a veto in who used nuclear weapons. And so we drafted the treaty carefully so that it would not prohibit any of the current activities or give the Soviet Union any basis for rejecting it, and I think the Soviet Union came to understand that if they were going to draw the line on further steps, they were going to have to accept the legitimacy of what we had done up until now. I don't remember how long they tried to go further but quickly they came to understand that is where the line is drawn. And finally, the [MLF] issue, after many starts and stops, went to Lyndon Johnson and he thought that it made no sense and Congress would never agree to it and that it was standing in the way of what he wanted to do which was to move forward on the Non-Proliferation Treaty.

-Mort Halperin

Well there came a time when a choice had to be made and Johnson made the choice in favor of the Non-Proliferation Treaty. The MLF didn't die right away but over time it did. It was never a highly popular idea in Washington. In particular, Bob McNamara, who was the Secretary of Defense, was not ecstatic about it, although he supported it. He came up with another idea as a way of involving these other European countries in nuclear decision-making. And it was called Nuclear Planning Group (NPG). And this was wildly successful. The Germans got into it, everybody got into it. It met a couple times each year at the level of defense ministers, and frequently at lower levels. And the idea was to talk about how nuclear weapons might be used, what command and control arrangements there would be, under what circumstances you would use them or wouldn't use them. It got into all kinds of interesting discussions. I took part in that as well, and I can tell you the Europeans were highly satisfied with that arrangement, so the MLF just disappeared.

-James Goodby

In a way, the MLF, the Multilateral Force, which never actually existed but was a proposal, you can look back on it and say—from a NATO standpoint—this really wasn't [that] good an idea. As it turned out, nobody wanted it except a few people in the U.S. bureaucracy and the Germans. But it was an idea that did have a lot of currency, which two U.S. presidents, President Kennedy and President Johnson, were led to believe was very important in terms of maintaining U.S. security guarantees for Europe. It was also something the Soviets chose to focus on quite a bit in NPT negotiations for understandable reasons. Clearly anything in which nuclear arrangements are shared, no matter what the control or procedures are, is relevant to nuclear non-proliferation.

What ultimately happened was, it became clear to the U.S. and to most of NATO that this wasn't going to go anywhere. It was an idea which did not have any future. So the U.S. was

able, in an NPT context, to abandon the MLF, say “No we won’t do this,” and that gave the Soviets something they had been pushing for, while we could retain the more conventional nuclear arrangements we had with the Allies, which had also been something the Soviets were upset about, but which weren’t a new target to aim at. The MLF became probably more important than it should have been, especially for something that didn’t really exist, and in the negotiation process, it was something we were going to ultimately bargain away because it wasn’t essential to maintain the U.S. extended nuclear deterrent with NATO, but the Soviets could say this was something they really didn’t want and they got our agreement to get rid of it, so we were able to move ahead and the NATO nuclear cooperation agreements—they had nuclear cooperation arrangements—really didn’t continue as a problem as the broader NPT issues were addressed for the future.

-Mike Lekson

Deadlock:

Arms Control and Security Assurances

While East-West negotiations were continuing, some NNWS were beginning to reconsider how a non-proliferation treaty might affect their fundamental security interests.

“Unfair” distinction. In the Irish proposal, NWS were defined simply as those who already possessed nuclear weapons. Some NNWS made note of an inherent unfairness to the distinction between NWS and NNWS. As the Indian minister of external affairs noted in 1967, “India could have become a nuclear country if it had exploded the bomb as China did. But because India had shown restraint, a desire for peace, and opposition to the spread of nuclear armaments, under this treaty it would find itself in a much worse position than China.”⁴³

Loss of a security option. Also, some NNWS felt that they were being asked to give up a legitimate security option. Sokolski explains that “a new nuclear theory—finite deterrence—emerged.” By this theory, “smaller nations could keep larger nuclear powers from threatening them militarily by acquiring a small number of nuclear weapons of their own.” Even with one or two weapons, smaller nations “could effectively ‘tear an arm off’ by targeting the larger nation’s key cities and thus deter such nations from ever attacking.”⁴⁴

Concerns over the arms race. Moreover, some NNWS began to worry less about proliferation and more about the arms race. India’s U.N. representative summed up these fears in 1966 by stating that the risks of proliferation among NNWS “pale into the background when one views the calamitous dangers of the arms race which is developing today as a result of the proliferation

⁴³ Sokolski, Henry D. “What Does the History of the Nuclear Nonproliferation Treaty Tell Us About its Future?” in *Fighting Proliferation: New Concerns for the Nineties*, ed. Henry D. Sokolski (Maxwell Air Force Base: Air University Press, 1996), <http://www.fas.org/irp/threat/fp/b19ch1.htm>.

⁴⁴ Sokolski, Henry D. “What Does the History of the Nuclear Nonproliferation Treaty Tell Us About its Future?” in *Fighting Proliferation: New Concerns for the Nineties*, ed. Henry D. Sokolski (Maxwell Air Force Base: Air University Press, 1996), <http://www.fas.org/irp/threat/fp/b19ch1.htm>.

of nuclear weapons by the nuclear weapon Powers themselves.”⁴⁵ According to Firmage, Japan, Brazil, and others raised similar objections to what became known as “vertical proliferation.”⁴⁶

Arms Control Provision

Thus, in contrast to the original Irish proposal, the majority of NNWS took the position that they should give up their right to the nuclear option only if NWS pursued disarmament. In Fisher’s words, the NNWS came to insist that any final agreement should “impose obligations” on the NWS “to end the nuclear arms race and to reduce, and eventually eliminate, their nuclear arsenals.”⁴⁷

Security Guarantees

Moreover, the NNWS began to discuss the notion of security guarantees by the NWS. According to Fisher, the 1968 Conference of Non-Nuclear-Weapon States showed “their understandable wish to have credible assurances about their immunity from nuclear threat if they were to forego the right to possess nuclear weapons.”⁴⁸

Perspectives

The non-nuclear states had several concerns. One was the inherent inferiority of the treaty. The treaty seemed to say it was okay for five states to have nuclear weapons, but it was not legal for any other state to do so. They insisted as a matter of legal form, that there had to be commitment in the treaty to the ultimate elimination of nuclear weapons, and in general and complete disarmament on the grounds that states could not be expected to permanently give up their right to nuclear weapons while ceding them to other states. The so-called Article Six was written into the treaty that committed them to that. They then insisted that the treaty could not be permanent—that they would have to see what the consequences would be for their security, they would have to see whether other states would join the treaty. So the treaty went originally for 15 or 20 years then at the end of that period in fact was made permanent.

They were also concerned that they be guaranteed the right to peaceful nuclear power and that was the important bargain in the treaty that the Atoms for Peace proposal would become binding international law—that each non-nuclear state would have the right to access to the materials necessary for nuclear power.

-Mort Halperin

Eisenhower came pretty close to negotiating a Comprehensive Test Ban Treaty, in fact I argue that he would have done it, had there not been the shoot down by the Soviet Union of Gary

⁴⁵ Sokolski, Henry D. “What Does the History of the Nuclear Nonproliferation Treaty Tell Us About its Future?” in *Fighting Proliferation: New Concerns for the Nineties*, ed. Henry D. Sokolski (Maxwell Air Force base: Air University Press, 1996), <http://www.fas.org/irp/threat/fp/b19ch1.htm>.

⁴⁶ Firmage, Edwin Brown. “The Treaty on the Non-Proliferation of Nuclear Weapons,” *The American Journal of International Law*. Vol. 63, No. 4 (Oct. 1969), 719-720.

⁴⁷ Fischer, David. *History of the International Atomic Energy Agency: The First Forty Years* (Vienna: International Atomic Energy Agency, 1997), 95. Also available online at http://pub.iaea.org/MTCD/publications/PDF/Pub1032_web.pdf.

⁴⁸ Fischer, David. *History of the International Atomic Energy Agency: The First Forty Years* (Vienna: International Atomic Energy Agency, 1997), 96. Also available online at http://pub.iaea.org/MTCD/publications/PDF/Pub1032_web.pdf.

Power's U2 plane on the first of May, 1960. After that, it became impossible to do it, but prior to that there was a pretty good shot at it. Kennedy essentially picked up the same proposals that had been made by Eisenhower. He felt very strongly about it. The best hope was to find a treaty that would allow underground testing but would ban testing in all other environments. That would have one other important effect: it would limit the fallout that had been building up in the atmosphere. Radiation creates cancers. Strontium-90 is one of the byproducts of a nuclear explosion; it's like calcium, it gets into people's bones and causes cancer. Simply from an environmental standpoint, to limit testing above ground would be a significant achievement. So as it happened in August of 1962, the United States and Britain had introduced two treaties, one was the Comprehensive Test Ban Treaty. A second one, which they said they would be willing to accept, was this Limited Test Ban Treaty. At that point, the Soviet Union has no interest in it so it just simply laid it on the table until after the Cuban Missile Crisis and until well into the middle of 1963.

On June 10, 1963, Kennedy made a very famous speech at American University. It was one of his most dramatic speeches I think and certainly heartfelt speeches, in which he talked about how we are all common humanity and we need to get beyond this nuclear issue and prevent fallout. He announced that we would have a unilateral moratorium on any testing in the atmosphere. We would not test again in the atmosphere, on our own. He had proposed earlier that there be a mission sent to Moscow to talk about how to get the Test Ban Treaty back on track.

July 2, Khrushchev made a major speech in Berlin, took note of this American University speech- praised it. He said he was willing to receive the mission and to also have a Limited Test Ban Treaty. This came out straightaway in public and, in any sense, it was the end of negotiations. Averell Harriman was asked by President Kennedy to go to Moscow. He left on July 15th, 1963. He had with him both treaties: the comprehensive one and the limited one. It was obvious there was no possibility of agreement on the comprehensive one, so he introduced the one that had been lying on the table since August of 1962, which had never been discussed in any of the negotiations until they got to Moscow. There was a fairly limited amount of discussion, some minor changes made in it, and then it became the treaty. It was signed later ratified and I think it was one of the happiest moments in John Kennedy's final weeks of life to see how people approved that treaty and how much support he got when he went around the country talking about it.

-James Goodby

Response by NWS

Having reached difficult agreements among themselves, the U.S., U.K., and USSR were generally responsive to these concerns raised by the NNWS. France and China chose not to be part of this process, and did not at first join the NPT which emerged from it.

Assurances through the Security Council

Switzerland and Romania wanted to include a clause in the treaty forbidding NWS from using or threatening to use nuclear weapons against NNWS signatories. But the Soviet Union found this unacceptable. Under these conditions, they claimed, they would not have been constrained in their ability to retaliate *against* West Germany for a U.S.-sponsored attack *from* West Germany.

The U.S. and U.K. agreed that this kind of security guarantee would prove problematic in implementation. Instead, the three powers suggested a different approach. As members of the Security Council, they were pledged to take action in accordance with the U.N. Charter to assist threatened states. They agreed to interpret this pledge specifically to cover the threat of nuclear weapons. According to Barton and Weiler, in parallel declarations they recognized that “the threat or use of nuclear weapons would put the peace and security of all states in doubt and create a qualitatively new situation.”⁴⁹ However, as Firmage notes, these assurances do not specifically “add or detract one point from previous commitments.”⁵⁰

Commitment to Arms Control

On the question of the arms race, the NWS proved more accommodating. The U.S. and USSR (as well as the U.K., looking much further down the road) agreed to undertake serious arms control negotiations in good faith. Firmage calls the agreement a hard-won compromise between NNWS, who “brought strong pressure to bear,” and the United States and the Soviet Union, who “resisted with equal tenacity attempts to link the treaty to other aspects of arms control.”⁵¹ In fact, the two countries were already engaged in intense discussions to establish the basis for negotiations on offensive and defensive strategic weapons, but wanted to ensure that this process would indeed remain bilateral (an objective the U.K. had no difficulty in supporting).⁵²

Legitimate concerns of the NNWS added at least incrementally to the motivation for the U.S. and the Soviets to negotiate arms control in good faith. Over the years, they made substantial progress in treaties limiting and then reducing their nuclear arsenals, including the Strategic Arms Limitation Treaties (SALT), the Intermediate-Range Nuclear Forces Treaty (INF), and the Strategic Arms Reduction Treaties (START)—treaties that over the years have resulted in real reductions of the two countries’ nuclear arsenals.

⁴⁹ Barton, John H. and Lawrence D. Weiler, ed., *International Arms Control: Issues and Agreements* (Stanford: Stanford University Press, 1976), 301.

⁵⁰ Firmage, Edwin Brown. “The Treaty on the Non-Proliferation of Nuclear Weapons,” *The American Journal of International Law*. Vol. 63, No. 4 (Oct. 1969), 742.

⁵¹ Firmage, Edwin Brown. “The Treaty on the Non-Proliferation of Nuclear Weapons,” *The American Journal of International Law*. Vol. 63, No. 4 (Oct. 1969), 732.

⁵² Johnson, Lyndon B. *The Vantage Point: Perspectives of the Presidency 1963-1969*, (New York: Holt, Rinehart and Winston, 1971), 480.

Perspectives

Finally [the non-nuclear-weapons states] were concerned with what came to be called negative and positive security assurances. That is assurances that the states that were granted the right to nuclear weapons would not threaten them with nuclear weapons. And if one of those states did threaten them with nuclear weapons, that the other nuclear weapons states would come to their defense. There was an effort to put that in the treaty but there was not agreement on the language so that was done outside the treaty. The nuclear weapons states made so-called negative security assurances promising not to use nuclear weapons against non-nuclear states. And the Security Council collectively, including all of the permanent members, made a statement that states, which gave up nuclear weapons and came under nuclear threats would be entitled to the protection of the international community.

-Mort Halperin

Well, the advantage they get is that they are—from their vantage —working on a more level playing field on a regional basis. In other words, with the Non-Proliferation Treaty, a country like Sweden, let's say, which is quite capable of producing a nuclear weapon, doesn't do so, and it's assisted in that decision by the fact that no other country in Europe is going to do that either, except those two that were nuclear powers when the treaty came into effect – Britain and France. So the benefit they get from it is local, in the sense that it is a regional level playing field. They get an advantage from the standpoint of greater security on a global basis because I think everybody agrees that if there is a runaway nuclear arms race, and there is 15, 20, 25, 30 countries each with nuclear weapons, nobody is going to be secure in that kind of environment. It's going to be a very dicey situation if that happens. So that's the main benefit they get out of it.

In addition to that, they get the benefit hoping that the nuclear powers are going to eliminate nuclear weapons because they said they would, more or less, in the treaty. That benefit has not been seen by them, which is one of the reasons the credibility of the treaty has become less effective, more suspect now than it had been before.

-James Goodby

Final Agreement

By late 1967, remaining issues between the NWS and the NNWS had been addressed, and on May 31, 1968 the U.S. and USSR submitted a revised joint draft treaty to the First Committee of the General Assembly, where it was approved on June 12 of the same year.

The final treaty has three pillars:

1. **Non-proliferation:** This pillar defines the five NWS as those which had detonated a nuclear weapon at the time of the signing: the U.S., U.K., USSR, France, and China. The pillar encompasses the obligation of the five NWS not to transfer nuclear weapons to NNWS, and the obligation of NNWS not to seek or develop them on their own. Under this pillar, NNWS also agree to accept inspections by the IAEA to ensure that they are not diverting technology or materials from peaceful uses into a weapons program.
2. **Disarmament:** This pillar describes the obligation of the NWS to undertake good faith negotiations to pursue nuclear disarmament, with an ultimate if perhaps distant goal of

eliminating nuclear weapons entirely, in the context of general and complete disarmament.

3. **Peaceful use:** This pillar recognizes the right of NNWS to pursue and benefit from the peaceful uses of nuclear energy under thorough safeguards as described in the first pillar.⁵³

The treaty was approved by the U.N. General Assembly on June 12, 1968 and opened for signature. By its terms, it froze the NWS at the existing five. The intrinsic logic of non-proliferation required that there was no provision for any new NWS (Russia succeeded to the USSR's NWS status upon the breakup of the Soviet Union). The NPT entered into force on March 5, 1970. Today, 191 countries have joined the treaty, more than any other arms control or arms limitation treaty. The treaty's initial duration was 25 years, with review conferences to be held every five years. In 1995, the treaty was extended indefinitely.

Today, as in so much of its history, the Nuclear Non-Proliferation Treaty faces a number of challenges. The 2010 NPT review conference yielded a final document which reaffirmed that every effort should be made to implement fully all the provisions of the treaty. Despite this support, the NPT faces many challenges, as it has throughout its history. Some of these challenges were first confronted in the negotiation process that we have outlined above; others have arisen as the treaty has been implemented in the decades since it entered into force.⁵⁴

Systemic consideration of the development of this important treaty, which we have only introduced in our brief case study, helps to identify the shared interests, individual interests, and workable trade-offs that helped others forge consensus in the past. This study is one important avenue for addressing difficult challenges today.

Perspectives

Well there are essentially three elements to the grand bargain of the Non-Proliferation Treaty. One—and the one that is most focused on usually—is that countries that do not have nuclear weapons, countries that did not have nuclear weapons as of 1968 when the treaty was signed, will forgo their right to have and to build nuclear weapons. That's point number one. In return for that, nuclear weapon states will do two things: one, they will negotiate seriously to eliminate their nuclear weapons so that there will be equality between all countries. Those countries that were not, in 1968, nuclear weapons states will remain that way, the countries that in 1968 were nuclear weapon states will get rid of them. So everybody, in the long term, will be a non nuclear weapon state—equality. And the third was the right to have access to nuclear energy. Bear in mind, today, we're talking about a nuclear renaissance, that there's going to be an increasing number of reactors and in Asia that's certainly true. But back in the days of the 50s and 60s, it was an expectation too that nuclear power plants would be a very powerful contribution to national economies and so, and the third part of this bargain was that

⁵³ Federation of American Scientists, "Treaty on the Non-Proliferation of Nuclear Weapons [NPT]," <http://www.fas.org/nuke/control/npt/>.

⁵⁴ United Nations, "2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons: Draft Final Document," NPT/CONF.2010/L.2, May 27, 2010.

the nuclear weapons states, those that have access to nuclear technology, not just the nuclear weapons states, but anybody having access to nuclear technology, like the Germans, for example would be able to sell this technology and this equipment to other countries who were still members in good standing and were living up to their obligations under the Non-Proliferation Treaty. So those are the three elements: forgo nuclear weapons, get rid of nuclear weapons (by those who have them), and cooperate in developing peaceful uses of atomic energy. Those are the three elements.

-James Goodby

The grand bargain was that the United States and the Soviet Union would give up their right to share nuclear weapons, which they had done. The United States had helped Great Britain and France, the Soviet Union had helped China and there was a real danger that that would keep going and it would have adverse implications for other countries. And second is that they would have a framework in which they could reach agreements with their neighbors not to develop nuclear weapons. So that when Brazil and Argentina and Chile agreed on giving up nuclear weapons they would do it in a framework of a global agreement that they had all adhered to and I think they all thought it was in their interest, or most of them, to give them up as long as their neighbors did and that a legal framework that made that possible was, in fact, in their interests.

