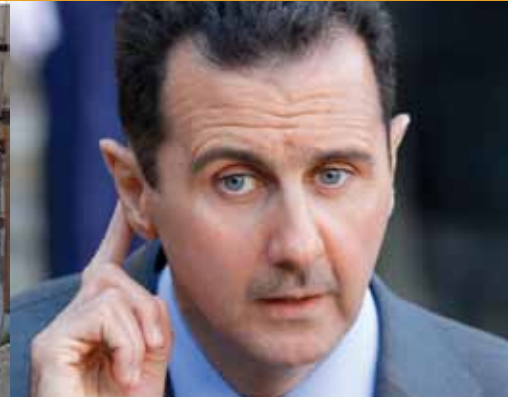


# PIN•Points

Processes of International Negotiation

Network Perspectives 38/2012

*Negotiations in Syria*



*Grounds for Alliance Negotiations*



*Using Tai Chi to Enhance Negotiation Effectiveness*



*Towards an Arms Control Treaty in Cyberspace?*



**Clingendael**

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## EDITORIAL

The tragedy in Syria continues. Thousands are dead already and the fighting will continue in the foreseeable future. The international community is watching and trying to accomplish some framework for negotiations between the fighting parties and failing miserably at it. In part this is due to the differences between the major powers in the UN Security Council, showing what global action against war crimes and human rights violations looks like in the current world order. However, not all the blame should go to the international community.

As I. William Zartman describes in his op-ed *Negotiations* in Syria, there is a mismatch between the demands of the rebel groups (the Assad regime has to go) and that of the regime (we will stay), just as in other Arab Spring countries in the early days of their 'revolution' – see also PINPoints #37 and the update to the PIN Research project *Negotiations* in Transitions at the end of this issue. The difference is of course the manner in which both sides are willing to use violence to support their claims. Negotiations happen when there is a stalemate between the parties. Obviously that stalemate does not exist yet.

Without dismissing reports of atrocities apparently committed by rebel groups, the most problematic is the violence committed by governmental forces causing innocent victims. Such violence makes a negotiated outcome virtually impossible since if President Assad was not considered to be evil by the opposition before, he surely is now. If the solution is some sort of power sharing agreement, how can you share power with evil? This question brings the Syrian case from the current PIN research project on the Arab Spring to

the upcoming project *Reconciliation* as preventive negotiation, which starts this November during a conference at the Nelson Mandela Metropolitan University (see a description of the conference at the end of this PINPoints edition, co-authored by Mark Anstey and Valerie Rosoux).

The first of several conceptual articles is I. William Zartman's Concepts: Grounds for alliance negotiations. Zartman identifies four bases of alliances: geopolitical – the checkerboard, securitarian – the neighborhood, ideopolitical – the club and power political – the mechanism. Applying the logic and knowledge of Zartman, brings us to another headline making negotiation process: The EU and the Euro crisis. The EU fits the ideopolitical pattern and as Zartman writes: "In sum, ideopolitical clubs are always troubled by internal tensions, in addition to the geopolitical strains, and their cohesion depends on the skill of the leaders in meeting these tensions and strains (...)".

Mikhail Troitskiy discusses in his article *Fake* actors in political negotiation the issue of created actors who participate in the political process, but who are in reality a cover for a paymaster with other interests. Although the article is conceptual, it is not too difficult to identify fake actors in political processes in relatively new democratic countries. But even in the US accusations of fake actors exists, with some Republicans convinced that presidential candidate Gary Johnson of the Libertarian Party is getting secret support from Democrats to increase the changes for President Barack Obama in some of the hotly contested swing states.

Gunnar Sjöstedt, – The rule of crisis in negotiation on risks: for good or bad? – writes about the role of crisis in multilateral negotiations processes on risks. He uses the examples of acid rain and nuclear safety as negotiations in deadlock as long as they were about risks. The moment the risk became a crisis (forests disappearing in Germany and Chernobyl) the negotiations moved quickly to an agreement. Since it is probably better to reach agreement before the crisis, Sjöstedt calls for more attention to managing risk perceptions and risk communication in relevant multilateral negotiations. Of a completely different conceptual nature is the article by Alisher Faizullaev *Using tai Chi to enhance negotiation effectiveness*. He comes with the Tai Chi Pushing Hands style of negotiation, which entails the following concepts: Mindfulness, Nonresistance, Reflectiveness, Rooting, Balance, Mobility and Modesty.

The conceptual articles are followed by three more applied articles. Mordechai Melamud goes boldly where few have gone before when he explores *Cyberspace – The new frontier: towards an arms control treaty in cyberspace?* The relevance of his piece was underlined while wrapping up this edition of the PINPoints mid October 2012 with the US Defense Secretary Leon Panetta warning about a cyber-Pearl Harbor. Paul Meerts asks attention for national negotiation cultures by describing the typical behavior of Dutch negotiators. Meerts offers four main sets of behavioral characteristics of Dutch diplomats and civil servants: direct and inflexible, oriented more towards outcomes than process, more towards issues than people and more towards cooperation than competition. Feike Fliervoet, Christine Grant, Gleb Mytko and Nick



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## COLOPHON

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

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➔ Peulen contribute *The crisis negotiator: reflections on an interview with Michel Marie*. Marie was partly trained in the FBI Academy for crisis negotiators and was involved as a negotiator in more than 250 crisis situations. In the article the authors discuss, among many other things, the differences in the American and European approach to crisis negotiations.

The last article before the aforementioned pieces on developments in PIN research projects and PINNews is a book review by Rudolf Schüssler *On Avishai Margalit's "On compromise and rotten compromises"*. He discusses the book and comes with fundamental criticism. It is problematic that Margalit's rotten compromises all focus on micromorality instead of the macromorality of governmental policies. On a personal basis a compromise might be rotten, while at the same time being justifiable from the bigger picture, making Margalit's strategy to rotten compromises basically irrelevant.

The articles in this issue of the PIN•Points differ widely in scope and content. What they share is asking tough questions to enhance the understanding of tense and difficult negotiation situations around the world. We hope that this set of articles challenges, inspires and triggers you. Your views and comments are most welcome, so do not hesitate to contact us.



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## NEGOTIATIONS IN SYRIA

All good people would like to see negotiations as a way out of the horrible massacres going on at the hands of both sides in Syria. But the first question to ask before embarking on such a quest is where is negotiation leading? The late Christophe Dupont raised the question of negotiability (PINPoints 14: 2-4), and indicated that the current paradigm under which negotiation and its analysis operates is that there is an acceptable point somewhere between two opposing positions and negotiation's purpose is to find it (Dupont 2006). The opening question in regard to Syria then is whether there is such a point.

Similar negotiations were undertaken in all the countries of the Arab Spring *intifadat*. In Tunisia and Egypt they quickly ran aground, as the demands of the street broadened from the resignation of the authoritarian ruler to the elimination of his political party and core members of his team. In Libya, the government of Qaddafi called for negotiations to gain time; the rebels refused. In Yemen, on the other hand, negotiations took months and ended in the resignation and sidelining of Ali Saleh in favor of his vice president, his son and nephew still in charge of military units awaiting security sector reform, and his rivals-various al-Ahmars-still in the political system. In sum, elsewhere, negotiations were refused when a total change of the system was demanded (and even then were not always successful), and when they took place, a pacting system was the result involving elements of the Old Order as an active if reduced part of the New. So the first question, reformulated, is whether such a hybrid system is possible in Syria.

Negotiations, as we know, take place when both parties feel stalemated in their attempts to win and see a negotiated outcome preferable to the uncomfortable impasse. When they both feel they are losing and that half a loaf is better than no loaf at all, sincere negotiation can take place. Conversely, when parties still feel they can win, when sunk costs and earned revenge make a changed course even more costly than the current one, and when they feel that making more effort is still possible and preferable to a shared outcome with their opponents, negotiations are just word plays, time buys, or blame traps.

A number of possible outcomes have been mooted and even broached. The Yemeni or Kofi Anan Solution would remove Bashar al-Assad and bring the various parties in a power-sharing arrangement. In late July, the Arab League promised al-Assad "safe exit" and Tunisia offered him asylum. At the same time, the Syrian National Council announced willingness to accept a transition arrangement headed by a member of the al-Assad regime if al-Assad himself resigns, but the FSA, a conglomerate category rather than a single organization, refused, just as it refused during the Annan mediation to cease fire until the government did so. A "Reverse Yemeni Solution" would keep al-Assad in office but remove his family team, recalling the "figure-head presidency" that was allocated to Mobutu Sese Seko in Zaire, from which he emasculated his prime minister. Power-sharing is frequently an oxymoron, especially following a bloody all-out civil war, and would require a faction that long held total power to take a subordinate role.



The power-sharing experiences of Zaire, Zimbabwe, Ivory Coast, Iraq, and Ukraine tell that when the trainer and the tiger go out together, the tiger has the trainer in for lunch.

All evidence shows that the regime does not feel itself to be losing or even stalemated, that it is willing to pile on further massacres, that it fears a vengeful backlash if it loses control of total power, and that it coopts, blackmails and controls everyone who "shares power" with it. On the other side, the National Coordinating Body for Democratic Change (NCB) has been open to a negotiated outcome while the Syrian National Council (SNC) was hesitant, and the Free Syrian Army (FSA) is (or are, because of its pluralist nature) conducting open warfare. Negotiation in these conditions is dead end, and the Kofi Annan initiative was pointless, an effort carried for the moral reason of "having tried," but hopeless from the start. Its successor, the initiative of Lakhdar Brahimi, a particularly qualified diplomat can succeed only if success is defined as the removal of the Assad regime, now hardened into a rapacious militia that has sloughed off its moderate and negotiable elements.

Two further considerations for negotiating with the regime are relevant: Neither side is monolithic, and time (and the conflict) does not stand still. The pluralism of the rebels has already been noted. The Assad phalanx still stands pretty solid as of the beginning of August, but individual chips are falling off the block. At some time, real cracks will appear; if a piece of the current regime is big enough to betray the core and take on negotiations for power-sharing itself, negotiation becomes a crucial and real option, and one that is doubtless being probed even now. A similar situation occurs if Assad himself is killed; a bid for negotiations with the remaining leadership or a part of it will be the immediate reaction.

Thus, what is not possible at one point becomes the leading action later. That shift may become apparent as a sharp change, but it need be prepared. Without knowing any details, it is certain that continual feelers are being extended "for the moment when..." as well as for conditions-such as chips and splits-that would make that moment emerge. As we have said (Zartman & Faure 2012) "talking is not negotiating but talking leads to negotiating."

Beyond the negotiations between the sides, two other dimensions are relevant. Now and whenever power changes hands, the matter of negotiations among the rebels becomes of crucial importance, overshadowing all other concerns. The extremely fractured nature of the *muntafadin* and the prospect of turning their weapons on each other (already taking place) as they settle past scores and jostle for future positions makes it imperative for any and everyone to work to foster internal negotiations. Contacts and pressures from the Friends of Syria, review and account sessions for the factional leaders by the Friends, selective rewards for reconciling, a politically discriminating aid and reconstruction program from the International Financial Institutions (IFIs), a well-respected Special Representative of the UN Secretary-General (SRSG) with a strong mandate and an appropriate staff (including military advisors), active monitoring by the US Security Council, a peacekeeping force with strong rules of engagement under chapter VII to monitor order and protect minorities, and other measures will be needed. Yet they must also remember that too heavy a hand gets bitten, and the current mood among

the rebels in Syria is one of cynicism and anger toward the outside world for not providing enough practical support. Helpful monitoring will be necessary and unwelcome.

The broadest point is that a concerted international attention among real Friends will be necessary for a while. The stakes in Syria are so enormously important that the war for Syria will not end with the fall of the Assad regime. Inside, the various Islamist groups are trying to take control with support from Iran and with no pressures for the kind of moderation that evolves in Tunisia and Egypt. Beyond the borders, Syria is the microcosm of the struggle, put manicheanly, between the forces of the West and Arab (Sunni) moderates and those of Iran, Iraq, Russia, China and friends. It is the

21st century Battle of Lepanto, 441 years later.

Yet it is important to envisage a "congress" of interested parties meeting to stabilize the situation in the region. Such "teams of rivals" have been important in handling the situation in Southeast Asia (Cambodia) in the 1990s and North Asia (Korea) in the 2000s, as well as Belgium in the 1830s and others, and a similar effort is necessary eventually in Central Asia (Afghanistan) in the 2010s (Hampson & Zartman 2012, chap 9). But the general inclusiveness that characterized this "congress" is bedeviled in the Levant by such potential participants as Iran (that Annan wanted to invite) and Israel. At first cut, the latter belongs, the former does not. But if a Mideast "congress" can be used to bring an Iranian

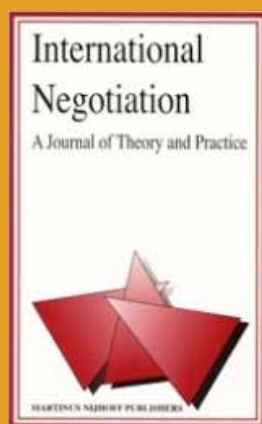
government to cooperative relations and to reward moderation, then (but only then, as a condition) Iran could come. The same reasoning applied to Israel. The result would be bumpy but of historic importance. Then there is China and Russia. Again, the latter belongs, the former does not. As noted earlier in *PINPoints* (33:13-16), the invitation list determines the outcome. This final circle of negotiations demands a further analysis and will be fascinating.

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## INTERNATIONAL NEGOTIATION: A JOURNAL OF THEORY AND PRACTICE

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

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I. WILLIAM ZARTMAN

## CONCEPTS: GROUNDS FOR ALLIANCE NEGOTIATIONS



The major issue in the analysis of alliances concerns their durability. The debate is generally led by the assumption-based arguments of the Realists and the Liberals, the former holding that alliance are only temporary expedients, subject to selfish defection and free-riding, whereas the latter believing that reciprocity and the shadow of the future make it evident to states that long term commitments and institutionalized regimes are in their interest. The debate could be more productive if it would move away from its assumptions and examine the different bases of alliances and their individual durability, as this essay seeks to do and as is necessary if the matter of durability is to be constructively addressed by negotiators. Four bases for alliance will be examined – geopolitical, securitarian, ideopolitical, and power.<sup>1</sup>

Alliances are formalized cooperation agreements negotiated for the purpose of enhancing security. Thus they constitute specific mutual en-

gagements that fall within the general area of cooperation (Walt 1987; Zartman 2006), but of a specific type. They refer to the security of the contracting states rather than to other, welfare values, where the term 'coalition' is more frequently used (Dupont 2006; Crump & Zartman 2003). Alliances may begin with or even involve non-written agreements falling short of a formal contract, but are then so designated, as 'informal alliances'.<sup>2</sup>

### **GEOPOLITICAL – THE CHECKERBOARD**

The basic or primitive pattern of friendship and enmity among states was captured in the fourth century BC by the Indian statesman and counselor, Kautilya (1960, 289; Modelski 1964), who stated, "My neighbor is my enemy; my neighbor's neighbor is my friend," giving a geographical causal basis to the more common

saying, "My enemy's enemy is my friend." The spatial relationship is clear, and anyone who has a house neighbor knows its verity on a personal level. On the state level, the verity is illustrated in many places: by the checkerboard alliance systems which preceded World Wars I and II, by the West African pattern of alliances immediately following independence in the late 1950s and 1960s, by the North African alliances in the 1970s, and by the South Asian pattern of relations in the last decades of the 1900s, among others (Zartman 1978).

The pattern is termed primitive because it represents a basic reflex. It is the initial pattern into which states fall after independence, as they seek to defend their borders and identity against the most immediate threat, and therefore seek formal coopera-

<sup>1</sup> It could be called something like kinetopolitical or dynapolitical, in the same spirit as the first and third, but that would be too precious.

<sup>2</sup> While this essay in international politics will refer to parties as states, much of the discussion can be applied to other interparty cooperation, with appropriate name changes.

tion with others in the same situation facing the same threat. It is a basic condition, formalized into an alliance on occasion of heightened fears, and as such is an ideal setting for the security dilemma, where formalization only heightened reciprocal fears and countermeasures. It is therefore the pattern to be overcome by negotiations based on other sources of alliances, and perhaps for that reason has received much less attention than more deliberate alliance patterns.

Unfortunately for the neatness of the syllogism, states are not square and so the checkerboard image is not an accurate geographic representation of boundaries and contiguities; states that are neighbors are often also neighbors' neighbors, and so are forced to decide which part of the syllogism will govern their actions.

Negotiation in this phase is limited by the very nature of the pattern, and yet Kautilya gives a way out: my neighbor's neighbor. Parties seeking to strengthen their position against their next-door neighbor reach out across it to work out terms of cooperation, motivated by a common external enemy neighbor. The process is strained, since it depends only on the strength of the primitive opposition, and when parties seek other common interests to buttress their cooperation, they are inhibited by separate identities and non-contiguity. On the other hand, the most powerful reason for an alliance is a common enemy external to the alliance, and so as long as the common enmity remains, the parties have something to implement through negotiation. The negotiation mechanisms are concession and compensation if elements for trade off are available. These conditions push them into more complex patterns, above all exploring what they have in common beyond the enemy, in other words, what are they for rather than what are they against.

### **SECURITARIAN – THE NEIGHBORHOOD**

The checkerboard is as divisive as it is unifying. There are all sorts of reasons why it may be counterproductive. The common neighbor may in fact pose few problems; border treaties and fence-mending can take care of the initial grievances. It may be that internal similarities (what we are for or simply what we are) outweigh the problems of contiguity. Adding to these, it may be that the greatest difference or problem is external to both neighbors and neighbors' neighbors. The spirit is captured in the neighborhood block association, where neighbors overcome their fence problems by joining in an internally cooperative and externally defensive organization. The basis of the neighborhood alliance is common interest in resolving their internal challenges, often shared, by either ad hoc cooperation or by the development of common rules, norms and practices. Uncooperative neighbors are subject to joint pressures and, extremis, ostracism, although they stick as a sore, unable to be removed from the neighborhood. This is the embryonic collective security alliance, where the deviant (enemy) is internal to the group, not external. It is interesting that this model comes from a very basic alliance pattern.

