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NEGOTIATING CIVIL RESISTANCE

Anthony Wanis-St. John and Noah Rosen



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ABOUT THE REPORT

This report reveals how negotiation and civil resistance are deeply entwined and offers insights into how negotiation is more than an appendage of a civil resistance campaign, but instead a critical element of strategy. Drawing on the extensive literature on negotiation and civil resistance, the report grew out of the panel "From Civil Resistance to Peaceful Resolution," held at the United States Institute of Peace in March 2016 and organized by Maria Stephan.

ABOUT THE AUTHOR

Anthony Wanis-St. John is an associate professor in the School of International Service at American University, where he focuses on international negotiation. An adviser to the Academy of International Conflict Management and Peacebuilding at USIP, he conducts advanced negotiation, mediation, and conflict resolution trainings for US military and civilian agencies, international organizations, humanitarian NGOs, and business organizations around the world. Noah Rosen is pursuing a PhD at the School of International Service. His research focuses on the intersection of peacebuilding and civil resistance and examines the strategies marginalized groups adopt to influence national-level peace processes.

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United States Institute of Peace 2301 Constitution Ave., NW

2301 Constitution Ave., NW Washington, DC 20037

Phone: 202.457.1700 Fax: 202.429.6063

E-mail: usip_requests@usip.org

Web: www.usip.org

Peaceworks No. 129. First published 2017.

ISBN: 978-1-60127-661-2

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PEACEWORKS • JULY 2017 • NO 129

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[If negotiation skills are essential to the success of nonviolent movements, then activists and negotiation scholars and practitioners need to make a more concerted effort to build relationships to share information and build capacity on essential negotiation, mediation, and conflict resolution skills.]

Summary

- Nonviolent uprisings and protest movements can help channel popular discontent into positive political and social change.
- Negotiation can enable opposition movements to more effectively press for such change.
- Despite enormous complementarities, civil resistance activists and negotiation scholarpractitioners have tended to develop separate communities of practice and divergent theories.
- Rights advocates often focus on ends; the conflict resolution community emphasizes processes and methods.
- Demands of a movement can be structured to make either pragmatic, incremental gains toward justice or peace, or far-reaching, transformative changes to restructure a system.
- Movement leaders need to recognize the three key purposes of a demand: collectivizing, dramatizing, and generating momentum.
- Direct action campaigns should increase the social power of a movement by mobilizing key populations and establishing the moral high ground of the movement vis-à-vis the target regime.
- Effective direct action has a clear target, whether a policy or a regime.
- Broad-based participation that moves beyond demonstration and becomes transgressive shows the opponent that obedience and compliance cannot be taken for granted.
- The leverage nonviolent movements have depends on the quality and strength of the negotiated agreements within the coalition and with the regime. Such negotiations are far from a mere formality: the process of unpacking an old regime and rebuilding a functional, harmonious society is usually a process, rarely a definitive end-state.
- Rather than marking the formal end of a civil resistance campaign, negotiation is essential to successfully initiating, expanding, and sustaining it.
- Despite clear and important cleavages and divergence between the negotiation and conflict resolution field, on the one hand, and the civil resistance field, on the other, their convergence is promising.

Introduction

You may well ask: "Why direct action? Why sit ins, marches and so forth? Isn't negotiation a better path?" You are quite right in calling for negotiation. Indeed, this is the very purpose of direct action...to create a situation so crisis packed that it will inevitably open the door to negotiation. I therefore concur with you in your call for negotiation. Too long has our beloved Southland been bogged down in a tragic effort to live in monologue rather than dialogue.

—Dr. Martin Luther King Jr., "Letter from a Birmingham Jail," 1963

Nonviolent uprisings and protest movements often help channel popular discontent into positive political and social change. Civil resistance movements around the world have been able to challenge unjust laws and policies, change entire governments, and compel warlords to come to the peace table. Negotiation is also a critical component of social and political change. As persuasive and nonviolent communication, it can address substantive differences and relationships within opposition movements, enabling them to more effectively press for change. When a repressive regime is toppled by a civil resistance prodemocracy movement, the process of negotiated change continues beyond the departure of the old regime: the creation of new constitutions, social contracts, and political orders is usually an ongoing negotiated process.

Symbiosis between civil resistance and negotiation is long-standing. Martin Luther King Jr.'s logic was to compel segregationists to negotiate in the pursuit of greater social justice. Mahatma Gandhi used negotiation with the British Raj to attain legitimacy and gain access to the British authorities following the Salt Satyagraha. After mass mobilization and strikes, the Polish Solidarity movement negotiated its way into power and transitioned Poland away from authoritarianism. Saul Alinsky, one of America's pioneering community activists, included negotiation as a critical step in his blueprint for action.

Despite enormous complementarities, however, the communities of civil resistance activists and negotiation scholar-practitioners have had little to say to each other. Negotiation (as diplomacy, for example) is often perceived as an elite-driven activity, whereas civil resistance campaigns and movements mobilize the grassroots. Activists sometimes depict negotiation as yielding, whereas negotiation scholars sometimes depict justice and equity-seeking as obstacles to conflict resolution. These are incomplete images; this report offers critical convergences between negotiation and civil resistance.

Stances of non-negotiation, though occasionally justified, can exacerbate conflict and destroy latent opportunities for achieving gains. When political leaders talk about killing their enemies or civil resisters describe their targets, a narrative of heroic non-negotiability is sometimes invoked. This attitude is predicated on the presumption that commitment at any cost to what is right precludes any dialogue or compromise, and that opponents must merely surrender and implement those rights. Negotiation itself is likely to be portrayed as the equivalent of surrender of the principles at stake and surrender of the overarching cause. Ultimately, non-negotiation can lead to missed opportunities for the gains sought.

Nonviolent direct action such as protests and strikes by civil resisters sometimes elicits further repression and can exacerbate discord among activists and opposition groups. The Syrian government's murderous repression against nonviolent protests in early 2011 demonstrated the regime's fundamental stance of non-negotiability even though protesters' demands were, at that time, moderate calls for official accountability and the release of youth imprisoned and tortured for posting anti-regime graffiti. The Syrian government and the highly fragmented armed opposition frequently demand preconditions of each other prior to peace talks, and the

overall effect has meant numerous missed opportunities to end a war that could have been avoided entirely through negotiated change.

