

Conflict Management and African Politics

Ripeness, Bargaining, and Mediation

Edited by

Terrence Lyons and
Gilbert M. Khadiagala

Security and Conflict Management

Conflict Management and African Politics

This edited volume builds on a core set of concepts developed by I. William Zartman to offer new insights into conflict management and African politics. Key concepts, such as ripe moments, hurting stalemates, and collapsed states, are built upon in order to show how conflict resolution theory may be applied to contemporary challenges, particularly in Africa. The contributors explore means of preempting negotiations over bribery, improving outcomes in environmental negotiations, boosting the capacity of mediators to end violent conflicts, and finding equitable negotiated outcomes. Other issues dealt with in the book include the negotiation of relations with Europe, the role of culture in African conflict resolution, the means to enhance security in unstable regional environments, and the strategic role of the United States in mediating African conflicts.

This book will be of much interest to students of international conflict management, peace/conflict studies, African politics, and International Relations in general.

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Security and conflict management

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I. William Zartman

2 Conflict Management and African Politics

Ripeness, bargaining, and mediation

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To I. William Zartman

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Preface

This book developed out of a conference held at the Paul H. Nitze School of Advanced International Studies, Johns Hopkins University, to honor I. William Zartman and his contributions to the fields of conflict resolution, negotiation theory, African politics, and international relations. The contributors are former Zartman students or close collaborators who have drawn on Zartman's contributions. In addition to those whose contributions are included here, the editors would like to thank all those who participated and presented papers, served as discussants, and shared their perspectives. We also want to express our deep and continuing thanks to Theresa Simmons for all her help in organizing the conference.

1 Conflict management and African politics

Framing the links

Terrence Lyons and Gilbert M. Khadiagala

This book investigates a series of diverse but interconnected questions that are inspired by the work of I. William Zartman. In an era when tenuous boundaries persisted between studies of international relations and comparative politics, Zartman's scholarship has always sought to create conceptual and analytical linkages between the sub-disciplines. A brief illustration of this academic straddling: he has deployed realist/neorealist assumptions to the study of African international relations, elite theories to understanding leadership in North Africa, and bargaining theories to analyses of Panama Canal negotiations and the Oslo peace process. More critical, he has bridged the gaps between North and Sub-Saharan Africa at a moment when most scholars invoke linguistic and cultural differences to build walls between the two regions. Over the years, with a remarkable intellectual energy, Zartman's academic bridge building has coalesced around the fields of bargaining and conflict management. Conflict management culminated Zartman's efforts to reconcile the sub-disciplines, but at the same time has allowed Zartman to transcend the narrow confines of political science by probing the contributions of social psychology and economics.

Grounded solidly in the Africanist and international relations domains, Zartman's work has drawn inspiration from both, creatively moving back and forth from the two arenas, in an intellectual excursion that has been matched by few of his peers. For instance, from analyses of the rich empirical materials relating to the protracted negotiations between Europe and Africa in the 1950s and 1960s, Zartman crafted the preliminary parameters of what became his long-standing interest in bargaining and negotiations. From a modest study of negotiations under conditions of structural asymmetry, this work on Europe and Africa mushroomed into a significant contribution to bargaining theory. Similarly, in the mid-1980s, Zartman's *Ripe for Resolution*, used cases from Africa's sub-regions to propose hypothesis that were instructive in building the foundations for theories of conflict management that have found global resonance. In the late 1990s, Zartman's conceptual interest in the tripartite structure of grievances—need, creed, and greed—helped inform the sources and courses of African civil wars, but has equally been relevant in comparative studies in other civil war contexts.

For Zartman, Africa has always been a laboratory for teasing out big comparative ideas in international relations and political science in general. This is partly because Africa's diversity offers a wider menu of empirical data that is relevant elsewhere. But more important, Zartman has often counseled against the fallacy of uniqueness, insisting on appraising African events within the frame of conventional ideas and theories. It is by this conviction that he has moved comfortably between the two arenas, defying the standard bureaucratic boundaries (particularly between "area studies" and "theoretical studies") that dominate the study of political science. By bridging these arenas, Zartman's work has also spoken to larger policy audiences. The essence of Zartman's ability to reconcile the sub-disciplines and traverse geographical boundaries is the conception that he derives from David Easton and other system analysts that views the art of government and politics as conflict management:

Governing is conflict management. In the long-established systemic understanding of governing, demands emerge from the body politic and are brought to the attention of the governors, who then handle them as best as they can and will. But these demands are never harmonious and are often downright contradictory, so that interest aggregation and policy choice become the crucial exercise of governing. . . . Conflicts among domestic demands and demanders are rarely eliminated; they are only reduced, satified, downgraded, contained, at best, until the demanders get new ammunition, new evidence, new pressure, new followers, or until new issues and demands break up their ranks and overshadow their earlier appeals. Issue realignment then causes new demands and demanders to enter into new conflicts for the governor's attention, but that does not prevent old demands from remaining or reemerging. Management of conflict means reacting responsively to reduce demands in a manner consistent with human dignity so that the conflict does not escalate into violence.¹

Zartman's vast body of work has contributed to the development of a number of key concepts, including ripe moments, the diagnosis–formula–details sequencing of negotiations, mediator roles and questions of leverage and timing, state collapse, and regional subsystems. The significance of these tools of analysis may be seen by their flexibility. As demonstrated by the authors included in this volume, Zartman's conceptual framework continues to be used and added to by a wide range of scholars from a variety of disciplines. Ripe moments and the related concepts of mutually hurting stalemates and mutually enticing opportunities, for example, have been applied to illuminate diverse cases beyond the initial international negotiations and African case studies Zartman used in developing the concept. Scholars have used quantitative methods, game theory, and other forms of investigation beyond Zartman's comparative case study approach. The elasticity of the concept of ripeness has generated an enduring body of research across the social sciences.

While firmly grounded in a range of theoretical approaches as well as the literature and cases of Africa, Zartman also kept one eye on the policymaking world. Through his work at Johns Hopkins University, Paul H. Nitze School for

Advanced International Studies he has trained a generation of policy makers who have taken up positions of influence in Washington, across Africa, and around the globe. His engagement with policy makers in Washington and elsewhere was based in the belief that good public policies are anchored in good, theoretically informed and empirically tested social science. Zartman has the rare ability to speak to policy makers and tell them something new but in a way that they can understand.

The contributors to this book build on the overarching theme of conflict management to reflect on Zartman's scholarship in negotiations, mediation, conflict resolution, and African studies. Some of the chapters borrow distinctive themes such as ripe moments, mutually hurting stalemates, and the tripartite process approach of diagnosis–formula–details to explain a specific problem. A majority of the chapters, however, draw conceptual inspiration from some aspect of Zartman's work to lend deeper understanding to a given subject.

Part I of the book begins with three chapters on negotiation theory that refine and expand on elements of Zartman's core conceptual framework. Alan Kuperman takes on one of Zartman's most important contributions, his concept of "ripeness." Kuperman wants to refine the analytical value of the concept by delimiting its boundaries more distinctly than Zartman has done. Ripeness theory also has a prescriptive implication and Kuperman recommends that external parties should "ripen" conflicts so that sincere negotiations may commence. Kuperman uses the example of Bosnia to point out the potential for the use of leverage to bring parties to accept a peace agreement. While this use of leverage helped create the conditions for the Dayton agreement in Bosnia, Kuperman argues that mistaken efforts to use brinkmanship to ripen conflicts in Rwanda and Kosovo backfired with devastating consequences.

