GSP 2206: PEACE STUDIES AND CONFLICT RESOLUTION

MOLULE 4: COFLICT MANAGEMENT – ALTERNATIVE DISPUTE RESOLUTION SPECTRUM

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4.1 Introduction

Conflict is a reality of social life and exists at all levels of society. Actually conflicts are as old as the world itself. We learn from history about individuals being in conflict with each other because of various reasons. The trend has not changed even today. Individuals, villages, tribes, political parties, nations and other types of groupings engage in conflicts. Practically each of us has in one way or the other been involved in conflicts either at family level, workplace, and many other places.

Generally, a conflict exists when there is an interaction between two or more individuals, groups or organizations where at least one side sees their thinking, ideas, perceptions, feelings or will contradicting with that of the other side and feels that they cannot get what they want because of the other side. The existence of a conflict shows that something in a relationship or the whole relationship between involved parties cannot continue as it was. It is an opportunity for adjustment and for constructive change.

In everyday life, however, we tend to experience conflict as something painful which we would rather avoid, neglect or forget about. Sometimes, for these reasons, we accuse others of "disturbing the peace" when they try to protect their interests and needs. A good example is the conflict between the civil society and the government on issues like shortage of fuel, quota system, academic freedom etc. In other cases we use conflicts to confront others with our ideas, our own interests or use our power to impose these ideas on them.

Rarely are conflicts perceived or used as an opportunity to reach a higher degree of satisfaction in relationships. The conflict referred above was an opportunity for the two parties to enhance their relationship. We certainly learn the mechanism of dealing with conflicts more or less constructively in our life time. Conflict transformation is a more systematic approach, one that makes use of our experience and wisdom. Knowledge about the nature of conflict is used to develop systems, instruments and skills that can help us gain a better understanding of conflicts and deal with them more satisfactorily.

There have been various views about the concept of conflict among people in social setting. Robins (2003) cited in Bambale (2006) identifies three different views about conflict representing divergent schools of thought. The *Traditional School* view all conflicts as bad and therefore must be avoided: there is the *Human Relation School* which views conflict as natural and inevitable outcome in any human setting: and finally the *Interactionist School* which views conflict as a necessary phenomenon for effective performance, Innovation and growth.

4.2.1 Meaning of Conflict

It is important to know that conflict is always a pointer to something deeper or hidden. There are two things that conflict points to. First, conflict can point to a **fundamental disagreement** concerning the means or objectives an organization or a group intends to pursue. Conflicts of this kind are said to be *substantive*. Second, conflicts can also point to **interpersonal difficulties** that arise over feelings of anger, mistrust, dislike, fear, resentment, etc. Conflicts of this nature are said to be *emotional*, they are to do with "clash of personalities". Whenever there is conflict, it is important to find out whether the conflict is substantive or emotional. However, substantive conflicts can eventually give rise to emotional conflicts. For example, in situations of glaring economic disparities, some people might be hated not because of their personal wrong doing, but because of belonging to a class that is seen to be exploiting others. Again, emotional conflict can take wider dimension if people involved are leaders.

Robbins and Coulter (2000) refer conflict as perceived incompatible differences that result in interference or opposition. In fact, not all conflicts are bad as has been portrayed by some scholars. A conflict can either be competitive (dysfunctional) or cooperative (functional). Bambale (2006) cited Tjosvold (1993) who contrasted competitive and cooperative conflict as: The assumption that conflict is based on opposing interest leads to viewing conflict as a struggle to see whose strength and interests will dominate and whose will be subordinated. We must fight to win, or at least not lose. The assumption that you have largely cooperative goals leads to viewing the complicit as a common problem to be solved for mutual benefit, which in turn makes it more likely that the conflict will be constructive and that people will improve their abilities to deal with conflict.

Despite its application to a variety of situations, the definition of conflict has traditionally been relegated to competition for resources or other interests, value differences or dissatisfaction with basic needs. Incompatible economic and political interests develop an attempt to suppress other groups often with threats and actual use of force (Jeong, 2010). The dissimilarity in the interests, thought processes, needs, attitudes of individuals result in a conflict. It is defined as a clash among individuals resulting in verbal disagreements, physical abuses and tensions.

