Conflict Resolution
&
Peace Studies

AN INTRODUCTORY HANDBOOK

Editor

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**CONFLICT RESOLUTION AND PEACE STUDIES
AN INTRODUCTORY HANDBOOK**

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FOREWORD

Conflicts exist at all levels of society. They reflect differences in interests, values, aims, needs and perceptions.

Therefore, conflicts are unavoidable in a pluralistic democratic society, and they can even be considered necessary elements of social change and progress. So conflicts as such are not "bad", but are legitimate expressions of differing points of view and contending positions.

What really matters is how people deal with conflicts:

- they can violently confront each other in a zero-sum contest, expressing maximalist goals and intransigent demands, without the readiness to compromise

- or they can act in a flexible manner, by dialogue, negotiation and compromise, thus converting the win-lose-option of the violent alternative of conflict resolution into a mutually beneficial win-win-perspective.

So conflicts can be fought out in a destructive manner - by the use of force, with arms and violence, or they can be handled constructively in a peaceful way, by non-violent procedures and the use of "soft power".

When conflicts have degenerated into deadly confrontation and even armed struggle, the great challenge is to transform them again into non-violent disputes by rebuilding broken relationships between the antagonists and promoting dialogue and willingness for negotiated solutions between the conflicting parties.

Such solutions must be more than mere short-term oriented stopgap measures.
To be sustainable, to be effective in the long-term, they have to be solidly based on the principles and practice of genuine democracy, fairness, equality, dignity and justice.

By its very nature, a democratic system of government, based on norms of tolerance, co-operation and consensus, and with meaningful institutions of power sharing and safeguards for minority rights, is the best guarantee for the establishment of fair and harmonious social structures, and thus peace.

The present publication offers an introduction to the basic concepts of peace, war and violence and of conflict management, -resolution and-transformation.
It further describes methods and procedures for regulating conflicts peacefully, particularly through negotiation and mediation.

In addition, the book analyzes the protracted ethno-political conflict in Sri Lanka and portrays the key features of the constitutional reforms that could establish a basis for a just and sustainable political solution of this conflict.

The book further documents how conflicts are managed in other countries and which lessons could be drawn from these foreign experiences for constructive conflict transformation and resolution in Sri Lanka.

Though the authors of the book are eminent social and political scientists, the book is not an indigestible academic textbook, and it is not addressed towards scholars only.

It is addressed particularly towards practitioners, with or without an academic background, who want to practically contribute to the process of a peaceful regulation of the ethno-political conflict by active participation in civil society organizations and initiatives that form the peace constituency of Sri Lanka.

To make this so called Track Two-Diplomacy effective, possessing "good will" to work for peace is certainly a vital and indispensable pre-requisite, but it might not be sufficient of its own.

With only an emotional commitment towards peace, but without theoretical and practical knowledge about the different approaches, techniques and strategies for conflict resolution and peace-building, participation in peace initiatives may lack power of persuasion and efficiency.

Deeply convinced that a truly democratic and just society can only be established and consolidated through constructive non-violent solution of conflicts, FES hopes this publication will motivate and encourage its readers to contribute building sustainable peace.

May it help to develop a new CULTURE OF PEACE AND NON-VIOLENCE in Sri Lanka.

Dietmar Kneitschel
Resident Representative
Friedrich-Ebert-Stiftung

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Introduction

This Handbook is prepared with the intention of introducing readers to the basic ideas of conflict resolution and peace.

In many countries, conflict resolution and peace have now become a branch of studies in social sciences and law. Many universities offer undergraduate and post-graduate programs of study as well as research in this area. Similarly, in many countries, activist social groups offer non-formal learning and training programs in conflict resolution and peace building. These are indeed responses to the growing recognition throughout the world that promoting cultures of non-violence and peace is of paramount importance in achieving human progress in a universe of conflicts.

In a way, Sri Lanka, through its multiplicity of conflicts, provides very useful insights into understanding conflicts, conflict resolution and peace. It is perhaps a tragedy of Sri Lanka that with three decades of violent conflicts, a strong culture of peace has not yet come to change the course of conflicts. It may be cynical to believe that conflicts cannot be terminated and they have their natural life-cycles and life- spans. Creating conditions for peace is one useful way to intervene in bringing bloody and destructive conflicts to an end. A peace culture can be best sustained through a community of peace advocates and peace practitioners.

Although there is a vast body of experience and knowledge in the sphere of conflict resolution and peace-building, that knowledge is still not accessible to the Sri Lankan public. It is in order to fill this lacuna that the Center for Policy Research and Analysis (CEPRA) of University of Colombo began planning educational programs in this field. The present handbook is a part of this pedagogical exercise.

Jayadeva Uyangoda
December 2000.

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Defining Negotiation
Jayadeva Uyangoda and N. Selvakkumaran

Introduction

We negotiate throughout our lives, exchanging commitments and promises. Any time two people need to reach an agreement, they have to negotiate if the terms are not yet clear. Negotiation is also what business is all about – arrangements for buying, selling or exchanging goods and services. It is what human relationships are also about. In everyday life, *the objective of a negotiation is generally not to come out on top but to reach a balanced agreement that seems fair to both parties. That is also an agreement the parties will stick to*.

In conflict resolution processes, negotiation among parties is an accepted practice. With experience in complex conflict negotiation exercises, the practice of negotiation has become a specialized art. In dispute resolution also, negotiations always play a key role. For example, in industrial disputes, labor unions and employers usually have developed traditions of negotiation. Often, labor union leaders, who may not have formal educational qualifications, are skillful negotiators who successfully bargain with lawyers and business leaders. As we will learn in Chapter 3, negotiation is also an everyday skill which all of us already possess with varying degrees of expertise. In negotiations in armed conflicts or inter-state conflicts, many factors can affect the outcome.

In this chapter, we will focus on the understanding of the concept of negotiation. Let us begin by the definition of the term. (Doucest,1996)

Negotiation can be defined by contrasting it with *arbitration.* In industrial disputes, arbitration is a widespread practice in Sri Lanka.

Negotiations are talks between conflicting parties who discuss ideas, information and options *in order to reach a mutually acceptable agreement*. Initially at least, negotiations may not be face-to-face. The important point here is that parties directly communicate, or talk, to each other, attempting to work out an outcome.

Arbitration is when conflicting parties present their cases to a third party, who makes a judgement of the cases, which includes a decision on the rights and wrongs of the cases presented and how the conflict should be settled. Arbitration may be 'binding' (the parties agree in advance to accept the third party's judgement) or 'non-binding' (where they agree only to consider it, sometimes as an aid to negotiation). The third party is a person or organization whose authority the conflicting parties recognize. For example, the Commissioner of Labor is the arbitrator in disputes between trade unions and employers. This arbitrating role of the third party is different from third-party facilitation, as explained later.