The awareness of common interest is enhanced by its natural corollary, the sense of a common identity. Studies of evolutionary cooperation show that kinship is the strongest source of common action; although such studies are necessarily focused on biological kinship, the social lesson by extension lies in the notion of imagined kinship, the tendency to create ties of commonality of identity to support cooperation (Zartman 2006). Alliance against a common enemy is necessarily 'we' against 'them,' and the 'we' aspect is as important to the

dynamic as the 'against' element. Neighborhood alliances are strengthened by block parties, building on notions of how 'our block is different, and we make that difference.' The functional cooperation is buttressed affective or identitarian solidarity.

Negotiations in this pattern are far more complex and productive because they have two dimensions to treat – inward cooperation and problem-solving, and outward defense. There are many advantages: One is the common interest in problem-solving, lest next-door antagonisms inhibit the common need for solutions and norms. Another is the opportunity for trade-offs, one of the basic mechanisms of negotiation. A third is the opportunity to forge a common identity, an imagined kinship. This in turn lends itself to construction, another basic mechanism of negotiation in which the issues are reframed into a common issue of joint interest. The subjects of negotiation are first procedural ('when and how often do we meet?') but for substantive purposes: what rules and practices do we establish to deal with common problems? Then common affective elements can be negotiated and created.



### **IDEOPOLITICAL – THE CLUB**

It is only a small step from the Neighborhood to the Club, where it is not merely shared identity but a meaningful principle or value that gives cohesion. In the name of some prin-



ciple, neighbors are brought together in defense of the common neighborhood, based on values shared by all, against an external enemy whose nature and values are more threatening than the primitive enmities of the people next door. The principle needs to be powerful, however, in order to overcome these primitive enmities and turn neighbors into cooperators, both against the common threat of the external enemy and for the positive solution of neighborly problems. Thus, ideological alliances need a strong effort to provide a *casus foederis* and to maintain solidarity against the pressure of geopolitical division.

There are several types of ideopolitical alliances, relating to the nature of the principle and the relation of the parties within the alliance. One sub-typology depends on whether the principle is innate or created, or in more a familiar conceptualization, ascriptive or achievemental. On one hand, the ideology can be based on common characteristics of the neighborhood, inherent on the states' being there, such as broader nationalism or regionalism, religion, race or ethnicity, broadly understood as applied to the collectivity of states. Arab Unity, Pan-Africanism, European identity, and the Spirit of ASEAN (the Association of South East Asian Nations) are all such expressions giving rise to various forms of alliance, such as the Arab League, the Organization of African States and the African Union, the Council of Europe and the (still-born) European Defense Community, and ASEAN itself. On the other hand lie created or achievemental ideologies, designed to define the 'true essence' of the neighborhood, as found among progressive or socialist Arab states, states of the 'second African liberation,' or the inner core of 'two-speed' European construction, or the Warsaw Pact of Soviet Eastern Europe.

The conflict between the two type was well expressed by Egypt's Gamal Abdul Nasser when (often) he talked of Unity of Ranks vs Unity of Forces, referring to Arab Unity vs progressive Arab states (expressing his frustration with the conservative monarchies, albeit Arab) (Kerr 1967). These two subtypes of ideological alliance are frequently in conflict, with the latter expressing the impatience of more dynamic or radical states to go faster in the intended direction. Unity of Forces or the achievemental alliance weakens the unity of the larger, ascriptive neighborhood, which the Forces would claim was already weakened by the foot-dragging of the slow-goers or the deviants from the True Nature. The conflict need not be between radicals and conservatives but merely between those more interested in action and those more cautious in their measures. The debate is reflected in the dispute over a 'two-speed Europe' just as much as in the strains between Nasser's two types of Unity. Because of this inherent strain, efforts are often made to bridge the two types, by rallying the ascriptive neighborhood along the lines of values found to be contained with and common to membership. Thus it is difficult to place Atlantic cooperation, and specifically the North Atlantic Treaty Organization (NATO) exclusively in one sub-type or the other; NATO is a universal organization of its region, but it also claims identifying values applied to all members, so that the Ranks and the Forces are presumptively coincident. The effort to reduce the strains of competition between the two types introduces strains of its own, as core or activist subgroups are constrained from breaking away and the universal membership is prodded to live up to the common ideological principles.

The other sub-typology within ideological clubs concerns the internal

structure of the alliance, whether symmetrical/egalitarian or asymmetrical/hegemonic, with an intermediate, more complex asymmetric category where there are three tiers of a stronger state, several second-level members, and a larger group of smaller members, or regional subgroups, possibly with structures of their own. Strictly symmetrical structures are rare, even if there is an attempt to create them artificially, such as by giving each member one vote; indeed, their natural rarity is a major reason for their artificial creation (Zartman & Rubin 2000). That ideal state is cause enough for tensions within the alliance, for, as Aristotle ((1948/-330, p 242) has noted, "inferiors are [motivated] to become equals, and equals are [motivated] to become superiors." Most relations are asymmetrical in some way, and ideological alliances tend to be arrayed markedly asymmetrically, around a hegemonic member. In addition to its power, measured militarily, economically, demographically, politically, or some other way, the hegemonic member is likely to be the major repository of the common ideological principle, whether it be Arabism, Africanism, Communism, Atlanticism, or some other identifying and rallying value. Such imbalance is the root of leadership, but it is also the source of contests. Capture the Flag is a game played within any ideological alliance; its intensity increases as the external threat diminishes and is submerged as the external threat rises. In between, when the threat is present but not so strong as to be overriding, the alliance is often ridden by the Tactical Question – whether to use tough or soft measures, taking the alliance back to the tension between Ranks and Forces (Zartman & Alfredson 2010).

In sum, ideological clubs are always troubled by internal tensions, in ad-

dition to the geopolitical strains, and their cohesion depends on the skill of the leaders in meeting these tensions and strains and on the strength of the external enemy as a *casus foederis*. These relations, and sometimes the nature of the ideological coin, are the subject of continual negotiations. Structural negotiations come back on themselves, since they are based on structure and they seek to reform or reassert that structure. One of the great imponderable elements of negotiation is relationship, a given in any negotiation and an important element that the parties can use against each other: 'We need to strengthen our relationship' vs 'You wouldn't want to call our relationship into question, would you?'

Converting an avowedly defensive alliance into a more peacetime venture, still constructed around the common identifying values, is a massive challenge, as the architects of NATO know. There is no way of telling how long an ideological club will hang together, since the internal tensions work not only to hold it together but also to tear it apart. The point of this discussion is to bring out the fact that durability in this case does not depend merely on the second factor, the strength of the external threat, but also – and perhaps more importantly – on the play out of the various internal tensions and strains, all of which are the meat if not the gristle of negotiation.

#### **POWER POLITICAL – THE MECHANISM**

In this, the fourth source of alliances, the more traditional understanding of the dynamic comes into play. Power in a dynamic sense is the source of alliances in three opposite patterns – balancing (Gulick 1955, Waltz 1979), bandwagoning (Walt 1987), and blackballing (Finkelstein & Finkelstein 1966). So much has been written

about this source of alliance that it is not necessary to develop the subject in great detail. The dynamics here are termed mechanisms to distinguish from the looser use of 'balance of power' to indicate merely a distribution of power or systemic structure. In all three mechanisms, other states react to a power dynamic but in opposite ways. In a balancing or collective defense alliance, states aggregate in a defensive alliance to keep a rising power in check for their own security, uniting against the common threat (no matter where it comes from geographically). In a bandwagoning alliance, states cohere to the rising power in a protective alliance for their individual security. In a blackballing or collective security alliance, states unite against a member of their community that has broken the rules; the mechanism differs from the balance of power in that the enemy is external to the community and usually specifically identified ahead of time in the first, whereas it is internal to the community of states and not specifically indicated in the alliance agreement. In all three mechanisms, neither geographical location nor ideological preference has any direct role.

The innate tendency of states (and other social entities) to prefer independent individual action, unrestrained by the need to compromise with others' demands, means that power alliances will tend to last only as long as the threat is present, a point that is pleasing to Realists but that undermines the whole mechanism of collective security so dear to the Liberals. The counter-tendency toward cooperation basic to Liberal thinking appears to be less strong in security than in welfare matters, rendering collective security alliances somewhat of a rarity; collective security alliances also suffer from the characteristic need to agree to shun any member of the community that

misbehaves rather than focusing on a pre-identified external enemy. Of course, both balancing and bandwagoning alliances could become a habit, whose durability would depend on either the persistence of the external threat or the success of the leaders and other parties in giving it an ideopolitical justification (the Club). Thus, out of the Allies in the Napoleonic Wars grew the Holy Alliance, whereas out of the Allies in World War II grew the United Nations. The Allies in the latter War were a balance of power alliance turned ideopolitical; the Axis a bandwagon, also turned ideopolitical (or so we like to think). Collective security alliances such as the UN and regional organizations (OAS, AU, LAS) have worked on occasion but more frequently have broken down into friends vs enemies of the offending states, or a third category of timid states unwilling to carry out their obligations.

Negotiating power alliances makes for different trade-offs (Dupont, 1994; Hampson, 1995; Wagner, 2008 Ives, 2003; Narlikar et Odell, 2006 Singh, 2008; Odell, 2000, 2006; Zartman 2012). Balancing involves the same sort of calculations and tactics as in Neighborhoods and Clubs – cooperation that subordinates diverse particular interests in the name of uniting against a common enemy. This requires continual negotiations in two levels – to sustain the cooperation against the uniting enemy, and to deal with the diverse interests that threaten to disrupt the cooperation. It resembles the small power negotiations in multilateral cooperation. Bandwagoning involves negotiations with the dominant power, trading off fealty for security, an exercise of unequals in which both nonetheless have an interest at stake.

## CONCLUSIONS – SOURCES AND DURABILITY

The purpose of this expanded typology of alliances has been, first, to draw attention to different sources for alliance beyond those usually considered, notably balance of power and its opposite, bandwagoning. In so doing, second, it has been possible to move away from the assumption-based debate between Realists and Liberals over alliance durability by examining more closely the relation between source and outcome. Third, a focus on different types of alliance helps identify different types of negotiations that are called for and their subjects and challenges, and different elements that are available both for trade-offs and for the construction of reframing and cohesion.

Geopolitical sources of alliance, bringing together neighbors' neighbors, are remarkably durable and mischievous, not only providing the primitive alliance reflex but also popping up repeatedly to disturb other patterns. Ideopolitical alliances are often established for the very purpose of overcoming geopolitical enmities, and not always very successfully. Yet ideopolitical sources, whether ascriptive or achievemental, provide a durable base of alliance, at the cost of some careful nurturing. They too, in turn, fall prey to internal strains and tensions; when the two ideopolitical sources – Ranks and Forces – can be combined, they can be quite robust, but they can also work against each other and undermine the alliance cohesion. Power-based alliances come in three types, depending on the strategy adopted toward a rising hegemon and its position in regard to the proto-alliance community. Balancing and bandwagoning are conceived as short-term reactions that relax when the threat diminishes, but there is a natural tendency to make them last even when the threat is

gone (lest it appear again), by turning them into ideopolitical alliances. Blackballing is conceived as taking place within a long-term agreement, although it is assumed to be effective in the short run with no need to turn ideopolitical to last. Yet both assumptions – which go back to the Liberal side of the debate – are often hard to obtain in reality; states are loath to engage wholeheartedly in an agreement that does not identify the enemy beforehand, and once they take their action, it tends to lead to lasting enmity. In a word, alliance durability depends on the source, and is far more complex in reality than the debate in international relations theory would lead us to believe – as is often the case.

Yet if durability is the focus – the assumption with which this essay began – then negotiators will want to create a basis for cooperation that is broader and more far reaching than momentary interests. One such source is the common enemy, but that is a shortsighted and negative interest, and one that is ultimately dependent on the enemy itself, who may adopt a friendly policy and break up the alliance. More positive and durable is the notion of an imagined kinship, where the very identity of the partners forms a higher goal for them to nurture and defend. The eventual result is a security community, where war is no longer an admissible type of relation between members. Such an overarching identity then allows the parties to negotiate problems and issues of dispute among them, held together by the relationship that imposes limits on their pursuit of antagonistic interests (back to the Neighborhood). The evolution of NATO, the alliance of the Atlantic Community, during and after the Cold War, provides an eloquent example.

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MIKHAIL TROITSKIY

## FAKE ACTORS IN POLITICAL NEGOTIATION

When analyzing negotiation, we are used to taking the parties involved for what they are. But can negotiating parties be disingenuous, pretend to be what they are not? Can there be parties who present themselves during the negotiations as adversaries of those whom they are seeking to help?

Usually, you make clear the outcome you favor in a negotiation. Can you say and act as if you were supporting a certain outcome or an actor in negotiation, but in reality work to undermine the efforts of the parties who strive to achieve this outcome?

This can happen in almost any negotiation. For example, a negotiating party can disguise as someone close by political views to its actual opponent in order to build trust with it (for example, by proposing a coalition) and try to get access to inside information. In a business negotiation, a fake intermediary can convince one of its customers to accept the terms of a deal skewed in favor of another customer (who has promised to reward the intermediary for that). However, the faking of identity in these cases is a banal act of direct deception, akin to espionage, which can only be used once. Such tactical use of fake identity can be successful in principle, but is trivial from the point of view of negotiation theory.

It is more exciting to consider an environment in which the faking of identity can be strategic, that is, can allow achieving a number of goals over an extended period of time. This can happen in a multilateral negotiation that unfolds on two levels and pits two or more groups of actors

against one another. In such negotiation, these groups not only seek to achieve the best possible outcome vis-à-vis one another, but also to rally support for this outcome on the part of a broader constituency that is not directly involved in the negotiation. Therefore, the utility of a certain outcome to a particular negotiating party is defined not only by this party's own distribution of preferences, but also by the extent of support given to the outcome by this party's constituency.

A negotiation in which faking identity would make sense has to be sufficiently antagonistic (but not necessarily zero-sum) to make a distinction between parties or groups of parties ("us" versus "them") clear enough to be "fakeable" and to warrant faking. These conditions are met in the domestic political arena where political parties negotiate among themselves on everything – from budget earmarks to distribution of posts in the cabinet – while seeking to broaden their support among voters. In such negotiations, the role of fake parties becomes non-trivial and important to analyze.

This essay is an attempt to conceptualize the phenomenon of identity faking in domestic political negotiations and to identify the rationales for, forms and methods of as well as challenges to faking a political identity.

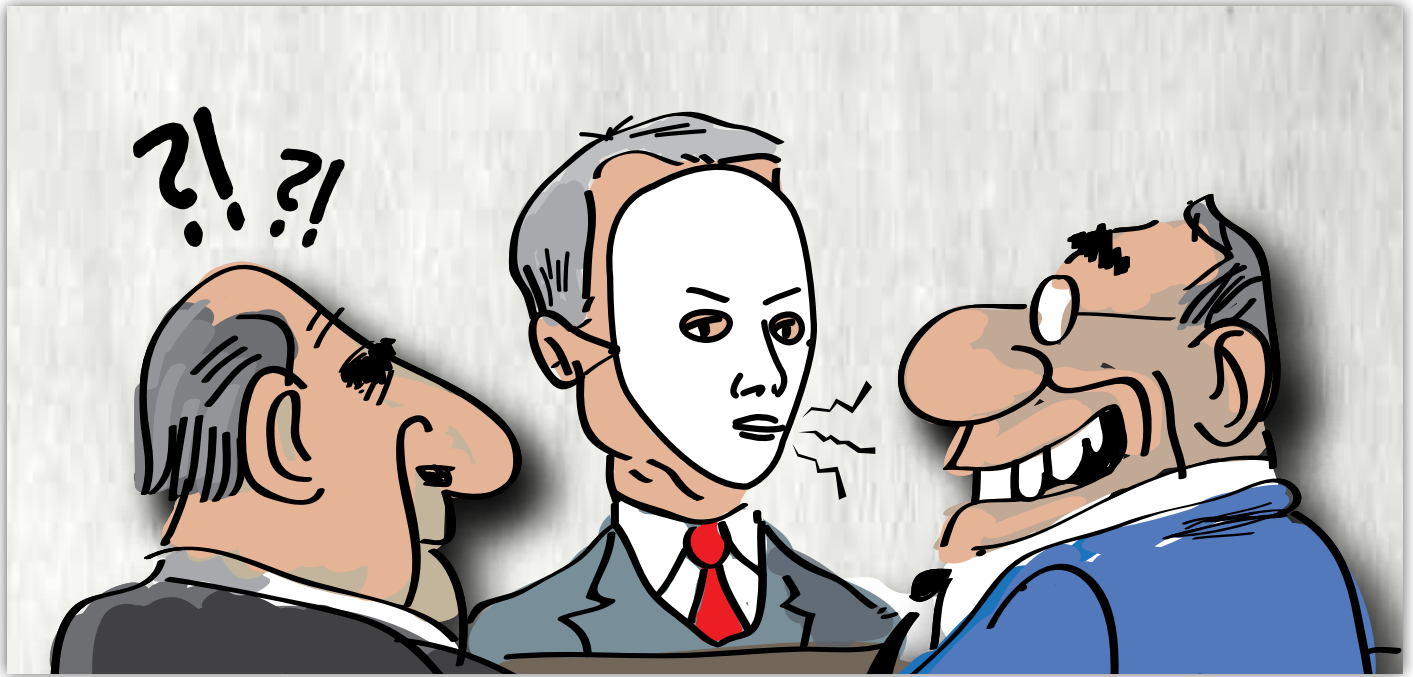
### DEFINING A FAKE ACTOR

To give a formal definition, a negotiating party is fake when it seeks to be recognized as belonging to one side (group of negotiating parties), while in reality acting on behalf of another side. The concept of a deliberately faked identity requires the notion of

a "paymaster" – the side (i.e. political force or an individual politician) that serves its own interests by clandestinely establishing and introducing a fake party into negotiations. The paymaster is usually an actor that has sufficient resources to launch a fake project, embed it into the political milieu, and shepherd the fake party over a sustained period of its participation in negotiations.