Direct action creates openings for negotiation that neither activists nor governments should miss lest the path of no negotiability becomes, as it did in Syria, a self-fulfilling prophecy. If the will to negotiate is present, however, the fundamental bargain of civil resistance often starts with—but then moves beyond—political concessions in exchange for mitigation of the direct action. In creating a strategy for civil resistance, the leadership of a movement must map the terrain to understand the key elements of support for the regime domestically and internationally, possible divisions, weaknesses, and potential allies among its supporters. A clear-eyed strategy for a nonviolent opposition movement recognizes the centrality of negotiations: in building solidarity within its coalitions, in seeking out and building connections with potential allies within the government, and ultimately in understanding how to translate the leverage it generates into tangible, sustainable positive social change.

Thus, rather than simply serving as a marker for the formal end of a civil resistance campaign, negotiation is essential to successfully initiating, expanding, and sustaining a movement. The leverage-generating function of direct action can be seen as part of the fundamental bargain of civil resistance because nonviolent campaigns can be understood as, essentially, what some term asymmetrical bargaining.² If civil resistance is understood as a bargaining process, theoretical space is opened to apply negotiation analysis to understanding the dynamics of nonviolent movements. Building on considerable work done in exploring the shared goals, practices, and frameworks of nonviolent theory and negotiation theory, this report examines in depth the mechanics of negotiations within nonviolent movements.³ It proposes that civil resistance movements can (and do) immerse themselves in several strategic domains in which negotiations are critical:

- build the movement and achieve popular mobilization,
- encourage defections from within the power structure, and
- create sustained positive transformations of a regime's institutions, policies, or political culture.

Can't We Be Friends?

Why has there been distance between the negotiation and nonviolent action schools of thought? Experts in each often see their fields as separate entities, and occasionally tensions, misperceptions, and mutual suspicions are evident. But so are continuity and convergence.

Véronique Dudouet speaks of the "sharp divorce between the revolutionary and resolutionary" aspects of the conflict resolution field despite the latter's origins in peace movements and social activism.⁴ Since this divorce, however, each has developed its own research agenda, scholars and practitioners, techniques, and constituencies.⁵ The community of rights advocates focuses on ends achieved through public pressure and enforcement of norms; the conflict resolution community, on the other hand, emphasizes methods (inclusive and fair processes) to arrive at solutions that parties will voluntarily comply with.⁶

Such dichotomous views of the two pursuits have not always been the case. Thomas Weber, for example, argues in support of historically strong alignments between the thought and work of Gandhi and Western approaches to negotiation and conflict resolution. Amy Finnegan and Susan Hackley extend this synthesis and highlight the power dimension that unites negotiation and civil resistance.

Peter Ackerman and several coauthors have written descriptively rich accounts of the transformative power of nonviolent conflict, including Ackerman and Jack DuVall's canonical work *A Force More Powerful*. Ackerman and Chris Kruegler tacitly accept Thomas Schelling's conceptualization of conflicts between tyrants and resistance movements as asymmetric bargaining situations. Although they do not include negotiation explicitly in their menu of twelve principles of strategic nonviolent conflict, one can intuit that it is hidden among principle number twelve (Continuity Between Sanctions and Objectives), which notes that "the most common outcomes are brought about by accommodation...settlement."

In the revolutionary research on the effectiveness of nonviolent action, negotiation is not explored as a cause or variable of the outcomes. Kurt Schock explores successful and unsuccessful cases of resistance in the last three decades to better demonstrate the "trajectories" of what he terms "unarmed insurrections." Erica Chenoweth and Maria Stephan take on the entire century of political upheaval and demonstrate that "between 1900 and 2006 nonviolent campaigns were nearly twice as likely to achieve full or partial success as their violent counterparts" and they "succeed against democracies and nondemocracies, weak and powerful opponents, conciliatory and repressive regimes." In these works, the narratives of negotiation are subsumed in aggregated data or overshadowed by the emphasis on the mechanisms of mass mobilization.

However, more recent scholarship offers evidence that negotiation plays a role in shaping social change movements and new democracies because nonviolent civil resistance campaigns create a culture of compromise that enables a resulting democratic regime to survive longer than democracies that emerge from war.¹²

Throughout the literature on civil resistance, an implicit argument is discernable that non-violent civil resistance alone produces the desired political change. If mass mobilization is indeed the nonviolent spear of social change, effective negotiation is the tip of that spear.

Nonetheless, some civil resistance proponents characterize negotiation negatively. Some activists view negotiated change as legitimizing the status quo. The legitimate desire for systemic social change is viewed as a transformative goal not attainable by making compromises. Certainly at times core principles or norms should not be compromised, but their implementation is highly amenable to negotiation and should therefore be viewed as a critical tool of transformative change.

Gene Sharp, one of the foremost contemporary advocates of nonviolent strategy, warns that "grave dangers can be lurking within the negotiating room" when trying to overthrow dictatorships. The dangers he attributes to negotiation include capitulation, appeasement, and premature resolution. These are not, however, perils unique to negotiation—surrender is not preconditioned on negotiation and governments can be violently repressive in the absence of negotiation with the opposition. Sharp also portrays negotiation as a tactical trap into which civil resisters could put their opponents, on the expectation that regimes would negotiate in bad faith and lose legitimacy. He begrudgingly acknowledges a role for negotiation as long as it is inflexible and predicated on the resisters creating fundamental shifts in their power relations with opponents. This power shift in favor of the nonviolent resistance movements, brought about by direct action, could however be harnessed for negotiation with the opponents. To

Such voices are not so much dismissing negotiation as offering an instrumental view of it: negotiation is useful only if it furthers the objectives of the struggle. Negotiation scholars and practitioners would not disagree, so Sharp's aversion to negotiation seems more rhetorical rather than substantive. His insistence on the futility of negotiation per se to overcome

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vast power asymmetry is nevertheless correct but more a critique of poorly structured, naive negotiations in which the parties lack understanding of strategy, tactics, and their sources of leverage. Much of Sharp's work describes strategies and actions that can be seen as part of the necessary generation of leverage available to a movement to more effectively engage in transformative negotiations.

On the negotiation and conflict resolution side of the literature, scholarship clarifies why negotiating might be seen as surrender by activists and authorities. Morton Deutsch explains that "oppression often leads to destructive conflict...because [oppressors] fear the humiliation they will experience from the rage and revenge of the oppressed. Hence, they commonly experience a social conflict as a win-lose. Similarly, the oppressed not only seek to overcome the oppression but they also fear that their attempts to do so will lead to attacks by the oppressor. So they too commonly experience the conflict as a win-lose." Thus the hatred and rage generated by conditions of oppression make it difficult for the oppressed to even consider sitting at the negotiating table, where both sides are traditionally treated as formal equals and expected to recognize each other's legitimacy.

