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**COLOPHON**

PINPoints

PINPoints is the biannual publication of the Processes of International Negotiation Program (PIN)


PIN is a non-profit group of scholars and practitioners 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 4,000 scholars and practitioners of international negotiation. The organization is presided over by a Steering Committee, which organizes its many activities and edits the PINPoints.

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**ISSUE EDITOR**
Mikhail Troitskiy, Markus Kirchschlager

**LANGUAGE EDITOR**
James Powell

**DESIGN AND LAYOUT**
Henning Alberti, Petra Brandt

**COVER PHOTO CREDITS**
Pixabay

**CONTACT**
German Institute for Global and Area Studies (GIGA)
Leibniz-Institut für Globale und Regionale Studien
Neuer Jungfernstieg 21
20354 Hamburg

www.giga-hamburg.de



## PIN Steering Committee

Mikhail Troitskiy

# Editorial: The Limits of Negotiation, or Negotiating the Non-Negotiable

Dear Reader,

It gives me great pleasure to introduce the 47th issue of *PINPoints* – the newsletter of the Processes of International Negotiation group of researchers working in ten countries and supported by the German Institute for Global and Area Studies (GIGA), Hamburg. As is our custom, articles in the newsletter are united by a common theme. The current issue is about the limits of negotiation. In their tightly written and succinct contributions, PIN Steering Committee members assess whether and if so how identity, sovereignty, territory, and responsibility can be negotiated.

I. William Zartman of Johns Hopkins University's SAIS looks at disputed territory as a subject of negotiation. Dividing land between the conflicting parties according to a "just" formula appears to be a natural solution easily arrived at through negotiation. However, claims are usually put to the entirety of the disputed area – for example, because all of it is viewed as "ancestral land"; witness, for example, the Arab-Israeli negotiations. Even if a formula to divide up the land is found, then comes the question of sovereignty: Who is actually going to govern the adjudicated pieces of land, and how? Look here at the stalled Russian-Japanese negotiations over the South Kurile Islands or the Nagorno-Karabakh dispute between Armenia and Azerbaijan. Finally, the external patrons of the warring parties may be more interested in scuttling the fledgling compromise than in upholding it, while their influential clients on the ground may equally work to keep their funding tied to active participation in the conflict.

The piece on the Syria conflict mediation co-authored by I. William Zartman and Mees van der Werf details the vain efforts by the Special Envoy of the Secretary-General of the United Nations to Syria Staffan de Mistura to find a pathway toward the negotiated resolution of an increasingly intractable conflict. The authors show that de Mistura failed to grasp the absence of a mutually hurting stalemate – almost every side in the conflict was in fact convinced that it was capable of eventually gaining the upper hand, in most cases with support from outside powers and their coalitions. The sides were only willing to consider one-time comprehensive solutions, and resisted incremental approaches typically starting with a partial ceasefire. Finally, the limits of UN mediation that de Mistura represented were exposed when Russia and some of its regional partners temporarily seized the initiative through their own largely unilateral mediation efforts (that also subsequently failed because of the lack of readiness to compromise).

Cecilia Albin, for her part, carries out an analysis of negotiations between unequals, with a focus on the weaker side. She argues that although weaker parties may harness the potential of outside players to forge an agreement with a stronger counterpart, the resulting deal can prove fragile. It has the potential to collapse if, for example, the commitment of the outside balancer to sustaining it weakens at a later point in time. The weaker party can also engage in issue-framing, among other possible endeavors, to enlist a broader range of backers and sympathizers. Whatever the approach taken, peaceful relations can rarely be sustained over the longer term unless parties truly reconcile – that by clearing their whole house of mutual grievances.

In turn, Valerie Rosoux of the Catholic University of Louvain discusses the viability of participatory justice, aiming at reconciliation of the conflicting sides by adjudicating on crimes against humanity such as genocide. In Rwanda, scarred by horrific acts of mass murder, "soft" forms of justice – ones that did not imply meting out punishment commensurate with the severity of the crime – failed to meet objectives. The reasons for this, as shown by the author, were twofold: First, the relatives of the victims of genocide were not willing to forgive the perpetrators. Failure to deliver the full scale of justice for the sake of short-term social stability can, second, in the longer term lead to a climate of impunity, one prone not only to seeing retribution occur but also witness to new forms of abuse of power by the stronger factions.

A perfect illustration of the virtual non-negotiability of highly complex problems is provided by Mark Anstey (formerly of the Nelson Mandela Metropolitan University, South Africa). He analyzes Brexit and the future of relations between the European Union and the United Kingdom. Keeping too many balls in the air simultaneously – such as the terms of trade across a number of sectors, migration regime options, the border in Northern Ireland, and the fate of Scotland – resulted in Brexit's repeated deadlock and postponement. Despite the UK having finally left the EU "on paper,"

untying the Gordian knot of the future shape of EU-UK relations may prove an insurmountable task even for the good-faith negotiators on both sides. The cutting of this knot may take a variety of forms, many of them risking economic, social, and political disruption.

Hope and optimism are only offered by Paul Meerts of the Program on International Negotiation Training (POINT) in his practice-driven article. He describes the evolution of the PIN Group, which turned out to be a living example of negotiability and a tool that served to convince many influential stakeholders – including governments across the world – of the usefulness of negotiation training. Even the seemingly "born-to-negotiate" Dutch practitioners of international relations saw clear value in setting up a negotiation training arm at Clingendael – the Netherlands' main quasi-official think tank. Since the early 1980s, that experience has been adopted with differing degrees of enthusiasm by dozens of countries worldwide, some of which are keen to learn from PIN Group members who have managed during their distinguished careers to combine fundamental research into negotiation with practical experience of mediation and conflict-resolution consultancy.

I hope that you enjoy reading this new issue of *PINPoints*. Please do not hesitate to let us know about any questions, ideas, or concerns that the PIN publications have been raising for you.

I. William Zartman

# Negotiating Zero-Sum Conflicts over Territory: Western Sahara, Nagorno-Karabagh and Elsewhere

Among intractables, territorial disputes hold the highest rank. This is paradoxical, because studies show that territorial conflicts are the most easily solved since land can be divided – which is probably true if they are taken in isolation. But territory is usually associated with abstract, ideological, and/or nationalistic attachments; it represents the territorialization of sanctified ethnic claims and is the subject of visible, committed, comprehensible demands. All this turns territorial disputes into firm and very public intractable conflicts. Home – even a part of it – is sacred, and people cling to it for dear life (Croker, Hampson, and Aall 2005). Contested border areas are not the problem here; it is a matter rather of contiguous, identifiable territory unsteadily governed by one side and actively claimed by the other. The cases of Western Sahara, Nagorno-Karabakh, South Sudan, and Northern Ireland, with Jerusalem as a control (Albin 1997, 1991, 2005/2015), provide relevant examples here – but even they show the small cracks that exist in the following generalizations.

## The Grip of Conflict

In contrast to such emotional disputes, one element sharply exacerbates the problem and makes resolution even more difficult. In the black-or-white world of territorial conflict, proposed solutions unavoidably fall on one side or the other of what has been termed "the crest of sovereignty." Sovereignty is indeed perceived as indivisible, despite some softening effects once it has been assigned. A dispute over territory is a zero-sum conflict because, essentially, one side either has it or it does not, and, if the territory is divided, the proposal and even the pieces of land are zero-sum objects. But usually division does not satisfy the competing claims; both sides want the whole thing. Territory, like sovereignty, is indivisible.

Source: U.S. Department of State

Zero-sum conflicts are hard to mediate, especially when tied to existential feelings (Hopmann 2010). As long as the conflict is perceived in terms of indivisibility, a mediator can have no purchase on the two sides to get them to talk – unless they are forced, against their will, to come to the table by an outside power, and even that may still produce little movement (cf. Vance and Hamburg 1997; Chesterman and Franck 2017; Hinnebusch and Zartman 2016). Nibbling away at the edges of the conflict, such as by prisoner exchanges or family visits, does not reach the core blockage either. Outcomes are all or nothing, and the parties for decades have refused to contemplate gray areas. Gray outcomes are not obvious or salient, because no one is looking for them; even the famed Baker plans on the Western Sahara were different ways of softening the procedure but not the outcome. If heads of state finally decide that reconciliation and some sort of compromise is indeed acceptable, they will have to undertake an extensive campaign to win over their populations to the shift in policy.

In addition to its innate characteristics, a territorial dispute becomes dug into the scenery as its intractability continues (Zartman 2005). The contested territory often takes on a life of its own, developing a proto-state nature and a pocket of its own governance (Zartman 2020). And so the issue becomes existential for the "temporary" authority in charge, which develops its own interests independent of those of its patrons and eventually risks becoming the tail wagging the dog. The conflict becomes profitable, as all

conflicts do, making the price for its end too high. Identity becomes rolled into the politics of the issue, and then into the narratives and the mythology of the populations involved – blotting out any possibility of reconciliation. The new wounds of the conflict open the old sores of history (Rosoux 2019). Most cases mentioned have evolved in this direction, making the respective disputes triple-zero-sum conflicts. As a final result hereof, while objective stalemates arise – as they have in the territorial conflicts cited here – they cannot be subjectively felt, and so are prevented from being ripe for resolution by all the abovementioned subjective buffers to feeling hurt (Zartman 2000).

*A dispute over territory is a zero-sum conflict*

As a territorial conflict pursues its intractability, it escalates to the international arena in the search for external support and allies. The conflict becomes embedded in international relations (Zartman 1989). Supporters tend to come from groups that oppose each other for their own coalescing reasons, so the dispute over soil now becomes one over ideology. Or they come from groups who affiliate one way or another with the competing natures of the conflict, thus hardening into clusters of national interests.

A number of such disputes are present today. The Western Sahara is claimed by Morocco and the Polisario. Nagorno-Karabakh is claimed by Armenia and Azerbaijan alike. Jerusalem (of uncertain geographic dimensions) is contested between Israel and Palestine; Northern Ireland is economically part of both Eire and the United Kingdom; South Sudan has imperfectly claimed its independence; Kashmir is divided between India and Pakistan. None of these conflicts (except South Sudan) had been settled at the time of writing. Yet all of them have been the subject of objectively reasonable compromises.

## The Grasp for Solutions

Two categories of attempts at solutions can be identified: procedural and substantive. One procedural method is the final attribution of the territory to one party or the other (or a division thereof, to be discussed as the second option). This can be accomplished by force or by judicial decision. It is notable that none of the disputes mentioned are on the verge of seeing military intervention. However some have at least seen attempts made at military solutions in the past, but have nevertheless since settled into the conflict management phase of upholding a truce or ceasefire – largely because of a lack of means, of the countervailing strength (even at a low level) of the other side, and/or of international pressure.