"Paymaster" could also be called "spymaster." Such term points to an analogy between forging the identity of a political actor and the art of spying – in this case, "planting a mole." Political forgery can be compared with acts of sabotage undertaken by spies – individuals or front organizations with fake identity. However, there is considerable difference in the methods used by fake political actors and undercover spies to win trust among the necessary audience. Fake political actors enjoy more freedom of maneuver and flexibility – they can even commit mistakes provided these do not result in revealing the nature of their mission. Requirements are much more rigid for "plants" – individual spies with disguised identity.

The faking of a political actor is also different from buying political support. A political party or individual politician can be offered payments or other benefits in exchange for a particular service – lobbying or voting on behalf of the "sponsor." However, such deals do not involve identity faking. Moreover, it only concerns the behavior of the "bribed" political actor at the level where it interacts with other politicians or parties. The logic of a political service for a fee is that



the position of the “bribed” actor in relation to its voters can be jeopardized as a result of the deal. In contrast to that, the task of a fake political actor is to target the voting public rather than capitalize on its support.

The first goal of a fake party is to gain trust and credibility within the political camp where such actor is “planted.” In order to do that, a fake actor needs to demonstrate that it shares some of the ideas of that camp. The fake actor needs to choose these shared ideas carefully, so as to enjoy enough credibility while at the same time being able to implement the paymaster’s instructions.

### **WHY FAKE A POLITICAL IDENTITY?**

Why would one choose to fake identity in a political negotiation? At least four rationales are imaginable.

First, a fake party can be created and promoted within a political system in order to “test the ground,” estimate public attitudes towards particular policies or proposals without undertaking a commitment on the part of the paymaster. How much support alternative ideas would have, how these

ideas match up to those espoused by the paymaster of the fake actor? In a closed political system where free avenues of expression are few and the tradition of public discussion is limited, receiving feedback from the public may require imitation of debate. For example, a president in an authoritarian or semi-authoritarian system, where free media are absent or have a limited reach, may choose to initiate a political party or movement whose platform would be built around ideas that the president or his political allies would like to test. Such ideas can include, for instance, the scrapping of social welfare that has become too costly to sustain. In this case, a fake party would be allowed to engage the president’s opponents on a tricky issue of reducing social benefits. The president would then be able to consider the public reaction and decide whether his real supporters within the political system should broach this subject too. Alternatively, the president may split responsibility for unpopular measures with the fake party while allowing his supporters to even criticize the fake party for its unpopular proposal.

Second, a paymaster may charge a fake actor with luring second-level

constituencies (voters) away from the adversary, undermining or dissipating public support for the adversary. If identity is faked credibly, such political actor can effectively prevent mobilization of or collective action by the opposing camp. Having secured a position within the political system, a fake actor can begin making calls on its supporters. These calls and political messages need not disagree strongly with those issued by genuine actors in the field to which the fake actor was introduced. Indeed, the paymaster may only wish to see a small adjustment in the behavior and/or preferences of the public that supports its opponent. A fake actor may be capable of ensuring such adjustment without risking exposure. Having rallied enough support, a fake political movement can begin negotiating coalitions with other parties thereby undermining the unity of the whole wing of forces to which the fake movement is planted.

Third, a fake actor’s mission may include propagating certain ideas in the political arena. For example, a fake liberal party can help to legitimize repressive measures the government may wish to undertake against the

opposition. Criticizing political allies (in reality, the paymaster's opponents) or stimulating divisive debates among them are other obvious courses of action to take for a fake movement or party.

Finally, in some cases, the paymaster may be interested in the mere existence of a political actor with a particular identity. This may satisfy public demand for such a party or movement, but allow the paymaster to keep its actions under control. It may also create an impression of more pluralism or a wider choice within a political system than exists in reality. The presence of an additional actor within the opposition also allows to present the opposition movement as disunited, and embroil it into a lengthy negotiation process on several fronts.

It should also be noted that a fake actor need not necessarily be a political party or movement. A think tank or a polling agency can fake impartiality while disseminating biased analysis or polling results "tweaked" according to the preferences of the paymaster. An interesting question is whether it is possible for a sizeable group of people – a party or movement – to fake a pro-government identity and become a trusted ally of the political regime.

### **CHALLENGES TO FAKING**

Incorporation of a fake actor into a political milieu is no easy task. The paymaster will need to overcome several problems.

First, it usually takes plenty of time for a political actor to establish itself in the political arena. However, during democratic transition, the public is desperately searching for new political leaders while being inexperienced in picking its political representatives. In the time of flux – when the need

for political fake may be highest – the planting of a fake actor can be accomplished relatively quickly.

Second, the trust of the constituencies a fake actor needs to win does not come overnight. However, it is usually necessary to fake a political movement for which there is a strong social demand (most often because of the lack of such political force). If the paymaster captures this moment correctly and has enough resources at hand, the fake actor would be in good position to gain credibility promptly.

Third, if a fake actor is a group (i.e. a political party) it can be difficult to keep the real mission secret. However, only a few leaders of the fake movement can be informed about the real mission, the rest can be enrolled without full knowledge of the real mission of the force they are joining. In many cases, hired staff will do their job diligently without delving too deeply into the leadership's plans.

While an attractive analytical tool, the faking of political identity is an elusive concept for several reasons. First, it is difficult to collect verifiable data on faking in politics. Even if such attempts have ever been undertaken in the past, the plots have rarely, if ever, been exposed with real identities revealed.

Second, it is seemingly difficult to maintain a credible, but fake identity over an extended period of time. The cost of behaving differently from other actors in the group may rise with time for the fake actor.

Third, as a consequence, there is the possibility that a fake actor would, at a certain point in the political negotiation, choose to become a genuine political actor with the identity that was initially forged. At the end of the day, this may offer more

benefits than working on behalf of a paymaster whose interest in its own creation may gradually decrease. It is possible to imagine that many of the established parties and movements, especially in the polities that underwent transition to democracy, were once fake and acting on behalf of a certain paymaster who intentionally or accidentally lost control over them.

Finally, while fake can morph into "real," genuine political actors can at times appear as fake because of their mistakes that produce an impression of hidden agendas and the inclination of some observers to see politics through the conspiracy lens.

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Along with other manipulation techniques, political identity faking is widely used by populist or authoritarian leaders. Populists cannot openly court discrete constituencies because that may cost a populist leader support among other social groups. In such cases, a fake political party becomes a useful proxy tool of appealing to specific constituencies.

An authoritarian leader may choose not to make the case for a certain policy move to avoid the impression of this move being imposed without due consideration and discussion. It may be therefore useful for such leaders to rely on fake actors, i.e. experts, to create an impression of an independent presentation of his/her agenda.

Use of the fake political actor technique may be warranted in a whole range of situations within closed or semi-open political systems where the public wields certain electoral rights, but it still lacks experience to be able to tell fake from real.



# Negotiating World Politics

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



GUNNAR SJÖSTEDT

## THE RULE OF CRISIS IN NEGOTIATION ON RISKS: FOR GOOD OR BAD?

Textbooks in international politics tell us that a crisis typically represents an exceptionally difficult decision point: A genuine crisis comes unexpectedly it unfolds very fast, decision makers are inexperienced to cope with it, there are no simple procedures for crisis management, and great values are at stake.

As seen in this light, it may seem a little paradoxical that crisis and crisis management have often had a facilitating function in another type of multilateral talks regarding issues that have been framed as risks. Illustrations are not difficult to find in the historical record.



In the late 1960s scientists and policy makers in Norway and Sweden became increasingly aware of the environmental problem of acid rain. This harmful new form of precipitation was caused by sulfur emissions into the atmosphere that could be transported hundreds of kilometers across the European continent. Most of the emission sources were located outside Scandinavia, both in the East (e.g. Poland, East Germany) and the West (e.g. the United Kingdom).

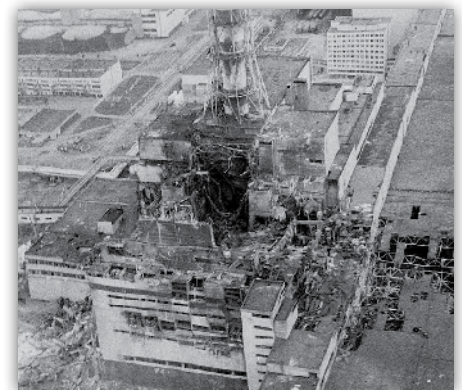
Consequently, the Norwegian and the Swedish governments strongly supported UN negotiations on the issue

of acid rain and became highly active in this matter. In the early stages of the negotiation the performance of the two Scandinavian governments exhibited some leadership features. Because their respective countries were hit early by increasing sulfur downfalls, Scandinavian leaders and state agencies had attained a knowledge and information advantage in relation to other European nations including the Big Four in the West, France, Italy, West Germany and the United Kingdom, all of which opposed significant reductions of sulfur emissions. No doubt, Scandinavian power helped keeping the UN negotiation on acid rain (Trans-boundary Long-range Air Pollution in Europe) on rails but was not sufficient to bring forth a meaningful negotiation outcome.

Then the situation changed drastically when the media and the public opinion discovered the extensive disappearance of forests in Germany due to acid rain. This created an atmosphere of crisis in the environmental policy area. As a result, the West German government became more active and took on a leadership role in the UN talks on acid rain. There is no doubt that the new role of West Germany generated by the emerging domestic crisis was a critical factor in explaining the success of reaching an international agreement limiting sulfur emissions in Europe in 1979.

The policy area of nuclear security/safety offers another good illustration of a recurrent positive relationship between crisis and risk taking in international negotiation. In the early 1980s, unsuccessful negotia-

tions on nuclear security/safety were conducted at the UN Atomic Energy Agency in Vienna. The lack of sufficient transparency had proven to be a major problem. Particularly, the superpowers were reluctant to disclose information about their nuclear installations. The discussions did not lead anywhere.



In May 1986 the disastrous Chernobyl crisis occurred with more or less immediate consequences for large parts of Europe. For about a week silence prevailed in Moscow. Then the situation changed dramatically in the sense that the Soviet leadership had become willing to inform neighboring countries about Chernobyl. Thereby, much more favorable conditions had been created for the Vienna-based negotiations on nuclear security/safety. During the autumn of 1986 exceptionally fast talks went on and produced two supplementary treaties related to nuclear security/safety that were signed by the end of that year.

There are numerous other examples, not least in the area of international environmental problems, demonstrating that in certain ways crises are easier to handle than risks in international negotiation. A compari-

son of the essence of crisis and risk respectively as seen in an intelligence outlook indicates a fundamental explanation to this state of things.

A *crisis* typically pertains to something that happens *now*, or has already happened, for example a tsunami killing people and destroying buildings in several neighboring countries or explosions in a nuclear plant. Such events may take place in areas from which there is little information to begin with and they may be difficult to master technically. For example, the Soviet authorities lacked sufficiently trained personnel with adequate equipment to extinguish the fire at the Chernobyl plant effectively. It is advisable to study how a crisis develops in order to find useful ways to address it. It is fairly easy to exchange information with other parties about cooperation and joint action as actors involved are in a position to take note of the same real and highly visible situation.

A *risk* may pertain to exactly the same phenomena as a crisis, for example a tsunami, a nuclear disaster, storms, inundations, or the relapse of a violent conflict. However, a risk is radically different from a crisis. Whereas crises represent the expression of actual events, a risk represents something that *may* happen in a near or distant future but must not necessarily do so. In other words, whereas the events embodying a crisis are certain, those pertaining to a risk are not only non-existent at the present time but also uncertain perhaps to a relatively high degree.

When an issue framed as a risk is addressed in a multiparty negotiation the parties involved are confronted with different kinds of uncertainty problems as illustrated by the UN talks on climate warming.

First of all, there is uncertainty about climate warming as such and its causative relationship to emissions of CO<sub>2</sub> and other greenhouse gases. One branch of the international scientific community argues that observed changes of the global temperature are due to natural phenomena like, for instance, the intensity of geologic activities at the surface of the sun and cannot be prevented by measures on Earth.

Other basic uncertainties concern what disastrous consequences climate warming will bring, how costly they will be, how they can be prevented or coped with and what economic and other sacrifices such defense measures will require.

These uncertainties become even greater stumbling blocks in multilateral negotiation when they are related to the time frames conditioning the climate talks. A label on this type of situation that has been suggested in earlier PIN books is *negative perception of the immediate outcome*. The climate negotiation concerns the distribution of climate-related costs and benefits. The costs are generated by measures slowing down or halting climate warming. The benefits are produced by the avoidance of environmental destruction and other types of negative consequences resulting from climate change. An almost insurmountable negotiation problem is that costs and benefits related to climate warming belong to different time dimensions. The costs begin to accrue in the very short term whereas the benefits will only materialize in the long run, partly decades away. Therefore, the negotiation will tend to primarily concern the distribution of short term costs, for example in the form of reduced CO<sub>2</sub> emissions.

As seen from a negotiation perspective, a fundamental problem with the relationship between costs and benefits is that these two flows of consequences pertaining to climate warming are difficult to compare. Some economists argue that a satisfactory examination along these lines is indeed impossible to achieve. Bringing costs and benefits into the same time dimension requires that an accurate discount factor is determined. The fact that in reality this can only be done haphazardly is a strong economic argument against the use of genuine cost/benefit analysis as an instrument in the development of national strategies in climate negotiations. The negative repercussions are particularly far-reaching in multilateral negotiations where a large number of negotiation parties have to make individual calculated guesses about how profitable these measures will prove to be in the future.

Calculation of this kind of "profitability" is highly cumbersome for an individual government. It is even more difficult for the multitude of states participating in the UN climate talks to accomplish a joint cost/benefit calculation that can serve as a basis for the search of an agreement. Each country's climate predicament influences the perceptions and understanding its government and state agencies have on the issue of climate change generally. For example, the quality of government expertise differs across countries and risk attitudes are partly conditioned by ethnic culture.

Reports indicate that there are tendencies that the risks associated with climate warming are now becoming transformed into emergent crises in different parts of the world, for example in the form of more frequent, violent and more devastating



storms both in the Atlantic and the Pacific.

This kind of transformation of risks into crises can be expected to facilitate the negotiations on climate change in certain respects. A basic and rather obvious evolution is that the uncertainty dilemma related to climate effects diminishes. Another development is that the stronger the crisis character becomes, the more are costs and benefits of climate warming brought into the same short-term time dimension. Thus, the rise of crisis contributes to eliminating critical stumbling blocks in the climate talks. To conclude: the rule of crisis in multilateral negotiation addressing issues that are framed as risks seems to represent often a fundamental condition for achieving a successful outcome.

Negotiating parties know this and may take advantage of a current or emerging crisis to put pressure on other actors looking for a joint solution. Hence, a state or group of states may deliberately create a crisis process in order to increase its leverage (nuisance value) in relation to other parties. Such tactics may for example serve as an effective instrument to overcome a stalemate in a certain negotiation.

However, to lean on crisis in a negotiation on issues framed as risks may prove to be a highly costly approach, particularly as seen from a strategic perspective.

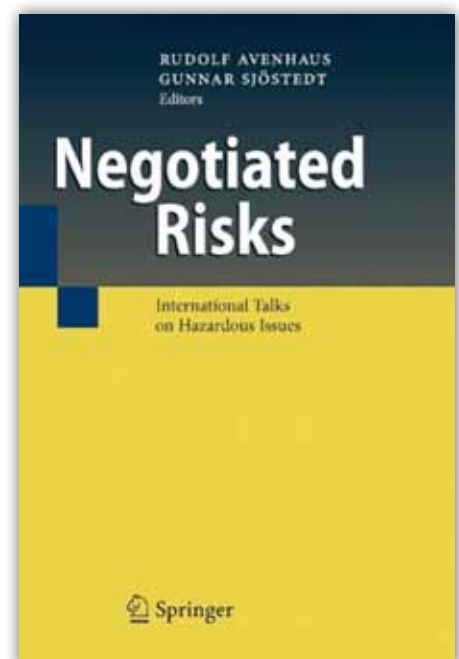
A crisis implies a focus on a current situation or on short-term developments. Swift agreement among negotiating parties along these lines may produce useful counter-measures against a crisis but may also impede rather than ease meaningful risk management in the search for an effective long term strategy.

The impact of crisis in negotiations about issues framed as risk is likely to be counter-productive also in other ways. When a negotiated risk transforms into a crisis it is typically a sign of failure since the purpose of negotiation on risk is to cope with the circumstances and events producing a crisis. The talks on acid rain in Europe offer a good illustration. Clearly, the crisis of forest deaths in West Germany conditioned the 1979 Convention of Long-range Transboundary Air Pollution in Europe. But it would of course have been preferable if negotiations on the risks of acid rain would have been able to reduce sulfur emissions before trees in Germany and in other places started to perish on a large scale.

Some analysts would perhaps argue that this is simply idealistic thinking. The reality was that European countries were not capable of starting and concluding meaningful negotiation on the sulfur emissions. Therefore, the end of the forest crisis had a positive impact because it opened the way for international cooperation to reduce, or put a stop to, further damaging sulfur emissions in Europe: These accords were better than no agreement at all.

A quite different approach would be to undertake tactical or strategic measures to facilitate a negotiation on issues framed as risk such as, for example, the acid rain talks. Part of such facilitative approach would be to help negotiating parties to deal with the general complexity of a multilateral negotiation on complicated issues. However, in the particular case of negotiating risk facilitation should be directed towards the special problems of risk management in a multilateral setting. This seems to be a somewhat neglected area in training programs for negotiators and their experts.

Certainly, risk-taking as tactics in international negotiation is a familiar topic for analysts and trainers in negotiation. For example, a frequent question taken directly from the schoolbook is: Can I risk using a rather aggressive claiming strategy if there is a possibility that the opposition party will leave the negotiation table if it faces too much pressure? Training on tactics in negotiation and related textbook literature have a lot to say about such common risk problems.