Bert Spector's chapter probes the links between Zartman's notion of ripeness and efforts to combat bribery. He argues that Zartman's extension of the ripeness theory to include incentives and mutually enticing opportunities permits policy makers more room to engineer negotiated settlements. In an innovative conceptual venture, Spector contends that since bribery involves negotiations about benefits and incentives, the policy puzzle in anti-corruption efforts needs to be the creation of conditions that minimize such benefits and, thereby, obviate the attractiveness of such illicit bargains. Spector, thereby, demonstrates that Zartman's core insight regarding ripe moments can be developed further and applied in efforts to combat bribery that are far beyond Zartman's initial focus on international negotiations. Zartman's standpoint that politics and negotiations are two closely related ways of understanding more universal processes of conflict management suggests that concepts developed in one sphere, such as the roles of ripe moments, may be applied over a vast range of cases.

Chasek and Wagner revisit one of Zartman's earliest contributions to negotiation theory, the conceptualization of negotiations as a sequence that tends to move from diagnosis to formula to details. Chasek and Wagner demonstrate the continued importance of this insight through correlation and content analysis

methods. Using thirteen cases of multilateral environmental negotiations, they pinpoint key phases and turning points in their modified six-phase continuum to explain the complexities of arriving at outcomes. While negotiations rarely move in a strictly linear series of steps, Chasek and Wagner's study finds that sequencing and turning points do shape the environmental conflicts they investigate. These conflicts enable them to enrich and broaden Zartman's initial typology in ways that are instructive to policy makers steeped in international negotiations.

The next two chapters probe how the international system shapes outcomes of negotiations and conflicts in Africa. Khadiagala uses Zartman's ideas on Euro-African relations to trace the major evolutionary phases in the relationship. He argues that Zartman's contributions inhere in elaborating a consistent thesis of change and continuity that has stood the test of time. In reflecting on Europe's role in Africa, Zartman articulated the vision of gradual reduction of postcolonial responsibilities, particularly, as Europe ceded some of these responsibilities to multilateral actors and agencies. The challenge for Africa, Zartman maintained, was how it would seize the opportunities incumbent upon residual European presence and attention to build a capacity for self-responsibility. Khadiagala argues that the monumental task of translating postcolonial privileges into responsibilities that Zartman identified continues to inform the contemporary African institution building at national, regional, and continental levels.

Lyons takes two concepts from Zartman, the idea of regional subsystems and the model of a collapsed state, to see if West Africa may be understood as a region in collapse. While West Africa is clearly a regional conflict system, Lyons suggests that viewing collapse as a process that results in a power vacuum misses the alternative power structures that develop as the formal state and regional structures recede. Non-state actors such as militias and criminal networks thrive and sustain collapse at both the state and regional levels. Analysis of regional systems, Lyons argues, is important to understand the nature of contemporary conflicts but conflict resolution and the reconstruction of order and authority must begin at the state level.

The final three chapters focus on issues of conflict and conflict resolution in Africa. Donald Rothchild provides a deeply detailed and empirically rich treatment of two major conflicts in Africa and the relative success of US initiatives to manage them. He finds that a number of Zartman's concepts, including ripe moments and issues relating to the importance of mediator leverage, help us understand US foreign policy toward Liberia and Sudan in the early 2000s. Rothchild further builds on Zartman's framework to suggest that Washington's policy toward conflict in Africa represents "indirect mediation" as the United States seeks to encourage African leaders and institutions to take the lead.

Fadzai Gwarazimba revisits the theme of mutually hurting stalemate, underscoring its significance in understanding the transition from Rhodesia to Zimbabwe. But she contends that while a mutual hurting stalemate characterized the moment of the transition, the hasty nature of the transition allowed the parties to gloss over the key bone of contention—landlessness of Zimbabwe's

Africans, an issue that reemerged with virulence in the 1990s. As Zimbabwe's totters on the brink of collapse, Gwarazimba ponders whether the moment is ripe for a transition with justice and respect for the downtrodden.

Fred-Mensah reflects on Zartman's interrogation on the role of culture in conflict resolution. Zartman has been a skeptic with regard to the influence of culture in negotiations and once suggested that "culture is to negotiation what birds flying into engines are to flying airplanes or, at most, what weather is to aerodynamics—practical impediments that need to be taken into account (and avoided) once the basic process is fully understood and implemented."² In the edited volume *Traditional Cures for Modern Conflicts*, however, Zartman goes beyond Western models of conflict resolution to examine African models. Fred-Mensah argues that "indigenous" rather than traditional is a more useful way of understanding the principles and values that support conflict resolution in Africa and concludes that the indigenous has a distinctive capacity to promote resolution.

Building on Zartman's work and moving into new and innovative territory, this book aims to encourage future generations to stretch the conceptual envelope in lending insights to international relations and Africanist scholarship. How and when does mediation work in such disparate arenas as large environmental negotiations and illicit deals relating to bribery? How and in what ways does the international system shape how African states access trade and financial flows from Europe or how do regional systems collapse into violent warfare? How do policies of indirect mediation by great powers, the need to address issues of justice to sustain peace, and indigenous values shape the fundamental challenges of war and peace in Africa? This book is both rooted in conceptual frameworks developed by Zartman but builds and expands this point of view to explore new puzzles and suggestive new models.

Notes

- 1 I. William Zartman, "Governance as Conflict Management in West Africa," in Zartman (ed.), *Governance as Conflict Management*, Washington, DC: The Brookings Institution, 1997, p. 9.
- 2 I. William Zartman, "A Skeptics View," in Guy Olivier Faure and Jeffrey Z. Rubin (eds), *Culture and Negotiation*, Beverly Hills, Calif.: Sage Publications, 1993, p. 19.

Part I

**New research on
negotiation theory**

2 Ripeness revisited

The perils of muscular mediation

Alan J. Kuperman

Among Bill Zartman's many contributions to the literature of conflict management, his most prominent is the concept of "ripeness." It argues that violent conflicts cannot be ended by negotiation unless they are "ripe for resolution"—meaning the contending parties perceive themselves in a painful deadlock from which the only plausible escape is negotiation. Among academics, the theory is, hardly, uncontroversial. Indeed, Zartman's harshest critics deride it as "tautological"—an unfair charge, as he demonstrated in a 2,000 essay that helpfully clarified his argument.¹ Nevertheless, the concept would benefit from further refinement to clarify the following three points: ripeness is necessary only for *equitable* settlements of protracted violent conflicts; mediators can sometimes ripen a conflict without inducing a hurting stalemate; and if not done carefully, mediator attempts at ripening can backfire terribly.

Ripeness theory

The implicit assumption of Zartman's theory is that parties to violent conflict are not fully rational due to the passions of war. This explains why, in the midst of such conflict, they ordinarily will not negotiate sincerely with each other to explore potential negotiated outcomes that could benefit all parties. Instead, they typically seek victory through escalation. So long as they perceive victory as attainable, any participation in negotiations will be insincere and only for instrumental reasons such as impressing international audiences or gaining time to mobilize resources for resumption of war.

