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Negotiation and international conflict

Fen Osler Hampson, Chester A. Crocker and Pamela R. Aall

Prior to the Second World War, interstate conflict was the predominant form of organized violence in international relations. During the Cold War and the period that has followed it, intrastate violence and intercommunal conflict have replaced interstate violence as the principal form of conflict in international relations. However, what is striking about the international conflict trends is that over the past two decades the number of civil wars, measured by their frequency and aggregate levels of violence, has been on the decline. This trend is now well-documented in a large number of studies, including, most recently, the *Human Security Report* (Mack 2005) of the Liu Institute of International Studies at the University of British Columbia. What is also borne out in these studies is that *many* of these conflicts – Bosnia, Northern Ireland, South Africa, Mozambique, the conflict between North and South Sudan, El Salvador, Guatemala, the border dispute between Peru and Ecuador, and now perhaps the conflict in Aceh – have been settled or 'resolved' through a process of negotiation, upsetting a longstanding, post-Westphalian trend where wars traditionally ended when one party defeated the other on the battlefield. And even in those cases of those perennial conflicts – Israel–Palestine, Sri Lanka, Kashmir, Mindanao, and Korea – that are still on-going, negotiations between the warring parties have rarely been off the table.

In terms of war termination, there are two trends to explore. The first is the apparent decline in the outbreak of wars. There is obviously a need to explore the factors or forces that are shaping and influencing these international conflict trends in order to understand better why some conflicts are diminishing and whether or not this *tendency* will continue (Marshall and Gurr 2005).[1] The second trend is the growing interest in negotiated settlements, which is the area that this paper will explore. The objectives of this paper are as follows: (1) to discuss why warring parties in recent years have increasingly turned to the 'negotiation option' – usually with the assistance of third parties, including third-party mediators – in order to settle their differences; and (2) to explore some of the different approaches to the study and practice of negotiation in the burgeoning conflict management literature.

The negotiation option

First, it must be said that the preference for the negotiation option in the settlement of violent international disputes is one that has taken place against a backdrop marked by a growing preference for international negotiation as the principal means for dealing with international disputes on a wide range of issues. This is partly due to a stronger understanding of the processes of interest-based negotiations, a method of structuring negotiations toward a 'win-win' solution in which both parties reach a satisfactory agreement on issues critical to each (Fisher et al. 1991). At the same time, globalization processes have brought states and the societies that inhabit them into increasingly close proximity – a proximity characterized by a growing density of interactions that cross the economic, commercial, social, cultural and political spheres of life. As the frequency and depth of these interactions has grown, so too has the potential for conflicts of interest, beliefs and values. Generally speaking, in matters of 'low politics' – that is to say the politics of trade, investment, natural resources, the environment, economic policy and so forth – these conflicts have been resolved through processes of informal dialogue and negotiation directed at identifying new norms, rules and procedures that will govern future interactions while lowering transaction costs (Keohane 1984; Keohane and Nye 2000).

The rapid growth in the number of international institutions in the twentieth century, which accelerated after the Second World War with the founding of the United Nations and a host of regional and sub-regional institutions and arrangements, has also given further impetus to international negotiation processes, especially multi-party and multi-issue negotiations which have taken place within the formal multilateral and rule-bound settings of these institutions (Hampson 1989; Kremenyuk 1991; Umbricht 1989). The obvious importance states attach to these somewhat ritualized bargaining processes is also reflected in the sizeable cadre of professional international negotiators who are to be found not just in foreign ministries, but also in the many different functional departments and agencies of national governments that now deal with cross-border issues.

Although adjudication, arbitration and various judicial means are frequently used to deal with interstate disputes (Bilder 1997), as well as disputes between private actors that cross international borders, the continued importance that states attach to their sovereignty in international affairs has meant that the opportunities for judicial recourse generally tend to be limited. Bargaining and negotiation are thus the default option when disputes arise. This is because states are often reluctant to let themselves be governed by extra-national legal institutions even if they have formally agreed to submit themselves to the legal rules and norms of those institutions. For instance, shunning Law of the Sea provisions, East Timor and Australia have negotiated a temporary arrangement dividing the income from off-shore petroleum resources, but have put off the settlement of the borders in question for 50 years as part of the deal. This reluctance to be governed by international law is especially true for those great powers that see themselves as completely independent actors in the international system, as the US's refusal to ratify the International Criminal Court illustrates (Hampson and Reid 2003:22–33).

