

# PIN•Points

Processes of International Negotiation

Network Perspectives 37/2011

*Negotiating security and cooperation  
in Central Asia*



*Two-level games in negotiations*



*Understanding evil ... some insights  
for negotiators and conciliators*



*Negotiations in transitions*



## EDITORIAL

2011 saw several difficult negotiation processes that will impact the international community for years to come. The struggles for democracy and freedom in North Africa have entered a crucial phase in trying to transform the former autocratic countries into nations in which people can decide themselves who will lead them and in what direction. Negotiations between the different parties and the old elite are extremely important at this moment to avoid new violence and come to a fair power balance.

In North Africa people who are not accustomed or experienced in coordinated political action have to talk to one another and try to work together. In both the US and especially the EU we saw how new pressures on old cooperative structures can severely limit the option's to deal with crises. In the US there was the last minute increase in the debt ceiling, which will return on the political agenda with vigor before the next presidential election. In the EU, the leaders of the Member States showed the limits of consensus based decision making with a series of summits and half-baked solutions for the debt crisis in the Euro zone.

2011 also saw an extension of the deadlock in the global climate negotiations, a further worsening of the conditions for talks between Israel and Palestine, increasing barriers to fruitful communication with Iran, the longest government coalition formation in history in Belgium, the sudden accession of a new but inexperienced Great Leader in North Korea, and the news that the Taliban are opening an address in Qatar to be available

for US diplomats who have moved their previous preconditions for talking to their desired outcomes of talking. All in all the year was not a year of negotiation successes, which only enhances the need for the work of PIN and other scholars around the world studying negotiations. PIN books such as *Engaging Extremists*, *The Slippery Slope* and the upcoming *Unfinished Business* on negotiations failures, provide necessary analytical tools to enhance the understanding of policy makers of the negotiations dynamics in which they find themselves.

PIN continues its relevant and timely research work with two projects in 2012. The Negotiations in Transitions (PINNiT) project that started last year will continue in Tunis in January 2012 and wrap-up in October. In this connection, PIN is preparing a Roadshow in Istanbul to support the launching of a Conflict Management Program at Behçetçir University. The PINNiT book in which the Arab Spring is the central element is aiming for publication in 2013. PIN will start with a new project in 2012 that will link Reconciliation with Negotiation. This project will tackle for example the issues of a post-Assad Syria and the new governments in Libya and Egypt in dealing with grievances of victims, justice and finding new ways of living together. The Reconciliation and Negotiation project will be launched in May 2012 and will involve a Roadshow in South Africa.

The current PINPoints reflect the old and new work of PIN, including articles based on the last Roadshow of the PIN in Uzbekistan. The issue

starts with two columns on the Euro zone crisis and talking with the Taliban written respectively by Wilbur Perlot together with Paul Meerts and I. William Zartman.

This issue has in total four articles based on the PIN Roadshow in Tashkent. The first is written by Paul Meerts. He analyses the bottlenecks for successful cooperation between the Central Asian countries. Mikhail Troitskiy shows that having a two level game between the legislative and the executive arm of government within the US can create both flexibility as well as credibility for the US as a negotiating actor. The countries in Central Asia, but also other Post-Soviet states, lack such a two level game, limiting them in their options while negotiating with the US. Wilbur Perlot describes the EU as a negotiating actor, including its negotiating culture. He shows that adapting to that culture as a non EU Member State in negotiations with the EU helps achieving better negotiation results. The Uzbek Roadshow special wraps up with the article by Mordechai Melamud, who sees having regional nuclear free zones, of which Central Asia is one, as a regional lane towards a nuclear free world. The regional lane has been much more successful in the past decades than the global lane, which has not seen a lot of progress.

Three additional articles relate to the current projects of the PIN Program. Mark Anstey has worked on the new PIN Book *The Slippery Slope to Genocide; Reducing Identity Conflicts and Preventing Mass Murder* together with I. William Zartman and Paul Meerts. ➔

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## COLOPHON

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*PINPoints* is the bi-annual publication of the Processes of International Negotiation Program (PIN). PIN is a non-profit group of scholars and practioners that encourages and organizes research on a broad spectrum of topics related to international negotiation seen as a process.

The PIN network includes more than 4000 scholars and practioners of international negotiation.

The organization is presided over by a Steering Committee, who organize the many activities and edit the *PINPoints*. The secretariat of PIN is based at The Netherlands Institute of International Relations Clingendael, a leading think tank and academy on international affairs, European integration and security issues based in The Hague.

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➔ He will coordinate the new Reconciliation and Negotiation project together with Valerie Rosoux. Because of these projects he wrote an insightful essay on why people commit evil acts, focusing not on the mad men or the leaders of genocide, but instead on normal people who can be pushed to extremes in certain circumstances. The article by Mark Anstey is followed by the book announcement of *The Slippery Slope to Genocide*, including the full table of contents. The book is published by Oxford University Press. After this announcement Valerie Rosoux and Mark Anstey introduce the main issues of the new project Reconciliation and Negotiation. In the closing article, I. William Zartman writes about the Arab Spring and the challenges for understanding the current negotiation dynamics. He introduces a series of hypotheses which will be tested in the Negotiations in Transitions project.

This issue of the PINPoints closes with the announcement of *Unfinished Business*, PIN Events and News as well as a brief report by Paul Meerts on the latest conference of the Netherlands Negotiation Network. The theme this year was negotiation training.



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## PAUL MEERTS AND WILBUR PERLOT

### COLUMN: THE COSTS OF A REFUSED HANDSHAKE

During the last summit of the European Council about the future of the Euro, an interpersonal incident made the headlines. David Cameron, the Prime Minister of the United Kingdom, headed for the French President Nicolas Sarkozy. Cameron wanted to shake hands, but Sarkozy avoided the outstretched hand of the British Prime Minister. Cameron had no choice to change his gesture in an awkward 'friendly' tick on Sarkozy's shoulder.

Sarkozy was obviously reacting to the British attitude during the negotiations on a treaty change for the EU to enhance economic governance in the Euro zone and strengthen the single currency. Cameron only wanted to support the new treaty if it could be linked to another issue more vital to British interests; an exception for the UK on new EU financial regulations, which are considered to be extremely hurtful for the financial institutions operating in London City.

Was the refusal of the hand a true emotional response or a deliberate tactic in an ongoing negotiation process and to entrap the UK further? We probably have to wait for the memoirs of Nicolas Sarkozy to know for sure. It seems to us however that it was the final move in a series of deliberate tactics from the side of France.

The UK wanted to force the EU to concede further to Great Britain at a moment of great peril for the Union as a whole and the Euro Zone in particular. Although issue linkage is an accepted manner in the EU to reach solutions in difficult negotiations,

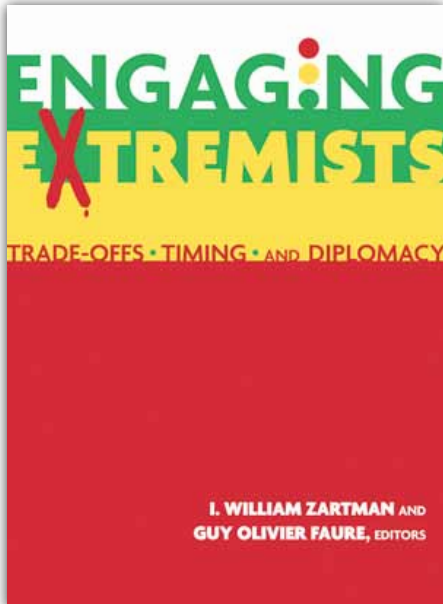
this time it took too much the form of blackmail. The UK overplayed its hand, while it left no room for Cameron to back track.

The French saw the opportunity to get rid of the Brits. Finally, after centuries, revenge for the French defeat by the Black Prince in medieval times (British Newspapers actually linked these events!). The French might have had no choice to accept the Brits in the EU, but they want to have the Germans for themselves. With the UK's influence curtailed there is no powerful third party for the Germans to deal with. By challenging the Brits in such a way that they could not retreat without losing face, the Brits basically threw themselves out the backdoor. The consequence is that the French can dominate the European Union through their axis with the Germans.

The French victory might be short lived however. The Euro crisis is far from over. With France losing their triple A status, it's influence over the Germans will be severely hampered, leaving the Germans ever more in charge of the EU. Although the other European Member States might not have been very happy with the UK in December, their options for influencing EU decision making have now become much more limited. They will probably do their utmost in getting the UK back in, starting with the Danish during their rotating presidency. In a negotiating culture oriented to consensus, refusing a hand will be remembered. The UK has paid the price for their stance, the costs for the French are still coming.

I WILLIAM ZARTMAN

## COLUMN: TALKING WITH THE TALEBAN



The new PIN book, *Engaging Extremists* (USIP 2011) emphasizes the importance of talking to radical groups, including terrorists. In listing the advantages of doing so, it points out that talking can encourage splits among the extremists, can foster new thinking about their ends or means, can provide intelligence for the other side, and can introduce a new atmosphere in the conflict relations. Of course, there are down sides as well, which have dominated until the decision is made to open the possibilities of negotiation. Thereafter, the parties must weigh the pros and cons of talking while doing it, making sure that it stays on track toward an acceptable and desirable end.

In late 2010, US Secretary of State Hilary Clinton announced a change in US policy to admit talks with the Taleban, the first of which took place in Munich in November. The UN has also been preparing such talks, related to PIN activities. The change in policy for the US is broader than just talking to the Taleban. In early

2012, Assistant Secretary of State for Near Eastern Affairs Jeffrey Feltman is reported to have said that dialog with Hizbullah is important and the US encourages it. However, since the question of “Whether” has been broached, the matter of “How?” takes the fore

There are a number of aspects to consider as the process of internal negotiations begins to open up, captured in PIN’s five-fold organization of the topic: Structure, Outcomes, Actors, Process, and Strategy (SOAPS). Structural conditions for negotiations begin with considerations of ripeness. At the present time, a mutually hurting stalemate does exist between ISAF, the International Security Assistance Force, and the Taleban. Neither side can win in the sense of eradicating the other, so each side is impelled to seek alternate means to its goal. However, the impending withdrawal of US troops will have to be evaluated; if forces still remain in the capital and possibly other cities, the stalemate will continue, but if the withdrawal is total, it will have dissolved and the US faces a Vietnamese situation—negotiations to accomplish what it is intending to accomplish anyhow. As it has been said, US has the watch but Taleban have the time.

So the question shifts to Outcomes: What will the two sides pay to achieve their goals? The US has moved its previous preconditions—end of violence, acceptance of the current constitution, divorce from al-Qaeda—to “necessary outcomes” but, as noted, its payment—withdrawal—is already determined. The US military action

was in retaliation for 9/11, al-Qaeda’s demolition of the New York World Trade Center, but it has also taken on such matters as social policies as important issues. Outcomes emerge from an understanding of a Zone of Possible Agreement (ZOPA)—what the late Christophe Dupont termed “negotiability” and ripeness theory calls a Way Out—which still remains to be explored in talks.

The matter of parties is still unclear. The principals are obviously the US and the Taleban. There is general agreement on two aspects: The negotiations, when it comes to that, need a mediator, and the negotiations must be an Afghan affair. But these elements are somewhat in conflict with the principals’ situation. To which the Afghan government replies, in effect, “Over my dead body,” which may be more accurate than intended. The structure puts President Karzai in the position of opposing talks and seeking his own safe-conduct in a deal with the Taleban. Waiting in the wings are further spoilers at different degrees of distance—above all Pakistan, and behind (or beside or before) it, India. It should be clear that such a situation calls for a regional conference, similar to the type held on Cambodia in 1989-1991, or North Korea in 2003-2008, but that arrangement among parties is not yet in place.

All this adds up to a complex and not-yet-clarified process, which is what talks are about. There the element to be remembered is that time continues to flow, and with it the evolving structure of relations (see above!). Stay tuned.

PAUL MEERTS

## NEGOTIATING SECURITY AND COOPERATION IN CENTRAL ASIA



The Asian Heartland has been at the centre or at the periphery of world history. Conquered by the Persians, Macedonians and Russians, Central Asia served as a buffer against other powers. The Mongols used it as a region to connect the different parts of their empire. For the Indo-Iranian Scythians and Turkic peoples like the Huns, Central Asia became the cradle from which they tried to subdue the surrounding fiefdoms. The Turkic tribes dominated the steppes of Turan or Turkestan, as it became known, for two millennia. After the downfall of the Soviet Union the Turks of the Heartland took their destiny in their own hands again. Uzbekistan, Kazakhstan, Kirghizstan, Turkmenistan and the non-Turkic country of Tajikistan emerged as sovereign states, assuming their rightful place among the commonwealth of nations. Because of their strategic position and their equally strategic natural resources like oil and gas, the world became once more interested in their fate.

This global interest has led to the old vice of power struggle between the big powers, even if it is not as tense as during the time of the 'Great Game'. Russia, China, the US and to lesser extend the European Union, Turkey and Iran attempt to create their own zone of influence in the region. Their motives are different. As consumers of oil and gas, China and the EU need good relations with a stable Central Asia. The EU still worries about the human rights situation, for the Chinese this is not an issue at all. On the contrary, a democratic Central Asia might be a bad precedent for the people(s) of China. Russia and Turkey have an interest as transit countries of oil and gas, but they have a geopolitical involvement as well. For Russia as it still sees the region as its legitimate 'Hinterland', for Turkey because of the linguistic bond. The US and Iran compete in Central Asia for – inter alia – ideological reasons.

The Russian Federation and the Peoples Republic of China use several regional organizations to get a negotiated grip on Central Asia. Together they use the Shanghai Cooperation Organization (SCO) as a framework to create a joint hegemony over the steppes of the Asian Heartland. Both countries fear an overflow of Islamic fundamentalism, and thereby perhaps terrorism, from Afghanistan into the Central Asian region. They therefore participate in the anti-terrorist structure (RATS). For Russia an influx of terrorist groups endangers its attempts to 'pacify' the North-Caucasus. China on the other hand has worries about the radicalization of the Turkic Uyghur in East Turkestan, better known by its Chinese name: Sinkiang. Especially Russia uses a multitude of regional organizations to keep the region within its realm: the Collective Security Organization (CSTO) with its Collective Rapid Deployment Force and the Eurasian Economic Community (EURASEC).

The United States channels its negotiation processes through multilateral organizations like the Organization for Security and Cooperation in Europe (OSCE) and the Partnership for Peace (PfP) Program of the North-Atlantic Treaty Organization (NATO). However, as Russia sees Central Asia as its backyard, the US needs it as a transit region for its war in Afghanistan. For Russia and China the Heartland is clearly a priority, for the US it is just one of many potential hot-spots. The reaction of Herman Cain, one of the Republican candidates for the US Presidential elections, who had been asked to comment on the American-Uzbekistan relationship is





telling: He openly said the Uzbeks were of no significance to the United States. Also the way Central Asian countries have been portrayed in a television series like *West Wing*<sup>1</sup>, not to mention the film *Borat*, does not indicate much respect for the region and its inhabitants. Apart from these perceptual issues, the shift of Central Asia from the State Department European and Eurasian section to the South and Central Asian unit, signals that the US interest in Central Asia is the byproduct of other priorities: earlier, it has been the relationship with the USSR, now the ongoing conflict in Afghanistan and Pakistan<sup>2</sup>.

According to Xu Zhengyuan<sup>3</sup>, the European Union has the most appropriate approach to Central Asia. He sees the EU's policy of creating a multitude of connections through bilateral and multilateral negotiation processes as a 'proper model' for negotiations between external and internal actors in the region. Apart from technical assistance given through the Tacis and Traceca Programs, the European Union created regimes of cooperation on an issue by issue basis. It concluded Partnership and Cooperation

Agreements and installed the Central Asia Drug Program and the Border Management in Central Asia Program. It instigated the Regular Regional Political Dialogue and launched the European Education and the EU Rule of Law Initiatives. Furthermore, it formalized the Human Rights and the Energy Dialogues. Important projects like Nabucco (gas) have to sustain the EU-Central Asia partnership. For the European Union, being the 'demandeur' because of its dependence on the regions energy resources, this system of negotiations is a soft-power approach to compensate for its lack of hard-power resources.

What about Central Asia itself? Having been part of the same country till twenty years ago, the five Republics have a lot in common. However, negotiations between the countries have been predominantly of a bilateral nature. Multiparty negotiation did not reach a substantial level. Even the Central Asian Cooperation Or-

ganization, started by the five states, drifted into the orbit of the Russian Federation after it had been renamed as EURASEC. It looks like a serious problem: The countries can only get their multilateral negotiation systems in order if outsiders participate in them. This will not help Central Asia to stand on its own feet. It gives outside stakeholders ample opportunities to push for its own interests at the expense of the needs of the Five and their population. Divide and Rule is becoming the norm. The OSCE and other international bodies can hardly counterbalance this development, as they themselves are under the influence of the external stakeholders protecting their own interest in the region, rather than furthering the common good of the five Central Asian states.

Why is it so difficult for Uzbekistan, Kazakhstan, Kirghizstan, Turkmenistan and Tajikistan (the countries of West-Turkestan, or better Turan)

<sup>1</sup> John Heathershaw and Nick Morgan, "A new agenda for policy and scholarship on Central Asia", *International Affairs* 87:3 (2011) 596-597.

<sup>2</sup> *ibid.* 599.

<sup>3</sup> Xu Zhengyuan, "In the Shadow of Great Powers: A Comparative Study of Various Approaches to Regionalism in Central Asia", *Connections, The Quarterly Journal* 6:4 (2010); 52.

to set up an effective multiparty system of regional negotiation, while it seems to be obvious that such a system would be in their common interest? First of all there are conflicting identity interests between the five. This is – to a large extent – the consequence of the divide and rule policies of Josef Stalin, in line with the policies of other European colonial powers, like the Brits and the French. Through deliberate border meandering Uzbeks ended up in Kirghizstan, Kirghiz in Tajikistan, Tajik in Uzbekistan, etc. This can prove as a huge barrier for open and effective cooperation between the states: Minority frictions create an emotional blockade against regional negotiations, as the majorities in the other states will be irritated by the treatment of their fellow countrymen across the border, which eventually leads to interstate friction. Recent clashes in South-Western Kirghizstan are a case in point. Mixed with Islamic fundamentalism and organized crime, ethnicity becomes a powder keg.