Sincere negotiations will not begin until several conditions obtain. First, the contending parties must perceive they are in a "mutually hurting stalemate"—that is, "the parties find themselves locked in a conflict from which they cannot escalate to victory and this deadlock is painful to both of them."² Such a perception stems partly from objective factors, such as the parties having recently escalated the conflict but not achieved decisive advantage. It can be enhanced by "an impending, past, or recently avoided catastrophe," which offers a "lesson indicating that pain can be sharply increased if something is not done about it now."³ Mediators also may employ rhetoric to convince the parties that the objective factors demonstrate that the fight is costly and fruitless.

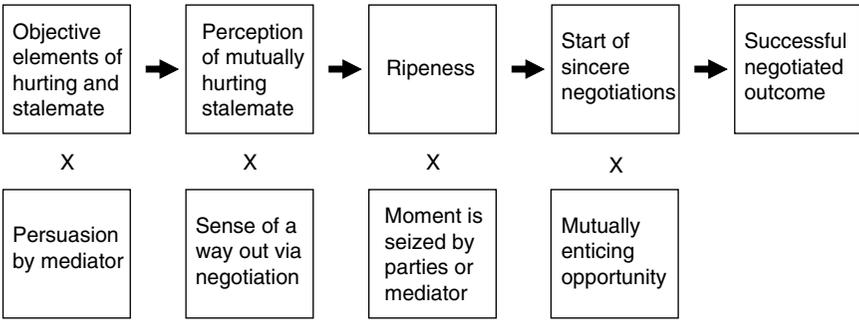


Figure 2.1 Zartman’s ripeness theory.

The second requirement for sincere negotiations is that each contending party perceives a “sense of a way out”—that is, an expectation that negotiations potentially could yield a deal that improves its situation. “Parties do not have to be able to identify a specific solution, only a sense that a negotiated solution is possible for the searching and that the other party shares that sense and the willingness to search too.” If both of these conditions exist, Zartman defines the conflict as “ripe,” meaning that sincere negotiations can commence if the parties themselves or a mediator seizes the moment.⁴ Once sincere negotiations begin, they can reach fruition if there is a “mutual enticing opportunity”—that is, a proposed deal that all parties perceive would leave them better off than fighting. If the parties lose hope of reaching such a deal, sincere negotiations will end. (The theory is illustrated in Figure 2.1.)

Zartman says that mediators can help create such opportunities by offering a side-payment, which “increases the size of the stakes, attracting the parties to share in a pot that otherwise would have been too small.”⁵ He notes that Henry Kissinger successfully employed this technique to forge the second Israel–Egypt disengagement in the Sinai. He could have added that the United States repeated this successful technique several years later to seal the 1978 Camp David peace agreement between the same contending parties, by pledging to each of them billions of dollars in annual aid that continues to this day.

Zartman’s ripeness theory

The only exception to the requirement for a mutually hurting stalemate, according to Zartman, is when there is a mutually enticing opportunity sufficiently grand to persuade the contending parties to embrace it prior to reaching a stalemate. This could occur, for example, if a mediator were to offer a very large side-payment, or if the original cause of the conflict were to disappear. But he dismisses this possibility as largely hypothetical, stating: “Few examples have been found in reality.”⁶

Since Zartman believes that unripe conflicts cannot be settled by negotiation, his prescription in such cases is for a mediator to use its resources to “ripen” the

conflict. The mediator should act as a “manipulator” who “limits the actions of the parties in conflict, providing objective elements of the stalemate.”⁷ He explains further: “To ripen a conflict one must raise the level of conflict until a stalemate is reached and then further until it begins to hurt—and even then work toward a perception of an impending catastrophe as well.”⁸ Though Zartman does not fully elaborate, he appears to recommend that a mediator dole out assistance and punishment—military or economic aid, embargoes, air strikes, or intervention by ground forces—to one or more sides as necessary to create a stalemate that is painful for all contending parties. As examples, he cites the United States arming Israel in 1973 and Morocco in 1981, and NATO bombing Bosnian Serb targets in 1995.⁹

Applicable only to protracted violence

The scope of Zartman’s theory is not quite as broad as he suggests. Rather sweepingly, he asserts that conflicts cannot be settled by negotiation until the contending parties perceive a mutually hurting stalemate. In reality, however, most conflicts are resolved by negotiated settlement prior to any substantial hurting, or even the outbreak of violence. Zartman attempts to accommodate this fact in his theory as follows:

Given the infinite number of potential conflicts that have not reached the “heights,” evidence would suggest that perception of an MHS [mutual hurting stalemate] occurs either at a low level of conflict, where it is relatively easy to begin problem solving in most cases, or in salient cases at rather high levels of conflict, a distinction that could be the subject of broad research.¹⁰

Unfortunately, this broadens the concept of mutual hurting stalemate beyond theoretical utility. Indeed, “a low level of conflict” satisfies neither of Zartman’s two requirements for a mutually hurting stalemate. There is little hurting, nor any obvious reason why the contending parties should believe that escalation is fruitless. Successful resolution via negotiation under such conditions, which Zartman concedes occurs in an “infinite number of potential conflicts,” cannot be explained by his causal mechanism.

This minor clarification does little damage to Zartman’s theory, which has never purported to explain the resolution of nascent or low-level conflicts. Rather, Zartman’s central claim always has been about protracted violent conflicts. It is those conflicts, he says, that are hard to resolve by negotiated settlement even when win-win outcomes are available. This is because fighting reduces the willingness of contending parties to contemplate any compromise, even one that would leave each of them better off than continuing to fight.

Zartman attributes this “resistant reaction” to two universal aspects of human nature—perseverance and demonization of the opponent—which are especially prominent among “true believers,” who he says are more common in certain cultures.¹¹ This tendency to fight longer than rational has been examined most famously by Fred Iklé, who instead attributes it mainly to domestic and

bureaucratic politics. Iklé explains that political leaders who negotiate with the enemy risk being accused by domestic opponents of error in starting the war or treason in ending it. In addition, militaries are nationalistic, suffer from over-optimism during war, and resist being reined in by civilian leaders. Finally, honor compels each party to insist the other make the first concession.¹² Although Iklé's explanations are distinct, they reinforce Zartman's claim that a losing party in violent conflict typically prefers to escalate hostilities if possible, rather than seek a compromise that likely would leave it better off.

Because Zartman says that violence reduces the rationality of contending parties in this manner (at least until the conflict ripens), he implies that prior to significant fighting the parties should be more rational and prone to embrace win-win negotiated outcomes. Zartman's theory, thus implicitly, explains why nascent and low-level conflicts are typically resolved by negotiation. That explanation, however, has little to do with mutually hurting stalemates. This underscores that ripeness theory applies only to protracted violent conflicts.