When it comes to the great issues of war and peace, international negotiation and diplomacy have generally been the preferred means for dispute settlement at the global level since the Second World War. There are a number of reasons for this, not least of which is the advent of nuclear weapons technology. As many scholars and commentators have pointed out, the advent of nuclear weapons had a progressively sobering effect on the way the two superpowers managed their strategic and ideological rivalries during the Cold War (George et al. 1988). Nuclear brinksmanship, which reached its highest and most dangerous point during the

Cuban missile crisis, eventually yielded to a more business-like relationship characterized by regular

summits between the leaders of the United States and the Soviet Union and negotiations on arms control, troop deployments and other kinds of confidence-measures directed at reducing tensions and the risks of escalation in crisis situations. The leaders of the West, but especially the United States, also invested their diplomatic political capital and energy in negotiating a relatively smooth and trouble-free transition when the Soviet Union collapsed and the Berlin Wall came tumbling down.

But it is not just technology and the costs of war that have influenced strategic calculations and the pursuit of the negotiation option, *realist* theories of international relations also stress that the prospects for diplomacy and negotiation in international relations have historically been influenced by the balance of power, the presence or absence of military stalemate and domestic political pressures (Organski 1968; Stein 1990). All of these variables have salience in recent international relations, including the management of superpower relations during the Cold War.

Liberal theories of international relations point to another set of factors that help to explain why negotiation is the preferred option for resolving international disputes, especially in recent years. An important body of scholarship argues that there is a strong relationship between democracy and peace, which, following the writings of Immanuel Kant, suggests that democratic states have an overwhelming tendency to resolve their differences via peaceful, i.e. diplomatic, as opposed to violent means (Russett 1993). However, there are some important exceptions to this rule. Weak democracies have a tendency to exhibit both illiberal and belligerent tendencies, which suggests that the 'democratic peace' thesis should not be interpreted and applied simplistically (Mansfield and Snyder 1995). Even so, the spread of pluralist values throughout the world with the rise in the number of democratic states – what Samuel Huntington (1993) refers to as the 'third wave of democracy' – has buttressed a preference for diplomacy and negotiation in international relations, a trend that is likely to continue if democracy is consolidated in those states where liberal norms are shaky or weak. This is because political solutions and the peaceful settlement of disputes are highly valued in democratic polities and because there are a variety of constitutional checks on executive power in democratic states, which further encourage negotiation processes between the different branches of government.

Finally, the continued importance that states attach to sovereignty (Chayes and Handler Chayes 1995; Krasner 1999) itself has generally tended to act as a brake on temptations to challenge the status quo or to try to redraw state boundaries through the use of force, especially in former colonial territories like the African subcontinent. The normative appeal of Westphalian principles remains strong in international affairs, although, in some respects, the 'pillars' of this system are crumbling with the emergence of new normative principles that are centred on the concept of human security. Sovereignty has come under challenge when there are violations of human rights and governments fail to protect or respect the basic rights and freedoms of their citizens. International interventions in the Balkans, Kosovo, East Timor and elsewhere were carried out in the name of higher humanitarian principles (Blechman 1996). But even the strongest champions of humanitarian intervention when there are gross violations of human rights believe that the international community should only use force as a last resort, and only after all other peaceful means, including the negotiation option, have been exhausted (ICISS 2001).

The puzzle of civil war termination

In the case of intrastate conflicts, the embrace of the negotiation option by the parties to these conflicts nonetheless remains something of a puzzle. As Mack (2005) and others have documented, there was a steady rise in the frequency and magnitude of civil wars during the Cold War up until the late 1980s–early 1990s, when the trend reversed itself and intrastate conflicts experienced a steady decline. However, unlike civil wars in the past the majority over this decade ended in a negotiated settlement, usually with the assistance of a third party – and typically more than one – in helping secure a negotiated outcome.

One possible explanation why many of these conflicts ended in a negotiated settlement is because many of them fall into the category of what Roy Licklider refers to as 'long civil wars'. As Licklider observes, 'We have some evidence that long civil wars are disproportionately likely to be ended with negotiated settlements rather than military victory. This is plausible since a long civil war means that neither side has been able to achieve a military victory' (Licklider 2005:39). The logic of this process is spelled out by Robert Harrison Wagner. He notes, 'that a military stalemate merely transforms a counterforce duel into a contest in punishment, in which war becomes indistinguishable from bargaining. Thus in deciding whether to accept some proposed settlement, there are two ways in which a party to a stalemate might expect to do better if it continued fighting instead: it might be able to overcome the stalemate and achieve a military advantage, or its opponents might, after further suffering, decide to settle for less. A negotiated settlement therefore requires that all parties to the conflict prefer the terms of the settlement to the expected outcome both of further fighting and of further bargaining' (Wagner 1993:260).