The textbook literature is rather silent on the difficulty of coping with negotiated issues having a basic character of risk. (One of the exceptions is Avenhaus, R., Sjöstedt G. (2009). (editors). *Negotiated Risks. International Talks on Hazardous Issues*. Berlin: Springer). In this case, the object of facilitation is not individual tactical approaches but rather the challenge to construct similar or preferably identical perceptions of the negotiated risk, for example that of acid rain. If this aim cannot be achieved, a second best solution is to establish an understanding among negotiating parties of the factors conditioning variation in the

perception of a negotiated issue, for example the knowledge basis available to negotiators, the risk culture prevailing in a country or the professional culture of negotiators.

It is obviously not certain that well-matched risk perceptions will lead to an agreement in multilateral talks on negotiated risks. Even if a critical mass of negotiating parties understands and evaluates a negotiated risk in more or less the same way other considerations may prevent an accord. For example, opinion pressure may prevent harmonization. Nevertheless, harmonized risk perceptions may represent strong facilitation in a multilateral process and may hence contribute to pave the way for a useful agreement.

Harmonized risk perceptions may emerge as a result of penetrating discussions in negotiation groups concerning an issue representing a risk, e.g. nuclear safety or climate warming. However, special measures pertaining to risk communication may also be applied in order to facilitate risk harmonization. Risk communication is cumbersome and may bring out various traps. Therefore, risk communication in the context of multilateral talks is a topic that should be given more attention in training programs, targeting participants of multilateral talks addressing issues with a risk character.

ALISHER FAIZULLAEV<sup>1</sup>

## USING TAI CHI TO ENHANCE NEGOTIATION EFFECTIVENESS

People who live in the industrialized world are often emotionally detached from each other; modern urban life has narrowed many of our senses, and we are losing acuity in our feeling of ourselves and others. Accordingly, most people tend to understand negotiation as just a rational process, as a mental game they play around the table in competitive interactions with others. Apparently, negotiation is the process of interaction; however, in reality, negotiators do not always actually interact with each other. For example, sometimes participants in international conferences or other negotiation meetings restrict themselves to just reading from a prepared text without entering in genuine interaction with their counterparts. As a result, they have a problem in overcoming differences.

There are many, predominantly rationalistic models and concepts of negotiation that propose rather calculative approaches and algorithmic thinking and pay little attention to human sensuousness, feelings, intuition, spontaneity, creativity, and body language. Tai Chi can be helpful in acknowledging, more intuitively, the sensual dimension of dealing with others in negotiation and could offer modern negotiators useful insights in making greater use of their human potential.

Tai Chi, as an ancient Chinese internal martial art, has deep philosophical



roots in Taoism. Tao can be understood as a natural "way" of existing or an unconstrained "path." Taoist natural action, or doing without "doing," can be metaphorically compared with a watercourse in nature: water moves with ease; it is flexible and soft but has inner power and can overcome enormous and solid obstacles. One of the fundamental principles of Taoism is represented in the Tai Chi diagram of the "supreme ultimate fist," with the symbols of Yin and Yang—the unity of seemingly contrary forces. There are many illustrations of mutually contradictory but complementary opposites: male and female, high and low, left and right, day and night, hot and cold, etc. Tai Chi as a mental and physical practice is based on the balance, dynamic equilibrium, and unity of Yin and Yang—the driving forces of the universe, nature, and human existence.

Although based on the same fundamental principles, there are different

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schools, models, and forms of Tai Chi. Some emphasize its martial art applications, others its meditation or health aspects. Tai Chi is also practiced now as a sport. Here we would like to discuss some applications of Tai Chi in negotiations.

In modern negotiation literature there are a number of well-known dualistic concepts, such as "distributive vs. integrative bargaining," "positional vs. interest-based negotiations," and "value claiming vs. value creating." We often see the letters "vs." between these two types of negotiations, since many scholars and practitioners understand them as opposites, or reverse phenomena. It is a different story with Yin and Yang. According to Taoist philosophy and Tai Chi thinking, Yin comprises Yang, and Yang contains Yin. They are always present within each other, and one cannot exist without the other. In other words, Yin and Yang are non-dualistic concepts, and using them in negotiation analysis and practice requires a holistic understanding of human nature and of the negotiators' connection with the opponent.

A Tai Chi approach to negotiation implies a dynamic balance between Yin and Yang moves. This means that a negotiator has to combine in his or her behavior both Yin and Yang components: on the one hand, to be receptive, cooperative, adaptive, integrative, empathetic, and practice corresponding, listening, giving in, accommodating, and reconciling, (i.e., a "soft" negotiation style); and, on the other hand, to be assertive, competitive, distributive, antagonistic, and practice opposing, compelling, speaking, taking in, hampering, and enforcing, (i.e., a "firm" negotiation style). In Tai Chi, however, softness is combined not with brute hardness, which is itself associated with stiffness and rigidity,

but with inner power that enables one to overcome tough obstacles, as in the case of a watercourse. Some schools of Tai Chi recommend softness of heart and hardness of mind, or outer softness and inner hardness.

Laozi, the ancient Chinese thinker and founder of Taoism, wrote in his classic *Tao Te Ching*:

Men are born soft and supple;  
dead, they are stiff and hard.  
Plants are born tender and pliant;  
dead, they are brittle and dry.  
Thus whoever is stiff and inflexible  
is a disciple of death.  
Whoever is soft and yielding  
is a disciple of life.  
The hard and stiff will be broken.  
The soft and supple will prevail<sup>2</sup>.

So soft is not weak.



Tai Chi has so-called "form"-individual exercises-and also a sparring practice named Pushing Hands. Tai Chi form is a foundation for both noncompetitive and competitive Pushing Hands. Slow, relaxed, and smooth movements and dynamic meditative drills of the form and the sparring exercises train the practitioner in mindfulness, concentration, inner strength, and flexibility. We can approach negotiation as a mental form of Tai Chi Pushing Hands, where both sides try to maintain their inner bal-

ance while the partner or opponent strives to destroy it by "pushing."

Regarding the counterpart, we can use the word "partner" in the context of noncompetitive Pushing Hands, and refer to the "opponent" in the framework of competitive Pushing Hands. However, in negotiations, any noncompetitive interactions contain some competitive elements, and no competition can exist without an element of cooperation. In any negotiation – whether it is primarily "integrative" or "distributive" – the negotiator can be effective only if he or she has a sense of oneness with the partner/opponent.

Here are some basic concepts and tips for conducting the Tai Chi Pushing Hands style of negotiation.

*Mindfulness:* Be aware of yourself, the opponent, and the environment; be attentive and sensitive; connect with the opponent, and experience his or her strengths and weaknesses.

You should not only be well prepared for the negotiation but also be "here and now"; pay full attention to your partner, including his or her body language, the process, the atmosphere and the physical surrounding; organize the best mode of interaction, using verbal and nonverbal communication, space, and table arrangements. Good interpersonal contact, containing handshake, eye contact, and empathy, helps interactions and engagement with the other side. Get a sense of his or her "center"-the basic stance and arguments. Keep connected with the opponent. It is useful to practice some "negotiation intelligence gathering" on the partner's psychological state and attitudes by chatting for a few minutes about the weather, sports, or other

<sup>2</sup> Stephen Mitchell, *Tao Te Ching Persona* (New York: HarperCollins, 1992), p. 76.



neutral subjects. Every negotiation has its own mood and energy; it is important to feel this, use it during interactions, and change if necessary by verbal and nonverbal means.

*Nonresistance:* Be relaxed, soft, calm, flexible, natural, and authentic; release tensions; breathe naturally; respond to force by yielding; avoid stiffness and rigidity; receive the partner's moves with gentleness and grace; practice "action without action".

Confrontation, hostility, and aggression in negotiation can be eliminated only if you are relaxed; if you are tense, the other side will also become tense. Tension-free negotiators are more aware and sensitive; they can be more creative and make better use of their inner strengths. Many weak and inexperienced negotiators reject the partner's arguments immediately under the pressure of their own inner tension—often this is manifested in their body language and muscle tension. Let the excessive emotions and negative energy of the opponent go. Tai Chi Pushing Hands negotiation suggests that direct confrontation with the partner or opponent can result in losing one's balance. Saying boldly "no" means straight collision. It is better to use a "yes, but" technique, although do employ it non-manipulatively, with understanding and real meaning. Absorb the power of the opponent non-confrontationally while keeping your inner balance and stability.

*Reflectiveness:* Be receptive—this is the best way of becoming assertive when necessary; try to learn more about your partner and his or her stance; turn his or her actions into interactions; redirect the attacks on you; be creative in responding to the opponent's moves — try to find in each of them opportunities for advancing your own moves.

Questions and arguments are your main moves in negotiations, though your body language, attitudes, energy, and feelings also affect the negotiation process. Do not keep attacking the opponent's nonessential arguments; always target the other side's central line of argumentation while retaining your own principles. Remember: good negotiators tend to ask questions and welcome the other side's questions. Open questions, clarifications, paraphrases, summations, as well as nonverbal matching (body with body, gesture with gesture, voice with voice, etc.) with the counterpart are the instruments of engagement. Respond to your partner's questions with interest and consideration, and question the weak sides of the opponent's position especially. Do these moves with gentleness, sometimes just the tone of your voice or the movement of your eyebrows can make a difference. Be soft in receiving questions and firm in answering them; be receptive to your opponent's arguments and assertive with your own arguments. However, your firmness and assertiveness should not be ostentatious, but connected with your inner strengths and balance. Every verbal assertion carries tangible pressure, but tactful questions contain gentle pressure. Those who use strong declarations, allegations, and affirmations may become overstretched, and it is easy to destroy their balance just with gentle questions. It is important to use both listening and speaking powers, and soft questions are one of the most powerful tools of great negotiators. Redirecting your opponent's difficult questions and argument, maintaining taking and giving process will allow you to negotiate even very problematic cases.

*Rooting:* Be rooted and grounded; sense, keep and develop your root; you cannot move freely, have mobil-

ity, dynamism, flexibility and balance without *rooting*; do not allow circumstances, pressures, negative thoughts and emotions to destroy your roots.

Be grounded in solid facts, evidences and arguments; don't lose connection with the reality. Have some basic, principal points, and advance them during interaction with the opponent. Your roots, including cultural, moral and spiritual foundations, are the sources of your strength and vital energy. Be connected to your principles, ideas and values. Develop some rooting "ladder" deep into the "ground": the deepest step is your basic values; next, toward the surface, are the fundamental ideas, principles and positions. If you have problems agreeing with the counterpart on the positions, go to the next step on the "ladder" and try to get an agreement on principles. In case of difficulty, discuss and create ideas, and, if unsuccessful, approach the values. Negotiating values is the most difficult type of negotiation since nobody wants to change them. So the only way of being successful in this respect is by creating with the other side some common values. When you find or develop shared values, do the reverse step on the negotiation "ladder"—now it would be much easier to create some commonly attractive ideas. These joint ideas are instrumental to solving differences regarding principles. When some mutual principles are established, the negotiators can easily overcome their differences on positions. Obviously, going through all these processes requires passion, mental and emotional involvement and mastery from both sides. Those who become impatient, lose their balance.

*Balance:* Be balanced, stable and centered; don't lean; hold your body position upright; have an accord of

Yin and Yang moves, harmony of “emptiness” and “fullness”<sup>3</sup>; achieve your stability in dynamism (a dynamic balance).

Negotiators can “push” each other mentally or emotionally, verbally or non-verbally – by putting forward arguments, asking questions, raising concerns, expressing opinions, providing evidence, showing or hiding emotions, changing the tone of the voice or the face expression, gesturing, looking straight into the face or avoiding direct eye contact. You can successfully go through the negotiation process (follow the “way”) by only being balanced. While negotiating, coordinate your mind and body, intellect and emotions, verbal and non-verbal behavior. Perform defensive and offensive negotiation moves smoothly and gracefully. Don’t be too rational at the expense of your emotions, and too emotional at the expense of your reason. Your rationality should not inhibit your feelings, and your sensitivity should not obstruct your intelligence. You need to be flexible in order to keep the stability; stiffness of the position and arguments may result in losing your balance. Even teamwork in negotiation requires balance: if you are negotiating as a team, it is essential to have coordination and balance between the team members and their respective roles, the leader’s and followers’ interventions.

**Mobility:** Always be mobile and steady in your mobility; use circular movements<sup>4</sup>, space, and natural gestures to engage your partner; do not lose your connection with him or her; draw the other side into your center; maintain your dynamic balance in any situation.

Your mobility is your ability to listen and speak, to be receptive and assertive, to follow the partner’s line

of argumentation but not depart from your own central, fundamental points. Naturalness, smoothness, and easing tensions help you to be mobile and flexible, to respond to and neutralize your partner’s points and make your own points. You have a better chance of being mobile with keeping your inner balance when you are able to construct discussions around your own strong arguments (drawing the other side into your own center). There are also physical and spatial aspects of mobility: Sometimes you can use space effectively, especially if you are losing connection with your partner, by leaving the table, walking around, and having informal conversations, or by engaging in discussions in the corridor. However, do not overextend and overstretch yourself trying to convince your opponent - this may destroy your stability and balance of your arguments.

**Modesty:** Avoid overextension and extremes in your movements and activities; do not become overstretched; extreme actions can make you unbalanced; do not overdo or underdo; use simple moves and do not spend more energy than necessary.

When negotiating, speak smoothly; do not be too fast or too slow; do not become overexcited or tranquilized; do not push your partner too hard; do not use excessively strong or abusive language-if the other side is receptive and “empty”, i.e. free from tensions and distractions, then you may lose your balance. Try to be calm and quiet, when the opponent loses self-control or uses very strong language: “empty” negotiators absorb

“full” attacks, and “fullness” becomes helpless encountering “emptiness”. Avoid overcomplicated phrases and sentences, use clear and simple questions and arguments. Do not put yourself in stressful sitting or standing positions. Follow the natural path of interactions during the negotiations, and sense the right time for a break or for ending the session. Good negotiators are neither overconfident nor timid, they do not hurry and do not linger.

Tai Chi is a complicated art and takes years to master. The same applies to the Tai Chi martial arts of negotiation. It requires inner strength and genuine respect in relation to the opponent. This style of negotiation gives the negotiators the opportunity to understand their strengths and weaknesses and to find solutions in direct interactions. Some may like it; others may prefer different types or styles of martial arts in negotiation, others may not even want to connect negotiation with any martial arts at all. Skillful diplomats often practice it since there are some similarities between diplomatic and Tai Chi skills. Interestingly, all seven qualities of the ideal diplomat mentioned in Sir Harold Nicolson’s “Diplomacy” – truthfulness, precision, calm, good temper, patience, modesty and loyalty – also characterize the Tai Chi master and the Pushing Hands negotiation expert. In any case, even small insights from Tai Chi might be useful for anyone in constructing a more comprehensive negotiation style, strategy, and tactic. A long journey begins with a small step.

<sup>3</sup> “Emptiness” is a state of Yin, and “fullness” is a state of Yang. The first allows being receptive, and the second permits being assertive. A practitioner needs to keep a balance between his or her own “full” and “empty” parts of body and consciousness, and be able to turn “emptiness” to “fullness” and vice versa.

<sup>4</sup> Circular movements prevent the Tai Chi practitioner from stretching, provide flexibility and help circulating energy; in negotiation, circularity means constructing arguments around the strongest ones and questioning the opponent’s arguments from all the sides.

MORDECHAI MELAMUD

## CYBERSPACE – THE NEW FRONTIER: TOWARDS AN ARMS CONTROL TREATY IN CYBERSPACE?



International security and arms control negotiations are intended to offer solutions for problems that states cannot face alone. So is the matter of cyber security, even more so than any security threat faced before – cyber space is transnational, and an international treaty which regulates cyber security could serve as a central pillar in combating cyber threats, including terrorism. However, a thin line separates governance of cyberspace and protection against cyber space attacks from censorship and control. Cyber war is now recognized as a possible reality, and the real threats that have been identified sparked a debate on what norms and rules should guide behavior in cyber space, and consequently, what should be the role of states in regulating these behavior and norms.

The International Telecommunication Union (ITU) is the UN's agency for information and communication technologies. Its Secretary General, Hamadoun Touré, stated (Forbes interview at Techonomy 2011 conference<sup>1</sup>) that "global cyber war is inevitable without cyber treaty". Another call supporting the need for discussions among states on securing cyber space came recently from Eugene Kaspersky, head of Kaspersky Lab, who identified the

Flame virus that attacked computers in the Middle East, supposedly the most sophisticated malware to have ever been created. At a cyber security conference in Tel Aviv (June 2012), Kaspersky stated that "nations must talk to halt cyber terrorism". If such experts support the establishment of a treaty, what then are the obstacles delaying negotiations?

Despite many efforts undertaken at the global level to regulate the cyber space, no international treaty has been negotiated yet, due to differing opinions among central actors, as well as technical difficulties. In 1998, Russia proposed the establishment of a treaty banning the use of cyber space for military purposes, yet the US has always starkly opposed this and a treaty has not been negotiated. The question remains, whether states are willing and able to negotiate a binding international agreement on the prevention of military uses of cyber space, and whether the efficacy of such an agreement will justify its long birth.

### "BY SCHEMING THOU SHALL DO WAR"

Wars in human history have always included elements of scheming. "For by scheming thou shall do war"<sup>2</sup> are the words of the sage in the Bible, already thousands of years ago. Echoing the famous mythological Trojan horse scheme, cyber warfare is the modern form of "scheming", made easy by the

abundance of activity in cyber space.

The emergence of computing in the mid-20th century and later the convergence of information and communications technology led to the emergence of the Internet, a global network-of-networks. In 2010 there were about 1 billion computers worldwide connected to the Internet, and nowadays, it can be claimed, the Internet is at the forefront of human activity. This interlocking Internet system created a new transnational 'space', with no actual physical existence in the sense that we were used to.



This new space, dubbed "cyber space", is accessible to any person or group for low cost and expertise, and provides worldwide access across national or state borders. It therefore enables access to massive information that were otherwise stored in systems that required physical access (paper, tapes, magnetic disks, etc.). This access serves also as a potential threat, a substantial one since computers

<sup>1</sup> Hamadoun Touré, Forbes interview at Techonomy 2011 conference - <http://www.forbes.com/sites/techonomy/2011/11/14/why-broadband-is-a-basic-human-right-itu-secretary-hamadoun-tour/ss/> to "fullness" and vice versa.