A second procedural means of final settlement is through the International Court of Justice (ICJ), which has, however, not adjudicated on territorial (other than border) disputes since its founding at the end of World War II. A third such means is by referendum, as the ICJ decreed was necessary in the 1974 Western Sahara case. Simple and peaceful as this may sound, it runs up the second level of the dispute over who should even vote herein. Each side will define voter eligibility in such a way as to build up a majority for itself. Procedures in the Western Sahara and in Nagorno-Karabakh – and in a sense in Jerusalem too – have been stymied on this issue.

Schematically, substantive compromise, meanwhile, means division, sharing, or exchange; such division can be either physical or functional.[1] The territory can be divided by mutual concession, one side receiving one part of the land in question and the other getting the rest. Division has been suggested for each of the territories mentioned, albeit without success because of the integral nature of the respective sides' demands. No half loafs here.

*Two categories of attempts at solutions can be identified: procedural and substantive*

A compromise proposal of functional division "halfway between the two positions" has been put forward in three of the cases, hung on the concept of "autonomy." As expressed in regard to the Western Sahara, Morocco would get the outside of the box and the Sahrawis (all of them) the inside – a formula also developed for Nagorno-Karabakh and, mutatis mutandis, for Northern Ireland. In these terms, the formal aspect of the solution rests on one side of the crest of sovereignty; functions of sovereignty, such as internal governance and economic/trade openness, rest on the other meanwhile.

The notion of sharing has been mooted at times in tandem with the one also of including a contested state,

with a confederation or joint ownership. This idea is farfetched however. Confederations do not work, unless one is Swiss, and if tried the outcome ends up being merely an institutionalized version of the conflict.

Finally, a classic form of compromise lies outside the issues of the conflict itself and involves exchange or compensation – with the "buying" of agreement via concessions made on some other matter, one related or not to the core conflict. With the existential nature of internal authority within the contested territory, there is little to exchange in return for an end to the conflict; nothing can buy out its de facto sovereignty. Some of the cases might involve a confirmation of the de facto situation in a functional division, mentioned above, but subject to elections where they may face internal opposition. Just as important are the external patrons, who often have complex motives for their support of the territorial claims and for whom the issue is likely to be just one part of a bundle of ones that they have with the opposing supporters. In all of the cases mentioned, the complexity of supporters' motives and interests makes it difficult to engineer a grand bargain that buys a territorial solution as part of a broader package.

The inherent nature of territorial disputes and the attendant difficulty of finding paths to appropriate solutions demonstrate why, contrary to many claims, territory represents the material for the most intractable of conflicts. ■

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**ENDNOTE**

*1 It has also been suggested (Albin 2019) that the conflict's indivisibility can be delegated to external agencies, as many functions in Jerusalem were – an idea worth examining further.*

I. William Zartman and Mees van der Werf

# UN Mediation in the Syrian Crisis – Part III: Staffan de Mistura

Staffan de Mistura was appointed the United Nations' Special Envoy of the Secretary-General (SESG) to Syria in July 2014, not long after Lakhdar Brahimi had left the post.[1] In the previous decade and a half, de Mistura had been SESG in Afghanistan, Iraq, and Southern Lebanon, as well as holding positions in the Italian Foreign Ministry. He spent the entire first year in the field in consultations over the resurrection of the Geneva Process, but also to "come up with initiatives, even if they are not necessarily the most effective ones" (diGiovanni 2015). His three initiatives all drew on the lowest (first) level of conflict to circumvent the top-level stalemate: a representative constitutional committee; informal substantive discussion sessions; and, local ceasefire freezes. From the beginning, like his predecessors, he emphasized that there was no military solution possible: "The one constant in this violently unpredictable conflict is that neither side will win" (UN Secretary-General 2016).

## The Geneva Process

The basic charge for the SESG was to pursue the full implementation of Kofi Annan's Geneva Communiqué as the basis for a Syrian-led and -owned political transition to end the conflict (UN 2015: Article 1). Following the year-long attempts by de Mistura to establish a ceasefire as the prelude for the revival of the Geneva Process, the United States, Russia, Saudi Arabia, and Turkey met in Vienna in late October 2015 to revive that process through broad peace negotiations rather than local ceasefires. Within a week, the twenty states of the International Syria Support Group (ISSG) – without the Syrian government or opposition – had prepared a set of guidelines, the Vienna Declaration of November 15, 2015, endorsed as UN Security Council Resolution 2254 on December 18, for the year-end launch of a conclusive peace process.

Talks opened in Geneva at the end of January 2016, as Syrian government forces intensified their offensive around Aleppo with the help of Russian air support. The government declared it would not meet with the "terrorists" while Russia said that the opposition's High Negotiating Committee (HNC) established in Riyadh in December did not, in fact, represent the opposition. The two sides refused to sit together in the same room, and de Mistura suspended Geneva III in early February 2016 after five days – much as Geneva II had been adjourned by Brahimi two years earlier.

The SESG continued to press ahead with arrangements to resuscitate the Geneva Process. Agreement was finally reached on participation in a Geneva IV meeting by February 2017; when it began at the end of the same month, it lasted a week. The procedures were accomplished rapidly enough but without substantive movement, as the two sides debated different agendas; each essentially challenged the other's existence, while the government considering the opposition as terrorists and working to remove the government. Geneva V in April 2017 "saw no breakthroughs – let us be frank – but no breakdown, either," reported de Mistura to the Security Council (UNSC 2017a).

Geneva VI of May 2017 was the first UN-facilitated meeting where government and opposition invitees sat in one room and substantively discussed during the whole day among themselves with the SESG (UN 2017a; UNSC 2017b). "I returned to Geneva with a mixed picture […]. all agree on the need to de-escalate the fighting and form a UN-sponsored constitutional committee […]. But these commonalities risk getting lost, especially in the absence of serious international dialogue" (UN News 2018).


Source: U.S. Department of State

Mouin Rabbani, who briefly served as the head of de Mistura's Political Affairs unit, stated: "The mission became the extension of the mission" (Kenner 2018). The SESG discerned incremental progress in joint meetings with opposing delegations at Geneva VII in July 2017, where common positions

were identified. But he also indicated that the government "has so far not provided concrete thinking on issues in the different baskets, particularly on a proposal regarding the schedule for drafting a new constitution" (Security Council Report 2017c).

Nearly two years after the first attempts had been made to put substance into the Geneva Process, the parties were still not engaging in direct talks with each other at Geneva VIII held between November 28 to December 14, 2017. De Mistura told the UNSC: "The opportunity to begin real negotiation was not seized. A golden opportunity was missed" (UNifeed 2017). He cited three barriers, all from Damascus: The government rejected the Riyadh 2 statement's conditions of the exclusion of Iran and the departure of Bashar Al-Assad at the start of any transition period. It questioned whether the opposition HNC was sufficiently representative. Finally, it declared – actually by way of a video posted on YouTube – that until full sovereignty was restored and terrorism defeated in all parts of Syrian territory, it was not possible to entertain a constitutional review process or elections. "That to me was a new condition," noted de Mistura (UN Secretary-General 2018a). The three objections were a reiteration of Syrian government positions over the years, and signaled that inter-party talks had gotten nowhere. Yet, at the end of January 2018, de Mistura convened a special Geneva meeting in Vienna to focus specifically on the constitutional basket, telling the UNSC in February: "We will not be deterred from pursuing the Geneva Process, which is the only, the only, sustainable path towards a political solution" (UN Secretary-General 2018b).

## New Initiatives

From the beginning, de Mistura had other ideas to bring some movement into the peacemaking process. He developed three different initiatives that were to occupy his tenure alongside the Geneva Process itself. On his appointment, he stated that: "I do not have at this stage – and it would be presumptuous to have – a peace plan, but I do have an action plan. The action plan is based on a bottom-up approach in order to do something concrete […]" (UN 2014).

The option available was obvious, since the two previous SESGs' top-down approaches had failed – being based on the assumption that the bottom did not depend on the top. The plan was to return to the conflict-management idea of ceasefire that had dissolved at the hands of the previous mediators, and instead focus on conflict resolution. Now there would be building from the local level, using neighborhood ceasefires to cobble together wider and wider, and so higher and higher, engulfing the second and third levels from the bottom. The idea of neighborhood ceasefires, or freezes, rested on the same principle as the earlier ceasefire of Brahimi – being to protect the civilian population, but also "to build first some political process at a local level and then eventually at the national level, give some hope to the local population" (UN 2014). Local truces had already worked in a few scattered places, but the SESG wanted a place of immense symbolic value – "rather like Sarajevo" – and so proposed Aleppo, Syria's second-largest city, despite its fractured opposition and the continuing combat between government and Daesh (ISIS) forces.

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In early 2015 de Mistura reported that the Syrian government had committed to suspending all aerial attacks and artillery shelling over the entire city of Aleppo for six weeks, to allow the UN to deliver humanitarian aid – starting with one district in Aleppo and then building out incrementally to others (Office of the Spokesperson for the UN Secretary-General 2015a). The freeze plan collapsed in February when the government launched an offensive to starve out the opposition enclaves, claiming it had signed on to no ceasefire. De Mistura felt betrayed, and considered resignation (UN Secretary-General 2015). When later, in May, he condemned the Syrian government for a barrel-bomb attack on Aleppo that killed at least seventy people, Assad cut off personal contact – meaning de Mistura would never meet with him personally again, furthermore dashing the SESG's hopes of gaining agreement on a local freeze (Office of the Spokesperson for the UN Secretary-General 2015b, 2015c; Kenner 2018).

The ceasefire, the initial element in the Vienna Declaration guidelines, was now in the hands of the upper-level states in the ISSG. Cochaired by the US and Russia, efforts to reach a nationwide ceasefire began with the collapse of Geneva III in February 2016. The ceasefire was finally accepted for mid-September 2016 by the Syrian government and the HNC, but after a week it was declared inoperative by the former. Undaunted, de Mistura turned back to the parties, working to overcome divisions among the opposition factions. Turkey and Russia then took over the ceasefire issue and achieved agreement in December. UNSC Resolution 2401 of February 24, 2018, again called for a nationwide ceasefire for thirty days (exempting the extremist groups). A month later, de Mistura told the UNSC that the ceasefire had failed (UNSC 2018a). It had lasted a week.