The parallel ending of many of these civil conflicts with the end of Cold War also suggests that broader, systemic forces may have been at play. Many conflicts in the Third World during the Cold War were aided and propelled by the two superpowers who were busy arming insurgents (or governments) in order to strengthen and expand their respective spheres of influence. The desire to end these so-called 'proxy wars' as the Cold War wound down encouraged the two superpowers to pursue negotiated solutions so that they could gracefully exit from their regional commitments, which had also become very costly (Weiss 1995). Nowhere was this desire for a negotiated 'exit' to their diffculties more evident than in the case of Cambodia (Solomon 2000). Negotiation efforts there, which were led by the five Permanent Members of the Security Council, were tied to a wider exit strategy so that China, Russia, Vietnam and the United States could disengage from their military commitments in the region and move towards the normalization of relations. Similarly, in Southern Africa, US efforts to negotiate a peaceful termination to the conflict in Namibia were tied more broadly to a negotiated withdrawal of Cuban troops from Angola, which became the cornerstone of the US policy of 'constructive engagement' in the region (Crocker 1992).

Although the end of the Cold War had its positive effects in some regions, it is important not to stack the historical deck. It is also the case that the bipolar system checked and prevented many conflicts from breaking out, and the Soviet collapse followed by US disengagement coincided with a number of 1990s conflicts that might never have occurred in Cold War times, including wars in Somalia, Sudan, the Democratic Republic of the Congo, Liberia (and its neighbours), Afghanistan (between the Mujahadeen and Taliban), Aceh/Moluccas/Timor, Tajikistan, Nagorno-Karabakh, Georgia, Moldova, and the Balkans.

The transformation of the international system from the Cold War period to the post-Cold War period also had other important consequences. At least initially, the

United Nations suddenly assumed greater relevance as the great powers looked to international institutions to

play a greater role in conflict management processes, including the mediation and negotiation of international disputes (Skjelsbaek 1991; Skjelsbaek and Fermann 1996; Vayrynen 1985). The same was true of regional and sub-regional organizations, which also began to expand their roles in conflict management in their own neighbourhoods, sometimes with the support and backing of the international community (Smock and Crocker 1995; Thornton 1991; Wedgwood 1996).

The changing US global position has also expanded the range of potential US responses to individual conflict scenarios. On the one hand, the unipolar environment enables Washington to enjoy a freer hand as a potential intervener in both the political and military sense. On the other hand, the absence of an adversary pole may reduce the perceived necessity for action or leadership in the broad global service of order and stability. At the end of the day, it has depended and may continue to depend on the circumstances of individual cases. The US capacity to conduct an essentially discretionary foreign policy looks likely to continue.

What is also quite striking is that a wide variety of small-state and non-state actors also began to offer their services in conflict management and resolution processes. For example, small and medium-sized powers, like Australia, New Zealand, Norway and Switzerland, who had long been active in international peacekeeping operations, began to actively market their negotiation and intermediary services to warring parties (see Princen 1991, 1992a, 1992b). From the Middle East to Central America to Africa and the Asia-Pacific region, these countries have played key roles in instigating negotiations between warring sides, backstopping negotiations once they got underway, and ensuring that the parties remained committed to the peace process once a negotiated settlement was concluded. Prominent international nongovernmental organizations, like the Community of Sant'Egidio – a Catholic lay organization that has been active as a mediator in Mozambique, Algeria and Kosovo (Bartoli 1999) – have also played key roles in bringing parties to the negotiating table and creating much-needed forums for dialogue, discussion and negotiation, especially at the intercommunal and societal levels – although such roles are by no means new (Yarrow 1978).

From the point of view of the conflicting parties, negotiation becomes a more desirable option when hope of winning the war on the battlefield fades. The condition of ripeness – the point at which a conflict is ripe for resolution – has been associated with mutually hurting stalemates, or situations in which the parties to the conflict are unable to muster or deploy their armies or militias in order to change the facts on the ground. The parties cannot win militarily by themselves, they cannot persuade outsiders to provide extra firepower, and they cannot lessen the capacity of their enemies to continue the fight. This was the situation in Mozambique when the Community of Sant'Egidio became involved in the mediation there. In addition to depleting the fighting capacities of the combatants, a long civil war leads to exhaustion in the wider community by destroying economies and taking a psychological toll on civilians affected by the conflict. Popular backing for the fight diminishes, and the drop in popular support makes it diffcult for the parties to recruit and retain their militaries. The general revulsion after the market bombing at Omagh killed nine children diminished support markedly for the Irish Republican Army among Northern Irish Catholics. This change – brought on by exhaustion – helped create support for the Good Friday Agreement that had been negotiated just weeks before. (Without this exhaustion or mutually hurting stalemate, civil conflicts are diffcult to bring to negotiation: for many years, the Angolan government and the rebel force UNITA were at a stalemate – neither could win, but neither were 'hurting' as each had access to a resource (oil and diamonds) that allowed the fight to go on for decades.) *At the point at which the conflict seems unwinnable and popular support evaporates, the negotiation alternative becomes more attractive to the parties themselves* (Haass 1988; Zartman 1985, 1989).