4.2.2 Sources of Conflict

There are a number of sources out of which conflicts arise. The following are common:

   i.   Political sources:-power struggles, differences in ideologies, etc.
   ii.   Religious sources: - power struggle, differences in doctrine, etc.
   iii.   Cultural conflict:- when two cultural traditions compete for dominance
   iv.   Economic privileges:-where some people feel marginalized
   v.   Natural resources e.g. land, etc.

These sources can be interlinked in many cases, for instance, political power easily makes people have control over resources and economy (CMD, 2005).

4.2.3 Types of Conflicts

Conflicts are classified as follows:

i.   **Intra-personal conflicts:** Conflicts within a person, psychological conflict, decision making conflict in one person. Though these conflicts may play a part in social conflicts, they are not the subject matter of conflict transformation work but more of a concern of therapy or counselling

ii. **Inter-personal conflict:** Conflicts between two or a small number of people without groups building up around one side.

iii. **Intra-group conflicts:** Conflicts within smaller (team, organization, family) or larger groups (religious community, within elites in a country). Here group dynamics add to the normal dynamics of inter-personal conflicts.

iv. **Inter-group conflicts:** Conflicts between groups, like organizations, ethnic groups, political parties

v.   **Inter-national, inter-state conflicts:** Conflicts between two or more countries, states.

4.2.4 Causes of Conflicts

The discourse about the problem of conflict is very often limited to one or very few causes. This is part of the dynamics of conflicts and it tends to limit the perspectives of those involved. It is important however to understand the root causes of each conflict. There can be so many causes but some of the causes include.

i.   **Data/Information Conflict,** This type of conflict results from strong emotions, stereotypes, miscommunication and repetitive negative behaviour. It is this type of conflict which often provides fuel for disputes and can promote destructive conflict even when the conditions to resolve the other sources of conflict can be met.

ii. **Value Conflict,** This conflict arises from ideological differences or differing standards for evaluation of ideas or behaviour. The actual or perceived differences in values do not create conflict. It is when values are imposed on groups or groups are prevented from upholding their value system that conflict arises.

iii. **Structural Conflict,** This is caused by unequal or unfair distribution of power or resources perpetrated or justified by established institutions or structures e.g. the informal and formal structures in an organization, party etc.

iv. **Interest Conflict,** This involves perceived or actual competition over interests, such as resources, perceptions of trust and fairness. An analysis of the different types of conflicts the parties are dealing with helps the intervener to determine strategies for effective handling of the disputes (CMD, 2005).

4.3 Alternative Dispute Resolution

4.3.1 Basic Introduction to Alternative Dispute Resolution (ADR)

Alternative Dispute Resolution (ADR) is defined as encompassing all legally-permitted processes of dispute resolution other than litigation (Ware, 2001). It is also seen as an umbrella term that refers generally to alternatives to the court adjudication of disputes such as negotiation, mediation, arbitration, mini-trial and summary trial. ADR is also known as

appropriate dispute resolution or amicable dispute resolution (Nolan-Haley, 2008). Like many concepts, hardly do we find a uniform definition of ADR. Though, there are common elements in the above three definitions. Since definitions in general do not offer a comprehensive nature of a subject, it is appropriate to describe the essential elements of this institution.

4.3.2 Description of ADR

i. ADR as a Legal Institution: - ADR is a product of the legal institution to offer the best possible service to its clients. In fact, lawyers are sometimes urged to use ADR. Even though ADR is a private way of resolving dispute, it must work within the broad legal framework in which it operates. This means, the use of ADR to settle disputes must be done within the confines of law (Lechman, 2008).

ii. **ADR as a Process: -** There are different kinds of ADR processes. One process differs from the other. The notable ADR processes are: - negotiation, mediation, arbitration, settlements, summary jury trial, early neutral evaluation, the mini-trial, consensus building, and negotiated rule-making (Nolan-Haley, 2008).