Hurting stalemates and equitable outcomes

Zartman says that "sincere negotiations" cannot begin until the contending parties perceive a mutually hurting stalemate—that is, each party perceives it is suffering and cannot escalate its way to victory. But this is not, obviously, true even for protracted, violent conflicts. Sincere negotiations can commence in such conflicts, and reach fruition, where only one party harbors this perception. In such cases, the outcome of negotiations, if successful, should reflect these divergent perceptions, because stronger parties who believe they still can win through escalation will demand greater concessions before making peace. At the extreme, the outcome may resemble a negotiated surrender. But even that is a negotiated outcome of a protracted violent conflict in the absence of a mutually hurting stalemate, and thus, prior to the ripening of the conflict. As clarified below, it is only "equitable" outcomes that tend to require ripeness.

Thomas Schelling, famously, observed that nearly all wars end by negotiation. In some cases this is due to the dynamic identified by Zartman, where a mutually hurting stalemate compels each party to realize it can do better by negotiating an equitable compromise than continuing to fight. But even in lopsided contests where one party is on the verge of victory, Schelling says, war ends typically by negotiation because all parties correctly perceive this outcome as preferable to fighting to the bitter end. The rationale is, perhaps, more obvious for the weaker party, which by negotiating its own surrender can avert the prospect of further suffering (or, at the extreme, extermination) and extract guarantees on the terms of defeat. But the stronger party also benefits from accepting a negotiated surrender by avoiding spending the additional blood and treasure to forcibly occupy its opponent's territory and subdue or annihilate its populace. Accordingly, the party that is losing in a conventional war often obtains fairly generous terms of surrender because it retains the

ultimate threat of resorting to irregular warfare that could inflict serious costs on both sides. As Schelling writes

“Surrender” is the process following military hostilities in which the power to hurt is brought to bear. If surrender negotiations are successful and not followed by overt violence, it is because the capacity to inflict pain and damage was successfully used in the bargaining process. On the losing side, prospective pain and damage were averted by concessions; on the winning side, the capacity for inflicting further harm was traded for concessions.¹³

This highlights that even when the negotiated outcome is surrender, both sides make concessions. The stronger side may do so despite expecting that it could achieve total victory by escalating violence, so long as the concessions are less costly than the anticipated future costs of fighting. A mutually hurting stalemate is, thus, not required for the contending parties in a protracted violent conflict to commence sincere negotiations or to embrace a win-win outcome. Although Zartman is correct that contending parties resist making large concessions so long as they believe victory is attainable through escalation, only one party need make such concessions to enable a negotiated outcome. The requirement for sincere negotiations is, thus, not a “mutually hurting stalemate,” but a perception by at least one party that it is “hurting and hopeless”—suffering and unable to escalate to victory.

Mutually hurting stalemates do, however, facilitate equitable negotiated outcomes—where opposing parties make significant concessions to each other. If the parties perceive themselves and each other to be hurting and hopeless, each will refuse to make unilateral concessions in the expectation that such endurance will compel its opponents to make reciprocal concessions. In such symmetric situations, negotiations are more likely to produce an equitable outcome, but also to be protracted. By contrast, in a lopsided conflict, the party that is hurting and helpless has no reason to expect or to hold out for equitable concessions, so negotiations may succeed more quickly.

Ripening can work (even without a stalemate): Bosnia

Even equitable outcomes do not strictly require a mutual hurting stalemate. It may be sufficient for only one party to be hurting and hopeless, so long as its opponents face the prospect of hurting from international sanctions if they reject an equitable compromise. A good example is the case of Bosnia, which Zartman cites in support of his theory but which also can be used to refine that theory.

Bosnia’s 1992–1995 civil war pitted three ethnic factions—Serbs, Croats, and Muslims.¹⁴ At the start of hostilities, the stronger Serbs with help from neighboring Serbia quickly expanded their control from about half to more than two-thirds of Bosnia’s territory and held these gains for two years. But all sides still believed that they could win via escalation, relying heavily on hopes of external support, so peace negotiations failed. Then, in 1994, the United States forged a Bosnian

Muslim–Croat federation and facilitated its arming and training via Croatia. This military aid, complemented by a NATO bombing campaign against Serb military targets in late summer 1995, enabled a Croat–Muslim military offensive that quickly recaptured lost territory and by autumn 1995 raised the specter of Serb defeat, at least in western Bosnia.

At this turning point, the United States convened peace negotiations in Dayton, Ohio, between representatives of the three groups. Bosnia’s Serbs demonstrated newfound sincerity for negotiations by agreeing for the first time to be represented by Serbian leader Slobodan Milosevic, who for nearly three years had been more amenable to compromise than they. The Serbs reluctantly made this switch because they suddenly found themselves hopeless and hurting. At the negotiations, Milosevic quickly acquiesced to the main US demand that the Serbs abandon their quest for independence and accept political autonomy within only 49 percent of the territory of a loosely confederated Bosnia. Indeed, given the recent turn in fighting, this amount of territory was more than the Serbs reasonably could hope to retain militarily if the war continued.

The sticking point at the negotiations—as recounted by the lead mediator, US ambassador Richard Holbrooke—was the Muslims’ reluctance to accept less at the bargaining table than they now might win on the battlefield. The Muslims always had hoped to establish Bosnia as a unitary rather than ethnically divided state, but for three years they had failed to do so militarily. Now, thanks to external aid, they and their Croat allies potentially had the power to achieve that goal with force.

To compel the Muslims to accept compromise, American diplomats ultimately had to threaten to abandon them. The US Secretary of State Warren Christopher issued Izetbegovic an explicit ultimatum: “You can have a successful outcome or not, as you wish. But we must have your answer in one hour. If you say no, we will announce in the morning that the Dayton peace talks have been closed down.”¹⁵ It is unclear whether this threat was credible, given longstanding US condemnation of the Serbs as aggressors and expression of support for the Muslims’ goal of a unified Bosnia. But the threat evidently raised the specter of renewed hurting sufficiently that the Muslims reluctantly acquiesced to the equitable compromise of the Dayton accords. They did so even though the Muslim–Croat federation at the time enjoyed military superiority, and was neither stalemated nor hurting.

The Bosnian case demonstrates that a mutually hurting stalemate is not required even for an equitable outcome of a protracted violent conflict. Only one party need be hurting and hopeless, and therefore willing to make significant concessions from its original demands, in order for sincere negotiations to commence. Stronger parties, which are neither hurting nor hopeless, may nevertheless be compelled to reciprocate by the threat that if they refuse, international sanctions will turn the tide of battle against them or otherwise increase their hurting.

Zartman characterizes this dynamic as international actors using leverage to ripen a conflict. But this is somewhat imprecise, because ripening by his definition requires creation of a mutually hurting stalemate, which in Bosnia did not occur.

There was no stalemate at the time of Dayton, because the Muslim–Croat federation retained a military advantage sufficient to capture more territory from the Serbs. (Zartman characterizes the military situation at the time as “a temporary Serb setback and a temporary Croat advance that could not be sustained.”¹⁶ But at the time the shift in fortunes did appear sustainable so long as aid continued to the federation and sanctions remained against Yugoslavia.) Nor was the federation hurting at the time. Indeed, it was euphoric at recent military progress and the expectation of more. American threats to suspend military aid did raise the possibility of future hurting but did not guarantee a return to stalemate, since it was impossible to know exactly how a reduction in foreign assistance would affect the battlefield.