In sum, superpower disengagement from regional conflicts and the collapse of the bipolar system may have triggered a number of conflicts during the first post-Cold War decade, and there was a transition in conflict management approaches in the early–mid-1990s toward greater engagement by the UN, individual states and NGOs. At the same time, this period witnessed a 'learning curve' as conflict parties benefited from the 'demonstration effect' of parallel efforts to wind down wars and negotiate peace agreements.

The study of negotiation

The obvious importance of negotiation to the settlement and resolution of international conflicts of both the interstate and intrastate/civil conflict varieties has prompted renewed interest by scholars in different disciplines about the conditions that underpin bargaining and negotiation processes. Although it is impossible in a brief review of this kind to give proper justice to this literature, there are a number of important aspects to this debate about the conditions that are conducive to the 'negotiation option', especially in civil conflict situations, which have been the principal form of organized violence in the modern age.

Oversimplified, the debate about international negotiation processes in conflict settings can be classified into major approaches – those that stress the importance of communications and dialogue as trust-building activities that help change the perceptions of warring parties by promoting cooperative solutions and those that view the negotiation process as a risk management process directed at changing the utility preferences of the parties and their strategic ability to commitment themselves to a negotiation process – what we refer to here as 'realist' approaches to negotiation, which are grounded in rational-actor assumptions about negotiation processes. These two approaches involve alternative assessments about appropriate bargaining strategies, risk, comparative advantage, and the sources of leverage in bargaining relationships. Each approach also points to a different set of conclusions about the possibilities for third-party intervention in conflict processes and the kinds of bargaining strategies that are likely to be most effective in these situations.

Communication-based approaches

Communication-based approaches typically stress the importance of negotiation as a vehicle or means for changing the parties' perceptions in a conflict so that they learn to trust each other to the point where they are prepared to engage in a reciprocal exchange of concessions. Trust is developed by bringing the parties into direct contact with each other in forums that encourage dialogue, discussion and ultimately negotiation. The negotiation process therefore should be viewed as a trust-building activity that taps into the deeply rooted needs of the parties and elicits empathic responses in the way they view the needs of their negotiating partners. In the communications' frame of reference, negotiation is also a learning process where the parties progressively redefine their own perceptions about their own needs that can be met by eschewing violence as the 'preferred' option. The establishment of a dialogue, of a pattern of informal as well as formal exchanges and contacts between and among offcial parties or other influential representatives, helps set the stage for cooperation and the search for more lasting negotiated political solutions to their differences. A key to this process is often the involvement in the dialogue not just of the principal political authorities but of a wider group of civil and opinion leaders whose support is essential for the long-term sustainability of the peace process.

In communications-based approaches, an important assumption is that although parties identify specific issues as the causes of conflict, conflict also reflects subjective, phenomenological and social fractures and, consequently, analyzing 'interests' can be less important than identifying the underlying needs that govern each party's perception of the conflict (Doob 1993; Lederach 1995). Because much of human conflict is anchored in conflicting perceptions and in misperception, negotiation processes must be directed at changing the perceptions, attitudes, values and behaviours of the parties to their conflict (Kriesberg 1992, 1997). Accordingly, the negotiation process should begin with an informal dialogue – sometimes referred to as a prenegotiation – that allows conflict parties to develop personal relationships before they actually begin to discuss the different dimensions of their conflict. These relationships are viewed as critical to building a basis for trust that will, in the long run, help to sustain the negotiation process. Attitudinal change can be fostered through a variety of instruments, including, for example, consultative meetings, problem-solving workshops, training in conflict resolution at the communal level, and/or third-party assistance in developing and designing other kinds of dispute resolution systems which are compatible with local culture and norms and are directed at elites as different levels within society (Bloomfield 1997).