Another issue obstructing effective Central Asian cooperation is the newly gained independence<sup>4</sup>. Sovereign states are in need of national identity, as they do not want to lose their independence anymore. However, as the vast majority of the indigenous Central Asians speaks a Turkic language, it is difficult to separate one nationality from another. Furthermore these people were used to live rather peacefully together at the time of the Soviet Union and have to get used to new dividing lines. An additional identity problem is the historical absence of Central Asian states, comparable to the present ones. To compensate for this, the countries constructed mythi-

cal states of the past. Knowing very well that the present countries of the Heartland are the outcome of a historical incident between three Slavic powers – while Turan as such has a clear historical identity – the problem of the division between successor states became a potential nightmare only to be overcome by proclaiming strong artificial national differences. This leads to a strange paradox: While the Heartland is deeply rooted in history, its constituent states are not. Therefore, disunity will have to be underlined.

While the economic performance of the countries is poor, there are opposing economic interests hampering smooth negotiation processes and therefore regional cooperation. The countries are competing on the gas, oil, water and other markets. This competition can be sublimated into cooperation, however. A good example are the water for oil deals, although they are far from perfectly implemented. The countries upstream, Kirghizstan and Tajikistan, want to keep their water in reservoirs during the dry season in order to feed it into their electricity plants. They are only ready to let water go in the rainy season. But the downstream countries, foremost Uzbekistan and Turkmenistan, need the water in the dry season to grow their cotton crops. The negotiated deal has therefore been to let the water flow in exchange for oil and gas. More of these deals can be envisaged, e.g. close cooperation on oil and gas targeted on putting collective pressure on consumers in Europe and East-Asia.

While there are many reasons for competition, there are as many opportunities for cooperation. One more reason for cooperation is the

shared threat of Islamic insurgents. This instigated regional cooperation, but also interference by external powers. Some analysts urge the countries of Central Asia to start process of dialogue with Islamist movements, provided the extremists among them will publicly renounce violence. If they do, these movements should be legalized<sup>5</sup>. The reasoning is: If the countries do not deal with Islamism effectively, it will not only undermine their stability – and therefore economic performance – but it will also invite outside powers to mingle in Central Asian affairs, at the detriment of the autonomy of the region. Another threat that might be an impetus for Central Asian cooperation is organized crime. The problem here, unlike in the case of the Islamic issue, is the widespread corruption in the region. Many officials, up to the highest echelons, have an interest in not fighting the mafia.

Negotiation processes enhancing Central Asian cooperation are in the generic interest of the five countries involved. But the centrifugal powers are stronger than the incentives for integration. The victims of these developments are the countries of the Heartland and – foremost – their population. Obstruction of negotiation as a peaceful process of transition endangers the survival of the five newly-born states of Central Asia. The greatest fear of the ruling elites might therefore come true: a fall-back into the Great Game of external powers deciding on the fate of the Turkic and Farsi speaking populations of the region. Only a deliberate political process of integration can remedy this situation. Enhancing trust through growing interdependency, using interregional negotiation as the appropriate instrument.

<sup>4</sup> Ibid. 37.

<sup>5</sup> "Kyrgyzstan: A Hollow Regime Collapses", Policy Briefing International Crisis Group, Asia Briefing 102 (2010); 15.



MIKHAIL TROITSKIY

## TWO-LEVEL GAMES IN NEGOTIATIONS BETWEEN THE UNITED STATES AND THE COUNTRIES OF POST-SOVIET EURASIA



According to the fundamentals of bargaining theory, it takes credibility and flexibility to achieve desired outcomes in negotiations. More specifically, the key to success is one's ability to shift credible commitments. A negotiator's commitment is credible if she can convince her counterpart that she cannot offer any more concessions once a certain point in negotiations is reached. Flexibility means the ability of the chief negotiator to adjust the position to which she is going to tie herself. Let's assume that the chief negotiator is the president of a country. Together, flexibility and credibility of commitment allow the president to define the limits of her engagement and, if necessary, backtrack on some of her commitments without strongly undermining her country's credibility.

### **TWO-LEVEL GAMES: THE DIVISION OF ROLES**

A two-level game within the negotiating country sometimes helps simultaneously to increase credibility and flexibility of this country's position. Such a game can occur in the polities whose negotiating posture develops as a result of a compromise between the executive and legislative branches of government.

In this game, the executive branch elaborates and presents positions in international negotiations while the legislative branch qualifies these positions using a variety of strategic instruments, primarily, the budgetary power and authority to ratify international agreements. The parliament also usually wields agenda-setting power: It can attract attention to a particular international issue and/or earmark funds for a specific foreign policy task, for example resolution of a particular conflict, isolation of a particular state, etc. In a pluralist society with a separation of government branches, the parliament can produce a significant influence on foreign policy-making.

Such a combination of levels may allow the negotiating country to move its bottom lines around, if needed, while retaining their credibility. For the executive-legislative negotiating structure to ensure both credibility and flexibility, there needs to be a degree of coordination between the two levels (in the United States, for example, this happens when one party controls both the White House and the Congress) or at least the executive branch should be able to predict the behavior of the legislative

branch (in the US that is still possible even when different parties control both the presidency and the legislature). If the president is capable of using the role of the parliament strategically, his ability to achieve desired outcomes in negotiations with other states becomes formidable.

Indeed, the two-level system can also lead to a paralysis in the shaping of foreign policy positions. This happens if, for example, there are irreconcilable differences between the executive and legislative branches on foreign policy issues (in the United States that happens when the heat of partisan politics reaches high levels. In such case, the Congress usually tries to block any agreement the president negotiates with international counterparts).

However, even in this case the president can at least shed responsibility for the failure of negotiations by pointing out that he has negotiated in good faith and has been genuinely interested in reaching an agreement while the forces that have obstructed the agreement are beyond his control. And if the president himself wants to backtrack on a negotiated agreement at some stage (because the situation has changed, for example), an independent, or even obstructive parliament becomes an asset rather than a liability.

### **TWO-LEVEL GAME INSTITUTIONS IN THE UNITED STATES**

Usually, the US president is defined by the pragmatic considerations of near-term material benefits and se-



curity imperatives. In its turn, the position of the Congress is often shaped by a longer-term perspective. It is often based on certain principles that resonate with wide social strata who vote for their representatives in the Congress. From an instrumental point of view, values, such as representative forms of government or observance of civil rights, can often provide "strategic depth" in negotiations, that is, the ability to shift commitments without losing credibility. In addition, it gives solid grounds to argue that foreign policy goals that are derived from values are more respected because hardly any negotiator in the world can reject these values.

Of course, members of parliaments are not only driven by values when seeking to influence foreign policy. They may equally experience pressure from business and other lobbies or face particular configurations of voter preferences favoring specific foreign policy goals.

Many tactical moves in relations with foreign governments, including coordination of positions with allies or even limited use of force abroad, the president can make without soliciting approval from the Congress. The president enjoys flexibility in strategic issues, such as major international treaties or arms sales deals, where the Congress constrains the president's freedom of maneuver in

negotiations. The Congress is especially good at shaping the boundaries of presidential policy on a particular issue or towards a particular country and at generating policy inclinations. For example, if a security dilemma exists in the relationship with a certain country, the Congress's posture is very likely to reinforce it. If there is no security dilemma, the influence of the Congress usually prevents it from emerging.

This description of the United States' international negotiator profile also applies to other countries with a robust division of powers between the chief executive, who is in charge of foreign policy, and the parliament.

### ***TWO-LEVEL STRUCTURES IN POST-SOVIET EURASIAN COUNTRIES***

What happens when the US engages in negotiations with other states? Let us consider the example of post-Soviet Eurasia where the countries can be divided into two groups according to the extent of credibility and flexibility of their commitment in negotiations.

The first group includes countries whose commitment is credible, but often not flexible enough – for example Kazakhstan, Belarus or, arguably, Georgia. Here the national leader's power is unconstrained and

the bureaucratic system is relatively effective, that is, it fully obeys presidential orders and only rarely tries sabotaging them. As a result, the national leader's commitments are credible – if one believes that the president of Kazakhstan or Belarus is being sincere when he promises something, one can be sure that the president will deliver. However, these countries are not flexible, that is, they forgo the opportunity to play a two-level game with their negotiating counterpart. In particular, they cannot make a strategic and credible commitment because it is known that the legislature will not even try to overturn a president's decision.

The second group is comprised of post-Soviet Eurasian states whose commitment is not so credible, but very flexible – for example Ukraine or Kyrgyzstan. In these countries' political systems, the distribution of power is quite diffuse or at least multi-polar, sometimes despite the presence of a strong leader. In most cases, this is a result of the presence of alternative economic centers of power and wealth.

For example, having blessed a major business deal (e.g. an acquisition by a foreign company of a large industrial asset), the president may at some point in time find that the project is not moving forward because of the entrenched resistance of rent-seeking bureaucrats or business competitors strongly connected to the high echelons of power. Out of political considerations, the president may not be strong enough or simply willing to override his subordinate bureaucrats or powerful if rogue interest groups obstructing an interstate agreement. Alternatively, the president may choose to review and/or rescind international agreements concluded by his predecessor. In 2011 this was happening in Ukraine

where President Yanukovich was trying to abrogate the gas deal that the former Prime Minister Timoshenko signed with Russia in 2009.

The difference between these countries and the United States, whose chief negotiator can also face a veto from the legislature, is that in a post-Soviet Eurasian country belonging to the second group, veto power on presidential decisions can be wielded unpredictably and come from a rogue constituency. Moreover, independent centers of power in Ukraine (not only the parliament) can only obstruct agreements; they are not capable of pre-determining the country's position in a positive way. For example, alternative power centers in Ukraine can block a gas deal with Russia that the Ukrainian president wants to conclude, but they cannot change Moscow's negative views of Ukraine's possible accession into the European Union. As a result there is no actor who can credibly commit a polity like Ukraine to a certain position.

What we see is that negotiating positions of most countries in post-Soviet Eurasia are either not credible or inflexible or both. It is difficult to find post-Soviet Eurasian countries whose commitments would be credible and flexible at the same time. In some countries, such as Armenia or Russia, the public opinion could to an extent play the role of a parliament in influencing foreign policy even if a non-institutionalized public opinion can never be fully independent and is often susceptible to manipulation. However, the public opinion usually sets the limits of the negotiating position, it does not encourage creative thinking among negotiators. It has the veto power, but does not stimulate overtures in negotiations. The public opinion is not as useful for shaping credible commitments as the parliament, and it is usually not

nuanced – it either likes or dislikes treaties wholesale, not particular clauses in these treaties.

### **VULNERABILITIES OF POST-SOVIET EURASIAN COUNTRIES IN NEGOTIATIONS WITH THE UNITED STATES**

Both mentioned groups of post-Soviet Eurasian countries find themselves in an unfavorable position when engaging with an actor whose commitments are in most cases credible and sometimes also flexible.

First, if a negotiation counterpart of the United States has little or no *flexibility* (for example, Belarus), then the range of negotiation outcomes acceptable to this counterpart becomes very limited. Because there is no source of credible commitment beyond its president, such a country cannot shift positions without displaying weakness and inviting even more pressure. It is difficult for the president to make caveats or qualify positions. Because of that, he needs to strike grand bargains that settle some issues with the United States "once and forever". As a result, he becomes vulnerable to shocks generated by subsequent changes in the US position because he cannot respond flexibly without undermining his own credibility. For example, Belarus does not enjoy enough flexibility to afford good relations with Russia and the United States at the same time.

Second, negotiation systems that generate little or no credibility lose even more in negotiations with a credible and a flexible system. Insufficient credibility, for example, around Ukraine's posturing on economic integration projects, leads to diminished trust. As a consequence, Washington becomes less willing to provide security assistance, political support or economic aid. Also if one's

negotiation counterpart is unable to reliably commit to a certain position in negotiations because he faces a number of diffuse – and sometimes intractable – alternative sources of veto power in his country, he will be inclined to present his counterpart with elevated demands hoping to get just enough. For example, Russia has at times applied pressure in negotiations with Kyrgyzstan because Moscow has not been regarding the Kyrgyz commitments as fully credible after Bishkek reneged on a promise to close the Manas airbase in 2009. Finally, inability to demonstrate that one's negotiating posture is anchored in the institutions that genuinely represent the people also creates unfavorable asymmetries. A negotiator who cannot fall back on his parliament at best, or public opinion, at worst, becomes hostage to criticism – primarily from American legislators. Among other challenges, such a situation is extremely difficult to figure out for a counterpart of the United States because this counterpart lacks the analytical capacity to estimate extent of coordination or disagreement within the United States as it shapes its negotiating position.

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While internal political disagreements at times impair the effectiveness of US policy vis-à-vis the countries of post-Soviet Eurasia, this weakness should not be perceived as a justification for the absence of an independent legislative perspective on foreign policy. The process whereby a consensus on policy objectives is forged between independent executive and legislative branches guarantees sufficient quality of and broad support for such objectives. It also normally ensures adequate adaptation to the changing environment making it a challenge for inflexible negotiating systems to reach favored long-term deals.



WILBUR PERLOT

## UNDERSTANDING THE EU AS A NEGOTIATING ACTOR<sup>1</sup>



### **CRITICIZING EU NEGOTIATION RESULTS IS EASY...**

At the time of writing (early January 2012) the Euro crisis is in a relatively quiet phase, although new trouble seems close as the Euro zone is most likely heading towards recession and many states have to refinance their debts in the coming weeks. Both within and outside of the EU observers have looked with amazement to the EU heads of government stumbling to one insufficient compromise to the next. They criticize the EU for its slowness and for not choosing obvious solutions that would help in buying more time and for focusing on growth instead of austerity. Indeed the markets forced the EU leaders to go back to the negotiation table every single time and in my opinion, the December 2011 accord will not hold up either making a next round of talks

inevitable. But although the criticism is correct, it is also a bit cheap.

Anyone who has ever been involved in complex, multi-party negotiations with high interests at stake and with wide ranging implications for future cooperation, knows that these kind of negotiations are lengthy processes with mostly imperfect outcomes. Often the result of a balancing act and almost always a compromise – gaping holes exist in many negotiated treaties. Texts have been left deliberately vague, since using specific words to express what exactly is meant, will just reopen the whole debate again. Many multilateral negotiated agreements are ambivalent. Criticizing these outcomes is therefore rather easy and also irrelevant. Understanding how a final agreed text has come about is far more interesting – and far more important.

### **UNDERSTANDING THE EU AS A NEGOTIATING ACTOR IS NOT...**

The way the wording of a negotiated text grows and is finally agreed upon depends on many factors which can broadly be put into three categories. First, the content of the negotiations (including the different interests), second, the behavior of the actors (psychological, cultural and institutional) and third, the playing field (the context in which the negotiations take place including knowing the influential actors behind the scenes). In this article I will try to shed some light on the behavior of the EU as a negotiating actor both internally and as an external actor and on the EU negotiating culture. In doing so I will focus on elements of the last two categories of factors.

To truly understand the options of a negotiating actor it is crucial to understand the institutional set-up of decision making. This is true for any negotiating actor, but perhaps more so for the EU. During my training sessions in EU negotiations I regularly notice that the internal workings of the EU are often misunderstood. This misunderstanding easily leads to disappointments about the EU and sometimes even bitterness towards the EU.

### **... BECAUSE THE EU IS A UPO (UNIDENTIFIED POLITICAL ORGANIZATION)**

The EU is confusing for almost anyone not actively working with it, mostly caused by the hybrid combination of supranational and intergovernmental means of decision making. The Eu-

<sup>1</sup> This article is based on the presentation I gave during the PIN Roadshow in Tashkent, October 2011.

European Commission and the directly chosen European Parliament are supranational institutions. Member States are subject to the EU treaties and national policies become more and more Europeanized. There is a European legal order, however the European Commission is not the European equivalent of a government and Brussels is not the capital of the EU. The EU is more than an international organization, but less than a state. The EU has limited sovereignty and not one population, but many (which identify themselves much more with the member state or even a specific region than with the EU). Finally, the EU has no power monopoly (no army, police or European tax system). The EU then, is an Unidentified Political Organization (UPO).

### **The EU is both a supranational actor...**

Member States of the EU have yielded quite a bit of sovereignty and given many competences to the European Commission (EC) – the institution currently presided over by Mr. Barroso – for example on competition rules related to the internal market. The EC has ‘the right of initiative’, which means that the EU is allowed and in some ways required to make legislative proposals. The two other key institutions of the EU, the Council and the European Parliament, may ask the Commission to prepare a proposal.

Expert groups from all Member States support the European Commission in her policy making. The EC’s policy cycle is highly structured and can be easily understood and followed on the EC website. The Commission publishes policy priorities for the next year, road maps, impact assessments, etc. From a negotiations point of view the website shows clear moments in which lobbying and influencing the Commission is opportune as trying to get important interests



into draft legislation by the EC is always to be preferred over reliance on the political bargaining at the level of the Council (see below).

The Lisbon Treaty has strengthened the role of the EP, giving the EP and Council equal legislative powers. The EP is organized along political parties chosen directly per Member State. In principle members of the EP represent a political color and not national interests, although in reality the lines are blurred. A proposal by the European Commission goes through two readings in both the EP and the Council. If this process does not result in an agreement between the two institutions, a solution will be sought during a so called conciliation procedure. Most dossiers will be concluded in first reading and only a very small amount of dossiers end up in a conciliation.

### **and an intergovernmental actor...**

The third key EU institution is the Council of the European Union. More commonly known as the Council of Ministers or simply the Council. The Council should not be confused with the European Council, which is a separate EU institution consisting of the heads of government of the Member States and presided over by Mr. Van Rompuy. The European Council does not have official legislative power, the Council of Ministers does, together with the European Parliament.

The Council meets in different configurations of Member State ministers, e.g. the 27 ministers responsible for Foreign Affairs meet as General Affairs and External Relations Council and the ministers responsible for energy issues meet as Energy Council. The 27 Member States negotiate the Commission’s proposals, adapting them and hopefully adopting them to turn into legislation. The Council’s work is prepared by working parties and the committee of (deputy) permanent representatives of the Member States to the EU. Bargaining tactics are very important here, more than arguments and facts which might have convinced the European Commission or other Member States at earlier stages in the process.