<sup>2</sup> Proverbs 24:6; author's translation from the Hebrew original.



and cyber networks are being used to manage many systems in civil and military applications. This relative ease of access creates a novel opportunity for causing damage, and thus cyber security has become a central term over the last decade.

The potential dangers in cyber space are clearly recognized, and in 2009 US President Obama stated that the "cyber threat is one of the most serious economic and national security challenges we face as a nation". In the past few years, several "cyber attacks" have targeted states and their varied cyber operations: attacks on Estonian and Georgian banking and government websites in 2007 and 2008 respectively; Stuxnet virus' sabotage of the Iranian nuclear program in 2009 and the spread of virus Flame in the Middle East; the recent outages of Al-Qaeda forums in early 2012 and the new espionage virus, Gauss, detected in the Middle East by Kaspersky Lab lately (August 2012). Experts claim (Hopkins; Williams) that some of the viruses causing these and similar damages are so sophisticated, that only a state could afford to develop them. Some consider (Adams; Ventre; Toure) these and similar incidents as the beginning of a cyber war era.



Indeed, states are preparing to protect themselves from, and possibly to engage in, cyber warfare. A UNIDIR report from 2011 reviewed 133 states' programs and actions for dealing with cyber security (the most advanced being the creation of specific commands

dedicated to cyber warfare). Of those reviewed, 33 states were identified to have cyber warfare included in their military planning and organization, and 36 states were identified as easily capable of translating their defensive and civilian capabilities into military cyber capabilities. The potential and observable threats, coupled with the states' defensive – as well as offensive – activities, have led to different international efforts to support the establishment of a multilateral treaty on security in cyber space.

### **MULTILATERAL EFFORTS FOR SECURING CYBER SPACE**

Attempts to organize cyber space operations and to prevent criminal and terrorist acts therein have begun over a decade ago. In 2000, Stanford University called for an international convention on cyber crime and cyber terrorism, arguing that such transnational issues require a transnational response, which could only be offered in the form of a multilateral treaty among states.

A year later, the Convention on Cyber Crime was adopted by the Committee of Ministers of the Council of Europe, and it entered into force in 2004. At the time being, it is the only binding international instrument dealing with cyber crime, and has been ratified by 36 states (two of which are non-member states of the Council of Europe – the US and Japan). This Convention deals with issues of computer fraud, extortion, child pornography, jurisdictions and extraditions; it does not include aspects of war and terrorism in cyber space, and it is not global.

The UN General Assembly has adopted several resolutions focusing on cyber security, beginning with a resolution on the Creation of a Global Culture of Cyber Security (January 2003) and on the Creation of a Global Culture of Cyber Security and the Protection

of Critical Information Infrastructures (January 2004), and most recently, a resolution on the Creation of a Global Culture of Cyber Security and Taking Stock of National Efforts to Protect Critical Information Infrastructures (March 2010).



In the UN agency for information and communication technologies – the International Telecommunication Union (ITU) – a High-Level Experts' Group (HLEG) on cyber security has been working since 2007 to develop strategic proposals for ITU Member States on promoting cyber security. The Chair of the HLEG, Norwegian Judge Stein Schjolberg, a prominent expert on cyber crime, has iterated the importance of a multilateral cyber space treaty, which would cover issues of cyber security and cyber crime, and serve as the global framework for peace and justice in cyber space.

In September 2011, China, Russia, Tajikistan and Uzbekistan submitted to the UN General Assembly a proposed Code of Conduct for Information Security, for the voluntary adherence of states. The Code is intended to create the conditions ensuring that the information and communication technologies are consistent with the objective of maintaining international

stability and security. A month later, the Conference on Cyber Space was held in London, where governments, as well as business and civil society, discussed security in cyber space.

Most recently, Arms Control Today reported (June 2012) that the US and Russia are working on an agreement to establish a hotline for cyber attacks, based on the model nuclear hotline for the prevention of accidental nuclear war. Because the US has for so long opposed the Russian position on the need for an international treaty on cyber security, the report on a hotline might signal a narrowing of the gap. However, many fundamental disagreements underlie the differing positions, and have stood in the way of negotiating a cyber treaty.

### **AN INTERNATIONAL AGREEMENT ON CYBER SECURITY – THE CHALLENGES TO NEGOTIATIONS**

Contradicting positions of leading actors in the international system, as well as technical challenges still requiring solution, are delaying the formulation of a treaty on cyber security. Russia has for over a decade been pushing for the establishment of an international treaty banning the use of cyber space for military purposes. This has been opposed by the US, due to technical and practical issues, as well as in principle: the Russian idea and proposals for such a treaty are criticized for their potential subjection of internet activity to political scrutiny (Gjeltén, 2010). However, strong international support for the idea of a treaty has perhaps forced a change in the stark opposition of the US, which some observers describe lately as more willing to engage in consideration of an international effort (Knake).

The lack of agreed definitions is an essential complication with regards to discussing – and later, negotiating – issues of security in cyber space. What is cyber space and what can be included under its definition? What constitutes a cyber warfare attack? The problem of defining the concepts is further complicated by the transnational, border-crossing nature of the internet, and the centrality of the question of jurisdiction. Furthermore, not only governments are involved in cyber security matters, and the abundance of citizen and corporate activity in cyber space obstructs additionally the discussion on what type of international governance could and should be relevant for this arena. Hacking, spamming and cyber terrorism can be performed by individuals, groups, organizations or states; what should their role be in the discussions?

Attribution is a central problem that overcasts the discussions on an international treaty for cyber space. Because of the nature of cyber activities, it is often extremely difficult to accurately trace the source of a malicious act. The difficulty in attributing attacks makes difficult the establishment of a functioning compliance monitoring regime in the framework of an international treaty. The challenge of attribution has led the US to prefer the incremental establishment of norms in cyber space, rather than establishing a treaty, which would not be robust enough without the technical or legal possibility of attribution.

The US and the UK find that a legally binding arrangement is not necessary or appropriate for cyber space, while Russia and China take a leading stance in advocating for a treaty. Contradicting opinions are more than just technical. Many of the divergent positions among international actors revolve, as always, around contradictory basic understandings of the

world order. While the US, the UK and other Western states emphasize the need to protect computer networks, Russia and China stress the matter of information security, and subsequently the necessity of content control, so as to maintain regime stability (Segal and Waxman, 2011). The Russian and Chinese approach to the issue of cyber security stresses the role of governments in combating cyber threats, while the US and its allies advocate the need to establish international norms of conduct. A fundamental criticism of the US on the Chinese-Russian proposed Code of Conduct for Information Security from September 2011 regards its potential for tightening governmental control over the internet (Farnsworth, 2011).

The decade-long impasse between the US and Russia has supposedly been somewhat alleviated during the Obama administration. Most notably this was exhibited through an agreement on a set of recommendations to the UN on enhancing international cyber cooperation and security, which emerged in 2010 from a series of meetings between cyber security specialists from 15 states, including the US and Russia. The Obama administration seems more willing to engage multilaterally on the issue of cyber war because of the strong interest shown by many governments (Gjeltén, 2010). However, it still remains to be seen if the key actors can reach agreement on whether protection against cyber war will be best achieved with a treaty. Reports from the Worldwide Cyber Security summits, held annually since 2010 by the EastWest Institute, find that large gaps in the positions of the leading states are hampering the chances of reaching an agreement on a treaty in the coming decade. The report from the 2011 Summit presents the alternative to generating a new, specific treaty for cyber security, by utilizing existing international law

and agreements regarding warfare and applying them to cyber space (EastWest Institute, 2011). Even if and when international actors agree that a treaty is the right way forward, they would still confront the challenge of developing the formula for negotiations and agreeing on how a treaty should deal with cyber security.

### **CYBER ARMS CONTROL – LESSONS LEARNED FROM “TRADITIONAL” ARMS CONTROL AGREEMENTS**

The more “traditional” arms control agreements, such as those pertaining to nuclear or chemical weapons and even the weaponization of space, are sometimes evoked when cyber security is discussed, yet the differences are quite fundamental. Most substantially is the almost complete state-control over the weapons or arenas that are traditionally negotiated. Cyber space, on the other hand, is open to a large degree and is not governed by a single entity. However, a central tool, which was successfully used in the case of the Comprehensive Test-Ban Treaty (CTBT) negotiations, and might be used again in the context of the Fissile Material Treaty negotiations, is emerging in the cyber context as well, and could prove substantial for the achievement of a treaty – the work of an expert group prior to launching official negotiations.

The daunting task of constructing the monitoring and verification tools, which a cyber space treaty is likely to include, was faced by most negotiators of arms control agreements. In the case of the CTBT negotiation, a Group of Scientific Experts (GSE) was created long before official negotiations on the treaty started. The GSE worked on developing the ideas, software and procedures for the International Monitoring System, which later under the negotiated treaty became the central pillar of

the verification regime. Without the preliminary work of the GSE, a verification regime would not have been at hand to support the treaty and its negotiators, as they struggle through the process of deliberation. The High-Level Experts’ Group (HLEG) on cyber security, working under the auspice of the International Telecommunication Union (ITU), can be likened to the CTBT’s GSE, and it might therefore prove vital, if conditions ripen for a negotiation on a cyber arms control treaty. It is important to note that the GSE was operating for approximately 25 years before its work was officially recognized as a reasonable basis for a treaty! Such a time span seems completely irrelevant to the fast paced cyber world, and cyber technology is rapidly outrunning the discussions. In the case of the GSE, technological developments assisted the group in its work, and the task – identifying clandestine nuclear explosions – was basically the same throughout this time. In the case of the HLEG, however, the group chases a moving target. Indeed, one concern regarding the establishment of a treaty is that it might become obsolete very soon, considering the rhythm of the development of the cyber space.

It is generally agreed by many commentators that an internationally binding legal instrument governing behavior in cyber space will not be negotiated anytime soon. Despite this, the importance of the work done by expert groups such as the HLEG, under the auspices of international organizations, non-governmental organizations or academia, is paramount, especially in light of the different political positions. While it is not yet agreed what a treaty on cyber space should include, the current explorations by non-official experts could serve in the future, when political will is reached, as a starting point for official talks. This work could

support the efforts of negotiating a treaty that would not only prevent the militarization of cyber space, but would also maintain and represent the fundamental characteristics of the Internet, which make it such an important and indispensable part of modern existence to so many people due to its accessibility, flexibility, free speech opportunity, and generally unrestricted access to information. While the many challenges are being contemplated, ‘schemers’ continue their scheming, and cyber space still remains a treacherous domain for persons, communities and governments.

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PAUL MEERTS

## DUTCH BARGAINING



'If it ain't Dutch, it ain't much' is one of the few examples of a positive image of the Dutch in the English language. However, most expressions in English containing the word 'Dutch' have a negative connotation. Maybe this says more about the Brits than about the Dutch, but still... *A Dutch Bargain* is actually not too bad, it is an agreement sealed by a drink. If that drink would instigate *Dutch Courage* it would already be more problematic, and if this would end-up in *Dutch Comfort* the parties will probably be unhappy with the outcome of the negotiation process. But how do the Dutch bargain? Like a *Dutch Uncle*? Indeed, some diplomats say: many Dutch negotiators are very outspoken, and thereby undiplomatic. To get a better understanding of Dutch negotiation style – if any – we will hypothesize the main characteristics of Dutch negotiation behavior, as quoted by a range of experienced Dutch negotiators. We will take into account some observations of non-Dutch actors, in order to have some control over our findings.

In December 2010 the Netherlands Negotiation Network – see the account in *PINPoints* 36 – held its third annual conference entitled 'Is there something like a Dutch negotiation style?'. The communis opinio of the negotiators and interculturalists present was: yes, 'but'. Jaap de Hoop Scheffer, keynote speaker at the conference, former Secretary-General of NATO and former Minister of Foreign Affairs, noted that the style of those negotiating on behalf of the Dutch state is often problematic because of its bluntness and its stubbornness. It is therefore worthwhile to ask the question: 'how could we do better?' Other traits of Dutch negotiation behavior, mentioned during the conference, being underscored by a majority of participants: too much goal oriented and impatient, focused on content instead of the relationship, geared towards cooperation and a search for common ground and an aversion of conflict.

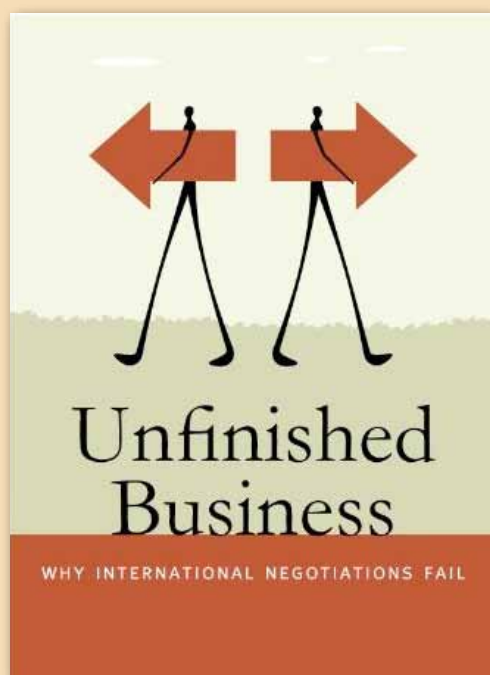
Let us therefore hypothesize four main sets of behavioral characteristics of Dutch diplomats and other civil servants negotiating internationally: direct and inflexible, oriented more towards outcomes than process, more towards issues than people, more towards cooperation than competition. These styles have negative, as well as positive effects. Directness and inflexibility can be perceived as undiplomatic, but at the same time they contribute to transparency. Too much focus on outcomes is detrimental to the process, but it also pushes the process in a certain direction. Prioritizing on content instead of people is bad for the relationship, but it will solidify

## UNFINISHED BUSINESS; WHY INTERNATIONAL NEGOTIATIONS FAIL

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

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

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



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the agreement. Aversion to conflict might push problems into the future by not solving the real problems, but it can also assure outcomes. But on the whole, the effects on negotiation effectiveness are more of a negative, than of a positive nature.

There are good reasons to suspect that these four dimensions of negotiation behavior are equally valid for public sector and for private sector negotiators. However, the participants in the symposium were of the opinion that Dutch companies negotiate better deals than Dutch ministries. They see Dutch businessmen as being more effective than Dutch government representatives. However, this might have to do with the difference in context. Directness, toughness, being time conscience, and orientation towards selling products are much more common practice in business bargaining, than in inter-state negotiation processes. The main difference in style seems to be the question of 'poldering', the Dutch term for consensus seeking. Indeed, businessmen seem to be much more confrontational and much more competitive, which is obviously essential for successful bargaining in the private sector.

In the summer of 2010 I interviewed eighteen people, of which fourteen have been political or diplomatic negotiators, while the remaining four were academics, having negotiation or diplomacy as their field of interest<sup>1</sup>. In 2011 and 2012 I had further discussions with a few of the politicians in the group. Members of the Steering Committee of the Netherlands Negotiation Network surveyed twenty-two non-Dutch negotiators, both from the public and the private sector, this in connection with the NNN conference mentioned above<sup>2</sup>. I include their observations in this article as well. Apart from these sources I will refer to a few books, articles, and papers

on Dutch negotiation style<sup>3</sup>. However, not much has been written on the subject, because matters of 'style' are tricky business. Negotiators differ in character, experience, skill and therefore behavior, while negotiations are situational by definition.

On the issue of directness and inflexibility the opinions were in line with each other. "We are always right, but rarely relevant". One of the interviewees was of the opinion that the source of this behavior is the tendency of Dutch to over-estimate themselves. The effect of that is too much of a focus on one solution and the negligence of alternative options. Another practitioner said the Dutch often lack empathy for the position and the interests of the other side. According to him the Brits and the Germans are much more open to the opponent, and much more into bridge building. However, directness was also seen as a sign of respect, in cases where the Dutch negotiator did not agree with the other party, and did not want to put-up a smoke-screen on this. A kind of behavior connected to the directness issue is the tendency of Dutch negotiators to ask for the floor, even if it isn't wise to do so.

It was noted, that experienced Dutch

negotiators were much more flexible and much less direct than inexperienced bargainers. Though they might be inflexible at the beginning of the process, they will become lenient as things proceed, and being abroad they start to adapt. In the context of the European Union we might use the word 'Brusselization' for this. Those who are posted in Brussels adapt to the ways of life over there, while those who just travel to the EU capital once in a while are much more locked-up into their own culture. The author experienced this himself, in training Polish diplomats and civil servants for the recent Polish Presidency. The Poles in Warsaw were much more rigid on EU issues than those in Brussels, who realized that wheeling and dealing was unavoidable, that it is much more effective to go with the flow in order to push it in the desired direction.

The orientation towards content and outcome is another Dutch feature. The advantage of this approach is being well versed as far as the subject matter is concerned. It will make for an easier negotiation and respect by the other parties. Interviewees noticed that Dutch negotiators are seen as being constructive, taking responsibility for the issues at hand. It shows, for example, by the willing-

<sup>1</sup> Interviewees by the author of this article: Ellen Berends (diplomat), Bob van den Bos (politician and academic), Bernard Bot (diplomat and politician), Laurens-Jan Brinkhorst (politician, international civil servant and academic), Hans van den Broek (politician, international civil servant and manager), Roel Gans (civil servant), Chris de Lange (civil servant), Ruud Lubbers (politician, academic, international civil servant and manager), Willem Mastenbroek (academic and trainer), Jan Pronk (politician, international civil servant and academic), Jaap Ramaker (diplomat), Jaap de Hoop Scheffer (diplomat, international civil servant and academic), Rinus van Schendelen (academic and trainer), Alfred van Staden (academic), Petra Stienen (diplomat and publicist), Frans Timmermans (politician, international civil servant and academic), Joris Voorhoeve (politician and academic), Jaap de Zwaan (academic and diplomat). All but one of the politicians were Dutch cabinet ministers, most international civil servants had leading positions in international organisations, and all academics are professors.