The difference between negotiation and arbitration may be illustrated as follows:

Arbitrator   Facilitator

Party A   Party B   Party A ←————————→ Party B
Party B
      Arbitration   Negotiation
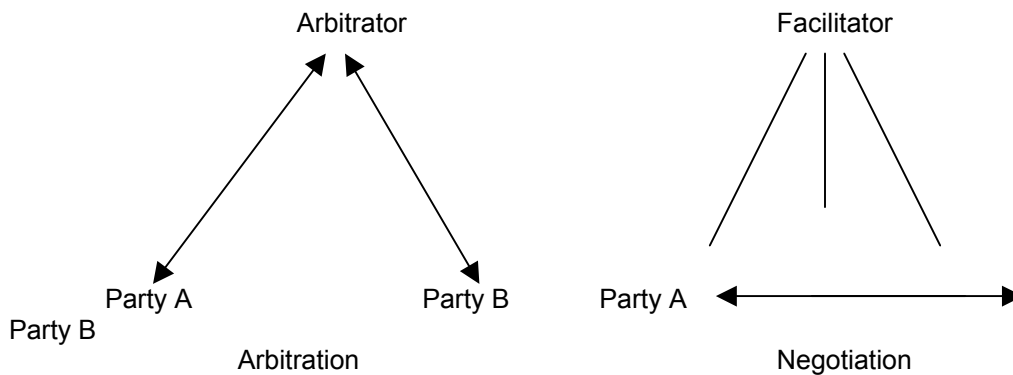
As the above illustration indicates, the essential difference is that in arbitration the parties main or only communication is with the third-party arbitrator, on whose authority they rely. In contrast, *negotiation involves the conflict-parties discussing matters between themselves, in a bi-polar relationship*. Even if facilitators are present, communications are essentially between the conflict-parties.

Negotiation Types

A typology of negotiations can be presented according to strategic objectives of the exercise of negotiation. They are:

- **Problem Solving** Negotiation: This involves efforts to find an alternative that is acceptable to both sides. Here, negotiation has the character of being a joint enterprise. In joint problem solving, the parties exchange accurate information about their underlying interests, and work jointly to identify possible alternatives. This is an excellent way to find mutually acceptable solutions, but not always practical because one party may not be ready for it when the other party is.

- **Contending**: Negotiations of this type involve an effort to force one party's will on the other party. In this, one party may try to persuade the other to accept alternatives that favor one's own interests. This is also called 'positional bargaining.' Efforts are made to dominate the other party by means of pressure tactics. In this type, negotiation can be a rigid and inflexible exercise, parties unwilling to make concessions.

- **Yielding**: This involves the reduction in one's basic aspirations or goals. Yielding is a straightforward operation. Therefore, a negotiator who chooses this strategy is not faced with inflexible or rigid situations. Yielding is good and advantageous to end negotiations quickly, particularly when issues involved are not very important. Lighter yielding often makes problem solving more effective. However, there is a danger in yielding too far. This point is obvious when one party yields and the other does not. Yielding can also be seen as a weakness. Therefore, the ideal is for parties to yield to a point that is compatible with the potential for joint problem solving.

- **Inaction**: In this type, a party might do as little as possible in negotiations. Parties sometimes opt for this strategy deliberately. Inaction wastes time and even sometimes temporarily suspends the negotiation. This, of course, tends to delay agreement and can even contribute to breakdown in the negotiation if it leads the other party to become discouraged and break off.

- **Withdrawal**: This involves withdrawing from the negotiation exercise.

Negotiations can generally be long processes. They may go on for a very long time, stopping and starting, whereas arbitration is usually a time-limited process. There can also be a link between negotiation and arbitration in the sense that arbitration can enter into a long-drawn negotiation exercise. Within negotiations, there may be a specific period of arbitration, where parties pause in their negotiating with each other in order to call in a third party to arbitrate. In such cases, non-binding arbitration can usefully add an outside perspective to negotiating processes. Such arbitration is useful when negotiations reach a deadlock. Where parties decide that negotiations have failed, turning to binding arbitration is often a 'last-hope' attempt to resolve the conflict.

FACTORS FAVORING NEGOTIATION

Certain things increase the chances of negotiations being successful. In other words, negotiations succeed when there are favorable conditions. It is important to ask whether these conditions are present or not present in conflict resolution attempts. Similarly, if the favorable conditions are not present, the question is how can they be brought about in the stages and processes of negotiation?

Experience shows that the chances of success in negotiation are increased when the following favorable conditions are present:

Conflicting parties realize they are unlikely to get what they want through unilateral action.

Early in conflicts, parties tend to believe they can get what they want through force or the threat of it. This belief ignores the competing interests and needs of the other parties.

The conflict is 'ripe' for negotiation.

Appropriate timing of negotiation processes is crucial. The author I. William Zartman used the term 'ripe' to describe appropriate timing (Zartman,1989). A conflict is ripe for negotiation when the parties realize that the alternatives to a negotiated agreement involve unacceptable costs (economically, politically, loss of life etc). But if the parties are unable or unwilling to foresee the costs of conflict or optimistic that these will fall on other parties rather than on themselves, there will be little or no motivation necessary for successful negotiation. Preparatory conciliation processes can help the parties become more realistic about the negotiation outcome. Often, negotiations are only considered when the conflict has escalated to the point where costs are already high. Preparation for negotiations may include third parties helping the conflicting parties to foresee the likely costs of continuing conflict.

Parties opt to seize on change.

Negotiations are also possible when propitious changes have taken place. Therefore, the presence of changes that are favorable is an important precondition. This suggests changes in attitudes among parties. Changes in attitude toward negotiation usually come about through a comparative evaluation of present and future possibilities.

The moment is propitious, or favorable, for negotiation when both sides perceive that they may be better off with an agreement than without one.

The representatives of each party have enough authority to speak for the whole party and commit it to a course of action.

This may be something which the negotiation process has to create and maintain. Often, parties to conflicts are not homogeneous. Each party may contain factions and rival leaders, and representatives may be vary of appearing weak. The authority of representatives can be

strengthened or weakened by support from outside groups, or even by pressure brought on by rival factions within the party. In armed conflicts, sometimes representatives to negotiation may come from the political wing of the movement, whereas the armed, or guerilla, wing may not be very enthusiastic about negotiations. In such situations, there is the likelihood of the position of the representative to negotiation being undermined. This requires that parties should prepare themselves for negotiation and its outcome. Preparations may involve finding consensus within the party and authorizing acceptable representatives to conduct negotiations.

Other parties (in the region or globally) support, encourage and press for negotiations.

Due to pressure from others, parties may come to the negotiation table. Care must be taken with the role of other parties. The greatest influence can be exerted by regional and international parties accepted as neutral in the issue over which there is conflict. Links of religion, ethnic origin, economics and trade between an external party and one of the conflict-parties can make encouragement to negotiate sound to the other conflicting parties like a taking of sides, and have the counter-productive effect of escalating the conflict. But pressure from friendly states can provide conflicting parties with a face-saving way of moving away from violent conflict towards negotiation.

WHEN TO NEGOTIATE?

As we have already noted, timing is extremely important for negotiations to succeed.

But, when is negotiation an appropriate way of handling a conflict?

The characteristics that lead parties to define issues as negotiable can be described in a number of ways.

Situations appropriate for negotiations have two characteristics: the parties agree that they need a solution, and that their decision on a solution must be unanimous. In the first, parties may feel that "we can't go on like this any longer." In the second, the parties might say: "We are in this mess together, whether we like it or not." Then the two parties might feel : "We have to find a solution together." This is what makes negotiations different from other decision-making processes. Now we can come to the following conclusion: *negotiation is appropriate when decisions must be unanimous*.