Civil resistance campaigns often invoke norms and rights—concepts that evoke a sense of entitlement because they are fundamentally good and universally deserved. As such, they can be said to be practically sacred. Negotiation research regarding perceptions of sacredness reveals that it is more challenging to negotiate when claims of sacredness are involved because these are really claims of no negotiability. Max Bazerman and his colleagues propose simply asking negotiators to better distinguish between what is truly sacred (and therefore can never be traded) and what is merely important (which can, in fact, be traded). This sounds like rational advice, but is too simplistic a prescription, because our very assumptions about what is nonnegotiable are worthy of examination. This is because, as noted, prioritizing needs varies depending on the relationship, context, and situation. What seems entirely negotiable in one set of relationships and context may seem completely nonnegotiable in others. Although in transactional situations it may be perfectly acceptable to get as much as possible or to make concessions among demands, when the sense is that rights are being violated, giving up something to have those rights satisfied can be portrayed as selling out.

In this sense, the negative characterization of negotiation among activists is possibly due to the assumption that negotiations are seen as market-based transactions in which goods of commensurable value are traded according to the ability of the negotiator. Such a mental model might not fit in the context of social justice struggles, in which resisters may believe that they should not have to beg or bargain for democracy, human rights, or transparency because these are social and public goods that people simply deserve. Negotiating the terms of a new job is entirely legitimate. But the same person could also feel that settling for an arrangement that does not respect the equal pay for equal work principle would be undignified.

The righteous indignation translated into mass mobilization makes rights and negotiation sometimes seem incompatible on moral, psychological, and ideological grounds. The risk of this incompatibility is that it prevents negotiating incremental or even comprehensive gains in social justice struggles or, worse, prevents engaging in the transformative and strategic dimensions of social change that lie beyond the downfall of a dictator.

Mutual dehumanization processes are also at work in conflicts. Despots capitalize on sowing division and inciting hatred among society. In response, resisters demonize particular leaders, their followers, and ideologies. The resulting enemy images make any eventual negotiation more difficult to explain to followers, whether the resister's or the opponent's. The moral exclu-

sion concept explains the desire to exclude foes from the benefits of a social or political good: justice is reserved for those within the bounds of the moral community and harm toward those outside it is justified.¹⁹ The implication is that vilifying adversaries makes it more difficult to negotiate with them.

A review of decades of research on institutional, strategic, and psychological barriers to negotiation notes how equity seeking—as opposed to self-interest—harms the possibility of negotiated agreement. By their definition, equity seekers feel they deserve more than an even split of values and thus "the set of outcomes that satisfy the parties' equity demands is far narrower than the set offering mere advance over the status quo." Equity seeking is also seen as a multiplier of other psychological barriers, in part because outcomes that overly benefit one side unfairly are retrospectively justified as entitlements.²⁰ In this view, inequitable outcomes are applauded when they yield benefits to one's side, which are then claimed as compensatory. Such a posture might indeed incline justice seekers to overclaim at the bargaining table and cause counterparts to be reluctant to make offers that merely get "pocketed" by the opposition. An accompanying danger is that resisters might disdain "small" gains for their cause, ultimately getting no gains at all or ending up where they might have ended up earlier and at lower cost to the movement.

Our mental frames are highly subjective when evaluating gain and loss, such as we might do in any social or political dilemma, and loss is often more difficult to accept than gain of equal magnitude.²¹ The resulting loss avoidance poses numerous obstacles for negotiation among adversaries in political contests, but especially in those where the opponents already characterize one another as outside each other's moral community.

In sum, with some noteworthy exceptions, civil resistance literature can portray negotiation as surrender or selling out, and negotiation literature can view justice or equity seeking as barriers to achieving gains through negotiation. Perceptions of sacredness, grievance, and moral exclusion magnify these tendencies. Yet one important connection between negotiation and civil resistance concerns leverage, which is the manifestation of power in a negotiation.

Social movements seeking political reforms or regime change often find themselves in a deeply asymmetrical conflict: government has all the mechanisms of coercion and legitimacy, whereas movements start with few or none. Coercive power, of course, is no guarantee for success, and scholars explain how weak parties often defy Thucydides' ancient lament that "the strong do what they want while the weak suffer what they must." Civil resistance is often the force multiplier that activists use to reduce asymmetry at the negotiation table of political change. We turn to the topic of leverage next. A civil resistance corollary to the extensive literature on ripeness and the timing of intervention in armed conflicts is that civil resistance actions may be able to "ripen" a social or political conflict and show the futility of the status quo to the object of the resistance.²³

The Fundamental Bargain

The path to negotiation is paved with leverage gained through civil resistance. What can be called the fundamental bargain in civil resistance cases comes about because actions taken by civil resisters impose costs on and erode the legitimacy of opponents, who in turn may be persuaded to talk and make changes to a policy or institution in return for relief from the pressure of direct action.

This fundamental bargain is illustrated throughout the vast literature on the US civil rights movement. Noted negotiation scholar Robert McKersie was himself a civil rights activist in

Chicago during the decisive decade of the 1960s, fighting for access to jobs for black Americans, desegregation of the Chicago education system, and desegregation of housing, among other goals. He helped plan the direct-action program "that forced Motorola to enter into negotiations with the Negro American Labor Council" for fair labor practices.²⁴ He also paid close attention to the intraorganizational bargaining that resulted from the discord among different factions pursuing the same goals.²⁵ The factions that favored direct action would successfully build the movement's leverage with a particular company, and the more moderate factions would use that leverage to negotiate company commitments that resulted in the employment gains. Motorola "wanted to avoid the negative effects of the expected publicity that would accompany the direct action programs," and Negro American Labor Council could suspend (not cancel) demonstrations when Motorola showed good faith in the negotiations.