Most dossiers are governed by Qualified Majority Voting (QMV), which means that it is not possible for a single country to veto a decision. Whether a dossier falls under the QMV rule or under unanimity significantly influences negotiations. Although also when the unanimity rule applies no Member State has the desire to block policies on its own, it can and will. Recent examples of the UK in the Euro crisis and the Netherlands concerning membership of Bulgaria and Romania of Shengen can serve as proof for this. QMV dossiers will lead to more strategic behavior of finding a blocking minority (when

against) or unblock a blocking minority (when in favor of a proposal).

Although all Member States in the EU are equal, some Member States are more equal than others. Within the Council several power resources influence decision making, for example voting power and economic size. Power can be increased through coalition formation based on the issue at hand or on the basis of other principles. Naturally this coalition can be content and interest driven. Next to dossier specific choices for a coalition partner, there also more general lines on which cooperation is possible, for example a coalition formation along geographical location, such as South vs. North or East vs. West.

The institutional set-up of the EU makes EU negotiations a multi-level game. EU negotiations are among the most complex negotiation procedures in the world with both written and unwritten rules. Every decision, obviously some more contested than others, go through 27 bargaining processes in the different Member States. The resulting positions have to be negotiated with one another and with the EU institutions in Brussels, where other stakeholders try to influence the process as well. In the different phases of policy making many actors play a role somewhere along the line and have some influence on the final legislation.

### **THE EU BREEDS ITS OWN NEGOTIATING CULTURE...**

In 2010 Paul Meerts and I trained groups of Polish civil servants in preparation of their rotating Presi-

dency of the EU in 2011. We did eight training sessions in Warsaw and one in Brussels, for staff of the Polish Permanent Representation. Every time we did a classical short self assessment on conflict handling modes developed by Thomas and Kilmann<sup>2</sup>. The Thomas-Kilmann identifies five different modes: Competitive, Avoidant, Compromise, Cooperation and Accommodation. The Polish civil servants in Warsaw tended to score highest on Competitive, Avoidant or Compromise. The score of the Polish civil servants in Brussels differed greatly from their colleagues in Warsaw. The Brussels score on Compromise, Cooperation and Accommodation was much higher. This is not scientifically gathered data and the one group in Brussels is too small in comparison to the number of groups in Warsaw to draw any strong conclusions. Still, the change in the approach to conflict handling modes coincides with literature on EU negotiations identifying several characteristics of EU negotiations<sup>3</sup>:

- A consensus seeking assumption; meaning that Member States will tend to find a solution to which all states can agree. This is even true in QMV dossiers, but it does depend on the willingness of the country/ countries opposing certain legislation to move from its no position. "No" is a word that is not liked in Brussels and tends to be counterproductive.
- Issue linkage; within a dossier or even linking one negotiation to another is an acceptable way to reach agreement. It is package dealing.
- Specific and diffused reciprocity;

countries are willing to give up certain things and get something in return later. What the other country gets can be specified, it can also be decided upon later or even remain completely open, hoping that the flexible attitude will be remembered in later negotiations.

- The shadow of the future; the EU Member States have to deal with one another time and again. This is an important element in all the negotiations, since it means that normally countries do not insult one another, do not put too much pressure on another Member State and do not even criticize each other openly. You never know when you need your opponent to be your partner.

These characteristics could be observed during our negotiations trainings sessions as well. People with extensive EU negotiations experience played less hard ball, criticized each other less, avoided unnecessary frictions by looking for packages and common ground early in the process. In the case of the Polish training sessions, it could be observed through the use of language. In Warsaw words as "unacceptable", "no" and even "veto" were heard more than once in every session. In Brussels they were not heard at all. In Warsaw there was also a lot of talk on the spirit of compromise, the spirit of consensus and the spirit of European solidarity. In Brussels these words were not mentioned, although the team from the Permanent Representation actually reached agreement faster and fairer than their colleagues in Warsaw. The Polish civil servants from the Permanent Representation seemed to be 'Brusselized'. They had adapted to the EU negotiation culture in order to secure more interests of Poland<sup>4</sup>. ➔

<sup>2</sup>Thomas, K.W. & Kilmann, R.H. (1974), *Thomas-Kilmann Conflict Mode Survey*, Tuxedo NY: Xicom

<sup>3</sup> See for example the EU negotiation special of the *Journal of European Public Policy* of 2010 (volume 17, issue 5)

<sup>4</sup> This conclusion is drawn without systematically eliminating other possible explanations which might explain the difference in behavior between the groups. Further research into 'Brusselized' negotiations should be conducted to bring forward the exact nature of EU negotiating culture and the manner that it influences the practitioners in Brussels.



# Negotiating World Politics

The balance in world politics is changing. This has consequences for bilateral and multilateral negotiation processes. These processes will become more important, while increasing in complexity and difficulty. The Netherlands Institute of International Relations 'Clingendael' tries to unravel these new international negotiation dynamics with the PIN research project. It also enhances the negotiations capacities and skills of hundreds of diplomats and civil servants each year. If you are interested in the work of the Clingendael negotiation team, please contact Wilbur Perlot through the PIN website.





To be sure, it is open for debate to ➡ what extent the political leaders of EU Member States are Brusselized. Directly accountable only to their own citizens, the European Council and the Member State ministers in the Council of Ministers might show different behavior than their civil servants preparing the legislation. Hosli acknowledges the consensus driven element in EU decision making, but her research seems to suggest that larger EU Member States and Member States with a more skeptical domestic audience tend to abstain or vote against more often than their smaller or pro-European colleagues<sup>5</sup>.

### NEGOTIATING WITH THE EU

Much has been written on the EU as an external actor. The EU is an economic giant, but politically and especially militarily speaking a dwarf. But to understand the current external action possibilities of the EU, it is not so much the resources of the EU to back up its foreign policy that matters, but the general lack of a common foreign policy. Although a shared competence between the EU and the Member States with a coordination role for the EU, the Common Foreign and Security Policy remains largely an intergovernmental affair. The Lisbon treaty, which foresaw

the founding of a European External Action Service (EEAS), has not really changed anything in that regard. The role of Lady Ashton, High Commissioner of the Union for Foreign Affairs and Security Policy, seems limited to an organization and bureaucratic function without any firm policy objectives. Obviously Lady Ashton's function and the EEAS are the typical result of EU consensus based decision making which also gave us the Euro. The same is true for the President of the European Council, Mr. Van Rompuy. His office, also created by the Lisbon Treaty, explicitly mentions that he can represent the Union at the highest political level. Mr. Van Rompuy is a former head of government in Belgium and as such ideally suited for his role in Brussels and a master in understanding the playing field of the EU and the EU negotiating culture. As a representative of the Union however, he will need to talk to leaders with a rather different background. It is as difficult to imagine Mr. Van Rompuy to shed his consensus making skin as it is that Vladimir Putin will adopt one.

Despite perhaps the image that EU institutions are trying to project to the outside world, the EU simply does not exist. Most states are not monolithic actors and neither is the EU, the EU

is not even a state. The best option for the EU to speak with one voice is on areas in which most competencies have been transferred to the EU, for example in functioning of the internal market, trade relations and environmental concerns. But even then, the complicated EU decision making threatens its external effectiveness, as seen for example during the climate talks in Copenhagen and the Bluefin Tuna fishing ban during the Fifteenth meeting of the Conference of the Parties of CITES.

The lack of unity among the Member States and institutions can obviously be exploited and that has been done many times. It depends very much on the strength of the outside actor how much can be achieved. Russia deals on political issues with the Member States and less with the Commission – with great effect. Again, as soon as competencies are strong for the Commission, this changes. When it comes to the internal market Brussels is quite successful in demanding from Russia adaptations from its companies. Similarly, EU consumer regulations are a force to reckon with, having an influence beyond EU borders.

As a non EU member dealing with the EU it is much easier to deal with the EU through the Member States when it comes to political and foreign policy goals. However, if the negotiations are about access to the EU market or even accession to the EU, both the Commission and the Parliament play important roles and cannot be sidelined. Russia is of course a country with formidable power resources at their side. For smaller countries, including for example the countries in Central Asia, there might be another strategy for reaching positive negotiations results with the EU then playing the different Member States against each other.

<sup>5</sup> Madelaine O. Hosli, *Voting Behavior in the Council of the European Union after the 2004 Enlargement*. Paper presented at the Eleventh Biennial Conference of European Union Studies Association (EUSA), 2009. [http://www.euce.org/eusa2009/papers/uriot\\_07E.pdf](http://www.euce.org/eusa2009/papers/uriot_07E.pdf)

## BRUSSELIZATION AS A STRATEGY FOR NEGOTIATIONS WITH(IN) THE EU

Mr. Smolinski analyzed the results of the 2004 EU enlargement round<sup>6</sup>. On the basis of the original demands of each acceding country, he concludes that, relatively speaking, Malta did best during the negotiations, which is considering by its size and importance to the EU rather surprising. The high score for Malta can however be explained on the basis of the survey Mr. Smolinski conducted. He composed a list of ten important traits for negotiators. Of each trait he created a spectrum of extremes and then asked negotiation teams from the 2004 EU enlargement round to score both themselves as well as the 'opposing' negotiation team on these traits<sup>7</sup>.

On the basis of the responses it became clear that the manner in which Malta saw itself on the ten traits is quite similar on how the EU delegation evaluated Malta. The scores the EU gave itself overlapped to a great extent the scores the Maltese gave the EU. In other words, the behavior and language of the Maltese negotiators was understood by the EU negotiating team like it was intended by the Maltese, just as the Maltese understood the EU correctly.

On the other side of the spectrum we find Slovenia. Where for example the Slovenians thought they were only a little bit win-win oriented (some 55%), the EU delegation gave the Slovenians 85%. Similarly the Slovenians thought they were not being very direct in their communication (less than 50%), while the EU

thought the Slovenians were quite direct (80%). The Slovenian delegation saw itself different then the EU saw the Slovenians. The Slovenian perception of the EU did not correspond with the EU perception of themselves either. These large differences must have led to confusion during the negotiations. According to Smolinski, Slovenia was the country which, again relatively speaking, lost most of their demands in comparison to the other acceding countries in the 2004 round.

The 'mental map' of the Maltese and EU negotiators overlapped, the 'mental map' of the Slovenians and the EU did not. It might not be the only reason for the difference in success between the two countries during the accession talks, but Smolinski makes a compelling argument for the importance of mental mapping as a deciding factor.

Using both the work of Smolinski and the insights into EU decision making described above, it is not difficult to draw a general mental map for EU negotiators. Using five of the ten traits, it is possible to say that an EU negotiator will be high on win-win, will be tough in pursuing own interests (but not too tough!), will invest in a friendly climate, will be flexible in exploring for solutions and will be low on emotionalism. The case studies done by Smolinski show indeed that the EU team scores more or less the same on all these five traits no matter the country they are negotiating with. In other words, the EU negotiators acted throughout the EU enlargement round of 2004 in line with what can be expected on the

basis of the EU negotiating culture. It is likely that the acceding countries also operated under a negotiating culture, but then a national one formed by the specific institutional context and playing field of a particular country. That might mean that Malta has developed a similar negotiating culture as the EU. Another option might be that the scores of Malta on certain traits were the result of a deliberate strategy because the Maltese actually made a 'mental map' of the EU. Another explanation could be that the Maltese civil servants were very well trained in integrative bargaining, since in the end my description of an EU negotiator is largely comparable to the profile of an effective integrative bargaining negotiator.

Whatever the reason, there is a lesson to be learned here for parties inside and outside the EU who will negotiate with(in) the EU as an actor. Adapting towards the EU negotiating culture, in other words becoming Brusselized, will likely result in getting more interests done in a better climate and with healthy perspective for future cooperation, than conducting the negotiations from the own negotiating culture.

## CONCLUSION

To understand the EU as a negotiating actor it is important to understand the institutional set up of the EU and the internal playing field of EU decision making. Such knowledge would lead to a realistic assessment of one's options whatever the dossier under negotiation. Next to the institutional arrangements, gaining knowledge of the EU specific working environment and its negotiation culture can offer useful insights. Adapting towards that culture will give you better changes of achieving a positive deal, whether operating as a Member State within the EU or as a non member.

<sup>6</sup> Remigiusz Smolinski: *Innovative Research; Capturing Attitudes and Behavior in International Negotiations: Lessons from the European Union Enlargement Negotiations*. *International Negotiation* 15 (2010) 485–509

<sup>7</sup> The traits and spectrum were: 1. Attitude (Win/Lose – Win/ Win); 2. Pursuing own interests (Tough – Lenient); 3. Power (Dominant – Bending); Climate (Hostile – Friendly ); Team organization (Authoritative – Consensual); Communication (Indirect – Direct); Concern with protocol (Formal – Informal); 8. Flexibility (Repetitive – Exploring); Emotionalism (High – Low); Time sensitivity (High – Low)



MORDECHAI (MOTI) MELAMUD

## NEGOTIATING A NUCLEAR WEAPONS FREE WORLD – ARE NUCLEAR WEAPONS FREE ZONES THE ROAD AHEAD?

(BASED ON A PRESENTATION DURING THE ROAD SHOW IN TASHKENT, 29 OCT 2011)

The dramatic act of using nuclear weapons ended the Second World War and at the same time commenced the declared search for a nuclear weapons free world (NFWF). The world community has been trying to curb nuclear armament and proliferation through numerous treaties and agreements that have been concocted even while the Cold War was enhancing the buildup of nuclear stockpiles. This article presents the overarching process of negotiations on nuclear proliferation towards complete nuclear disarmament, which resulted in many international treaties negotiated at different forums and covering different environments. These treaties and arrangements can be separated into two types – global and regional. As the global path seems to have hit a wall, the regional option could serve as a way forward, and has slowly achieved many gains in the last decades. However, when it comes to the remainder of the road to complete nuclear disarmament, it appears as though both tracks are blocked, and not coincidentally – by the same actors and similar concerns.

Negotiations on nuclear weapons issues have thus far focused practically on non-proliferation, but have never failed to mention the final goal of nuclear disarmament, envisioned as the culmination of non-proliferation negotiation efforts. The first major international treaty on nuclear non-proliferation, the Nuclear Non-Proliferation Treaty (NPT), ripened in the late 60's as a "shock treatment" from the Hiroshima and Nagasaki experience, when the world community started already looking for a way to "put the genie back into the bottle". The NPT

was negotiated as a first step en route to the goal of disarmament; it was the best way forward, with the understanding that freezing the nuclear situation – making sure that no more states achieve nuclear weapons – is the *possible*, even if not the *desirable* (see PINPoints 36). While its name

refers to a focus on non-proliferation only, the NPT includes the two major issues of non-proliferation and disarmament but to a very different degree – disarmament is merely mentioned, in passing almost, while the focus is on preventing the spread of nuclear weapons to more states.

Year	Global, regional, territorial	Status
1946	Baruch Plan proposed for international regulation of nuclear energy	withdrawn
1953	Atoms for Peace program	discontinued
1957	International Atomic Energy Agency (IAEA)	
1958	European Atomic Energy Community (EURATOM)	established
1958	Rapacki plan – Central Europe NWFZ suggested by Poland	withdrawn
1959	Treaty of Antarctica	EIF 1961
1963	Partial/Limited test ban treaty (PTBT / LTBT)	EIF 1963
1967	Outer Space Treaty	EIF 1967
1967	Treaty of Tlatelolco (Latin America NWFZ)	EIF 1969
1968	Nuclear Non-Proliferation Treaty (NPT)	EIF 1970
1971	Seabed Treaty	EIF 1972
1974	Threshold Test-Ban Treaty (TTBT)	EIF 1990
1975	South Asia NWFZ suggested by Pakistan	withdrawn
1976	Peaceful Nuclear Explosions Treaty (PNET)	EIF 1990
1979	Moon Agreement	EIF 1984
1986	Treaty of Rarotonga (South Pacific NWFZ)	EIF 1986
1990	Central and Eastern European NWFZ suggested by Belarus	withdrawn
1990s	North East Asia NWFZ suggested	withdrawn
1991	Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials (ABACC)	established
1991	Arms Control and Regional Security in the Middle East (ACRS) talks	discontinued
1992	Mongolia self-declared nuclear weapons free state	established
1992	Joint Declaration of the Denuclearization of the Korean Peninsula	discontinued
1995	Treaty of Bangkok (Southeast Asia NWFZ)	EIF 1997
1996	Treaty of Pelindaba (African NWFZ)	EIF 2009
1996	Comprehensive Nuclear Test-Ban Treaty (CTBT)	provisional
1996	Fissile Material (Cutoff) Treaty (FMCT)	pre-negotiation
2006	Treaty of Semipalatinsk (Central Asia NWFZ)	EIF 2009

Table no. 1 - Efforts made through the years to proceed towards a NFWF

Since the successful negotiation of the NPT (which is now the most widely acceded to security treaty), and even before, numerous other multilateral tools and arrangements to deal with nuclear non-proliferation have been suggested, and many actually created.

Bilateral negotiations throughout the years produced several treaties on mutual nuclear reductions between Russia (or its predecessor, the Soviet Union) and the United States: SALT I (1969–1972), the ABM Treaty (1972), SALT II (1972–1979), the INF Treaty (1987), START I (1991), START II (1993), SORT (2003–2011) and New START (2010). In practice, these agreements brought about a reduction in the number of deployed nuclear weapons, but did not get rid of the nuclear weapons.

### THE BUMPY ROAD TOWARDS A NFWF

Already in the early years after the Second World War suggestion came up for a comprehensive stop of nuclear armament (the Baruch Plan, Atoms for Peace Plan and the Rapacki Plan; see table 1 on the previous page), but these were unsuccessful in the impending Cold War.

