

4.5 Conflict resolution and post-conflict transformation



▲ World leaders meet in Belarus to discuss a ceasefire in Ukraine

With ever expanding interpretations of conflict, violence and peace, it is not surprising that the interpretation of “resolving a conflict” has changed. Perhaps at some point we saw “the peace treaty” or “let’s shake hands” or “it’s in the past” as a closure to a conflict, but, if anything, we have learned that conflict is often far from over and may even flare up again before the ink of the signature under the peace treaty has dried. Peacemaking, or bringing the parties together, is still a vital element in the process towards conflict resolution, but increasingly the argument is made that a transformation is needed by fully reconciling the conflict parties.

Peacemaking, including negotiations and treaties

As discussed previously, peacemaking can be done in many different ways, from consultation to arbitration. The role of the peacemaker can often change during the process: it may start with offering “good offices” (a neutral place to meet) and evolve into active suggestions or pressure to reach an agreement. Berridge argues that it is difficult to identify “the ideal mediator” as this is dependent on the nature of the conflict and the stage it is in. Based on his experience, however, he has identified some characteristics that generally benefit a mediator (see left). This ideal mediator may be closer to one party than the other, but is ideally impartial or seen as impartial on the particular conflict. A powerless mediator may work in certain cases, but often it is an advantage when the mediator can offer pressure when needed. As negotiations can take a long time, it is important for a mediator to be able to commit sufficient energy and time to the conflict. In 1978, US President Jimmy Carter devoted 13 days in a row to the negotiations between the Egyptians and Israelis, and even though this may seem like a minor commitment, it was far from it, considering that he also had to deal with other pressing national and international issues. However, as soon as the Egyptian–Israeli Peace Agreement between Egypt and Israel was reached, Carter’s focus was on other issues such as the situation in Iran and therefore he did not “devote the sustained attention” to the vaguely formulated parts of the treaty that concerned the Palestinians. Berridge argues the mediator should generally be available over many years. As negotiations tend to be “lengthy, trying and costly” it is important the mediator has a strong motivation to stay involved. The Harvard Negotiation Project offers a number of additional suggestions to the “ideal mediator”, which include the all-important creative approach, “focus on underlying interests” and needs (as in the Positions–Interests–Needs model – see page 185), and the art of listening rather than talking.

Mediation

The ideal mediator

- 1 should be perceived as impartial on the specific issues dividing the parties to a conflict
- 2 should have influence, if not more effective power, relative to [the conflict parties]
- 3 should possess the ability to devote sustained attention to the dispute
- 4 should have a strong incentive to reach a durable agreement

Berridge, GR. 2005.
Diplomacy Theory and Practice,
pp. 204–206.



Some principles of "Interest based negotiation"

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| 1 Separate the people from the problem and try to build good working relationships | 4 Avoid zero-sum traps [mutually exclusive goals] by brainstorming and exploring creative options |
| 2 Facilitate communication and build trust by listening to each other rather than by telling each other what to do | 5 Anticipate possible obstacles and work out how to overcome them |
| 3 Focus on underlying interests and core concerns, not demands and superficial positions | Ramsbotham, Oliver. 2010. <i>Transforming Violent Conflict, Radical Disagreement, Dialogue and Survival</i> . |

For an outsider it is not always easy to fully understand what has gone on during negotiations. Even with the memoirs and interviews of those individuals involved the picture is never complete. The German news magazine *Der Spiegel* provides an interesting insight into the coming about of the Minsk II treaty regarding Ukraine, and the stakes, personal relations between the parties and their approach to the conflict. The subsequent events and ongoing conflict in Ukraine make it clear that with two treaties (Minsk I and II) there's no guarantee for lasting peace. Peacebuilding aims to address that.

The Minsk negotiations and Minsk II Treaty

The War Next Door: Can Merkel's Diplomacy Save Europe?

By SPIEGEL Staff, 14 February 2015

[German] Chancellor Angela Merkel has often been accused of hesitancy. But in Minsk this week, she committed herself to helping find a way to quiet the weapons in Ukraine. The result was a cease-fire. But it is fragile and may ultimately be disadvantageous for Ukraine... Debaltseve is a small town in eastern Ukraine, held by 6,000 government troops, or perhaps 8,000. Nobody wants to say for sure. It is the heart of an army that can only put 30,000 soldiers into the field, a weak heart. Until Sunday of last week, that heart was largely encircled by pro-Russian separatists and the troops could only be supplied by way of highway M03. Then, Monday came.