iii. ADR aims at Resolving Conflicts: - Conflicts or disputes are everyday life experience both in private and public life. Whenever there is a dispute, which is an expressed struggle between at least two interdependent parties who perceive incompatible goals, scarce resources, and interference from others in achieving their goal, there is the need for resolution. There are various ways in which disputants try to resolve their differences. Some resolve conflicts by the use of violence like killing the other disputant. Some use court of law by going through litigation. ADR aims to be an alternative to litigation and violence (Moffitt & Bordone, 2005).

iv. ADR is the Opposite of Litigation: - The word *alternative* is used as an option to litigation. ADR is a recognised and a time-tested alternative to litigation across the globe14. In common law tradition, it is becoming increasingly one of the best ways of resolving many disputes. ADR process has been used to resolve conflicts among religious and ethnic groups since time in memorial. However, in many countries, especially in United States, a legally instituted ADR movement started in 1976 as real alternative to litigation. It was introduced in law schools so that lawyers can go beyond litigation, since the failure to do this for so long may be part of the reason for so much congestion in the civil justice system (Nolan-Haley, 2008).

v. ADR is Voluntary: - Disputants decide voluntarily to use ADR to resolve their differences. ADR thrives under the principle of self-determination of the disputants to use legally accepted procedure to resolve a conflict other than litigation. No one is coerced to enter into ADR. It is a voluntary process unlike litigation where respondents can be subpoenaed to respond to charges or provide evidence in public court of law. In all ADR processes, the parties are those who decide to resolve their conflicts through appropriate dispute resolution method. It is enough for one party to say no to ADR process like mediation and the process may not start or continue. (Kovach, 2005).

vi. ADR can be Mandatory: - Arbitration as ADR process is mandatory if there is arbitration clause in a contract. The arbitration clause stipulates that, in case of a dispute among the parties, ADR process will be used to settle the dispute. Pre-dispute arbitration

clause is an expression of the will of the two parties to use ADR. This does not mean the parties are forced into it, but they are simply called to respect a prior voluntary agreement to use arbitration as an alternative dispute resolution. After Arbitration process, the outcome can be challenged in a competent court of law.

vii. ADR is Confidential: - Often there is much public interest when a case is under litigation and with the media sometimes giving details of court proceedings. However, ADR is private and confidential. Its practitioners are bound by their code of ethics to preserve the privacy of their clients. ADR proceedings are most often done behind closed doors. In many cases, the parties involved in the process have to sign agreement, to keep the proceedings confidential and private unless permitted by law to do otherwise (Susskind, 2005).

viii. ADR process maybe Non-binding: - Some ADR processes have no legal binding effect. Negotiation, for instance, as ADR process, is non-binding. It is often an agreement between the disputants, which is subject to their goodwill. Since it is non-binding it cannot be enforced in public law court. It is a private approach to conflict. For this reason, the disputants decide themselves what is fair and abide by it (Ware, 2001).

ix. ADR process can produce Legally Binding Results: - ADR process is legally binding in two ways. First, the disputants have the obligation to honour their pre-dispute agreement to use ADR to settle their dispute. Second, they have to abide by the adjudication of the arbitrator, which is enforceable in a public government court of competent jurisdiction. Nevertheless, they can also challenge the outcome of arbitration in court, which is often difficult (Cole & Blankley, 2005).

x. ADR is Efficient, Saves Time and Costs Less: - Low-cost is one of the key advantages of ADR process. The exponents of ADR emphasise its low-cost as compared to often high-cost of litigation. It does not only cost less but it also saves time. The prolong nature of litigation sometimes makes it very frustrating. If the modern adage, *time is money*, stands, and then ADR is super cost effective, since it saves time and costs less (Ware, 2001).

4.3.2 Alternative Dispute Resolution Techniques

To handle conflicts positively as well as limiting mitigating and containing them, the following conflict resolution or management techniques can be improved and used as identified by Bambale (2006)

1. **Good Governance,** Good governance may be defined as the running of the affairs of government in positive and progressive manner beneficial to the governed and which delivers the public goods. It is a relative term to which there is consensus, but most will agree that it is characterized by democratization, maintenance of law and order, accountability and transparency, responsiveness on the part of the government, due process, rule of law, competence, separation and devolution of powers (Best, 2005).
2. **Effective Communication,** This is the process of sharing and exchanging information between individuals, groups and potential parties in a conflict situation. It is also the process of interacting and relating with others, meaning that parties to a conflict situation still talk (Best, 2005). This can help remove doubt, suspicion and contribute to the process of confidence building
3. **Collaboration,** Collaboration is a style of of revolving conflict where the parties objectively work with each other to find a solution that is satisfactory to both of them.