The problem-solving workshop is directed at communication and creating more open channels of communication which allow the participants to see their respective intentions more clearly and to be more fully aware of their own reactions to the conflict (Kelman 1996, 1997). Workshops are aimed at cultivating respect and objectivity so that the parties develop a mutual commitment to cooperative exchanges in their relationship. Based on findings which show that individuals are more disposed to cooperative behaviour in small, informal, intergroup activities, the problem-solving workshop establishes relations among significant players who may be in a position to influence the parties to the conflict and, in so doing, to contribute to the de-escalation of conflict. The approach seems to work best if individuals are middle-range elites such as academics, advisers, ex-offcials or retired politicians who continue to have access to those in power. By helping to establish communications between parties at the sub-elite level, these workshops help to undermine 'we–they' images of conflict, establish linkages among influentials, begin a discussion of framework solutions, identify steps that will break the impasse, and in general create an understanding of these steps and processes that the participants can feed back into the track one effort where actual decisions get made.

A somewhat different kind of prenegotiation activity is third-party assisted dialogue, undertaken by both offcial and nongovernmental structures. This activity is directed at ethnic, racial or religious groups who are in a hostile or adversarial relationship (Wehr and Lederach 1991, 1996). Like 'circum-negotiation', this dialogue occurs at a quasi-offcial level around or prior to the formal peace process (Saunders 1996). Dialogue is directed at both offcials and civic leaders, including heads of local nongovernmental organizations, community developers, health offcials, refugee camp leaders, ethnic/religious leaders, intellectuals and academics. This dialogue process can be assisted by specialized training programmes that are directed at exploring ways of establishing and building relationships, furthering proficiency in facilitation, mediation, brokering, data collection, fact-finding, and other kinds of cooperative decision making. As Kriesberg notes, much of this activity is directed at developing 'constituency support for peace efforts' (Chigas 2005; Kriesberg 1996a: 228; Rouhana 2000; Saunders 2000).

The practice of dialogue and communication is not confined to the nongovernmental sector, but in fact underlies the approach of regional organizations in promoting dialogue and confidence-building prenegotiations. Lacking in some instances the resources of individual states or the UN and in other instances reluctant to use the resources they have, regional organizations have used consultation,

problem-solving, dialogue, and a kind of moral example

to shift perceptions and change attitudes among conflict parties. A prime example of the use of this approach is found in the conflict prevention work of the OSCE's High Commission on National Minorities (Chigas et al. 1996).

Communications-based approaches typically stress the importance of third-party interveners in establishing communication channels between different groups in society, initiating discussions of framework solutions to problems of mutual concern, identifying steps for breaking impasses, developing new norms and creating an understanding of the kinds of decision-making processes that can lead parties out of conflict. In these kinds of activities, third parties are supposed to play a neutral and essentially facilitating role, enabling and encouraging a mutual learning process rather than guiding or still less influencing and directing the parties to mutually acceptable approaches to problem-solving. Their involvement is based on their expert and/or reputational authority or on their ability to represent a normative or real community to which the combatants aspire. However, if such third parties are successful at promoting dialogue, their importance as conveners will diminish over time as the parties to the dispute take ownership of their dialogue and learn to manage the negotiation process by themselves.

Realist approaches

Realists typically view the negotiation process in utility maximizing terms where the parties' expected utility calculations exercise a decisive influence over negotiating incentives, behaviours and outcomes. There are several different points of emphasis in this literature. Some scholars stress the 'costing' aspects of negotiation, where the costs of negotiation and bargaining outcomes must be compared to costs of the conflict itself, including its sunk and future anticipated costs. Using the insights of game theory, other scholars argue that concession and commitment problems are acute in these kinds of conflict situations because the parties do not trust each other and that it is diffcult to elicit trust simply through a process of dialogue and communication. Instead, bargaining processes and interactions have to be designed to manage risk while strengthening the parties' commitment to negotiation. This includes the use of enforcement mechanisms and security guarantees (typically provided by a third party) that lower negotiation costs while raising the costs of noncompliance.

Expected utility calculations figure prominently in the work of I. William Zartman and Richard Haass, who have written extensively about negotiation and conflict management processes in civil conflict situations. These authors argue that the parties to a conflict are unlikely to entertain the possibility of negotiation as long as they continue to believe that 'conflict pays'. That is to say, they believe that they have a good prospect of defeating their adversary through violent means and at a lower cost to themselves (and their supporters) than if they were to opt for a negotiated agreement that would require them to make concessions. The negotiation option only becomes attractive if this expectation changes. And, according to Zartman and Haass, this change is more likely to occur if the parties are deadlocked militarily, the conflict is prolonged and shows no signs of abating, and the parties are denied the opportunity to seize the military initiative and escalate the conflict to a higher level. At this moment, the conflict becomes 'ripe for resolution' because the parties are willing – perhaps for the first time – to entertain their negotiated options and a political 'solution' that ultimately promises lower costs than a continuation of the conflict. This is sometimes referred to as the moment of 'ripeness'. As Zartman suggests, the prime 'condition' for negotiations is if the parties perceive the costs and prospects of continuing war to be more burdensome than the costs and prospects of settlement (Zartman 1985, 1987).[2] The prospects for a negotiated settlement to a

dispute are

thus greater when war weariness has set in among the parties and a conflict has reached a plateau or 'hurting stalemate' in which unilateral solutions are no longer believed to be credible or achievable.