Negotiations involve above all the discovery of new alternatives rather than choices between existing, fixed and given options. Thus, *negotiation is appropriate when new solutions have to be invented to replace unacceptable old ones or new ones have to be created when new problems arise.*

The same can be restated as follows: *negotiation is appropriate when there is a change in the structure of affairs and a new order must be created or problems managed in its absence.*

LOCATION AND LEVELS OF NEGOTIATION

Location: The place of meeting can have important symbolic significance which may vary between the conflicting parties. The conflict may be replayed around the issue of meeting location. To reach prior agreement on the place of meeting, a third party may have to use many of the skills in relation to the main meeting between the conflict-parties. How conflict-parties respond to the need to agree on details of where (and when and how) to meet, can provide third

parties with much useful information about their negotiating styles, the role of factions or rivals within each party, and the role of each party's domestic audience. Information gathered and relationships formed between conflict parties and third parties at this preparatory stage often strongly influence the main negotiations later.

Open or closed locations may be more appropriate. Conducting meetings at 'closed' locations, excluding observers, reporters etc., and possibly even not informing them that the meeting is taking place, tends to allow more honest and flexible negotiations between the parties. Choice of a closed location may include an agreement between parties not to report and comment publicly on the meeting until a later, agreed time. 'Open' locations, with outsiders present and public reporting of the meetings' progress, tend to encourage the conflict-parties to adopt postures designed for public consumption, particularly their home-audience. The public, therefore, becomes a sort of declared party to the negotiations, influencing their course but largely beyond the influence of third-party facilitators.

Levels of communication between parties should also be considered carefully. Negotiations (and mediation) may be conducted between the top level of each party, but it is important that there are communications between many of the levels of each party. For negotiators, *multi level communication provides more information on how the other party views the conflict-issues*, adding depth and probably more flexibility, to the official position declared by the party's official negotiators. For third parties involved as advisors, facilitators of negotiations, or mediators, maintaining communication with many different levels within a conflict-party can provide much useful information, particularly in the preparation stages and if obstacles occur which stalemate the negotiations.

With fact-finding missions, shuttle-diplomacy, goodwill visits, unofficial consultation etc., conciliation processes can help bring conflicting parties to the point where they are ready to consider the possibility of negotiation, and where some factors conducive to successful negotiation have developed.

GROUND RULES

Ground rules are similar in negotiations, facilitation, mediation and other meetings. These are the basic rules of conduct, which all parties agree to as essentials for these meetings. *Ground rules have the immediate practical value of allowing the meetings to happen, and they also have a broader psychological value*. Acceptance of, and then experiencing, these ground rules reveals what is needed for constructive communication and mutuality in relationships. When the parties are in conflict, of course, such ground rules are not applicable at all. Efforts must be made to find ground rules which all participants can agree to. Ground rules can include the following elements:

- Allowing all the parties to participate fully, including to state their views and suggestions
- Listening to each speaker without interruption or disrespect
- Freedom to suggest ideas without commitment to them and without ridicule
- Confidentiality and non-attribution outside the meeting
- Mutually constructing agenda and timetable to satisfy all parties
- Commitment to reach an agreement
- Acceptance of the role of the facilitator (or mediator etc.)
- Freedom to ask for 'time out' (a pause in the main negotiations for any party to meet in private with or without the facilitator)
- Punctuality

STAGES OF NEGOTIATION

The five main stages of negotiation are the following:

- **Preparing for negotiations**
- **Opening negotiations**
- **Developing strategies**
- **Making decisions/solving problems**
- **Making it work**

These stages in the negotiating process can be illustrated as below, as if climbing a mountain and then coming down the other side.

Solve problems – Make decisions

Develop strategy

Open

Make it work

Prepare

(Implementation etc. post-agreement)
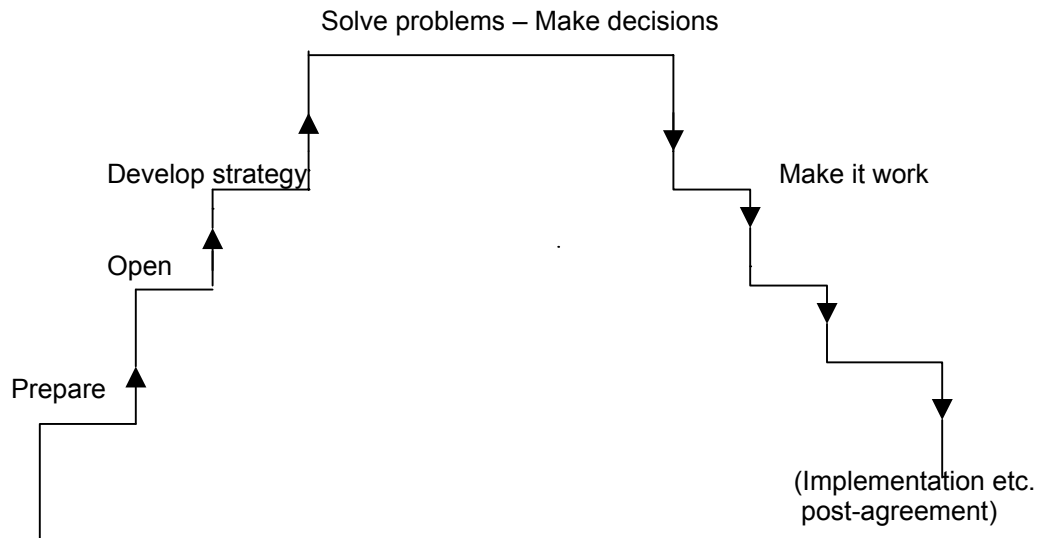
Preparing for Negotiations

Conflict-analysis methods provide tools for starting to understand the conflict prior to getting involved in negotiations. It is important for potential negotiators and facilitators to prepare themselves in several stages, repeatedly fine-tuning their understanding of the conflict-situation. These stages of preparation include:

- **Analyzing the conflict:** Identifying the parties, the problems and issues, deciding in principle whether to get involved;

- **Analyzing in more detail:** What are other issues, other parties, the relationships between them, the history of these, the context and alternatives to negotiation, and outcome-possibilities?

- **Checking the decision to get involved:** If decide to get involved, decide when? how? with what/who?

- **Making initial contacts:** Explore possible forums for discussion and consider possible convenors;

- **Designing the process:** Deciding the appropriate style of negotiation; and

- **Reaching agreement on the negotiation process:** Agreeing on ground rules and issues to be discussed, considering details needed to create an appropriate climate for negotiation (agreement on process is important to reach agreement on substance).

Identifying *all* the parties involved in the conflict, including parties involved or with an interest in the conflict in a secondary or indirect way, is particularly important. These secondary or indirect parties to the conflict may influence the main parties, and may distort or sabotage the negotiating process or its outcome. *It is often not helpful to give every party 'a seat at the negotiating table,'* yet leaving them out of the process entirely may encourage them to exert unhelpful influence. Including secondary/indirect parties productively in the process may involve third parties in consulting them before and during negotiations between the main conflict-parties. Even in non-facilitated negotiations, third parties may play this useful background role.

This initial stage is '*negotiation about negotiation,*' or 'getting the parties to the table.' This may also be described as *'pre-negotiation talks'* or *'talks about talks.'* Important matters which will help to decide if negotiations are possible and worthwhile include: which issues are to be negotiated, who will participate, which outsiders, negotiating principles, the agenda, duration and location. Reaching agreement on a negotiating process often involves increasing the conflicting parties' level of communication, trust and confidence, and developing a shared understanding of the problem to be negotiated.