-Mort Halperin

The interests that the U.S. and the Soviet Union had, at the time that they agreed on the NPT, had evolved from the interests that they perceived they had in the immediate aftermath of World War II. The Soviet concern at that time had been that their security be protected by having capabilities, by no one else having military capabilities that were significant that they didn't have themselves. That got solved. Then, they didn't have a particular interest in lots of people having those capabilities so, what from their standpoint was most important [was] that Mother Russia not be subjected to some kind of security threat that they couldn't counterbalance. The NPT became a way of actually advancing that cause rather than if they had accepted some of the proposals at the time of a originally made in 1945-46 or thereabouts, they would not have been.

From the U.S. standpoint, the U.S. had become much more confident, both by experience of what the world was like, and by the development of capabilities—both its own capabilities and some international capabilities – that the verification problem, which had loomed extremely large in 1945-1946, was manageable by the late 60s—as far as this kind of treaty was concerned. As for the rest of the world, nuclear weapons remained a very, very serious threat and the concern, “Well, we don't really want them but what if our neighbors have them?,” or “what if somebody else gets them?” —not everybody signed up to it at once—but the NPT has extremely close to universal membership. I think everyone is familiar with the one or two or three or four countries, which have been holdouts on the NPT front over the years, and they get a lot of pressure for that. Where that pressure will lead, time will tell. But it is clearly a norm for the world community for a state to belong to the NPT.

-Mike Lekson

Summary

Spanning over more than twenty years, the series of negotiations that eventually resulted in the Nuclear Non-Proliferation Treaty helps demonstrate how long and arduous a negotiating process can be when parties believe that their fundamental security is at stake. It also helps demonstrate how perseverance in the face of initial failure can eventually lead to success—in part because the objective circumstances change, and in part because incremental approaches can produce a better context for resolving complex issues.

In the mid- to late 1940s, following a devastating world war, which included the first and still only use of nuclear weapons against an enemy, there was an understandable desire to solve this frightening problem all at once, and both the Baruch and Gromyko plans stipulated this as an aim. However, the principal parties simply did not have the level of confidence in one another, nor did their security interests sufficiently overlap, to make the kinds of compromises required to forge a comprehensive solution. Moscow did not want to give up its own program to build nuclear weapons while the U.S. was allowed to retain its nuclear arsenal, even for what was intended to be a limited transition period, nor did it wish to allow foreign inspectors on its territory. For its part, the U.S., in the midst of a massive military demobilization, did not wish to surrender its nuclear weapons in the absence of effective verification and enforcement provisions.

Both Eisenhower's *Atoms for Peace* program and the original Irish non-proliferation proposal provided ways to break the problem into smaller, more manageable parts, first by isolating the problem of international oversight of peaceful uses of nuclear energy, and second by decoupling and treating separately the problems of widespread proliferation to NNWS from the problems of arms control and disarmament among NWS. Progress made during the formation of the IAEA helped the NWS build confidence that was useful in dealing with the more difficult problem of proliferation, and gave the NNWS a sense of involvement and ownership in a process whose principal protagonists remained the Soviet Union and the U.S. (together with the U.K.). Meanwhile, a process of bilateral/trilateral negotiations among the principal nuclear powers, coupled with multilateral discussion in UN-affiliated bodies, led to an agreement banning above-ground nuclear testing, which became effectively global in scope. This process proved readily adaptable to the challenge of a U.S./U.K./Soviet agreement on non-proliferation, which also required widespread multilateral support to be meaningful. Having signed on to the LTBT, countries around the world were more comfortable doing so with the NPT. The U.S. grew increasingly confident in its ability to verify such agreements, while the Soviets felt that, with the demise of the MLF, they had addressed some of their concerns about NATO nuclear policies (though both issues would return in the negotiations on intermediate-range nuclear forces in the 1980s).

In Bunn's words, the final key turning point came when "the Soviets hinted that they might give up their draft treaty language against existing NATO nuclear arrangements if we would give up ours permitting an MLF." Through what he calls an "integrative" process, the two powers "began a serious exploration of options for agreement that could satisfy their interests."⁵⁵

⁵⁵ Bunn, George. *Arms Control by Committee: Managing Negotiations with the Russians* (Stanford: Stanford University Press, 1992), 81.

At substantive deadlocks, such as the dispute over safeguards and inspections at the IAEA, the role of nuclear deterrence in NATO's collective security arrangements, and the concerns of the NNWS over the arms race, negotiators and their principles in their capitals did not let differences in opening positions scuttle the negotiation. They were able to stay at it and over the course of many years and in several forums, both bilateral and multilateral, to develop workable solutions.

In President Johnson's words, "Rather than try to achieve a single, comprehensive agreement, I thought it more sensible to try to find common ground on lesser problems. If we could sweep away small irritants one by one, perhaps we could then gradually face and solve the greater issues on which a stable peace depends."⁵⁶

Perspectives

I think what was done right was to compromise. I mean, I think that if the United States had insisted upon provisions which let it share nuclear weapons with Germany, first of all I don't think we would have gotten the treaty with the Soviet Union, but second, it would not have stood the test of time. I think the treaty, in fact, was a balanced treaty. Although there's still much unhappiness with it, and people still think it may fall apart, and it almost fell apart at the time that it had to be made permanent because the other countries thought that even though as I say, I don't think they believed we'd get rid of our nuclear weapons, they did think we had a commitment to reduce our stockpiles and to reach agreements among the nuclear powers and so there was more pressure to do that. But I think the basic agreement is one that reflects the reality that it's in everybody's interest to reduce the likelihood that nuclear weapons will be used, and everybody understands the fewer states that have nuclear weapons, the less likely they are to be used.

-Mort Halperin

I think another point that the negotiation of the NPT demonstrates is, when you've got a problem of this magnitude (and this may well be the case with problems of much lesser magnitude as well), you need to look at the context, obviously, that you're negotiating in and think, what about this context might change? Not just in order to advance the prospects for the agreement, but to think about what you want that agreement to do. Because the NPT is a Cold War treaty, the first efforts to negotiate something along these lines—it wasn't the NPT—but the first effort with the Baruch and Gromyko plans and so forth was at the beginning of the Cold War, the negotiation of the treaty itself was in the 60's when people were hoping that the cold war was beginning to wind itself down. This was seen, in a way, as an example- the first example—of what was called for a while *détente*. The Cold War wound itself up later but this was a Cold War treaty negotiated between the two principal parties of the Cold War, the U.S. and the USSR, with the U.K. (a U.S. close ally) as part of this process.

When we look at the NPT now, we are looking at problems which are not Cold War problems at all. The countries that don't like it, the countries that, in some cases, say they will never

⁵⁶ Johnson, Lyndon B. *The Vantage Point: Perspectives of the Presidency 1963-1969* (New York: Holt, Rinehart, and Winston, 1971) 463.

join, are countries whose problems persisted throughout the Cold War—sometimes they were involved in the Cold War and sometimes they weren't—but the Cold War doesn't have a whole lot to say about this, and you've got a treaty that was designed for a world that is no longer with us. How flexible an arrangement you can make—so that the treaty can accommodate changing circumstances and still have its objectives and purposes—is a challenge that needs to be looked at. There's no easy answer for that but I think if you were looking in retrospect about what might have been done differently, those are the kinds of questions you would ask. To the extent that you can learn a lesson from this, it is: let's try as much as we can to ask those questions as we're negotiating something like this, rather than find out after the fact that it would have been good to ask those questions at the time.

-Mike Lekson

Mini-Quiz

You have completed all the material for this section. Now try this mini-quiz.

In what way did the plan put forth by Bernard Baruch to the United Nations differ from the ideas presented in the Acheson-Lilienthal Report?

- a. Strict verification and enforcement were fundamental in Baruch's plan, but not in the ideas presented in the Acheson-Lilienthal Report.
- b. The Baruch plan covered conventional weapons as well as nuclear weapons as well as nuclear weapons, while the Acheson-Lilienthal Report on considered nuclear weapons.
- c. The Acheson-Lilienthal Report was concerned with peaceful uses of nuclear technology, while the Baruch plan was not.
- d. All of the above.

For answers, see Appendix A.

Chapter 5: Keys to Successful Negotiation

Putting It All Together

So far in this course, we've studied basic principles of negotiation and applied them to two extended, real-world case studies.

We've examined five ways to approach counterparts in a negotiation, and considered the kinds of situations where each might be most effective. We've studied different types of actors involved in a negotiation and discussed how cultural influences might influence the way they communicate priorities and make decisions. We've tackled the difficult question of leverage—including inducements, coercion, and normative leverage—and we've studied process, focusing on the differing roles of Track I, II, and III leadership.

We've analyzed the South African negotiation to end apartheid and the U.S., Soviet, and worldwide negotiation to establish the Nuclear Non-Proliferation Treaty. In so doing, we've seen how various principles and elements of negotiation work together and reinforce one another in difficult, high-stakes contexts.

In this final section of the course, we'll concentrate everything that we've covered so far into a set of keys to successful negotiation. Our intent here is to provide a set of guidelines for helping you put principles into practice in actual negotiations. Much of the discussion will focus on negotiation as an alternative to violent conflict, but the principles will apply across a broad range of situations where negotiators seek to reduce or resolve differences in ways that benefits all parties involved.

Perspectives

Negotiation is something that everybody does, all the time, every day. We all negotiate whether it's in our private lives, our professional lives, with our family members, with our colleagues, in an international setting or domestic, personal setting, we are always negotiating, all of the time. So, when people think that they are not good negotiators or they don't negotiate very often, that's actually not true. People are always negotiating.

-Nina Sughrue

Everybody negotiates. The issue is not telling them something that they don't know about. The issue is: How can you negotiate better? What might help you understand what's going on inside yourself, with the other person that you're dealing with; what might help you to be a better analyst, a better communicator; and to be able to walk away from the negotiation with more than you might have otherwise?

-Ted Feifer

5.1: Prepare Extensively

Know What You Are Facing

Among other things, our case studies show that to be a successful negotiator, you must be flexible. You can miss valuable openings and opportunities if you let yourself get stuck to preconceived notions and fixed ideas arrived at in advanced of actual negotiations.

At the same time, however, advance preparation is vitally important. Preparation is the first of four steps in Shell's negotiation process. Saunders also includes preparation in his first step, describing it as "Defining the Problem and Deciding to Engage." Mnookin sums up the general feeling among specialists in the field when he says, "We cannot overstate the importance of preparation—the cornerstone of successful negotiation."¹

Why such broad consensus? When you are in the midst of a difficult negotiation, which may be heated and fast-paced, all that you have done to prepare in advance will help keep you focused on your goals and your plan to meet them. It usually helps to remember that your counterpart will also prepare vigorously beforehand.

¹ Mnookin, Robert H., Scott R. Peppet, and Andrew S. Tulumello, *Beyond Winning: Negotiating to Create Value in Deals and Disputes* (Cambridge, Mass.: Belknap Press of Harvard University Press, 2000), 28.

In what specific ways, then, should you prepare? There are a number of points to consider in advance of negotiations. A good place to begin is with your analysis of the conflict. In our *Certificate Course in Conflict Analysis*, we presented an analytical framework that should be helpful.² Everything in this framework has potential relevance to a negotiator. Moreover, we can build on the framework in several ways:

Actors → Stakeholders

Issues → Positions

Root Causes → Interests

Resources → Leverage

Phase → Ripeness

For key categories in the framework, we can identify more specific considerations that are especially useful for preparation in negotiation.

Actors → Stakeholders

The analytical framework in our course in conflict analysis begins with a study of *actors*.³ As a negotiator, you should focus especially on those actors who are *stakeholders* in the conflict—constituents, counterparts, decision makers, and even potential spoilers.

Know your constituents and counterparts. To be truly effective, you'll need detailed knowledge of those whom you represent, their perceptions of your common interests, their aspirations, needs, fears, risk tolerance, etc. You should also know as much as possible about your counterpart, along with those whom your counterpart represents.

Focus on ratifiers and potential spoilers. When negotiating a peace agreement, it's vital to consider the interests of all warring parties, especially any who might play the role of spoiler. Also, for each side, yours as well as your counterpart's, it's important to know as much as possible about the decision makers. As Shell notes, "The decision makers' needs, including their status, self-esteem, and self-fulfillment interests, will drive the negotiation."⁴ Rubin agrees, stating, "The personality of a leader is of great importance, as is his or her motivation to make decisions in favor of conflict settlement or negotiation."⁵

² United States Institute of Peace, "Certificate Course in Conflict Analysis," http://origin.usip.org/training/online/analysis/5_1_1.php.

³ United States Institute of Peace, "Certificate Course in Conflict Analysis," http://origin.usip.org/training/online/analysis/5_1_1.php.

⁴ Shell, G. Richard. *Bargaining for Advantage: Negotiation Strategies for Reasonable People* (New York: Penguin Books, 2000), 81.

⁵ Rubin, Jeffrey Z. "The Actors in Negotiation," in *International Negotiations: Analysis, Approaches, Issues*, ed. Victor A. Kremeneyuk (San Francisco: Jossey-Bass), 102.

Study broad cultural traits and individual styles. It's also important to consider different cultural influences and individual styles you might see in course of the negotiation, and how you might prepare for them.

Resources from USIP: [*Grasping the Nettle: Analyzing Cases of Intractable Conflict*](#)

Edited by Chester A. Crocker, Fen Osler Hampson, and Pamela Aall

Among the unwelcome legacies of the past century are a group of conflicts, both intrastate and interstate, that seem destined never to end. What lessons—aside from the apparent futility of mediation—can such dismal situations possibly offer? This important book highlights the strategic approaches and tactical steps that have yielded success in the past for mediators and conflict managers from governments, international organizations, and NGOs.

Issues → Positions

In addition to the conflict's actors, you should conduct a thorough study of the *issues* separating the various sides, another consideration highlighted in the analytical framework in our conflict analysis course.⁶ Moreover, as a negotiator, you should know each actor's *position* on each issue.

Know all sides' stated positions. You should try to learn as much as you can about your counterpart's view of the issues.⁷ You can begin by carefully studying their positions as articulated in their public statements and specific proposals. You should also be well versed in everything that your own side is proposing. Your own negotiating team, stakeholders, and decision makers should be working in coordinated fashion.

Root Causes → Interests

Thorough study of issues and stated positions is not sufficient, of course. As we discussed in the conflict analysis course, it's also necessary to consider *root causes* of the conflict.⁸ Your study of root causes should help you in coming to understand the fundamental *interests* of your counterpart.

Consider all sides' fundamental interests. Your evolving understanding of the conflict's root causes should help you in identifying your counterpart's fundamental interests and needs—the essential fears, hopes, and aspirations that inform their stated positions. Getting at root causes is not easy, and fundamental interests, particularly those related to identity, can be very difficult to demarcate. It's helpful to study the question in advance, but on this point in particular you should expect to deepen and refine your understanding in face-to-face sessions with your counterpart. As you sift through new data, you will be in a continual process of evaluating and reformulating hypotheses about what is motivating your counterpart.

Understand your own interests. Also, you should never underestimate the importance or the difficulty of consciously identifying your own interests and needs, which are distinct from

⁶ United States Institute of Peace, "Certificate Course in Conflict Analysis," http://origin.usip.org/training/online/analysis/5_3_1.php.

⁷ United States Institute of Peace, "Certificate Course in Conflict Analysis," http://origin.usip.org/training/online/analysis/5_2_1.php.

⁸ United States Institute of Peace, "Certificate Course in Conflict Analysis," http://origin.usip.org/training/online/analysis/5_2_1.php.

whatever you might put forward as your own opening set of positions. There is probably nothing more important than having a clear and precise understanding of your own side's fundamental interests and needs in a negotiation—especially when those interests may not be identical for all those whom you are representing.

Consider opportunities for joint gain. Study of interests on all sides should help you to identify potential common ground, and should help you in the difficult search for alternative solutions—innovative proposals designed to create value in ways discussed by Hopmann and others, or compromise proposals designed to split differences in mutually-acceptable ways. The effort to find alternatives will require give-and-take with counterparts and will thus come later in the process; still, you will benefit by thinking about it during the preparation phase.

Resources → Leverage

In our conflict analysis course, we recommend thorough study of *resources*.⁹ This study will help you estimate *leverage* as you prepare for negotiation.

Estimate leverage. Consider potential sources of leverage for yourself and for your counterpart, including potential carrots and sticks, possible norms and standards that may apply, and possibilities for building coalitions.

Know your BATNA and estimate your counterpart's. You should determine your own BATNA in advance of negotiations. In the words of Fisher and Ury, "If you have not thought carefully about what you will do if you fail to reach an agreement, you are negotiating with your eyes closed."¹⁰ You will not be able to determine your counterpart's BATNA with the same accuracy and specificity, but you should do your best to estimate them, again planning to use the negotiating sessions to reevaluate and refine your understanding as you go along. "*Know your adversaries*," Howard Raiffa urges. "Consider what will happen to them (or he or she as the case may be) if no deal is struck. Speculate about their alternatives."¹¹

⁹ United States Institute of Peace, "Certificate Course in Conflict Analysis," http://origin.usip.org/training/online/analysis/5_4_1.php.

¹⁰ Fisher, Roger and William Ury, *Getting to Yes: Negotiating Agreement Without Giving In* (Boston: Houghton Mifflin, 1992), 100.

¹¹ Raiffa, Howard. *The Art and Science of Negotiation* (Cambridge: Belknap Press of Harvard University Press, 1982), 126-127.

Perspectives

When I'm involved in developing a strategy for negotiation, once I've thought about my needs, my interests, I develop objectives: what do I hope to achieve? I might have staged objectives: what do I want to achieve short-term, middle term, longer term? Who do I want to talk to? In what sequence do I want to talk to them? You should also think about at what stage you want to evaluate your strategy. If you see you're not succeeding, you may, at some point want to change it, modify it. But at what point would that come? You should think about all of these things beforehand, as well as, of course, your alternatives. Your alternatives are, in many ways, what gives you power, what gives you strength. If you could walk away from a negotiation, the other side may realize that, may see that as something which provides you strength in negotiation, which might give you leverage.

-Ted Feifer

First of all, know yourself. So be very well aware of what your own needs, interests, and positions are. I think self-awareness is very critical. I also think that one method is simply to ask the other party to think about what their positions, interests and needs are, and ask that outright. Often, the other party will tend to inflate them when they're describing them to you—they will mix them all up and not separate them out. But if you're going to engage in a mutual conversation, try to separate them out in a collaborative way. I think that that can go a long way in helping you. I think at that point your agreement will almost speak for itself or emerge from the conversation itself—it will become obvious what the outcome should look like.

-Mary Hope Schwoebel

In the case of violent conflict, there are a lot of things that you have to keep in mind. If you are coming from out of the conflict zone, if you are a negotiator or mediator coming from outside, you have to exercise of a lot of diligence in terms of trying to understand the context. To understand that very often, what is going to be negotiated is not just a set of problems but also that it's going to involve history and the effects of the conflict in daily life for people involved in the negotiation. They are experiencing that daily reality whereas the negotiator who is coming from another context isn't.

-Maria Jessop

Trying to figure out what's realistic also often has to do, in many cases, with pressure that negotiators are facing from their constituents, and there's often a great deal of feedback or input that's coming from behind the negotiator saying you can't possibly concede on these points. But I think what's really key in these situations is information. I think all too many times negotiators come to a negotiation situation having preconceived ideas about what their opponent is like, personally, what their needs are, what their capacities are, what they might be willing to do. I think having good information about those issues, those questions about the

needs, capacities, desires of your opponent and the situation and the actual reality of the situation on the ground, is really key for understanding what it is possible to ask for, what it is possible to achieve. So good information, just having good intelligence, so to speak, not necessarily spy intelligence, but just knowing the situation really well and in some cases I think it comes right down to just asking.