Under this approach, timing is critical. For those third parties who wish to assist with the negotiation process through the provision of various kinds of intermediary services they must recognize that their interventions are going to be more successful if the parties are suffciently 'exhausted' on the battlefield to look for a negotiated political settlement (Rubin 1991). In stressing the importance of timing, the theory of ripeness has its greatest utility in setting up benchmarks and signposts that help third parties calibrate their strategies to help ripen the conflict. Commitment tactics also have an important role to play in changing the parties' expected utility calculations about the costs of an agreement. By denying military assistance, or taking measures that alter the balance of power between warring sides, external actors can strengthen the incentives for negotiation. At the same time, the offer of side-payments and other kinds of inducements can make a negotiated agreement appear more attractive all other things being equal (Crocker 1992:469–72). However, the kinds of penalties and inducements have to be introduced with great care. For example, if offers of military assistance are presented in such a way that the parties feel that it will allow them to defeat their enemies, they may accept them but not live up to their commitment to pursue a negotiated solution. And the ill-timed withdrawal of such benefits can also produce similar unintended consequences.

Triadic bargaining situations, where third parties offer side-payments and/or penalties and sanctions to get the parties to the dispute to change their cost/benefit calculations about the utility of a negotiated settlement, though conceivably desirable are also quite unstable for the reasons just mentioned (Touval 1996a, 1996b). Thus what may be required in some situations is what Saadia Touval calls 'mediators with muscle' (Touval 1982a). According to this formulation, impartiality and objectivity are less important to achieving influence than 'power potential considerations' (Touval and Zartman 1985:256). The ability to exercise leverage may also be positively influenced by close ties between a third party and one or more parties to the dispute, thus allowing the mediator to elicit cooperative behaviour and concessions (Princen 1991). The less 'muscle' a third party has, and the more removed or distant it is from the conflict, the weaker will be its intervention potential (Zartman 1989; Zartman and Touval 1985). And if third-party pressure is the only factor that keeps the parties at the negotiating table, negotiations will fall off the rails as soon as that pressure is relaxed or withdrawn (Azar and Burton 1986; Burton 1987).

Some scholars go one step further and argue that it is not just the costs of negotiation and settlement that matter to the parties as they consider their negotiation options but also the 'risks' of negotiation, i.e. the probabilities that are associated with negative outcomes. Because the parties in civil conflict situations are distrustful of each other and will refuse to cooperate even if there are indeed powerful incentives to consider negotiations as a way out of their current impasse, ways have to be found to reduce the risks of defection so that the parties can entertain the possibility of a negotiated, reciprocal exchange of concessions. The theoretical basis for this position is spelled out in (1) 'prisoner's dilemma' and (2) 'games of chicken', where defection is the dominant bargaining strategy and cooperative solutions are confounded in the first instance by information problems (because of the absence of proper and reliable channels of communication between the parties), and, in the second, the problems of credible commitment.

In inter-ethnic bargaining situations, or civil conflict situations where the parties have deeply antagonistic relations towards each other, efforts to reach some sort of political accommodation via negotiations may be thwarted by the 'domestic'

equivalent of the security dilemma because

the parties distrust each other so acutely that even defensive measures are viewed as offensive and threatening by the other side (Posen 1993). As Touval (1982a) argues, in these kinds of situation the persistence of high levels of mutual distrust need not pose an insurmountable obstacle to negotiations if ways can be found to effectively reduce risks and 'insure' the parties against the costs of negotiation failure.[3] There are a number of risk management options available to the parties. These include measures to transfer or shift risk, such as (1) bringing a third party into the negotiations who can quietly probe and assess the intentions of the other side; (2) developing deliberately ambiguous commitments during the course of negotiations that can be reinterpreted, manipulated or even withdrawn as circumstances change (also known as hedging); sharing risks so that potential losses if a negotiation fails are more or less equally distributed among the parties; and (3) segregating assets to limit liability, by, for example, separating issues and taking a step-by-step or incremental approach to negotiations.