The practical matters discussed (for example, where negotiations might take place) are important for psychological, as well as practical, reasons. However speculative, such discussions are communication between the parties (even if indirectly, through other people), and they are constructive. The process of offering a suggestion, considering a counter-suggestion, responding to it and eventually reaching some agreement (about relatively unimportant things) enlarges the possibility for constructive communication about the real conflict-issues. Energy going down this path is energy not going down the path of violence. Sometimes, the subjects discussed might seem trivial (the size of the table, which side to sit, who will enter the room first), especially in the context of great suffering currently being caused by the conflict. The parties' discussion of even such apparently unimportant matters may well be full of the sense of injustice, passion, intransigence, hate etc which characterizes the conflict itself. This can be useful as a preparation for negotiations, because it provides 'practice-runs' for the parties in experiencing these upsurges of emotion which create non-negotiable 'positions,' and then being able to go on to reach more reasonable agreements. Until the very last moment, parties may hold back from committing to negotiations. Often, all the time that the practicalities and possibilities of negotiations are being discussed, the likelihood that they will happen is increasing. Pre-negotiation should be treated as seriously, and with as much time and care, as the main negotiations they lead to.

As the process of helping the parties prepare for negotiation goes on, facilitators are also becoming more prepared – getting to know the parties better, and understanding the subtleties of the issues. And continuously, negotiators and facilitators should be revising their analysis of the conflict.

A shared understanding of the problem or issue may result from the above processes. Parties in conflict often have very different understandings of the situation. Before negotiations can start, all parties must recognize that there is a conflict, what the issues in conflict are – including knowing even if not accepting the other party's descriptions of the conflict-issues. Most of all, they must understand and accept that it is these issues which are the subject of negotiation. Through forms of conflict-analysis, negotiators and facilitators can help to create a broad understanding of the conflict, which is shared by all the parties.

During this preparation stage, the parameters of negotiation may be decided – what is and what is not to be negotiated over. Discussing and deciding this may take each party a long time.

Privately, as well as with each party, facilitators can map the various issues, to find a core of negotiable issues.

When there is a *core of agreement* between the conflicting parties about what can be negotiated, the start of negotiations may be close. Even at this early stage, progress has been made - a complex conflict has been processed into a series of definable issues, by the conflicting parties with the help of negotiators. This is already a considerable achievement. Before negotiations start, it may be worthwhile for negotiators to reflect on the core of agreed negotiable issues with each party, making explicit the shared perceptions, interests, values and needs which are behind this agreed basis for negotiation.

Pre-Negotiation Behavior

Our discussion above suggests that beginning negotiation in a conflict is usually a long process. It can even cover years of effort and preparation, between the time when one party decides that the problem is appropriate for negotiation and the time when it convinces the other party. These attempts generally require a great deal of time, first in implementing, then in communicating to the other party, and then still more time for the trial and error process of thinking up new alternatives and communicating them in turn. There can also be *pre-negotiation tactics* employed by the parties. Pre-negotiation tactics are efforts made by parties to change the course of negotiation in favor of their individual interests.

Opening Negotiations

- To set the tone (how negotiations start is very important) and tactics
- To share thoughts on how the situation looks from the different perspectives
- To agree on problem(s) to be solved, before seeking agreement on solutions

Negotiators and facilitators of negotiations both have to establish at the outset the previously agreed style and tone of the negotiations. Broadly, are they to be a contest of strength in bargaining for which one party wins (though perhaps only in the short-term), or are they intended to bring about mutual gains, in which all parties are reasonably satisfied with an outcome which may endure in the long-term? Different tactics will be used for each – and the tactics used are a good indication of how each party is approaching the negotiations, in reality as apposed to what they *say* they are doing.

Contest-negotiating, the 'hard' style of negotiating noted earlier, is characterized by these tactics:

- Starting with a surprise demand or precondition
- Insisting on setting out your party's position first, and monopolizing the time available
- 'Asking high' – making high demands and forcing concessions out of the other party
- Undermining the other party's positions and/or its representatives, and its unity
- 'Stonewalling' – refusing to change any detail, insisting everything is linked, delaying, referring back to higher authorities or 'the people'
- Coercing – issuing ultimatums or threats or 'faits accomplis'

If pursued for long, these tactics can undermine the good faith and trust which has brought the conflicting parties to the negotiating table. When deadlocks occur there is a temptation to resort to these 'hard' tactics. But when there are deadlocks it is usually better to take extra time to ease

the pressure and find some shared form of conflict analysis or problem-solving to discover what the deadlock is about.

Mutual-gain negotiating, in contrast, can be identified by these tactics:

- Starting with non-threatening, constructive suggestions – about the negotiating process rather than the substantive issue
- Starting by making sure both parties understand how the other sees the situation, and engage together in some analysis of the conflict (even if this has been done before)
- Starting with a 'goodwill concession' – something which one party can afford to give
- Identifying the needs underlying each party's position, and seeking solutions which accommodate these adequately enough for all parties
- Being explicit where one issue is being traded off against another, or where a compromise is needed
- Separating off the most difficult issues for shared working groups to study and report back
- Suggesting new possibilities and asking how they suit the other party's as well as one's own party
- Avoiding locking parties into agreements prematurely
- Being thorough at the end instead of rushing, and agreeing ways of implementing and monitoring agreements, with mechanisms for dealing with non-compliance
- Reframing the language in an overall problem-sharing and problem-solving spirit

Developing Strategies

Some of the tactics for mutual-gain negotiating, noted above, come into the later stages of the negotiation process. During this middle phase, negotiators are engaged in developing and refining their strategies, and putting them into practice, by:

- Conflict-mapping: analyzing the people and groups, processes and problems involved
- Thinking through aims, needs, interests and potential solutions
- Getting from problems to causes to underlying needs; separating people from problems, interests from positions
- Considering what bargaining power they have, and how to use it; what strengths and weaknesses
- Exploring all the alternatives to negotiation
- Understanding the other party and using fair standards to support ideas; granting legitimacy to the ideas of others

A positive contribution is made to negotiations by focusing on what is wanted rather than what is not wanted. It is worth reflecting on what the alternatives to negotiating are, and deciding if they are better – so that one engages in negotiation because that is the best course available at the time. Facilitators can help parties by costing out, in a realistic way, the various alternatives (violent conflict of various forms, withdrawal from the conflict, arbitration etc.)

Making Decisions and Solving Problems

- Be inventive about options – sometimes increase the options available.
- Create criteria to evaluate negotiations which focus on the needs to be met.
- Emphasize common ground.
- Make decisions preliminary and provisional, fine-tune the details.
- Decide if enough has been agreed; need everything be agreed?

Expanding the range of options being negotiated about means there is more to be divided up between the parties, and something for everyone. If the options are few in number, negotiations may be badly influenced by the fear of not getting enough and a win/lose situation develops.

Feeling free to consider the wide range of possibilities on each issue can encourage a sense of productive shared effort. Parties are more likely to feel free in this way if a final commitment is not asked for until enough elements of a comprehensive package have been sketched in, then reconsidered and revised as necessary. If agreement has proved impossible on one or two issues, it may be best to make the limited agreement which is possible at the time and remit the unresolved issues to another forum at a later date. The negotiations may have been attempting too much, and the experience of the limited agreement achieved may make the other issues resolvable later.

Making it Work

This final stage of negotiation and facilitated negotiation involves 'putting the pieces together to make peace':

- Preliminary decisions are combined to make a complete package; additional negotiations may be needed for unresolved issues.
- Be concrete, specific and clear; who does what, when, where.
- Work out monitoring and implementing procedures, or programme later negotiations.
- Formalize the agreement and get the necessary approvals or ratification.
- Schedule review-meetings; the agreement may need additions or adjustment.
- Consider how to jointly 'sell' the agreement regionally, internationally and at home.
- Consider 'guarantors' or 'friends of the peace process' to sell it, and ensure compliance.