In later years, based on an advisory opinion of the International Court of Justice from 1996 regarding the legality of use or threat of use of nuclear weapons, the UN General Assembly has been adopting annual resolutions on a proposed convention that would prohibit the use of nuclear weapons (requesting the Conference on Disarmament to “commence negotiations in order to reach agreement on an international convention prohibiting the use or threat of use of nuclear weapons under any circumstances”). In 2007, a Model Nuclear Weapons Convention was presented to the UN

General Assembly by Costa Rica and Malaysia. Such a treaty incorporates at once all aspects of non-proliferation and disarmament, by prohibiting the development, testing, production, stockpiling, transfer, use and threat of use of nuclear weapons.

Such a way of dealing with non-proliferation and disarmament is a *comprehensive approach*, yet this does not seem viable at this time. The approach to nuclear disarmament taken by the international community is *incremental*. It deals with different aspects of nuclear non-proliferation with a view towards achieving in the future disarmament. This approach was spelled out in the 2000 NPT Review Conference, where the Conference’s Final Document elaborated thirteen “practical steps for the systematic and progressive efforts to implement article VI of the Treaty on the Non-Proliferation of Nuclear Weapons” (article VI refers to disarmament). Among these were the importance and urgency of bringing about the entry into force of the CTBT, the necessity of negotiations for conclusion of a treaty banning the production of fissile material (FMCT), and further implementations of United States-Russian bilateral agreements. Other specified steps to be taken by all nuclear weapon states included unilateral reduction of nuclear arsenals, increased transparency regarding nuclear weapons capabilities and diminishing the role of nuclear weapons in security policies.

**Table no. 1** presents the many efforts in different forums and regarding different aspects of nuclear non-proliferation and disarmament undertaken by the world states as they try to proceed on a road towards a NFWF; font colors represent global versus regional (as well as territorial) initiatives and arrangements, and their status is indicated

in the right column. If we extract the main events from the table, we can present what happened through the years on that bumpy road, trying to penetrate through the wall of nuclear proliferation.

The table shows that in the early years after the Second World War, until beginning of the 1980s approximately, the emphasis and success was on devising international treaties on issues and environments that were easy to reach agreement on, mostly not covering too many states’ territories (e.g. NPT, TTBT, Outer Space). The Treaty of Tlatelolco alone is a substantial regional arrangement achieved in this time, having been negotiated already in the 60’s and entering into force before the NPT. However, the treaty was only practically made meaningful with the full accession of Argentina and Brazil in 1994 (following the 1991 ABACC establishment, see table).

This phase can be thought of as the “global lane”: efforts to negotiate a worldwide nuclear order, starting with establishment of the IAEA as a verification tool and then accomplishing the NPT, which at the time was accepted as the best arrangement trying to avoid further proliferation by freezing the situation. In support of the NPT, additional global arrangements were negotiated, such as the CTBT and FMCT. The CTBT is a “post mortem” tool to be used in cases that a state has already conducted a clandestine nuclear explosion in breach of its obligations to the NPT and/or the IAEA (i.e. it has already developed a nuclear weapon); the FMCT is an effort to manage the fissile material, past and present, under an international umbrella such as the IAEA. While the CTBT has been negotiated and is in a preparatory phase, it is not clear when it will enter into force; the FMCT has been

stuck for over a decade in the very early stages of pre-negotiation, and one important reason is the dissatisfaction of non-aligned states with the slow rate of disarmament by the nuclear weapon states. Moving in this lane does look like hitting one's head against the wall of proliferation trying to penetrate it.

Another lane on the road to NFWF was opened and became very busy in the 1990s. This is the "regional lane", which compared to the wall paradigm presents separate efforts to go through available cracks in that wall. Arguably, the seven Nuclear Weapons Free Zones (NWFZ) that have been established have accomplished more than the global lane on the road to a NFWF.

**Table no. 1** shows a shift in focus, since the 1980's, to development of regional arrangements, and mostly – the establishment of five NWFZ in densely populated areas. This shift in attention is also reflected in the number of citations of the two terms (NWFZ and NPT) in world literature covering millions of books (using a new tool by Google, see Google Books ngram viewer): figure 1. shows that during the 80's and 90's there was a decrease in the use of the term NPT, while there was an increase in the use of NWFZ.

NWFZ treaties are a regional agree-

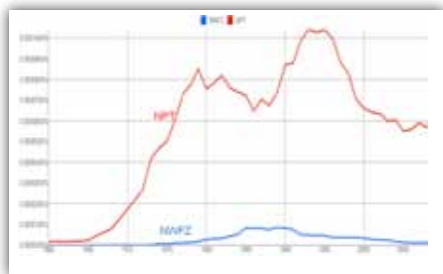


Fig. 1. Search result in world books using Google ngram tool (see ref. below) showing the relative use of the terms NWFZ and NPT through the years.

ment between the states of the region for creating a zone clear of nuclear weapons; this covers both nonproliferation and disarmament, and includes a mechanism for verification (e.g. IAEA inspections). In order to keep the zone clear of any nuclear activity from outside, these treaties also include annexed protocols which the nuclear weapon states are invited to sign, and by which they offer negative security assurances to parties to the NWFZ, obligate themselves not to deploy nuclear weapons in the territories of parties and to avoid transport of nuclear weapons through the zone, etc. Until now, not all nuclear weapon states have adhered to the NWFZ protocols.

The world-map (Fig.2) shows the distribution of NWFZ on the globe. There are currently seven NWFZ, which encompass 110 states out of the 193 existing today; it can be seen that NWFZ cover more than 50% of earth's landmass including the whole southern half of the globe. It can also be seen that areas which are not covered by NWFZ are regions which include a nuclear weapons state (one of the five official or the three unofficial) or states contractually related to these.

NWFZ deal comprehensively with disarming a specific region from nu-

clear weapons (or, more accurately for the zones already established – keeping the region free from nuclear weapons). However, such zones can be seen as steps in the general incremental approach the world community has adopted in dealing with nuclear weapons. The NWFZ have achieved what was possible, where it was possible, on the road to a NFWF; similarly, the global lane proceeds slowly, trying to achieve more agreement and arrangements in different possible aspects. Of course if all states in the world will be part of a NWFZ, we will have a NFWF, but as this map demonstrates this is still an ongoing process.

### BLOCKS ON THE NEGOTIATIONS ROAD FOR NUCLEAR NON-PROLIFERATION AND DISARMAMENT

On the global lane there are currently no substantial advances in non-proliferation or towards disarmament and nothing substantial prospective. The lack of progress fuels further the frustrations on the part of non-nuclear weapon states. In the last NPT Review Conference in 2010, this dissatisfaction was once again expressed in the statement of the Non-Aligned Movement: "... Such reductions [referring to the

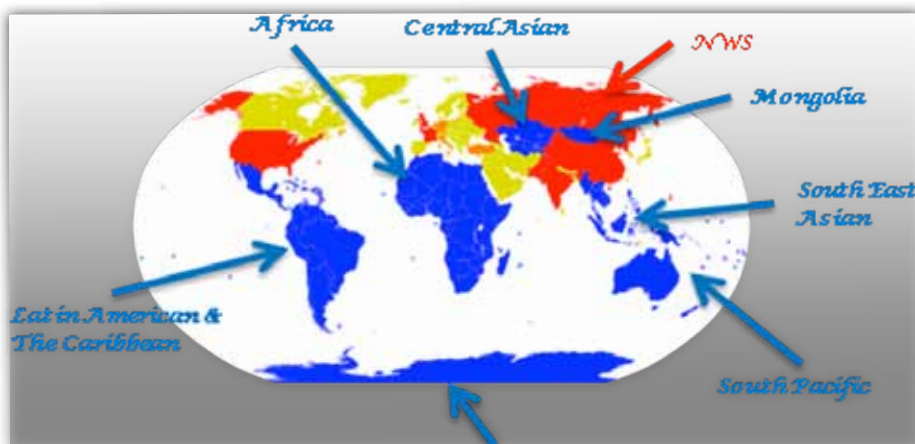


Fig. 2 World map depicting NWFZ (blue), nuclear weapon states (red), States which host nuclear facilities of nuclear weapon states (pink), and any other state (green).





New START agreement between the US and Russia, MM], although a positive development, remain below the international community's expectations which anticipate more concrete uniform and systematic nuclear disarmament effort involving all nuclear weapon states... It is unacceptable that the nuclear weapon states and those remaining outside the NPT continue to retain and even modernize their nuclear arsenals, imperiling the regional and international peace and security... The Non-Aligned Movement states parties stress that efforts aiming at nuclear non-proliferation should be parallel to simultaneous efforts aiming at nuclear disarmament..."

On the regional lane there is no advance with NWFZ establishment in the rest of the world because of key states in those regions. It would seem that NWFZ have been established wherever this is possible, and all remaining regions include such states which make the establishment of a NWFZ unfeasible (namely, states with nuclear weapons, which would require a NWFZ which is the culmination of a disarmament process, and

not only non-proliferation). Table no. 2 below presents key blocking states, according to regions as well as central global mechanism.

Table no. 2 shows that procrastination of negotiations for a NFWF on both lanes is caused by a limited number of key states: Five official nuclear

weapon states who are influential in the stalled FMCT negotiations, three non-signatories to NPT, two NPT non-compliant state-parties (Iran, DPRK). Without counting repetitions, the actual number of culprits in this table is eleven. This is to a certain extent, of course, a simplification of the world picture, but it gives an idea of why both lanes, the regional and the global, are now wedged – the same small number of actors are unwilling or unable to advance, on either lane, either for lack of will or lack of appropriate conditions.

On the global lane the main issue is dissatisfaction with the picture of the world as painted by the NPT, which is a result of the NPT's inherent discriminatory nature causing divergent views toward treaty obligations (nuclear weapon states vs. non-nuclear weapon states); the view of non-nuclear weapon states is that the nuclear weapon states are not following Article VI of the NPT at an "acceptable pace". In addition there exists a mixed approach to non-

Geographic region	NWFZs	CTBT non-ratifying (Annex 2)	FM(CT)	NPT
Middle East	Iran, Israel	Iran, Israel, Egypt		Iran, Israel
North East Asia	DPRK, China (as NWS)	DPRK, China	China (as NWS)	DPRK, China (as NWS)
South Asia	Pakistan, India	Pakistan, India,	Pakistan	Pakistan, India
North America & West Europe	USA, UK, France (as NWSs)	USA	USA, UK, France (as NWSs)	USA, UK, France (as NWSs)
Eastern Europe	Russian Federation (as NWS)		Russian Federation (as NWS)	Russian Federation (as NWS)

Table no. 2 – States blocking the different processes towards a NFWF in both lanes (see text)

weapon states who do not proceed with disarmament, eight states who failed to ratify the CTBT (preventing it from entering into force), six nuclear

proliferation and disarmament especially regarding verification (IAEA is the NPT's only verification tool, but it covers only non-proliferation),

where it is clear that negotiations for non-proliferation are tied to the possibility of implementing reasonable verification regimes (CTBT; FMCT). While the CTBT Organization, in its provisional status, is preparing the elaborated verification regime, it is still waiting for ratification by Annex 2 states to achieve entry into force. For the FMCT, the Conference on Disarmament (CD) reached consensus in 1995 on a mandate for an ad hoc committee to negotiate a FMCT; formal negotiations have not yet begun and gridlock-as-usual has persisted since. The NPT, while conducting its Review Conferences, still does not show reasonable advance in both nuclear weapon states obligations for negotiating disarmament and in non-proliferation. In an effort to push for globalization of the NPT, academic discussions (see Cohen and Graham, 2004) are conducted trying to suggest a special protocol to be added dealing with the three “unrecognized” nuclear weapon states (India, Pakistan and Israel), in order to include these three in the non-proliferation regime without opening the NPT for changes. An unsolved yet major issue is the way to deal with “rogue” states; the cases of DPRK and Iran, both parties to the NPT, are still pending and it was not proved that the international community, in a framework of an almost global treaty, can force its will on a non-compliant member to the treaty.

On the regional lane, NWFZ were established where it was possible to solve regional issues, while areas currently having no NWFZ arrangement exhibit inherent problems regarding advance in this direction. In the regional context, local political and security issues are amplified (compared to international multilateral forums), and the negotiations are therefore more thorough and complex. As Table 2 shows, the

problems in establishing a NWFZ in the remaining regions are mostly due to the existence of nuclear weapon states in the regions that are not yet denuclearized, especially since their nuclear status relates to one other, across regions; and to regional security problems (e.g. Israel in Middle East region, DPRK in Northeast Asia, India and Pakistan in South Asia), which extend also beyond the immediate region.

### **ARE NUCLEAR WEAPONS FREE ZONES THE ROAD AHEAD?**

The situation described above caused a change in approach in regard to NWFZ establishment. Whereas all previous NWFZ started by internal negotiations of the region’s members, the Middle East is the first case in which the world is investing efforts in “advancing” a NWFZ by pushing for its creation from outside the region. The final decision of the 2010 NPT Review Conference (in which Israel does not participate since it is not party to the NPT) calls for an international conference in 2012 to discuss the establishment of a NWFZ in the Middle East. In preparation, an IAEA forum has convened in November 2011 to discuss the Middle East NWFZ, and many track II initiatives are inquiring into the possibility of beginning talks.

The difficulties in merely establishing a conference on Middle East NWFZ (before actual negotiations) demonstrate how complicated it is to move forward now in the regional lane. The Middle East region in many ways is a test case for the remaining regions, but poses an extremely difficult situation to solve; it is quite clear that this case is different from previous regional negotiations and will require more sophistication. It is also clear that each of the future regional cases will be different.

The theoretical idea behind reverting to the regional lane is sound: Where global arrangements are too wide, do not deal with local realities and expect much at once, a regional approach could solve local actor’s basic concerns and will enable the establishment of a useful regime (more on global vs. regional regime negotiations, see Spector, 2003). This also fits nicely with the wall metaphor – finding a way through different cracks could be more useful than focusing all attention on banging the head against the wall. Yet since the key actors are the same in both lanes, there is high interconnectedness, and perhaps for the remaining regions, the regional lane cannot go ahead without the backing of the global lane, and therefore both are stalemated.

Meanwhile it is becoming technically easier to develop nuclear weapons and promoting proliferation. The difficulty in forcing a “rogue state” to stop proliferation or armament is clear, as seen in the Iran and DPRK examples, though some success was achieved for different reasons in attaining rollback in certain case (Libya, South Africa). Changes in the power balance in the world have great effect on the possibility of reaching such results; it seems that without strong leadership, which is an important factor in moving things ahead, the stalemate will continue.

The analysis above shows that both lanes – global and regional – are practically blocked at this time by the same states and same problems. Meanwhile and as previously in non-proliferation and arms control, civil society is playing an important role in pointing to possible solutions and processes, and is a forum in which creativity is enabled. This public international pressure could serve



as a substantial moving force at the moment, and its role is reflected through academic discussions, NGOs, volunteering commissions such as Global Zero, international forums such as the one recently convened in Astana, and others. In the Middle East, for instance, regular civil society dialog on arms control and non-proliferation is taking place since the demise of the Arms Control and Regional Security (ACRS) Talks in mid 1990's were held (see Kane, 2011).

An interesting example is that of the Global Zero Commission, a non-governmental international forum, which issued in 2009 a four-phase plan (see Global Zero Action Plan, 29 June 2009) for reaching complete disarmament – global zero of nuclear weapons. In the summary of this report they say: "In sum, recognizing the political and technical complexity of the effort, this four-phased end-to-end plan projects 14 years (2010-23) to reach a Global Zero Accord on effective measures for eliminating nuclear weapons—including preparation, negotiation, ratification and

entry into force—and at least an additional seven years (2024-2030) to complete the dismantlement of all nuclear warheads." One difficulty that this plan may encounter – even if the relevant parties would agree to commence negotiations, which is at this time unlikely – will result from its requirement that all nuclear capable states will have to ratify the global zero accord for it to enter into force. Beyond the difficulty of defining this group of states, the experience of a similar provision in the CTBT is not encouraging. Despite the fact that such a comprehensive disarmament treaty is not likely to be taken up by official negotiating bodies, the contribution of this report (and many similar ones) cannot be underestimated. By proposing innovative ideas and floating forgotten proposals, thinking out of the box and pressuring governments, civil society organizations can be and already are influential in the effort to achieve nuclear disarmament.

Action by civil society cannot replace the efforts which need to be made by states themselves. However, especially at a time of stalemate on

both global and regional lanes, civil society can maintain alive the ideas, and work to keep the goal of nuclear disarmament alive. It is important to maintain this pressure, in the hope of bringing advance in the efforts for someday achieving an NWFZ.

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MARK ANSTEY

## UNDERSTANDING EVIL ... SOME INSIGHTS FOR NEGOTIATORS AND CONCILIATORS



The new PIN book *The Slippery Slope To Genocide: Reducing Identity Conflicts and Preventing Mass Murder* by Zartman, Anstey and Meerts will be published (Oxford University Press) shortly. It is timely in this edition of PINPoints then to offer a short review of some social psychological work on the subject of why men do evil. These theories also have relevance for aspects of negotiator behaviour, and approaches to reconciliation in post-conflict societies. There is not space to attend fully to all these dimensions but my intention in this short article is to open rather close discussion.

### ZIMBARDO'S BAD APPLES, APPLE BARRELS AND BARREL-MAKERS

In his book *The Lucifer effect* (2007) the eminent social psychologist Philip Zimbardo reviews his early experimental work in the Stanford Prison Experiment along with his more recent investigations into the Abu Graib prison atrocities. Defining evil as '*intentionally behaving in ways that harm, abuse, demean, dehumanize or destroy innocent others – or using one's authority and systemic power to encourage or permit others to do so on your behalf*' (2007:5), he sees

shortcomings in a dispositionalist view of human behaviour (as the product of genes and personality traits, but ultimately of personal choices). He does not suggest that we lack choice or that there should not be individual accountability for acts of evil, but concludes that it is an approach that too easily allows culpability in Abu Graib scenarios to be dumped on vulnerable individuals low in the pecking order of authority systems. From an *eco-systemic* (wider) or *situationalist* (narrower) perspective, social psychologists consider the impact of groups, cultural programming, and structural conditions such as poverty and authority systems on individual actions. Where dispositionalists argue for change simply from within the individual, situationalists propose change is more likely to be the product of external influences. Human behaviour is not simply the product of choices made by individuals in a social vacuum, such choices are shaped by situational pressures and importantly, situations are created by power elites in society who control decision-making in its corporations, over government policies and the media which shape how individuals in a society understand the world. Atrocities committed by

human beings on others cannot simply be understood as the choices of a 'few bad apples' but should rather be understood as the consequence of the 'apple barrel' in which they find themselves, and ultimately the 'barrel-makers'. The world is not one in which people simplistically fall into 'good' and 'evil' categories, but one in which all people under certain circumstances might commit evil.