*De Mistura's second initiative was again the idea to work below the transition deadlock, with lower-level activity*

De Mistura's second initiative was again the idea to work below the transition deadlock, with lower-level activity. As proposed on July 29, 2015, and endorsed by the UNSC on August 17 of the same year, four working groups on safety and protection, military and security, political and constitution, and institutions and development were to meet in Geneva under UN chairmanship, to eventually become a "fully powerful transitional authority." Sessions were convened six months later in Geneva, in February 2017 (Security Council Report 2017a). After Geneva V in April 2017, de Mistura informed the parties that "I intend to establish a technical consultative process to move forward and examine in greater depth the relevant constitutional and legal issues […]" (UN Security Council 2017b). The discussions in Geneva in November of the same year turned the four baskets of issues into "twelve living points" covering sovereignty and unity, governance and democracy, separation of powers and human rights, religion and the state, decentralization, measures against terrorism, respect for all Syria's components, full participation of women, right to return for refugees, among others (UN Secretary-General 2017a). However, in September the Syrian government refused de Mistura's invitation to take part in meetings as part of a technical process to address constitutional and legal issues (Security Council Report 2017b). Two and a half years earlier, on de Mistura's last trip to Damascus, he was allegedly told by Syria's foreign minister that there was no room for external involvement in reforming the country's constitution (Barnes-Dacey 2018).

De Mistura's third conflict resolution initiative, this time within the Geneva Process, concerned the creation of a committee to draft a new Syrian constitution and eventually lead to UN-backed elections (Barnes-Dacey 2018). After intensive consultations with all levels, he said: "I believe the time has come for the UN to provide specific elaborations on the constitutional and electoral baskets (2 and 3) […] for the full implementation of UNSC Resolution 2254, and stimulate wider consultations as well" (*Asharq Al-Awsat* 2017). The two institutions to be proposed were a Constitutional Committee to prepare an initial draft alongside a National Conference to oversee a national dialogue and refer any draft constitution to the populace for approval. The Constitutional Committee was to comprise fifty government delegates, a fifty-member, broadly representative opposition delegation, and fifty Syrian experts, civil society figures, independents, tribal leaders, and women. A core group of fifteen people from each delegation would act as the drafting committee, to submit their decisions to the larger one for approval, according to the Syrian National Dialogue Congress held in Sochi, Russia, in January 2018 and consistent with UNSC Resolution 2254. Syria provided its list at the end of May, with Russian and Iranian support; a list was received from the opposition a month later, with support from other international actors. De Mistura convened top-level representatives from Iran, Russia, and Turkey on September 10–11, 2018, in Geneva when it became clear that, unlike the first two lists, "the Middle Third List – the list for which I have a particular responsibility to facilitate and then to finalize – was significantly questioned" (UN Security Council 2018b), and issues such as chairing, voting, and the rules of procedure continued to be left unresolved (UNSC 2018a).

At the end of September 2018, the Syrian deputy prime minister met with the UN secretary-general and de Mistura to call for a fundamental reassessment of the work that had been done on the Middle Third List and rules

of procedure, as well as on the UN's facilitation role (UNSC 2018c). Russia and Iran also questioned the Middle Third List. De Mistura defended his list at length to the UNSC on October 17, 2018: "Before the end of the month I also intend to invite the Astana guarantors for consultation with me in Geneva and to engage with the small-group countries. In my view that would be our final opportunity to put the finishing touches to the preparations for convening a constitutional committee. I would then hope to be in a position to issue invitations to convene the committee, if possible during November. […] I intend to strike while the iron is hot and try to move the Geneva Process ahead in consultation with all concerned" (UN Secretary-General 2018b).

## Russian Replacement of the Geneva Process

In fact, the iron had been heating elsewhere already. While the Geneva Process strained, a competitor arose to fill the vacuum left by the treading of water and amid pressure arising from the massacre of civilians and the stalemate between combatants. To cover its military intervention to prop up the tired regime with air power, on September 15, 2015, Russia opened a diplomatic initiative with Turkey – soon joined by Iran – by offering Astana, Kazakhstan, as a "neutral" alternative site to Geneva for the peace negotiations, with good offices from the trio. Proposed in mid-December 2016, the meeting took place with representatives from both Syrian sides at the end of the month and an immediate ceasefire was declared. A month later, the sides met together at Astana IIb over an agreement by the mediators to form a joint monitoring body to enforce the ceasefire and prepare a Russian draft constitution. The agreement was reaffirmed at Astana III in March 2017, designating three de-escalation zones – an enlargement of de Mistura's idea of local freezes – in the south, in Eastern Ghouta (Damascus), and in the north of Homs – being formalized at Astana IV in May 2017. Yet by Astana V in July, neither the ceasefire nor the draft constitution had been signed by either side – each articulating their respective critiques, although de Mistura said they were making clear progress toward reducing the violence (UN Secretary-General 2017b).

*While the Geneva Process strained, a competitor arose to fill the vacuum left by the treading of water and amid pressure arising from the massacre of civilians and the stalemate between combatants*

The same issues were discussed, and a fourth de-escalation zone was created in Idlib, at Astana VI in September, with two other zones brokered by Russia in Ifrin and Eastern Qalamoun. Discussions concentrated on working groups on the exchange of missing persons, POWs, and detainees at Astana VII on October 29; eight months later, "the outcome [was] zero" (UNSC 2018d ). Discussions continued inconclusively at Astana VIII in December 2017, reflecting the same blockages as in Geneva.

*Although he was leading a separate track, the SESG threw his weight behind Astana – saying that it "should be seen as laying the basis for a renewed Geneva Process"*

Russia then sought to jumpstart the process by convening a National Dialogue Congress of some 1,500 Syrians from all sides in Sochi, to initiate the selection of the Committee to draft the constitution as mandated by UNSC Resolution 2254. Disputes over the delegates to the Dialogue ended its session after one day, on January 30, 2018, but it did affirm that the Committee should comprise "government, opposition representatives in the intra-Syrian talks – which means those facilitated by the UN in Geneva – [and] Syrian experts, civil society, independents, tribal leaders, and women" (UN Secretary-General 2018b). It endorsed the aforementioned twelve living principles, and recognized the role of the SESG as facilitator of the process. The year was spent in a "marathon of consultation" to implement the change (UN Audiovisual Library 2018).

Although he was leading a separate track, the SESG threw his weight behind Astana – saying that it "should be seen as laying the basis for a renewed Geneva Process" (UN 2017b). "Astana must bring forth Geneva and vice versa. That is why the UN will be in Tehran and Astana, and provide whatever technical support it can to what we consider a very important step" (Security Council Report 2017d), he

told the UNSC. “From the point of view of the sponsors of Astana, de Mistura’s role was to lend it international legitimacy,” said Rabbani. “And I don’t think he realized that he was basically blessing his own irrelevance” (Kenner 2018).

Yet he continued to work for collaboration between the competing processes. In November 2017, before Astana V and Geneva VII, both of which he attended, de Mistura told the UNSC: “The UN team continues to stand ready to provide technical advice, whenever and wherever needed. Because we need a success in Astana, as Astana desperately needs a success in the Geneva political process in order to consolidate what we are all trying to do” (UN 2017a). Preparing for Geneva VIII,

The ideal trajectory over the coming two weeks would be: progress in Astana [V] on July 4–5; then a further set of joint technical expert meetings with the opposition groups in the same week; and then, a continued discussion and dialogue hopefully among international stakeholders […]. And all this in support of both the Astana de-escalation efforts and the intra-Syrian, Geneva-based political process […] toward our shared goal of implementing the Resolutions of this Council, in particular 2254. (UN 2017a)

De Mistura continued to urge the more active merger of the two processes.

The Astana [VI] effort should be seen as laying the basis for a renewed Geneva Process […], the time has come for the focus to return to Geneva, and the intra-Syrian talks under the auspices of the UN – yourselves. That is the only forum in which the transitional political process envisaged by this Council in Resolution 2254 can be developed with the Syrian parties themselves, with the full legitimacy that the UN provides and the backing of the international community. (UN 2017b)

Source: Trocaire/Wikimedia

Again in September, before Astana VII and Geneva VIII, de Mistura worked with Saudi Arabia to unite the opposition delegation, but he spoke more insistently now. “The Astana effort should be seen as laying the basis for a renewed Geneva Process […]. The [Syrian] government therefore should be urged to show by word and action that it genuinely wants to have a negotiation about credible, inclusive governance” (UN 2017b). He briefed the UNSC: “So the next Astana meeting should focus on putting the existing arrangements back on track […]. You have solely mandated the UN […] to advance the intra-Syrian political negotiation process for a political solution to the conflict – and no one else” (UN Secretary-General 2017c).

After the conclusion of the National Dialogue Congress, in February 2018 de Mistura would explain his decision to attend the rival meeting (albeit the opening session only, since all non-Syrians – except Russian minister of foreign affairs Sergey Lavrov – were excluded from subsequent participation) to the UNSC as follows:

It was a carefully considered decision, made after special consultations in Vienna with the Syrian parties and with the Russian Federation – and not just by me, but involving the secretary-general himself too. Based on those consultations, the UN had reason to believe that Sochi would contribute to accelerating the Geneva process […]. The final terms of a constitutional com-

mittee were to be facilitated by the UN in Geneva (UN Security Council 2018b).

De Mistura's technical team participated in the first meeting of the Working Group on Detainees and Missing Persons held in Astana in March. Six weeks after the Dialogue's conclusion, de Mistura still had not yet received the complete inputs on the pool of candidates for the Constitutional Committee from the three guarantors. Noting that the Syrian government continued to refuse to engage on the Committee's formation, he stated that: "We have never had for any length of time a nationwide ceasefire or the confidence-building measures that had been asked for in Resolution 2254" (Office of the Spokesperson for the UN Secretary-General 2018). De Mistura announced that he would step down as SESG at the end of November 2018, for family reasons (Nichola 2018). Astana XII concluded in late April 2019, Astana XIII in early August, and Astana XIV in late September of the same year with no breakthroughs in the deadlock having been achieved.

## What Went Wrong?

Staffan de Mistura was the longest serving of the three United Nations Special Envoys on Syria: four years and four months, more than twice the terms of his predecessors combined. He was persistent, active, imaginative, and innovative, and diligently optimistic. He continually consulted a wide range of parties – even after he was refused entry to the country by Assad early on, and engaged in rival processes to manage the conflict. He reported comprehensively to the UN Security Council, his mandator. He had a number of good ideas. His "living principles" were incontrovertible and abstract. Yet the three initiatives he undertook left legacies that will be helpful elsewhere, if not in Syria. His constitutional emphasis and the balanced committee that caused him much trouble, alongside his local ceasefires, are necessary procedural steps; his informal sessions could air ideas and explore differences that formal debates could not. But in Syria, they ignored the structure and evolution of the conflict.