<sup>2</sup> Interviewees by Gwendolyn Kolfschoten, Per van der Wijst, Vincent Merk, and Johan den Hartog: from France (5), Germany (4), the UK (3), the US (2), China (2), and one from Czech Republic Portugal, Greece, Brazil, Iran, and Colombia respectively. Unpublished paper, 2011.

<sup>3</sup> Roel Gans and Paul Meerts, 'De Nederlandse Onderhandelaar in de Europese Unie', *International Spectator* 12 Vol. 24 # 3, pp. 150-154, March 1995; Paul Hoogstraten, 'You Win Some, You lose Some, Dutch Coalition Building in the EU: Does the Netherlands have a Strategy?', MA Thesis, University of Twente, January 2006; Chris de Lange, 'Hoezo Europeanen? Europese Culturen en hun Eigen Aardigheden', Venlo/Hengelo, Uitgeverij Smit van 1876, 2009; Arjen Verhoeff and Dirk Joosse, 'Strategie op de Relatie', paper for the NNN conference 2010; Robbert Morée, 'Nederlandse Onderhandelaars, gezien vanuit het Gezichtspunt van een Nederlandse Onderhandelaar', paper for the NNN conference 2010.



ness to share information and to keep your promises, at least as a person. The interests are not always material, they are often immaterial, like human rights. Ideology is an important factor. Dutch negotiators often do things out of conviction, that, however, collides with material interests, especially those of the private sector. It should be noted however, that, although Dutch negotiators are goal oriented, they normally go for a substantial outcome. Rather no outcome, than a superficial one.

But this also means neglecting the process, its preparation and navigation. Goal orientation is nice, but we need the process to get there. The same is true for planning and strategy. Dutch negotiators often lack a clear-cut strategy. This has to do with the expectation that not only our negotiators will be open, but the others as well. That openness and directness will bring a smooth process, things will not be hidden and therefore it will be easy to move forward. Well, reality isn't like that at all. Hampering the conception of a viable strategy is caused as well by problems with mandating. In Dutch political culture all ministries have a say, there is a problem of internal co-ordination and distrust. This equality creates problems in instructing the representatives in setting priorities. Mandates are compromises, and therefore the instructions are normally quite unclear, whereby it will be difficult to construct a cohesive strategy.

Why do the Dutch neglect the relationship with the other negotiators? Why don't we try to understand their background, their motives, their perceptions, their interests? An academic in the group of respondents said it has to do with underdeveloped social skills. It is therefore easier to focus on issues than on

people. It might also have to do with language skills. Indeed, the Dutch have foreign languages at school, but they hardly practice them. If they practice them, like English, they feel they speak good English, being unaware of the nuances of that language. Especially Dutch politicians have a problem in that respect. Another reason might be our self-reflection. Some still believe we are a rather powerful country, which allows us to tell the others what we want on the issues at hand, with no necessity to work on the climate of the negotiation process.

While the Dutch can be rude, trying to do business right away, not paying enough attention to the relationship with the others, they are open to flattery. It seems to be quite easy to influence the Dutch negotiator once you know how to please them with kind words. Belgians and Brits are quite good at this technique and they give the Dutch negotiator the impression that he is good and liked by the others. This, sometimes, induces him or her to give in on the issue, because of the flattery. This causes ambiguity between content and person. It seems to be difficult to separate the two. As the relationship is seen as a by-product of the issues at hand, the two are not handled in an equally effective way. Another problem is the neglect of networking and lobbying in diplomatic negotiation. Dutch negotiators will thereby miss opportunities.

Dimension number four is the tension between cooperation and competition. The political system in the Netherlands has been one of cooperation between all parties involved. Especially at the time of the so-called 'pillar system' in the first

half of the last century. No party, no denomination, had a majority in parliament. The elites could only survive by controlling their home front on the one hand, and by cooperating with their opponents on the other. This led to a very stable system of cross-cutting cleavages and many politicians thought that the outside world was in essence an extension of the Dutch situation. This caused a certain naïveté, as well as grave disappointments, and often the unwillingness to give in, or to continue the negotiation process at all. However, this cooperative attitude of public sector negotiators is changing rapidly lately, in both external and internal negotiation processes.

The Dutch kept, by and large, a collaborative attitude towards international negotiation processes. But in the 21st century, under strong pressures from public opinion and a growing number of political parties, Dutch societal – and therefore political – culture changed from collaboration to competition, both internally and externally. This had always been the case as far as financial and human rights issues were concerned. But in recent years – with the referendum saying 'no' to the EU constitution as a landmark – the Dutch government hardened its EU, as well as its overall position. For example on questions of migration and asylum seeking, the accession of Balkan countries, including Turkey, etc. nationalism entered the stage. The negotiation style of the Dutch diplomats and civil servants changed accordingly and came in line with the negotiation style of most Dutch business negotiators.

How does the outside world perceive the Dutch negotiator? In general, as competent<sup>4</sup>. The NNN survey among

<sup>4</sup> [www.iccn.nl/instrumenten](http://www.iccn.nl/instrumenten), contribution by Richard de Ridder.

some foreigners confirms this picture, but adds a few observations. The French among the interviewees see the Dutch as very much 'to the point', but also as rigid and lacking relevant social interaction. The Germans find the Dutch too informal, too inflexible, but often giving-in too much at the very end. The Brits were of the opinion that it was difficult to influence the Dutch negotiator, who, in general, approached the negotiation in a very rational way. The Americans thought the Dutch to be too much focused on facts and figures, ignoring the process of give and take. All of the interviewees saw the Dutch negotiator as somebody who did not enjoy the bargaining process and neglected it, stubborn in giving in, and being very goal oriented.

Observations from literature and newspapers confirm the overall picture of a Dutch negotiation style being direct and inflexible, focused on outcome and issue instead of process and people, while the question of being collaborative or cooperative remained quite undecided. However, most Dutch interviewees from the survey for this article thought that present Dutch negotiation behavior is predominantly confrontational. What will be the impact of *the* Dutch negotiation style on the future negotiation processes of the representatives of the Kingdom of the Netherlands in a more and more interdependent world? First of all, not much, as the Netherlands are no longer an important international or EU-player. Second of all, for the Dutch themselves it might mean more and more international isolation. For an open economy like the Dutch, that does not seem to make sense.

FEIKE FLIERVOET, CHRISTINE GRANT,  
GLEB MYTKO AND NICK PEULEN<sup>1</sup>

## THE CRISIS NEGOTIATOR: REFLECTIONS ON AN INTERVIEW WITH MICHEL MARIE

"Success in negotiation is often not a matter of chance, but the result of good planning and specialized skills" (Saner, 2008: 17). However paradoxical, this is true even for crisis negotiation. While the unexpected, uncertain, and urgent nature of crises might suggest that they cannot be prepared for, it is precisely these factors that make planning and skill crucial to successful crisis negotiation. In a recent interview, Michel Marie, a criminologist, crisis negotiator, and project manager at CIVIPOL, shed light on both of these vital issues, as well as on the difference in approach between Europe and the United States to crisis negotiation, and the influence of politics and the media on this practice. At the basis of Michel Marie's extraordinary insight in these matters lies a dynamic and impressive career in law enforcement.



### MICHEL MARIE: A SHORT BIOGRAPHY

Michel Marie (58) began his career as a criminal investigator in the police force of a small French town at the

age of 21. A few years later, he joined the Criminal Investigation Service of the Parisian police force. At that time, France did not have a centralised approach to crisis situations; if one occurred, 'regular' police officers rather than experts would handle it at their own discretion. This changed in 1985 when the French National Police set up RAID<sup>2</sup>, a special operations tactical unit comprising major crisis management experts. Mr Marie, who had expertise in the field of investigations and audio and video surveillance, became head of its Technical Support Unit. As such, he worked within the different crisis situations, gaining insight into both the core of each situation as well as its wider context.

After working in this position for approximately five years, Michel Marie was invited to the FBI Academy in Quantico, Virginia, by one of the FBI's chief negotiators, to take part in their exclusive training programme for crisis negotiators. Michel Marie soon discovered that the American mentality and their approach to crisis situations were very different from the European mentality. This realisation enhanced his desire to further study the field, prompting him to go back to university to study criminology, criminal psychology, and criminal psychiatry. This familiarised him with the academic concepts relating to the behaviour he had witnessed in practice, which he then used as a framework to analyse 67 crisis situations that had occurred in France in order to determine which variables

<sup>1</sup> This article is a contribution by four Master students of Leiden University and the Clingendael Institute following their interview with Michel Marie, a criminologist, crisis negotiator, and project manager at CIVIPOL.

<sup>2</sup> RAID stands for Recherche, Assistance, Intervention, Dissuasion.

## BEST OF BOTH WORLDS



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influenced their progression. His conclusion: most of the time when a crisis situation resulted in serious injury or death, negotiators had been dealing with a mentally troubled person. This insight came to serve as the basis of a model for assessing future crises, which Mr Marie converted into software for negotiators after finishing his studies. Based on parameters relating to both circumstance and the psychological profile of the suspect, this software could accurately estimate the level of danger in a situation and provide an indication of the most suitable crisis management approach.

From the start the software was excellent in terms of results, and it took only a few adjustments for it to function almost perfectly – reflecting the extraordinary conversance Michel Marie had gained from his studies. His insights also gave new shape to his role as a crisis negotiator. In subsequent crises where the regional governor called for his help, Mr Marie would analyse the situation, using his software if necessary, and then engage in the management of the crisis. His task was to first properly understand or estimate the actual situation, before judging whether it could be managed through negotiation or if the intervention of a SWAT team would be required. He was involved globally in more than 250 crisis situations in fifteen years, which was a stressful but also very exciting and interesting period – and at times, extremely dangerous.

After fifteen years of success, Michel Marie considered himself to be “quite lucky” and he quit his team in 2000. However, given the intensity of his last job, Mr Marie wanted to continue his career with a similarly exciting occupation. Soon the possibility arose to work in presumed EU Member States, assisting them in increasing

the level of community spirit as they moved towards joining the EU. He spent four years in Poland, before moving to Bulgaria to help reform their police force. While in Bulgaria, he was told that there was a security, police, and terrorism advisor position available in Brussels. Taking up this job, he became a seconded expert for four years and travelled everywhere to help launch the Security System Reform (SSR). In April 2010 he retired from the French police force and after two weeks found a new job in the French CIVIPOL, where he works to this day.

### **PROFILING THE NEGOTIATOR: TRAITS, SKILLS, AND EXPERIENCE**

Throughout his career, Michel Marie has been (and still is) a very successful negotiator. To gain such a status, one needs to possess certain specific character traits - traits that come as part of one's nature rather than nurturing. Firstly, your natural response to crisis is an essential determinant of your potential success as a negotiator. As explained by Mr Marie, there are three different ways to react: 70 per cent of the people are shocked and unable to move<sup>3</sup>; 15 per cent are excitable and move around without any real purpose, causing unnecessary agitation; and the other 15 per cent are capable of thinking clearly, while remaining calm and in control. Belonging to the latter category is a prerequisite if one wants to become a negotiator. This capacity to work well under pressure can be further enhanced by doing extreme sports, as your body will become accustomed to high levels of adrenaline and stress. A good negotiator is not paralysed by fear or affected by emotions; he or she rather excels when in danger, as their capacity to make the

right decisions increases. Indeed, the word ‘crisis’ comes from the Greek word *κρίνω* (krinō), which means ‘to decide’; the principal point of a crisis is to make decisions. As a negotiator, you must be willing to take spontaneous action which could potentially have enormous consequences. You therefore need to “have the ability to cope with uncertainty and be willing to accept responsibility with no authority” (Fusilier, 1981: 14).

A second requirement is a great interest in sociology and human behaviour, as understanding how people function is essential for dealing with them in a crisis situation. A negotiator must also possess excellent communication skills, the ability to use logical arguments to convince others that your viewpoint is rational and reasonable, and have the capacity to easily establish credibility with others (ibid). Analytical capacity is also important, as one must be able to read a situation and discover what the underlying goal or need of the subject is. As Michel Marie explained, “When we talk about negotiations, they are really like an iceberg. There is the part above the water which is obvious, but there is also a much larger part underwater. The goal is to know what exactly is underwater – what is the real motivation?”

Importantly, a proper analysis of a situation will often lead to the conclusion that the crisis cannot be negotiated. Indeed, taking into consideration the psychological profile of the hostage taker, his or her demands, and the political context they operate in, only one in three situations is negotiable. When the right conditions are absent the negotiator must accept that his or her capacity to act is limited, and be ready to step aside and assist in

<sup>3</sup> This phenomenon is otherwise known as stuporous immobility or cataplexy.



launching an assault (ibid). It is thus crucial to recognise the uniqueness of each situation, because as Michel Marie put it, "the fact that you did well today, or yesterday, or the last time, is no indication of how well you will do in the next case". Past success provides no guarantee for the future, and overconfidence may well become a costly pitfall.

The capability to avoid pitfalls like these comes in part with experience. The "bedrock of a negotiator's career is several years of working as a law-enforcement officer (whether with the police department, FBI or other law-enforcement group) or in the military and dealing with crisis situations on a regular basis" (Grabianowski, 2005: 9). Working in these fields namely allows one to hone their negotiating skills by talking to many people that are in some kind of crisis situation (ibid). Active listening to and interacting with these people will help one develop the necessary understanding of human behaviour, which in time will ensure the appropriate response.

Overall, whether one would make a successful negotiator thus depends on innate character traits, interest, skills, and experience. But how significant is the gender dimension in this context? According to Mr Marie, the field of crisis negotiation is dominated by men – but this does not imply male superiority. The male domination of the field is instead a result of the fact that perpetrators are also predominantly male. The relationship between men and women is very unbalanced: there is a perceived difference in power, as well as a sexual tension. With psychopaths, putting a female negotiator in front of them would therefore be catastrophic 90 per cent of the time. Women are just as likely to possess the qualities a negotiator

requires, however – in fact, "with traits like willingness, resistance and courage, women are often stronger than men".

### **TO THE TABLE OR HIS KNEES: COMPARING CRISIS NEGOTIATION IN EUROPE AND THE UNITED STATES**

Another dimension to be taken into account is geography. As mentioned earlier, there are significant differences in the conduct of negotiations between Americans and Europeans. The existing literature in this field is rather limited, and focuses primarily on either cultural differences in multilateral and trade negotiations, differences between 'high-context' and 'low-context' cultures, or differences between negotiators of one nationality and hostage takers of another. This section will focus instead on the stylistic idiosyncrasies between American and European negotiators, several of which Michel Marie witnessed first-hand - and some of which became painfully clear to the Americans themselves with the events of 9/11.

According to Mr Marie, 9/11 came as a shock to American negotiators, who quickly understood that they "had not really taken the human dimension into consideration". They had focused instead on techniques and strategies, at the expense of developing their human relations skills. As Vecchi (2005: 535) and his co-authors argue, until 9/11, the Federal Bureau of Investigation (FBI) was solely focused on problem-solving strategies for its negotiators. It was only after this date that the FBI Crisis Negotiation Unit at the FBI Academy in Quantico, Virginia, conducted research that illustrated the need for change and modification of the curriculum for their training courses. Because the US had not had any real experience of dealing with terrorism

in the same way as many European countries had, for example with the ETA in Spain or the IRA in the United Kingdom, 9/11 was a "bad surprise for the Americans [that] changed their way of thinking", while all that needed to be done in Europe was "to reinforce the level of vigilance" and heighten the coordination between and harmonisation of the policies of different Member States.

Another difference in negotiating style as elucidated by Mr Marie was in the value placed on each individual in a crisis situation. There are three actors in hostage negotiations: the hostage, the hostage taker, and the law enforcement officers. For the Europeans, "the most important is the life of the hostage, then that of the law enforcement officers, and last the life of the hostage taker". For the Americans (and the Russians), this hierarchy is different; for them, protecting the life of the law enforcement officers is most important, followed by the life of the hostage, and then the hostage taker. Indeed, it is stated in an FBI publication that the concept of crisis negotiation "has helped save the lives of countless law enforcement officers, hostages, and suicidal subjects" (Regini, 2002: 1), confirming this order of importance.

A final difference between approaches to negotiation in the United States and Europe is their respective understanding of the purpose of negotiation. Mr Marie argued that in European crisis situations, negotiation is considered to be a weapon used to reverse the situation and reach a soft solution to the conflict. Indeed, "[t]hrough the skilful use of both the negotiation team and the tactical team, the goal is to "bring the subject to the table, not to his knees"" (McMains and Mullins, 2010 : xi). In the United States, however,

the opposite is true. The negotiator's role is only to "stall for time while the SWAT team arrives, rather than try and find a soft solution to the problem". With forceful resolution as its end goal, American law enforcement has been far more reliant on SWAT teams than its European counterparts. The SWAT approach, initially developed by the Los Angeles Police Department (LAPD) in 1967, entailed "the swift implementation of military style tactics to handle hostage incidents and barricades" (Hatcher et al, 1998: 457). However, the continued loss of life associated with this force-only approach led to the creation of a "verbal alternative approach" by the New York City Police Department in the 1970s (Hatcher et al, 1998: 458).

Although this alternative approach has been widely adopted and implemented, Mr Marie pointed out that there is an ongoing fight in the United States between the more powerful SWAT team and the negotiator, whereas in Europe the response to a crisis situation is far more coordinated and team-oriented, with everyone "on the same page". This disconnect in the American approach was exemplified by Gary Noesner (a personal friend of Michel Marie) who was part of the FBI negotiating team during the Waco, Texas 'Branch Davidians' Siege of 1993. He contended that "there was a fundamental strategy disagreement on what was the best way to proceed. The negotiation team wanted to have a lower-keyed approach and the tactical team's approach was to apply more pressure". The Justice Department decided to ignore Noesner's advice on how best to handle the situation, resulting in the failure to end the siege peacefully. 74 people, including 23 children, died in the fire that resulted from an FBI CS-gas and tank assault (Wessinger, 2004).