A more accurate characterization of the Bosnian endgame is that there was neither a stalemate nor mutual hurting. The Serbs agreed to the Dayton peace agreement because it was a better outcome than they could expect to achieve on the battlefield *at the time*. The Muslims and Croats agreed because it was a better outcome than they feared they would be able to achieve on the battlefield *in the future*, if they rejected the deal and the United States cut off military aid. In other words, the Serbs faced a current catastrophe and the Bosnians an impending one.

The mediator’s wielding of current and prospective assistance and punishment convinced each side that it would be better off by accepting the peace agreement. Judging from this case, Zartman’s prescription for mediators to ripen conflicts should be modified. In some cases, mediators need not escalate the conflict to the point of a mutual hurting stalemate. Instead, they can propose a peace agreement, threaten to (and if necessary) punish the parties until they accept it, and reward those who do. This strategy, which I have labeled “muscular mediation,”¹⁷ is in vogue especially among American practitioners, academics and non-governmental organizations. If the threat is sufficiently large and credible, and accompanied by a credible reassurance that cooperation will be reciprocated, this approach can avert the violence and suffering needed to create a mutually hurting stalemate.

Given that Zartman cites Bosnia as a case where mediators successfully ripened a conflict, he presumably would accept this broader definition of such ripening, even though it does not require creating a mutually hurting stalemate. The remaining question, however, is whether and under what conditions such artificial ripening by mediators is a good idea.

Ripening can backfire: Rwanda and Kosovo

To his credit, Zartman offers several caveats about ripening. First, he observes that escalation by one side may not lead to a mutually hurting stalemate, because “pressure on a party in conflict often leads to the psychological reaction of worsening the image of the opponent . . . that has the functional feature of justifying resistance.”¹⁸ In other words, pressure may backfire by failing to coerce and instead triggering a counter-escalation. He also notes that when mediators attempt to ripen a conflict, “such actions are delicate and dangerous,” because

they can undermine the neutrality and therefore the effectiveness of a mediator.¹⁹ He does not, however, connect these points to warn of the gravest danger of all: that mediator attempts at ripening may so threaten a party's vital interests that it responds with massive, even genocidal escalation against its opponent. This occurred twice in the 1990s—in Rwanda and Kosovo.

Rwanda

Rwanda's civil war began in 1990, when longtime Uganda-based Tutsi refugees of Rwandan origin invaded their home country under the banner of the rebel Rwandan Patriotic Front (RPF).²⁰ (The minority Tutsi had dominated Rwanda prior to independence, but in the 1960s many of them had fled to Uganda and elsewhere following the advent of Hutu majority rule and several failed Tutsi attempts to regain power by force.) For the first three years of the war, the rebels grew in relative strength. But each time the rebels launched an offensive, France intervened to enable Rwanda's Hutu regime to fight them off. The war was stalemated, and some 2,000 Rwandan civilians already had been killed, but initial peace negotiations were insincere because neither side hurt very much nor saw a looming catastrophe. The regime felt it could rely on France for protection, while the rebels believed they could fend off the Rwandan army, so neither side offered significant concessions.

To break this stalemate, powerful international actors attempted to ripen the conflict by pressuring the regime. Key donor states conditioned their development aid on the regime's willingness to share power with the Tutsi rebels and with domestic opposition parties, which were mainly Hutu but resented the regime's concentration of power and so had allied with the rebels. Even more important, France signaled an intention to withdraw its troops, meaning that the Hutu regime soon would be unable to defend itself. Under this intense pressure, the regime acceded to virtually all of the rebel demands in an August 1993 peace agreement in Arusha, Tanzania. Under the pact, the rebels would constitute nearly half of a merged Rwandan army—giving them effective military control in light of their superior training and cohesion—and also would control the transitional government via a majority coalition with the domestic opposition parties.

But these coerced concessions were unacceptable to key elements of the Hutu regime, who refused to surrender power, fearing that they or the wider Hutu majority would suffer under Tutsi rule. Instead they organized a "Hutu Power" movement, using media to foment fear that the Tutsi intended to subjugate or kill Hutu, and arming militias to defend against this threat. They coopted the domestic opposition parties by convincing them that the rebels sought Tutsi hegemony, an impression reinforced by the rebels' military offensive of February 1993 and by Tutsi violence against Hutu in neighboring Burundi following the assassination of that state's first Hutu president in October 1993. When the opposition parties switched their allegiance to the regime, the Tutsi rebels realized that they no longer would control the transitional government if implemented and so lacked a peaceful path to power. By early 1994, both sides prepared for a resumption of violence.

On April 6, 1994, the Hutu president was killed when his plane was shot down. Government officials blamed the rebels. (It remains uncertain who fired the missiles, but recent testimony from former rebels indicates it was probably the Tutsi-led RPF.)²¹ By the next day, civil war had resumed and Hutu extremists began the wholesale killing of Tutsi and the targeted assassination of Hutu opponents of the regime. Over the course of three months, the genocide killed an estimated half-million Tutsi—more than three-fourths of their total in Rwanda. In addition, hundreds of thousands of Hutu were killed during and after the genocide, many in retribution by the Tutsi rebels. Mediator attempts to ripen the conflict had backfired terribly. A relatively low-level conflict, with a toll of only 2,000 in the course of three years, was transformed into a holocaust that killed an estimated one million Rwandans.

Kosovo

Kosovo's war began when armed rebels of the Kosovo Liberation Army (KLA) began shooting Serbian police in the late-1990s in pursuit of independence.²² Serbia had revoked the province's autonomy in 1989, alleging discrimination by the province's Albanian majority against its Serb minority, and in an effort to maximize Serbia's power by controlling Kosovo's vote in the former Yugoslavia's joint presidency. The Albanians' initial response, from 1989 to 1997, was to resist Serbian authority through exclusively pacifist means, by establishing a shadow government that included parallel tax, education, and health systems. This peaceful approach failed to achieve independence or even a restoration of autonomy, so when weapons suddenly became available in 1997 from a civil war in neighboring Albania, the militant KLA launched a full-blown rebellion.

The rebels, benefiting from contributions and volunteers from the Albanian diaspora, initially took control of strongholds in the Drenica valley and western Kosovo. But in spring 1998, Serbian forces launched a ruthlessly effective counter-insurgency, attacking and burning villages accused of harboring the rebels. By late summer the Serbian forces had regained control of the province and pushed most of the rebels across the border to their rear bases in Albania. As winter loomed, however, the international community worried that Albanian civilians displaced by the fighting into Kosovo's mountains would die of exposure. The US Ambassador Richard Holbrooke, wielding the threat of NATO air strikes, persuaded Belgrade to sign an agreement to halt fighting and withdraw forces. But the rebels were not asked to sign and did not honor the cease-fire. By winter they had reoccupied large swaths of Kosovo and resumed attacks against Serbian forces, reigniting the civil war.

Though the conflict had claimed more than 1,000 lives by the end of 1998, there were no sincere negotiations because each side believed it could prevail through escalation. Serbia remained confident because its forces—equipped with armor and heavy weapons—were overwhelmingly superior to the ragtag rebels, armed only with AK-47s and a few sniper rifles. Yet the rebels too were optimistic that if they continued to fight and provoke Serbian retaliation, the United States eventually would intervene against the Serbs as it had previously in Bosnia.