*He was persistent, active, imaginative, and innovative, and diligently optimistic*

Absence of ripeness. De Mistura started with the assumption that neither side could win. Unfortunately, the assumption was not shared by the parties themselves. In addition, as the conflict continued, the Syrian government began to receive objective evidence from Russia that it could indeed win, while the opposition continued to cling to the conviction that it could not afford to lose, and on that basis still squabbled among itself. The SESG seems to have spent little time on challenging the respective parties' perceptions, like his predecessors, but instead tried to move ahead working on procedures as if ripeness therein had already occurred.

*Resistance of level three to bottom-up strategy*. De Mistura's initiatives, which to varying extents focused on lower-level actions to circumvent, assist, or parallel upper-level (in)action, fell into the same swamp of delay and resistance that bogged down the Geneva and Astana processes. The parties, but especially the Syrian government, did not want to conclude a ceasefire, nor were they ready to tackle the issues at hand, either at Geneva or at Astana. Russia, with Turkey and Iran, doubtless wanted to bring an end to the conflict, and that by an acceptable transition from the current government to something else – but their own aims, both in the conflict and in its outcome, conflicted with termination and transition alike. Geneva was an exercise in repeated failure, but the alternative process under new ownership and guidance at Astana after two and a half years fell flat before the same internal wrangling among the parties and their patrons. It was ironic that the blockage on the composition of the Constitutional Committee targeted the list of the SESG who had so assiduously pressed for the formation of it. Had the Middle Third List been acceptable, however, the confrontation between the first two Committee lists would have been enough to stall the body's work, as occurred in Astana XIV.

*Loss of control over the process*. The SESG never had control over the Geneva-mandated transition process. When an alternative one was established, it undermined Geneva and left the Special Envoy as an outsider vis-à-vis a competitor designed to compensate for the inactivity. It is not clear to what extent the Astana trio really expected that a conflict management and resolution process with the same warring parties, different sponsorship, and a new venue would provide a

genuine alternative. It looked like diplomatic wishful thinking or distraction, put forward as a complement to military engagement and as a diplomatic attempt to show up a Geneva Process that Russia never fully supported – "either too weak to deliver or a cynical smokescreen" (Wintour 2018), as characterized by the British ambassador to the UN. The Special Envoy's increasing efforts to assert the continuing viability and predominance of Geneva were sad and desperate attempts to reassert control over the process.

Absence of mandate. If Syrian government obstructionism and refusal to accept any role for either peace process in the establishment of a constitution were the insurmountable obstacles, they could be so because of the UNSC members' dereliction of duty in failing to support their Special Envoy. Russia was the main and double offender, by supporting the Syrian government's objections and by failing as UNSC mandator, but the other permanent members, notably the United States, failed to give policy support to the SESG too – both within the UNSC and in their foreign policy actions vis-à-vis the Syrian conflict. De Mistura was ultimately sent on a diplomatic suicide mission.

■

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**ENDNOTES**

*1 On the previous two SESGs, see Zartman and Hinnebusch 2018 and Zartman and Hinnebusch 2019.*

Cecilia Albin

# Negotiations between Unequals: Winning the Agreement or Securing the Peace?

Parties to international negotiations are commonly unevenly matched in terms of power. This may concern inequalities regarding military or economic resources, control over disputed items, global status, overall dependency on reaching an agreement, or something else that brings strength and advantage in the situation at hand. As parties never have identical assets, perfect equality does not exist in the real world beyond the basic veto power (to choose to quit negotiating) available to each side. The decisive difference is instead between negotiating situations involving some slight and those involving significant power inequalities. The latter case is what is of most interest here.

That a weaker party can secure an agreement favorable to itself, and even "triumph" over a stronger one, is by now well known. In demonstrating this, analysts have focused on strategies available to "the weak" in the bargaining process and how they can be used to boost an agreement for that side. What is not greatly explored or known though is how such strategies affect the stability of the agreement and the gains arising from it over the longer term, or viable alternative negotiating strategies if lasting agreement is a priority. This short article addresses these two questions.

## Winning the Agreement

First and foremost a weak party may engage an outside resourceful actor in the role of *third party*, in ways that "shift weight" from the stronger side (e.g. Zartman and Rubin 2005). When done successfully, this is a fundamental game changer: it reduces inequality and helps to level the playing field, so that differences in power fade as a decisive factor in the bargaining process.

Furthermore, a party can overcome weakness by *appealing to principles of justice* for instance; to historical rights and injustices inflicted on itself in the past, ones that explain its current situation; and, to what justice would look like in terms of compensation and redistribution (e.g. Albin 2001). However, such justice claims are seldom influential when the bargaining process is marked by significant power inequalities: The much stronger side is unlikely to see reason to act upon them, in particular when they are redistributive and contradict the prospect of (mutual) gains as a basic motive for negotiating altogether. In other words, the pursuit of justice may be effective only when power inequalities are small or when they have been leveled out at the outset of the process by such a game changer as third-party intervention.

A truly weak party may also exploit having *less to lose* and, with this, the much *lower costs of risk-taking* than a more well-to-do counterpart faces. The former is commonly able to *focus better* on the issues at hand, and to be *more flexible* and act *more quickly* than a bigger power stretched by numerous engagements elsewhere and by greater needs for internal coordination typically is.

These and other strategies are explored in both conceptual and empirical research. They typically rely – and indeed need to rely – to varying degrees on competition and confrontation, so as to redress the power imbalance and allow the weaker side to assert itself. This is, of course, common fodder in bargaining. Particularly when used by unequals to extricate themselves from conflict, however,


Source: Geralt/pixabay

they risk creating a fragile agreement that may be undermined as soon as the opportunity presents itself for the (outside the negotiating room) stronger side. The question thus arises of how lasting agreement may be brought about in a situation of inequality.

## Winning the Peace

In life after the agreement, what were assets in bargaining especially to a weaker side – be they third-party intervention, appeals to justice, or something else besides – may easily fade, and with that the delicate balance of forces underlying an earlier deal. If long-term stability is a priority, it is important when unequals bargain to think beyond commonly and often intuitively used strategies: to forge not just an agreement, but also achieve reconciliation and new forms of interaction that secure peaceful relations for the future. The essence of the underlying conflict needs to be addressed, and – as far as possible – resolved.

This is a tall order for negotiators – in almost any circumstances – to formally achieve at the table. Thus a number of approaches have been developed regarding how particularly intractable conflict may be prepared for resolution – or even transformed – before an actual agreement is negotiated (Albin 2015). They include sustainable dialogue (Saunders 2011), problem-solving workshops (Kelman 2016), and identity-based conflict engagement (Rothman 2012) Of course parties often arrive at the negotiating table without having gone through such exercises, or the results from them may not have been successfully transferred into official negotiating policies and positions. However, there are still options left for unequals to forge lasting agreement. Two options internal to the negotiation process are discussed here with respect to framing the issues and formulating the terms of agreement respectively.

## Framing the Issues for Negotiation

How the issues to be negotiated are framed – that is, how they are defined, focused (scope and boundaries), as well as linked to any other outstanding issues – and are placed on the agenda significantly influences what will be addressed at the table and how, and what (meaning whose) interests and types of solutions will be considered (and those that will not). The significance of issue-framing was pointed out long ago (Sjöstedt 1994; Pendergast 1990; Murphy Ives 2003), continuing in more recent research too (e.g. Albin and Young 2012). Yet the impact of issue framing nevertheless remains underestimated and too little researched even now (Kahneman and Tversky 1979; McDermott 2009).

Particularly when unequals are to negotiate, issues may be framed at the outset in ways that promote lasting agreement. First, framing that targets the root causes of conflict or disagreement, over and above peripheral matters, is likely to contribute to durability. This assumes that parties agree – or can be brought to agree – on what those root causes are. If not, disagreement is carried over into and becomes part of the formal negotiating phase – making that phase more difficult. Second, framing that enables and points to an integrative outcome yielding *shared* gains also contributes to durability. By contrast, distributive avenues toward hard-struck compromises suggest greater instability over time. The main point to recognize here is that how an issue is framed at the outset already affects how well subsequent talks can work in ensuring lasting agreement.

## Formulating the Terms of Agreement

That both sides are genuinely content with, and serious about keeping, the agreement terms they sign obviously have, first, a valuable stabilizing effect. Second, the more the root causes of conflict can be addressed and resolved, taking precedent over peripheral issues or mere symptoms of conflict, the better the longer-term prospects will be. Third, in conflicts between unequals, those root causes often involve issues of justice – as, for example, in civil wars. In that context, reliance specifically on the principle of equality in the terms of agreements appears to contribute to lasting ones (Druckman and Albin 2010). More generally, agreements containing forward-looking provisions for a new, improved rule of order, relationships, as well as interactions between parties are thought to enhance durability, while backward-looking ones for retribution and compensation undermine it (Zartman and Kremenyuk 2005). Notions of the other's trustworthiness and credibility are often negative, and thus provisions for verifying compliance and for sanctioning violations also contribute to such permanence.

The challenge to obtain all these provisions in the first place is particularly great when unequals negotiate, for the reasons already discussed. If and when it can be overcome, however, such terms will help to ensure that an agreement does in effect lead to peace.

■

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German Institute for Global and Area Studies
Leibniz-Institut für Globale und Regionale Studien

Neuer Jungfernstieg 21
20354 Hamburg
Germany
www.giga-hamburg.de

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Valérie Rosoux

# Rwanda: The Limits of Negotiated Adjudication

At first glance, the concepts of "adjudication" and "negotiation" have nothing in common except that they both refer to mechanisms established to deal with conflict. Negotiations are nonbinding and voluntary. Adjudication, however, implies the presence of an independent judge or a designated arbitrator who gives a binding decision. Moreover, negotiation implies bargaining and compromise, while adjudication depends on the application of a preexisting, internationally relevant set of rules. The objective of this article is to question this clear-cut distinction by exploring the specific case study of the Gacaca courts established between 2002 and 2012 in Rwanda to deal with crimes committed during the genocide of 1994.

## Introduction

In the aftermath of the genocide that devastated the country, one of the essential aspects in rebuilding Rwanda was identified as being the implementation of justice. Yet justice, vital as it seemed, would turn out to be almost impossible to achieve. Post-1994, the institutions whose job it was to ensure respect for the law and to enforce judicial decisions (law courts, police, prisons, etc.) no longer functioned properly. Their staff had been decimated or were in exile, their buildings destroyed and looted. In 2001, there were still around 120,000 prisoners crammed together in at times insalubrious prisons, awaiting trial. As it became clear that it was physically impossible to enforce justice efficiently and rapidly, the government decided to reestablish a traditional procedure known as *gacaca*.[1]

The new Gacaca courts, created in response to exceptional circumstances, were based on an ancestral custom whereby local wise people would be brought in to settle a dispute. The law of January 26, 2001, created new court-type structures based on this customary system. In June 2002, around 11,000 such courts were inaugurated. The system was one of participatory justice: the people were, at one and the same time, witness, judge, and party to the case. The general principle was to bring together, in the very place where the crimes had occurred, the various actors involved: survivors, witnesses, and suspects. They were to all discuss what had happened, in order to establish the truth, identify the victims, and determine guilt for the crimes committed.