*'The Person is an actor on the stage of life whose behavioral freedom is informed by his or her make-up – genetic, biological, physical and psychological. The Situation is the behavioral context that has the power through its reward and normative functions to give meaning and identity to the actor's roles and status. The System consists of the agents and agencies whose ideology, values, and power create situations and dictate the roles and expectations for approved behaviors of actors within its spheres of influence'* (Zimbardo 2007: 446).

People in positions of power translate ideology into public policy, laws and administrative systems, and in calls to action. In the *Lucifer effect* Zimbardo argues that the behaviour of those who performed 'evil acts' in

Abu Graib prison in Iraq and in Guantanamo Bay did so not because they were the 'few bad apples' in the barrel, but at least partly because of the apple barrel and that it is the makers of the apple barrels that should actually be held to account - those who decided to invade Iraq, who sanctioned detentions and the use of torture of detainees, who created the image of the 'enemy', who generated reasons for why this enemy should be destroyed or defeated, and who defined the 'us' and 'them' through their use of language and imagery. Foot soldiers often have no way of knowing these things other than through their leadership. It is the leaders who give permission to disengage the moral braking system. The work of other social psychologists (Asch and Milgram) indicate how easily people obey those perceived to be in authority (obedience), and how readily they conform if they desire acceptance in a group (normative conformity), or doubt their information or judgment in the context of a group they think has expertise (informational conformity).

### **WHO ARE WE – AND WHY DO WE FIGHT OVER IT?**

Social identities are multi-layered. Individuals belong to many groups (family, social, religious, professional, cultural, national) and express themselves through these according to situations they find themselves in. Yet identity conflicts are often seen as intractable – we do not generally negotiate parties' identities. Rather we look at how they express these, and try to find ways in which identity groups might better understand one another, reduce their fears of one another, and how they might accommodate one another through political and social arrangements to find non-violent ways of co-existing. Social psychologists posit three dimensions

of the way we ascribe and assume identities: categorization in which we develop frameworks to place people into groups (with certain expectations of their beliefs and behavioural propensities); *identification* in which we assume and ascribe others membership of a social category; and comparison in which we evaluate our worth and the group to which we are affiliated in relation to other groups. This is not a passive process, it translates directly into prejudices and acts of discrimination.

Born into identity groups, common needs of human beings for protection, participation, power, privilege and purpose are programmed in expression through social learning processes (direct and vicarious). The cultures in which we are reared shape our narratives about who we are, our identity groups, and those seen to represent a threat. In *The Nature of Hate* Sternberg and Sternberg (2008) suggest hate to be characterized by disgust (a negation of intimacy), antipathy toward the other (driven by fear or anger), and a devaluation of that other (based in contempt). Fear of the other (xenophobia), disgust, and contempt are developed through often self-sustaining narratives of the other as 'evil' – as something 'out there', unknown and untrustworthy; animalistic and without morality; and a dangerous existential threat. From avoidance, groups perceiving themselves to be under threat move to responses of fear, revulsion and loathing, becoming easier to mobilize to actions of targeted violence and even elimination of the other.

It is hypothesized here that when groups have been subject to real repression and existential threat in the past, the narrative of a world of hostile others is more pronounced. The past becomes the present under a 'never again' banner. Constant

reference is made to persecutions of the past and the need for vigilance against eternal external threat – as the narrative is entrenched so a group acts to continually defend itself. Groups rationalize their own hostile actions towards the other as defensive. Criticism of such offensive actions feeds the narrative of external forces that either 'don't understand' or are hostile – and sustains the sense of threat. They become entrapped in a self-sustaining mindset of prejudice and threat. Coser (1956) pointed out that conflict serves to bind and preserve groups, sharpening inclusion/ exclusion boundaries as they mobilize under 'us-them' banners. Positively this may raise internal group performance and coherence, but of course it also makes a group less open and flexible in its capacity to accommodate the needs and desires of others. Identity serves important group building functions but can also be a force for dangerous polarization. We are usually blind to our own prejudices – but our minds capture and process information in categories. We want predictability and order so that we do not have to test and retest every life situation – we want certainty about which side of the road to drive on, laws, and social responses to actions and beliefs. But this also removes flexibility as we generate stereotypes about groups, generalize about members of these groups, and exaggerate differences ('us and them' categories). Samuel Huntington (1997) has argued we only know who we are when we know who we are not and often only when we know whom we are against! Tavis and Aronson (2007) take this further suggesting our sense of who we are not and who we are against is sharpened in times of stress.

*'Evolutionary psychologists argue that ethnocentrism – the belief that our own culture, nation, or religion*

*is superior to all others – aids survival by strengthening our bonds to our primary social groups and thus increasing our willingness to work, fight, and occasionally die for them. When things are going well, people feel pretty tolerant of the other cultures and religions ... but when they are angry, anxious, or threatened, the default position is to activate their (us-them) blind spots'* (Tavris and Aronson 2007:59).

### STAYING SANE IN A COMPLEX AND OFTEN VIOLENT WORLD – DISSONANCE REDUCTION

Solsenitzhyn (1974:173-4) wrote *'To do evil a man must first believe that what he is doing is good, or else that it's a well considered act under natural law ... it is the nature of the human being to seek justification for his actions ... Ideology - that is what gives evil doing its long-sought for justification, and gives the evildoer the necessary steadfastness and determination. That is the social theory which helps to make his acts seem good instead of bad in his own and other's eyes, so that he won't hear reproaches and curses but will receive praise and honors' ...* (the inquisitors invoked Christianity, imperialists the glory of their civilization, the Nazis their racial superiority, the Jacobins equality) ... *'Thanks to ideology, the twentieth century was fated to experience evil doing on a scale calculated in millions'*. Historians, Eric Hobsbawm (2007) and Niall Ferguson (2008) estimate the cost in life of wars and genocide over the last century to be about 200 million.

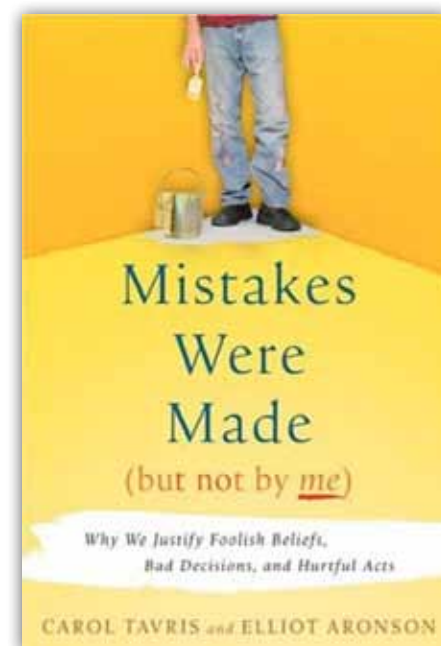
Social psychologists extend Solsenitzhyn's insight offering further understanding as to how people with values of religious or cultural tolerance and mercy can be mobilized to commit mass killings or participate

actively in projects of genocide, as well as how they find ways to live with themselves afterwards. Apart from the social influence theories (obedience, and conformity already discussed above) some useful insights are offered by Sternberg and Sternberg (2008), and in a very accessible review of social psychological research entitled *Mistakes were Made (but not by me)* by Tavris and Aronson (2007). The latter discuss how a basic impulse of self-justification operates in many levels of society – amongst politicians, those in the justice system, within marriage and family life – to reduce the dissonance people feel when things go wrong, or when they commit an act that contradicts their values in some way. All human beings have a basic need to justify themselves. When people hold two ideas, beliefs, attitudes or opinions that are incompatible they experience a psychological tension known as cognitive dissonance. They try to reduce this discomfort in many ways – trying to make sense out of contradictory thinking, typically through processes of rationalization, justification and memory distortion.

Leon Festinger (1956) famously studied the response of doomsday groups when the world did not end according to their predictions. Far from losing their faith, it deepened! True believers convinced themselves their prayers had delayed the event to give a second chance to mankind. Rather than admit their belief system to be incorrect, they dealt with the crisis by finding an explanation that would enable them to continue holding it. Tavris and Aronson (2007) argue that President Bush's shifting justificatory explanations for the invasion of Iraq reflect a similar dynamic, though my colleague Bill Zartman suggests they have the sequence of these arguments wrong.

Prejudice both enables action against 'them', and rationalizes it afterwards. While stereotypes might be altered through counter-information, Tavris and Aronson argue *'the hallmark of prejudice is that it is impervious to reason, experience or counter-example'* (2007:60). *'Prejudice justifies the ill treatment we want to inflict on others, and we want to inflict ill treatment on others because we don't like them. And why don't we like them? Because they are competing with us for jobs in a scarce job market. Because their presence makes us doubt that we have the one true religion. Because we want to preserve our positions of status, power and privilege. Because we need to feel that we are better than somebody. Because our country is waging war against them. Because we are uncomfortable with their customs, especially their sexual customs, those promiscuous perverts. Because they refuse to assimilate into our culture. Because they are trying too hard to assimilate into our culture'* (Tavris and Aronson, 65).

Processes of dissonance reduction allow us to confirm we are 'good people' while treating others badly – before, during and after our actions.





Our prejudice may lead to hostile actions, but importantly our actions also create or reshape prejudice. Once we have behaved in a certain way we need to explain why. In a process known as the Ben Franklin effect social psychologists have noted that a softening of hostile attitudes from another who dislikes us follows not on doing favors for that person, but on asking them to do us a good turn. Doing a kind act for a disliked other creates dissonance – to reduce discomfort the other justifies the act. If we ask those who dislike us to do us a favor (rather than vice versa) the theory tells us there will be a softening in their attitudes to us – psychologically the dissonance of the kind act is reduced by an adjustment in attitude - we must be okay after all. The reverse of this is reflected when we behave badly towards others. Positive or negative feelings to others develop then not only through prior learning, but also as a consequence of how we treat them. This may serve to at least partially answer the question raised by Niall Ferguson in his TV series *'The War of the World'* as to why it seems genocide has taken place in societies where integration of minorities is in fact well advanced through inter-marriage, in workplaces and in professional life. Once a person has treated others badly (especially those closest) the need to justify this deepens, intensifying hostile feelings towards them ('If I as a good person treat them like this it must be because they must deserve it'). The more publicly committed to a position we are, the harder it is to reverse from it; the more atrocious an act towards another, the higher the psychological discomfort we experience and greater the need to justify it. Admitting we were wrong, particularly if we have committed to positions that are irreversible is extremely discomfiting in a public sense, but also in terms of our need



for internal coherence and positive self-image.

Complicating things, according to Tavris and Aronson (2007), we do not process information logically – we process it selectively to support existing strongly held beliefs or opinions (confirmation bias). MRI's indicate cognitive areas of the brain virtually shut down processing dissonant information, emotional areas light up with consonant information. There is they suggest, a neurological basis for explaining why it is hard to change minds already made up, bringing to mind the dictum 'only the closed mind is a certain one!'. The more committed we are to positions and actions the less open we become to contradictory evidence (the power of irrevocability). Group explanations for practices that make little sense go far beyond their original reasoning as they become rituals.

### **VENTING: THE RISKS OF CATHARSIS**

Psychoanalysts and confessional-based religions hold catharsis or venting in high esteem as the vehicle that allows individuals to express pent up emotions blocking psychosocial functioning, and freeing them to move onto more functional relationships. Tavris and Aronson (2007) pour cold

water on this reviewing research arguing that contrary to common belief, venting increases rather than reduces anger and aggression, and particularly so when catharting about harm done to another. To reduce dissonance people justify why they commit atrocities on others – denigrating the other, embedding anger and raising the possibility of further hostile acts. Justifying the first act sets the stage for more aggression (2007: 26). Perpetrators of hostile acts see the other as having 'started it', as 'deserving it', or 'asking for it' – this underlies the actions of bullies in workplaces, in abusive relationships, and situations of police or military brutality, or actions against ethnic minorities. Treating others badly has the consequence of making perpetrators dislike them more as they justify their emotions and actions.

Truth and reconciliation (TRC) processes offer opportunity for venting as a basis for reconciliation. It is suggested here that there might be a significant difference between venting anger, and catharting remorse for an act now recognized and deeply regretted. In light of such evidence there may be a need to rethink TRC process mixes carefully. If victims simply vent anger rather than sorrow it may entrench hatred for perpetrators (diminishing prospects of rec-

conciliation); if perpetrators declare their sins without remorse it may lose value for victims (diminishing prospects of reconciliation). Simply setting up a forum and asking everyone to 'spill their guts' may not be helpful for purposes of healing. Further complicating things self-justification distorts memories – people reshape, embellish, and add missing details to make for self-justifying coherent memories. Just as victors in a struggle write history to their own benefit, a 'totalitarian ego' uses information selectively to preserve a sense of a 'worthy self'. We acted or failed to act for justifiable reasons. We confabulate, distort and forget to preserve our sense of self with integrity. There is evidence that memory recall therapists might well have been memory creators through the questions they asked and ideas they unintentionally implanted through their interview processes. People remember same events differently, fitting memory to beliefs and values and attitudes – *'Memories create our stories, but our stories also create our memories. Once we have a narrative, we shape our memories to fit into it'* (Tavris and Aronson, 2007:77). Memory serves to explain why we are as we are now – early traumas, abduction by aliens, loving and hating parents, being bullied. Our expectations and prejudices and hypotheses however see us leap to convictions, using information selectively to confirm what we have already decided to be true and ignoring contradictory information. Reducing dissonance helps us live more easily with ourselves, reducing anxiety, preserving beliefs, and maintaining self-esteem, but it also facilitates self-justification of negative behaviour to others, memory distortion, prejudice, and efforts to silence others from speaking. People construct narratives to define themselves as perpetrators or victims – in each instance in a self-serving way.

Memories are censored to optimize consonance between what happened and how people see themselves.

Perpetrators reduce dissonance by claiming their actions to have been 'in the greater good'; by excusing or minimizing their actions – 'I shouldn't have done it but no real harm was done'; by claiming mitigating circumstances – 'I was subject to abuse myself as a child'; or admitting wrong but then trying to move past the event as quickly as possible – 'it was an isolated event', 'its in the past now, lets look to the future'. Victims however carry different memories, often brooding long-term over events and issues that, for perpetrators were trivial; and carrying long term feelings of hostility to perpetrators whose actions they see as malicious. They tend not be able to see perpetrator actions as situational or provoked. Perpetrators lack understanding of a victim's emotions because they are too busy justifying their own actions, but also because they really have little insight into how a victim feels. They are often confused by a victim's pent up anger – what was a passing event for one is one brooded over for years by the other. Tavris and Aronson (2007) suggest that victims may use 'rage as retribution' to punish a perpetrator 'even when the offender wants to make peace' (196). Interestingly they also note that people with high self-esteem have a higher need to denigrate victims and inflict more pain on others; low self-esteem people do not suffer as much dissonance in their actions. People denigrate their victims as a consequence of acting harshly against them. This is the basis of dehumanization and what enables ordinary good people to perform acts of evil. Tyrants claim their acts were conducted for the good of their country; or some other higher good.

## SOME CONCLUSIONS

Understanding the dynamics of identity groups, the power of cultural conditioning, the development of belief systems (ideologies) and group narratives, the 'us-them' dynamic with associated pressures for conformity within identity groups that perceive themselves to be under threat, and the situational nature of human behaviour, offers some insight into what drives otherwise decent, law-abiding citizens to do evil to others. They become convinced that their acts are necessary for a larger good, or to destroy a threatening enemy or 'evil other'. Dissonance theory offers deeper understanding of this dynamic – it explains what drives ordinary people to commit extraordinary acts of brutality often in a state of detachment rather than fury, how they are able to live with themselves afterwards, and why atrocities are repeated.

For reasons of psychological coherence perpetrators must justify such acts to themselves, and often do so in a way that sees intensification of hostility towards a victim and a repetition in behavior! We justify not simply before committing an act, but afterwards – 'we did such and such because they were evil', or 'to save many other lives', or 'for their own good'. Hostility to others intensifies after we have behaved badly towards them – a hostile attitude is the consequence as much as the cause of hostile action. *'In the horrifying calculus of self-deception, the greater the pain we inflict on others, the greater the need to justify it to maintain our feelings of decency and self-worth. Because our victims deserved what they got, we hate them even more than we did before we harmed them, which in turn makes us inflict even more pain on them'* (Tavris and Aronson, 2007:198).

This is why it is important for regimes to act against hate speech, and to take strong action against those who participate in pogroms (organized massacres of members of a particular ethnic group). Hatred festers where there is a sense of impunity for acts of violence. Where a state fails to act to protect vulnerable minorities (legal or illegal), or to act against those who commit violence against its members, it condones such actions. Pogroms in Russia were characterized by a state failure to protect certain groups (Jews) or to take action against those who murdered them. Ngoga (2008) argues that the 1994 genocide in Rwanda was at least partially the consequence of a sense of impunity that had developed steadily through the failure of a succession of previous governments over the previous forty years to act against acts of mass killing – largely based on a desire to stabilize the society and build inclusive regimes. If a state fails to give protection to vulnerable minorities or to punish those who attack these groups it is in effect giving sanction to such acts. It's a tough balancing act – understanding that enables preventive action is clearly better than hindsight based pleas to condone such atrocities.