It is about dialogue in which the parties listen actively and gain understanding of each other's point of view. The understanding enables them to develop a solution that satisfies the concerns of both parties. This approach is more socially acceptable because parties in the conflict are fully involved in the conflict resolution process from the beginning to the end.

4. **Compromise,** Compromise involves finding an expedient mutually acceptable solution. Which partly satisfies both parties. A compromising style of resolving conflict results in each conflict participant sharing in some degree of winning and losing. In this situation, each party is partially assertive and partially cooperative. Compromise becomes necessary in situations where the positions of the parties are so incompatible that the two cannot be reconciled without one of them losing something in the process.

5. **Avoidance,** Avoidance strategy came into effect when one party deliberately and consciously ignores the conflicting issues or denies the significance of the issue in his/her life. It is a way of not addressing the conflict, or a tactical way of postponing the conflict for a better time. Note that in this situation, the person is unassertive and uncooperative; there is no intention to pursue one's own needs or those of the other party.

6. **Accommodation,** In accommodation there is a conscious attempt to neglect one's needs and focus on satisfying the needs of the other party. The underline value here is that of self-sacrifice which may be a manifestation of self-esteem (Ojiji, 2005). Thus, the party while using this style is not assertive and is not involved in competition with the other party.

7. **Domination,** Domination in a way is an attempt to deny the right of the other party; the primary motive is the desire for one party to win and thereby making the other party loser. This approach to resolving conflict can hardly lead to a lasting resolution of the conflict. Even if the stronger party wins, there is the tendency that the other party would still be having some grudges against the other party; additionally, whenever, the opportunity arises, the aggrieved party would express discontent, which could open up the problem again.

8. **Confrontation/Fighting,** This occurs when the parties in the conflict physically or verbally attack each other. The parties could engage in confrontation through the use of threats or insults or through outright violence. There seems to be a considerable lack of understanding and mistrust between the parties as each tries to hold to his own views and therefore disagrees with the other person's view point. Expectedly, this style of conflict resolution is characterized by violence and creates a lose/lose outcome; that is, a situation where both parties eventually lose. It is only in rare circumstances that confrontation leads to win/lose situation, where the stronger party wins.

9. **Conciliation,** Conciliation is a third party activity, which covers intermediary efforts aimed at persuading the parties to a conflict to work toward a peaceful solution and it involve facilitation. Miller (2003) provides an elaborate definition of conciliation as "the voluntary referral of a conflict to a neutral external party (in the form of an unofficial commission).

10. **Mediation,** Mediation has been defined by the United Nations University for Peace as: "The voluntary, informal, non-binding process undertaken by an external party that fosters the settlement of differences or demands between directly invested parties (Miller, 2003).

11. **Arbitration,** Arbitration is another type of third party intervention that is a step higher than mediation in the conflict management spectrum. Arbitration is the use and

assistance of a neutral third party in conflict, who hears the evidence from both parties, and there after renders a decision, usually called an award, which is expected to be binding on the parties.

12. **Adjudication,** This is another non-violent method of conflict management. This involves the use of courts and litigation processes. Parties to a dispute may choose not to use any of the methods we have discussed. They may choose instead to take their case to a court of law, before a judge of competent jurisdiction where legal counsels may represent them. At the end of the process, the court gives judgment, and is legally binding on both parties.

4.4 Treating Escalation Problem (Crisis Management)

A crisis is an extreme situation, which has reached a turning point, where critical decisions have to be made or else the conflict escalates to a point of extreme violence (Bambale, 2006). Crisis must be prevented at the right time in order to avoid tensions and other adverse effects. Conflict Management involves the steps undertaken to prevent the conflict at the right time and also helps to resolve it in an effective and smooth manner. Conflict management helps individuals to understand the causes of a conflict and helps prevent it at the right time.