A shared sense of pride and achievement accompanies successful negotiations, which facilitators, observers and outside parties should affirm. This achievement should be marked in some celebratory way which is appropriate to the culture and the nature of the conflict resolved.

NOTE:

In preparing this chapter, the following textbooks were extensively used:

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3

Negotiation in Conflicts
Jayadeva Uyangoda

Introduction

In the field of conflict resolution, the idea of negotiation has gained currency against a number of successful instances where conflicts have been settled or terminated through *talks or discussions* among parties involved. Recent examples are Northern Ireland, South Africa, Israel-Palestine and Bangladesh. In all these instances, parties to the conflict came to the '*negotiation table*' for '*peace talks*.' Through talks, they have arrived at agreements to settle the conflict and implement an agreement which they had worked out together. We generally describe these instances as ones of conflict settlement or termination by means of negotiations.

But not all conflicts are terminated through negotiations. Nor are all conflict negotiations likely to end in a peace settlement. Even when an agreement is worked out, there is no guarantee that it will invariably bring a conflict to an end. Sri Lanka is a clear case in point in this regard. Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE) held talks twice, in 1989

and 1995, without producing any peace agreement. In 1987, there was an agreement between Sri Lankan and Indian governments to solve Sri Lanka's conflict, but the conflict did not end.

However, *both successful and failed negotiations offer us important lessons about negotiation and conflict resolution*. Negotiations have succeeded under circumstances favorable to conflict termination. When parties to the conflict are ready for a settlement and there are political conditions to facilitate the option of peace, and when the conflict itself is ripe for settlement, the negotiation option is more likely to succeed. But when even one party to the conflict is not ready for a settlement and when the conflict has still more energy to go on, negotiations are not possible; nor is there space for negotiations to succeed.

Indeed, *conflict negotiation is an extremely complex exercise*. Merely because some conflicts are brought to an end by means of negotiations, it does not mean that all conflicts await negotiations. Similarly, merely because negotiations have failed to bring peace in one conflict, it does not mean that even that particular conflict defies negotiations. Therefore, in this module, we will discuss some of the complexities involved in conflict negotiation.

Negotiation as an Everyday Skill

At a preliminary level, negotiation is an everyday activity in which we ourselves are involved as a part of our regular life. Indeed, we are often successful negotiators. Imagine a situation where a fish-vendor comes to your doorstep on Sunday morning. You want to buy a kilo of fish, but the vendor tells you that the price is Rs. 250. You are not happy with that price and you begin to 'bargain.' You offer a lower price, knowing very well that the vendor is likely to come down on the price and he was keen to sell off his merchandize. The fish-vendor also knows that you need fish for your Sunday meal and you are most likely to buy fish. After several bargaining offers, you and the vendor agree to do the transaction at Rs. 225 a kilo. You may buy the fish with the satisfaction that you got the price reduced through successful bargaining. And of course, the vendor goes off with the satisfaction that he made a profitable deal, although his profit margin was a little less than what he initially aimed at.

When we analyze this situation, using theoretical tools of negotiation, we can identify how clever we indeed are at negotiation. You and the fish-vendor entered into *a negotiation exercise* in the form of a business transaction. The two parties had two objectives to satisfy their respective interests. When you refused to accept the price quoted by the vendor, you initiated *a bargaining exercise*. You made a *hard bargaining offer*, when you offered to buy a kilo of fish for Rs. 200 or else not to buy any fish at all. The vendor countered your initial bargaining offer by making a counter offer at Rs. 240 a kilo. You still went on bargaining by refusing to buy fish at that price. In the process, both you and the vendor retreated from your positions by working out a mutually acceptable price. In other words, the two of you *moved away from positional bargaining and accepted a compromise*. Rs. 225 is the *compromise agreement* reached through this process of negotiation. If both you and the vendor stuck to positional bargaining, a compromise may not have been worked out and there would not have been a transaction at all. Similarly, in this example, there was *a negotiation process*, *a willingness to bargain*, and *a will to compromise*. And the compromise brought out *a mutually satisfying outcome*.

Bargaining and compromise are elements of our everyday life of negotiations. Without us knowing it, we are negotiation practitioners at home, in the office, in the business field and in our relations with others.

But, negotiation in conflicts is slightly more difficult than negotiating in a non-conflictual situation like buying fish. Bargaining in a political conflict involves not just two individuals, but thousands or millions of people. There, the stakes placed at the negotiation table are very high. The stakes usually involved in such conflicts revolve around state power. Parties may not always be ready to compromise, even when they negotiate. Even when a compromise is possible, the parties to the

conflict may not trust each other's intentions. Then, there may be doubts about the outcome of the compromise settlement. Even when the outcome is clear, there can be apprehensions about the implementation of the settlement agreement. The conclusion we can arrive at is the following: *Conflict termination through negotiation will have to take into consideration the complexities inherent in all stages of the process*.

Defining 'Negotiation'

According to some theorists, the concept 'negotiation' denotes something specific in conflict situations. It does not refer to the resolution of a conflict. Rather, it suggests the settlement or termination of a conflict. The idea here is that negotiation is a means to settle or terminate a conflict, rather than resolving conflict. Here, we need to recognize the conceptual differences between 'conflict resolution' and 'conflict settlement.' Conflict resolution requires a change of beliefs and values among parties, in order to address the causes that produced the conflict. Here, the conflict is resolved through resolving causes that led to the conflict so that the same conflict may not arise again. Conflict settlement does not anticipate such a fundamental change among parties. It seeks only a change of their behavior. Then "the focus of negotiation is not attitude change per se, but an agreement to change behavior in ways that make settlement possible" (Rubin,1993:3).

In this definition, negotiation is a means to an end. The end is the settlement of the conflict. Let us take the example of an internal armed conflict, like in Sri Lanka. When the armed conflict is on, the parties to the conflict operate within a specific pattern of behavior. When they come to the negotiation table, they may have not changed their behavior. But, when they negotiate to settle or terminate the armed conflict, they will be changing, or more precisely, agreeing to change, their conflict behavior so that settlement is produced through that change. Of course, conflict settlement can lead to the resolution of the conflict. But negotiations are primarily aimed at changing the behavior of the parties involved.

Negotiation is also a communicative action. It involves talking, talking in order to go beyond a conflict. In a conflict, parties may not communicate with each other at all. Or, they may actually be communicating which results in conflict escalation. But negotiation is a different kind of talking. It presupposes, at the minimum level, the willingness of parties to explore into the possibility of resolving disagreements. It is in this sense that Rubinstein defines negotiation in the following way: "Negotiation is a set of communicative processes through which individuals or groups try to resolve disagreements that exist among them" (Rubinstein,1992:116).

The definition of the concept 'negotiation' has gone through a transformation in recent years, due to many experiences in conflict negotiation. A traditional definition is found in the *International Encyclopaedia of Social Sciences* (1968). Negotiation is a "form of interaction through which [parties] … try to arrange … a new combination of some of their common and conflicting interests." In more contemporary definitions, negotiation is viewed as more than 'a form of interaction' among parties. Rather, it is a process. William Zartman, one of the leading theorists in the field of conflict resolution, defines negotiation as "a process of combining conflicting positions into a common position, under a decision rule of unanimity, a phenomenon in which the outcome is determined by the process" (Zartman,1993:147).