Separatist fighters began advancing across snowy fields towards the village of Lohvynove, a tiny settlement of 30 houses hugging the M03. The separatists stormed an army checkpoint and killed a few officers. They then dug in —and the heart of the Ukrainian army was surrounded...

Given the intensity of the situation, Germany and France together took the initiative and forced the Wednesday night summit in Minsk, Belarus. The long night of talks, which extended deep into Thursday morning, was the apex of eight days of shuttle diplomacy between Moscow, Kiev, Washington and Munich. With intense focus during dozens of hours of telephone conversations and negotiations across the globe, the German chancellor helped wrest a cease-fire from the belligerents. It is a fragile deal full of



▲ Pro-Russian rebel fighters launch artillery grad rockets towards Debaltseve, Ukraine

question marks, one which can only succeed if all parties dedicate themselves to adhering to it. Whether that will be the case is doubtful. The Minsk deal is brief respite. Nothing more. But it is a success nonetheless.

During the 17 hours in Minsk's Palace of Independence, there was much at stake. First and foremost, the focus was on demarcation lines and local elections, it was on ending the killing in eastern Ukraine. But there were several larger questions on the table as well, questions focusing on Russia's relationship with Europe and whether it will be possible to avoid an extended conflict with Vladimir Putin's Russia. They were questions focusing on how to deal with an aggressor: Is it wise to make concessions to Putin? And at what point does compromise become appeasement?

Above all were questions of international diplomacy: What is diplomacy capable of? Is the threat of violence necessary to make diplomacy work? What is the correct path: American weapons deliveries or European diplomacy? And, perhaps most crucial of all, the focus was on European emancipation: Is Europe able to solve its own conflicts without help from the United States? ...

The low point of the Minsk negotiations was reached on Thursday morning. At 8 a.m. local time, Organization for Security and Cooperation in Europe (OSCE) special envoy Heidi Tagliavini climbed into a car at Vajskovy Street 4 to deliver a piece of bad news. The rebels no longer wanted to sign the closing document.

Following their arrival in Minsk, the German and French delegations initially holed up in the German Embassy before then coordinating with the Ukrainians. It is the same pattern that had been followed in the previous days' talks: total consensus between Germany and France followed by close accord with Ukraine before beginning talks with the Russian side.

Talks continued through the entire night, without a break. At times, one of the participants would nod off, head on the table. There was plenty of alcohol available, but Merkel didn't touch it. Participants said that the tone was measured. At one point, it did become loud, with Putin and Poroshenko becoming involved in a polemical battle of words, but they quickly calmed down again. They would occasionally stand up to talk through a particularly thorny issue privately, before coming back and continuing the talks. The personal relationship between the two is a good one and they address each other with the familiar form of "you."

Large groups, smaller groups, two leaders whispering in the corner, coffee, snacks: It went on like that through the entire night. Everyone knew what was at stake and they all, participants reported, seemed to want to reach an agreement.

The Russians took a tough line. They saw themselves as being in a position of strength, partly because of the situation in Debaltseve. The Europeans, for their part, insisted on an immediate cease-fire out of concern for the volatile situation facing the Ukrainian military. The separatists, not surprisingly, wanted to delay the beginning of the cease-fire for as long as possible so as to give themselves time to completely conquer Debaltseve. Poroshenko, too, seemed to prefer a delayed cease-fire — apparently not fully understanding the situation facing his military. The Europeans were trying to protect the Ukrainians from themselves.

The European duo had already pried an important concession out of the Russian president in Moscow during the week prior to Minsk: The elections in the separatist areas will only be held within those areas behind last September's demarcation line. The hundreds of square kilometers separatists have since taken will not be considered as part of their territory. Kiev managed to assert itself on another issue as well: Direct talks with the separatists, as Moscow had been demanding, will not take place. Putin, though, got the upper hand in a different area: The border between Russia and the separatist-held regions in eastern Ukraine will be observed neither by the Ukrainians nor by international forces. This issue will only be revisited after the elections, if at all. Even before the arrival of Tagliavini, the talks had already twice threatened to collapse. Particularly contentious is the withdrawal of heavy weaponry. In the end, agreement was reached that all heavy weapons would be withdrawn from the firing lines. For the Ukrainians, the firing line refers to the front where it now stands. For the rebels, it is the front line from last September. The result is a broad buffer zone, a zone that broadens to 140 kilometers (87 miles) for heavy rocket launchers. That means that the separatists will have to withdraw their equipment deep into the territories they hold, in some cases almost to the Russian border.