4.4.1 Direct and Indirect Conflict Management Approaches.

Indirect Conflict Management Approaches

a. *Appeal to common goal*: - focusing on mutually desirable goal or conclusion
b. *Hierarchical referral:* - problems are referred to higher levels of the organization or group for solution
c. *Organizational redesign*: - ensuring relation isolation between conflicting parties. This can be done through: *decoupling, buffering, linking pins, liaison groups*.
d. *Use of myths and script:* - scripts are behavioural routines that become part of the organization's culture, while myths are proclamations or beliefs about a situation that deny the necessity to make trade-offs in conflict resolution.

Direct Conflict Management Approaches

a. *Lose-Lose Model:* - The Lose-Lose Model is that kind of approach where nobody really gets what he or she wants. The underlying reasons for the conflict remain unaffected. As a result, future conflicts of same or similar nature are likely to occur. This model often results from the following circumstances:
   - **Avoidance:** People pretend the conflict does not really exist and hope that it will gradually disappear.
   - **Accommodation/Smoothing:** People play down the differences among the conflicting parties, on one hand, and highlight similarities, on the other. e.g.
   - **Compromise:** Each party involved in the conflict gives up something of value to the other. In this case neither party gains in full what it desires, and seeds for future conflicts are sown. Although a conflict may appear to be settled for a while through compromise, it may still occur at a later point in future. e.g.
b. *Win-Lose Model:* - This is when one party archives its desires at the expense and to the exclusion of other party's desires. This is a result of the following:
   - **Competition:** Victory is achieved through force, superior skills or domination.

- **Authoritative command:** a formal authority dictates a solution and specifies what is gained and what is lost and by whom. Win-Lose fail to address the root causes of the conflict. It tends to suppress the desires, views, opinions of one of the conflicting parties. As a result, future conflicts over similar issues are likely to happen.
c. *Win-Win Model:* - This is a result of Collaboration between the interested parties to address real issues. It uses techniques of Problem –Solving to reconcile differences.
    - **Collaboration:** This is a direct and positive approach to conflict management. It involves recognition by all conflicting parties that something is wrong and needs attention.
    - **Problem-Solving:** This involves gathering and evaluating information in solving problems and making decisions (CMD, 2005).

4.4.2 Escalated Crisis Management

The following strategies may be considered for reducing the intensity of a crisis situation: -

1. **Escalation Training: -** By simply understanding the costs as well as the benefits of escalation, disputants can make better decisions about when and how to escalate a conflict, and when de-escalation is a better approach.
2. **Cooling-Off Period: -** In a crisis situation, angry people are often under great pressure to make instantaneous decisions of great importance. Under such circumstances, people commonly act in overly confrontational ways which they later regret. One strategy for limiting this problem is for the parties to agree to a "cooling-off" period, during which everyone can re-evaluate the situation and make more carefully reasoned decisions.
3. **De-escalatory Language: -** Care should be taken to use conciliatory and calming language, because conflicts can be de-escalated more successfully this way than they can be when inflammatory language is used.
4. **Dealing with Destructive and Hateful Speech: -** This is to respond to hate speech with good and appropriate speech that takes the moral high ground and tries to defuse the situation.
5. **Media Management: -** This is by educating the media about more responsible and constructive ways of reporting about conflict and particular events within that conflict.
6. **Step-By-Step De-escalation (GRIT): -** Graduated Reciprocal Reductions in Tension (GRIT), this involves one side making a small conciliatory gesture, which they hope is matched by a conciliatory response. If it is not, a second or third small gesture can be made to indicate one's interest and willingness to de-escalate the conflict.
7. **Controlled Confrontation: -** Conflict group can develop ways of doing conflict that permit escalation while controlling runaway processes.
8. **Dealing with Extremists: -** This is to limit the distorting effects of extremists by publically or forcefully condemning their actions. Excluding them from meetings and negotiations can also be helpful at times.
9. **Changing Leaders: -** More progress towards group goals can often be made by appointing new leaders who are willing to take a fresh look at the situation.
10. **Ground Rules: -** This is for the parties to identify and agree to comply with a series of ground rules governing their relationship. These rules limit escalation pressures by emphasizing respectful discussion of the core issues.