The discussions were directed by nonprofessional "judges" elected from among the well-respected men and women of the community, with them authorized to hand down sentences for those found guilty (within limits, and excluding death sentences). The vast majority of genocide cases were tried within this system, which finally came to an end in June 2012. In total, 1,958,634 cases were tried by the Gacaca courts; some 74 percent of all those accused were convicted, 25 percent pleaded guilty and confessed, while 26 percent were acquitted (Gacaca closing statistics 2013, see Rosoux and Mugabe 2017: 134).

Source: David Petersen/pixabay

## Objectives of a Partially Negotiated Adjudication

Between April and July 2004 more than 800,000 people were massacred by the army, militias, neighbors, and "friends and acquaintances." Tutsis, from infants to the elderly, were hunted down and murdered. Hutus classed as political opponents and traitors were also systematically slaughtered with machetes. In the space of only a few weeks, horrific violence swept the country. Dealing with a crime of this magnitude was light years away from the Gacaca courts' traditional way of working. For centuries, people had been meeting on their local hillside to deal with offences or disagreements such as land disputes, damage to property, marital problems, or inheritance issues. Anthropologist Philibert Kagabo describes the logic behind such arrangements as follows: "Let's take an example. There was a wrongdoer in my family. My son got into a fight and injured your son. To resolve the issue, you would bring along the elders of your family. I would do the same, and together they would look for a solution to the problem. Generally, they would decide on a punishment, a fine. But this punishment had to be accepted by the elders of both our families. The guilty party would confess and make a public apology. This system prevented a further escalation of violence and helped to maintain a strong and cohesive community."[2]

This account brings out each of the three key elements in any *gacaca* negotiation. This traditional practice implies interaction between parties (1) with differing interpretations and interests in relation to the conflict at hand,
(2) but also with common interests,
(3) and starting from the need to maintain the cohesion of the group. Finally, the parties work together to seek a solution that is deemed acceptable to all (Dupont 1994: 59–60).

Also identifiable are the five generally acknowledged stages in such a negotiation process: preliminary contact; information sharing; argumentation; adjustment; and, finally, the reaching of an agreement. That is, the parties meet, greet, each explain their interpretation of events, discuss them, and gradually adjust their positions until finally agreeing on a solution to help restore social order.

*Although no bargaining as such took place, many characteristics of a negotiation remained*

The new Gacaca courts were thus created as a way of combining this conventional system of justice, run by members of the legal profession, with participatory justice as exercised by all those in the community who had reached the age of majority (eighteen years old). They were real courts, decentralized to all levels of the country and governed by written law. Their mandate was to bring to trial crimes of genocide and against humanity committed in Rwanda between October 1, 1990 (the date of the incursion by the Rwandan Patriotic Front, RPF, that marked the beginning of the country's civil war, coinciding with domestic reprisals against Tutsis and moderate Hutus accused of supporting the rebellion) and December 31, 1994 (the end of the genocide). These new courts were, in principle, no longer based on a form of collective negotiation, but rather on a binding legal procedure wherein the final agreement of the involved parties was now not required.

Having said that, this type of justice – in some aspects – still seemed to be partially negotiated. Although no bargaining as such took place, many characteristics of a negotiation remained. The discussions were still, to a significant extent, dependent on the balance of power between the parties present (number of detainees and of survivors attending, family links of detainees, certain supposedly unbiased judges). Sometimes the sentences handed down depended indirectly on agreements, bargains, and other deals struck between the detainees or their families, the witnesses, and even the survivors (some were reportedly bribed to remain silent). Finally, it is worth emphasizing the interdependence between the parties present. The survivors depended on the goodwill of the murderers to find out the truth as to how exactly their loved ones had died. Some perpetrators, on the other hand, were terrified of being denounced by witnesses and survivors. Everyone depended on – and therefore feared – everyone else.

## Limitations Resulting in Stalemate

Initial enthusiasm for the Gacaca courts gradually gave way to doubt and skepticism however. Without wishing to condemn out of hand the impact

of these courts, the objectives given by the authorities – justice, truth, and reconciliation – were clearly in many regards severely compromised. To most practitioners involved in the process, they were in the end simply the best of a bad set of alternatives (Ingelaere 2008).

## *A Parody of Justice*

To many observers, the *gacaca* system is considered a form of "emergency justice" – one often described as less compliant with human rights principles (Huyse 2004: 133). The absence of lawyers for the defendants, and the lack of expertise of the "persons of integrity" responsible for taking the final decisions, made it difficult to guarantee fair trials. Moreover, since the judges elected by the domestic population received no salary there was a certain amount of corruption involved, which threatened to undermine the whole system. Finally, since these volunteer judges were not professional members of the legal system – rather farmers, traders, teachers, craftsmen, and the like – it was surely difficult for them to have to pass judgment on their neighbors, friends, or even on their customers.

The survivors soon no longer saw the Gacaca courts as being a viable way to achieve justice. Horrified by the series of large-scale prisoner releases, the survivors portrayed these courts as a political compromise – a stopgap solution in the absence of genuine justice. As for the Hutus, many of them decried the partiality of the process since it did not apply to crimes occurring after December 31, 1994. Those committed after this date were tried in the usual courts. Up to now, though, very seldomly have proceedings been brought against members of the Rwandan Patriotic Army, the military branch of the RPF, and the outcomes hereof have been relatively lenient. The crimes committed, however, were far from minor ones. Immediately after the genocide, three million people were forced into exile. They fled to neighboring Congo, where the violence continued. There are serious allegations that military force was used to dismantle the camps where the Hutu exiles had settled, with them being seen as a threat.

In recalling these facts, we are not treating murderers and victims equally. Neither are we mixing up facts, nor trying to play down a crime – especially genocide – by referring to other felonies. Nevertheless, it is crucial to realize that a whole section of the population saw the justice meted out as "the victors' justice."

Source: William Cho/pixabay

## *Truth Held Back*

The truth that transitional justice tried to establish was probably not the same as the truth to which historians aspire: namely, an accurate account of events. As stated by Ignace Rukiramacumu, this "truth is known only to the killers, who devour it and conceal it, and to the dead, who have taken it with them" (quoted in Hatzfeld 2007: 138). Discussions in the Gacaca courts tended to be more pragmatic, and to converge on a sort of "social truth." That is, one possible reconstruction of the events making up the genocide as it had emerged from discussions between the parties present, a version of the facts that included inaccuracies and omissions seen, at some point, as inevitable.

Today, there does not seem to be any sort of "shared truth" common to the various groups making up the Rwandan population. For the defendants, "truth" was carefully calculated –

with the aim often being to "just reveal a little truth [...]: If you say any more, you can provoke a colleague, who could blame you. If you say any less, you could anger a Tutsi who will then accuse you. You have to lose people in the details" (Rukiramacumu, quoted in Hatzfeld 2007: 156–157).

Many killers embarked on a detailed risk calculation, deciding just how much truth to reveal. Haggling over the "truth" began even before the *gacaca* process, in the prisons themselves. The suspects feared being classified among the worst murderers (the infamous ones who had been most zealous in their butchery), so shared out crimes among themselves before trial so as only to confess to the sort tried in the Gacaca courts.

*Truth is known only to the killers, who devour it and conceal it, and to the dead, who have taken it with them*

To some observers, a "Machiavellian trading of guilt" then took place: the young prisoners would blame the oldest detainees, who might be freed in any case; some would take on part of the culpability of others in return for a piece of land or a cow. While truth could come from the killers, could it nonetheless be partially concealed by the surviving witnesses? The latter were unanimous in their response: social pressure, shame, and intimidation often prevented them from testifying. It required considerable effort from the survivors to testify before a sometimes-hostile crowd, to speak in public of horrific events (especially in the case of sexual violence), to accuse neighbors – and even members of their own families. According to Ibuka (2007), the umbrella organization representing survivors' associations, 165 survivors were killed between 2000 and 2006, with 121 others narrowly escaping death.

### *Planned Reconciliation*

Following adoption of the last gacaca law, which facilitated a reduction in sentences, many detainees returned home after spending some time in a solidarity camp organized by the National Commission for Unity and Reconciliation. Far from promoting peaceful coexistence, this sudden reuniting of former prisoners and survivors only deepened the rift tearing the Rwandan people apart. In the view of the survivors, who felt increasingly abandoned, the lack of sanctions for the accused amounted to a new type of impunity. This severe frustration was compounded by a second cause for indignation: the absence of any compensation for the survivors themselves. Disappointed and discouraged by a system that, in their view, paid more attention to the killers than to the victims, an increasing number of survivors no longer wished to attend the *gacaca* trials. Others, in despair, agreed to sell their silence, and corruption thereby became an indirect form of compensation.

*Rather than coming closer together, the different communities seem to have become entrenched in defensive positions*

The detainees saw things very differently meanwhile. The prisoners and their families were happy with the series of releases, and the gradual reduction in sentences. However, their descriptions of certain gacaca trials paint a picture of an unfair and counterproductive system. Their criticisms are symmetrical – if opposing – to those voiced by the survivors. These "mirror-image" criticisms did not give much cause for optimism. Would the system ultimately end in a stalemate? It soon, at any rate, began to be seen as a top-down process, rather than a community-based one. The survivors felt unacknowledged and insecure, whereas many Hutus also have come to harbor a sense of injustice since only one part of the population has been allowed to tell its story and recount its suffering to the wider community. Rather than coming closer together, the different communities seem to have become entrenched in defensive positions.

## Conclusion

The revealed limitations of the Gacaca courts were largely the result of their ambitious aims: to discover the truth, restore social harmony, achieve reconciliation. Surely this was too much to ask of a court, even one based on a traditional system of reconciliation. Is this as far as any form of negotiation can go? Does negotiation, then, have the potential to bring about justice, truth, and reconciliation? Some believe that it is quite simply impossible after a phenomenon such as genocide "since negotiations can only be envisaged between parties who have actually fought each other" (Garapon 2002: 298).