However, these kinds of bargaining tactics may be insuffcient to control strategic behaviour and prevent defection. In those situations where the problems of the security dilemma are compounded by the problem of *moral hazard* – the risk that a party has not entered into negotiations in good faith, different remedies may be called for. Stedman, for example, argues that the moral hazard problem is especially acute in civil conflict situations because of the prevalence of 'spoilers' or extremist elements or groups in a conflict who are generally not interested in compromise and will do their best to create the conditions that will destroy or upset compromise. Because spoilers are predisposed to reckless or uncooperative behaviour, effective strategies of spoiler management may be required to prevent peace negotiations from being blown off course. Spoilers come in different shapes and sizes. The only way to deal with 'total spoilers' – who 'see the world in all-or-nothing terms' and seek a 'violent transformation of society' – may be coercion. On the other hand, the best defence against spoilers who have more limited political goals and can be 'bought off' is to bring them into the negotiation process but to lay clear ground rules for their participation that include penalties for intransigent behaviour and rewards for cooperation.

Barbara Walter and Andrew Kydd (Kydd and Walter 2002; Walter 2002) argue that policy-makers and negotiators must also concern themselves with the impact of extremist violence on domestic political support for the peace process. An effective strategy of spoiler management is one inter alia that is directed at neutralizing the impact of extremist violence through exchanges of information and other kinds of trust-building activities that shore up public support for the peace process.

A growing body of scholarship which looks at the requirements for the successful negotiated settlement of civil wars also suggests that it is not suffcient for the parties to a conflict to hammer out an agreement but the negotiated terms of an agreement must necessarily be complemented by ironclad security guarantees – usually provided by external actors – that enforce the terms of the settlement (Walter 2002). The actual terms or content of an agreement also affect its long-term prospects for success. Strong agreements are ones that contain mechanisms that include demilitarized zones, demobilization of troops, dispute resolution commissions, peacekeeping, as well as political provisions for effective power-sharing among previously warring parties (Page Fortna 2004; Sisk 1996).

Negotiation and the conflict cycle

Both of the above perspectives hinge on different assessments about the role of trust and political risk in bargaining relationships among combatants in civil conflict situations.

Communication-based approaches argue that the foundations for trust and reciprocal bargaining can be laid through a sustained process of dialogue and communication, especially if there are forums for dialogue and negotiation that allow the parties to treat each other as individuals, break down stereotypes, and identify common interests and needs. Realists argue that the parties will not be interested in negotiations as long as they continue to believe that they can pursue their goals through violent means. And once they do sit down at the negotiating table, communication and dialogue, though viewed as desirable, are often not enough to overcome the high levels of mistrust that infect intercommunal relationships in war-torn settings. Accordingly, the parties must structure their interactions in ways that reduce the upfront costs/ risks of defection from negotiated solutions. In addition, confidence-building measures, third-party security guarantees and strategies of spoiler management may also be required to change their strategic calculus and move negotiations forward.

As we have argued elsewhere in greater depth, these two approaches are not necessarily incompatible if we consider that most conflicts pass through different stages or phases, which are marked by different levels of violence (Bercovitch and Langley 1993; Crocker et al. 1999; Lund 1996; Mitchell 1994). These include a period of rising tensions between or among parties during its early stage or phase, followed by confrontation, the outbreak of violence, and the escalation of military hostilities. In the post-agreement or post-settlement phase, a conflict may go through several de-escalatory phases as well, such as a ceasefire, followed by a formal settlement, rapprochement and eventual reconciliation. And in unfortunate cases, as the situation in Angola in the late 1980s and early 1990s reminds us, some conflicts reverse themselves, doubling back into violence even in the implementation stage (Hampson 1996).

During these various phases or stages of conflict, the intensity of the security dilemma among rival communal groupings will vary. Parties will tend to feel more secure in their relations with other groupings when the level of violence is low, formal ties exist between different groups, and institutionalized channels of communication, though perhaps frayed, are still available. At this stage of the conflict style, there may well be more chances for direct, face-to-face negotiations because attitudes and perceptions have not hardened and parties are still willing to talk to each other (Adelman and Suhrke 1996; Carnegie Commission 1998; Jones 1995; Lund 1996). As Princen notes, negotiation at this stage is a relatively low risk strategy for the disputants 'because it is not equated as conceding' (Princen 1992a: 54). The downside is that negotiated solutions will seem less attractive because the parties, having not yet experienced the full cost and limits of what can typically be achieved through other means, may consider violence in support of unilateral goals to be a viable alternative to compromise and politically-based solutions.

As violence increases, different groups start to arm themselves, and factions become increasingly aware of the real power asymmetries that exist between themselves and other groups, the security dilemma will become more acute and the desire for peaceful and cooperative strategies of conflict management will weaken (Lake and Rothchild 1996). This will tend to thwart the prospects for successful negotiations unless instruments of outright strategic leverage and coercive diplomacy can be found (Corbin 1994; Crocker 1992; Hampson 1996). Once violence has reached a threshold where no further escalation is possible without major costs, the disputants may be willing to consider other alternatives than the use of force *and turn to* negotiation.