Why Negotiations are Difficult

In this discussion, we are focusing on negotiations in internal armed conflicts. Internal armed conflicts are the most difficult conflicts to terminate or settle. It has generally been the case that when an internal conflict is of the character of a revolutionary insurrection or having as its goal ethnic self-determination, such a conflict is more likely to protract. That is why some of those who

have studied conflicts make the point that *when the conflict is over identity – ethnic or religious – the room for compromise solutions becomes more constrained.*

Maximalism of Insurgents*:* Revolutionary or identity-based armed conflicts often have a tendency to generate *maximalist goals.* When an insurgent movement has set a maximalist goal – for example, the capturing of state power, or establishing a separate state – there is usually reluctance on the part of that movement to revise its goal and to accept something less than the original, final objective. Such conflicts are also propelled by idealistic motivations. A slogan like "Motherland or death, we shall win!" often characterizes the commitment of the insurgent movement to make sacrifices, to withstand enormous human losses and to continue the struggle for years. In such an idealistic framework, compromise, or even talking to the 'enemy' to find a compromise, may be seen as incorrect, immoral and being harmful to the final goal.

Inflexibility of the State*:* Similarly, the states that are involved in internal conflicts can also be inflexible with regard to a settlement. States often view insurgent challenges as law-and-order problems that should be resolved by the use of military force. Once a state begins to use military force in an internal conflict, it is usually difficult for that state to seek a solution outside a unilateral military victory. Any deviation from the military option by the state may be seen as a sign of weakness, an acceptance of the legality of the 'enemy,' and even a step towards endangering national security. In such circumstances, negotiations may be seen as (i) giving legitimacy to the enemy's claims, and (ii) the admission of the enemy's strength *vis- a-vis* the weakness of the state. Therefore, states often tend to be intransigent and uncompromising, until such time that the conflict itself compels the state to seek a negotiated option.

Fear of a Settlement*:* Strangely enough, parties to internal conflicts may sometimes feel afraid of a negotiated settlement. The fear element is usually associated with rebels who are involved in a conflict with the state. The fear of a settlement can be of different dimensions. Annihilation of the movement, as a result of a compromise with the enemy, is often felt by rebels as a possible consequence of a settlement. They might see negotiation as a trap and settlement as capitulation. There can also be the fear that a negotiated compromise with the 'enemy' might result in splitting the movement. There is always the possibility that in an insurgent movement, there are hardliners who reject the idea of a compromise and any deviation from the original maximalist objectives.

Uncertainty of the Negotiation Outcome*:* The present state of Sri Lanka's ethnic conflict demonstrates how the parties to the conflict are skeptical about negotiations. The LTTE walked out from the negotiation table twice, on the argument that negotiation was not bringing about a useful outcome, or an outcome favorable to them. The government is reluctant to resume negotiations, because of the view that negotiations might not produce any positive result. There is also the view, shared by both the government and the LTTE, that negotiation might be manipulated by one party as an exercise in buying time or obtaining some breathing space. Parties may not even place much trust on each other's commitments. There is also the doubt about how genuine negotiations are. That is why sometimes one party to a conflict might lay down preconditions for negotiations that are patently unacceptable to the other.

Why Should One Negotiate with the 'Enemy'?

One of the most commonplace objections to negotiations in a situation of conflict is that talking to the 'enemy' is a futile exercise. Particularly in identity-based conflicts, even the very idea of negotiations with the enemy is considered by 'hardliners' as a sign of weakness, a great risk and even a prelude to capitulation. Some people have a mental block about talking to the enemy. "We should destroy the enemy. Why should our people talk to them?" is the question they often ask..

A fascinating reply to this kind of objections to negotiation is provided by Simha Flapan, an Israeli intellectual. Flapan is a journalist in Israel who advocated negotiations between Israeli government and the PLO (Palestinian Liberation Organization) even in the seventies and eighties

when in Israel any suggestion of peace with PLO was treated as sheer treachery. Flapan not only advocated a negotiated settlement between the two sides, but also maintained links with the PLO and communicated to the Israel public that the 'enemy' should be treated as a 'potential ally in peace.' He wrote in 1982:

> "There is a fundamental difference between strategy of peace and strategy of war. Unlike war, peace cannot be planned in secrecy; it requires an appeal to the people, both its own and the adversary's. It requires the recognition of the enemy as a potential ally. It requires dialogue."(Flapan, March 1982)

Why Negotiation is Necessary

The conclusion we must draw from the above is that negotiations are difficult. But it should not mean that negotiations are not necessary or are irrelevant to a conflict resolution process. In the contemporary world, it is difficult to imagine a situation where a conflict is resolved by the total capitulation of one party through purely military means used by the other side. Even if a conflict may protract itself for decades, like in Northern Ireland or Palestine, there may come a time when the parties realize that a settlement is more realistic than the conflict which is likely to protract. That is *why negotiation is considered a 'rational choice.'* It is rational to end the conflict than allowing it to protract, because a compromise serves one's interests better. The experience of successful negotiated settlement of conflicts tells us many things about why negotiation is necessary, rational and useful.

Irrelevance of Maximalist Goals: We noted above that parties to a conflict often begin their campaigns with maximalist goals. It may well happen in the course of a conflict that the parties begin to realize the irrationality of sticking to original, maximalist objectives. When the world situation changes, the goals set up during the previous world situation may not be realistic anymore. The Palestinians accepted this reality when they went to serious negotiations with the enemy, the Israeli state. This realization of the need to change the original goal was dramatically stated by one of the PLO leaders:

> "The past year has seen tumultuous and unforeseen change in the world order as it has stood since the end of World War II. A new and as yet unpredictable global balance is in the making, with consequences that will be felt everywhere, including in the Middle East.
>
> Turbulent as these times are, the Palestinian people and their representative, the Palestinian Liberation Organization (PLO), see new prospects for peace in the Middle East. As the tide of change in the Soviet Union, Eastern Europe, South Africa and elsewhere has swept away obsolete notions and structures, the Palestinian people are very much a part of this historical process… In this context, the PLO regards its own current political program offering a two-state solution to the century-old conflict over the land of Palestine…as being entirely consonant with the spirit of the times. The PLO decision to recognize Israel … is rooted in pragmatism, openness, and the readiness to dissolve the long-standing presuppositions, attitudes and antagonisms of the past." (Khalaf,1990)

The Need to Search for Alternatives: It so happens in conflicts that parties sometimes reach a situation in which original goals and strategies need to be revised. For example, a party to a conflict may realize that its military strategy is no longer viable or even useful, because the continuing war would not serve any purpose. It may only further hurt them in material, human and political terms. Then there is the possibility that either one party or both parties would want to seek alternative strategies and solutions. It is often the case that *alternatives have to be worked out together*. Negotiations are a useful devise in such circumstances for parties to find mutually acceptable alternatives.

Summary

In this lesson, you have learned the following :

- Both successful and failed negotiations offer us important lessons about negotiation and conflict resolution.
- Conflict resolution through negotiation is a complex exercise; it is a process.
- Negotiation is also an everyday exercise. We often practice negotiation successfully. Lessons we can learn from everyday negotiations are useful to understand the dynamics of complex conflict negotiation.
- In political/ identity conflicts, conflict termination through negotiation requires the recognition that there can be many complexities through all its stages.
- Conflict resolution and conflict settlement are different concepts.
- Negotiation is a communication process.
- Conflict negotiation can be difficult due to many reasons such as
    (i)   Parties find it difficult to change their 'maximalist' objectives.
    (ii)   Parties are 'inflexible.'
    (iii) There is a 'fear of settlement.'
    (iv) Uncertainty of the negotiation outcome.