In early 1999, American diplomats attempted to ripen the Kosovo conflict by convening a peace conference in Rambouillet, France, modeled on the successful Bosnia negotiations at Dayton. As in the earlier case, the United States presented a peace plan and threatened to oppose whichever side rejected it. But the agreement tilted heavily toward the Albanians by calling for the withdrawal of most Serbian forces, a NATO occupation, and then a referendum after three years that was certain to produce Kosovo's independence against Serbia's will. The ethnic Albanian delegates soon signed the agreement, but Serbian officials refused, probably because domestic politics prevented them from surrendering territory or they had a strategy to withstand the threatened punishment.²³

Fulfilling its coercive threat, NATO commenced air strikes against the former Yugoslavia in March 1999. But Serbia responded by counter-escalating with a full-blown ethnic cleansing campaign in Kosovo that killed about 10,000 Albanians and triggered the flight of approximately 850,000 more (half their total in the province) as refugees to neighboring countries. Eventually, after 11 weeks of bombing that inflicted heavy damage on Serbia's infrastructure, Belgrade did concede to a peace agreement in June 1999 that required the complete withdrawal of Serbian forces but deferred the question of Kosovo's political status. Albanian refugees quickly returned to Kosovo, where they and the KLA exacted retribution, killing hundreds of Serbs and compelling the flight of about 100,000 more (likewise half their total in Kosovo). American attempts to ripen the conflict had again backfired—multiplying the death toll several-fold, displacing half the populace as refugees, and transforming the multi-ethnic province into a nearly homogenous bastion of Albanian nationalism.

Lessons for mediators

As with any form of brinkmanship, mediator efforts to ripen conflicts can either succeed by inducing restraint or backfire by fostering escalation. In light of the potentially disastrous consequences of misguided ripening, as in Rwanda and Kosovo, it is imperative to develop better guidelines for mediators. As Zartman himself writes, "More work needs to be done on ways in which unripe situations can be turned ripe by third parties."²⁴

The cases above suggest three factors can improve the prospects for ripening. First, if possible, mediators should propose peace terms that represent an actual compromise, not a threat to the vital interests of any party, to avoid creating incentives for escalation. Second, ripening is safer if the parties lack a significant capability to escalate autonomously (i.e., without cooperation from the mediator). Third, mediator threats and inducements must be sufficiently large and credible to persuade all sides that continued fighting or escalation is futile.

The success of muscular mediation in Bosnia was facilitated by all three factors. First, the Dayton accords were designed not to immediately threaten the vital interests of any contending party. Each group received its *sine qua non*—the Serbs an autonomous Serb republic; the Muslims a unitary Bosnia; and the Croats local

autonomy within the federation. As a result, no side had a compelling incentive to reject the agreement.

Second, at the time of Dayton, none of the Bosnian groups could escalate significantly without acquiescence by the United States. To reverse their recent losses, Bosnia's Serbs would have required heavy weapons from Yugoslavia, which the United States could interdict with air power. The opposing Muslim and Croat forces depended on foreign arms and training, which the United States also could have blocked by resuming enforcement of the UN arms embargo. Thus, even if any of the groups had felt its vital interests threatened, the path of escalation was constrained. The US efforts to ripen the conflict triggered only one limited qualitative escalation, in summer 1995, prior to the Dayton talks. At that point, the Serbs realized that American aid to the Muslim–Croat alliance had tilted the military balance against them. So they responded by escalating the war in eastern Bosnia to preventively crush Muslim enclaves (most infamously Srebrenica) to ensure a contiguous Serb territory at war's end.

Third, US threats and assurances at Dayton were mostly credible. The Serbs knew that the United States could punish them, both by air strikes and facilitating aid to their opponents, because it already had done so. The Muslims, based on years of US diplomatic support and recent facilitation of military aid, trusted the United States to ensure Bosnia's integrity under the accords. Though somewhat less plausible, the American threat to punish the Muslims if they rejected the agreement was sufficiently credible to compel Izetbegovic, who declared in frustration: "It is not a just peace But my people need peace."²⁵

In Rwanda, by contrast, none of the three mitigating factors was present, which helps explain why muscular mediation backfired so tragically. The Arusha accords threatened the vital interests of the Hutu regime by handing political and military control to rebels perceived as intent on Tutsi hegemony. Moreover, the Hutu retained the option of a major qualitative escalation, from counter-insurgency against invading rebels to genocide against the unarmed domestic Tutsi population. The rebels also acquired an escalatory option in December 1993, when French forces were replaced with feeble multinational peacekeepers, because the regime no longer could defend itself militarily. Finally, the financial and military sticks utilized by the mediators—although sufficient to compel the regime's signature on a peace plan—were insufficient to deter or prevent either side from escalating the violence.

Likewise in Kosovo, none of the three mitigating factors was present and ripening backfired. The ill-conceived Rambouillet peace plan threatened Serbia's vital interests by paving the way for the independence of Kosovo, which many Serbians viewed as the cradle of their church and state. Serb forces also retained an escalatory option because in 1998 their Kosovo counter-insurgency had been relatively restrained, avoiding the large-scale ethnic cleansing and atrocities that had characterized the preceding wars in Croatia and Bosnia. Finally, the threat of NATO bombing was insufficient to deter Serb escalation because Milosevic either was compelled by domestic politics or believed he had a strategy to survive the bombing.

To summarize, in both Kosovo and Rwanda, mediator attempts to ripen the conflict threatened the vital interests of a party that could respond with massive escalation, which the mediator could not avert. This was a recipe for disaster.

This experience suggests how muscular mediators might reduce the risk of such catastrophic failure. In an ideal situation, they would propose equitable compromises, assess each side's capability for escalation, and take preventive measures to deter and prevent such escalation. But that may not always be possible. In some cases, any potential deal threatens the vital interests of at least one side. If so, the mediator still may use its leverage to promote a deal that favors one side, seeking stability at the expense of equity.²⁶ But the mediator should not do so unless it also has the capability and will to avert an escalatory reaction by the disfavored side. If mediators lack either the capability or will to avert potential escalation, they should eschew the ripening of conflicts or they run the risk of doing more harm than good.

Conclusion

Zartman's theory of ripeness is one of the most important, and widely cited, in the literature on conflict management. Moreover, his subsequent exploration of the potential for mediators to ripen conflicts by wielding sticks and carrots has expanded his theory from merely a passive analytical lens to a framework for diplomatic action. So long as muscular mediators observe the guidelines in this chapter, avoiding ripening when it is not propitious, Zartman's theory can help them forge negotiated outcomes to protracted violent conflicts and thereby significantly reduce human suffering. It would be among his greatest legacies.