-Linda Bishai

Phase → Ripeness

In our conflict analysis course and earlier in this course, we presented the *Curve of Conflict*, a conceptual tool that shows how use of force in violent conflict tends to rise and fall over time, how to recognize a conflict's different *phases*, and how various types of intervention correspond to these phases.¹² In preparing for negotiation, it can be helpful to determine the phase of the conflict in order to help estimate its *ripeness*.

Address issues prior to the outbreak of hostilities. For example, it's generally easier for counterparts to address issues prior to the outbreak of hostilities, before emotions rise quickly and uncontrollably. However, at this point the parties might not fully appreciate the terrible loss that violence will bring, and thus might not be disposed to make concessions.

Consider the costs of stalemate. With the heated passions that accompany higher levels of violence, opposing parties might be less likely to meet. But in long-running violent conflict, even intractable foes often begin to feel a war-weariness, when the cost and consequences of fighting can make them more willing to undertake the difficult work of forging agreement. The catalyst for negotiations often comes in the form of Zartman's mutually hurting stalemate, leading to a ripe moment. He elaborates on this idea:

A belligerent reaches a plateau when it sees the conflict as unending, uncomfortable terrain stretching far into the horizon, with no possibility of respite. Correspondingly, the precipice represents the realization that matters will quickly get worse, if not catastrophic, if the options of negotiation and reconciliation are not explored.¹³

There are many examples of such a mutually hurting stalemate. One is the conflict over apartheid in the late 1980s, which we covered in Chapter 3. Another is the Iran-Iraq war in the 1980s, where the two sides fought long and inconclusively. For the success of the 1987-1988 United Nations diplomatic intervention, Richard Betts credits the "simple exhaustion and despair of war makers in Tehran and Baghdad" more than anything else.¹⁴

¹² United States Institute of Peace, "Certificate Course in Conflict Analysis," http://origin.usip.org/training/online/analysis/2_0_2.php.

¹³ Zartman, I. William and J. Lewis Rasmussen, ed., *Peacemaking in International Conflict: Methods and Techniques* (Washington, DC: United States Institute of Peace Press, 1997), 37.

¹⁴ Betts, Richard K. "The Delusion of Impartial Intervention," in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 287.

Even in cases where one side seems to be stronger, the costs of continuing the conflict will typically be high for the stronger as well as weaker sides. Negotiators may arrive at an agreement that reduces costs and casualties all around, with the weaker side having to concede more points, but still achieving a better outcome than continued warfare, or a decisive defeat.

In their study of several cases, Stein and Lewis note that negotiations have been most likely to succeed “when the status quo seemed more painful or dangerous than a potential negotiated compromise, at least for some of the parties.” Stein and Lewis conclude that “timing in launching negotiations is often decisive.”¹⁵

Aim High...

The preparations that we have discussed will help you set your goals and determine your strategies. In terms of goals, you should almost always aim high. Low expectations tend to result in small accomplishments.

...But Be Realistic

How high? Extreme demands tend to be counterproductive. If not rigorously defensible, big demands may simply antagonize your counterpart, who in any case will not accede to them. Pruitt states, “Bargainers who demand little will usually reach agreement but achieve low profits. Those who demand a lot will fail to reach agreement and hence also do poorly. With moderate demands, bargainers will often reach agreement at a good level of profit.”¹⁶

So how do you settle on aims that are both high and realistic? Several of the considerations we have covered will help you make this determination:

- The other side’s interests: ***What do they really need?***
- Applicable norms and standards: ***What really is fair?***
- The weight of possible coalitions: ***Who is on your side?***
- The other side’s BATNA: ***What are their alternatives? Who needs an agreement more? Whose side is time on?***

Of all these, the other side’s BATNA might be most determinative. As Fisher and Ury state, “The more you can learn of their alternatives, the better prepared you are for negotiation. Knowing their alternatives, you can realistically estimate what you can expect from the negotiation.”¹⁷ And you can better determine what actions outside the negotiation itself can improve your bargaining leverage.

¹⁵ Stein, Kenneth W. and Samuel W. Lewis, “Case Study: Mediation in the Middle East,” in *Managing Global Chaos: Sources Of and Responses To International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 1996), 467.

¹⁶ Pruitt, Dean G. *Negotiation Behavior* (New York: Academic Press, 1981), 21.

¹⁷ Fisher, Roger and William Ury, *Getting to Yes: Negotiating Agreement Without Giving In* (Boston: Houghton Mifflin, 1992), 105.

Determine Your Approach

As you explore alternative approaches, it's crucial to remember that your purpose in negotiating is to protect and advance your own interests, even if you choose to explore collaborative solutions through a problem-solving approach. "Mutually advantageous" does not necessarily mean equally advantageous, and some formulas, while "expanding the pie," will advance one side's interests better than others. Thus, even when approaching negotiation from a collaborative, problem-solving perspective, expect that your counterpart will be looking out for their own interests, and that you will have to look out for yours. Also, remember that despite your best efforts to create value, at some point you will probably have to distribute value, and here again you must take responsibility for advancing and protecting your own interests.

This said, we recommend entering negotiation in a collaborative spirit when circumstances permit. You risk limiting your options later in the negotiation by opening with excessive hard-bargaining tactics. Mnookin notes that "some bargainers can start off playing this game and later move to a problem-solving approach"; however, it's also possible that bargainers will have "so thoroughly poisoned their relationship with the other side that the shift becomes impossible."¹⁸ Pruitt agrees, stating, "The problem with contentious tactics is that they can easily militate against problem solving by rigidifying the user and alienating the adversary."¹⁹ Armstrong notes that "relations are more easily soured than improved, because it takes only one side to damage relations, but it takes both sides to repair them."²⁰ Of course, this caution applies just as much to the relationship between the negotiator and those whose interests he or she represents.

Perspectives

I think the first thing to do is to think about what is your partner's normal way of negotiating. Is their normal way—they will always demand the maximum and they will assume *you* will demand the maximum? It's one approach. Another approach, if you are negotiating with a party which will provide what they consider a reasonable starting approach, perhaps a high one, but not something that will scare you away. If that's the case, then you could see that they are looking for a compromise and they expect you to respond to them in the same area. Those are two basic approaches really to thinking about how high to set your goals. The one thing I would generally avoid is, if you are working with someone who expects you not to be presenting a maximal demand, but if you do provide a maximal demand, you may just scare them away. They will think you're unreasonable, that you're not a partner that they can compromise with—they'll lose interest in negotiation.

-Ted Feifer

¹⁸ Mnookin, Robert H., Scott R. Peppet, and Andrew S. Tulumello, *Beyond Winning: Negotiating to Create Value in Deals and Disputes* (Cambridge: Belknap Press of Harvard University Press, 2000), 213.

¹⁹ Pruitt, Dean G. "Strategic Choice in Negotiation," in *Negotiation Theory and Practice*, ed. Jeffrey Z. Rubin, and J. William Breslin (Cambridge: The Program on Negotiation at Harvard, 1991), 43.

²⁰ Armstrong, Tony. *Breaking the Ice: Rapprochement Between East and West Germany, the United States and China, and Israel and Egypt* (Washington, DC: United States Institute of Peace Press, 1993), 141.

It could also come down to doing your homework, doing the research, asking as many people as you can about the information, but I think also asking your opponent, asking the other person who's negotiating with you what is it that you can possibly offer here. My understanding is this isn't a realistic scenario. What do you think is a realistic scenario? And I think obviously that works best if you have already managed to reach a situation of relative comfort with the other person, where you've built up an interpersonal relationship that is at least somehow based on trust so that you're not all always try to fool each other or hide all your cards from each other. There may be some incentive for the other person not to necessarily tell you what he or she is able to give you but again I think it comes down to doing your homework, trying to figure out what might be realistic from a neutral external perspective. If you have third parties involved, it may also be helpful to draw on them for that assessment because you may not be in a position to understand what is a realistic option. Can it be possible, for example, to create an independent separate state if that's, if it's a separatist negotiation or could it be possible for us to have a power-sharing scenario here? What other examples have there been that we can point to, so do your homework. Don't just come into the room demanding the stars, the moon, the sky, everything. That's just not a viable strategy for anyone in any position. If you have a sense of things that have been done in the past and have worked in similar situations, then you're in a much more powerful position.

-Linda Bishai

Training people in looking at a conflict from another person's perspective, depending on the group, is also appropriate. This is how you perceive the conflict or the issue. Now let's try and look at it through another party's perspective and how is that different, how is that different from your perspective, how is that different than what you originally thought they were thinking, and so forth. So, when we train in negotiation, we have to deal with a lot of these very challenging issues.

-Nina Sughrue

5.2: Cultivate Relationships

Know Whom You Are Facing

From our study of strategy and two extended case studies, we can highlight another important tendency: that negotiations lead to better outcomes when the parties develop good working relationships. This is particularly true for negotiations that serve as an alternative to warfare, where the hope is for agreements that are long-lasting, but binding enforcement mechanisms may be weak or problematic.

This discussion takes us to the phase that Saunders calls "Mapping Issues and Relationships." The difficult question here is how to cultivate good working relationships with individuals whose objectives typically run counter to yours—a challenge made substantially more difficult in cases of violent, long-running disputes.

In these negotiations, relationships usually begin on a tenuous footing, and the time available to improve them is typically short. In the words of Crocker, Hampson, and Aall, "Even if negotiations are not derailed by some untoward event, failure to narrow outstanding differences

on critical issues can engender feelings of mistrust that are rapidly followed by accusations, an uncontrollable spiral of mutual recriminations, and violence.”¹ There are several steps that you can take to help prevent this kind of deterioration and cultivate good working relationships:

→ ***Build Trust***

→ ***Listen Carefully***

→ ***Present Your Case Clearly***

→ ***Harness Emotions***

→ ***Use Leverage Wisely***

Build Trust

Do no harm. Physicians are taught, as their first principle, to do no harm. Negotiators can benefit from the same advice. As you begin to engage your counterpart, you’ll find it helpful to avoid statements like the following: “Let’s cut the niceties and get down to business.” This kind of approach might contribute something useful in some circumstances, but it does not signal an appreciation of the difficulty of intractable violent conflict, the importance of building the kinds of positive relationships needed to transform it, or the need for the other side to be motivated to implement an agreement reached in good faith.

Remind negotiators why you are there. By your first meeting, all sides have invested some time, energy, and prestige in the promise of a negotiated settlement. It can be helpful to acknowledge this fact explicitly. As Lederach notes, negotiations get off to a good start when “those involved increase the level of awareness of their interdependence through mutual recognition.”²

Depersonalize problems. Lewicki, Saunders, and Minton encourage negotiators to depersonalize problems. They point out that too much emphasis on who is right and wrong tends to “get in the way of clear and dispassionate thinking.” They suggest viewing problems from different perspectives, an approach that “allows both sides to approach the issue as a problem ‘out there’ rather than as a problem that belongs to one side only.”³

Create rapport. Though your counterpart represents different sets of interests, it doesn’t hurt to engender feelings of affinity and goodwill. When appropriate, share some personal information. As Spector and Zartman note, “Informal personal relationships that develop over the course of

¹ Crocker, Chester, Fen Osler Hampson, and Pamela Aall, ed., *Taming Intractable Conflicts: Mediation in the Hardest Cases* (Washington, DC: United States Institute of Peace Press, 2004), 119.

² Lederach, John Paul. *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, DC: United States Institute of Peace Press, 1997), 65.

³ Lewicki, Roy J., David M. Saunders, and John W. Minton, *Essentials of Negotiation*, 2nd ed., (New York: McGraw-Hill/Irwin, 2001), 93.

the initial negotiations can be useful in promoting understanding across differing positions, finding ways to bridge the gaps between conflicting interests,” and “facilitating opportunities to find innovative solutions.”⁴

Establish balanced procedures. Few procedural concerns are as important as ensuring equal treatment, a principle that should apply even before formal negotiations begin. All sides must see the negotiation as an opportunity to get a fair hearing. There should be a back-and-forth exchange of views, however frank, with ample flexibility for all sides to make their best case.

Reach out to ratifiers. Of all groups with a stake in the negotiation, none are more important than the ratifiers who will have to ratify the agreement, formally or otherwise, and those who must implement its terms. You should maintain access to your own ratifiers and should begin cultivating a good working relationship with them from the outset. Your access to the other side’s ratifiers may be limited, particularly in the early going; if so, you should at least attempt to learn as much about them as you can.

Perspectives

Having good people skills is important in negotiation because when you’re negotiating, you are negotiating with people. Understanding where people are coming from, being able to really listen to what they are saying and also being able to discern what they are saying - what they really need, what their fears are or what it is their real interests are - is a critical part of negotiation. Having these people skills, being able to communicate well, build rapport, and build trust is quite important. This is something that varies from culture to culture; people might say one thing when in fact it’s really something else that’s bothering them. So, understanding, communicating well and listening are critical characteristics of the negotiators.
-Nina Sughrue

When I think about what I’ve done, I’ve always tried first of all, to reach out to the other side of the negotiation. I want to understand them, I’d like to know a bit about them, I’d like to give them the feeling that I am truly interested in what they have to say, and who they are, and that’s completely separate from the issue which we are going to discuss.
-Ted Feifer

We sometimes get caught up with just the particular issue that we are stuck on or that is important to us, that we sometimes forget the relationship and in some cases preserving that relationship is very important. So negotiation if it’s done well should preserve that relationship as well as to help us get what we want. We have to really be empathetic as negotiators and really try to put ourselves in the shoes of the people who are actually on the ground, living out that conflict day to day. It’s going to be much more complicated than addressing a negotiation, for instance, than in a purely business context where you might talk in a very problem-solving, task-oriented way, although relationship is also part of that. In the case of violent conflict, although resources might be involved, there are always other things that lie beneath that are also affecting the dynamics of the negotiation. Again history, perceptions,

⁴ Spector, Bertram I. and I. William Zartman, *Getting it Done: Postagreement Negotiation and International Regimes* (Washington, DC: United States Institute of Peace Press, 2003), 56-57.

misperceptions, fear, and distrust - these are things that you have to take into account in terms of your approach.

-Maria Jessop

I think that the way to build the kinds of relationships that are necessary for making sustainable peace is to take time to do non-negotiation-related activities, to be able to spend time just getting to know the other party. There's this great story about the Sudan comprehensive peace agreement, the beginnings of the negotiations, and of course, it's also important to have the right people in the room to make sure that the negotiators are in fact ready in the sense that they have the backing of their people, that they are representative, that they have the mandate to make an agreement that will, in fact, have some ability to implement this. That's maybe the first step is to make sure that you have the right people in the room. We are seeing with Darfur that the negotiators from the Darfurian side are not representative of the whole population. We haven't been able to get a single representative for Darfur and we have a real problem with fragmentation. So step one, get the right people in the room. Step two, take your time with them and say, "You know, we're very serious about this, this peace, but it's also very important that you each understand each other."

So there's this great story about the north and the south at the end of this terribly long, bloody civil war in Sudan. Finally they reached a point where they're not going to fight any more, because there have been tremendous losses on both sides, and they are sitting at a table, the northern negotiator and the southern negotiator, and both of these parties do have quite a lot of legitimacy and authority to speak for their sides, so that's important, but there's no trust. They haven't, they perhaps know each other but not in a personal sense, and the first thing that the southern leader John Garang does when they meet in the room with the conference table, where they're going to negotiate, there is a bottle of water and several glasses, and he picks up a glass and he pours some water into the glass and he hands it to the Minister Taha, who was his opponent from the northern negotiating team. So right away he's thinking of being a host or of being someone who thinks of the needs of the other person and they apparently had a fairly good working relationship, which is what enabled them to come up with a very complicated, very detailed peace agreement to end the civil war between the north and the south. This really depended on their personal working relationship, in which the two of them got along much better than anyone expected.

Now, not everyone is going to get along. There will be personality disagreements, but I think the more that you can understand that you're in it together in a common cause, that is, there's your side, there's the other side, and then there's the thing you're doing together. So that there's a third side in a sense in which you each have your own interests and you each have your own positions, but there's this separate entity that you're creating together, and that you can start feeling that there is a project coming between you, developing between you, that you're invested in. Then once you reach this critical mass, you pass this point in which so much work has been done on this joint project between the two of you that you want to see it succeed.

You're not going to let it fail, and that's when you're really on your way to making a viable peace agreement.

-Linda Bishai [Speaking from her experience as a peacebuilder who has worked in Sudan since 2006]

Listen Carefully

One of the most common mistakes that negotiators make is to put too much emphasis on presenting a forceful case and not enough on listening.

Active listening. The term “active listening” has been coined to describe engaged, careful listening. Active listening shows that you take your counterpart seriously and in this way helps you build a healthy working relationship. Moreover, it is in your self-interest to learn as much as possible about your counterpart, their constituencies, decision makers, interests, BATNA, etc.

Russell Sunshine points out that no matter how thorough your preparation, you will need to “test assumptions” underpinning your plans and “gather information that will fill in the gaps.” He states, “In this sense, active listening at the table might be thought of as a form of continuing negotiation research.”⁵ In David Churchman’s words, “Listening requires evaluating what opponents say. Are they right? Are they bluffing or lying? Have they contradicted themselves? How do they feel about what they are saying? Are they signaling needs, possible concessions or linkages, or concerns?”⁶

Difficulty of active listening. Active listening is not easy. According to Kelman, the problem begins when negotiators “evaluate their performance by the forcefulness with which they present their own case and by their effectiveness in warding off pressures to compromise.” In this case, “They are not in a listening mode; they are unlikely to pay attention to what the other side needs and how they could help the other side achieve its goals.” Moreover, any concern for the other side’s needs “might subject the negotiators to criticism from their own constituencies and particularly from the domestic opposition that they are ‘soft’ on the enemy and selling out the national cause.”⁷

⁵ Sunshine, Russell B. *Negotiating for International Development: A Practitioners Handbook* (Norwell, Mass.: Kluwer Academic Publishers, 1990), 169.

⁶ Churchman, David. *Negotiation: Process, Tactics, Theory* (Lanham, Md: University Press of America, 1995), 36.

⁷ Kelman, Herbert. “Social-Psychological Dimensions of International Conflict,” in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 89.

Perspectives

A lot of people think that the key to successful negotiation is to be an eloquent persuader, to really express your position in a way that will convince the other side, “Oh, this person is right, I’m wrong. I want to move forward in the direction of the person who’s making the eloquent speech.” That really isn’t true. You are not going to deal with a negotiator who is going to fall for that. Your purpose is not to make eloquent statements of why you are right, as though you were winning a debate in high school or something like that. Your purpose is explain your position clearly so they understand it. But then, what you want to spend most of your time doing is listening to the other side. You are going to do much better if you’re listening to them and they think they are eloquent and they’re trying to win debates, so you are gaining information from that process. The more you know about what the other side’s position is, the better you can understand what the interests are that underlie it, and the better you can understand where there might be a path forward to reach an agreement that will actually help your interests. The person who thinks he’s doing better in the negotiation because he’s winning the word count or because, if it were a high school debate, he would be getting more points, is probably not going to be the person who is more successful in terms of getting a negotiated outcome that actually advanced the interests that you are out there to achieve.