Some in the conflict transformation stream of praxis see the negotiation-civil resistance synergy clearly. One argument is that "nonviolent struggles...transform unbalanced power relations in preparation for conflict negotiations." If "negotiation is only possible when the needs and interests of all those involved and affected by the conflict are legitimated and articulated," then nonviolent struggle is its necessary complement, by helping populations and communities to achieve sufficient leverage for an effective negotiation process. ²⁷

Leverage is widely seen as the prime mover of negotiations, even though it is generally conflated with nebulous concepts of power. Leverage is best understood as a specific type of power, "power rooted in consequences." The term *consequences* here is not used in a normatively negative way and instead may be good or bad for the other party. Leverage involves the ability to influence a negotiation outcome based on a party's ability to either confer or withhold benefits desired by the counterpart or impose or not impose costs on the counterpart. Negotiating leverage is derived from other factors as well, including possessing better alternatives than what is on offer, but also from superior tactical agility, better information regarding the negotiation preferences of the parties, subject matter expertise, decision-making ability, organizational efficiency, powerful allies, and even personal charisma.²⁹

Richard Shell distinguishes between positive, negative, and normative kinds of leverage and considered them all to be in dynamic flux throughout a negotiation and that masterful negotiators would control that flux. Positive leverage stems from a party's ability to satisfy the counterpart's interests—if they want what you have badly enough, your side has some leverage. This requires deep knowledge of a counterpart's interests and one's persuasive ability to satisfy or influence those interests. In contrast, negative leverage is derived from a party's ability to impose costs on a counterpart if that counterpart does not meet a set of terms or move toward the negotiating position of the party.³⁰

Normative leverage as Shell describes it refers to what Robert Cialdini described in 1984 as the consistency principle: leverage in a negotiation comes when counterparts are persuaded that agreement is consistent with their identity and self-image, espoused values, sense of duty, "face," or other implicit or explicit commitments.³¹ This is the kind of leverage that civil resisters use when they persuade security forces to support a popular movement rather than a regime, and this undermines the instruments of coercion a regime relies on.

Another connection between leverage and civil resistance arises from the withdrawal of popular support from a repressive order or government, which denies legitimacy and forces authority into a defensive posture, or more helpfully, persuades authority to cultivate support by enacting policies that concede to demands for reform.

Gandhi noted, somewhat optimistically, that "even the most despotic government cannot stand except for the consent of the governed." Of course, the twenty-first century provides examples of regimes holding onto power despite losing some or all popular legitimacy, but doing so increasingly at risk of internal insurgency, outside intervention, or both.

Building on Gandhi's practice and principles of nonviolence, Sharp developed a theory of consent-based power that every government depends on people's tacit obedience to a prevailing social order. This power is removed when the ruled refuse to continue complying with the rules; sufficiently widespread and prolonged popular disobedience and noncooperation can pose an existential threat to despotic or otherwise unjust order.

One argument grants that a regime depends on the collective consent of the members of a society, but holds that this consent is not expressed on an individual basis.³³ Instead, it is rooted in people's participation in and support for critical social and political institutions: the military and police, the business community, religious and cultural bodies, the civil service, and so on. Those institutions essential to the survival of the regime are seen as its pillars of support and a successful nonviolent movement generates leverage by deploying people power to undermine or convert these power bases. If people do not consent to a policy or even to a government, and cannot be coerced or coopted into obedience, the authorities confront the dilemma of either further delegitimizing themselves by resorting to yet more coercion, or alienating their power bases by accommodating the demands of the resisters. Although neither choice may appeal to a state, this dilemma provides an opening for negotiation.

If a movement's demands are themselves measured and legitimate, that is, the movement demands something other than capitulation by the authorities, and the regime places some value on its internal and external reputation, then negotiation can become the preferred path for both.

Movements can help boost their legitimacy and erode that of their opponent by maintaining the moral high ground in methods (nonviolent action) and ends (morally just, legitimate demands). Nonviolent discipline, the unified commitment to abstaining from violence, is essential to the success of a civil resistance movement.³⁴ Movements are much more likely to induce defections from the military when they can remain nonviolent.³⁵ One argument is that a strict adherence to nonviolence is more likely to produce *backfire* events: acts of overt repression by the regime that only serve to mobilize further opposition and bring international condemnation.³⁶

This is termed the *paradox of repression*, in which efforts to suppress dissent leads to increased support for the dissidents.³⁷ This dynamic was certainly present in the prodemocracy group Otpor in Serbia.³⁸ The spectacle of Serbian police abusing young nonviolent demonstrators helped to swell Otpor's ranks into a movement of seventy thousand activists. Prominent athletes, representatives of the Serbian Orthodox Church, and even judges joined.

Images of repressive violence are easier than ever to capture and distribute: obedience among internal regime supporters as well as external allies is weakened when the world sees protesters being dispersed forcefully, beaten, or killed.³⁹ Movements with a strong communications strategy, such as Otpor or Ukraine's Orange Revolution, used live video feeds from protests to assure that any repression would instantly be publicized. Effective movements also work closely with foreign diplomatic missions to enhance their capacity to generate leverage from external states and organizations and this leverage too opens the window even wider for negotiated change.⁴⁰

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A movement perceived as legitimate encourages greater mobilization because the population is attracted to its values and goals; fear of the consequences of disobedience begins to transform into enthusiastic commitment when people see their fellow citizens participate and share in a movement's risks, dangers, and rewards. A virtuous cycle of mobilization thus ensues in which a disciplined nonviolent movement whose moral message speaks to the population leads to yet further mobilization, generating an increasing curve of leverage that the movement can use in negotiation. Broad-based mobilization is one of the single most critical factors in campaign success. Research indicates that no campaign that attracted the active participation of at least 3.5 percent of the population has ever failed in its demands.⁴¹

Civil resistance campaigns are organized according to demands that focus on a specific element or policy of the power structure, coupled with actions in support of the demand. Demands can be structured to make either pragmatic, incremental gains toward justice or peace, or far-reaching, transformative changes to restructure a system. The first approach was frequently invoked by community organizer Saul Alinsky, who advocated for a pragmatic approach to social justice; achievable ends that maximize the gains for people suffering oppression in the shortest time. The second approach was used by Gandhi, who considered demands as a narrative vehicle to dramatize injustice and illustrate the moral significance of their struggle rather than to articulate possible concessions that the power structure could conceivably make, though Gandhi also knew how to articulate specific demands for redress as well.