There are a whole set of conflicts, however, for which this change in calculation never seems to occur. These conflicts, characterized as intractable or protracted, endure for decades at the middle range of the escalation curve, i.e. violence is ongoing and episodic but not suffcient to make the idea of a political solution an

attractive alternative to the status quo. Intractable conflicts are marked by self-sustaining patterns of hostility and violence and have multiple

sources or causes – including greed, self-interest, security dilemmas, and bad neighbours or neighbourhoods (Albin 1997; Azar 1990). As the conflict wears on, the intensity and duration of the adversarial relationship make the idea of entering into talks or reaching an agreement unacceptable to the conflict parties' leadership. At the same time, the conflict permeates every aspect of life in the societies in question from the economy to the education system. These conflicts – the Middle East, Kashmir, Korea, Sudan – seem to lack any apparent deadline, impending disaster or sense of time shifting to the other side's advantage. And yet even some of the hardest cases yield to negotiation, for a variety of reasons. Openings may come to intractable conflicts because of systemic changes – the prospect of European Union membership, for instance, provided a brief opening for the end of the Cyprus conflict. There may be changes in leadership, as happened in Angola with the death of the rebel leader Savimbi. And there may be changes in situation on the ground, as happened in Bosnia just before the signing of the Dayton Accords. A critical element, however, in the resolution of most intractable conflicts is long-term, committed involvement of third-party peacemakers that intervene and encourage the parties to change their strategic calculus and consider their negotiation options (Crocker et al. 2004, 2005).

Conclusion

As this chapter has shown, there is much fertile ground in the study of international negotiation processes, not least because the main protagonists in today's conflict situations have demonstrated a greater propensity to come to the negotiating table to address their differences. This propensity has been affected by many factors on both the demand and supply side of the equation. On the demand side, the negotiation option is affected by stalemate on the battlefield and the prospect of a war (or violence) of indefinite duration, which encourages combatants to look to their negotiated options – perhaps for the first time – as a way out of their current impasse. On the supply side, the abundance of third parties of the intergovernmental, state and nonstate variety who are willing to offer their negotiation and intermediary services has meant that warring parties do not have to struggle to reach a negotiated compromise on their own. And because the strategic incentives to look for negotiated solutions are adversely affected by the acute security dilemma communities and their leaders experience in civil conflict situations, pressuring tactics, security guarantees and other kinds of positive and negative inducement are often necessary to instigate, manage and sustain the negotiation process. At the same time, once intercommunal tensions ease, dialogue and negotiation processes that voluntarily engage a wide range of different groups in society, not just elites, are critical elements to building trust and laying the foundations for the kinds of social and political relationship that will sustain civil society. These factors underscore the reality that conflict parties increasingly turn to third parties for help when they decide to explore the negotiation option and find a way out of their dilemma. But, the reality is that there is no one-size-fits-all approach to negotiation and conflict management processes in today's world.

Notes

1 The Marshall and Gurr (2005:25) data include these findings related to armed conflicts for self-determination, which account for a high percentage of all conflicts: 'The number of armed conflicts over self-determination spiked sharply upward at the end of the Cold War (17 new such conflicts in the

1991–5 period), but they had been building in number since the late 1950s, doubling between 1970 and the early 1980s. From five ongoing wars in the 1950s, numbers swelled to a high of 49 by the end of 1991. The numbers have declined steadily since then to 25 at the end of 2004, a level that has not been reached since 1976.'

2 For critical discussions of the concept of ripeness, see Kleibor (1994) and Kleibor and Hart (1995).

3 Thomas Schelling (1960:135) makes the same point in his classic study, *The Strategy of Conflict*. He states that, 'Agreements are unenforcible if no outside authority exists to enforce them or if noncompliance would be inherently undetectable. The problem arises, then, of finding forms of agreements, or terms to agree on, that provide no incentives to cheat or that make noncompliance automatically visible or that incur the penalties on which the possibility of enforcement rests. While the possibility of "trust" between two partners need not be ruled out, it should also not be taken for granted; and even trust itself can usefully be studied in game-theoretic terms. Trust is often achieved simply by the continuity of the relation between the parties and the recognition by each that what he might gain by cheating in a given instance is outweighed by the value of the tradition of trust that makes possible a long sequence of future agreement. By the same token, "trust" may be achieved for a single discontinuous instance, if it can be divided into a succession of increments.'

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