Taking up this idea, the very concept of negotiation, of bargaining, is inappropriate in the case of killer-victim relations – since what victims need above all is recognition and some form of compensation. For one section of the population, negotiation is inappropriate; such a limitation must be borne in mind. This does not mean, however, that there is no room for negotiation at the national level. Relations between killers and victims are only one category of social relations in Rwanda. The return of exiles from Uganda, Tanzania, the Congo, Burundi, Kenya, Belgium, France, Germany, Canada, and Russia, further to the series of massacres occurring after the genocide, mean that there are other relationships in which negotiation has a vital role to play in bringing together the various components of Rwandan society.

*The very concept of negotiation, of bargaining, is inappropriate in the case of killer-victim relations*

In this situation, two main conclusions must be drawn if we are to avoid the twin dangers of cynicism and naivety. First, we need to remember the scale of the dilemma faced by the Rwandan authorities in the aftermath of the genocide. What was the most urgent priority in terms of the public interest: peace, public security, democracy, or justice? Despite their failings, the Gacaca courts did enable progress to be made in gathering knowledge about crimes and acknowledging victims. By shedding light on the circumstances surrounding the genocide, they aided the recovery of survivors who had, until then, been living in doubt as to the fate of their loved ones.

This progress, however, remained limited. Hence the second conclusion: throwing together concepts of transitional justice and reconciliation is not the way to transform relations within communities that have been torn apart. There will clearly be an underlying antagonism, ready to be reactivated at the least sign of crisis. As things stand, the existence of ethnic identities makes any sort of national cohesiveness fragile. These identities, which the authorities play down because of their artificial roots and their explosive nature, still function. Based on divergent – usually contradictory – interpretations of reality, they still appear non-negotiable today.

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**ENDNOTES**

*1 Gacaca, in Kinyarwanda, means "grass" – and, by extension, "open-air justice."*

*2 Account filmed in the documentary* Les collines parlent*, directed by Bernard Bellefroid in 2005.*

Mark Anstey

# Democratic Disconnects: The Never-Ending Story of Brexit (So Far)

In its first phase, Brexit negotiators only managed to reaffirm the lesson that effective interparty negotiations within and between democracies are premised on coherent constituencies offering representatives clear mandates and the flexibility to engage in concession exchanges at key moments in a deal-making process. The process is undermined if a mandate is too rigidly ambitious for reaching compromise; too vaguely defined to facilitate detailed deal-making; or, must emerge from a constituency too internally divided to offer one at all.

## The Rise of Euroskepticism

Following a French veto in 1961, the United Kingdom eventually joined the European Economic Community (the Common Market) in 1973. It reaffirmed its continued membership in 1975, with 67.2 percent support for that in a poll. However various interest groups would steadily become disillusioned with the European Union, citing loss of control over immigration, social spending, judicial as well as costly bureaucratic decision-making, and a loss of influence over matters of national identity and destiny. The strength of separatist sentiments was evidenced in 2014 when Nigel Farage's independence party (UKIP) pushed past the Conservative and Labour Parties to win a majority of UK seats in the EU parliament. Under pressure from a "Leave" faction within his own party, David Cameron, the Conservative prime minister, committed to a referendum on the matter in the national election of 2015. His efforts over the preceding year to "take back control" through talks with the EU failed to appease separatists. Leave and Remain campaigners emerged across traditional party lines.

## The Brexit Referendum

On June 23, 2016, the UK electorate was offered a simple binary choice: Should the United Kingdom remain a member of the European Union or leave the European Union? In a result that took the government, the legislature, and the EU by surprise, in a poll of 33.5 million people 51.9 percent voted to leave and 48.1 percent to remain. It cannot be argued that voters understood the economic consequences of their choices or the complexity of the processes they were unleashing – or that the result indicated preferred terms for leaving the EU. These truths have been revealed as the negotiations have continued to evolve. Political philosophers such as Mill and Bentham long ago raised concerns over the consequences for democratic systems of putting complex technical decisions before "the people," and the risks of mobilizing sectional interests in a manner that might jeopardize national interests.

## A Continuum of Options

The government chose not to use the referendum as an indicator of popular sentiment but as a direct and immediate mandate to exit the EU. Premised on the 52 percent support for Leave, Remain sentiments came to be denigrated as denying the "sovereignty of the people." But divisions were not simply between Leavers and Remainers. A spectrum of Leave advocates emerged, ranging from those preferring a "no-deal" break to those arguing for softer exits in the form of Norwegian- or Canadian-type deals. Soft Leavers argued that in carrying out the mandate of the 52 percent, the interests of the 48 percent should also be considered – democracies are not simply about the will of majorities, but interests of and protections for minorities too. Cautious voices posited that the people could surely not have voted for a form of departure that might have negative consequences for large sections of the population in terms of business fortunes, jobs, food, fuel and medicine supplies, health services, and national security. Some continue to propose that once terms and consequences of an exit have been clarified through negotiation the matter should be put again before the people – to make an informed choice. On the basis that "the people have spoken" and "you cannot keep running referenda until you get the result you want," successive Conservative governments have rejected this proposition.

## Democratic Disconnects between the People and Their Representatives

The Brexit vote revealed a fundamentally divided nation, but also exposed representative weaknesses in traditional political structures – as well as the gap between decision-making via popular (direct) and representative (indirect) forms of democracy respectively. The referendum gave "the people" an opportunity to indicate a preference on a complex matter of international relations, but left it to the government and the legislature to interpret what

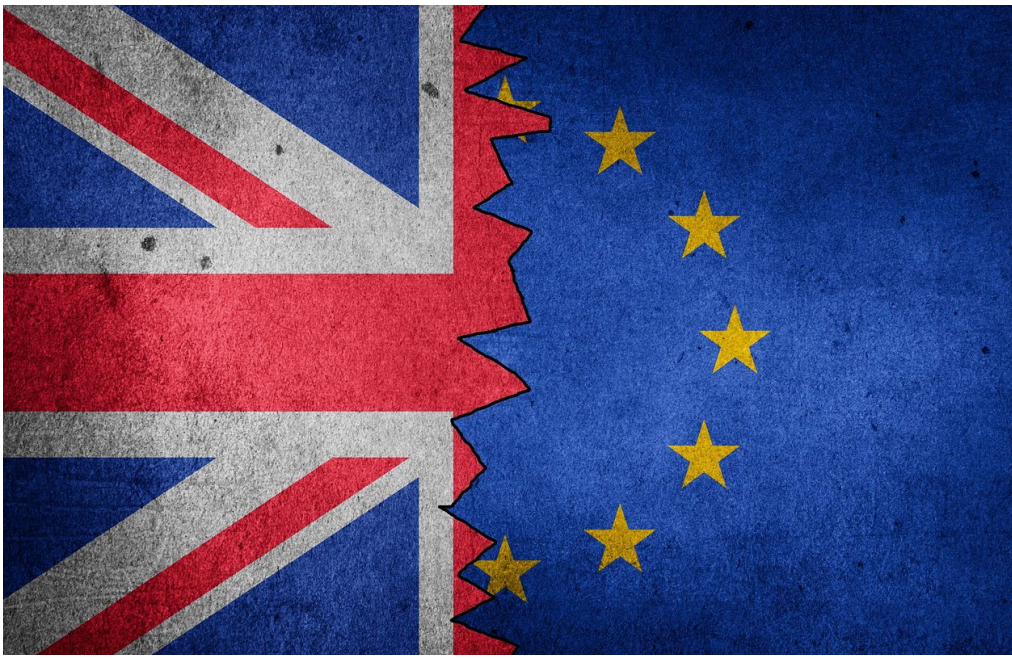
Leave should mean in practice. Members of parliament have repeatedly disagreed over this, […] and indeed with the interpretations of successive governments.

Following the referendum, David Cameron resigned as prime minister. The Conservative party in government elected Theresa May, a Remain voter, who undertook to lead the government in delivery of the will of the people. Although the popular vote for Leave emanated across party lines, the government chose to enter negotiations with the EU without cross-party consultation, and was resistant to the House of Commons taking greater control of the process. It is moot whether May would have achieved a clearer mandate earlier from a fundamentally divided House, but it was held up later as a serious procedural flaw, pitting the executive against the legislature. May's effort to secure her position through a national election instead saw her party lose its majority and become reliant on the small Democratic Unionist Party, representing Northern Ireland Unionists, to see through her policies.

A very messy process then unfolded. The EU as bargaining partner was no better prepared for the outcome of the referendum than the British government itself. With its own complexity as a composite organization of twenty-seven nations, its bottom line was always clear: the UK chose to leave, and so should not enjoy more favorable conditions out of the Union than it enjoyed within it. May managed to negotiate a deal, but one she refused to put before the people for ratification and that was furthermore roundly and repeatedly rejected in the House of Commons. Opponents resented payment of an estimated GBP 39 billion "divorce bill" to the EU over time to settle obligations during a transition period required to finalize the details of separation (a legal obligation requiring settlement, if trade issues were to be constructively dealt with later) and balked at having to comply with EU rules without influence over them during a twenty-one-month transition period directed at smoother change for business and intergovernmental relations. They were particularly hostile to a proposed backstop arrangement, intended to resolve the conundrum of how to keep an open border between the south of Ireland, as part of the EU, and the north, as part of the UK. Skeptics saw this as a means of remaining under EU rules with no clear exit in sight.

## May's Single-Script Gamble Fails

Faced with driving a negotiation to its conclusion in the context of a fragmented traditional two-party political system rooted in a culture of adversarialism rather than of cooperation, May gambled. Mediators sometimes put a single script (draft deal) before divided parties offering sufficient wins to all stakeholders involved to galvanize either acceptance of the draft or to negotiate remaining differences to closure. The gamble failed.



Source: Tumisu/pixabay

Between March 27 and April 1, 2019, members of the House of Commons rejected a no-deal outcome, voted three times against the one negotiated by the prime minister, and proved unable to agree on a viable alternative among themselves. None of the eight alternatives generated within and

subsequently voted on by the House achieved majority support. The Speaker reduced the options to four in number, but again none achieved majority support and again the House voted against May's deal. The EU agreed to an extension until April 12 of the same year for the UK to agree on May's deal. Further internal division followed, with resignations among some senior Conservative MPs. May's invitation to the leader of the opposition to join her in seeking a way forward based on her withdrawal deal on April 2, 2019, evoked accusations of betrayal from hardliners within her party. Conservative and Labour politicians successfully reduced a matter of national interest to a sectional power play.

## Boris Johnson's Walkaway Threat Fails

The EU then offered a further extension until October 31 to enable the UK to get its act together. Across the Channel everyone immediately went on vacation! May resigned. The Conservative Party (whose membership had declined from three million in the 1950s to 190,000 by last year) voted Boris Johnson into party leadership and the premiership. He immediately committed to delivering Brexit by the end of October 2019 – "no ifs or buts," "deal or no deal" – and assembled a cabinet of hard-line Brexiteers. He then asked the Queen to prorogue parliament, suspending it for much of the period that would allow for debate of Brexit, but arguing it to be an entirely normal process for a new government. A series of exposés indicated his actions to be part of a well-planned strategy to bypass the House of Commons, and evoked unified resistance across the floor.