Choosing between these two strategies is overly limiting, however. Movement leaders should instead recognize the three key purposes of a demand: collectivizing, dramatizing, and generating momentum. The collectivizing unites and mobilizes the victimized group toward a clear goal. The demand should speak directly to the lived experience of the victims of oppression and be symbolically powerful. In this way, the demand functions as a culturally meaningful symbol to mobilize around by creating shared understandings of who we are, the hardships that we face, and the concrete things we need to do to realize a better future. Critical to shaping a collectivizing demand is understanding who the in-group is, what its shared symbols, traditions, and experiences are, and how these can be transformed into a demand.

Gandhi's Salt Satyagraha is a powerful example. Other Indian leaders met his choice of salt as his central basis of attack with incredulity. Gandhi, however, recognized that his intended in-group was the Indian population: he needed a demand that affected all Indians. Salt was a daily necessity for Hindu and Muslim alike; the salt tax also hurt the poorest Indians the most, making the struggle for independence relevant to their needs.

Second, a strong demand dramatizes the injustice to the outside world. A demand should create a moral story articulating a clear vision for an improved world, exposing the injustice to external audiences and solidifying the movement's claim to the moral high ground. The critical concept to understand in shaping this element of the demand is framing. Framing recognizes that people understand events through social and cultural lenses, which are heavily mediated by power. Those with a vested interest in perpetuating oppression will seek to normalize injustice, meaning that they will propagate frames that characterize injustice as either justified or inevitable. Whether it be separate but equal or the white man's burden, the normalized or justified frame must be disrupted with a counterframe. A counterframe disrupts by compellingly dramatizing the moral injustice that people are facing, directly attacking the faulty assumptions that allow the injustice to continue. A counterframe makes oppression visible by introducing the public to the voices of marginalized people. It redefines the problem by introducing a new set of values, or poses a compelling solution to a problem popularly conceived as intractable

or inevitable. This element of a demand should therefore be conceived almost as a story in the sense that it must consider what meaning it seeks to create in the hearts and minds of those who hear it. A counterframe must take the cultural milieu in which it operates into account to shape a demand that resonates with the core values of society, creating empathy. An excellent example is Rosa Parks's demand to have the right to not give up her seat on a bus and to certainly not be imprisoned for it. Her demand was simple but it was also a powerful attack on the core assumptions of separate but equal and dramatized the everyday indignities of Jim Crow laws, the acknowledged intent of which was to prevent blacks from voting or achieving real social, political, and economic integration in the American South.

Finally, a strong demand ultimately has a momentum-generating function, achieving a balance between the need to make concrete, tangible gains with an understanding of how the demand fits into the larger strategic vision of the movement. One of Gandhi's followers, in explaining the symbolism of the Salt March, said, "suppose a people rise in revolt. They cannot attack the abstract constitution or lead an army against proclamations and statutes....Civil disobedience has to be directed against the salt tax or the land tax or some other particular point — not that that is our final end, but for the time being it is our aim, and we must shoot straight." Thus, the shapers of a demand should be clear eyed about how the demand fits into the broader strategy, they need to articulate a vision of what demands will be put forth and how they can be followed up with negotiations to achieve the movement's aims.

Direct action campaigns should increase the social power of a movement by mobilizing key populations and establishing the moral high ground of the movement vis-à-vis the regime. A campaign, or action, should mobilize the population by providing clear and organic opportunities for new allies to participate. Direct action shows sympathetic members of society that their views are more widely shared than they may have realized and presents them with an opportunity to act. Participation in direct action is empowering and validating, strengthening the resolve of the movement. Activists described the effect of a sit-in as leaving them with a "powerful sense of confidence and self-esteem...as they overcame their innermost fears."⁴³

Additionally, action should create powerful visual evidence of the moral justness of a movement by dramatizing the difference between the movement's values and those of the regime while articulating clear, resonant demands. Thus an action should aspire toward total nonviolent discipline even in the face of abuse while demonstrating a clear action logic: the demand and its relationship to the chosen tactic must be evident. For example, the lunch counter sit-in of the civil rights movement was self-evident in its action logic: the demands of the students to be fairly served at lunch counters was immediately evident, illustrated by the action.

Dr. King conceptualized direct action as a way to bring conflict or oppression invisible to outsiders to the surface by forcing a regime and its supporters to confront the issue. To do so, an action should create a "decision dilemma" for the regime in which the regime has few viable responses. ⁴⁴ An effective tactic generates leverage by forcing the regime to choose between two uncomfortable choices: either negotiate, or react with force in front of a global audience.

Finally, an effective action clearly understands which pillar of support for the regime it is focusing on and what the most effective way to erode or undermine that pillar would be—by converting it, creating internal divisions that badly weaken it, or imposing unsustainable costs. If a regime relies on the support of an external third party, a media campaign to convert that party could be the most effective course of action. East Timorese activists addressed multilateral institutions and foreign governments whose support was helping keep the Suharto regime in power in Indonesia through a campaign of fence jumping, in which protesters would jump

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the fences of Western embassies and stage sit-ins, distributing information about human rights violations by the Indonesian military.⁴⁵ They also engaged directly with Indonesian civil society to successfully undercut the propaganda of the regime regarding the situation in Timor.

If the movement is able to identify divisions within key pillars of support, tactics to increase these divisions may be successful in weakening the pillar. For example, in East Timor divisions emerged between older Indonesian officers, who were benefiting from lucrative business deals in East Timor, and younger officers, who were not. These younger officers emerged as important voices for reform. ⁴⁶ Similar divisions within security forces have been leveraged in other countries and cases of civil resistance and frequently involve direct negotiations with elements of the security forces to get them to disobey repressive orders or even to defect.

In sum, a campaign or civil resistance action helps create negotiation leverage by increasing the social, economic, and political power of a movement, forcing elements of the power structure to confront the oppression it perpetuates, and imposing costs on the regime directly or by undermining key pillars of support.

Broadening a Movement and Challenging the Power Structure

Civil resistance movements do not arise out of thin air. Some movement building and mobilization is done through explicit negotiations with individuals and like-minded groups who need to be persuaded to join.

It seems self-evident that civil resistance movements need to build their movements and mobilize them to action. Participation may be the "critical determinant of success" given that widespread, decentralized, and cross-cutting campaigns are operationally resilient, have mass appeal, and protect activists through the anonymity of large numbers.⁴⁷ As discussed earlier, no nonviolent movement that mobilized at least 3.5 percent of the population has failed in achieving its political agenda.⁴⁸ Clearly a dynamic is at play of increasing gains and reducing risks for participants: "the more people join, the more likely we are to win and the less likely I am to individually face repressive consequences."