- Negotiation is a 'rational choice.'

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Mediation and Conflict Resolution
Jayadeva Uyangoda

Introduction

When a conflict protracts itself with no possibility of resolution, like the one in Sri Lanka, there can emerge an argument for a *'mediated settlement*.' The basic assumption of this argument is that direct parties to the conflict are incapable of solving the conflict on their own. Therefore, as the argument further goes, '*a third-party involvement'* is necessary to bring about a settlement. There is also a body of international experience to support the claim that seemingly intractable conflicts can be terminated through third-party mediation.

Experience in conflict mediation also tells us that there is another side to the story. All attempts at mediation may not succeed. Similarly, the path of mediation can be a very difficult one. Mediation cannot happen merely because there is a conflict and that conflict needs to be resolved. It is a process with complexities and challenges. In this chapter, we will discuss mediation, trying to identify some of the major complexities in the process and exercise of conflict mediation.

Mediation Defined

Mediation can be defined as "an act of outside intervention *to assist adversaries to resolve a shared conflict.* It works to create a peace process to engage adversaries *in a constructive political dialogue*, or to transform an established dialogue process into a conflict resolution and peace-making one." (Rabie :132)

In this definition, there are a number of elements involved in an act of mediation.

i.   Mediation is an act of an outsider (Neutrality).
ii.   Mediator assists adversaries to resolve a conflict (Facilitation).
iii.   Mediation is a component of a conflict resolution and peace process (Ripe Conditions).
iv.   Through mediation, parties engage in a constructive dialogue (Compromise).

Mediator as an Outsider

Mediator in a conflict is by definition an outsider. The term 'third-party mediation' is derived from this inherent characteristic of the act of mediation. This notion of 'outsider' has a host of meanings. It does not simply mean that the mediator comes from abroad, or from other country. First, it means that the mediator is an outsider to the conflict and should not be a party involved in the conflict. Nor should the mediator be seen as aligned with or supportive of one particular party to the conflict. We may call this requisite of mediation as *the neutrality principle*. Whenever one party to the conflict perceives the mediator as non-neutral, or supportive of the adversary, successful mediation cannot take place, because the mediator's role in the expected settlement too would be in doubt. Mediator's neutrality is important to create an atmosphere and psychology of confidence and trust in the negotiation process among the parties to the conflict. One of the crucial barriers to a settlement in a conflict through negotiations is the possibility of one party perceiving the negotiation exercise as likely to result in an outcome unfavorable to its own

interests. In such a situation, if that particular party perceives the mediator as partial or biased towards the adversary, mediation may not be possible. Neutrality, then, is important for the mediator to create confidence among conflicting parties not only on the exercise of mediation, but also the outcome of negotiations.

Mediator's Role

Sometimes, people tend to think that a mediator can bring conflicting parties to the negotiation table and impose a settlement on them. As Sri Lanka's own experience demonstrates, this belief is quite far from the realities of conflict negotiation. Perhaps, in a neighborhood dispute, a powerful or respected third party can do so and the disputants may accept the solution offered by the third party even though they are not quite satisfied with the outcome. But in macro political conflicts, such compromises can be hardly made or can work, because in them, unlike in neighborhood conflicts, the stakes are very high. In high-stake political conflicts, often involving issues of state power, imposing a settlement by an outsider is quite different from a referee separating two boxers locked in a fight. The parties themselves should ultimately make the compromise within a mutually acceptable framework. But then, what is the role of the mediator?

Let us imagine a situation where the two parties, while they have been engaged in a war, want to settle their conflict. However much they are keen on arriving at a settlement, they don't trust each other to work it out. In this situation, no party is willing to take the first step towards negotiations, because any relaxation of the military campaign by that side may be seen by the other as a moment of the adversary's weakness. Here, a third-party can play a constructive role by *facilitating communication between the two sides*. In this situation, the mediator is the medium through which the two sides begin to communicate. In many armed conflicts, communication between parties is one of the most challenging areas of interaction. They may communicate through military means, like one party giving signals to the other through an extremely guarded and ambiguous language. A good example is the LTTE leader's speech on 26 November, 1998 in which he called for a mediated settlement. But that call was presented in such a way that there was also a message continuing the armed struggle to achieve the movement's ultimate political goal. Some analysts interpreted this speech as a call for mediation while others disagreed. What we can see in that speech of the LTTE's leader is a deliberate ambiguity in communication. In the absence of direct communication between the government of Sri Lanka and the LTTE, there was no mechanism for the government to respond to the other side's mediation suggestion in any positive terms. As expected, the government responded cautiously and negatively. In such an atmosphere of ambiguity and caution, the mediator can facilitate communication between the parties so that their actual intentions can be explored.

Mediation can also mean a slightly greater role for the third party. Suppose that the two parties want to come to the negotiation table. Even though the parties agree to begin face-to-face talks, they may still mistrust each other's intentions, objectives, goals, strategies and tactics. There can also be a lot of disagreement over the time- table for talks, the agenda, the venue, the level of representation and the time-frame within which talks should be concluded. Still more complex disagreements may arise on issues of cease-fire and the behavior of the two sides during the negotiations. It is always the case that during negotiations, each party may try to seek advantage over the other through bargaining. This is exactly where a mediator has a role to play. *The mediator can consult the two sides, ascertain their respective concerns and then assist the two sides to avoid disagreements in the preparation to negotiations. When disagreements arise, the mediator can propose solutions or alternatives.*

Further, the mediator can assist the parties in working out the settlement agreement, if negotiations progress towards a compromise. Formulating a settlement to terminate an armed conflict is not an easy task. The settlement has to be mutually acceptable to the parties. They should feel satisfied and comfortable with the outcome. They should be willing to make sacrifices and they should also be ready to accept and implement the settlement. Parties may also seek

mutual guarantees. Here*, the mediator's role is to facilitate the working out of the settlement by being a referee, a neutral thinker and a constructive planner.*

Mediation and Ripe Conditions

Can a mediator just walk into a conflict, organize a negotiation process and make the parties agree on a settlement? The plain answer to this question is 'No,' although people sometimes might think that the answer ought to be 'Yes.' Such an arbitrary act of mediation can be a disaster, especially for the mediator. If a conflict involves a 'sovereign' state, uninvited mediation by an outsider would be immediately seen as an interference with the country's internal affairs and an affront to its sovereignty. If the conflict is between the state and a rebel movement, uninvited mediation would be perceived by the rebels as a part of a conspiracy against them by the state. Here, the lesson to be drawn is simple: *Mediation in a conflict would require the consent by both parties to the conflict. Indeed, mediation works better when there is bi-partisan willingness to negotiate.*

This leads us to ask another important question about mediation: What is the best time for mediation in a conflict? Or, under what circumstances would parties to a conflict accept mediation? Here, the most important thing is that *both parties* should accept the utility of mediation. If only one party calls for mediation, the other party is most likely to reject mediation, or even not respond to the call. Similarly, if a potential mediator calls upon the parties to accept mediation, the parties may ignore it altogether. The point, then, is that *there should be conditions favorable for mediation*. In conflict theory, the notion of '*conflict ripeness'* refers to the existence of conditions conducive to conflict resolution.