Notes

- 1 I. William Zartman, "Ripeness: The Hurting Stalemate and Beyond," in Paul C. Stern and Daniel Druckman (eds) *International Conflict Resolution after the Cold War*, Washington: National Research Council, 2000, pp. 225–250.
- 2 Zartman, "Ripeness," p. 228. He adds: "If the notion of mutual blockage is too static to be realistic, the concept may be stated dynamically as a moment when the upper hand slips and the lower hand rises, both parties moving toward equality, with both movements carrying pain for the parties." This re-framing is somewhat confusing because if a weaker party gains relative strength it often will feel not pain but euphoria accompanied by expectations of further progress, so it will not perceive a stalemate. So, Zartman is almost certainly referring to a recent shift in the momentum of war that has led to a current stalemate—for example, after the stronger party reaches what Clausewitz calls the "culminating point of the attack," beyond which it can make no further gains.
- 3 Zartman, "Ripeness," p. 228.
- 4 "If the (two) parties to a conflict (a) perceive themselves to be in a hurting stalemate and (b) perceive the possibility of a negotiated solution (a way out), the conflict is ripe for resolution (i.e. for negotiations toward resolution to begin)." Zartman, "Ripeness," pp. 228–229.

- 5 Zartman, "Ripeness," p. 244.
- 6 Zartman, "Ripeness," p. 241.
- 7 Zartman, "Ripeness," p. 244.
- 8 Zartman, "Ripeness," p. 241.
- 9 Zartman, "Ripeness," p. 244.
- 10 Zartman, "Ripeness," p. 231.
- 11 Zartman, "Ripeness," pp. 238–239.
- 12 Fred Charles Iklé, *Every War Must End*, Revised Edition, New York: Columbia University Press, 1991, pp. 59–105.
- 13 Thomas Schelling, *Arms and Influence*, New Haven: Yale University Press, 1966, p. 30.
- 14 For further details and citations on this case, see Alan J. Kuperman, "Power-Sharing or Partition? History's Lessons for Keeping the Peace in Bosnia," in Michael Innes (ed.) *Bosnian Security After Dayton: New Perspectives*, New York: Routledge, 2006.
- 15 Richard Holbrooke, *To End a War*, New York: Knopf, 1999, p. 305.
- 16 Zartman, "Ripeness," p. 234.
- 17 Kuperman, "Rambouillet Requiem: Why the Talks Failed," *Wall Street Journal*, March 4, 1999.
- 18 Zartman, "Ripeness," p. 238.
- 19 Zartman, "Ripeness," p. 244.
- 20 For further details and citations on this case, see Kuperman, *The Limits of Humanitarian Intervention: Genocide in Rwanda*, Washington, DC: Brookings Institution Press, 2001; Kuperman, "Provoking Genocide: A Revised History of the Rwandan Patriotic Front," *Journal of Genocide Research*, Vol. 6, No. 1, March 2004, pp. 61–84.
- 21 Jean-Pierre Mugabe, April 21, 2000, <http://www.multimania.com/obsac/OBSV3N16-PlaneCrash94.html>; Abdul Ruzibiza, March 14, 2004, http://fdlr.r-online.info/Actualite/Abdul_Ruzibiza_testimony.htm; Aloys Ruyenzi, July 5, 2004, <http://www.inshuti.org/ruyenzi.htm>, accessed November 2, 2007.
- 22 For further details and citations on this case, see Alan J. Kuperman, "Tragic Challenges and the Moral Hazard of Humanitarian Intervention: How and Why Ethnic Groups Provoke Genocidal Retaliation," PhD Dissertation, Cambridge, MA: MIT, 2002.
- 23 Barry R. Posen, "The War for Kosovo: Serbia's Political–Military Strategy," *International Security*, Vol. 24, No. 4, Spring 2000, pp. 39–84.
- 24 Zartman, "Ripeness," p. 245.
- 25 Holbrooke, *To End a War*, p. 309.
- 26 This is essentially the prescription in Richard K. Betts, "The Delusion of Impartial Intervention," *Foreign Affairs*, Vol. 73, No. 6, November/December 1994, pp. 20–33.

3 Perverse negotiations

Bribery, bargaining, and ripeness¹

Bertram I. Spector

Many countries in transition suffer from chronic and systemic corruption that compromises governance and slows economic growth. As a primary manifestation of corruption, this chapter conceives bribery as a classic negotiation transaction between public officials and citizens, but one that exists in an illegal context. The satisfaction of interests through bribery negotiations may serve personal goals, but subvert the larger system of governance. While governments and international donor organizations have been seeking effective approaches to fight or prevent bribery and corruption through stricter law enforcement, administrative and institutional reforms, and public education strategies, one novel approach may be to deconstruct the bribery negotiation process to eliminate the opportunity for such transactions. The chapter analyzes this particular negotiation context in relation to Zartman's ripeness theory to identify ways to change the process and alter incentives, making negotiations concerning bribery a rare and high risk activity.

As one of the most common modes of human interaction, the negotiation process constitutes the core dynamic of many problem-solving transactions, whether it be familial, business, governmental, or international. In all of these domains, negotiation also serves as the vehicle for one of the oldest of human activities, corruption. Most acts of petty, low-level corruption can be characterized in negotiation terms: they include actors with clear interests who use power and persuasion to obtain mutually beneficial outcomes. Taking a broader societal perspective, most analysts view corruption as negative to economic growth, public confidence, and good governance; the fact that corruption operates as a negotiation process appears to be inconsequential.² However, this linkage to negotiation processes may be the key to developing an ameliorative strategy for fighting corruption.

Over the past decade, the international community, many governments, and civil society organizations have focused attention on the persistent problem of corruption in transitional economies, as well as in developing and industrialized states, blaming it for slowed economic growth and deterioration in the quality of public service delivery. They have struggled to design and implement anti-corruption strategies that can reverse or control these negative trends, in close coordination with host governments.³ While traditional anti-corruption

approaches have sought to build effective rule of law procedures and institutions, and strengthen law enforcement activities, international experience has shown that, by themselves, these initiatives have only a transient impact. Other approaches need to be stimulated—including preventive reforms and public education—and other stakeholders need to be mobilized—including civil society, the private sector, and the mass media—to develop sustained and comprehensive pressure on state officials and institutions to keep them accountable for their actions.⁴ These demand-side strategies seek to reduce the opportunities for corrupt encounters by generating a system of checks and balances, creating citizen awareness of legal rights to shield them from threats of abuse and harassment by corrupt officials, and developing independent watchdog groups that monitor government and increase transparency of government operations.

Public sector corruption is typically defined by researchers as the misuse of entrusted authority for private gain.⁵ But when ordinary people are asked to define the corruption phenomenon, they overwhelmingly identify it as the act of bribery, just one of its many manifestations. Bribery is the *quid pro quo* transaction between a citizen and a government official in which cash, gifts, or favors are provided by the former to obtain illicit access or services or faster access or services from the latter.⁶ Inherent in this bribery transaction is a negotiation between two actors—one who wants something and the other who can provide it, either as part of his/her official state functions or in return for unofficial personal payments or favors. The transaction is a basic tit-for-tat negotiation encounter. From this simple conception of the bribery scenario as a reciprocal negotiation relationship, we propose an unorthodox approach to reduce bribery by eliminating its embedded negotiation elements. If the negotiation can be removed from the bribery transaction, perhaps the corruption can be averted.

The goal of this chapter is to evaluate the role that negotiation plays in the typical bribery transaction and how those negotiation elements might be *deconstructed* to prevent the negotiation and hence, the bribery, from occurring. Most negotiation literature seeks to uncover the factors and conditions that are favorable to initiating effective bargaining; what situations prompt the onset of negotiation, promote negotiation, or make the situation ripe for negotiation.⁷ In an unusual twist to this plot, we seek to understand what is required to *stop* negotiation in particular cases where the vulnerability to bribery activity is high. If the relevant criteria can be identified, the elimination of certain types of negotiation can become the central theme in national and international anti-corruption strategies. In particular, we want to examine the implications of Zartman's concept of negotiation ripeness⁸ for this bribery negotiation deconstruction.