The tactical question is how a movement persuades citizens to join its ranks. Part of this is achieved by approaching people one by one or by mass communication that conveys a social movement's ability to occupy the moral high ground vis-à-vis the order it opposes. At the same time, a movement is often the result of several processes that aggregate both individuals and multiple organizations. Just as individuals joining together make an organization, organizations join together to create coalitions which require careful negotiations to maintain. Leaders in the US anti–Iraq War movement strategically reframed the issues at stake to draw in a diverse range of actors. Framing was also important in the Seattle WTO protests, but successful coalitions must creatively construct durable conflict resolution and credible commitment mechanisms. Facilitated dialogue came into play to resolve conflict and create unified purpose and direction within the civil rights movement in Northern Ireland.

The US civil rights movement is often remembered for landmark campaigns, dramatic protests, and legislative victories. Its ability to project power this way was based on its success in bringing together different national and local organizations under effective umbrellas such as Martin Luther King Jr.'s Southern Christian Leadership Conference (SCLC). The SCLC was itself composed of affiliated churches and joined forces with the more litigation-focused NAACP and many others to pursue direct action against the racist laws, practices, and institutions that persisted or arose in the wake of the Civil War and the Reconstruction era. The alliances within the SCLC and between it and other organizations were predicated upon, and

required, constant negotiations to align, agree on, and adjust positions, tactics, and goals. Tensions, disagreements, and even overt conflicts arose within the movement, all of which necessitated negotiation to manage.

Broad-based participation that moves beyond demonstration and becomes transgressive in other ways—blocking access to businesses as King did in Birmingham, preventing deployment of a repressive armed force as took place during protests against Milošević in Belgrade and against Kuchma in Kiev, or promoting economic disobedience as Gandhi did with the Salt March—shows the opponent that obedience and compliance cannot be taken for granted.⁵²

Next are the negotiations to convert elements of the power structure itself—the efforts to wrest the pillars of support from a regime. When mounting direct action in the form of civil resistance, another key aspect of negotiation involves reaching out to components of the power structure in order to convince them that they should throw their support to the movement. The appeal can be made on either the basis of self-interest (come over to our side to enhance your reputation, or there may be negative consequences) or on the basis of morality or the consistency principle (the police should cease to arrest us because we seek social justice and law enforcement is about implementing justice).

Reform-minded elements within the power structure and a civil resistance campaign can also converge, with dramatic results. During the People Power campaign in February 1986, opposition political parties mobilized a popular nonviolent uprising to protest Ferdinand Marcos's electoral fraud.⁵³ When the military also began to abandon Marcos, Roman Catholic Archbishop Jaime Sin called on the population to defend military defectors who were led by a cadre of reformist officers.⁵⁴ This led to an historic standoff in which tens of thousands of unarmed civilians formed a human barricade around the defectors and then faced down and stopped loyalist troops from attacking the defectors.⁵⁵ The opposition used radio broadcasts to call upon individual commanders to switch sides. Marcos had lost the acquiescence of the people, the loyalty of the armed forces, and even the confidence of external supporters. He fled shortly after, paving the way for opposition leader Corazon Aquino to assume the presidency.

The strategy of King and the SCLC in Alabama in 1963 reflects the centrality of negotiation in the SCLC's effort to undermine a key pillar of government support: the white Birmingham business community was both the focus of a massive protest campaign and the key negotiation partner for the SCLC. Blanket boycott and daily protests had brought the city to a halt. Reflecting the model of nonviolent movements as asymmetrical bargaining, the SCLC pursued this strategy with the explicit intention to create a situation "so crisis-packed that it will inevitably open the door to negotiation," as King wrote from his jail cell in Birmingham.

White business owners agreed to meet with the protesters independently from the city government. Negotiations moved forward on the demands that could be carried out by the private sector, but halted when the representatives of the black community pushed for more structural changes. Protests having brought the city virtually to a standstill, the SCLC forced an emergency convening of the Senior Citizens Committee, a group of businessmen representing 80 percent of the city's employment. The Senior Citizen's Committee offered a counter proposal with a series of (fairly moderate) reforms to the city's Jim Crow laws. Against the heated objections of more radical local leaders such as Fred Shuttlesworth, King accepted the more modest proposal in order to generate a "win" as part of his effort to build momentum toward new federal legislation.⁵⁶

As the brutally violent police reaction to the campaign mounted, SCLC leader Andrew Young Jr., working closely with King, engaged in "negotiations with 100 businessmen. In

meetings arranged by an Episcopal Bishop, we bypassed the politicians, from segregationist Alabama Gov. George Wallace to Birmingham Police Chief Bull Connor, and reached an agreement with economic-minded pragmatists."⁵⁷

This case also illustrates the balance that movements need to strike between negotiation and direct action. The white businessmen made halting the protests a precondition for implementation and the protest movement was not entirely united on whether to halt, since halting could have weakened the solidarity of the movement and contributed toward its demobilization. Yet King himself believed that a negotiated settlement was essential to generating momentum toward the eventual federal Civil Rights Act. Moments of concession, though, are extremely precarious for the discipline and organization of movements.⁵⁸ Yet King was able to use the negotiated victory as proof of the effectiveness of nonviolence, generating national momentum toward the 1964 Civil Rights Act. It seems clear that King wanted to make immediate and sustained use of the protests in order to keep the leverage they generated available in the negotiations.

An unjust regime's security apparatus is frequently used to enforce unjust policies and repress opposition. Therefore negotiating with elements of the security forces can provide tremendous leverage to the civil resistance movement if they are persuaded to support the movement and disavow the regime. Large-scale security force defections take place in more than half of all successful nonviolent movements and defections make nonviolent campaigns forty-six times more likely to succeed.⁵⁹

The Ukrainian Orange Revolution and the Serbian Otpor movement cases suggest once again the centrality of negotiation in undermining the willingness and ability of security forces to engage in violent repression. Civil resisters, some argue, must find ways to convince the military that its goals align more closely with the movement than with the regime. ⁶⁰ This could take place through indirect signaling or covert negotiations; resisters could base appeals in either the resentments or values of the soldiers or in the inevitability of the movement's victory. Serb protesters chanted for the military to serve the Serbian people. In Ukraine, much like in Egypt during the Arab Spring, protesters chanted that the "military is with the people" as opposition politicians emphasized how they would increase retirement pay and family rights for military personnel. Ukrainian campaign workers worked extensively to build contacts with families of current military officers in garrison towns to build pro-opposition sentiment within the ranks. ⁶¹