-Mike Lekson

One of the biggest mistakes a negotiator can make is to fixate only on what they want, without really paying attention to what the other side is saying. And this is a mistake for a number of reasons. First of all, you want the other side to express itself, you want them to get the feeling that you’re paying attention to them. Second, they can be providing critical information about how to conduct the negotiation, that if you weren’t paying attention you would miss. Third of all, there are always unknowns in any negotiation; you are always operating on a basis of incomplete knowledge. If you don’t keep yourself open to what the other side is saying, you are missing the opportunity to develop your understanding of what’s motivating them and the context in which you are holding the negotiation.

-Ted Feifer

Use listening techniques. To get as much as possible from the exchange of information, experienced negotiators keep a few simple points in mind:

Show genuine interest in the other side’s problems. In Sunshine’s words, “Use active listening to demonstrate your genuine interest in what your counterpart has to say. ... You may be surprised to observe that your receptivity can encourage your counterpart to divulge additional information.”⁸

Ask questions to understand from other side’s perspectives. It may not be possible to see the world in just the same way as your counterpart, particularly those from very different backgrounds. However, a way to begin is to start asking questions. Herb Cohen recommends asking questions even when you think you know the answers. If you get the answer you expect,

⁸ Sunshine, Russell B. *Negotiating for International Development: A Practitioners Handbook* (Norwell, Mass.: Kluwer Academic Publishers, 1990), 169.

you have confirmed your expectation and taken the opportunity to “test the credibility of the other side.” If you get a different answer, then you have an important disconnect to explore and reconcile.⁹

Acknowledge opposing views, even when you don’t agree. In your discussions with counterparts, it’s helpful to restate periodically what you hear in order to verify your understanding. It’s also important to acknowledge the validity of their experiences and feelings, keeping in mind that this acknowledgement does not constitute agreement on specific positions. Kelman states:

Acknowledgements often have a powerful psychological impact in opening the way to negotiation and accommodation. ... ‘Acknowledgement’ in this context refers to a party’s public acceptance or confirmation of the other party’s view of its status, its experience, its reality. Thus, one party may acknowledge the other’s humanity, nationhood, national rights, suffering, grievances, interpretation of its history, authentic links to disputed lands, or commitment to peace. Such acknowledgments do not constitute acceptance of the other’s position or accession to its claims, but at least they serve to recognize that there is some legitimacy to these positions and claims and some basis for them in the other’s experience. Acknowledgments have such a potentially powerful impact because the history of a conflict is often marked by the systematic denial of the other’s experience, authenticity, legitimacy, and even membership in the human family. These denials create profound fear and insecurity, because they undermine the very foundations of the other’s claim to nationhood and challenge the other’s right to national existence.¹⁰

Check your understandings. Churchman recommends that you summarize what your counterpart says and “make sure they accept your interpretation before responding.” He adds, “It is difficult for opponents to remain angry or assert unfair treatment in the face of efforts to understand their concerns, needs, or positions.”¹¹ This is a good frame of mind to take into a negotiation, although it’s also necessary to keep in mind that some counterparts can be difficult to deal with in spite of your genuine efforts to show understanding.

Perspectives

It’s inevitable in negotiations that you’re going to hear things you don’t want to hear but I believe the first thing you can do to ensure that the negotiation is not successful is to refuse to hear these unpleasant things or disagreeable things. If you’re able to adopt a non-defensive posture or stance then you’re much more likely to become a successful negotiator.

-Mary Hope Schwoebel

⁹ Cohen, Herb. *You Can Negotiate Anything* (Secaucus, NJ: Lyle Stuart, Inc., 1980), 103.

¹⁰ Kelman, Herbert. “Social-Psychological Dimensions of International Conflict,” in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 75.

¹¹ Churchman, David. *Negotiation: Process, Tactics, Theory* (Lanham, Md: University Press of America, 1995), 29.

Preparation is critical [in] negotiation because, first of all, you're determining your interests first. You might be looking at your positions, but then preparing and determining your own interests is very important before a negotiation. Researching and understanding your counterpart, putting yourself in their shoes prior to negotiation, determining their interests vice their positions before the negotiation is very important. So this element of preparation is key, because the last thing you want to do is enter negotiation and be completely unprepared. That said, even though you have prepared, you have determined your own interests, you think you have determined your counterpart's interests, it's still very important to be open and listen to your counterpart because perhaps you assumed things that maybe weren't necessarily true. So, you want to prepare and strategize and walk into that negotiation understanding your counterpart's interests, understanding your interests, and being as powerful as you can. Yet, on the flip side, you also want to be open and understand that you don't necessarily have all the information that you need. So maintaining that communication and that dialogue throughout the negotiation is very important.

-Nina Sughrue

In many societies, people want to know you are paying attention to them. And the best way to do it is by demonstrating that you are doing just that. You may make facial gestures to show that you are following what they are saying, you may make noises to show that you're getting their message, you might ask questions to show that you're trying to understand what they are saying. You may try to clarify points that they're making, you may restate things that they are saying to show that you not only have understood but you're trying to act on it. Also, you may, if you hear something that could be problematic in negotiation, focus on the positive that the other side has said or to emphasize a point they have said in order to keep the discussion on that particular track, rather than on the negative that they may have said. And of course, you also want to encourage them to keep talking. You don't want another party just to have their say and leave it at that. You want them to keep talking, you want them to stay engaged, you want them to keep providing more information about what is motivating them and underlying the position they're stating. And you'll want to elicit to bring out information that you don't have.

-Ted Feifer

Present Your Case Clearly

This emphasis on listening does not diminish the importance of presenting your own points clearly and consistently.

Provide a transition to your case. Indeed, what you hear can provide the basis for an effective, substantive transition to your case. Even if you cannot build on any of the other side's specific proposals, careful listening should help you communicate in a language that they will find clear and compelling, particularly in light of whatever shared interests and common standards you have discovered.

Resist the temptation to rant. Although you may feel bitter and aggrieved, and may also have constituents who feel this way, Kelman cautions against making the kind of rant that "tends to confirm old images and to keep the conflict alive. Clearly, it does not contribute to the search for

ways in which each party can help the other make valuable and visible gains.”¹² Generally, a concise, confident, and respectful presentation of your case will serve best in the long run.

Ensure that your message is heard. Finally, ask for checks of understanding. Your counterpart may not be listening in the attentive way that you have been. Churchman recommends that you “convince opponents to restate your position to your satisfaction before responding.” He adds, “Apart from the improved bargaining climate, better understanding often leads to better proposals and more satisfactory agreements.”¹³

Perspectives

Just basic communication between two people, who may have grown up in the same household or the same small town, and have spoken the same language since birth, can be extremely challenging. And I think we neglect or overlook those challenges of regular basis. So, if you project that difficulty into a conflict situation or a situation where vital interests are at stake, you can see where the importance of clear communication comes out.

-Jacqueline Wilson

The challenge of dealing with the situation which people are content with the status quo; the situation they have now is better than anything they can imagine, so they feel they have no incentive to negotiate. If you’re trying to negotiate with people who feel that way, you have to try to give them a vision of perhaps a different future which would be better for them than the status quo. You could look at the situation, for example, in Cyprus, considered to be an intractable conflict. If you’re trying to convince the Greek Cypriots that there is a better situation than the status quo, then the challenge for you is to explain how it could be better for them, given their view of the current realities, how can the situation be more favorable to them.

-Ted Feifer [Speaking of the situation in Cyprus in 2008 as well as from his experience as the U.S. State Department’s Cyprus Desk Officer from 1985-1987]

Harness Emotions

It’s important to anticipate ways that a relationship can deteriorate, and then to take steps to prevent these potential problems. People often react emotionally when discussing significant, long-standing grievances. It may not be possible or even desirable to stifle these emotions, but it is often possible to harness and channel them in productive ways.

Avoid escalating “wars of words.” In a physical conflict, one act of violence can lead to another and then another; similarly, in a negotiation, one emotional outburst can lead to several, setting off a cycle of verbal abuse. According to Roger Fisher and Scott Brown, “Too much emotion can cloud judgment. We rarely think clearly when our emotions are running high.”¹⁴

¹² Kelman, Herbert. “Social-Psychological Dimensions of International Conflict,” in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 89.

¹³ Churchman, David. *Negotiation: Process, Tactics, Theory* (Lanham, Md: University Press of America, 1995), 29.

¹⁴ Fisher, Roger and Scott Brown, *Getting Together: Building a Relationship That Gets to Yes* (Boston: Houghton Mifflin, 1988), 44.

Try to stay positive. Gerben van Kleef and Carsten De Dreu have reviewed several studies showing that “negotiators experiencing positive affect tend to be more cooperative and conciliatory, whereas negotiators who are in a negative affective state tend to be more competitive and reluctant to make concessions.”¹⁵ On the other hand, it is not always possible or advisable to stay positive, for example, when the other side is ranting or being unreasonable. Crocker, Hampson, and Aall recognize this and in some cases argue for “hunkering down until the weather improves.”¹⁶

Perspectives

During negotiations, people sometimes get very emotional. The closer they are to the issues they are talking about, they can get mad, they can yell, they can speak very bluntly, and a negotiator has to learn to deal with those things. A negotiator may feel that the other side’s speaker is lying, telling things that are flatly untrue, lying intentionally, and you have to deal with that. You have to transcend the personal sometimes to think about what you are going to achieve in the negotiation, and to remember that it’s not a personal contest between you and your opposite number.

-Ted Feifer

When parties focus on positions, generally it can be a very combative exchange. It could be two parties focusing on just what they want on their position, and there’s no room for any type of creative problem solving or creative thinking to achieve that optimum win-win solution. When parties focus on positions, there is no dialogue, agreement, or future date to negotiate again. So when parties focus on positions, generally it is a combative exchange or it’s a very silent exchange where the parties are just not willing to discuss options and try and come up with mutual gain.

-Nina Sughrue

Use Leverage Wisely

It’s important to use leverage wisely in a negotiation. Clumsy use of leverage can significantly damage relations with your counterpart and undo hard-earned gains that you have made.

For example, coercive leverage can be an effective tool in changing people’s cost/benefit calculations, but it can also backfire. In South Africa, Mandela believed that de Klerk was deliberately not doing enough to curb violence, as a means of applying leverage in their negotiations. When the Goldstone Commission turned up evidence of NP involvement in encouraging and financing black-on-black violence, the relationship between the men underwent severe strain; moreover, de Klerk ultimately ended up losing ground in the negotiation.

Use warnings rather than threats. If negative inducements must be used, look for ways to deliver them as warnings rather than threats. As Crocker, Hampson, and Aall note, pointing out

¹⁵ Van Kleef, Gerben, Karston A. W. De Dreu, and Anthony S.R. Manstead. “The Interpersonal Effects of Anger and Happiness in Negotiations,” *Journal of Personality and Social Psychology* 86, no. 1 (January 2004): 58.

¹⁶ Crocker, Chester, Fen Osler Hampson, and Pamela Aall, ed. *Taming Intractable Conflicts: Mediation in the Hardest Cases* (Washington, DC: United States Institute of Peace Press, 2004), 135.

the dynamics of an existing stalemate is often enough to “persuade recalcitrant parties that there is no military or unilateral solution.”¹⁷

Offer positive inducements that meet or protect underlying interests. There are better and worse ways to use positive inducements. In Kelman’s words:

If promises, rewards, and confidence-building measures are offered randomly—essentially as ‘bribes’—without reference to the recipient’s underlying needs and fears, they are likely to induce change only at the level of compliance (that is, a relatively unstable change in public behavior without accompanying changes in private beliefs).¹⁸

By contrast, Kelman says positive inducements can be “particularly effective if they meet the other’s interests or respond to the other’s security concerns that are the heart of the conflict, and if they are part of a concerted strategy that invites reciprocation.”¹⁹

Related Resources from USIP: [*Taming Intractable Conflicts: Mediation in the Hardest Cases*](#)
Edited by Chester A. Crocker, Fen Osler Hampson, and Pamela Aall

Some conflicts seem to defy resolution. Marked by longevity, recurrent violence, and militant agendas, these intractable conflicts refuse to be settled either on the battlefield or at the negotiating table. But, explain the authors of this provocative volume, effective mediation in intractable conflicts is possible—if the mediator knows what to do and when to do it. Forceful, concise, and highly readable, *Taming Intractable Conflicts* serves not only as a hands-on guide for would-be mediators but also as a powerful argument for students of conflict management that intractable conflicts are not beyond the reach of mediation.

5.3: Focus on Interests and Needs

Avoid Distractions

Preparing extensively and cultivating relationships help lay the foundation for effective, problem-solving negotiations. But in the early stages, neither side can be sure that a deal will be possible, and the atmosphere may be clouded with claims and counterclaims, charges and countercharges. In the context of long-running, intractable conflict, it can be very difficult to make negotiation work.

¹⁷ Crocker, Chester, Fen Osler Hampson, and Pamela Aall, ed., *Taming Intractable Conflicts: Mediation in the Hardest Cases* (Washington, DC: United States Institute of Peace Press, 2004), 94-5.

¹⁸ Herbert Kelman, "Social-Psychological Dimensions of International Conflict," in *Peacemaking in International Conflict: Methods and Techniques*, eds. I. William Zartman, and J. Lewis Rasmussen (Washington, DC: United States Institute of Peace Press, 1997), 207.

¹⁹ Kelman, Herbert. "Social-Psychological Dimensions of International Conflict," in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 72.

It helps to keep the process focused on interests and needs—your own of course, but your counterpart’s as well. As Hampson points out, “If their interests are not represented at the bargaining table, they will have a much stronger incentive to defect from the peace process and resort to violence to achieve their aims.”¹

This brings us to the part of the process that Saunders calls “Generating the Will for a Joint Solution.” As you begin to explore difficult terrain with your counterpart, the best way to generate this will is to avoid distraction and focus on fundamental interests and needs.

→ *Maintain Caution, But...*

→ *Consider Making the First Cooperative Move*

→ *Address Different Kinds of Interests*

→ *Establish Reciprocity*

→ *Encourage Collaboration*

Risks of the Problem-Solving Approach

But like so much else in the negotiating process, establishing this focus is not as easy as it sounds. Beginning with an interest-based, problem-solving approach is desirable for a variety of reasons. However, as we discuss putting this approach into practice, we must revisit an important concern raised earlier: that by showing openness and flexibility, a negotiator will appear weak and overly accommodating to a hard-bargaining counterpart, or even worse, will offer concessions without getting anything to show for them in return.

Uneven information exchange. Shapiro notes that those who have shared information in a negotiation often fear “the other party’s unfair use of the information or leverage over them.” For this reason, both parties may hesitate to reveal information, and the ensuing negotiation may devolve into a fruitless debate or shouting match, with each side simply repeating the same positions. Indeed, many negotiations end up this way. Shapiro concludes that the fear of uneven information disclosure makes it “much less likely that the parties will choose interest-based negotiation.”²

One-sided flexibility. Hopmann describes another concern, noting that “the fear of being exploited may drive even a cooperatively oriented negotiator to resort to ‘hard’ bargaining tactics to parry the attacks of a tough counterpart. Thus the presence of one hard bargainer in a negotiation is often sufficient to drive the entire negotiation into a competitive exercise in which everyone is likely to end up worse off.”³ In Sebenius’s words, “Each side’s efforts to get a larger

¹ Hampson, Fen Osler. *Nurturing Peace: Why Peace Settlements Succeed or Fail* (Washington, DC: United States Institute of Peace Press, 1996), 217.

² Shapiro, Daniel L. “Supplemental Joint Brainstorming: Navigating Past the Perils of Traditional Bargaining,” *Negotiation Journal* 16, no. 4 (October 2000): 413.

³ Hopmann, P. Terrence. “Bargaining and Problem Solving: Two Perspectives on International Negotiation,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 455.

share of the pie often prevents its expansion in the first place.” It may lead “to no pie at all or even to a fight.”⁴

Related Resources from USIP: [*Nurturing Peace: Why Peace Settlements Succeed or Fail*](#)
By Fen Osler Hampson

Why do some peace settlements endure whereas others collapse into violence almost as soon as they are signed? Focusing on intrastate conflicts in which third parties have played prominent roles, Hampson argues that durable settlements depend on sustained third-party engagement not only during the negotiation phase but throughout the implementation process. He provides detailed yet succinct accounts of five justly renowned cases.

Maintain Caution...

In light of these risks, there are very real reasons to maintain caution.

Be strategic about what you reveal. For example, you should not expect that your counterpart will reveal everything that goes into his or her calculations, and similarly you should think strategically about whatever information you reveal, along with the timing of your revelations. For example, explicitly revealing your BATNA, or revealing it at the wrong time, could very well be counterproductive.

Don’t be intimidated. As we discussed earlier, a number of hard-bargaining tactics are deliberately designed to unnerve you: making you wait and then rushing you, making offers and then retracting them, insulting you and possibly threatening you. In this case, showing flexibility is likely to be counterproductive. The key is to recognize this game and not be intimidated by it. In Mnookin’s words, you must never let your adversary believe that “by using hard-bargaining tactics he can gain an advantage over you. If you do, he will have no reason to change his game.”⁵

...But Consider Making the First Cooperative Move

On the other hand, if you do not sense particularly hostile intent in your counterpart, you might consider making the first cooperative move, including sharing thoughts on basic interests and other kinds of information required to initiate a problem-solving approach. This is not always the best approach, but the risk may not be as great as it appears. In extensive research, Armstrong has found no strong evidence to suggest that overall taking a hard line “was superior to less confrontational strategies in terms of results.”⁶

For example, he cites post-war preliminary negotiations between the Federal Republic of Germany (West Germany) and the Soviet Union beginning on January 30, 1970, which took place within a broader context of East-West negotiation. The Soviets began with a maximalist set

⁴ Sebenius, James K. “International Negotiation Analysis,” in *International Negotiation: Analysis, Approaches, Issues*, ed. Victor A. Kremeneyuk (San Francisco: Jossey Bass, 2002), 241.

⁵ Mnookin, Robert H., Scott R. Peppet, and Andrew S. Tulumello, *Beyond Winning: Negotiating to Create Value in Deals and Disputes* (Cambridge: Belknap Press of Harvard University Press, 2000), 221.

⁶ Armstrong, Tony. *Breaking the Ice: Rapprochement Between East and West Germany, the United States and China, and Israel and Egypt* (Washington, DC: United States Institute of Peace Press, 1993), 130.

of positions and took a hard-bargaining stance. They showed little willingness to compromise over their insistence on formal recognition of the German Democratic Republic (East Germany), permanent recognition of existing borders in Eastern Europe, and a stop to West German aspirations for the peaceful reunification of Germany. The West Germans considered but rejected the idea of digging in with a contrary set of maximalist positions. Although they accepted “none of the initial Soviet demands” and did not agree to “restricting the agenda to the points the Soviets considered negotiable,” they did show willingness to explore shared concerns in a collaborative way.

In the end, both sides found language that enabled them to compromise on the permanence of the borders, while Moscow dropped its demands of formal recognition of East Germany and its demand that West Germany abandon peaceful reunification efforts. In Armstrong’s opinion, the negotiations “involved significant concessions on both sides on a roughly reciprocal basis.”⁷ The issue of borders was, in effect, set aside, to be more productively addressed in the multi-party CSCE “Helsinki process.”