The notion of 'conflict ripeness' was developed by William Zartman in his writings of the early eighties. According to Zartman, a conflict or a crisis, is ripe for resolution when the following three conditions are present:

(i). There exists a situation of deadlock and deadline.

(ii). Unilateral solutions are blocked and joint solutions are conceivable.

(iii). The party that previously had upper hand in the conflict has lost the advantage
and the weaker party has gained in strength.

In Zartman's concept of ripeness, each side to the conflict perceives that it is unable to win the conflict by itself. In other words, parties feel that there is a deadlock and the deadlock may go on indefinitely, each party still having the capacity to hurt the other. At the same time, each party perceives a moment when things will get worse unless an advantage is secured through other means. It is a deadlock that hurts. Zartman describes such a situation as a *'mutually hurting stalemate.'* It is useful to quote Zartman to get his precise words:

> "The point when conflict is ripe for resolution is associated with two different sorts of intensity—called here *plateaus* and the *precipice* – which produce different sorts of pressure – called respectively *deadlocks* and *deadlines*. A plateau and its deadlock begin when one side is unable to achieve its aims, to resolve the problem, or to win the conflict by itself, and they are completed when the other side arrives at a similar perception. Each party must begin to feel uncomfortable in the costly dead-end into which it has gotten itself. A plateau must be perceived by both not as a momentary resting ground, but as a hurting stalemate, a flat, unpleasant terrain stretching into the future providing no later possibilities for decisive escalation or for graceful escape." (Zartman,1989:267-268)

The recognition of this ripe moment is crucial for successful conflict mediation. In the ripe moment, the parties may find themselves locked in a stalemate which brings to them only an

unavoidable catastrophe. Or else, they no longer see the viability of unilateral solutions. They are ready to seek joint solutions. The important thing is that even when parties realize this situation, they may not act towards a compromise on their own. But a mediator can step in once the moment has come. And then, "the parties and mediator can turn to the more creative, meticulous, trial-and-error job of finding an acceptable way out of the conflict." (Zartman, 1989: p. 273)

Mediation and Compromise Making

We noted above that a compromise solution to a conflict involves the seeking of joint solutions by parties and that mediator can play a *constructive role* in such circumstances. In other words, the role of the mediator is to make compromise-making possible for parties that are still locked in the conflict. Enabling parties to make compromises requires from the mediator a series of activities. Rabie, in his book *Conflict Resolution and Ethnicity* identifies six such activities for the mediator:

(i).   Initiate dialogue among adversaries and induce cooperation between competing groups.

(ii). Facilitate analysis of causes of conflict and prepare for negotiations to end them.

(iii). Sustain and foster direct or indirect negotiations through improved or added channels of communication.

(iv).   Bridge gaps between adversaries through the establishment of direct human contacts and help antagonists discover common goals that require joint actions.

(v).   Enhance the chances of success in resolving conflict through the introduction of fresh ideas and new creative proposals.

(vi). Simply provide a forum for declaring the acceptance of compromise settlements that could not otherwise be declared.

Mediation as a Process

The above discussion tells us another important aspect of mediation. Mediation as a means of conflict resolution is not a one-shot activity. A mediator cannot just come into a conflict situation, try his hands at a settlement and then fly back. In real life, conflict resolution does not happen in such fairytale manner. Mediation is a long, arduous and often a frustrating exercise. Mediation can suffer setbacks and even total failure. In the process of mediation, negotiation between parties can break down and the conflict may even escalate.

Mediator will have to be prepared for complex and unforeseen eventualities. Mediation efforts in the Northern Ireland, or in the Palestine-Israel conflicts are good examples. In both instances, the US played the role of the mediator. Mediation there involved a long-drawn exercise of preparatory work for negotiations to begin. In the course of negotiations, there were times when parties withdrew from negotiations. There were threats of unilateral action, putting in jeopardy the whole mediation exercise. But the mediator did not give up. Of course, the US had the advantage of being a powerful and influential mediator. Nevertheless, the point here is that the mediator should have perseverance to stay in the course amidst setbacks, until a settlement is reached.

It is in recognizing the complexity of mediation as a political exercise and the seriousness of the role of the mediator that scholars have called *mediation a process. It is a process with distinct and interrelated stages*. Some of the tasks involved in a mediation process are:

(i)   Exploring the possibilities for mediation and negotiation

(ii) Preliminary communication with conflicting parties

(iii) Understanding the issues involved and exploring possible common grounds

(iv) Taking concrete action to bring parties to the table, assisting parties to overcome their fears and apprehensions

(v)   Use of persuasion and threat wherever necessary

(vi) Envisioning of an acceptable framework of settlement and strategizing the path to settlement

(vii) Monitoring the negotiation process, ensuring the parties agree and sign the settlement document

(viii) Ensuring the implementation of the settlement

(ix) Acting as the guarantor of the settlement

Mediation and Intervention

There is sometimes confusion about the terms 'mediation' and 'intervention.' In Sri Lanka, those who oppose a negotiated settlement to the ethnic conflict interpret mediation as foreign intervention. Sometimes, government officials also tend to dismiss 'mediation' by saying, "We don't want foreign intervention in our internal affairs." These objections to mediation have two interesting elements. Firstly, mediation is identified as an activity of a foreign actor. Secondly, mediation is perceived as something undesirable. These are usual objections to mediation in a conflict. They, to some extent, indicate that in a conflict, there is no universal unanimity on mediation and that mediation is not welcome under all circumstances of a conflict.

Mediation, in a way, is a form of intervention in a restricted sense of the term. The mediator indeed intervenes in a conflict, in order to bring it to an end through a settlement acceptable to the parties involved. This is intervention in a political sense. Mediation is not intervention in the military sense of the term. Military intervention is also a third party activity, often aimed at changing the course of a conflict. American intervention in Somalia and NATO intervention in Yugoslavia are examples. These are not mediation efforts, but politico-military actions in order to impose a settlement, as defined by the forces that intervene.
Intervention, meanwhile, refers to the use of force to change the course of a conflict, either on behalf of one party or to force both parties to bring the conflict to an end. Intervention often involves military force.

Mediation and Facilitation

In Sri Lanka's political debate on conflict resolution, the term 'facilitation' is preferred by some to 'mediation.' For example, the Sri Lankan government is of the view that they do not need 'third party mediation', but welcome 'third party facilitation'. In fact, the Norwegian initiative launched in February 2000 is described by the government as 'facilitation,' whereas the term 'mediation' is also used to characterize it.

Is there a real distinction between 'mediation' and 'facilitation'? At least from the perspective of the Sri Lankan government, there seems to be a clear distinction. They understand facilitation as

the help of a third party to facilitate communication between the government and the LTTE. Once the communication is established and conditions for direct negotiations between the two sides are created, the role of the facilitator is over. When talks begin, there is probably no direct role for the facilitator, whereas in mediation there can be a direct role for the mediator.

Summary

In this lesson, you have learned some key concepts involved in mediation for conflict resolution.

- Mediation is an outside intervention in a conflict. It seeks to assist adversaries to resolve a shared conflict through constructive political dialogue.

- Mediator's role can range from facilitating communication between parties to enable them to find a settlement and assisting them in the implementation of the settlement.

- Mediation requires the consent of the parties to the conflict for negotiation. Mediation works better with such consent and consensus.

- Mediation also works better when conditions are ripe for conflict resolution.

- Mediation is not an one-act play. It is a long and complex process.

- Mediation, intervention and facilitation are distinct concepts, as well as acts in conflict resolution.

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