In both cases, however, face-to-face (informal) negotiations were crucial in converting key elements of the security forces. In Serbia, Otpor activists intentionally provoked arrests, using the subsequent interrogations as a chance to inform police about their goals and intentions. Consistent interaction opened consistent channels of communication, allowing Otpor to gauge the mood of the police after each arrest and detention. In Ukraine, disaffected military themselves helped negotiate the turnabout of the armed forces: General Antonets, former chief of the Ukrainian Air Force, joined the opposition after he was pushed into retirement. He created "volunteer teams of former colleagues who worked specifically on reaching out to state security forces....Because they were retired officers, it was relatively easy for Antonets' team to make contact with mid-ranking Ukrainian military officers, families, and fellow veterans." These middle-rank connections led to the development of a crucial series of informal agreements in which the opposition movement secured promises that military officers would not use force to suppress protesters under any circumstances. The officers even promised that the army would intervene if the regime used the police to suppress protests.

Clearly, separating elements of the security forces, high level officials, and others from a regime is sometimes achieved by intricate negotiations that align the self-interest and higher-level aspirations of such parties.

Transforming the Target

The negotiations for the transition of power can be either directly with the regime or, in some cases, after the regime has been forced out. Sharp's perspective was that negotiations are something that take place after nonviolence movements have already won. This report makes two arguments: First, that the leverage nonviolent movements have to reshape social power relations depends on the quality and strength of the negotiated agreements they have built in the course of the movement within the coalition and with the key pillars of support of the regime. Second, such negotiations are far from a mere formality at the end of a campaign: the process of unpacking an old regime and rebuilding a functional, harmonious society is a process, not a definitive end. The end of the Marcos regime in the Philippines did not in itself bring stability to that country in 1986. Corazon Aquino's administration faced numerous coup attempts, including some organized by leaders who had previously supported her.

Mahatma Gandhi's Salt Satyagraha began in 1930 with only eighty followers but soon attracted thousands and set off mass civil disobedience across the country. Although salt production itself was not seen as a strategic issue, Gandhi used it to galvanize poorer Hindus and Muslims. Following a short prison stay, Gandhi commenced negotiations with the British viceroy.⁶³ These have been criticized as conceding too much too soon in exchange for ending his civil resistance campaign but perhaps they were the pebble that started the avalanche. New repressive measures started immediately after Gandhi negotiated the Delhi Agreement, and the long illusion of benign British rule predicated on Indian subservience was subsequently torn away. Although Gandhi's negotiated gains were scant, he won a critical symbolic victory in forcing the British to negotiate with his movement as equals, creating an irrevocable crack in the British colonial monolith. This empowered the local population throughout India to shed their acquiescence and fear in favor of rebellion. The brutal violence needed to keep control sapped the British authorities' sense of imperial destiny and made them question the feasibility of maintaining their rule in India. Both the Indian population and the British Raj had been irrevocably transformed by these actions. Gandhi's negotiations, modest as they were, had begun to affect the British rulers of India. The culmination came later in the India Independence Act.

The more recent outcomes of the intifadat in Egypt and Tunisia offer both positive and negative lessons regarding negotiations to transform the status quo. The divergent fates of the Egyptian and Tunisian Arab Spring movements illustrate how the cohesion, shared aims, and mutual trust of a coalition are critical in helping a society survive the fraught process of political transition. The Egyptian revolutionary movement of 2011 was not the product of strategic, negotiated alliances between different well-organized civil society bodies. It was a horizontal—"rhizomatic"—movement that grew organically and did not lend itself easily to cohesive action. He revolution, its organic character was a source of strength because it created outlets for truly democratic individual expression and made effective repression extremely difficult. This lack of cohesiveness proved to be a serious challenge during the transition negotiations, however, leading to uncertainty and disagreement over who could represent the movement and what its aims were. Even in Tahrir Square, numerous dialogues were held to reconcile factions, and even some secret negotiations between the select groups and the caretaker government led by the Supreme Council of the Armed Forces, but no overall coherence.

Initial attempts to negotiate stalled badly due to what has been called a "deep crisis of political representation." Even though some of the leaders from Tahrir Square had seats at the transition negotiations table, no one knew which interests and segments of society they could credibly claim to represent. This rhizomatic mobilization meant that the secular liberals had few corporate organizational forms to maintain their power and voice in the process of reconstruction. Meanwhile, liberal voices were never able to bridge the secular-Islamist gap, as they viewed many of the traditional moderate Islamic power brokers as counterrevolutionary Mubarak-era functionaries. Thus they were never able to build deep alliances across this divide that might have catapulted them to power. This representation vacuum meant that the best organized groups in the lead up to the revolution were best positioned to take advantage of the new political landscape, a truth that manifested itself in the easy victory of the Muslim Brotherhood in the first elections. 66

A second issue stemming from the organic structure of the revolution is that it allowed a wide variety of ideas about post-revolution Egypt to flourish without conclusive dialogue over what an acceptable state might look like. Many of the young people of Tahrir Square pursued a totally different kind of political articulation that focused less on explicit aims and more on a democratic ethos. Abdul-Fatah Madi, an Egyptian analyst writing for Al Jazeera, argues that Tahrir Square youth were actively disinterested in the intricacies of state building because they saw these negotiations as partisan bickering, hopelessly tainted by the old regime. Khalid Abdalla, an Egyptian activist and actor, argues that the Tahrir Square youth "did not know how to compromise."

However, in practical terms, this power bloc was left with little more than a goal—to get rid of Mubarak. After the revolution, the severe ideological divides between Islamists and liberals resurfaced without any obvious paths toward reconciliation, creating deep mutual suspicion and hostility. Holding elections before deep and meaningful reform of the constitution and the electoral system permitted the Muslim Brotherhood to promote a narrower vision of Egyptian politics than the grassroots opposition had hoped for. When anti-Brotherhood protests erupted in 2013, the military seized the opportunity to stage a coup. The failure of the transition to work across social and political divisions within Egypt facilitated the return of the military, which has held onto power ever since.⁶⁸

"Fluidity and decentralization" characterized the Tunisian revolution as well.⁶⁹ However, the experience in Tunisia, though far from ideal, has been remarkably different than in Egypt. Why? A long history of tolerance for social if not political pluralism in Tunisia had several important consequences.⁷⁰ First, it produced a discursive environment in which most ideological factions within Tunisia agreed on the basic legitimacy of a (relatively) liberal civil state. This shared vision created a less hostile platform for debate over the character of the new government than in Egypt. Second, Tunisia's various civil society organizations had a significant history of mutual interaction. Coalitions that had formed as far back as 2005 to oppose Ben Ali paved the way for post-revolution relationships and compromises.