Perspectives

Interests in negotiation of the various parties are never 100 percent shared because if they were, there wouldn’t be a negotiation. Everyone would already be in agreement with everybody else, and they would find other people to negotiate with about other subjects. So there’s never going to be a complete coincidence of interests, but there often could be an overlapping of interests. In the 1980s, the U.S. and the Soviet Union agreed that they had an interest in reducing the overall number of nuclear weapons under their respective control. There were a whole lot of different positions associated with this common interest, as you might well imagine, and the arms control negotiations could become very complex, technical, and could take a long time as the two sides would try to figure out how to take that common interest and turn it into an agreement that both sides can live with.

-Mike Lekson

I remember very well a negotiation which I was in and which my country and the country I was negotiating with had very different, not only positions, but interests in [the] negotiation. But I emphasized in every interaction with my opposite number that we have a common problem, we want to see this negotiation succeed, we have a common interest, both you and I in making this succeed, and let’s work the issue. Let’s see what we can do to come out in a way in which we are both satisfied.

-Ted Feifer

Address Different Kinds of Interests

The point of all the trust-building is for both sides to go beyond repetition of familiar sets of positions in order to consider different kinds of interests and how they might be addressed in productive ways.

Shared interests. A good place to begin is by identifying shared interests. Druckman recommends that negotiators look for “a set of general issues and principles on which they

⁷ Armstrong, Tony. *Breaking the Ice: Rapprochement Between East and West Germany, the United States and China, and Israel and Egypt* (Washington, DC: United States Institute of Peace Press, 1993), 101-102.

agree.”⁸ Freeman describes how discussions over common interests can eventually lead to more productive consideration of individual interests:

When the parties understand the extent to which they would both gain or suffer from particular outcomes, they can identify common apprehensions about the probable impact of a situation or trend on the interests they share. They can then explore the ways in which particular outcomes might affect both their common and individual interests. Such exchanges engender a sense of shared risk and opportunity. Discussion by the parties of the outcomes that would best (or least) serve their common and individual interests enables them to identify common preferences. This builds a sense of shared purpose.⁹

As we have seen, the overwhelming interest that all sides shared in preventing nuclear catastrophe kept the negotiations over non-proliferation alive for over two decades, even during the height of Cold War tensions.

Compatible and conflicting interests. As we’ve discussed earlier, interests that are not shared may nevertheless be wholly compatible, as in the case of the twelve oranges, where one chef wanted the peels and the other chef wanted the pulp. Of course, interests are also frequently in conflict, for example if both chefs had wanted the pulp, meaning a balanced agreement will likely be some kind of compromise. Typically, negotiations involve a range of interests that are shared, compatible, and conflicting; and only by summoning the will to go beyond opening positions are negotiators likely to earn the insights necessary to find joint gains and forge sustainable compromises. For an agreement to be reached on non-proliferation, amid difficult and changing circumstances, each side had to gain a deeper understanding of the other side’s interests, and find a way to balance them.

Tangible, intangible, and procedural interests. As we’ve also discussed, interests may be tangible and related to physical human needs, such as: security, food, shelter, and economic well-being. Interests may also include equally important intangible needs, such as: autonomy, self-determination, equal treatment, recognition, and justice, along with different forms of belonging, like ethnic, religious, national, or regional identity. In our case study on the NPT negotiations, Soviet attitudes toward their U.N. veto power provide a good illustration of how procedural interests can have bearing on substantive interests. Good negotiators will attempt to bring all these various types of interests to the surface.

Ask “why?” Part of active listening is asking questions, and the most important question to ask is “why.” Depending in part on culture, persistent interrogation may be perceived as hostile and aggressive, but asked in appropriate ways, the following questions can lead to more productive discussions, first by demonstrating openness on the part of the questioner, and second by uncovering important information.

⁸ Druckman, Daniel. “Negotiating in the International Context,” in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman, (Washington, DC: United States Institute of Peace Press, 2007), 121.

⁹ Freeman, Charles. *Arts of Power: Statecraft and Diplomacy* (Washington, DC: United States Institute of Peace Press, 1997), 122.

- What is your view of the situation?
- Why do you view the situation that way?
- What is important to you?
- Why is that important to you?
- Why not?

Inquiry of this nature is a good way to get beyond positions. In the words of Crocker, Hampson, and Aall, “The question is how to move beyond and around such positions to identify the parties’ underlying requirements and interests that may be served or threatened by continued warfare.” True progress requires “understanding what really motivates the parties, what they fear and perceive themselves to be vulnerable to, and, above all, what could move them out of the stalemate.”¹⁰

Perspectives

Interests in negotiation of the various parties are never 100% shared because if they were, there wouldn’t be a negotiation. Everyone would already be in agreement with everybody else, and they would find other people to negotiate with about other subjects. So there’s never going to be a complete coincidence of interests, but there often could be an overlapping of interests. In the 1980s, the U.S. and the Soviet Union agreed that they had an interest in reducing the overall number of nuclear weapons under their respective control. There were a whole lot of different positions associated with this common interest, as you might well imagine, and the arms control negotiations could become very complex, technical, and could take a long time as the two sides would try to figure out how to take that common interest and turn it into an agreement that both sides can live with.

-Mike Lekson

I remember very well a negotiation which I was in and which my country and the country I was negotiating with had very different, not only positions, but interests in [the] negotiation. But I emphasized in every interaction with my opposite number that we have a common problem, we want to see this negotiation succeed, we have a common interest, both you and I in making this succeed, and let’s work the issue. Let’s see what we can do to come out in a way in which we are both satisfied.

-Ted Feifer

Establish Reciprocity

In all cases, the amount and kind of information you reveal and the flexibility you demonstrate should depend on the level of reciprocal openness and flexibility you experience from your counterpart.

Try to view the conflict through your counterpart’s eyes. There is much overlap between cultivating relationships and focusing on interests. One area is in learning to view the conflict from your counterpart’s perspective. In Babbitt’s words, “Most conflict resolution training

¹⁰ Crocker, Chester, Fen Osler Hampson, and Pamela Aall, ed., *Taming Intractable Conflicts: Mediation in the Hardest Cases* (Washington, DC: United States Institute of Peace Press, 2004), 99.

involves putting participants in the ‘shoes’ of the other side, to try to encourage them to see the conflict not only from their own perspective but from that of their adversary.”¹¹

Protect and advance your own side’s interests. At the same time, you must not allow counterparts to take advantage of your openness and goodwill. Hopmann makes the following point:

Most research suggests that unconditional cooperation in the face of exploitative behavior produces asymmetrical agreements, almost always to the detriment of the cooperative party. By contrast, some degree of firmness is most likely to keep distributive bargainers from pushing their advantage too far. ... The firm response can guarantee the party an agreement that is at least marginally superior to a minimally accepted agreement.¹²

Remain firm and fair. Pruitt recommends that negotiators try to remain both firm and fair, noting that when negotiators are viewed as “fair but not firm,” their counterparts may be “tempted to become competitive”; whereas if negotiators are seen as “firm but not fair,” their counterparts may “fail to cooperate out of distrust.” Pruitt concludes that “neither of these impediments to cooperation will be present” if the negotiator is viewed as “both firm and fair.”¹³ Sam Blank makes a similar point, noting that “it is possible to be hard-nosed and tough, and still establish a good relationship with high levels of credibility.”¹⁴

Perspectives

Reciprocity involves giving up concessions or putting something on the table, which will help the other side achieve their interests. It may or may not necessarily be something that you will miss. But it provides a gesture to the other side that you’re willing [to] provide concessions, that you’re aware of their interests, and that you’re interested in helping them to achieve their interests. And the hope is that the other side will reciprocate, will trust that you’re there for the right reasons and will think about what they might offer that will help you achieve your interests. It becomes a stepping-stone so that hopefully reciprocity will breed additional reciprocity and eventually you will make progress toward success.

-Jacqueline Wilson

Good negotiating skills depend not only on techniques but also attitude and mindset. And I think that you want to model the behavior that you want to elicit from the person you're

¹¹ Babbitt, Eileen. “Contributions of Training to International Conflict Resolution,” in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman, and J. Lewis Rasmussen (Washington, DC: United States Institute of Peace Press, 1997), 366.

¹² Hopmann, P. Terrence. “Bargaining and Problem Solving: Two Perspectives on International Negotiation,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Crocker, Chester, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 461.

¹³ Pruitt, Dean G. *Negotiation Behavior* (New York: Academic Press, 1981), 37-38.

¹⁴ Blank, Sam. “Negotiation: A Collaborative Strategy,” Guidance Channel Ezine, June 2007, <http://www.guidancechannel.com/default.aspx?M=a&index=2240&cat=16>.

negotiating with. If I go in there with a sort of harsh or very competitive attitude, that's probably what I'm going to get back from the person I am negotiating with. On the other hand, if I go in with a much more cooperative attitude, and I am willing to give and willing to take the first step in terms of making a concession, or offering something that the other person needs, then I think the effect is that that other person will be more likely to get me what I want as well.

-Maria Jessop

I think probably the single most important issue or principle to remember in any negotiation, including those that are involved, are part of your daily life, would be doing your best to see the other person's point of view. Also, understanding what they're hoping for out of the negotiation, because if you understand their point of view, first of all, it helps you understand what to say and not to say, what might offend them. It helps you respect them and I think that very basic issue of meeting on a level playing field and respect between both sides, or however many sides there are, is really key to making negotiation work, to making it successful. If there isn't that basic respect and care for the outcome for both sides, then you don't actually have a negotiation. What you have is a one-sided oppressive power relationship in which someone is just sort of agreeing to everything that the other party wants because they feel that they have no power. A real negotiation that is going to have a productive outcome is one in which both sides understand that they need each other to actually get more from a negotiation than they can get by not negotiating, with the BATNA in other words. They realize that they will achieve more together than they will achieve separately, and in many cases, I think in most cases, when you get to a negotiation situation in a piece of violent conflict, it is true that the parties, if they could agree, could certainly get more out of it than they could get by not agreeing, by having to deal with these issues separately by remaining in conflict or by trying to deal with their respective problems on their own. It's usually the case that a cooperative arrangement, if the trust can be made and if the relationship can work to hold it together, is going to be better for both sides, and I think that's true in personal life as well.

-Linda Bishai

Encourage Collaboration

Beyond simply protecting yourself, you can try to convince obstinate counterparts to take a more collaborative approach.

In dealing with hard-bargaining counterparts, Mnookin suggests that you “name their game and negotiate explicitly to approach the negotiations in a more productive way.”¹⁵ In Hopmann's words, “If the parties that wish to search for a mutually beneficial solution can hold their ground in the face of tough bargaining, then there is some chance that they can convince their counterpart to adopt an approach that more closely approximates problem solving.”¹⁶

¹⁵ Mnookin, Robert H., Scott R. Peppet, and Andrew S. Tulumello, *Beyond Winning: Negotiating to Create Value in Deals and Disputes* (Cambridge: Belknap Press of Harvard University Press, 2000), 217.

¹⁶ Hopmann, P. Terrence. “Bargaining and Problem Solving: Two Perspectives on International Negotiation,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Crocker, Chester, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 461.

Frame problem solving as self-interest. As noted earlier, an interest-based, problem-solving approach is not undertaken out of generosity, but enlightened self-interest. There is no need to hide or apologize for this motive; in fact, naming it explicitly may help. Acknowledging your focus on your own interests should enhance your credibility, and describing the approach in these terms may recommend it as a way for your counterpart to advance their own interests.

Use Track II and Track III efforts. Saunders' description of the process of negotiation highlights the potential of Track II and Track III efforts to break deadlocks resulting from risk-averse positional bargaining in Track I negotiations. Hopmann makes a similar point:

Negotiators may resist adopting a problem-solving approach at the outset of negotiations, so that they must often be persuaded to enter into problem-solving mode. It is largely for this reason that problem-solving negotiations often begin with what is usually referred to as "track-two" diplomacy. Track-two negotiations are usually conducted by politically significant elites who nonetheless are not official agents of their government. As private citizens who are not able to commit their states to agreements, they can think about alternative ways of reframing the problems under negotiation and explore new options for solutions that may not otherwise be permissible.¹⁷

Work with a third party. One effective way to help negotiators move to an interest-based, problem-solving approach is to bring on a mediator or other third party for assistance. Our upcoming course will focus in depth on the role of third-party efforts.

Continue to build relationships over time. Productive, collaborative relationships develop over time. In Kelman's words, "As parties develop a relationship based on responsiveness and reciprocity, they become better able to approach their conflict as a shared dilemma that requires joint efforts at analysis and problem solving." Kelman continues, "The gradual transformation of the parties' relationship, which makes these changes possible, itself becomes a key element of the mutually satisfactory and stable outcome of a successful negotiation."¹⁸

Perspectives

I think one of the crucial factors in allowing parties to a negotiation feel that they can generate creative options and throw ideas on the table without being judged is the trust that is necessary for a successful negotiation, so that the parties to the negotiation need to understand that, for example, what is said in a particular room will not leave that room without the permission of both parties. There is some risk involved because you are trying to change the way things are today. Again, sometimes parties need to be reminded of the fact that the reason

¹⁷ Hopmann, P. Terrence. "Bargaining and Problem Solving: Two Perspectives on International Negotiation," in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Crocker, Chester, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 458.

¹⁸ Kelman, Herbert. "Social-Psychological Dimensions of International Conflict," in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 77.

They're in the negotiation is because they've been unable to achieve success in any other way. Therefore, the cost of coming up with creative solutions is less than the cost of leaving the situation as it stands.

-Jacqueline Wilson

In the case of a situation where people are very polarized, and there is a lot of distrust, it is hard to get them to collaborate. And that's where the art and skill of conflict resolution come in. First of all, sometimes it's helpful to prepare people for negotiation. You might not want to throw them in the room right away [and] expect them to collaborate. You might want to first of all meet with them separately and have helped them to articulate what their interests are, what their needs are, what their concerns are, what their fears are, so that you can set the stage for a productive negotiation. That's one strategy you can take.

Another strategy is also to bring in other people into the process that might have, that they might look up to, that are influential and could have a positive impact on the dynamics of the situation. I was in a problem-solving workshop that I co-facilitated recently in Iraq, and it involved bringing in people from the education sector in Iraq who were having difficulty cooperating and coordinating on a variety of initiatives. And it was holding back progress in terms of reforming education and in terms of meeting a lot of the challenges that Iraq currently faces in the education sector. One choice that we made as facilitators in that context was to bring in a professor who is very well respected from a major university in Iraq, who all the parties had a good deal of respect [for]. He was a senior person and we knew he would have a positive impact on everyone there. When things would get tense, we knew that he would be able to offer that wise-person kind of presence. And he did in fact do that. That's another strategy you can take.

-Maria Jessop

One of the keys to successful negotiations is not only dealing with outcomes but also dealing with relationships. Often one of the parties is not convinced they want a relationship; in fact they may be adamant about not wanting a relationship with the other party. One of the things that one works towards particularly if one is a third party, is bringing the parties around to recognize their interdependence. Where there is interdependence, normally people will recognize the need for relationship building. Often, as a third party at least, one will seek to build interdependence that may not have existed before. For example, if you're intervening in an interethnic conflict in a given country, one of the reasons that people may intervene in one of the tracks of the multi-track diplomacy model might be business. They would do it by building business interdependence between two communities so that one community may be responsible for production and the other for distribution. Thus, when ethnic conflict erupts both parties have motivation to come to the table, to use that Western metaphor, to negotiate with one another because they are interdependent and it's important to them to reestablish this relationship.

-Mary Hope Schwoebel

5.4: Solve Problems

Find Ways to Bridge Differences

Through extensive preparation, proactive steps in cultivating relationships, and sustained focus on interests, you can put yourself in position to bridge differences with your counterpart and solve problems.

Building in this way is important in any negotiation, but particularly so in cases of long-running, intractable conflict, when negotiators typically find themselves mired in a thorny tangle of difficult issues, complicated by tenuous relationships that have suffered from decades of mistrust, animosity, and even bloodshed.

This preparation will lead negotiators to the phase that Saunders calls “Scenario Building and Negotiation,” the heart of the back-and-forth exchange that leads to agreements.

At this point, negotiators typically organize their efforts around four key practical steps that help to make this phase successful:

→ *Separate Problems*

→ *Establish Criteria*

→ *Generate Options*

→ *Forge Solutions*

To the extent that negotiators are successful in preparing thoroughly and building productive relationships, they put themselves in a position to separate and define the problems that divide them in clear and precise ways, to establish criteria for a successful outcome that follow from widely accepted norms and standards, to generate options in a positive and productive spirit, and to evaluate options and forge solutions that lead to sustainable agreements.

In long-running conflict especially, the importance of approaching the negotiation effort in this earnest problem-solving spirit is that there will inevitably be a number of very difficult problems to solve. Fortunately, there are skills and techniques to help make this possible.

Perspectives

I've seen the U.S. government repeatedly engage in extensive planning for negotiations on all sorts of subjects—arms control is the one I've worked the most on but not the only—where elaborate plans have been devised, including all the elements that might have been thought about. And then when you actually get to the stage of negotiating, the other side doesn't do quite what you thought they would do and the plan no longer applies quite the way it should. You need to be flexible and able to adapt to that, react intelligently, have thought through and discussed beforehand with your stakeholders what various options are so that you have some direction to move. But then you need to engage in the continuing process of dialogue back with the people whom you're representing, and that's every bit as important as the dialogue you carry with your negotiating partner.

-Mike Lekson

I would say that the natural tendency when one enters a negotiation is to think of it in terms of a competitive bargaining situation where most of us seem to naturally just focus on our needs, interests, or positions. That's what's so important about the skills training because it asks you, it demands that you try to focus on the other side's interests at which point it becomes a mutual problem solving exercise, as opposed to a competitive bargaining. Another way that I look at it is trying to put my glasses on the other person's face and ask them to see the world through my eyes. Likewise, I want to try to see the world through their eyes. That's a completely different way of looking at the process of negotiation as opposed to a competition for achieving only your own interests.

-Jacqueline Wilson

Separate Problems

It is often helpful to break large problems into smaller ones so that individual elements can be dealt with separately and, in some cases, sequentially. As noted earlier, President Eisenhower contributed to the success of the nuclear non-proliferation effort in this way by separating and effectively addressing the issue of peaceful uses of nuclear energy. In difficult negotiations, Armstrong notes that parties often build overall success through "small steps and interim agreements."¹

There are a number of ways to break down a complex problem:

Separate substance from process. Before tackling substantive issues, all sides should agree on a process for their particular negotiation: who will be seated at the table, where and when the sides will meet, what will be on the agenda, etc. Some matters of process can be every bit as difficult as matters of substance, particularly when questions of process appear likely to have impact on substantive divides. Thus, each side typically studies process carefully to see how various arrangements might influence substantive outcomes. At the same time, because the anticipated effects are often secondary and indirect, it can be easier to come to agreement on matters of process than on substance. Jointly solving relatively manageable problems can get the negotiations off to a good start and help build momentum. Process issues often provide a point of entry for third parties, which we will discuss in detail in our next course in this series.

¹ Armstrong, Tony. *Breaking the Ice: Rapprochement Between East and West Germany, the United States and China, and Israel and Egypt* (Washington, DC: United States Institute of Peace Press, 1993), 100.

Separate difficult issues. It can also be helpful to break down large, ill-defined issues into smaller, more specific ones. Gregory Tillett observes that separating “what is initially defined as a single, imprecisely described conflict into multiple, precisely defined conflicts” can in one sense appear unhelpful, “with parties sometimes complaining that ‘We thought we only had one conflict, and now we’ve ended up with a dozen.’” Nevertheless, he maintains that “a dozen precisely specified conflicts are much more amenable to effective resolution than one vaguely defined conflict.”² Such separation also helps identify areas of greater and lesser interest to the various parties, clarifying possible trade-offs.