### **THE THIRD PARTY CATASTROPHE: POLITICS AND THE MEDIA**

The Waco siege, bluntly codenamed Operation Showtime, seems to have started as a publicity stunt (ibid), illustrating one way in which the media can influence the decisions made by crisis management teams. In most other crisis situations the presence of the media is unwanted however – but the media nonetheless continue to play a significant role. In a majority of instances in both the US and Europe, negotiators' hands are tied because of their interference. According to Michel Marie, the presence of the media in crisis situations has been a "catastrophic" development. In the past, the European media was quite discrete when situations were occurring, but they have quickly become far more intrusive – often with disastrous effects. The recent case of Mohamed Merah in Toulouse provides one example. Mr Marie had a number of journalists contact him for his thoughts on the situation, but because he was not involved and did not have complete knowledge of the situation, he declined to comment. Other negotiators did comment however, either on what they believed the team was doing wrong, or what they would do in a similar situation. This is counterproductive to the effectiveness of the team members on the ground "who are pressured into acting in a different manner than they would otherwise have" because of media pressure or criticism.

This type of interference by the media is not the only external influence on negotiators during the negotiating process. Politicians may also get involved for a number of reasons, but oftentimes are motivated by the prospect of their own self-aggrandisement. To illustrate, in the aforementioned case of Mohamed Merah in Toulouse as well as an

earlier case in Neuilly in 1993, political concerns played an instrumental role. As stressed by Mr Marie, there are always two options in crisis situations: either 'rush-in' (meaning that the SWAT team is sent in), or negotiate. He argued that the fact that both these situations involved sending in the SWAT team and ended in the bloodshed of the hostage taker was because of political considerations.



In May 1993, just six weeks after being promoted to national budget minister, Nicolas Sarkozy was faced with a dramatic hostage drama in which a French citizen of Algerian descent, Erick Schmitt, walked into a kindergarten in Neuilly carrying a hunting rifle and a hand-held detonator wired to sixteen sticks of dynamite strapped around his waist. He took 21 children and their teacher hostage, demanding an \$18.5 million ransom. Mr Marie worked personally on the 1993 case, alongside Nicolas Sarkozy, also the then mayor of Neuilly. Although Sarkozy initially managed to secure the release of a number of children, making him a national hero (Carnegy, 2012), the situation continued for 46 hours and Schmitt began to appear suicidal and threatened to take at least one child with him as a human shield. When he fell asleep, a team of police entered the building, rescued the children and killed Schmitt. The episode "gave [Sarkozy] his first national profile, establishing his tough law and order reputation" (Wilson, 2012), and he used the situation to define himself as "a law and order



man" (ibid). Footage of the incident was screened in 2007 while he was running for president, in order to reinforce this image.

The more recent 33 hour siege in Toulouse had remarkable echoes of the 1993 case, ending in a French-Algerian being "shot in the head by the ruthlessly efficient RAID commandos" (ibid). It came as Sarkozy was falling behind in the French presidential race, and he benefited from the incident as his strongest topic, law and order, replaced his weakest point, the economy, in the news. Since Mohamed Merah's death, Sarkozy has promised to clamp down on the radicalisation of young Muslims and has adopted an even tougher approach on law and order. The first opinion poll to be conducted since Merah's death showed a recovery in support for Sarkozy as he has painted himself as a leader during this time of crisis. Both of these cases are examples of how the purpose of political gain has led to a suboptimal outcome of a crisis situation; and they are just two among many examples in which either the media or politicians have left a negative mark on the course of a crisis.

This is a worrying phenomenon, and one that is extremely hard to counter.

### CONCLUSION

While media and political influence further complicate the context of crisis negotiation, it also endorses the argument that a successful negotiator can be distinguished precisely by his or her capacity to function under difficult circumstances. Every crisis inherently involves high levels of pressure both from inside and outside the situation, but this enhances rather than deteriorates the negotiator's analytical, communicative, and decision making capacities. A successful negotiator is further characterized by a genuine interest in human behaviour and negotiating experience. Nevertheless, no matter how talented, skilled or experienced the negotiator, two thirds of all crises cannot be resolved through negotiation – in these cases, the psychological profile of the hostage taker simply does not allow for reasoned negotiation. The choice between negotiation and forceful intervention therefore is a crucial one. In the United States, even though negotiation is increasingly recognized as a viable solution, this

decision remains part of an ongoing fight between the negotiator and the more powerful SWAT team, in which the latter often gains the upper hand. In Europe, however, it is a choice made collectively, facilitated by analytical software as developed by Michel Marie. As such, Mr Marie not only provided us with valuable insights, but his contributions have also enriched the practice of crisis negotiation.

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**CLIMATE CHANGE NEGOTIATIONS**

Sjostedt, G. and Penetrante, A. (eds.) (2013), Routledge, 224 pages

As the Kyoto Protocol limps along without participation of the US and Australia, ongoing climate negotiations are plagued by competing national and business interests that are creating stumbling blocks to success. This book approaches these blocks from five professional perspectives: a top policy-maker, a senior negotiator, a leading scientist, an international lawyer, and a sociologist who is observing the process.

The authors identify the major problems, including great power strategies (the EU, the US and Russia), leadership, the role of NGOs, capacity- and knowledge-building, airline industry emissions, insurance and risk transfer instruments, problems of cost benefit analysis, the IPCC in the post-Kyoto situation, and verification and institutional design. They also identify and assess facilitation strategies to keep climate discussions moving towards international agreement and long-term success.

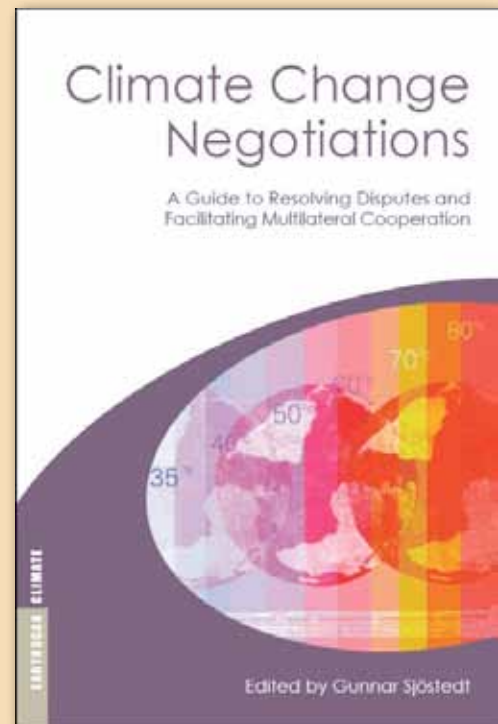
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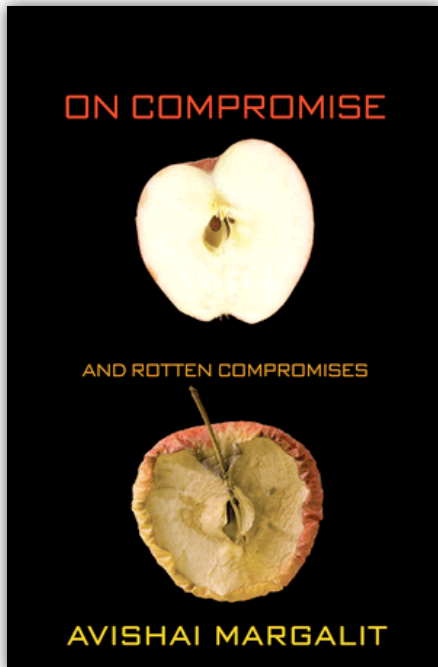
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RUDOLF SCHÜSSLER

## ON AVISHAI MARGALIT'S "ON COMPROMISE AND ROTTEN COMPROMISES"



Compromises are the sad staples of politics and negotiations. Nobody likes them, but everybody needs them. Occasionally, some compromises are rotten, and the most rotten political ones form the subject matter of Avishai Margalit's book "On Compromise and Rotten Compromises". Despite its wider title, the book's focus is on ultimate rotten political compromises and the reasons for which they should be avoided. According to Margalit, a compromise is rotten if it embodies an agreement that establishes or maintains an inhuman political regime<sup>1</sup>. A regime is inhuman if it systematically treats citizens in inhuman ways, in other words, if it systematically commits crimes against humanity. Margalit discusses the standard examples for such regimes – Hitler's, Stalin's, and some others – as well as the unavoidable prime case of a rotten political compromise, British appeasement (1935–1939). The relevance for stu-

dents of negotiation of reflecting on rotten political compromises is obvious and has duly been underlined in reviews of Margalit's book<sup>2</sup>. In a world where negotiating with terrorists or political extremists has become rather customary, it can hardly be otherwise, although Margalit restricts his notion of rotten compromise to dealings with evil regimes.<sup>3</sup>

Margalit differs from most other students of compromise by arguing in favor of a prohibition of rotten compromises „come what may“, a demand that has prompted me to write this review. To many, it seems plainly evident that strict moral prohibitions cannot hold in politics, but this familiar objection would not merit a warm up here. Margalit accounts for the qualms of those who reject strict injunctions by pardoning or understanding politicians who feel driven to rotten compromises by political necessity. Excuses for the violation of strict moral rules (under the premise that the rules are upheld) are a viable escape route in the (micro)morality of personal action but my main point of criticism of Margalit's approach will be that this does not apply to the macromorality of governmental policies. Yet before embarking on this train of thought, let us first look a bit closer at Margalit's book.

Chapter 1 starts with two overviews of political compromise which are grafted on two pictures of politics: the economic and the religious. From the economic viewpoint, politics is about the supply of goods and the satisfaction of preferences. Compromises resemble economic bargaining solutions under these premises. From the religious viewpoint, politics is about quasi-sacred values, which cannot simply be traded away for convenience or even for the preservation of peace. Chapter 2 enumerates different types of compromises. Anemic compromises merely amount to agreement on a specific point in a bargaining range. Sanguine compromises additionally involve the recognition of the other side's views. Rotten compromises sustain evil regimes – here exemplified by the US antebellum acceptance of slavery. Chapter 3 reminds us that peace and justice can become incompatible, especially if unbending notions of justice are coupled with quasi-religious views of politics<sup>4</sup>. Chapter 4 assesses the argument that political necessity can force us to accept objectionable compromises, not least with regimes which we deem evil. This assessment takes a moral turn in Chapter 5, and despite seriously considering reasons for the view that political necessity justifies hellish compromises, a come-what-may prohibition of

<sup>1</sup> Margalit, Avishai (2010). *On Compromise and Rotten Compromises* (Princeton: Princeton University Press), p. 2.

<sup>2</sup> See Menkel-Meadow, Carrie (2010). *Compromise, Negotiation, and Morality*. *Negotiation Journal* 26, 483–499.

<sup>3</sup> On compromising with terrorists, extremists, or "devils" of all callings (such as nasty divorcees), see Guy Olivier Faure and I. William Zartman (2010). *Negotiating with Terrorists: Strategy, Tactics, and Politics*. London: Routledge (a PIN book) and Mnookin, Richard (2010). *Bargaining with the Devil: When to Negotiate, when to Fight*. New York: Simon & Schuster.

<sup>4</sup> See I. William Zartman and Victor Kremenyuk, eds, (2005), *Peace vs Justice*. Lanham: Rowman & Littlefield (a PIN book)

compromises that sustain inhuman regimes is upheld. However, Margalit admits that violation of this prohibition may in some cases be excused and understood but he holds fast to the claim that they can never be morally justified. In particular, he excuses Churchill's willingness to cooperate with Stalin in the defeat of Hitler. Chapter 6 offers an excursion into the world of sectarianism, which ought to be off-limits to liberal social democrats. The concluding chapter of the book nuances the prohibition of rotten compromises by distinguishing evil from radical evil. For Margalit, Hitler represented radical evil, i.e., evil that puts the axe to the very roots of morality, whereas Stalin stood for ordinary evil on a very grand scale.

It is easy to point to possible objections to Margalit's analysis from this short overview. First, the equation of radical evil with the spirit of Hitler's National-Socialism need not be accepted. This is not to deny that National-Socialism was radically evil, but some forms of radical evil may not be national-socialist. In fact, the racist policies of Japan's rulers in the 1930s and 1940s which killed millions of Asians may be regarded as radically evil, and the victims of Stalin may have some claim that his policies embodied a genuine form of radical evil, although I think that Margalit is right in insisting on a moral difference between Hitler and Stalin. Such worries concerning the extension of the predicate "radically evil" remind us of the pervasiveness of disagreement in ethics, disagreement even between decent, intelligent and well-informed observers. If it is acknowledged that notions of radical evil can be as pluralist as our most cherished values (and Margalit is fond of Isaiah Berlin, one of the great exponents of value pluralism), the impertinent question why one may cooperate with Stalin



but not with Hitler requires a more thorough answer.

In fact, reasonable observers may well claim that short-term regimes favorable to compromising with Hitler would have been in order in the 1930s (before the holocaust had started) and that a prudent appeasement policy was Britain's best option at the time<sup>5</sup>. Opinions on the appeasement of Hitler have changed since the Second World War and today notable defenders of appeasement can be found among the experts in the field. There is much more pluralism in the assessment of the prewar (and wartime) conduct of Chamberlain and Churchill than ever before. The problem with British interwar appeasement seems to be less its moral and political foolishness as such – appeasement can be a successful political instrument<sup>6</sup> – and more its dismal handling by Cham-

berlain and the question whether any reasonable observer should have foreseen that Hitler could not be appeased long enough for building up sufficient military counterforce. With all these considerations open for contention, the historical case for a come-what-may rejection of any compromise with Hitler is not strong.

Of course, Margalit's very narrow definition of rotten compromises should also be reconsidered. In a trivial sense, it is tautological that nobody should make rotten compromises. The epithet "rotten" already indicates that the compromise is wrong. Speaking more neutrally about "very problematic necessity-driven compromises" will therefore reduce the risk of a *petitio principii*. As outlined, Margalit does not assess all kinds of necessity-driven compromises but only those that sustain an inhuman regime. This should be

<sup>5</sup> Note that Hitler's genocidal anti-Semitism does not provide a clear case against appeasement, because genocide of the Jews was only possible under the cover of war, and a war was precisely what appeasement sought to avoid. Hence, arguments from the holocaust hinge on the question whether appeasement of Hitler could have been successful if effectively applied – and this is anyway the core question of appeasement with Hitler. For a concise overview of interpretations on British appeasement in the 1930s, see Adams, Richard (1993). *British Politics and Foreign Policy in the Age of Appeasement 1935-39*. Stanford: Stanford U.P.

<sup>6</sup> See Bottom, W. P. (2010). *Essence of negotiation: Understanding appeasement and "the great Munich stereotype"*. *Negotiation Journal* 4, 26(4), 377–413 and Rock, Stephen (2000). *Appeasement in International Politics*. Lexington: Kentucky UP.

granted. Nevertheless, his analysis does not dwell upon the question of what it means to "sustain" (or to "establish or maintain") an inhuman regime. Is sustainment restricted to activities that are essential for the survival of a regime, or does every action that benefits a regime count as supportive? Help for the Soviet Union after Hitler's invasion may have been supportive in the first sense, because the Soviet Union might have lost the struggle against the German invaders without crucial supplies from the West. In contrast, compromise with Stalin in 1945 and thereafter can be regarded as support in the second sense. Opposition to Stalin's domination of Eastern Europe would not have predictably led to the downfall of Stalinism, because Stalin already had effective control over the territories in question. Margalit argues that the price of non-complicity in Yalta would have been bearable. Hence, it was a matter of mere political expediency and not of necessity to give in to Stalin. Margalit is right that a distinction between mere expediency and necessity is essential for the assessment of problematic political compromises. Yet the application of this distinction is again prone to reasonable disagreement. Opinions on Yalta prove the point. One may wonder what would have happened, if the US and the Red Army both had sped for Berlin without a relatively clear-cut agreement of their political leaders concerning the post-war order in Europe. War might have ensued, and whereas Germany and Japan were not able to withstand the industrial power of the USA for long, it would have been a big gamble to assume the same for the Soviet Union in its fully deployed wartime production mode.

Whatever one's views concerning Yalta, the defenders of compromise can resort to a theory of double effect: Necessity-driven compromises

with an evil regime are acceptable if they sustain the regime only as an unintended side-effect and remain inessential for the regime's survival. These conditions can be justified not least because it must often be contentious whether a compromise, say an act of appeasement, will prolong or shorten the life of an evil regime. Of course, this does not mean that any kind of compromise with inhuman regimes can be justified. Far from that, it only implies that for any kind of regime some sort of necessity-driven compromise exists which can be justified. Hence, the crucial question is not whether compromises with evil regimes are justifiable at all but how far one is allowed to compromise with the devil.

When the answers to such questions can reasonably differ, strict moral claims seem hardly justifiable in moral theory and political practice. However, I think that rather the opposite follows. The main virtue of strict, clear and simple moral claims is that they provide guidance if otherwise chaos will ensue from moral disagreement. In such cases the burden of proof should be assigned to critics who allege that strict rules will produce unacceptable consequences. It is important to recognize that moral disagreement also affects the critics of strict moral rules. Their consequence-based objections should only be validated if they can show beyond reasonable doubt that unacceptable consequences follow. The example of torture shows that it is not easy to pass this test. It has never been shown beyond reasonable doubt that torturing terrorists produces the results that its advocates claim as justifying grounds for suspending the strict human rights prohibition of tor-

ture. Secret service and police experts differ in their opinions concerning the value of extorted information, and thus even on consequentialist grounds no sound argument for the use of torture has ever been made.