There was cogence in the logic that the EU might only become interested in negotiating a new deal if the threat of a no-deal Brexit was felt to be real. However Sir Oliver Letwin of the PM's own party countered that, in terms of proportional pain, the UK was in no position to threaten its way to a deal on its own terms: "[It is like] two sides across a canyon with one shouting that if you don't give us what we want, I will throw myself into the abyss" (BBC News 2019).

The leaked Operation Yellowhammer documents (also lied about, and later obliged by the courts to be released into the public domain) revealed the full extent to which the government expected a no-deal Brexit to affect the supply of foods, fuels, and medicines – as well as steps to counter possible civil unrest. Johnson lost the confidence of a cohort of Tory stalwarts. On the night of September 3 this group joined with a unified opposition to vote against a no-deal Brexit unless agreed to by the House, sabotaging his negotiation strategy. He promptly sacked the "rebels" – producing further internal division. The House then blocked his move to call a general election before October 31.

## The Courts

Opponents to Johnson turned to the courts. Where Scotland's Court of Session found the prorogation of parliament unlawfully intended to curtail debate by the legislature, the High Court of England declared it a political rather than legal matter and dismissed the case – as did the High Court of Northern Ireland in sitting on a hearing as to whether a no-deal Brexit would undermine the Good Friday Agreement. The matter was brought before the Supreme Court in appeal. On September 24, 2019, eleven judges agreed unanimously that the prorogation was unlawful and void. The Supreme Court did not interfere in the political debate per se, but determined that parliament should not be constrained from meeting on a matter of national importance.

## The "End of the Beginning"

On October 17 Johnson achieved a new deal with the EU. It was labeled by one critic "Mrs May's deal with a blond wig on" (Kaonga 2019). It essentially committed to the GBP 39 billion divorce settlement, residence rights, and independence of UK courts that she had already negotiated, but contained a new arrangement regarding Northern Ireland – one rejected earlier as an option for May, and now again by the DUP. The backstop would go. Instead, an imaginary border would exist in the Irish Sea – claiming to allow the free flow of goods and only limited customs stops between Northern Ireland and the Republic of Ireland. But the House refused to ratify the deal, and to be bulldozed into a general election unless it was sure that a no-deal Brexit could not be procedurally slipped in during the process. The EU gave yet another extension until January 31, 2020, though strategically one wonders why it did not make the extension open-ended – simply saying

to the UK: "Come back when you are in shape to negotiate a deal." Unable to achieve ratification of any mandate, the House agreed to a general election on December 12.

*The real negotiations with the EU on the exact details of separation and a new trade deal can now start*

In the face of a very real risk of continuing deadlock and a hung parliament, the two main parties both campaigned on the back of the usual unrealistic promises and mutual accusations – but it was perhaps their approaches to internal division that in the end separated them. Johnson fired his rebel Remainers, announcing that all Tory candidates standing backed Brexit. Corbyn self-destructed, positioning himself as a neutral who would negotiate a deal with the EU and then return to the people for a vote bringing the country together. How he would achieve a mandate – and off what position he would initiate negotiation – remained opaque. His poor defense against allegations of anti-Semitism in the Labour Party, his unrealistic promises of spending in his manifesto, and ongoing open division within the party delivered deathblows to his campaign. The Conservatives won a record number of seats, rising to 365 in number (45 percent of the vote); Labour lost seats, falling to 203 (32 percent of the vote); and, the Liberal Democrats fell to eleven seats (11.5 percent of the vote). This freed Johnson to pursue Brexit on his terms, and the real negotiations with the EU on the exact details of separation and a new trade deal can now start.

## Comment

Negotiation is the lubricant of functional democracies. But problems of mandating, timing, hard positioning, internal division, interparty consultation, and competition both between political parties and the House of Commons and government undermined the tactics of both of the two prime ministers who have attempted to negotiate Brexit thus far. Neither a fumbled single script nor the bulldozing threat of walking away were sufficient to persuade the House of Commons to support the deals on the table. In the end, the major party surviving was the one that dealt most firmly with internal dissidence – though it was very ably assisted by the incoherence and incompetence of its opponent.

Deeper analysis of voting patterns reveals the emphatic win of the Conservatives to have been very much the product of the first-past-the-post electoral system in which a small number of traditional Labour voters "lent" their vote to the opposition in this election. If a proportional representation system distributing parliamentary seats on total votes cast had been in effect the Conservatives would not have achieved a majority: they would won 288 rather than 365 seats; Labour would have won 216 rather than 202; the Liberal Democrats forty-eight instead of twenty-eight seats (The Independent 2019). If only 18–24-year-olds had voted, Labour would have won 544 seats and the Conservatives four; if only 50–64-year-olds had voted, Labour would have won only thirty-two seats to the Conservatives' 575 (Grafton-Green 2019). In short, the sudden surge in support for the Conservatives' "Get Brexit Done" project may be a chimera: the country remains heavily divided.

All the leave factions claim to represent the will of the people. No one can claim to know what that was on the basis of the referendum question. Brexit has exposed the consequences of gaps between direct and indirect forms of democracy; of disconnects between "the people," the legislature, and the executive; and, the risks of national interests falling prey to those of parties themselves in disarray. All for the purpose of what the EU sees as inevitably a "lose-lose" outcome! And while UK nationalism appears to have firmed with the Conservatives' victory, it has also served to fuel Scottish nationalism too – with a huge surge of seats (forty-eight) for the Scottish Nationalist Party, which seeks independence from the UK and to (re)join the EU. Johnson marginalized the DUP of Northern Ireland meanwhile, and much will depend on how his Brexit deal plays out there in reality.

Beyond this, he may find himself negotiating independence for the Scots even as he negotiates independence from the EU. Fears of the UK shrinking to nothing more than an internally divided "little England" have not dissipated. A much bigger question, however, is whether the UK's approach to the EU will initiate a further unraveling of the great post–World War II project of cooperation that it represents, and with it a return to destructive competing nationalisms.

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Paul Meerts

# Training International Negotiators: Past, Present, Prospects

After the Second World War the training of negotiators became slowly but surely fashionable, first in the United States. In the fifties and sixties firms found it useful to have their salesmen and management teams trained in the art of negotiation. In the seventies and eighties universities came on board, striving to give their students more insights into negotiation processes through simulations and short exercises, lectures and conferences. Diplomacy came quite late into play, in the nineties and the new millennium – which is surprising, as negotiation is the main instrument of peaceful conflict resolution between states.

## Diplomatic Academies

Since the early seventies the Austrian Diplomatic Academy and Georgetown University have jointly organized a yearly Conference of Deans and Directors of Diplomatic Academies and Schools of Foreign Service. In the nineties this was renamed the International Forum on Diplomatic Training (IFDT). These meetings gave the author of this contribution to PINPoints insight into the mechanics and the programs of diplomatic schools around the world. They revealed the common practice of asking former ambassadors to talk to young diplomats about their experiences over the course of long careers. The ambassadors came forth with practical examples as well as hints and tips. They did not believe in negotiation training and generalizations. To them, negotiation was situational and could not be studied or trained. Stories could be told. The wisdom of the elder for the younger shared.

This idea – that negotiation is too situational to be analyzed in general terms – has by no means died out over time. A few years ago, the director of the Spanish Escuela Diplomatica assured me that his students were well-prepared for negotiation practice by ex-ambassadors and other high-level speakers who advised them on how to act in an effective way. I said to the ambassador that student diplomats should have the opportunity to experience international negotiations, in order to learn how to best navigate them. It was to no avail. This attitude can be found in certain academic circles as well. One year before the defense of my doctoral dissertation, a former colleague from Leiden University told me that negotiation could not be the subject of academic work. He said that I had two choices: to stop altogether or to choose another subject. Guided by William Zartman, I decided to continue on.

## European Trainers

Compared to the US and Canada, Africa, Asia, Europe, and Latin America were all lagging behind when it came to negotiation. This disadvantage for young diplomats was nevertheless an advantage and opportunity for upcoming European trainers; they had to teach themselves modern negotiation training techniques, but thereby got the chance to work with the untapped markets existing outside North America. Of course, the Americans were already active there – mainly through the Harvard Negotiation Program. But the "Harvard Model" has shortcomings for training diplomats, and in other fields such as hostage negotiations too (Voss 2018). The model is still too rational, too materialistic. In diplomacy it is not only about interests – see Brexit – but very much about emotions, identities, relationships.

As a consequence, the Europeans started to develop their own approaches in institutes like Clingendael and ESSEC/Irené, universities like the College of Europe in Bruges, Belgium, within Ministries of Foreign Affairs and at educational institutions of states and of multilateral organizations like the Ecole national d'administration (ENA) and the United Nations Institute for Training and Research (UNITAR). The market consisted of the aforementioned diplomacy academies, the UN and its member states, as well as the European Union and its need to have diplomats and civil servants trained to handle affairs in Brussels and between member states in effective ways. Especially after the fall of the Iron Curtain and the subsequent enlargement of the EU, the need for negotiation training would become a top priority for the various European institutions.

## IIASA, the Clingendael Institute, and the GIGA

The Clingendael Institute (founded in 1983) stepped into the international market (1989) with seminars on international negotiations held both in The Hague, the Netherlands, and abroad. As noted, at the beginning of the nineties there was an explosion of demand for such offerings. The Dutch Ministry of Foreign Affairs willingly paid for courses for diplomats from all continents, foremost Europe. They still do

indeed, although the focus has since moved from Europe to Asia and Africa, and from negotiation to mediation.

*In March 2017 a network of international negotiation trainers was created, being named the "Program on International Negotiation Training" (POINT) – associated with the PIN group*

At the same time, Clingendael started to compete with other providers of negotiation and mediation courses. It could claim that its training activities were partly based on advanced and innovative research. The Processes of International Negotiation (PIN) Program, founded in 1989 at the International Institute of Applied Systems Analysis (IIASA), was based at Clingendael from 2011 before moving in 2017 to the GIGA German Institute of Global and Area Studies in Hamburg, Germany. This did not hamper the growth of Clingendael's practitioner seminars, as they had by then firmly established themselves in the market.