Separate and regroup individuals. The grouping of individuals who will deal with various issues is also very important. As much as possible, those who have a large stake in a particular issue should be included in the particular forum where decisions on that issue are made; this helps ensure buy-in and reduces the chances of any parties attempting to sabotage the eventual agreement. On one hand, having extraneous agendas also creates problems. Armstrong notes the value of “streamlining decision-making” when possible.³ For example, it may be possible to consult with those who have minor stakes in the issue in a secondary forum.

To illustrate how difficult problems can be broken down, Armstrong again considers the prolonged series of negotiations over the status of Germany after World War II. He notes that for decades West Germany “had insisted on a final solution that would resolve the issues of borders, status, and practical relations all at once.” However, to achieve real breakthroughs, negotiators were forced to take a sequential approach. In Armstrong’s words, “The Ostpolitik negotiations separated the resolution of these issues in time and context.” In treaties with the Soviet Union and Poland, “the issues of recognition of borders and renunciation of force were resolved.” After this, “agreements on traffic between East Germany and West Germany were forged on the foundation of the Quadripartite Agreement. Only then was the issue of the status of relations between East and West Germany tackled.”⁴

Perspectives

One technique that negotiators often use is called fragmentation. That is where you take an issue that is possible to resolve and not that difficult to resolve and you reach an agreement on how you are going to resolve it and also implement the agreement as swiftly and efficiently as possible, in order to establish that you are entering those negotiations with good intentions. At that point when you celebrate the agreement and perhaps its implementation, you can then begin to build that relationship.

-Mary Hope Schwoebel

In a large negotiation such as the Intermediate-Range Nuclear Forces Negotiation of the

² Tillett, Gregory. *Resolving Conflict: A Practical Approach* (Oxford: Oxford University Press, 2006), 99.

³ Armstrong, Tony. *Breaking the Ice: Rapprochement Between East and West Germany, the United States and China, and Israel and Egypt* (Washington, DC: United States Institute of Peace Press, 1993), 27.

⁴ Armstrong, Tony. *Breaking the Ice: Rapprochement Between East and West Germany, the United States and China, and Israel and Egypt* (Washington, DC: United States Institute of Peace Press, 1993), 111.

1980s, there would be working groups, which would talk about different issues. It's important to make a conscious choice as to whether you are trying to get everything to happen at the same time or whether you're hoping that if you make progress on a certain issue, that will help you unlock the door to potential progress on other issues. So sometimes, you do want to do that – say, let's take a small piece of this problem and see what we can get, and sometimes you want to say nothing is agreed until everything is agreed. That was a phrase I once heard from our first negotiator in that particular context. But you have to be advancing on all fronts in order for when everything is agreed to be ready for it.

-Mike Lekson

I think that it might be helpful not to see a broad framework as incompatible with breaking the negotiation up into smaller issues. I think it may well be useful to agree on a broad framework so you have a general understanding of the direction in which both of you are headed. I know this is often called a roadmap. I think that's an overused term by now, and perhaps maybe not a particularly helpful one, but a broad framework is a good thing to do. It's a good thing to have in mind, at the back of your mind, as you're negotiating and then you feel that you're committed. If each side has its own interests but yet there's a third project that the two of you are working on, then I think it's that common project in the big framework, and then you can each decide that it's important to take little pieces of it a bit at a time in order to complete inward toward the whole. You have to cooperate with each other, you have to communicate and be on the same page and really understand who's working on what piece and how they're really putting it together. And in that very complex, minute, and patient, patient way, you can build a very beautiful, wonderful, complex and delicate thing that holds together and is in fact a new real entity itself—the new peace.

-Linda Bishai

Establish Criteria

With problems defined in ways that are as clear and precise as possible, negotiators can begin to ask what a successful outcome will look like.

In this effort, time spent focusing on interests can be especially helpful; that is, instead of defining success in terms of opening positions, negotiators can focus their efforts on defining success in terms of the fundamental interests for all sides that must be satisfied. Moreover, these interests can be conceived in terms of the widely accepted standards that form the basis normative leverage, as discussed in Chapter 2.3, especially basic human needs, equal treatment, rule of law, democratic governance, self-determination, sovereignty, market value, and so forth.

Separate issues from standards. Even more than process, norms and standards have the potential to influence substantive outcomes. For this reason, it's rarely easy for parties to agree which ones apply. Still, due to the general nature and widespread acceptance of norms, parties typically find it at least a little easier to come to agreement over such standards than over specific issues. For example, the parties might build momentum by agreeing on acceptable sources of data—which is not as easy as it might sound—or they might agree on a set of governing

principles. Stein and Lewis note that agreeing on a principle is only a first step; subsequently, the parties will inevitably negotiate over how that principle “might be exercised or applied.”⁵

Create a vision of the future. In discussions with counterparts, Kelman suggests promoting “a shared vision of a peaceful world; redefining the criteria for group loyalty; counteracting the pressures that make militancy and aggressive posturing the politically ‘safest’ course ... moving from zero-sum thinking to a win-win approach in negotiation...and developing communication patterns to allow new information to challenge old assumptions.”⁶

Create framework agreements. Statements of principles or framework agreements are devices used in building a structured process around key standards that encourage steady progress and interim success. In developing this structure, it’s important to prioritize issues, a point well illustrated by J. Stephen Morrison and Alex de Waal’s description of the Intergovernmental Authority on Development (IGAD) peace process between the Government of Sudan (GoS) and the Sudan People’s Liberation Army (SPLA) in Sudan:

The 2002 IGAD process, strongly backed by Norway, the United Kingdom, and the United States, was based on a sharp prioritization of issues and parties. It identified peace between the major protagonists (GoS and SPLA) as the key issue and hence relegated the other parties to a secondary position. ... It focused on first obtaining a framework agreement and then moving to the details, trusting that the momentum obtained by such a process would help the parties to soften their positions. Ultimately, this succeeded in bringing about a settlement.⁷

In Hopmann’s words, “Once the parties have established a joint diagnosis of the problem, including their own interests and needs regarding its solution, they should begin to explore alternative ‘formulas’ that may provide an overarching framework for a solution.”⁸

⁵ Stein, Kenneth W. and Samuel W. Lewis, “Case Study: Mediation in the Middle East,” in *Managing Global Chaos: Sources Of and Responses To International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 1996), 472.

⁶ Kelman, Herbert. “Social-Psychological Dimensions of International Conflict,” in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 101.

⁷ Morrison, Stephen J., and Alex de Waal, “Can Sudan Escape its Intractability?” in *Grasping the Nettle: Analyzing Cases of Intractable Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2005), 174-175.

⁸ Hopmann, P. Terrence. “Bargaining and Problem Solving: Two Perspectives on International Negotiation,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 458.

Perspectives

A negotiation needs to have some kind of structure if it's going to succeed. You have to reach an agreement on an agenda, on a meeting schedule, on where you're meeting, and things like that. It doesn't, as a rule, make sense to be overly accommodating in that stage. You want to be reasonable, you want to be reasonably accommodating, but if the other side starts insisting on getting everything their way from the beginning, you're not going to find that when you actually start negotiating on the substance that that pattern will change. You will have established a pattern where they say what they want and you wind up giving them things that they really don't deserve to have, and certainly you will not get as good an outcome as you should.

The best basis to go forward with is one of an equal process. If the agreement is that we'll meet in each other's headquarters or embassies or whatever it is, establish a basis where it's clear that this meeting takes place here, that meeting takes place there, we do it on a regular rotation. Unless you have a strong view one way or the other, it's probably better for one side to speak first at one meeting and the other side to speak first at the next, back and forth so it's clearly established; everything on the basis of some kind of equality of process. It's important because equality of process can avoid a whole lot of problems that you don't need, and allow you to focus in a systematic way where each side feels more or less protected on the serious issue of substance you are dealing with.

-Mike Lekson

One way to build trust with various groups is to negotiate first on the less contentious issues. Building trust by working through issues that are not very important or not very contentious among different parties. You build trust by agreeing on certain things up front, right away, so you're building trust and a relationship among parties. As that continues, you work on the more difficult topics. If you've already agreed and negotiated on the issues that were not as challenging up front, you've already built some rapport with the parties. So when you lead up to the more challenging issues, the more difficult issues, you already have somewhat of a base that can support that.

-Nina Sughrue

Generate Options

Within the structure of an agreed process, including consensus on criteria for success, the parties can begin to generate options to achieve success.

They should look first for opportunities to create value. In the Sinai example, joint gains were possible because the Egyptians and Israelis valued the land for different reasons, as a place of historic identity in the former case, and as a security buffer in the latter. In practical terms, how do negotiators discover novel ways to reframe issues such as this?

Generate options in brainstorming sessions. As we discussed earlier, openly brainstorming with counterparts entails certain risks. But if these risks can be managed, such collaboration has significant potential benefits. The more you brainstorm, the more likely you are to find new ways to approach the problem. It can be helpful to brainstorm in groups, perhaps first with your team and then with counterparts.

Challenge assumptions. Successful negotiators constantly challenge their own assumptions, particularly in cases of intractable conflict when, in the words of Crocker, Hampson, and Aall, “a negotiation process has gone stale or reached a dead end.”⁹ Kelman discusses how creating conditions for a real breakthrough “requires changes in the habitual ways of thinking, acting and interacting in any given conflict.”¹⁰

Invent first and evaluate later. In brainstorming sessions, it is common practice to invent many options before evaluating them. A lot of impractical ideas are usually generated in these sessions, but as thoughts are rapidly introduced and one idea leads to another, something innovative and potentially feasible can result. In a separate process of evaluation, most ideas will be discarded, but one or two may be refined into workable options, perhaps even a solution.

Manage the press. It is always necessary to have an effective media strategy. At this stage in particular, separating negotiators from the press—and even from their own constituents—helps create a risk-free environment that is conducive to creative thinking. Hopmann makes this point:

Good formulas are seldom found through exchanging proposals and concessions. Instead they are generally discovered through processes of brainstorming, problem-centered working groups, “seminars” that bring together the disputants and recognized experts on the issues under dispute, and noncommittal explorations of possible options until one good option is found that satisfies everyone. This means that the process of developing formulas is generally best done in informal meetings, away from the glare of public attention. It generally means that negotiators should try to avoid having domestic constituencies eliminate options until they have had a chance to discuss the options with their counterparts informally.¹¹

Lehmann offers six steps for forming a media strategy:

1. **Analyze the information environment** by considering the print, radio, television and Internet availability in the local area. Try to ascertain how the parties, local government, and civil society will react both to and within the media about information regarding the negotiation.
2. **Plan early**—before the negotiations begin, if possible. Select who will be the *point of contact* for inquiries and be sure that person understands the strategy. Look for allies and community spokespersons that are in favor of the negotiations such as local celebrities,

⁹ Crocker, Chester, Fen Osler Hampson, and Pamela Aall, ed., *Grasping the Nettle: Analyzing Cases of Intractable Conflict* (Washington, DC: United States Institute of Peace Press, 2005), 384.

¹⁰ Kelman, Herbert. “Social-Psychological Dimensions of International Conflict,” in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 101.

¹¹ Hopmann, P. Terrence. “Bargaining and Problem Solving: Two Perspectives on International Negotiation,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 458.

church leaders or respected elders. Arrange for facilities and have equipment ready should the conflict escalate or the negotiations need to relocate.

3. **Design a public information strategy** to monitor media coverage regarding the negotiations and to immediately address any false or misleading information. Make a list of contacts to disseminate information to, as necessary or helpful, and choose how to get the information out such as leaflets or a website. Be sure to communicate how the parties to the negotiation are committed to the process, but avoid unrealistic expectations such as increased foreign funding or employment. Such expectations, if left unfulfilled, likely will thwart implementation, and could cause a resumption of conflict.
4. **Implement the strategy** by identifying key information that is in the public's interest. Make contact with the persons on the contact list periodically to be sure their information is coming from the correct source instead of from unofficial persons who may give misinformation. Be available to journalists and other interested persons to insure they do not seek information elsewhere. Make sure that information is being disseminated using appropriate medium, monitor all media for signs of misinformation or inappropriate release of information, and immediately work to correct any problems.
5. **Engage with civil society** by including them in information and access. This will create wider acceptance of the outcome of negotiations. Strong civil societies come from transparency and a healthy non-governmental organization (NGO) sector. NGOs often have excellent networks and are tuned in to the local community, students and community members, and can be important political partners. Seek ways to transfer knowledge and skills to local activists interested in peacemaking and peacebuilding so that local capacity can be developed.
6. **Monitor and evaluate** the results of the media strategy, periodically assessing the media coverage, looking at frequency of coverage, source of coverage, and how the coverage is presented. This will indicate whether the message or delivery needs to be adjusted. After the negotiations have ended, evaluate each process in the strategy to see if it was effective and note success and failures in each step to prepare better for the next time, and share these *lessons learned* with interested parties.¹²

Another point to consider is that divergent priorities are likely to exist between the parties and the media. Remember throughout that the media—formal or informal—are not likely to share the objectives of all the parties to a negotiating process and are much more likely than not to have a very different idea of what needs to be kept confidential. Expect your strategy to be at best a partial success.

Take cues from Tracks II and III. In some respects, Track II and III processes are much like brainstorming sessions, in that they generate “outside the box” ideas, as well as initial indicators of their acceptability. Moreover, Crocker, Hampson, and Aall note that “a series of ongoing

¹² Lehman, Ingrid. *Managing Public Information in a Mediation Process* (Washington, DC: United States Institute of Peace Press, 2009).

workshops organized at the track-two level by a group of academics...not only helped to recapture the political center in Northern Ireland, but also allowed for the building of personal relationships and trust at a time when the official peace process was breaking down.”¹³

Perspectives

Generating more options is a great challenge, and one of the techniques that I like to make sure I include in the training program that I’m involved in, is called brainstorming.

Amazingly, it is not an international technique. Many times, I’ve been in a workshop situation where there may be one or two individuals who had participated in brainstorming before. But what it does is it builds energy, it builds enthusiasm for coming up with creative ideas. So one person’s ideas will bounce off of another’s and create new ideas and options. Oftentimes there are creative solutions that come out of this technique that otherwise might have been overlooked. And once in while, you come upon really creative, free-thinking individuals in many situations, and unfortunately what I think happens is they may not be in positions of leadership. If the context or the situation is not conducive to allowing people to share their creative ideas, sometimes their options might be overlooked. So brainstorming is a really successful and positive technique to use in these kinds of situations, particularly where the same solution might have been tried several times previously and just hasn’t worked. It’s crucial to bring new ideas to the table.

-Jacqueline Wilson

When the substance of negotiations appear in the media, it chills the ability of both sides to think creatively in the course of the negotiation for negotiators to brainstorm, to think about possibilities, to think about alternatives, to think about options. Brainstorming does not involve things that will definitely be a part of an agreement, but it does give you the ability to be creative and think about alternatives. But if you feel that everything you say in the negotiating room will be repeated to the press, it means you will say very little in a negotiation that you might feel would embarrass you if were spoken outside the negotiating room. You wouldn’t say anything that would embarrass you to your authorities, to your government, or to whoever sent you to the negotiation. And you certainly wouldn’t think about saying anything that might be creative which may go beyond a very strict interpretation of your instructions. So it has a chilling effect upon negotiations.

-Ted Feifer

It is extremely important, if you are going to succeed in a negotiation, that you not allow the press to get you to say more than you meant to say. Especially about either explorations you may wish to take which go beyond your position, or what you’re being told in confidence by the other party. Nothing will kill a negotiation faster than if the parties with whom you are dealing feel they can’t trust you, they can’t count on your discretion, they can’t count on your confidence, and they can’t count on you to keep your mouth shut. The press’s job, the media’s job, is to get you to say things you probably shouldn’t say. You’ll say things you want to say,

¹³ Crocker, Chester, Fen Osler Hampson, and Pamela Aall, ed., *Herding Cats: Multi-Party Mediation in a Complex World* (Washington, DC: United States Institute of Peace Press, 1999), 671.

you'll say things you want them to hear, and you'll be disappointed that those don't show up in the story or they're buried under something else. But it is much important from a negotiating standpoint that you have the confidence of the parties with whom you are dealing, so that they feel they can talk with you candidly and explore ideas freely, than that you get some scoop by getting something that you know about their position or their potential flexibility out into the press.

-Mike Lekson

Forge Solutions

After generating options, negotiators can evaluate them according to their established criteria, and forge solutions.

Carefully evaluate win-win proposals. Win-win proposals, ones that appear to meet all sides' fundamental interests, must be tested against reality. Finding joint gains and creating value should be in the minds of most negotiators most of the time, but no matter how successful the effort, it's rare that a complete win-win solution will be found, and therefore realistic to expect that some degree of compromise will be required, a compromise in which everyone gives something to get something, but not every fundamental problem is solved.

The interest-based problem-solving approach favored by Mandela and de Klerk helped lead their negotiators to joint gains of historic proportion, including a functioning, multiracial democracy that brought South Africa widespread stability and an expanding economy in which ever greater numbers could share. But on many key points a compromise approach proved necessary. The dispute over constitutional supermajorities was an especially important case. The ANC was content to decide key issues by a simple majority, while the NP held out for a three-fourths supermajority. Particularly because this issue lent itself to numerical assessment, it proved suited to a split-the-difference compromise, and the negotiators settled on a two-thirds supermajority.

Build confidence in the process of trade-off. Kelman notes that in the early stages negotiators often focus on "mutual reassurance—in the form of acknowledgements, symbolic gestures, or confidence-building measures" that "help reduce the parties' fear of entering into negotiations when the outcome is uncertain and risky."¹⁴ These small steps must be reciprocated for the process to move forward. Kelman makes this observation:

Reassuring the other is rarely cost-free; the reassurance involves some concession—or at least is perceived to do so—and it often generates some domestic criticism. Thus, it is important that reassurance occur in a context in which the initiator receives a visible return. Reciprocity itself is a source of mutual reassurance in that it signals to the parties that their concessions will not simply be pocketed by the other, but are likely to advance their own interests.¹⁵

¹⁴ Kelman, Herbert. "The Interactive Problem-Solving Approach," in *Managing Global Chaos: Sources of and Responses to International Conflict*, Crocker, Hampson, and Aall, (Washington, DC: United States Institute of Peace Press, 1996), 507.

¹⁵ Kelman, Herbert. "Social-Psychological Dimensions of International Conflict," in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 76.

Strengthen relationships. In Saunders' view, "The critical part of the scenario is not the action list, but the idea of reinforcing interactions. It is important because relationships change in the course of those interactions."¹⁶

Develop a pattern of reciprocal compromise. If a pattern of reciprocity has been established, for example in the exchange of information, then this pattern should help in establishing reciprocity in making concessions. Small confidence-building measures can eventually lead to the more weighty compromises needed to break stubborn substantive deadlocks.

Build momentum. In developing an effective agenda, Kelman points out that it's usually helpful to "move gradually toward an overall settlement by first achieving agreements on a series of less contentious issues."¹⁷ In this way, the process will begin to build momentum. There are, however, exceptions to this pattern, for example when far-sighted leaders make a bold move to jump-start a process, as the case when President de Klerk made his surprise announcement to release Mandela.