These theories have usefulness in understanding how people commit atrocities on others but they also offer insights into more common bargaining behaviors, and require some rethinking of traditional bargaining dictums. For instance the tough positioning, slow movement and inflexibility of hard-line negotiators may be the product of tactical and loss of face considerations associated with a retreat, but also because having taken such a position they become psychologically more committed to it ('I am a reasonable person and would only take a negotiating line that is reasonable'). The use of

hostile tactics on the part of a party may generate emotions of hostility towards the other; the use of more conciliatory tactics, warmer emotions. Asking the other party to make a special concession of some sort may serve to soften its attitude more than giving one to it ('If I help you, you can't be so bad after all' v 'you are conceding because you know you are in the wrong'). Allowing venting to let off steam may in fact simply serve rather to increase anger and hostility ('I am this hostile because of how badly you have behaved'). The worse the other party behaves the more likely they are to justify this as a consequence of your behaviour even as you try to reduce tensions ('they are behaving badly because you deserve it').

For those seeking to bring about reconciliation in post-conflict societies Tavis and Aronson offer some guidelines in meeting the challenges of getting '*perpetrators to acknowledge and atone for the harm they caused; and ... victims to relinquish the impulse for revenge while helping them feel validated in the harm they have suffered*' (2007: 209) They suggest three possible routes: the perpetrator recognizing the anger and suffering of the other offers remorse and apology; the victim letting go of his anger, and accusations and expressing pain; both sides dropping their self-justification and agreeing on steps they can take together to move forward. This of course, as my colleague Valerie Rosoux points out, opens important debate as to whether there can ever really be equivalence in such an exchange between perpetrators and victims, and whether a victim always ending up somehow suffering more. We take this debate forward amongst others, in one of our next projects - *Reconciliation as Preventive Negotiation*. If reconciliation requires victims and perpetrators

to behave better towards one another (the Ben Franklin effect) how is this to be practically achieved in the context of the ethical dilemmas that such a project raises? Is it something that can be negotiated or a fortunate spin-off outcome of peace agreements dealing with more substantive matters in a conflict?

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## THE SLIPPERY SLOPE TO GENOCIDE; REDUCING IDENTITY CONFLICTS AND PREVENTING MASS MURDER,

I. William Zartman, Mark Anstey and Paul Meerts (eds),  
Oxford University Press

Genocide results from the culmination of conflicts over identity. A group of people that feels threatened by extinction resorts to genocide as a pathologically defensive reaction. This poses a security dilemma that can only be broken by quelling the feelings of threat and fear that prompt mass violence. In order to prevent genocide, it is essential to understand the internal dynamics of identity conflict. It is also important to intervene at the early stages of identity conflict; the parties involved require external help to ease tensions.

In this volume, noted thinkers and practitioners of conflict management, who hail from ten different countries, present ideas on how to prevent identity issues from causing fear and escalating into genocide. They focus on measures for handling the internal dynamics of parties facing identity conflicts, as well as considerations for arranging external assistance. Contributors address the problem of outbidders, actors whose non-conciliatory attitudes put them in positions of leadership in their identity groups. Since political extremism and violence can signal resolve and commitment to a group cause, moderates give way to hardliners. Spoilers, who believe that peace undermines their interests and power, also play a key role in the dynamics of conflicts. Careful attention is necessary to select appropriate third parties who can pull conflicting parties off the course of conflict. The authors discuss the concepts and practices involved in changing structures and attitudes to ease tensions, as well as the measures interveners must take to work in the midst of conflicting groups.

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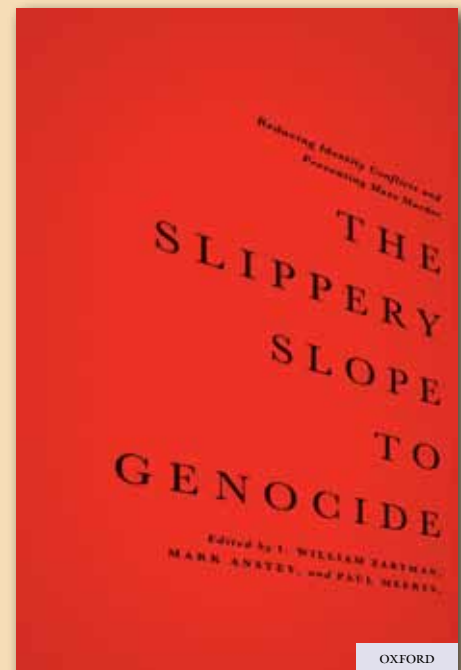
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MARK ANSTEY AND VALERIE ROSOUX

**NEW PIN BOOK PROJECT****RECONCILIATION AS PREVENTIVE NEGOTIATION**

Post-conflict situations are precarious. Up to forty percent of peace agreements slip back into violent conflict within a decade (Collier 2009:75). Crises of commitment and capacity drive the shift in attitudes required for peace agreements between adversaries. But sustaining these shifts into longer-term peace-building processes is difficult, especially where structural conditions limit capacity to distribute resources and opportunities in ways that meet needs and aspirations across stakeholder groups. The tipping point is reached when one or more parties believe violence will yield greater benefits than continued efforts within a shaky peace. In such contexts how might reconciliation between groups with a long history of conflict be achieved? What kinds of conditions must be negotiated to develop and sustain peaceful relations between parties to carry them jointly into a non-violent future? Is reconciliation actually negotiable? If yes, under what circumstances?

These questions are at the core of the next PIN book project.

***SPECIFICITIES OF THE PROJECT***

In the context of an avalanche of texts on the subject of reconciliation, this book makes a unique contribution in three respects. Firstly it seeks an articulation between the notions of negotiation and reconciliation. Both subjects reflect expanding bodies of theory and research but the interaction of the two remains relatively unexplored. Curiously, the concepts seem to be increasingly used interchangeably. This confusion of terms is reflected by way of example in current US support for the Afghan-led 'Reconciliation and Reintegration process'. Negotiation and reconciliation are of course intimately inter-connected, but as concepts they are distinct. This text explores the nature of each of the concepts and then the relationship between them. It is proposed that the litera-

ture on negotiation might illuminate the puzzle of reconciliation.

Secondly it gathers contributions from both scholars and practitioners in the fields of both negotiation and reconciliation – theory and practice are inextricably linked. As Richard Hyman (1975) has argued all practitioners operate in the context of 'theories' however inexplicit they may be, otherwise their behavioural choices would lack coherence. To draw lessons from practice is to develop theory; to construct coherent theory is to create beacons for good practice. As scholar-practitioners the editors of this text are both from nations wrestling with issues of social and political reconciliation – South Africa and Belgium. South Africa's reconciliation process is often understood simply through the work of the Truth and Reconciliation Commission (TRC). But this is too narrow an approach. Reconciliatory intent lubricated the negotiated transition from its inception in the talks about talks period from the mid-1980's, served as a confidence builder in giving parties the courage to enter negotiations, and helped to overcome breakdowns in negotiation at critical points. The TRC in its short existence reflected an intensive but particular approach to the post-conflict discovery of truth, and sought to lay a platform for longer-term reconciliation in a nation with a history of deep division. But the reconciliation debate continues, and may well require a return to more substantive negotiation processes in its future phases. Belgium in turn seems to suffer from an intractable ethno-linguistic conflict. Despite being the home of the European Union,

Belgium since 2007 has displayed a rather surreal degree of political chaos and constant negotiation. Belgian politicians have provoked three cabinet resignations, used 25 “royal” mediators, and been involved in more than 500 days of coalition formation. The maximum degree of reform Walloon parties seem willing to settle for falls far short of the desires of Flemish nationalists, whose package of demands is considered unacceptable in Wallonia. The rise of Flemish nationalism and inter-communal tensions, have seen regular calls for reconciliation through the media. South Africa and Belgium do not share a lot of common features. However, both states reflect long term struggles to develop and sustain a strong national identity. Their common, but diverse experiences raise important questions about the prospects for negotiated accords and deeper processes of reconciliation, and the links between them.

Finally, the purpose of the book is exploratory and pragmatic rather than to offer a normative or prescriptive view. We want to tease out the elements of negotiation and reconciliation and give them life through the analysis of several concrete case studies. The intention is to raise and address questions about the practical limits of the notion of reconciliation when applied on a societal rather than an individual level. Let us take only two of them to illustrate it, be it in an international or internal context. In October 2009, Turkish and Armenian representatives signed a ‘historic’ accord to normalize relations after a century of hostility. Numerous observers depicted reconciliation as the ultimate goal of this negotiation process. However, only a couple of weeks later, the majority of the practitioners involved in the negotiation process lamented the fact that the relationship between both parties did



not evolve at all after the “reconciliation agreement”. What explains this? Was the notion of reconciliation a slogan rather than a social reality? Was the situation not ripe enough to favor a significant rapprochement? Did the constituencies express a kind of resistance against such evolution? Is it simply that reconciliation, unlike issues of territory or political design or electoral arrangements cannot be negotiated in a traditional sense?

A second case shows how complex these questions are. In February 2010, the Loya Jirga took place in Kabul with the explicit purpose to determine how to ‘negotiate’ and ‘reconcile’ (according to the words of president Amid Karzai, February 1, 2010) with the moderate Taliban. In this particular case, the interactions between the two notions seem so obvious that scholars refer to ‘reconciliation negotiations’ (Biddle et al, 2010). Nonetheless, to what extent does the so-called “reconciliation process” underlined by President Karzai and supported by the American commander in Afghanistan, Gen. David H. Petraeus (NYT, September 29, 2010), actually differ from any political deal in the strictest sense

of the term? Beyond these specific cases, some provocative questions can be raised. How can negotiators deal with such an ambitious goal? Can reconciliation be detrimental to peace and/or democracy? Is reconciliation always possible, desirable or even necessary in all circumstances?

There is much at stake. We consider that without a fundamental clarification, the notion of reconciliation may turn out to be counterproductive. Beyond a theoretical interest, this question has a direct impact for practitioners; a better understanding of the issue is actually a *sine qua non* condition for more efficient interventions. If parties confuse reconciliation with negotiated peace agreements they may enter the next phase of their relationship on the basis of misunderstanding and divergent aspirations and expectations – a recipe for further rounds of conflict. The intention of the book is neither to be cynical and strictly realist, nor sentimentalist and idealist. Reconciliation carries sentiments of hope in rebuilding relationships but it seems it is often grindingly difficult to effect. So – how can we retain an element of hope without becoming unrealistic





about prospects of reconciliation in the context of longstanding conflicts in deeply divided societies? Are there grades of reconciliation – deep, modest, superficial, functional? How would such concepts find resonance with all the components of the population in conflicted societies?

This question is particularly delicate for victims of repression and atrocities, who might be legitimately reluctant and skeptical about any rapprochement with those who committed violence. However, this question is not only pertinent to survivors and victims' families. It actually concerns the entire society, including perpetrators and bystanders. Perpetrators, in particular, are not eager to stop fighting / atrocities if they believe they will simply be subject to the same treatment – they may as well fight to the end as long as they have some power to wield. From this perspective, reconciliation becomes a bargaining chip – and the twist is that it is for the victims to play. If they want the other party to take its foot off their throat they cannot be

perceived as intending to reciprocate immediately they get up. Reconciliation as preventive negotiation then must be at least partially understood in the context of power exchanges. The offer by a victim of reconciliation is often qualified as forgiveness. It may in fact be a power bargaining approach to prevent continued hostilities. As the case studies demonstrate, reconciliation must also have resonance with perpetrators unless they have already lost the battle for dominance. It is power that obliges negotiation – and reconciliation to a greater or lesser extent. The power to offer reconciliatory intent and process is key to negotiation – the power of the apparently weak.

### **BEYOND CASE STUDIES**

A number of long-term reconciliation projects have been underway for some time now. The initiatives undertaken in countries like South Africa and Northern Ireland, Chile, Uganda, Rwanda, Spain, Argentina and Yugoslavia may be central to discussions. However many other

processes may throw light on what facilitates meaningful reconciliation and how reconciliation serves as a vehicle of preventive negotiation. The Franco-German, German-Israeli and Franco-Algerian are cases in point. The intention of the book is not to collect case studies as such but to analyze the scope and limits of the negotiation processes that made reconciliation possible or not. Several questions will be addressed: Are reconciliation processes and forums and terms of reference negotiated by the parties during a regime change process (that is as an element of the change process to manage changing power realities) or are they undertaken by new regimes (retrospective under new regimes)? Are they intended as a means of managing difficult substantive issues during a negotiation process, or to facilitate new relations between identity groups as an outcome rather than a lubricant to negotiations? What are the beacons and benchmarks used to evaluate effectiveness of processes – are they directed at a few direct victims of repressive regimes or at the wider populations who suffered at their hands? Structural dimensions of change (occupation of decision-making roles; redistribution of wealth and land; access to education, health and welfare) may be objectively measured but how is attitude change across a society or the quality of relations between previously antagonistic groups to be evaluated?

These questions are decisive to illuminate a number of burning reconciliation challenges in nations such as Israel, Iraq, Sri Lanka, Afghanistan, the Democratic Republic of Congo, and now Libya and Syria and other nations involved in the so-called Arab Spring. What lessons can be drawn from analysis that might be of value for such 'reconciliations in waiting'?

# THE HAGUE SYMPOSIUM ON POST-CONFLICT TRANSITIONS & INTERNATIONAL JUSTICE

JULY 21 - AUGUST 18, 2012 · CLINGENDAEL INSTITUTE



## THE CRISIS

Over the past two decades, the world has awakened to the fact that failing to properly transition from conflict and/or authoritarianism to the rule of law and democracy usually sentences transitional societies to renewed violence. Key actors in transition processes have stated unequivocally that accountability for perpetrators, mechanisms for truth, institutional reform, and sufficient reparations for victims are crucial elements for successful transitions.

The way in which emerging leaders from around the globe are educated about the practical lessons-learned in fostering systematic post-conflict transitions to just and democratic societies has not evolved to meet present needs. In addition, the educational resources available to prepare future world leaders to tackle the immense global issues on the horizon are unsatisfactory. Education in post-conflict transitions takes place in two distinct bubbles with little crossover; in a handful of universities and in small-scale projects in areas of conflict. Due to a lack of time and resources, critical tools that should be learned and utilized in conjunction are taught in separate

classes/trainings or not at all. Furthermore, future leaders from across cultural barriers and from around the world are rarely offered the opportunity to collaborate as to spark crucial peer learning that favors long-term intercultural understanding.

## OUR METHODOLOGY

In order to address these critical unfulfilled educational priorities, the International Peace & Security Institute (IPSI) and the Clingendael Institute of International Relations have partnered to design *The Hague Symposium on Post-Conflict Transitions & International Justice*, envisioned to serve as the world's preeminent training program on the topic. Over a four-week period at Clingendael this summer, the world's brightest young minds from top graduate institutions, international organizations, law schools, judiciaries, grassroots peace movements, and the military will undergo intensive training from the field's premier political leaders, academic experts, practitioners, and advocates in the skills necessary to democratically restructure a society after the ces-

sation of violent conflict and/or authoritarian rule, as well as bring those responsible for human rights violations to justice.

Through formal lectures, site visits to International Tribunals and Courts, and interactive simulations and workshops (as well as in informal settings), emerging leaders selected to attend will increase their understanding of strengthening legitimate institutions and governance to provide security, justice, and development and break cycles of violence; skills that are instrumental in ensuring long-term stability and preventing conflicts from recurring. In addition, students will have the option to earn LLM course credit from the Grotius Center for International Legal Studies at Leiden University; consistently ranked as one of the world's top centers for education in international law.

## IMPORTANT INFORMATION

**When:** July 21 - August 18, 2012

**Where:** Clingendael Institute  
The Hague

**Costs\*:** Early 4750 EUR  
Regular 5000 EUR

**Deadlines:** Early Feb 13, 2012  
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Universiteit Leiden



I. WILLIAM ZARTMAN

**CURRENT PIN BOOK PROJECT****NEGOTIATIONS IN TRANSITIONS: A CONCEPTUAL FRAMEWORK**

The world of 2011 is shaken by an extraordinary series of events in the Arab world, a domino effect of socially integrated and secular mass uprisings against characteristically corrupt, arrogant and inefficient governments. In a region marked by a disillusioned longing for ideology, these intifadas are neither class conflicts nor religious revolts, but popular spontaneous disorderly democratistic outbursts. Each country has its own evolution of events, both in the development of the intifada itself and in the play out of its consequences. The event is unprecedented in the Arab world, but it has its predecessors in other parts of the globe—in the Philippines, in Thailand, in Kyrgyzstan, in Iran, in Serbia, in South Africa—each with its special twist and distinction but each similar in many ways.

Yet there is a striking characteristic to these events: from the intifada itself to the next resting place of events—

new elections or a new constitution—everything is negotiation. Even where there is violence, it is as an adjunct to the negotiation process. Various groups, many of them inchoate and in formation, work out their demands and visions, their actions and strategies, by negotiating within and among themselves. Two, overlapping types of negotiations are involved concerning group formation and program formulation: Negotiations for Coalition, to coalesce and form operative groups, and Negotiations for Formulation, to create a formula for the new order out of competing dreams and demands. Negotiations for Coalition and Negotiations for Formulation represent the Who and the What of the transition.

No one is currently studying the Arab Spring from this analytical angle, leaving us with a series of unexplained results but not their causal processes, and few analytical teams are prepared

to do so. The current PIN project aims at explaining how and why various outcomes are being produced through an analysis of who is talking to whom about what. It seeks to combine the analysis of case studies from the Arab Spring and similar uprisings elsewhere into patterns and regularities, turning points and separate paths in order to understand the process of passage (or not) from the old regime to a new order.

Not only is it important to understand the unfolding events as negotiation. It is equally important that participants in the process be aware of the nature of these events and be skilled in conducting the process. Negotiation is a way of achieving one's goals but it is also a path of give and take; it involves knowing when and how to hang tough and when and how to bend. Negotiation is giving something to get something, something often quite different from actions on the barricades of the uprising. It involves building a new order (and deciding how it will look) to replace the old order overthrown.

At the outset, negotiations are unthinkable: the mass wants the government out, and the government is either dug in in obduracy or soon in shambles. Three rings of negotiations develop: within the intifada, repeatedly over the Tactical Question of whether political means (including negotiation) or violence are necessary to achieve their goals and over what those goals are; within the "other" side, over the same questions; and between the two sides, over the nature of the transition and its ultimate goal. Initially, the protes-



tors' demands are almost entirely negative and procedural: remove the corrupt autocrat, his despotic party and indifferent government, his hated practices; gradually they evolve (by negotiation) into positive substantive and procedural demands. In the following discussion of sides, the terms *intifada*, uprising, insurgency and protest will be used synonymously, with no particular distinction among them.