In March 2017 a network of international negotiation trainers was created, being named the "Program on International Negotiation Training" (POINT) – associated with the PIN group – at its Prague Meeting in Autumn 2018. The POINT group aims to promote cooperation between trainers in cases where institutes need them for teaching modules within projects – often EU-supported ones aiming to support member states in preparing their diplomats and civil servants regarding assuming the presidency of the EU. The supranational body also offers non-EU countries training to enhance the knowledge and skills of their civil service in their dealings with the EU. POINT members have worked together in many instances, for example to prepare the Romanians and Croats for their respective EU presidencies, the Gulf Cooperation Council for its negotiations (internally and externally), and in offering seminars for diplomats from all over the world – as in Montenegro in summer 2019. The names of all twenty-two POINT trainers can be found on the PIN homepage.

## PIN and Negotiation Support

PIN has been indirectly instrumental in training academics, students, diplomats, civil and military servants in international negotiation processes between states. First, this was because PIN – very much through its coordinator Bertram Spector – took the initiative right after the fall of the Iron Curtain regarding training professors from the former socialist countries. This four-day long seminar took place at PIN's home base, the IIASA, situated in a palace in Laxenburg, Austria, originally built for Maria Theresa. This seminar would have an enduring impact on the universities from which the professors came.

Second, PIN's influence was extended through the organization of the "Roadshows" that these individuals attended. They helped them to gain a better understanding of the need to be effective negotiators in the interests of their respective countries. Third, PIN's research helped trainers to raise their level of teaching. It enhanced the quality of workshops instead of focusing merely on quantity, as many private sector trainers do. In business seminars the underlying ambition first and foremost is: make money for trainers and companies. Cases used are often decades old, and often cited endlessly without any significant updating.

POINT members, along with other public sector trainers, seek to be innovative, as well as to accommodate new realities. Politics changes by the day, and therefore constantly demands new, up-to-date analyses and simulations. What we introduced at Clingendael represents very much a balance between content and technique. In my first encounter with the kind of simulations used at the predecessor to Clingendael, namely the Netherlands Society of International Affairs, I had to work with a role-play scenario designed by the late Isaac Lipschits. The focus was entirely on content. Young Dutch diplomats were taught such content through lectures, and had to simulate a North Atlantic Treaty Organization or European Union simulation at the end of their three-month course. They complained as such: that they had to negotiate a final statement prepared for an entire evening, without ever actually being trained in handling negotiation processes.

## Simulation Games and Negotiation Training

This shortcoming was, then, the incentive to look at the skills side of diplomatic negotiation. How to develop this though? The author of this article had been inventing recreational simulation games from the late fifties onward by

that time. But techniques of negotiation were then still lacking. The answer was simple. With Clingendael's creation in the early eighties there were resources now available to invite along famous international business negotiation trainers like Pierre Casse and Raymond Saner, and thereby to study their methodology in action. The next step was to exchange Clingendael-developed simulations for short skill-training exercises. After that, we worked together with them until we could finally deliver negotiation seminars ourselves.

It should be noted however that for many years Clingendael had no interested in negotiation. The work had to be done alongside upholding management duties. Only in the new millennium would the Institute create a negotiation and mediation facility, one that has come into full bloom only in the last few years. Through this facility, many young negotiation trainers have achieved high standards of practice. This facility, and primarily its trainer-in-chief Wilbur Perlot, hosted PIN for some seven years.

What to expect in the coming decade? The market will likely grow further. At the same time, there will be more trainers in it. Competition will become increasingly fierce. The time has long since passed when there was barely a market for public sector trainers, with or without international negotiation training institutions. In this now overcrowded market many opportunities to serve the client will nevertheless continue to present themselves. In itself this growth of negotiation training activities is a very welcome development; it means that insights into negotiation processes are increasingly valued. This is good for the effectiveness of international negotiation and its actors. It strengthens negotiation as an alternative to violence. The use of force may be an easier way to solve a crisis in the short run, but negotiation is always more cost-effective and less damaging to relations in the long one.

## Some Recommendations

It would make sense today to seek a better balance between competition and cooperation among service providers. Trainers and institutions compete and coordinate regarding different projects. In itself this is good, and unavoidable. There should not be cartel creation. However, it would be useful to organize a once-a-year meeting where institutions and trainers come together to discuss the needs of the market and the joint creation of related exercises. In the past the "Biennale de la négociation" in Paris was such an occasion, also attracting researchers.

*It would make sense today to seek a better balance between competition and cooperation among service providers*

POINT offers a similar platform and opportunity. Trainers who sometimes cooperate – but more often compete – share the same network, and look for new occasions on which to deliver training in groups large or small. It would be of great benefit if the institutions who organize international negotiation seminars – for themselves as well as others – met annually, inviting trainers along too. Where to start geographically? London or Paris, Bruges or The Hague, Geneva or Vienna, Berlin or Hamburg?

As for consumers, it would be wise to include process experts in real-time negotiations. This is not only helpful for trainers and researchers – as it spurs them to stick to reality as closely as possible – but would also benefit ministries and international organizations. Process analysts can help to streamline negotiations in such a way that they will become more effective and productive. Until now diplomats have been understandably very hesitant about allowing the participation of process advisors, as topics of foreign policy are normally of a highly secretive nature. "Open covenants openly arrived at" are often a recipe for disaster. But one does not need to involve the media, just certain experts legally obliged to honor codes of confidentiality. In the short run this kind of coaching will be very helpful for practice; in the long one science and education can profit from it as well. It might well be the case that such negotiation and mediation coaching will become as important in advancing knowledge and insight regarding processes between individuals and organizations as today's seminars, workshops, and academic curricula.

■

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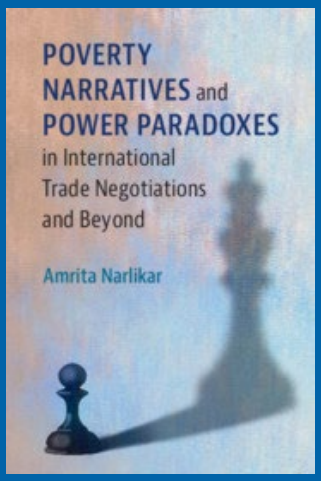
Amrita Narlikar

# Poverty Narratives and Power Paradoxes in International Trade Negotiations and Beyond

**Cambridge University Press 2020, ISBN: 978-1-10840160-9, 220 pages**




In this work, Amrita Narlikar argues that, contrary to common assumption, modern-day politics displays a surprising paradox: poverty – and the powerlessness with which it is associated – has emerged as a political tool and a formidable weapon in international negotiation. The success of poverty narratives, however, means that their use has not been limited to the neediest. Focusing on behaviours and outcomes in a particularly polarizing area of bargaining – international trade – and illustrating wider applications of the argument, Narlikar shows how these narratives have been effectively used. Yet, she also sheds light on how indiscriminate overuse and misuse increasingly run the risk of adverse consequences for the system at large and devastating repercussions for the weakest members of society. Narlikar advances a theory of agency and empowerment by focusing on the lifecycles of narratives and concludes by offering policy-relevant insights on how to construct winning and sustainable narratives.

"Amrita Narlikar is the most insightful scholar of political economy in international trade relations today, with a unique focus on the place of developing countries in them. This volume will become a classic that we will read with profit and pleasure for years to come."
*Jagdish Bhagwati, Columbia University, author of In Defense of Globalization*

"Material interests matter but Amrita Narlikar shows with clarity and insight that economic narratives, the stories we tell, are just as important. This book is both an important methodological intervention with wide application and a significant contribution to understanding the role of poverty in shaping trade policy."
*Martin Daunton, Emeritus Professor of Economic History, University of Cambridge*

"Amrita Narlikar explains how poor countries can turn apparent political disadvantages to their own benefit in international negotiations. With accessible prose and convincing empirical evidence, she demonstrates the importance of seizing systemic opportunities, shaping background narratives, and knowing just how far to push. Poverty Narratives and Power Paradoxes in International Trade Negotiations and Beyond is both an original scholarly analysis and an elegant primer for practitioners."
*Louis W. Pauly, University of Toronto*

"Powerlessness is not all it seems. Amrita Narlikar offers a compelling new take on the uses and abuses of poverty and power in global politics."
*Louise Fawcett, Head of the Department of Politics and International Relations, University of Oxford*

"This book challenges each of us. It surprises, defies, and provokes. In questioning our assumptions about power and powerlessness, it calls for a more lucid and creative posture towards who we are and who they are supposed to be."
*Valérie Rosoux, FNRS – University of Louvain, author of Negotiating Reconciliation in Peacemaking*

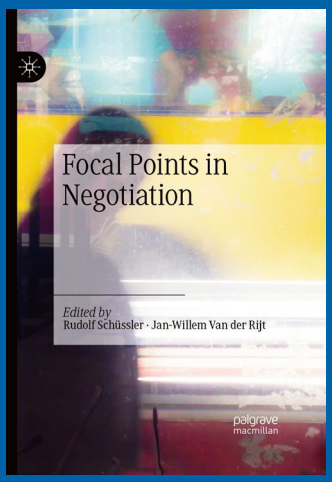
"Narlikar's latest book shows how perceived weakness can be overcome; she conducts careful factual research to produce her findings, in this original, useful, and valuable study."
*I. William Zartman, Jacob Blaustein Distinguished Professor Emeritus, Paus H. Nitze School of Advanced International Studies, Johns Hopkins University, Washington, DC*

BOOK PREVIEW

Rudolf Schuessler and Jan-Willem Van der Rijt (eds)

# Focal Points in Negotiation

**Palgrave Macmillan 2019, ISBN 978-3-030-27900-4, 212 pages**



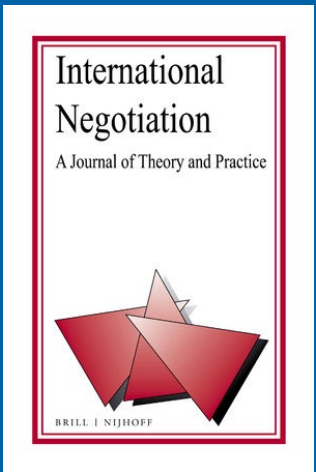

Focal Points in Negotiation is the first work of its kind to analyze the use of focal points beyond the controlled setting of the laboratory or the stylized context of mathematical game theory, in the real world of negotiation. It demonstrates that there are many more ways focal points influence real life situations than the specific, predetermined roles ascribed to them by game theory and rational choice. The book establishes this by identifying the numerous different, often decisive, modes in which focal points function in the various phases of complex negotiations. In doing so, it also demonstrates the necessity of a thorough understanding of focal points for mediators, negotiators, and others. A scholarly work in nature, Focal Points in Negotiation is also suitable for use in the classroom and accessible for a multidisciplinary audience.



BOOK PREVIEW

Journal Preview

# International Negotiation
# A Journal of Theory and Practice

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