Stick to deadlines. As you dissect a complex problem into component parts and address each component sequentially, it's often helpful to agree with your counterpart on interim deadlines or targets, and then try to stick to them. Setting this pattern helps to establish professionalism and can help create the momentum necessary to break inevitable logjams. But this approach can be used against whichever party is more eager for an agreement. Even when both parties genuinely want a deal, it can at certain times be effective to allow flexibility into the process and extend a deadline. This tactic will be more effective if not overused.

Perspectives

Perhaps the greatest obstacle once you have two parties that have agreed to come to a negotiation table, that do genuinely feel that they want to come to a peace agreement but just have no idea how to do this because there's a complete lack of trust on both sides. And because this conflict has been raging for so long, that seems to be one of the huge key obstacles—the issue of trust. One of the ways you can build trust is to reach for small accomplishments. Have one side or the other propose small things that can be seen as gestures of confidence and gestures of goodwill, in order to move down the road to the point where there's enough trust to be built up that people feel comfortable talking about the more sensitive issues.

-Jonathan Morgenstein

I'm thinking about alternatives if I've reached a dead end—what have I forgotten, what are differences I can add, what are alternative approaches we haven't considered, are there new

¹⁶ Saunders, Harold. "Pre-negotiation and Circum-negotiation: Arenas of the Peace Process," in *Managing Global Chaos: Sources Of and Responses To International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 1996), 430.

¹⁷ Kelman, Herbert. "Social-Psychological Dimensions of International Conflict," in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 88.

elements I can bring into the discussion? In thinking once again about the subject of water usage—quantities of water, quality of water, water during a dry season or during a drought or during a summer—to think about elements that I might not have thought about and used in a negotiation.

-Ted Feifer

5.5: Verify Commitments

Focus on Implementation

The deal isn't complete when you simply get an agreement. The deal is done when you and the other parties actually implement the agreement. Many things can go wrong between the handshake that signals agreement and successful implementation.

There might be changes to facts on the ground that undercut your agreement, or even render it useless, in whole or in part. Another side might go back on parts of your agreement, or all of it, or you might find that from the beginning there has been a fundamental misperception of what was said. Your specific counterparts might be overruled by ratifiers at higher levels in their power structures. Your counterpart might experience an entire change of ratifiers. The new regime might have no interest in implementing your deal, might be fundamentally opposed to it, or might have even come to power because you gained too many concessions from the old regime or the same change may occur on your side, for the same reasons. Many of the approaches and procedures that we have outlined in this course are intended to help head off such problems.

In other words, there are many things that can go wrong in the implementation of your agreement, and a number of them are beyond your control. At the same time, however, you can take important steps to improve your chances of success, of getting firm commitment at the close of your deal, and meaningful implementation beyond it. We are now at Saunders' last phase: "Acting Together to Implement Agreements."

This final phase typically involves several important steps:

- ***Confirm Agreement with Ratifiers***
- ***Assure that Commitments are Verifiable***
- ***Develop a Dispute Resolution Process***
- ***Establish Enforcement Mechanisms***
- ***Get Commitments in Writing***

Use Existing Relationships. In most cases, relationships that have developed in the earlier phases of the negotiation will continue to have value in the implementation phase. It's in your best interest to take advantage of them. As Spector and Zartman state, "Continued personal

relationships play a large role in the course of postagreement talks. Many of the same people involved in the initial negotiations often continue to represent their parties in the aftermath.”¹

These parties will know each other and the issues very well. In Spector and Zartman’s words, “When the initiating negotiations got under way, many things were yet to be defined—the issues and issue linkages, actor positions and interests, and actor relationships.” But by the end of the negotiation, the parties have gone through a difficult and time-consuming process to overcome these uncertainties. As the parties approach implementation, they “know the positions and interests of other signatories” and “usually have developed informal working relationships with one another—working in caucuses or coalitions toward mutually accepted goals.” These hard-won bits of knowledge and carefully-built relationships should be leveraged in the final, difficult phase of implementation, which will focus on new sets of “issues, concerns, and interests involved more with the detailed rules and procedures needed to get it done than with the broader norms and principles of getting to yes.”²

Related Resources from USIP: [*Getting it Done: Post-Agreement Negotiation and International Regimes*](#)

Edited by Bertram I. Spector and I. William Zartman

As its title suggests, *Getting It Done* explores how international regimes accomplish their goals—goals that constantly shift as problems change and the power of member-states shifts. In a series of conceptually bold opening chapters, the volume editors emphasize that successful evolution depends above all on a process of continuous negotiation—domestic as well as international—in which norms, principles, and rules are modified as circumstances and interests change.

Confirm Agreement with Ratifiers

Beginning in the preparation phase, and continuing throughout the negotiation, you will have studied all ratifiers, either directly or indirectly, your counterpart’s as well as your own.

At every phase, you will have considered their reactions to your various moves and countermoves, and labored to get their buy-in. Even so, the last phase of the negotiation is invariably the most difficult, when a deal appears to be in the works, there will be a temptation to reopen issues that had appeared to be settled in the expectation that the other party or parties will not want to throw away a hard-won agreement. This idea may well occur to those whom you are representing, not just to the other side. This is easier to manage if, throughout the negotiating process, you have regularly confirmed the essential elements of the agreement with your ratifiers.

Assure that Commitments are Verifiable

It’s also important to determine that the commitments are verifiable, or at least that there is some sort of monitoring mechanism, and that all relevant ratifiers are comfortable with the verification

¹ Spector, Bertram I. and I. William Zartman, *Getting it Done: Postagreement Negotiation and International Regimes* (Washington, DC: United States Institute of Peace Press, 2003), 56.

² Spector, Bertram I. and I. William Zartman, *Getting it Done: Postagreement Negotiation and International Regimes* (Washington, DC: United States Institute of Peace Press, 2003), 58-9.

methods. First, it's important to ascertain the extent to which verification is even physically possible, a determination in which technical expertise is often essential. Also, you should consider the reciprocal nature of verification, and the challenges that this might pose for stakeholders on all sides.

For example, the START I Treaty between the U.S. and the Soviet Union (later extended to the successor states of the Soviet Union) required substantial reductions in each side's strategic nuclear weapons—a very important agreement, also notable for its verification provisions.

The U.S. State Department makes this clear:

A significant aspect of the START Treaty's regime lies in its use of rigorous, equitable and verifiable methods to monitor its implementation. The right to perform on-site inspections and other verification measures will continue for the duration of the Treaty, in order to verify compliance. In addition, data exchanges and notifications on each side's strategic systems and facilities as well as exchanges of telemetry data from missile flight tests will help to maintain confidence in the status and level of the Parties' strategic forces.³

In the language of your written agreement, it's important to make your performance contingent on the performance of your counterpart, giving them incentive to comply and providing you a way out of a deal that may be turning bad. If you are asked to commit to an agreement without a general understanding along these lines, or containing provisions that you will not be able to verify, you should reevaluate your assessment of the commitment of the other parties.

Perspectives

When you think you have an agreement, that's when you need to be even more careful than before. You need to make sure, first of all, that whoever back home cares about this knows what you think you have, and knows what you think it means. And if you think it's a good agreement, if you think it's an agreement that protects and advances your interests and it's the best deal that you're going to get, you need to be able to explain that in a way that will convince them. They need to hear about it soon and they need to hear about it from you. An example would be, from the negotiations I worked on in the 1980s, the Intermediate-Range Nuclear Forces Negotiations, with the famous so-called "Walk in the Woods," when the U.S. and Soviet negotiators literally walked in the woods, away from their delegations, and talked about the possible deal which was very different, at least was seen to be very different, from the formal positions that their two capitals had sent them out there to advance. They said, "Okay, we've reached a tentative understanding about how this might work; we will go back to our capitals when the formal negotiation process recesses for a few weeks and we will see what people think." They both had to come back to Geneva, when the next negotiating round began, and tell each other, "Well, it didn't work. It turned out, I made a lot of suggestions, I

³ Federation of American Scientists, "START Treaty Final Reductions, U.S. Department of State Fact Sheet, December 5, 2001," <http://www.fas.org/nuke/control/start1/news/startfinalnum.htm>. .

made a lot of proposals, which my authorities back in my capital (and they each had to say this) were not prepared to support.”

You have to walk a delicate line between the need for confidentiality and to be able to explore ideas with your negotiating counterpart that you’re trying to make a deal with, and also to keep the people on whose behalf you’re negotiating informed of what you’re doing. It’s not easy, there’s no general rule about how to do it, but if you forget one or the other of those two essential elements of what you are doing, you’re going to be in real trouble.

-Mike Lekson

Frankly, I think that the implementation side should be thought of before you actually reach your agreement. In drawing up an agreement one really does need to think about what the implementation would look like. Far too many peace agreements have gotten lost on the implementation side. This is very unfortunate since the relationship and trust that was built to reach the agreement is simply lost because implementation doesn’t take place. And it doesn’t take place because it wasn’t planned for; it wasn’t part of the agreement and the agreement wasn’t designed in such a way that implementation was part of it. I think the peace process in Aceh was a very good example. It was a very ambitious peace process and in many ways it was very successful. But the memorandum of understanding also was so vague—in a sense to allow both parties a little wiggle room. But at the same time it was so vague that implementation was very challenging. It’s taken much longer and been a much bumpier road than it might have been if implementation had been written in the agreement.

-Mary Hope Schwoebel

During negotiation it’s wonderful when both parties come to a win-win, they’ve problem-solved, they’ve collaborated, and the parties are satisfied with the agreement. But you also have to remember that will this agreement will last with the constituents—will the people back home approve this, will this last, will the village agree to this, will the parties back home, will the company, the headquarters, the State Department—will this last? Keeping in mind the approvers and the people who need to indeed agree with this negotiation is something that cannot be overlooked.

-Nina Sughrue

Develop a Dispute Resolution Process

Formally negotiated agreements are only required if there are problems that normal goodwill cannot resolve. Underlying interests are rarely changed as a result of a negotiation; they are thus likely to be pursued in other ways. Anything that was omitted from a negotiated agreement, or any problem that was papered over and not actually solved, may very well create problems in the implementation phase.

What to one side may seem like a legitimate exercise of its rights can appear to the other side as an attempt to circumvent or undercut the deal. In some cases, the situation changes, presenting new problems that negotiators were not even in a position to address. For all these reasons, it’s important to establish a formal, rigorous dispute resolution process.

Even if you haven't used a third party in the process to get to an agreement, you might consider a third party to help with verification and dispute resolution. International or regional organizations are often involved in these kinds of efforts.

Establish Enforcement Mechanisms

You must also consider what kinds of sanctions will be in place if one side or another does not live up to the agreement. Better to consider this during the negotiations, and immediately thereafter, while commitments are fresh and original negotiators are still in place, rather than defer it until after there has been a breach.

Enforcement is often problematic. Unlike business or legal disputes, which normally may be brought to qualified bodies for adjudication and enforcement, peace agreements usually occur in a context where specific enforcement mechanisms may not be feasible. For this reason, negotiated regimes are often implemented piecemeal on a reciprocal basis. If parts of the original regime prove unsustainable, they sometimes can be renegotiated, although there is usually understandable apprehension that plucking at these threads may start to unravel the whole deal. Otherwise, in response to breaches that are not remedied by the other side, the only other lever each side ultimately has is to withdraw from or abrogate an agreement. It is for this reason that collaborative approaches, integrative solutions, and restructured relationships are particularly important in peace negotiations.

Perspectives

Verification is extremely important in a negotiation, certainly in the arms control negotiations that I've been working on, but also in others. There was a verification working group moving ahead the whole time over all the years working on the INF, also over other arms control negotiations—identifying the problems, how are you actually going to know with some confidence what the other side is doing and what it's pledging to do and so forth. How much intrusiveness are we willing to accept ourselves? These are very important questions for the substance of the agreement and for the prospects of ratification, and you don't want to ask them the last minute. You want them to be addressed throughout the negotiation process, and in a way in which the questions being addressed in a verification working group are relevant to the details in what are being talked about in the other working groups of a negotiation.

-Mike Lekson

Another important role that unofficial actors, whether they are civil society, academics, or conflict resolution specialists can play is in the implementation phase of a negotiated agreement. They can help to monitor the agreement, they can help to actually fulfill certain elements of the agreement. In the example that I mentioned earlier, the Interreligious Council of Sierra Leone, which is a civil society group, they actually earned themselves a place, a seat at the table, in the actual negotiations at Lomai in 1999, and then later were actually involved in the implementation of several parts of the agreement around reconciliation efforts, around demilitarizing, demobilization, and demilitarization efforts. They were also engaged in spreading the knowledge of the peace agreement and disseminating copies of the peace agreement to the communities,

holding dialogues with community members in Sierra Leone to let them know about what the peace agreement was and to help people recover from conflict and really try to embrace a new attitude towards peace. So they were incredibly instrumental in helping to implement a number of the aspects of the peace agreement. That peace, I have to say, is still very fragile, which is another argument for really valuing and making use of unofficial actors, because very often the state representatives get sidetracked and move on to other issues. The international community often moves on to other issues. Unofficial actors, special civil society actors from that local context who were involved in peacemaking activities and peacebuilding activities, are the ones that are going to be there for the long term, and they're the ones that can really safeguard that peace agreement, hopefully make it last and help to implement it on the ground.

-Maria Jessop

When you have an agreement, you certainly want to get it down on a piece of paper and you want to make sure that what you think you've agreed on is the same thing that the opposite number thinks you've agreed upon. It's also useful to think about what you might do if one or another side doesn't follow through with the agreement—what are your options—always good to think about that at the same time. What might happen in that case? Then you have to send this to your authorities or whoever has to approve your negotiation and it's not over until everyone has actually approved the outcome.

-Ted Feifer

Get Commitments in Writing

When the ratifiers have confirmed their assent to the basic principles of the agreement, including the process for resolving disputes and whatever enforcement mechanisms might apply, your next step is to memorialize the agreement.

Although in some cases a handshake or other form of informal commitment might be sufficient, the only reliable way to memorialize an agreement is to ensure that you have all understandings in writing. The act of written documentation forces everyone to take a second look and think through the full ramifications of what has been agreed, and is especially important for future implementation, when memories will not be fresh, if the individuals who originally negotiated the agreement are even available at all.

Also, when applicable, creating written translation into different languages helps reduce the chances of misperception and misunderstanding. Generally, all stakeholders should have immediate access to the agreement as it is written; if someone is to challenge it, the challenge is easier dealt with while key personnel are in place and memories are fresh.

Look Ahead

To strengthen the relationship between former adversaries, few accomplishments carry as much weight as the successful implementation of a difficult agreement. As Saunders notes, “Implementing agreements is often thought of as a series of actions to be taken. It is less often thought of as part of a long-term political process for changing relationships.”

Successful implementation and the improved relationships that follow can help lead to future agreements. Saunders adds, “Paradoxically, in a continuing peace process that involves a sequence of negotiated agreements, implementation of one agreement may become part of preparing the political setting for the next, as faithful implementation builds confidence in the process and in the other party.”⁴

Perspectives

You are always going to have problems with implementation and there’s always going to be issues that are unexpected. The interpretation of language can often be very different, not because of bad faith but simply because people had different things in their mind when they reached that agreement. You might want to have a process in which the two sides recognize this is going to happen and they will have a procedure for dealing with unexpected issues, implementation issues, and differences. They may also want to have a process in which a third party is available to help them work through their differences. It can be an arbitrator or it can be a guarantor, there are lots of possibilities.

Ted Feifer

Even if there is complete understanding of what every term of the agreement means, there are going to be areas that you didn’t think about and that you didn’t cover in the negotiation.

There are going to be problems coming up that hadn’t occurred to you and you need to have some mechanism in place to address that. Every arms control treaty with which I am familiar has some kind of formal implementing body whose job it is to oversee the implementation and to be the place where the parties come when there are disputes, disagreements, or just to report the success or how the process is going of implementing the agreement. You need to have done that and have that ready in advance when the inevitable problems come up.

-Mike Lekson

I think that we often mistake the political imperative of calming the situation down with real success in building peace, and so we have a tendency to try to get signatures on a peace treaty or a government in place that seems calm, and once the killing is finished, we consider it to be finished, but in fact, it takes a lot of time for these parties to be able to trust each other and function in ways that make their society truly peaceful and truly functioning. We have a tendency to look at the outside and if they're not shooting each other we call it a success and I think that it would be, it would behoove us, as third parties, to be more careful about the real relationships on the ground of people that need to be able to trust each other. We need to be sensitive and listen for what they will tell us about whether they are able to trust and whether all the voices are being heard, whether there are people who are just staying quiet because they're actually afraid and may not show up on the political spectrum, and we need to be careful. We need to listen for what's going on in that society and make sure that we don't just

⁴ Saunders, Harold. “Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process,” in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 494.

leave it and take it as a success when it may just be that the voices of the people who are afraid are not being heard.
-Linda Bishai

Summary

Throughout this course, we have discussed and illustrated principles of effective negotiation, building on concepts from our conflict analysis course and in anticipation of our course in mediation and third-party roles.

In the first four chapters, we discussed basic elements of negotiating strategy and applied them to two extended real-world case studies. In this last chapter, we have focused the insights from the previous chapters into five keys to successful negotiation, one corresponding to each of the five steps in the negotiation process identified by Saunders. We have focused particularly on the question of how to put these abstract principles into actual, concrete practice.

In Saunders' first phase, "Defining the Problem and Deciding to Engage," we have recommended that you prepare extensively, doing your best to identify and analyze all actors, issues, positions, root causes, interests, leverage, BATNAs, and value-creating opportunities. We have encouraged you to aim high, but to inform your hopes and expectations with consideration of the other side's interests, applicable norms and standards, the weight of possible coalitions, and the other side's BATNA.

In Saunders' second phase, "Mapping Issues and Relationships," we have emphasized cultivating good working relationships with your counterpart, reminding negotiators why you are there, depersonalizing problems, establishing balanced procedures, building rapport, listening actively, asking questions, acknowledging other points of view (which is not the same as accepting them), presenting your case clearly, harnessing emotional reactions to conflict, and using leverage wisely.

In Saunders' third phase, "Generating the Will for a Joint Solution," we have emphasized focusing on interests. We have noted that there are risks to unreciprocated openness, so we have recommended maintaining caution; but given the potential of the collaborative, problem-solving approach, we have recommended taking steps to explore it. To overcome the reluctance of a hard-bargaining counterpart, we have recommended framing the problem-solving approach as self-interest, following the lead of Track II and III efforts, and in some cases considering the possibility of bringing in a third party. To make the approach work, we have suggested trying to view the conflict from your counterpart's eyes, looking for shared interests, and building relationships over time, at each stage penetrating the wall of hardened positions by asking what is at the root of those positions.

In Saunders' fourth phase, "Scenario Building and Negotiation," we gave several suggestions to help you solve problems, including breaking large problems down into smaller ones, separating substance from process, separating issues from standards, grouping individuals in productive ways, developing an agenda that allows you to build momentum, using interim or framework agreements, and, where appropriate, creating and sticking to deadlines. We have encouraged you to seek true value-creating opportunities. To facilitate this, we have recommended brainstorming,

challenging assumptions, inventing first and evaluating later, managing the press, taking cues from Track II and III, and showing your counterpart the benefits of change. We have also acknowledged realistic limits of value creation and suggested balanced, reciprocal exchange and trade-off for value that must be distributed.