It must be noted emphatically from the outset that this is a story without an end. The subject begins in 2011 (or a bit before, although historians will later document its roots, in a different project) and it goes on until this work is published, without any claim that that constitutes a conceptual cutoff. As with revolutions and other social movements, it is impossible to say when the subject is over. Elections or a decision on a constitution are chosen as a resting place, even though an election date or a constitutional document has a different role in the course of events in different countries. That point will doubtless represent a different point in the evolution of events in different countries, and often not a point at all but simply an interruption in the analysis. Successful or failing, or more frequently something in between, the movement continues.

Admittedly, no two *intifadas* are identical. The purpose of this inquiry is not to fit all events into a procrustean typology in a search for a typology. However all of the national events do face the same types of turning points and challenges in their evolution, to which they give their own answers and inflections. The uprising itself that overthrows the old order may be short or very long, the process of establishing elections, a constitution and a new order may follow different paths. But there are common points

along the way that each nation may handle similarly or differently, each with its consequences. Thus, it is important to distill a general pattern of events from the combined stories of the Spring, Fall, and Spring again, and then to explain why the individual distinctions of each state have taken place and why different turns in time and direction have occurred. Such efforts to identify both regularities and distinctions will not only permit a better understanding of the course of events, but will also help participants caught up in the process to see more clearly the choices and consequences they confront.

So what are the possibilities and patterns? What do the unfolding events tell us to do or to avoid? What are the turning points in these evolutions? And what can the Arab world tell about this type of event and what can previous similar events tell about the evolution of the Arab countries?

### **NEGOTIATION BETWEEN PRE-INSURGENCY AND CONSTITUTIONS/ELECTIONS**

*Pre-Insurgency Diagnosis.* The rioting situation can be likened to the supersaturated solution that crystallizes when the speck of dust is dropped in it. The situation is generally totally anomie with a few scattered nodes of pre-political contacts in it. Negotiation for Coalition in the time preceding the outbreak of the *intifada* concerns primarily the search for information, the establishment of contacts, and the discussion of grievances ("What's wrong"). They involve a search for like-minded sources of information, for fellows who share the same view of conditions and possibilities, and for proto-organization and occasions to meet again. Although the actual outburst is largely spontaneous and triggered by a specific event, as riots tend to be, there is some back-

ground discussion and networking. Behind the spontaneous aspect lies a network of informal organizations and contacts, circulating around the conditions and grievances even if not actually preparing for street action. Most of these contacts are merely occupational, amical, familial, or incidental expressions of feelings, a few planning for a political future that unexpectedly appears within reach. These groups are rapidly galvanized, in supersaturated solution awaiting its speck of dust, when the trigger event takes place. They include political parties, professional organizations, religious clubs, neighborhood and friendship groups, down to meetings in bars and cafes; what is notably missing is a core organization. This is pre-coalition diagnosis for negotiation.

Behind consideration of groups and actions is Negotiation for Formulation, a discussion of grievances, feelings and attitudes, which is the other element that goes into a determination of appropriate actions. Conditional consideration of measures that one is willing to take pass from a discussion of dreams and hopes to an evaluation of costs and risks of particular courses of action ("What to do about it"). As individuals and groups move toward action, they also move from substantive to procedural grievances. It is no longer a matter of getting more from the legitimate authorities—more jobs, more benefits, even more consideration—but rather of replacing those who are in authority who have lost their legitimacy and hence their ability to meet expectations. This is a crucial point that many authorities miss: "more" is much too late, the issue is beyond welfare and economy, it is legitimacy and dignity. Or, if it is economic, it is that those who are giving too little are themselves getting too much, and so have lost the right to get and give at all, again legitimacy and



dignity. This withdrawal of legitimacy is akin to the shift from a reform movement to a nationalist protest in the anticolonial struggle. Thus, emerging demands may appear negative ("This one out," "That one out," etc) because the agent for positive or substantive demands no longer exists; the authorities must be replaced before there is someone to whom substantive demands can be expressed. As in any decision-making process, internal consideration of these elements is a personal matter, but coordination with others in an exchange of views and plans become a negotiation. These negotiations generally concern the Tactical Question—whether to use political or violent methods—and within it an evaluation of possibilities. This too is pre-formulation diagnosis for negotiation.

*Insurgency Organization.* Like any riot, the insurgency itself begins as a moment of commitment and euphoria. The time of insurgency, however prolonged, is akin the Grand Coalition of a nationalist struggle, where demands fall into the "funnel phase" as all differences are subsumed under the unifying goal, independence or overthrow. The organization of the

insurgency takes place on the job, a work in progress, and is focused on The Tactical Question: How much pressure is required to achieve the goal, and indeed what is the immediate goal—the removal of a person, of his cronies, of his supporters, or of the whole system? That question in turn involves estimates of success, operational plans, further risks and costs, and consideration of allies, and the resistance of the other side. However, operational leadership tends to be localized, necessitating negotiation of strategic coordination and coalitions among disparate bands. These groups tend to crystallize as the uprising goes on, as operational requirements dictate particular functions needed for the *intifada*'s effectiveness; this in turn is dictated by the type of resistance offered by incumbent forces. Functional specification increases solidarity within the groups and compounds the need for coordination and coalition with other groups, all requiring negotiation.

Significant groups include the military, labor unions, and political parties. In a few cases, notably Tunisia, the military plays a role in its initial decision and then retired to its barracks.

More usually the military, or fractions thereof, constitute significant actors, dedicated to defending their corporate interests, as in Egypt, or in fighting out the transition, as in Yemen, Bahrain, and Syria.

The second best-organized group is often the labor union, the segment of civil society that has the best experience in negotiation, whatever its positional position, using that experience to defend the interests of its members and to secure a place for itself in any given political system. It is also likely to have been taken over by the authoritarian system, and therefore deeply split between old and potential new regime supporters—the greater the old regime repression, the deeper the likely split. Like the military, it has its organization and interests to protect, but unlike the military it is a potential supporter of the uprising.

Another sector of importance is the political Islamic group(s), subjects of repression under the old regime and generally internally rather disorganized. Because of their weakened position and because of the nature of the *intifadas*, these groups are not fomenters of the uprising, but they rush to recover their organization and to run after the uprising train to get on board; the fact of their repression gains them popular sympathy. They are bearers of the banner of identity, more importantly than missionaries of a substantive program, and they face serious challenges of governing and particularly of meeting the economic demands of the uprising youth; they face enormous challenges of factionalism from within and from competition from the *salafist* right. Dealing with all of these issues and divisions is the matter of negotiation.

Other groups also exist, in much reduced form. Their nature and demands are subsumed under the





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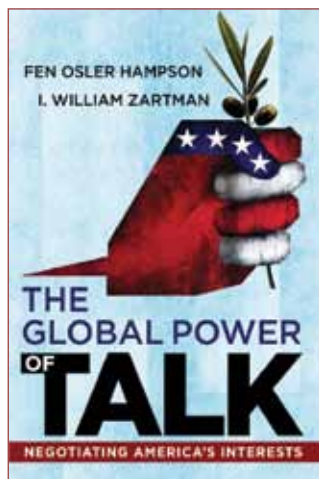
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➔ general operating requirements of the uprising, but as that effort continues, they begin to consider their own corporate requirements for the situation that succeeds the overthrow. Such groups include opposition political parties, generally emasculated by the authoritarian regime; regime parties, delegitimized by the uprising but still possessing useful skills and legitimate constituencies; professional associations, also split between old regime supporters and repressed elements; and other civil society groups. All of these potential demand-bearing groups will be struggling to regain activity and recover from the authoritarian regime, as they negotiate within themselves over appropriate participation in the uprising and tactics thereafter and among themselves over appropriate alliances to form in the forces.

*Insurgency Formulation.* As the intifada goes on and on, commitment increases and euphoria decreases; the uprising has now become serious, life-threatening business. A Short Track leaves the protesters with a sudden power vacuum on their hands and the need to fill it expeditiously, without much preparation; the stage is set for negotiation but also for indecision and additional protests, often on increasingly substantive issues by fringe groups. Tunisia and Egypt are examples. The longer the insurgency is forced to last, the more radical it becomes; in a Long Track, “camp followers” fall away and those who remain are more dedicated, less risk averse, and less satisfied with half-measures as responses. A long delay in overthrow is filled by complex negotiations between the insurgency and the authoritarian figure, involving escalating violence as pressure; the insurgents have time to work out their own organization and demands but to sharpen demands and radicalize in the pro-

cess. Cases are Yemen, Bahrain, and Libya. Substantive issues and positive demands are pushed aside by procedural pressures, to reappear in more radical form after the overthrow. Consideration of positive demands will continue deep into the following periods and form the basis of the formulation phase of negotiations. These negotiations involve a still disorganized group of rebels and the longer they last, the more other parts of the polity get pulled in; protracted negotiations in Yemen included the military, parliamentarians, ministers, diplomats, tribal leaders, and even the US ambassador, as well as insurgent leaders. Similarly, the goals of the insurgency are negotiated as the intifada continues.

Thus the first fork in the common path concerns the length of the uprising. The Short Track is marked by a relatively brief uprising with relatively little violence, as in Tunisia and Egypt. Success brings a vacuum; uprising forces are not organized well enough to take over actively, the quick success of the “funnel phase” allows the many fissures in the movement to rise to the surface as the unifying goal is now past and all components set out on their own ways to organize as rapidly as possible. Outlier groups and even mainstream insurgents will continue to pose stronger or broader procedural demands and to demonstrate for various tightening measures against the old order team. Interim government is weak, and great tractions appear in the efforts to set participation, dates and sequences for various elections (parliament, president, constituent). Since security is weak, both gangs and leftover security forces from the old regime continue to disturb the public order and pose their own exactions on the population. At the same time, other groups of insurgents will begin grumbling about the slow progress on substan-

tive improvements and reforms; “We overthrew authoritarianism; now we got anarchy,” a Tunisian complained. In a broader sense the Short Track is closer to Huntington’s (1968) Western type of revolution, in which a weakened capital falls and the greatest conflicts thereafter are among the revolutionaries themselves. There is a need for active, effective coalescing negotiations and some firm decisions to hold public order and set a goal for procedural deadlines (e.g. elections) deemed fair and for substantive goals deemed popular.

Therefore the important initial question is, When does the army decide to fire on its people and when not? A lot depends on the composition of the army, to decide where its interests lie. For example, 80% of the Tunisian and Egyptian armies are conscripted for 12 months, whereas in Syria and Yemen, a smaller percentage is conscripted for 24 to 30 months, giving a larger time for military formation, in Algeria only half the army forces are conscripted and after 6 months basic training the next 12 months are spent on civil projects, and in Bahrain there is conscription at all.

**H1.** An army that depends on conscription for a large part of its active force is less likely than a professional army to fire on its own people.

The notion of a short uprising, however, is somewhat misleading. On one hand, the uprising has a minimum focus on negative demands for the removal of the old order, but beyond the initial authoritarian figure it is unclear what or who else has to be removed to clear the stables. After-shocks are to be expected (to change the metaphor), as the insurgency works out its ideas of how much stable-cleansing is required for the old order to be removed. Remaining forces of the old order but also in-



terim government bodies as well will seek to limit the cleansing, and this will produce a reaction of insistent demands from the uprising. Thus, on the other hand, pressures for expanded cleansing may come from fringe groups, including extremists (by definition), nihilists, spoilers, etc, but if they gather steam and popular support they may revive the uprising itself and bring a return to violence. Such aftershocks concern procedural demands, but there can be a revival of the uprising because substantive demands—notably for jobs—are not immediately forthcoming, as they are certain not to be.

The Long Track takes months of violence accompanying stalled negotiations to complete the removal of the autocrat and his associates, as in Yemen and Libya, and potentially in Bahrain and Syria. Negotiations initially may appear closer to pacting, since the government forces long stand strong against the insurgents and the latter have a chance to consolidate as component groups and

develop firmer positions in negotiation, but the personal and property damage wrought by the government forces is likely to create a popular mood of revenge and reprisal. The Long Track also bears some resemblance to Huntington's (1968) Eastern Revolutions, where the insurgents occupy the countryside and lay a long siege to the old regime in the capital where the major conflict occurs. As positions harden, there is increasing need for a mediator, internal or external. The opponents have rallied together against the old regime but their success leaves them with strong factional interests, until a new pecking order and central structure is negotiated. Thus there is less of a hiatus of power but more of a danger of a return to a dominant authoritarian control. Therefore there is a need for encompassing reconciling negotiations to keep the Great Coalition together as long as possible in order to give direction to the uprising and prevent a return to authoritarianism.

*Post-Insurgency Coalition and Formulation.* Once the insurgency has produced its intended goal of removing the authoritarian figure, the central phase of negotiations begins its search for an effective coalition and an acceptable formula for future governance. Here the negotiations shift from negative to positive demands and work toward the deal they will produce between and within insurgents, remaining government and military over the shape of the new regime. As before, the negotiations take place within as well as among the sides, seeking—as in any negotiations—to bring in everyone on each side in order to face the opponent(s) and at the same time to isolate and neutralize spoilers not in agreement with the evolving consensus. Typically, the parties representing the diverse sides come with positions favoring their own notion of a just solution and then begin to make concessions, compensations and constructions in order to fit in with each others' notions.

Work on multilateral negotiation suggests three patterns of building issue coalitions: an *agglutinating* process around a central core where other parties are brought in, often by an exchange of favors (Bandwagoning); a *conglomerating* process where many pieces come together without much concern for their coherence; and a *coagulating* process in which 3 or more coalitions are formed, consolidate, and negotiate temporary agreements by pairs (Balancing). The first implies some kind of leadership and perhaps elements of power in the central core; the second lacks leadership and direction, except through the work of mediators or regime-builders whose purpose is simply to achieve an agreement; the third requires narrowly-focused leadership dedicated to group fortunes rather than by societal vision. (Other

patterns may also develop). The first is characterized by vision, the second and third by interests. Interests are the coalescing material of the demand-bearing groups that develop as the Great Coalition break apart and the groups look inside themselves; they are necessary to the working of a pluralistic society but they can also produce deadlock. Visions are a coherent dream of a new order that emerge as groups look outside themselves to picture an ideal society and work toward it; in their most rigid form they become ideology, but in a looser form they give structure and orientation to a new regime.

The conglomerating process is more frequent, as the future shape of events is cobbled together by induction. For example, in Tunisia where the sides are still disorganized, the insurgents were able to negotiate the election of a constituent assembly first but then were able to move back the date from July to October to gain more time to organize. Again, in Egypt, the government opponents were split between the liberal insurgents and the Muslim Brethren, who made common cause with the military and the National Democratic Party, still in charge of the government, to write their own constitutional amendments and run them through a national referendum; the Brethren's trade-off was not to run candidates in more than a third of the districts and not to run for president, in exchange for early elections while opposing parties were still unorganized; a leading Brother then declared his candidacy and caused strains among the other Brothers. However, once the scheduling deal was announced, the insurgents were able to force a delay in the elections to give them time to prepare. The liberal insurgents then took to the streets to protest military entrenchment and December parliamentary elections,

with nothing to use as trade-offs in negotiating with the military except the pursuance of demonstrations and the threat of loss of credibility for the military. The Brotherhood sat out the demonstrations.

The coagulating process can be a disintegration of either of the first two, as parties are unable to achieve a broad coalition and instead clot into plurality groups, each unable to command a majority following but able to negotiate a momentary deal with one of the other groups on a specific policy point. Incoherent policy and momentary retreats are the result. The three-way maneuvering between liberals, Brethren and military in Egypt or the four-way stand-off between the forces of Saleh, the Ahmar breakaway military, the larger tribes, and the government in Yemen are examples

**H2a:** Where a strong unifying leader emerges, an agglutinating process will yield a united intifada movement with a vision of the new order. Examples from the anticolonial movement include Habib Bourguiba's Neo-Destour Movement and then party, Kwame Nkrumah's Convention People's Party (CPP), and Felix Houphouët-Boigny's Rassemblement Démocratique Africain (RDA); however, examples from the intifada of the Arab Spring have not yet appeared. Interestingly, all the anticolonial examples then produced a single party regime, but one with a clear vision and orientation. In this case, negotiation will focus primarily on adhesion to the movement.

**H2b:** Where no strong leader is present but many factions make a conglomerate movement, a vision of the new order will be disjointed and negotiations will focus primarily on momentary cooperations and various pieces of the new order. This

has been the case of Tunisia, at least up to the Constituent Assembly elections of November 2011, and is the case of the transitions still in rebellion in Libya, Syria, and Yemen; Egypt hovers between a conglomerate and a coagulated situation (H2c) as the situation evolves.

**H2c:** Where there are a small number of interest-bearing factions, each with its leader, a coagulated movement will result that boils down into a few (3 or 4) groups, a stalemate in creating a new order, and a pacting situation. This is the situation in Egypt as it goes through its first post-intifada election in November 2011 to January 2012.

But this is just the beginning: The search for a formula for governance is not likely to be linear, arriving efficiently as a common unshakable position, but is usually a gradual ad hoc journey, arriving at its goal through salami tactics or "on the installment plan." (Rustow 1970, 363). Issues under negotiation include: How much overthrow is enough, how much of the old order needs to be removed? What type of system is to be provided in the new constitution—presidential, parliamentary, hybrid, federal, etc? Who should write the new constitution, how should they be chosen, should they be a commission, a constituent assembly, or a parliamentary body? When should elections be held for what? Who should run, what parties should be recognized by what criteria, how should previous parties/elites be treated? And overarching all these specific questions is the larger formulaic question: What is the vision for the new order?

There are no available guidelines to answering these questions; notably, in present cases, with the exception of the Islamic groups, there is no dominant ideology or guru to shape



the guidelines. The ultimate question, about the nature of a just new order, is dependent on the way the component questions are answered, which in turn depends on the initial conceptualization of problem and its solution. In deciding details, the parties determine the formulas; in debating formulas, they delimit details. Typically, that is what formula negotiations are about, in a tail-chasing circle. Constitutional assemblies are a particularly apt focus group for such negotiations.