That is the deal that was presented to the separatists in Dipservice Hall early in the morning. Not long later, Tagliavini returned with their rejection of the agreement. Were the talks all for naught?

The negotiators refused to give up. They returned to the vast hall inside the Palace of Independence and continued talking. Merkel, Hollande, Poroshenko and Putin retired to a smaller room off the main hall, where Putin was informed that everything now depended on him. It was a point at which the collapse of the talks was a very real possibility. Putin withdraws to an office that had been set up especially for him on the third floor of the palace to telephone with the separatist leaders waiting in Dipservice Hall. The Germans and French did not learn what exactly he said to the two — Igor Plotnitsky of the Luhansk Republic and Alexander Zakharchenko of the Donetsk Republic. But two hours later, the pair agreed to the cease-fire. At 11 a.m. local time, the marathon negotiations came to an end.

Two documents were prepared. The first was a declaration from the national leaders present. The other was the Contact Group paper regarding the implementation of the first Minsk Agreement, which was signed five months ago. Even the name of the document was the object of extended and bitter debate. Kiev and the Europeans insisted that it make reference to the first Minsk deal reached last September.



Once the talks were finished, there was no press conference held. Just before noon, Merkel, Hollande, Putin and Poroshenko left the Minsk palace. “We are hopeful” is all the German chancellor would say of the result of the long night of talks...

It is always good when the weapons go quiet, but Merkel has achieved little beyond that. Separatist leaders along with a determined Putin, who knows that the West is not prepared to spill the blood of its soldiers to defend

Ukraine’s integrity, have shown her the limits of her influence. But the European order is not constructed in Berlin alone. What was achieved in Minsk has little to do with Merkel’s power. It has more to do with her political skill and her persistence.

- 1 To what extent was Merkel an “ideal mediator” (see p.188) and did she follow the principles of “interest-based negotiations” (p.189)?

Peacebuilding, including reconciliation and work of justice institutions

After peacekeeping (separating the violent conflict parties) and peacemaking (reaching an agreement between the conflict parties) comes peacebuilding. This has often been overlooked, and still is. Susan Opatow describes reconciliation as a process that “can move people from antagonism to coexistence. It can foster mutual respect, and, at its most ambitious, it can foster forgiveness, mercy, compassion, a shared vision of society, mutual healing, and harmony among parties formerly in conflict”. But “[t]here is no one-size-fits-all blueprint for reconciliation” (2001).⁴³ The four basic options for post-conflict societies are to altogether ignore the conflict, to bring the perpetrators of crimes to justice, to offer amnesty via, for example, a Truth and Reconciliation Commission, or a combination of any of these. Looking at how Sierra Leone dealt with its violent past, through a combination of a war crimes tribunal *and* a Truth and Reconciliation Commission, Lydia Apori-Nkansah (2011) identifies the differences between justice through retribution, or revenge, and through restoration, or repairing the harm done (see right). There are many local ways in which offenders are offered a form of restorative justice. One example is the practice of ho’o pono pono in Hawaii (see following page). Opatow argues that each system has its advantages and disadvantages. Truth and Reconciliation Commissions aim to unearth the truth of what has happened and provide a chance for both perpetrators and victims to have their say as they can “formally acknowledge a silenced and painful past”. But some of the disadvantages are the costs involved in the research, “the normalization of extreme violence” and “the bureaucratization of the reconciliation process” when victims are repeatedly faced with questions about how often they were beaten or how many corpses they counted in the street. Lastly, people may not feel like actual justice has been done when the murderer of their relative receives amnesty and returns to his house opposite theirs. Sierra Leone established a Truth and Reconciliation Commission and

Development trends in restorative and retributive justice

Justice as retributive	Justice as restorative
Justice as punishment	Justice as healing
Justice according to law	Justice according to truth
Justice as adversarial	Justice as reconciliatory
Justice as retaliatory	Justice as forgiveness
Justice as condemnation	Justice as merciful
Justice as alienation	Justice as redemptive
Justice as impersonal	Justice as human centered
Justice as blind	Justice as sensitive
Justice as humiliation	Justice as honor

- ▲ Restorative and retributive justice. Apori-Nkansah, Lydia. 2011. “Restorative justice in transitional Sierra Leone”. *Journal of Public Administration and Governance*. Vol 1, number 1.