Furthermore, Tunisia's civil society organizations were simply stronger and better organized than those in Egypt. Labor and trade unions played an important role in mobilizing Tunisian society and channeling resistance into mass protests, boycotts, and work stoppages. Critically, after the fall of Ben Ali, the unions were able to fill the power vacuum left by the collapsed regime. Much like in Egypt, Islamists won the post–Arab Spring elections and began moving the country toward a hard-line theocracy. Led by the Tunisian General Labor Union, Tunisia's most powerful union, several of Tunisia's important civil society leaders were able to

set aside institutional rivalries in forming the Tunisian National Dialogue Quartet from the Tunisian General Labor Union; the Tunisian Confederation of Industry, Trade, and Handicrafts; the Tunisian Human Rights League; and the Tunisian Order of Lawyers. The Quartet negotiated a democratic roadmap steering the country toward greater political inclusivity and compromise. It succeeded both because the groups collectively had the political legitimacy to credibly guarantee the new agreement and the base of support to credibly threaten to remobilize mass social protests in the event that the transition government attempted to renege. 71

These were followed by successful negotiations to create a new process to draft a constitution. In turn, the predominant opposition group, the Islamist al Nahdha (Renaissance) party initiated negotiations with more radical Salafist groups to control and moderate them. These, however, failed and were followed by repressive measures against the Salafists. Later, negotiations arose over the proper role that sharia would play in the new constitution and there were numerous negotiations over the constitution itself.⁷² Negotiations to transform the objective are perhaps the most critical of all the negotiation dimensions explored here. Certainly more structure, rather than less, seems to distinguish the successful Tunis example (much like the successful Polish Solidarity movement's demand restraint) from the far less successful Egyptian example. Nevertheless civil resistance campaigns around the world have relied on negotiations to outline and plan the transition from the status quo to the new order.

Conclusion

Despite clear and important cleavages and divergence between the negotiation and conflict resolution field, on the one hand, and the civil resistance field, on the other, their convergence is promising. Activists, scholars, and nonviolence practitioners everywhere can identify with the eloquent aspiration: "Our hope is that experts in negotiation and nonviolent action will one day claim each others' tools as important parts of their own theory and practice."

This report has explored in depth how the theory and practice of negotiations are essential to the success of a movement: in mobilizing a society to demand change, building allies near and far, converting key pillars of support within the regime, and most of all in shaping the direction of the polity and society after victory.

However, negotiation theorists and practitioners can also benefit from the nuanced understandings of the civil resistance movement, which analyzes power structures, injustice, and oppression and what impact these have on social and political conflicts.

Recommendations

Groundbreaking work by Thomas Weber, Amy Finnegan, Susan Hackley, and Véronique Dudouet has deconstructed the misconceptions that the civil resistance and conflict resolution fields tended to exhibit toward each other. This report deepens their fruitful symbiosis of nonviolent direct action and negotiation. It explains the "fundamental bargain" of nonviolent resistance: direct action creates the leverage that negotiation translates into tangible gains. This study pushes those findings still further by exploring how negotiation processes and concepts are integral to the success of a nonviolent movement at every stage in its evolution: not solely in the final discussions with the target after the "victory" of the movement, but also in mobilizing a population, building coalitions, shaping demands and strategy, and encouraging defections from the power structure. This perspective—that not only are negotiations and nonviolent

The theory and practice of negotiations are essential to the success of a movement.

movements synergistic, but that movements cannot succeed without negotiations—carries three key specific recommendations.

The success of a nonviolent movement in many ways depends on the quality of the negotiations it maintains. This conclusion invites a rich set of questions for further research. Why are some nonviolent movements successful in negotiating coalitions across identity lines and others not? What negotiation strategies prove successful in building horizontal relationships of trust in fractured societies? What kind of demands are more liable to invite international participation? In a second example, how much leverage is enough leverage? Is there a tipping point in which a movement can "know" that it has sufficient leverage to succeed at the negotiating table? How might negotiation concepts such as ripeness shed theoretical light on this question?

If negotiation skills are essential to the success of nonviolent movements, then activists and negotiation scholars and practitioners need to make a more concerted effort to build relationships to share information and build capacity on essential negotiation, mediation, and conflict resolution skills at the behavioral and tactical level as well as at strategic levels. This training should be extended from the beginning of movement building, grounded in the knowledge that negotiation must be geared toward a multiplicity of objectives.

Negotiation concepts as well as negotiation skills and processes are relevant to nonviolent movements. For example, a deep exploration of the concept of leverage proves fruitful in understanding how to maximize the resonance and power of a particular demand a movement might make. This in turn points to the need for deep cross-field education, among both scholars and practitioners. Furthermore, the important psychological insights that have informed decision and negotiation theory by showing us barriers and biases have extended validity. Civil resistance movements can benefit from creating more inclusive moral communities and reducing enemy images, even as they call for social justice and negotiated political transformations.

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Negotiation is a critical component of social and political change. As persuasive and nonviolent communication, it can address substantive differences and relationships within opposition movements, enabling them to more effectively press for change. Civil resistance movements often help channel popular discontent into positive political and social change—challenging unjust laws and policies, toppling governments, and compelling warring factions to come to the peace table. Symbiosis between civil resistance and negotiation is long-standing. Martin Luther King Jr.'s logic was to compel segregationists to negotiate in the pursuit of greater social justice. Mahatma Gandhi used negotiation with the British Raj to establish legitimacy and gain access to the British authorities following the Salt Satyagraha. Despite enormous complementarities, however, the communities of civil resistance activists and negotiation scholar-practitioners have had little to say to each other. Using historical examples, this report draws on extensive literature to reveal how deeply intertwined negotiation and civil resistance are and that negotiation is in fact an integral and critical element of strategy.

Other USIP Publications

- Lessons from Cambodia's Paris Peace Accords for Political Unrest Today by Laura McGrew and Scott Worden (Peace Brief, May 2017)
- Education and Training in Nonviolent Resistance by Nadine Bloch (Special Report, October 2016)
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