However, shouldn't a parent at least be excused if he/she tortures a kidnapper who refuses to disclose the location of her abducted child which might die if not found soon? Such cases need not be merely academic. In a similar real case from Germany a police officer threatened to torture (admittedly different from actually torturing a child's kidnapper). Strict morality insists that the act of the parent or the police officer can never be right or justified, because torturing (or threatening to torture) is wrong come what may, but it is in such cases that the question of an excuse without justification arises<sup>7</sup>. A justification of torture in exceptional cases would open the door to the systematic use of torture. Once deliberation over the legitimacy of resorting to torture is admitted, no end to a proliferation of allegedly legitimate acts of torture is in sight, because the results of deliberation are myriad even among reasonable observers. Excuses can have a different impact, because they are not meant to reevaluate the act of torture or to preclude a legal prosecution of the torturer. Pardoning the parent or the police officer just means that we will not regard the character of the person in question as morally bad<sup>8</sup>. The person might thus live among us without stigma. We will nevertheless consider it right if the person is punished by imprisonment or by losing his job (as in the case of the police officer). Both measures serve as bulwarks against systematic torture, because systems of torture

<sup>7</sup> For a wider discussion of the important moral distinction between justification, mere permission, and excuse in the context of war and violence, see McMahan, Jeff (2009). *Killing in War*. Oxford: Clarendon, Chap. 3. Roughly an excuse accepts that an action was wrong but sees the agent as not blameworthy.

<sup>8</sup> For an analysis of Kant's case of lying to a murderer on these lines, see Schüssler, Rudolf (forthcoming). *Kants ethisches Lügenverbot – der Sonderfall der Lüge aus Furcht*. *Philosophisches Jahrbuch*.



cannot function if torturers are removed from their jobs and punished each time they torture. Restricting excuses of human rights violations to cases in which an agent honestly cannot withstand the pressure of morally legitimate emotions will therefore limit the range of deviations and forestall a slippery slope to a regime of systematic torture.


If such considerations are acknowledged as important for the moral justification/excuse differentiation, it is not difficult to see why Margalit cannot tap them for the regulation of rotten political compromises. Governmental policies are not matters that ought to be regulated by personal moral emotions. If a political representative's

moral emotions are incompatible with a policy which he nevertheless considers right and necessary, he is not pardonable if he follows his emotions. He should step down and leave decision making to others if he believes that his personal integrity hinges on never acting against his emotions. This is part of a responsibility ethics of politicians, for which Max Weber has so forcefully argued. It has to my best knowledge never been the case that a politician who had to deal with an inhuman regime was in a similar situation as the above mentioned parent

or police officer<sup>9</sup>. The appeaser of evil regimes is thus not to be excused if we assume that he should have known about the wrongness of his policy. A prohibition of rotten compromises "come what may" does not function in the same way in politics as in an ethics of individual agency. Hence, what is not justifiable in matters of appeasement can also not be excused. Margalit's strategy for rotten political compromises does not work, since we cannot avoid evaluating whether a particular necessity-driven political compromise is justifiable or not.

<sup>9</sup> I am thinking here of negotiations with inhuman regimes. Whether legitimate emotional (and time) pressure can excuse a human rights violating order of a head of state is a difficult question because ordering (e.g.) torture is in relevant moral respects dissimilar to torturing. However, this problem leads to difficulties that cannot be discussed here for reasons of space.

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## MARK ANSTEY AND VALERIE ROSOUX

# RECONCILIATION AS PREVENTIVE NEGOTIATION



**The Reconciliation as Preventive Negotiation Conference will take place at the Nelson Mandela Metropolitan University (NMMU) in Port Elizabeth, South Africa on the 2nd November 2012. Contributors include Justice Pius Langa, Drs Mamepe Ramphela, David Backer, Elise Feron, Laetitia Bucaille; Drs Piet Naude, Richard Haines and Gavin Bradshaw from NMMU; and PIN steering committee members: Drs Valerie Rosoux, Mark Anstey, Rudolf Schüssler and William Zartman.**

Conference contributions are shaped within the following broad framework.

Post-conflict situations are precarious. Up to 40% of peace agreements slip back into violent conflict within a decade (Collier 2009:75). Crises of commitment and capacity drive the shift in attitudes required for peace agreements between adversaries. But sustaining these shifts into longer-term peace-building processes is difficult, especially where structural conditions limit capacity to distribute

resources and opportunities in ways that meet needs and aspirations across stakeholder groups. The tipping point is reached when one or more parties believe violence will yield greater benefits than continued efforts within a shaky peace. In such contexts, how might reconciliation between groups with a long history of conflict be achieved? What kinds of conditions must be negotiated to develop and sustain peaceful relations between parties to carry them jointly into a non-violent future? Is reconciliation actually negotiable? If yes, what elements under what circumstances? These questions are at the core of the next PIN book project.

### **SPECIFICITIES OF THE PROJECT**

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

Secondly, it gathers contributions from both scholars and practitioners in the fields of negotiation and reconciliation – theory and practice are inextricably linked. As Richard Hyman (1975) has argued, all practitioners operate in the context of 'theories' however inexplicit they may be, otherwise their behavioural choices would lack coherence. To draw lessons from practice is to develop theory; to construct coherent theory is to create beacons for good practice. As scholar-practitioners, the editors of this text are both from nations wrestling with issues of social and political reconciliation – South Africa and Belgium. South Africa's reconciliation process is often understood simply through the work of the Truth and Reconciliation Commission (TRC). But this is too narrow an approach. Reconciliatory intent lubricated the negotiated transition from its inception in the talks about talks period from the mid-1980s, served as a confidence builder in giving parties the courage to enter negotiations, and helped to overcome breakdowns in negotiation at critical points. The TRC in its short existence reflected an intensive but particular approach to the post-conflict discovery of truth, and sought to lay a platform for longer-term reconciliation in a nation with a history of deep division. But the reconciliation debate continues, and may well require a return to more substantive negotiation processes in its future phases. Belgium in turn seems to suffer from an intractable ethno-linguistic conflict. Despite being the home of the European Union, Belgium has displayed since 2007 a rather surreal degree of political



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

Finally, the purpose of the book is exploratory and pragmatic rather than to offer a normative or prescriptive view. We want to tease out the elements of negotiation and reconciliation and give them life through

the analysis of several concrete case studies. The intention is to raise and address questions about the practical limits of the notion of reconciliation when applied on a societal rather than an individual level. Let us take only two of them to illustrate it, be it in an international or internal context. In October 2009, Turkish and Armenian representatives signed a ‘historic’ accord to normalize relations after a century of hostility. Numerous observers depicted reconciliation as the ultimate goal of this negotiation process. However, only a couple of weeks later, the majority of the practitioners involved in the negotiation process lamented the fact that the relationship between both parties did not evolve at all after the “reconciliation agreement”. What explains this? Was the notion of reconciliation a slogan rather than a sociological reality? Was the situation not ripe enough to favor a significant rapprochement? Did the constituencies express a kind of resistance against such evolution? Is it simply perhaps that reconciliation, unlike issues of territory or political design or electoral arrangements cannot be

negotiated in a traditional sense? It is not the contents of a legal contract or agreement that give life to a marriage, but at the same time partners in distressed marriages do negotiate or contract one another in efforts to rebuild their relationship.

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

deal with such an ambitious goal? Can reconciliation be detrimental to peace and/or democracy? Is reconciliation always possible, desirable or even necessary in all circumstances? There is much at stake. We consider that without a fundamental clarification, the notion of reconciliation may turn out to be counterproductive. Beyond a theoretical interest, this question has a direct impact for practitioners; a better understanding of the issue is actually a *sine qua non* condition for more efficient interventions. If parties confuse reconciliation with negotiated peace agreements they may enter the next phase of their relationship on the basis of misunderstanding and divergent aspirations and expectations – a recipe for further rounds of conflict. The intention of the book is neither to be cynical and strictly realist, nor sentimentalist and idealist. Reconciliation carries sentiments of hope in rebuilding relationships but it seems it is often grindingly difficult to effect. So – how can we retain an element of hope without becoming unrealistic about prospects of reconciliation in the context of longstanding conflicts in deeply divided societies? Are there grades of reconciliation – deep, modest, superficial, functional? How would such concepts find resonance with all the components of the population in conflicted societies?

This question is particularly delicate for victims of repression and atrocities, who might be legitimately reluctant and skeptical about any rapprochement with those who committed violence. However, this question is not only pertinent to survivors and victims' families. It actually concerns the entire society, including perpetrators and bystanders. Perpetrators, in particular, are not eager to stop fighting / atrocities if they believe they will simply be subject to

the same treatment – they may as well fight to the end as long as they have some power to wield. From this perspective, reconciliation becomes a bargaining chip – and the twist is that it is for the victims to play. If they want the other party to take its foot off their throat they cannot be perceived as intending to reciprocate immediately they get up. Reconciliation as preventive negotiation then must be at least partially understood in the context of power exchanges. The offer by a victim of reconciliation is often qualified as forgiveness. It may in fact be a power bargaining approach to prevent continued hostilities. As the case studies demonstrate, reconciliation must also have resonance with perpetrators unless they have already lost the battle for dominance. It is power that obliges negotiation – and reconciliation to a greater or lesser extent. The power to offer reconciliatory intent and process is instrumental to negotiation – the power of the apparently weak.

### **BEYOND CASE STUDIES**

A number of long-term reconciliation projects have been underway for some time now. The initiatives undertaken in countries like South Africa and Northern Ireland, Chile, Uganda, Rwanda, Spain, Argentina and Yugoslavia may be central to discussions. However many other processes may throw light on what facilitates meaningful reconciliation and how reconciliation serves as a vehicle of preventive negotiation. The Franco-German, German-Israeli and Franco-Algerian are cases in point. The intention of the book is not to collect case studies as such but to analyze the scope and limits of the negotiation processes that made reconciliation possible or not. Several questions will be addressed: are reconciliation processes and forums and terms of reference

negotiated by the parties during a regime change process (that is as an element of the change process to manage changing power realities) or are they undertaken by new regimes (retrospective under new regimes)? Are they intended as a means of managing difficult substantive issues during a negotiation process, or to facilitate new relations between identity groups as an outcome rather than a lubricant to negotiations? What are the beacons and benchmarks used to evaluate effectiveness of processes – are they directed at a few victims of repressive regimes or at the wider populations who suffered at their hands? Structural dimensions of change (occupation of decision-making roles; redistribution of wealth and land; access to education, health and welfare) may be objectively measured but how is attitude change across a society or the quality of relations between previously antagonistic groups to be evaluated?

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

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

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

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

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

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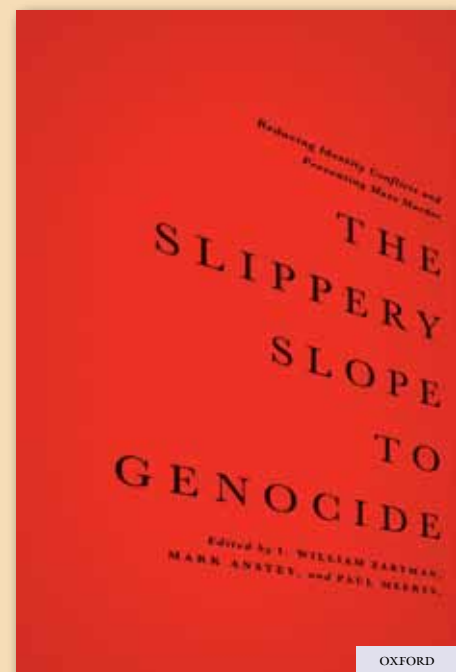
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I. WILLIAM ZARTMAN

## NEGOTIATIONS IN TRANSITIONS: PROJECT UPDATE

The PIN Project, Negotiations in Transitions (PINNiT), which analyses the Arab Spring as processes of negotiations, held two workshops in the past year and is heading to a final draft text to be reviewed in the fall PIN meeting in South Africa in November. The countries covered are Algeria, Tunisia, Libya, Egypt, Yemen, Bahrain and Syria. The aim of the project is not to pick up pieces of the Arab Spring events that illustrate negotiation concepts, but to analyze the entire tableau of events as negotiation cases. For indeed, until the *intifada* reaches the point of open warfare, as in Syria, it is nothing but attempts to negotiate, within as well as between sides, with violence and the threat of violence serving as an important element of bargaining power (the other element is organization). Even when the uprising becomes predominantly a struggle to eliminate the other side, negotiation goes on between the two sides and negotiation is needed to end the conflict (as in any war).

The Tunis workshop at the Centre d'Études Maghrébines à Tunis (CEMAT) on 30 January, supported by the Smith Richardson Foundation, brought together most of the authors, who presented an initial draft of their chapter, above all for the purpose of showing their approach. The purpose of the meeting was to bring the different approaches together, taking the country differences into account, while maintaining the focus on negotiation. Although the country study authors are experts (and often participant

experts) on their own country's politics but less familiar with negotiation analysis, the workshop was fully successful in bringing the two approaches and the different case studies into focus.

The Istanbul event, at Bahçeşehir University on 24-26 May, supported by the International Development Research Center, was a combined workshop and roadshow. The roadshow was part of the annual Global Leadership Forum organized by the University before an audience of several hundred students, faculty and general public. Case authors resented a fuller draft of their studies before an interested audience with a question and discussion period following. Some of the cases—Algeria, Bahrain and Yemen—have reached a resting point allowing the chapter to reach closure as well. Others—Tunisia, Egypt, Libya and Syria—are still works in progress and so are the chapters. A special session was scheduled as part of the GLF to discuss the situation in Syria, with six Syrian analysts and participants in the *intifada* along with Samir Aita, editor of Arabic edition of *Le Monde Diplomatique*, chapter author and organizer. The session aroused a vigorous discussion with many points of view from the Turkish audience.

Two preliminary insights arise from the analyses. One points to the importance of organization as an element of bargaining power; some participants—notably the original uprisers, including students, leftists, and liberals—are weak players

in the post-overthrow events because they do not have an effective organization, whereas the strength of the Islamic parties lies in their organization, not in their religious appeal. A corollary is that the omnipresent social media—Facebook, texting, tweeting-themselves—contribute to the lack of organization. Their networks are transient and fluid, they work against centralized leadership, they inhibit negotiatory exchanges. A related element is that negotiation analysis must take into account both new types of negotiation, such as informal negotiations for formulation and coalition and tacit negotiations between stated positions but without formal exchanges, and also the absence or rejection of negotiations by some groups of participants.

Revised chapters are being prepared for September and will be submitted to the publisher at the end of the year after the November PIN review.

## PIN EVENTS/ NEWS

### CECILIA ALBIN

The PIN Steering Committee is honored to announce Cecilia Albin as a new member of the PIN SC. Cecilia is professor of peace and conflict research at Uppsala University. She has led several sponsored projects on international negotiations with particular focus on justice issues, multilateral talks and issues of effectiveness. She is the author/editor of numerous volumes and articles on international negotiations. The most recent ones, published in 2012, are "Improving the Effectiveness of Multilateral Trade Negotiations" (special issue of *International Negotiation: A Journal of Theory and Practice*, guest editor and author of two articles); "Equality matters: Negotiating an end to civil wars" (*Journal of Conflict Resolution*, with Daniel Druckman); and "The Role of Equality in Negotiation and Sustainable Peace" (in Peter Coleman and Morton Deutsch, eds., *The Psychological Components of a Sustainable Peace*, with Daniel Druckman).

### RUDOLF AVENHAUS AND GUNNAR SJÖSTEDT

After serving in the PIN SC for numerous years and making crucial contributions to the work of PIN in various research projects, Rudolf Avenhaus and Gunnar Sjöstedt have retired from the PIN SC. They will remain involved in the activity of PIN as Member Emeritus of the PIN SC. The PIN SC expresses its thanks and gratitude to Rudolf and Gunnar for their commitment and contributions to the development of PIN.

### NEGOTIATIONS IN TRANSITIONS (PINNIT)

The PINNIT project is successfully ex-

ploring negotiations processes during the Arab Spring. Research coordination meetings were held in Tunis, Istanbul and the upcoming meeting is scheduled to take place in Port Elizabeth, South Africa. The outcome of the project will be presented in the form of a book, planned for release in 2013. The project is funded by Smith Richardson Foundation, IDRC and ONR.

### ARAB SPRING AND POLICYMAKING

On 4 December PIN/ Clingendael and the Conflict Management Program of School of Advanced International Studies (SAIS) of the Johns Hopkins University will organize three sessions on the negotiations related to the Arab Spring and its policy implications. Session one is to be attended by State and USAID officials, session two by staff and members of Congress and session three will take the form of a public event organized at SAIS. Please visit the PIN website for more details.

### SOCIAL MOVEMENT NEGOTIATIONS – ARAB SPRING

In connection with the PINNIT project the Clingendael Institute and PIN offer a follow-up project financed by ONR. On the basis of the case studies from PINNIT, researchers Don Smith and Anda Jackson from ISRIC will present a handbook for (US) policymakers about outside engagement in social movement negotiations. The project is expected to end in May 2015.

### 1 AND 2 NOVEMBER PORT ELIZABETH, SOUTH-AFRICA

On 1 and 2 November the PIN SC will be a guest of the Nelson Mandela Metropolitan University in Port Elizabeth,

South-Africa. 1 November is dedicated to a PIN roadshow, with the following speakers: **Mark Anstey** (Getting focus: some negotiation lessons from Marikana), **Paul Meerts** (Egotiation), **Rudolf Schüssler** (Moral Compromise), **Mikhail Troitskiy** (Fake Actors and Strategies in Negotiation), **Cecilia Albin** (Negotiating effectively: Findings from civil war, trade and arms control negotiations), **I. William Zartman** (Patterns of Negotiation in the Arab Spring) and Valerie Rosoux (The Limits of Negotiation After a War).

2 November is the start of the new PIN research project *Reconciliation as preventive negotiation*. The conference will be honored by the following speakers: **Dr Anstey & Dr Rosoux** (Introduction), **Dr R. Schüssler** (Ethics), **Dr V. Rosoux** (Timing), **Dr L. Bucaille** (Accountability), **Dr E. Feron** (Gender), **P. Langa** (Truth/Justice), **Dr D. Backer** (Transitional Justice), **Dr P. Naude** (Restorative Justice and Healing), **Dr M. Anstey** (Power), **Dr R. Haines & Dr G. Bradshaw** (Land), **Dr M. Rampele** (Development), **Dr Zartman** (Conclusion).

For more details about both events, please visit the PIN website.

### PIN IN SAN FRANCISCO

In April PIN will present a panel entitled *New Advances in the Analysis of the International Negotiation Process* during the International Studies Association (ISA) 54<sup>th</sup> Annual Convention, 3-6 April 2013, in San Francisco. Please go the PIN website for more details.