11. **Managing Strong Emotions: -** Effective anger management strategies are needed to help people deal with their anger without further escalating the conflict. Strong emotions such as distrust, fear and suspicion must be dealt with.
12. **Peacekeeping: -** It can be very useful to place peacekeepers between the parties so that violent confrontations are impossible without placing the peacekeepers at risk.
13. **Observers (Protective Accompaniment): -** Violence can often be limited when observers, who are trusted by the larger community, constantly accompany vulnerable individuals. The purpose of such "protective accompaniment" is to report aggressive bahaviour and human rights violations.
14. **Future Focus: -** Escalation can be limited by helping the parties to focus on the future relationship that they would like to build between each other, and not the assignment of lame and punishment for past misdeeds.
15. **Develop Personal Relationships: -** A key to blocking the de-humanization effect are programs which systematically establish positive personal relationships between contending parties.

4.5 Hints for Effective Conflict Resolution

4.5.1 Hints and Guidelines for Intervention

a. **Conflict Mapping,** a technique which helps parties to systematically determine the scope of a conflict.
b. **Strategic option identification and costing,** to assess the cost and benefits of the conflict
c. **Analysis of similar conflict,** to get ideas about problems that are likely to develop as well as approaches to tackle them.
d. **Identifying and involving all potential disputants,** all parties necessary for effective conflict resolution.
e. **Understanding historical context,** history of the underline conflict may explain why people feel the way they do, and can give hints about remedies.
f. **Recognizing related disputes,** linked to other disputes that are going on at the same time.
g. **Assisted scoping,** to have an outside party work with the disputants to help frame the conflict more objectively.
h. **Opening lines of communications,** for parties to have ways of contacting one another which they feel comfortable for them.

4.5.2 Ten Framework Principles for Intervention in Conflict

The following principles have been developed for international intervention. They can be applied to regional or local conflict with a little adjustment (CMD, 2005).

1. The Principle of Minimum Humanitarian Standards (just causes): - "Where there is unacceptable denial or violation of human rights, actual or threatened, the international community has a duty to attempt to intervene, subject to the condition laid down in Principle Nine."

2. The Principle of Human Development: - "The aim of such intervention should be the impartial promotion of sustained human development throughout the affected region."

3. The Principle of Appropriate Means: - "The means employed should be appropriate – that is, they should be (a) necessary, (b) Sufficient, (c) Proportional and (d) Legitimate."

4. The Principle of Local Enablement: - "The intervention should be conducted in terms understood and accepted within the region and in such a way as to strengthen and support those working locally to resolve conflict and build peace."

5. The Principle of Consistency: - "Intervention should be consistent across different conflict situations and relevant experience should be cumulatively transferred."

6. The Principle of Reflexivity: - "Interveners' motives and previous behavior should be compatible with the professed purpose of their intervention."

7. The Principle of Complementarity: - "Interveners' actions should be mutually complementary."

8. The Principle of Accountability: - "Interveners should hold themselves accountable to the international community for their intervention, since it is from the international community that they derive the authority to intervene."

9. The Principle of Contingency and Graduated Response: - "Where possible, intervention should be preventative, non-violent and with the consent of all parties. Where this is not possible, additional criteria should be met as appropriate at the relevant decision-points, without prejudice as to the outcome."

10. The Principle of Universality: - "The principle which govern humanitarian intervention should be endorsed by the international community."

4.6 Conclusion

Dispute or conflict is part of human experience. For this reason, there is the need to resolve dispute. Each society has ways of resolving dispute. In a democratic society, there are established norms of resolving conflict. This chapter explores various approaches and analysis of conflict resolution spectrum. However, the choice and effectiveness of any conflict resolution depend on the circumstances or the exigencies of the environment prevailing at a particular time. Conflict Management involves the steps undertaken to prevent the conflict at the right time and also helps to resolve it in an effective and smooth manner.

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