

Introduction to Negotiation

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Abstract The three chapters in Part I by Rudolf Schuessler, Cesare Zucconi, and Julie Bernath et al. touch on negotiation for conflict resolution. Recent decades have brought two fundamental shifts to negotiation theory and its application in conflict resolution. First, fields of potential negotiation partners and arenas are broadening beyond those of conventional interstate diplomacy. Second, communication with non-state adversaries prove effective in many circumstances. With the emergence of alternative approaches engaging partners who are not official government representatives (e.g., diplomats or politicians) known as Track Two Diplomacy, such interactions build trust and humanize out-group adversaries. This creative conceptual expansion continues to develop, providing insights into the interdependence and relevance of many nonpolitical entities involved in and/or impacted by conflict.

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Recent decades brought two fundamental shifts to negotiation theory and its application in conflict resolution. First, fields of potential negotiation partners and arenas have been broadened significantly beyond those of conventional interstate diplomacy. Second, communication with non-state adversaries has proven effective in many circumstances.

The first shift began with the emergence of alternative approaches engaging partners who were not official government representatives, such as diplomats or politicians. Labeled as ‘Track Two Diplomacy’ by William D. Davidson and Joseph V. Montville (1981–1982), the original conception for Track Two included activities in the fields of culture and science. Such interactions build trust and humanize the out-group adversaries. This creative conceptual expansion continued to develop ever since, providing insights into the interdependence and relevance of many nonpolitical entities involved in and/or impacted by conflict.¹

Multi-Track Diplomacy was well established by 1991 as outlined in Louise Diamond’s and John McDonald’s system of tracks one through nine, with a goal of comprehensively accounting for groups involved in the conflict (1991).² Their approach includes business, religion, funding, media, government (Track One); private citizens, peace activists, research (training and education) and professional conflict-resolution mediators (Track Two). Other scholars and practitioners have, in addition to that system, focused on cultural diplomacy, for example, through music and sports or on special phenomena such as emergency aid. Together with the insights gained since these early developments is a concurrent reframing of conflict-resolution interventions confined not so much to ‘diplomacy’ but rather peacebuilding and fostering reconciliation. And these activities are guided by mediators and facilitators specifically trained to do so.

The second shift is more recent and controversial. Non-state conflict adversaries, often labeled ‘terrorists,’ proved a quagmire for governments and non-governmental organizations (NGOs). How do you negotiate with groups when that negotiation itself provides the adversary with the victory of recognition? In 1990, the Community of Sant’Egidio based in Rome started peace talks with the Mozambican National Resistance (Renamo) rebels known for their cruelties as ‘Black Khmer’ and the Mozambique Liberation Front (Frelimo) government known for massacres of civilians. The contribution in this volume by Cesare Zucconi, Secretary-General of Sant’Egidio (Chap. 4), gives some insights into those negotiations. To the surprise of many, they succeeded in

negotiating a peace that has proven sustainable for almost two decades now.

Other examples include diplomatic exchanges with North Korea, the British government deciding to negotiate with Irish Republican Army (IRA) leaders, Nelson Mandela negotiating with Constand Viljoen, and in 2016, Colombia concluding a peace treaty with the Revolutionary Armed Forces of Colombia—People’s Army (FARC) guerrilla group thereby ending the world’s longest-running civil war. These and more negotiation experiences support the conviction not to exclude groups from talks regardless of violent pasts. Jonathan Powell’s book, *Talking to Terrorists* (2014), demonstrates that entering negotiations changes terrorist groups and opens chances to overcome violence. Refusing communication is a high-risk strategy. In 2004, for example, Vladimir Putin refused to talk with violent groups during the Beslan school attack where 330 hostages were killed. More recently, the European and the United States (US) officials refused to negotiate with autocratic leaders and radical groups in Libya and Syria, where there has been a great subsequent loss of life.

These two innovative shifts described above form the basis of a present broadening of negotiation understanding. The phrase ‘alternative approaches’ for this volume, we as editors believe, is being built on that broadening. Many contexts continue to resist such insights despite recent accomplishments.³ Thus the continuing goal is to document, investigate, and develop theory to learn from new experiences—successes and failures—and thereby provide well-structured foundations regarding processes and tracks of negotiation.