Finally, in Saunders' fifth phase, "Acting Together to Implement Agreements," we have focused on the importance of reaffirming commitments with ratifiers, thoroughly documenting your agreement, establishing verification or monitoring mechanisms, establishing a dispute resolution process, establishing means of enforcement, and making good use of existing relationships during implementation. Writing these controls into your agreement will help deter all sides from going back on their commitments, and will foster constructively engaging on problems which are likely to emerge. Successful implementation of your agreement allows you to look ahead to improved relationships with your counterpart, which is very important as you contemplate future agreements.

Keep these ideas in mind for the next section, where you'll try an interactive exercise.

Mini-Quiz

You have completed all the material for this section. Now try this mini-quiz.

The U.S. and its NATO allies eventually dropped plans for the Multilateral Force (MLF) because...

- a. Some in the U.S. and NATO already had reservations about the MLF.
- b. The U.S. and NATO had alternative ways of meeting their objectives.
- c. The Soviets considered blocking MLF a sufficiently high priority that in exchange, they were prepared to accede to other U.S. or NATO concerns.

For answers, see Appendix A.

Exercise: The United States and the People's Republic of China

This case study will give you an opportunity to apply some of what you've learned about negotiation to a real-world situation from a few decades ago, which has direct bearing on a very important international relationship of the present day.

The passage below describes negotiations that led to normalization of relations between the United States and the People's Republic of China in the 1970s. As you read the information, pay particular attention to the following topics:

Positions & Interests

Relationships & Confidence-Building Measures

Leverage & Process

Deferral & Compromise

Normalizing Relations

In the early years of the Cold War, relations between the United States and the People's Republic of China were competitive and confrontational. Ideological and cultural differences exacerbated mutual suspicions. But eventually, through careful negotiations, they forged, in the words of Richard Solomon, "a relationship in which the two countries could eliminate the hostility of the Cold War era, manage continuing differences over the future of Taiwan in a non-confrontational manner, and cooperate in limited measure in dealing with shared international political, and security problems, primarily the military threat to both countries from the Soviet Union."¹ Broadly examined, these negotiations demonstrate many of the principles in this course.

Background

The U.S. recognized Chiang Kai-shek's Nationalists as the government of China throughout the Chinese Civil War, which began in 1927. After the 1949 victory of Mao Zedong's Communists, the U.S. did not recognize Mao's People's Republic of China (PRC), which controlled mainland China, and instead continued to support Chiang's Republic of China (ROC), composed of Taiwan and a few smaller islands. The ROC retained China's permanent seat on the U.N. Security Council. The Korean War (1950-1953) marked the low point for U.S./PRC relations, as the two countries fought in support of South and North Korea respectively. Meanwhile, the "Who lost China?" issue made any change in U.S. China policy explosive in the U.S. domestic context.

In the 15 years following the Korean War, the U.S. and PRC conducted mid-level discussions in Warsaw that made little progress on core differences.² By the late 1960s, the positions of the U.S. and PRC had changed little, particularly on Taiwan. The U.S. maintained that the legitimate government of China was the ROC, and continued economic, diplomatic, and military cooperation with it, including a defense treaty, a U.S. military presence, weapons sales, and trade. The PRC called Taiwan an unresolved internal matter, opposed all U.S. support for the ROC, and sought China's permanent seat on the U.N. Security Council.³

Nonetheless, the U.S. and PRC shared strategic interests in improving bilateral relations, especially to balance growing Soviet power.⁴ These shared interests grew in priority for the U.S.

¹ Solomon, Richard H. *Chinese Negotiating Behavior: Pursuing Interests Through "Old Friends"* (Washington, D.C.: United States Institute of Peace Press, 1999), 14.

² Solomon, Richard H. *Chinese Negotiating Behavior: Pursuing Interests Through "Old Friends"* (Washington, D.C.: United States Institute of Peace Press, 1999), 23.

³ Armstrong, Tony. *Breaking the Ice: Rapprochement Between East and West Germany, the United States and China, and Israel and Egypt* (Washington, D.C.: United States Institute of Peace Press 1993), 116.

⁴ Gaddis, John Lewis. *The Cold War: A New History* (New York: Penguin Press 2005), 114, 150-151.

after the Soviet invasion of Czechoslovakia in August 1968, and for the PRC after Sino-Soviet tensions nearly escalated into outright conflict in March 1969 near the Ussuri River.⁵

Laying the Foundation

In 1969, the new administration of President Richard Nixon began to act on this opportunity for change. The U.S. and PRC began sending public signals and opening private communication channels. Public gestures, including a Chinese invitation to the U.S. National Table Tennis Team, built some trust and created momentum for negotiations. Private messages were also exchanged between officials as part of the relationship-building process, or *guanxi* as it is known in Chinese.⁶ In Solomon's words, this combination of public and private gestures helped the two sides assure one another that they "did, in fact, share common political objectives," and started a process that would eventually lead to normalization of relations between the U.S. and PRC, although several years would pass before agreement on formal recognition.⁷

The U.S. held considerable economic, military, and political leverage, including its powerful position within the United Nations, which it had used to prevent the PRC from gaining entry into the U.N. system and from assuming China's Security Council seat. But, after more than two decades, the notion that the ROC in Taiwan should represent all of China in the U.N. had grown decreasingly credible. Recognizing its weakening position, the U.S. shifted focus to a "dual representation" proposal, which would have allowed the PRC to take the Security Council seat and the ROC to remain in the General Assembly.⁸ The PRC's momentum was too great and before the "dual representation" proposal could be considered, the GA voted to grant the PRC U.N. credentials. The U.N. vote was a setback for the U.S. and may have shifted some leverage toward the PRC in how Taiwan was addressed in bilateral negotiations. But both the U.S. and China continued to pursue an agreement, which would provide formal recognition of their new, more positive relationship, because that was in both countries' interests in the context of their strategic triangle with the Soviet Union.

Shanghai Communiqué

Thus, even though the two sides maintained contrasting positions on a number of issues, they continued working to find common ground. This resulted in two important steps to begin a high-level negotiation process: the mutual dropping of preconditions, and the setting of an agenda. These accomplishments cleared the way for senior engagement, initially through a secret visit to Beijing in July 1971 by U.S. National Security Advisor Henry Kissinger.

The PRC continued to seek full diplomatic recognition from the U.S. and an end to U.S. support of the ROC. The U.S., which had a strong interest in demonstrating that it would continue to support its allies in Asia and around the world, worked to formulate a stance that would allow Taiwan to control its own future, while also transforming its relationship with the PRC. During

⁵ Armstrong, Tony. *Breaking the Ice: Rapprochement Between East and West Germany, the United States and China, and Israel and Egypt* (Washington, D.C.: United States Institute of Peace Press 1993), 136.

⁶ Cohen, Raymond. "Negotiating Across Cultures," in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fenn Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 470-471.

⁷ Solomon, Richard H. *Chinese Negotiating Behavior: Pursuing Interests Through "Old Friends"* (Washington, D.C.: United States Institute of Peace Press, 1999), 34.

⁸ Kissinger, Henry. *The White House years* (London: Phoenix, 2000), 770-774.

Kissinger's visit, the parties agreed on the following statement: "The United States acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is part of China. The United States Government does not challenge that position."⁹ This statement, along with a mutual commitment to normalize U.S./PRC relations and oppose Soviet hegemony, opened the door to Nixon's visit the following February, where the two sides negotiated and issued the joint Shanghai Communiqué.

In it, the U.S. reaffirmed "its interest in a peaceful settlement of the Taiwan question by the Chinese themselves," and noted "the ultimate objective of the withdrawal of all U.S. forces and military installations from Taiwan."¹⁰ However, the U.S. also made clear that it would only reduce its military forces there as tensions diminished, and refused to address the question of its continuing arms sales to Taiwan. In fact, the U.S. argued that sudden removal of its security umbrella from the region would worry allies like Japan and South Korea, and could lead them to increase their own military capabilities in ways that would be worrying to China. Thus, while acknowledging that the Chinese on both sides of the strait must settle the Taiwan question themselves, the U.S. helped ensure that it would indeed be resolved peacefully and not as the result of PRC military action. The U.S. also enhanced its negotiating leverage with the Soviet Union in nuclear arms control and other issues. Overall, through a balanced arrangement of general agreement on long-term principles and deferral of their specific application, the Shanghai Communiqué opened the doors for trade, cultural exchanges, and informal diplomatic relations between the U.S. and PRC.

For a number of years after the Shanghai Communiqué, a variety of political and security factors prevented further progress in U.S./PRC relations. In 1978, as part of an effort to get negotiations back on track, U.S. President Jimmy Carter explicitly reaffirmed his commitment to the principles of the Shanghai Communiqué and sent his National Security Advisor, Zbigniew Brzezinski, to build on the work of Nixon and Kissinger.

In subsequent negotiations, the U.S. and China agreed that the U.S. would make a statement regarding the peaceful settlement of the Taiwan problem and that Beijing would not contradict that statement.¹¹ The U.S. would also maintain a "full range of relations with Taiwan on an unofficial basis."¹² The U.S. would withdraw from its defense treaty with the ROC within a period of one year, and would remove its remaining troops from Taiwan. China gained a commitment that the U.S. would withdraw from its defense treaty with the ROC within one year, and also remove its remaining troops from Taiwan. Again, as a way of helping deter any military action by the PRC, the U.S. refused to consider stopping the sale of weapons to Taiwan, but held out the future prospect of a negotiated resolution of the issue. Under these conditions, the U.S. and the PRC established formal diplomatic relations on January 1, 1979.

⁹ Kissinger, Henry. *The White House Years* (London: Phoenix, 2000), 1079.

¹⁰ *The Joint U.S.-China Communique, Shanghai, February 27, 1972 (Shanghai Communique)*. URL located at: http://usinfo.org/docs/basic/shanghai_e.htm (accessed November 25, 2009).

¹¹ Ross, Robert S. *Negotiating Cooperation: The United States and China, 1969-1989* (Stanford: Stanford University Press, 1995), 109.

¹² *Joint Communique on the Establishment of Diplomatic Relations Between the United States of America and the People's Republic of China*. URL located at: http://hongkong.usconsulate.gov/uscn_docs_jc1979010101.html (accessed on November 25, 2009).

Self-Study Exercise

Positions and Interests:

1. Describe opposing positions held by the two sides (the U.S. and the PRC) at the outset of negotiations.
2. Describe shared interests motivating the two sides to work towards an agreement.

Relationships and Confidence-Building Measures:

3. Describe the relationship between the two sides during the Cold War.
4. Describe the two sides' uses of confidence-building measures.

Leverage and Process:

5. Describe sources of leverage held by the two sides.
6. Describe elements of process apparent in the narrative.

Deferral and Compromise:

7. List difficult issues that the two sides deferred for a later date.
8. List areas where the two sides found compromise.

For answers, see Appendix B.

Now that you have completed the course, you may take the certificate exam online at:
<http://www.usip.org/training/online/negotiation/exam.php>.

Good luck with the exam!

Appendix A: Mini-Quiz Answers

Section 2.1

BATNA stands for which of the following concepts:

- a. Beliefs, Attitudes, and Tactics in Negotiating Agreements
- b. Best Attempt To Negotiate Agreement
- c. Best Alternative To a Negotiated Agreement
- d. Better Action Through Negotiated Alternative

Answer: c

Section 2.2

Understanding cultural differences can be helpful to negotiators. Of the following statements, which correctly describes a key difference between useful generalizations and counterproductive stereotypes?

- a. A useful generalization is streamlined and easy to remember and apply; stereotypes are counterproductive because they are too complex for practical use in the field.
- b. A useful generalization applies to all individuals within a group; stereotypes are not as reliable because they apply only to some.
- c. A useful generalization can be counted on not to change over time; stereotypes are only good for first guesses.
- d. None of these statements is accurate.

Answer: d

Section 2.3

Which of the following describes an important consideration for negotiators who are contemplating use of “carrots and sticks”?

- a. Threatening military force is a low-risk strategy that shows your counterpart how seriously you take the issues.
- b. In the wrong context, threats may simply stiffen resistance and prove damaging to long-term counterpart relationships.
- c. Positive incentives always send a signal that you see yourself in a weaker position and must “bribe” your way to a positive outcome.
- d. All of the above.

Answer: b

Section 2.4

In which of the following ways to Track II and Track III leaders often contribute to peace negotiations?

- a. In informal settings, Track II and III leaders may be the first to explore creative solutions to long-standing problems.
- b. With specialized expertise, Track II and III leaders may be called on to serve in working groups in formal negotiations.

- c. With broad ties to their communities, Track II and III leaders can be helpful in rebuilding relationships once a peace agreement has been reached.

Answer: d

Chapter 3

Which of the following was the most successful attempt to use leverage?

- a. The African National Congress's staging of massive strikes, which demonstrated the movement's popular support.
- b. The National Party's covert military and financial support to the Inkatha Freedom Party, which helped to build a broad coalition.
- c. The Inkatha Freedom Party's threat to boycott national elections, which forced substantial concessions from the other parties.
- d. The Afrikaner Weerstandsbeweging's raid on the official negotiating forum in Johannesburg, which demonstrated the level of commitment felt by white conservatives.

Answer: a

Chapter 4

In what way did the plan put forth by Bernard Baruch to the United Nations differ from the ideas presented in the Acheson-Lilienthal Report?

- a. Strict verification and enforcement were fundamental in Baruch's plan, but not in the ideas presented in the Acheson-Lilienthal Report.
- b. The Baruch plan covered conventional weapons as well as nuclear weapons as well as nuclear weapons, while the Acheson-Lilienthal Report on considered nuclear weapons.
- c. The Acheson-Lilienthal Report was concerned with peaceful uses of nuclear technology, while the Baruch plan was not.
- d. All of the above.

Answer: a

Chapter 5

The U.S. and its NATO allies eventually dropped plans for the Multilateral Force (MLF) because...

- a. Some in the U.S. and NATO already had reservations about the MLF.
- b. The U.S. and NATO had alternative ways of meeting their objectives.
- c. The Soviets considered blocking MLF a sufficiently high priority that in exchange, they were prepared to accede to other U.S. or NATO concerns.

Answer: d

Appendix B: Self-Study Exercise Answers

Positions and Interests:

1. Describe opposing positions held by the two sides (the U.S. and the PRC) at the outset of negotiations.

Answer: In the late 1960s, the U.S. and PRC maintained opposing positions, particularly regarding Taiwan. The U.S. maintained that the legitimate government of China was the ROC, and continued economic, diplomatic, and military cooperation with it, including a defense treaty, a U.S. military presence, weapons sales, and trade. The PRC called Taiwan an unresolved internal matter, opposed all U.S. support for the ROC, and sought China's permanent seat on the U.N. Security Council. Additionally, the PRC sought full diplomatic recognition from the U.S. and an end to U.S. support of the ROC.

2. Describe shared interests motivating the two sides to work towards an agreement.

Answer: The U.S. and PRC shared strategic interests in improving bilateral relations, especially to balance growing Soviet power. These shared interests grew in priority for the U.S. after the Soviet invasion of Czechoslovakia in August 1968, and for the PRC after Sino-Soviet tensions nearly escalated into outright conflict in March 1969 near the Ussuri River. In the context of their strategic triangle with the Soviet Union, the U.S. and China pursued an agreement that would provide formal recognition of their new, positive relationship. The U.S. had a strong interest in demonstrating that it would continue to support its allies in Asia and around the world. Even though the two sides maintained contrasting positions on a number of issues, they continued working to find common ground.

Relationships and Confidence-Building Measures:

3. Describe the relationship between the two sides during the Cold War.

Answer: In the early years of the Cold War, relations between the United States and the People's Republic of China were competitive and confrontational. Ideological and cultural differences exacerbated mutual suspicions. The Korean War (1950-1953) marked the low point for U.S./PRC relations, as the two countries fought in support of South and North Korea respectively. Meanwhile, the "Who lost China?" issue made any change in U.S. China policy explosive in the U.S. domestic context. However, due to the shared interests previously discussed, through a balanced arrangement of general agreement on long-term principles and deferral of their specific application, the Shanghai Communiqué opened the doors for trade, cultural exchanges, and informal diplomatic relations between the U.S. and PRC. Under these conditions, the U.S. and the PRC established formal diplomatic relations on January 1, 1979.

4. Describe the two sides' uses of confidence-building measures.

Answer: The U.S. and PRC began sending public signals and opening private communication channels. Public gestures, including a Chinese invitation to the U.S. National Table Tennis Team, built some trust and created momentum for negotiations. Private messages were also exchanged between officials as part of the relationship-building process, or *guanxi* as it is known in Chinese. In Solomon's words, this combination of public and private gestures helped the two sides assure one another that they "did, in fact, share common political objectives." Later, the mutual dropping of preconditions and the setting of an agenda were two important steps to begin a high-level negotiation process.

Leverage and Process:

5. Describe sources of leverage held by the two sides.

Answer: The U.S. held considerable economic, military, and political leverage, including its powerful position within the United Nations, which it had used to prevent the PRC from gaining entry into the U.N. system and from assuming China's Security Council seat. But, after more than two decades, the notion that the ROC in Taiwan should represent all of China in the U.N. had grown decreasingly credible. Recognizing its weakening position, the U.S. shifted focus to a "dual representation" proposal, which would have allowed the PRC to take the Security Council seat and the ROC to remain in the General Assembly. The PRC's momentum was too great and before the "dual representation" proposal could be considered, the GA voted to grant the PRC U.N. credentials. The U.N. vote was a setback for the U.S. and may have shifted some leverage toward the PRC in how Taiwan was addressed in bilateral negotiations.

6. Describe elements of process apparent in the narrative.

Answer: The mid-level discussions in Warsaw between the U.S. and PRC in the 15 years following the Korean War were elements of process, though they made little progress on core differences. Later, the combination of public and private gestures started a process that would eventually lead to normalization of relations between the U.S. and PRC. Two important steps to begin a high-level negotiation process were the mutual dropping of preconditions, and the setting of an agenda. These accomplishments cleared the way for senior engagement, initially through a secret visit to Beijing in July 1971 by U.S. National Security Advisor Henry Kissinger. The statement agreed upon during Kissinger's secret visit to Beijing, along with a mutual commitment to normalize U.S./PRC relations and oppose Soviet hegemony, opened the door to Nixon's visit the following February, where the two sides negotiated and issued the joint Shanghai Communiqué. In 1978, as part of an effort to get negotiations back on track, U.S. President Jimmy Carter explicitly reaffirmed his commitment to the principles of the Shanghai Communiqué, a move that contributed to the process at large, and sent his National Security Advisor, Zbigniew Brzezinski, to build on the work of Nixon and Kissinger.

Deferral and Compromise:

7. List difficult issues that the two sides deferred for a later date.

Answer: The difficult issues that the two sides deferred for a later date are: the question of Taiwan, the issue of arms sales to Taiwan, the application of the long-term principles outlined in the Shanghai Communiqué, following the Shanghai Communiqué formal recognition did not come for several years,

8. List areas where the two sides found compromise.

Answer: Compromise was found between the two sides with: the withdrawal of all U.S. forces and military installations from Taiwan as long as tensions diminished; the balanced, general agreement on long-term principles in the Shanghai Communiqué, which was in itself a compromise; the U.S. agreement to maintain a full range of relations with Taiwan on an unofficial basis; the withdrawal of the U.S. from its defense treaty with the ROC; the removal of U.S. troops from Taiwan; and the U.S. holding out for the future prospect of a negotiated resolution of the issue of weapons sales to Taiwan.