It is hard to separate the parties from the positions that are being combined into one or several final formulas, and yet the parties are more than just vehicles for a position. They have their own interests and negotiations independent of their positions on the future formula for governance. Initially united in the "funnel phase" of the struggle for overthrow, the insurgents' movement begins to come apart, divided by different views of the just formula as well as by other issues—leadership rivalries, ideological, geographic and social divisions, evipolitical (age) distinctions (Zartman 1970). Splintered, they seek new coalitions across the different sides, all the while developing competing and combining positions in the search for a formula. Whereas initially, one could say that the insurgent side sought as complete a revision of the political system as possible, the government side sought maintenance of as much of the old system as possible, and the military side sought protection of its own position as much as possible, these triple unities soon break down as negotiations proceed. Furthermore, new parties (and possibly new sides) emerge as negotiations go on: professional groups speak out where they were formerly suppressed, religious spokesmen

emerge from prison or obscurity to unite the believers, political parties (re)organize, civil society spawns its own spokesmen.

A particularly salient question concerns the nature of the political parties. The old parties have to emerge from their repression under the authoritarian regime, reconstitute their organization and link up again with their clientele. Experience shows that a hundred flowers will bloom, sown by the ambitions of individuals, many of which will dry up immediately on hitting rocky ground unwatered by a ready constituency. Until there is some authoritative method of deciding relative strengths, such as an election, the field is open for the testing; only after the elections will there be a time of triage, accompanied by more negotiations to build coalitions and assemble viable parties. In this process, a major consideration is the fate of one type of leftovers, those from the old regime party—the Neo/Socialist Destour Party renamed as the National Constitutional Rally and then as Afek Tunis in Tunisia, the National Democratic Party not yet reincarnated in Egypt, and so on. While their major figures tainted by the old regime will be delegitimized, other leading members, internal rivals, and particularly the specific regional and functional constituencies of the parties will seek representation under a renamed resurrection of the old group. Its cadres are most skilled in winning elections and most experienced in running government administration, and they will be looking forward to the new test.

Another type of leftover of importance is the outliers of the uprising (O'Donnell & Schmitter 1986, 59-60). As the main group of parties begins to converge on the main issues of the formula, other parties and issues get left out. Two effects are at work:

The controls of the authoritarian regime are released and everyone feels suddenly liberated to bring up—sometimes violently—his or her own demands. Also any reform opening where controls are lifted is subject to attempts to find out where the new limits are and test them. Some testers are parts of the original actors, others are newcomers who seek to be heard on their issue or even seek to take over the train as it moves toward its destination. Some of these seek to enter the formulating process from within, others to influence it from without, and others are spoilers, seeking to disrupt the evolving agreement. Thus the negotiations involve both an internal process and external negotiations to enter or disrupt the process.

### ***THE ENDGAME: ELECTIONS, CONSTITUTIONS, FORMULAS AND OUTCOMES***

Without hazarding predictions, some clear likelihoods can be discerned in regard to formulas for constitutions, elections and general outcomes. The choices among them are in the hands of the negotiating parties operating in partially unforeseeable circumstances, with as much of a capacity for unusual wisdom and selectivity as for obliviousness and missed opportunities as is inherent in any human exercise of free choice.

Constitutions reflect a choice of formulas by a selected group of drafters and can come in three general types (or a fourth mixture of any and all of them, incoherently). The dimensions are stability—from institutional pluralism (checks and balances) to unitary personalism—and accountability—from participatory (bottom up) to imposed (top down). A range of outcomes stands out in the current context. One would be a return to a new authoritarian rule, prob-

ably basing its appeal on continued conflict and instability. The more the uprising perdures, in continually changing forms, the more attractive strong unitary leadership becomes, making every effort to appear different from the old order but basically similar. Accountability would be organized through a state party, for a party state. The other extreme, also harking back to a former order in a new form, would be a return to an ideological regime, in this case under an Islamic order. In its extreme form, probably unlikely in much of the current world of the *intifadas*, accountability would be decided according to revelation; its more tempered form, however, could include limitations on civil liberties and restrictive criteria for participation, either of individuals or of groups. In between would be a secular, pluralistic order whose stability would depend on its resilience and responsiveness to demands. While its formula would be popular electoral participation and institutional pluralism, it contains dangers of partisan and institutional deadlock that can be overcome only in practice on the job.

Elections respond to a range of formulas based not only on their technical regime (first past the post, proportional representation, national or local district, rounds, sequences, etc) but on the clientele set up for the governing coalitions. Great Coalitions tend to be the mark of the uprising phase but they quickly break down and revert to their component interest constituencies. Whereas the old regime tended to rely on conservative rural populations, the new regime owes more to urban demand-bearing groups. These groups tend to be less homogeneous than rural constituencies, since, broadly, the effect of modernization is to engender pluralism. Urban labor divides into those, organized in officially-sanctioned unions, who want to conserve their swollen

civil service jobs, and those who look in hungrily from the outside in their unemployment. Urban business divides into those who were part of the state-party-business elite and those who tried to bring in new practices. "The results of democratic elections cannot be predicted from the rules under which they are conducted. If they could, they would not be democratic," (O'Donnell & Schmitter, 1986, 61) but non-democratic elections are much more predictable. The types of chances the electoral architects are willing to take, the constituencies and beyond them the degree of movement they aim for, and the mix of change and stability are salient guidelines for the negotiation of a formula for the new regime.

However there are some inherent pressures operating on the process, the strongest of which is a longing for order. The uprising destroys a hated form of order, leaving a vacuum in its place. A certain amount of stasis in that situation is to be expected, but the absence of order, old or new, opens the way to disorder. Roving gangs, settlement of accounts, policy indecision, lingering crisis all feed the human desire for a modicum of order and direction in a normal situation. Absent order for an immeasurably long time, opinion turns to ready sources, either a return to procedural order through an authoritarian regime or the introduction of substantive order through an ideological regime. A second pressure is fatigue. Uprisings, like full revolution, demand an enormous surge of political energy that pulls people away from normal life. It is exhausting and distracting, and after a while all but the most committed and psychologically revolutionary want simply to go home to normal life. Fatigue supports heavy-handed attempts at order; it also supports the opposite, the softening of radical excess or Thermidor. A third pressure

is the longing for leadership, perhaps a combination of the previous two. Particularly after an intense effort such as an *intifada*, people are eager to hand over the direct to a leader in whom they have confidence as an agent of legitimate order. These pressures are powerful, even if hard to document, and they constitute the context in which the events and negotiations of the Arab Spring occur.

All revolutions create an immediate economic downturn in the short run. Production and investment are disturbed, tourism is turned off, damages need restoration, and refugees and IDPs need resettlement. This trend clashes with the substantive demands of the uprising, which focus on employment and growth. Even if the uprising was not basically economic in nature, reacting instead to the old regime's arrogance, corruption and disdain for its people, secondarily economic neglect and greed underlie these grievances. Substantive negotiations concern "how to ensure that the governmental and political systems not become overwhelmed by the accumulation of social and political demands [that are] unleashed by the collapse of authoritarian rule, but that these systems cannot process, especially at a time when they are undergoing profound institutional changes and a new institutional infrastructure has yet to be agreed on and given a seal of approval?" (Denoeux 2011, 8). Thus, the new order must show itself especially careful and capable in the field of welfare.

If material progress fails, people turn to ideology to provide an explanation for failure and a promise for a glorious future instead. Populations who have been through unsatisfactory encounters with ideology often tend to be prone to a repeated search for ideological fixes, rather than

giving them up in a turn to greater pragmatism. Thus development also tends to be accompanied by a return to an authoritarian regime, impelled by a need to overcome the break down in order that the dissatisfaction brings; in some cases, these events may also require an external enemy, and even external aggression, to support the authoritarian order and focus discontent outside. Thus, a continued downturn following the initial uprising in the middle run can provide an opening for local ideological forms and authoritarian order, in the Middle East under a commander on a white horse or an Islamic fundamentalist banner. Thus, the occasion for an Islamist takeover is not at the time of the original uprising, when the Islamist groups are merely running along with some others to catch the spontaneous, secular train, perhaps better organized than their competitors but not favored by the needs of the moment. It is only later that their opportunity comes. It must be remembered that in all the Islamist takeovers that have taken place to date, their success is not due to a rise in religious fervor but to a popular protest against corrupt, inefficient government, notably as in Iran in 1979, Algeria in 1991, Sudan in 1989, Somalia in 2000, Palestine in 2006, among others.

Some of these general directions can be captured in series of guiding hypotheses.

**H3:** If the negotiated transitions restore order and provide economic growth, the process will result in a dynamic stability, regardless of moderate ideological differences;

**H4:** If not, the process will return to a search for order and will open to ideological (extreme Islamist) absolutism or to an authoritarian regression.

**H5a:** The longer the uprising phase arises, the greater the chances of the movement's breakdown into personalistic, geographic, leftover, ethnic and age factions. What explains this path?

**H5b:** The longer the uprising phase arises, the greater the chances of the movement's consolidation under combat into a common goal overreaching personalistic, geographic, leftover, ethnic and age factions. What explains this path?

As has been indicated in the above discussion, the intifadas of the Arab Spring provide an exciting opportunity for their countries that carry the possibility of creating a new order of participatory politics and accountable governance where it has rarely if ever been known. They also open the door to a collapse of hope and a return to the same type of authoritarian and/or ideological regimes that the region has known so well. The choice lies with the groups of the population who have been invigorated by the uprising. The most important element in bringing a positive outcome is the development of solid negotiating skills, so that decisions are made in the public interest and obscurantist forces are not allowed to turn fatigue, disorder and leaderlessness to their advantage. Such skills include the ability to press to a decision, the concern for keeping a broad coalition together, the formulation of a coherent and realistic vision, the willingness to make trade-offs and coherent packages, and the understanding of moments of opportunity and timing. Otherwise, the uprisings will end in a downfall of opportunity.

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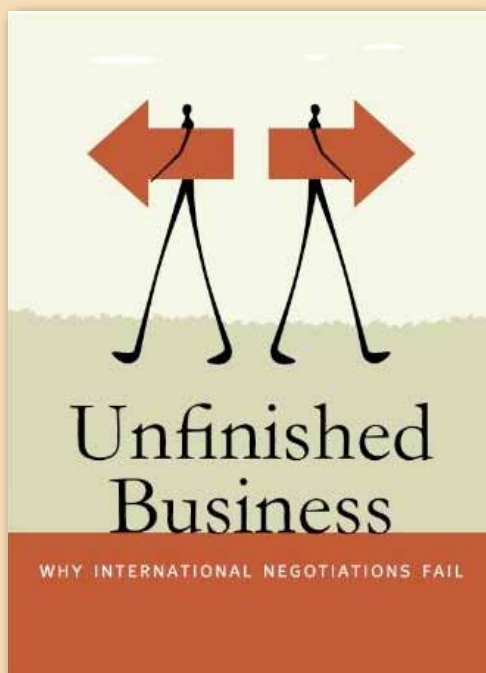


## UNFINISHED BUSINESS; WHY INTERNATIONAL NEGOTIATIONS FAIL

Guy Olivier Faure, editor, with the collaboration of Franz Cede, University of Georgia Press, August 2012

Most studies of negotiation take completed negotiations as their subject and explain how the outcome was obtained. But some negotiations do not end in a signed agreement but rather break up and end where they started. Analysts have paid little attention to these. How can their "outcomes" be explained? This question frames the inquiry of this book. Rather than feel sorry, it is more useful to draw lessons from such a lack of results. There is as much, if not more, to learn from a failed negotiation as from a negotiation ending up with a mediocre outcome.

Thirty -five factors causing failures in negotiations have been found. Six of them appear quite prominent. On the side of the actors, demonization is a widespread process that nullifies all efforts to interact in a positive way. The inability to adapt the negotiation process to the external changes that may occur during protracted negotiations within a turbulent environment is another major cause. Improper mediation is also debilitating when the mediating party does not have enough means of influence or not enough will, commitment or interest to facilitate an agreement. In a number of situations there is simply no ZOPA (Zone of Potential Agreement) and none of the parties realizes it, as they do not know each other's security point. Trust is a most difficult condition to build, especially in a negotiation bringing together foes that may be inclined to see the bargaining table as another arena for war. Ultimately, one must have a sense of timing and a sense of ripeness when to offer to open and close the deal. These causes are analyzed in detail, in concept and in application to cases in this book.



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## PIN EVENTS/ NEWS

### PAST EVENTS

#### *June 2011 The International Negotiation Week*

In June PIN organized the first International Negotiation Week at the Clingendael Institute. Next to the first book workshop for Negotiations in Transition and a lunch seminar at the Dutch Ministry of Foreign Affairs, the week consisted out of two half day seminars: Negotiating with Chinese and Negotiating with Extremists. The seminar Negotiating with Chinese was focused on Dutch business people and civil servants with regular dealings with Chinese organizations. The seminar was characterized by the many practical tips and tricks given by experienced negotiators: Henk van Herwijnen, sales manager Asia for Damen Shipyards and Boudewijn Poldermans, who runs his own consultancy group. The seminar Negotiation with Extremists focused not so much on terrorists, but on hostage takers and pirates. I. William Zartman gave the necessary theoretical framework based on the PIN Book Engaging Extremists followed by two practitioners. The first was a representative from Neil Young Associated (NYA)

International with their approach to negotiations with pirates. The second was Michel Marie, who worked as the chief of the crisis team of the police in Paris and who conducted many negotiations with hostage takers. Both seminars and the week as a whole was a great success. The second International Negotiation Week is in 2013.

#### *October 2011 Roadshow in Uzbekistan*

Late October 2011 the PIN was a guest at the University of World Economy and Diplomacy in Tashkent. The PIN Roadshow consisted of two days. On the first day I. William Zartman gave a general introduction to international negotiations and Paul Meerts conducted a negotiation simulations on the Caspian Sea. The second day had presentations by the PIN SC members present in Tashkent. Next to the four articles in this issue of the PINPoints, there were presentations by Rudolf Schüssler on the Euro negotiations, Valerie Rosoux on the role of memory and I. William Zartman with an analytical framework to understand negotiation processes.

The PIN SC was impressed by the level of knowledge of the students participating during the roadshow and expresses its sincere thanks and gratitude to the university and its staff for their hospitality and excellent organization.

### UPCOMING SCHEDULE

PIN has a busy schedule this year. As described in the editorial, PIN will have two meetings related to the Negotiations in Transition project and one to start its new project Reconciliation and Negotiation. Next to the project meetings, PIN plans for at least one roadshow. PIN will be in Tunis late January for the second book workshop in the Negotiations in Transition Project to discuss the progress in the different case studies. Please visit our website for news on dates and locations of the other meetings.

### OTHER PIN NEWS

The PIN Book Negotiating with Terrorists; Strategy, Tactics and Politics edited by Guy Olivier Faure and I. William Zartman will be translated in Chinese and published in 2012.



PAUL MEERTS

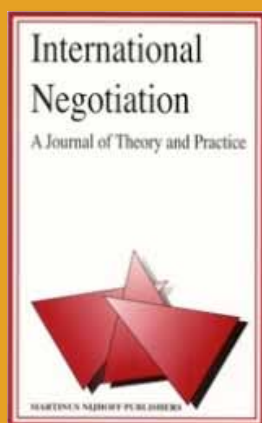
## NETHERLANDS NEGOTIATION NETWORK

On 16 December 2011 the Netherlands Negotiation Network (NNN) organized its fourth yearly conference at Clingendael Institute in The Hague, the home-base of PIN. The NNN is the Dutch branch of both the Processes of International Negotiation Program and the other global negotiation network: Group Decision and Negotiation. The first symposium was held in December 2008 on the topic of negotiation research. Keynote speaker was the chairman of the Clingendael Institute and former Minister of Foreign Affairs and Dutch permanent Representative to the European Union, Bernard Bot. The second meeting, December 2009, was devoted to the differences and communalities between public and private sector negotiations. Keynote speaker: Alexander Rinnooy-Kan, chairman of the overarching Dutch council of employers, employees and govern-

ment representatives; former Rector Magnificus of Erasmus University in Rotterdam and a propagator of the Harvard Model. Third conference: December 2010 on culture and negotiation, in particular Dutch negotiation style. Keynote speaker: Jaap de Hoop Scheffer, former Secretary-general of NATO, now professor at Leiden University.

Some thirty negotiation practitioners, researchers and trainer participated in this year's meeting. The keynote speaker of 2011 came from abroad: Dr Deborah Goodwin, trainer at Sandhurst Diplomatic Academy. Topic of the meeting: the State of the Art in Training International Negotiators. After the keynote speech, a panel of representatives of three different institutions highlighted their approach to training. Herman Ilgen of the Institute of Non-verbal Strategic Analysis discussed the role

of unconscious non-verbal signals as a source of information to other negotiators. Evert Smit, representing the company 'Basis en Beleid', gave an overview of the training of Dutch employers and employee-organizations in collective bargaining. His company developed a model for this kind of bilateral or multiparty negotiations. The last panelist, Alain Guggenbühl of the European Institute of Public Administration, discussed the way his institutions trained diplomats and civil servants of the European Commission and the Member States, using insights collected through focused research. In the afternoon, participants and speakers debated the morning issues in three parallel workshops, concluding that modern professional education has to go beyond skill training.



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## INTERNATIONAL NEGOTIATION: A JOURNAL OF THEORY AND PRACTICE

*International Negotiation: A Journal of Theory and Practice* examines negotiation from many perspectives, to explore its theoretical foundations and promote its practical application. The journal addresses the processes of negotiation relating to political, security, environmental, ethnic, economic, business, legal, scientific and cultural issues and conflicts among nations, international and regional organizations, multinational corporations and other non-state parties. The journal is published three times per year by the Martinus Nijhoff Publishers division of Brill Academic Publishers (the Netherlands).

In 2012, for its 17th year of publication, *International Negotiation* has scheduled topical issues on "Improving the Effectiveness of Multilateral Trade Negotiations," guest edited by Cecilia Albin (Uppsala University), and "Mediation by Intergovernmental Organizations," edited by Eileen Babbitt (Tufts University), and an issue of unsolicited articles.

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