Chapter 3, “Justice in Negotiations and Conflict Resolution,” by the German philosopher Rudolf Schuessler, is a contribution on giving more structure to the negotiation process. It addresses the difficulty of negotiation with people not committed to truth. In 2016, such questions become more important than ever given the situation that post-factual argumentation has been successful in winning elections. Schuessler distinguishes between ‘simulation’ (make-believe of what is not the case) and ‘dissimulation’ (create disbelief of what is the case), which are traditionally seen as normal and sometimes necessary aspects of politics on the one hand,⁴ yet a complete untruthfulness about basic values and overall goals. Silencing, ambiguity, and sometimes telling a lie in a concrete situation might be part of political life. However, if it is impossible to discern what the strategic goals and truth are, then no successful negotiations can take place.

The other topic Schuessler discusses is justice. He shows that justice matters in negotiations because most partners in a discussion claim their position to be just. In most cases, people's justice claims appeal to universal rules of justice and are self-biased in that people choose the theory of justice which is most profitable for them. Given the fact that there are many different theories of justice, the art of negotiation is to find a point of reconciliation between them. Schuessler combines classical philosophical positions such as Immanuel Kant, John Rawls, and Jürgen Habermas with game theory and the political debate between realists and idealists. By reflecting on the importance of truth and justice, Schuessler not only clarifies concepts but shows how negotiations can be more effective. Even people who do not believe in the ultimate importance of truth or justice need to respect them as realities relevant to the conflict.

Chapter 4, by Cesare Zucconi, Secretary-General of Sant'Egidio Community in Rome, provides a look through the keyhole into a very special and innovative way of negotiation. His contribution is part of the more detailed investigation into the lessons learned from Track Two Diplomacy. Four innovative insights from his paper deserve special attention: (1) all parties impacted by a conflict must be addressed in the reconciliation process, but peace talks require intimate interaction among a small group of main actors, (2) advantage is gained by creating safe spaces for conflict partners to develop their approaches to peace. This allows them ownership of the process. Pressure to create peace is provided by reality, casualties in their own group, populations asking for peace, lack of resources, and a general degradation of conditions of their lives. Thus, sustainable peace may require avoiding additional pressure on the conflicting parties in negotiations, (3) mediators can help by treating all parties with respect. The community hosting the Renamo and Frelimo representatives made it possible to develop respect for the other group, and (4) written commitments provide crucial moments. Even if they are not ultimate peace agreements, written commitments that remain at the negotiation table unless a settlement is achieved can be productive signs of good will and also stop some violent activities.

Chapter 5, written by swisspeace researchers Julie Bernath, Adou Djane Dit Fatogoma, and Briony Jones, deals with 'transitional justice' and presents results of a research project funded by the Swiss National Science Foundation (SNSF) to understand resistance against transitional justice. After a strong expansion of transitional justice since the 1990s, today this approach is in crisis because transitional justice has

been considered too top-down and imperialistic. For example, the central parts of transitional justice in the work of the International Criminal Court (ICC) accused African leaders more than European or American leaders. Unfortunately, countries like the US, Russia, China, or Israel did not ratify the statute of Rome and thus undermined the ICC that they had cooperated to bring into being, and then African countries quit the ICC. In the case of Côte d'Ivoire, the authors also show that opposition against a 'Truth Commission' may be the result of opposition against top-down policies of a local government. They argue that opponents should not be considered as 'spoilers.' This contribution shows the urgency to reorganize peacebuilding today. As Schuessler shows, each conception of justice must compromise and be reconciled with other concepts of justice; otherwise, it becomes egocentric and imperialistic. Scientifically speaking, the bulimia of transitional justice—which integrates everything including reconciliation under a certain understanding of justice—is the wrong conception.⁵ The englobing perspective can only be reconciliation, and transitional justice is one possible autonomous part within that approach. From that basis, and because of its very important contribution, transitional justice can and must be saved and defended against the decline that it is about to undergo.

NOTES

1. This last development culminates in the concept of Track One-and-a-Half Diplomacy, advocated by some researchers linked to the United States Institute of Peace (USIP) to elaborate better the links between Track One Diplomacy and Track Two Diplomacy.
2. Cf. also the summary on the website for the Institute for Multi-Track Diplomacy at <http://imtd.org/multi-track-diplomacy> (accessed on January 3, 2017).
3. A typical case is Israel who officially refuses to negotiate with the Hamas government in Gaza, leaving many questions unresolved. Making negotiations official would help both sides work for a peaceful solution.
4. The Latin quote is: *Qui nescit dissimulare nescit regnare*.
5. An englobing definition of transitional justice was given by the United Nations (UN) Secretary-General: Transitional justice is “the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses in order to ensure accountability, serve justice, and achieve reconciliation” (2004).

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