Corruption and development

Corruption is a worldwide phenomenon, but largely prevalent and unchecked in countries undergoing transitions or modernization.⁹ Certainly, one cannot be attentive to current events today without being inundated by the many reports of

corruption in *both* the developing and developed worlds. The great damage and loss of life in recent earthquakes in Turkey and India have been attributed not so much to acts of God, but to pervasive corruption; it is common practice in these countries for government inspectors to turn a blind eye to building code violations in return for bribes from construction firms. In Salt Lake City, a big scandal revealed how bribery and gifts were intimately involved in the selection of sites for the 2,000 Olympic Games. In Brussels, department heads in the European Commission had to resign due to allegations of fraud and corruption. In Germany, former Chancellor Kohl was alleged to be involved in unexplained financial dealings with his political party—funds given to the party to gain political influence. In Ukraine, surveys conducted prior to the Orange Revolution found that 35 percent of companies pay bribes frequently, an average of 6.5 percent of annual corporate revenue is paid in bribes as unofficial taxes, and over 30 percent of households claim that they are confronted by some form of corruption every year.¹⁰ While corruption remains a real and constant phenomenon that plagues all countries, the difference between developing and developed countries is in the extent to which institutions and processes have been implemented to keep opportunities for corruption checked and under control, and predictable punishment is meted out when corruption is exposed. Bribery, corruption's principal manifestation, is as old as recorded history and is even mentioned in Psalm of David 15 as one of those basic volitional actions that will prevent one from "dwelling upon Thy holy mountain." The bribery transaction has two basic variants—the demand and the offer. It can be initiated by officials who use their position to extort payments and favors from citizens who are eligible to obtain services for no extra fee whatsoever. Alternatively, it can be offered by citizens who seek special dispensation or service by paying off or providing a gift or favor to an official who is otherwise entrusted with upholding the law. Whether or not the *quid pro quo* in fact occurs after the corrupt transaction is initiated depends upon the ethics, desperation, desire for gratification, and fear of punishment of both sides in the transaction.

What makes corruption so prevalent in development situations? Corruption is more than just a function of personal greed or cultural predisposition.¹¹ It tends to prevail where *the rule of law* is not clearly elaborated and public officials have wide authority to act; under these circumstances, officials can make decisions that benefit themselves with impunity, free from the risk of certain detection. Corruption thrives when officials are not held *accountable* and there is minimal *transparency* in the decision process. Weak and ill-conceived *incentives* also make societies vulnerable to corruption—when civil servants are not paid a living wage, when there are few rewards for good performance, and when there is little fear of punishment for wrongdoing. Countries with weak *institutions* that are over-politicized and cannot enforce their decisions are also prone to corrupt practices. When there is a lack of *political will* and commitment to make reforms among society's leadership, corruption prospers. An underdeveloped *civil society* also contributes to corruption, because this is the sector of society that typically serves as the external watchdog of government operations and decisions; without their active role in

pressuring officials, government can often proceed unchecked. Finally, in developing countries where *citizen loyalties* to the state are still in a formative stage and may be more strongly focused on personal, tribal, or clan relationships, corruption in the state can grow because accountability is not enforced.

Wide discretion, limited accountability, and limited transparency in government decision making open the door to bribery negotiations.¹² Wide discretion provides government officials with the opportunity to interpret laws, regulations, and processes and makes negotiation concerning how they are implemented possible. Limited accountability provides government officials with practically free agency; they can negotiate on terms that will yield personal benefit with little risk that they will be caught and punished for overstepping the public trust. Limited transparency offers both the public official as well as their negotiating partner the relative secrecy that is required to conduct their extra-legal transaction. The opposite of each of these conditions that make bribery negotiations possible can be rectified by the effective rule of law. In such situations, what is expected of public officials is clearly prescribed, their ability to interpret is circumscribed, and government decision making is predictable to all parties and open to inspection by all. These are circumstances that reduce the opportunity for negotiation and hence, for bribery.

What makes corruption so counterproductive to development? First, it impairs the possibilities for economic growth.¹³ Corruption scares off private investment from domestic and foreign sources that fear the risks, unknown costs, and harassment involved in highly corrupt systems. Corruption also encourages the growth of a shadow economy, where taxes and fees are not paid to the state but as unofficial payments to corrupt bureaucrats. Second, corruption reduces the ability of the state to govern. It undermines the rule of law and replaces it with a personalistic and changeable set of informal relationships. It also reduces the capacity of the government to deliver quality public services; with funds siphoned off from the public treasury into the pockets of corrupt officials, there is less money available to provide citizens with the services that their government is supposed to provide. Finally, corruption demoralizes the public and results in a loss of confidence and trust that the government is there to serve the people and develop the country.

Given the prospects of these negative consequences, international donors, as well as developing and transitioning countries themselves, have become extremely sensitive to the existence and growth of corruption and many have sought aggressively to implement anti-corruption campaigns. Leakage of donor development funds, especially surrounding large public construction projects, major procurements, and humanitarian crises, has caused donors to be cautious in their granting and lending programs and has resulted in the imposition of new conditionality clauses that require countries to diagnose their corruption problems and implement active and realistic national anti-corruption strategies before new funds are released.¹⁴

Bribery and negotiation

Self interest is the major motivating feature behind bribery transactions; either the official is actively seeking to benefit at the expense of the public or a citizen is

offering illicit rewards to an official to extract special access or waivers from regulations. Corruption can take on many forms other than bribery: extortion, influence buying, favoritism, nepotism, fraud, and embezzlement, among others. Some of these corrupt actions take advantage of the special access to public funds and public decision making that government officials have as a natural result of their positions. These actions may not require another party to accomplish their objectives; the corrupt official may just take what he/she wants. But bribery transactions necessarily involve demands and offers, a giver and taker, and bribery involves negotiation. In this study, we examine only the bribery transaction. Negotiation as a process is value-free, but when performed in the service of illegal transactions it must be viewed as perverse.

The bribery transaction is a cost-benefit exchange, operating as a distributive negotiation. It usually involves parties that are unequal in their power position.¹⁵ Thus, the negotiation tends to be asymmetrical. Either the unchecked government official wields total power over the service or approval that the citizen wants or the citizen wields the power of the purse and can influence officials to provide a government service or turn a blind eye to some illicit activity. In this way, one party can impose a cost or benefit on the other party to extract a desired behavior. Goods are distributed in the transaction to both sides—often money or a favor to obtain a legally obligated service or some special government dispensation or service.

Negotiation requires mixed motives—a desire for cooperation at the same time that there are conflicting interests among the parties. However, some may say that the bribery transaction is entirely a coordination situation among consenting partners; all sides want to achieve something illicit through their transaction—it is not a negotiation of mixed motives at all. While this might be the case in some situations, survey research has indicated that a large number of citizens and business people believe they are victimized by the transaction and frustrated by being forced into it; they may consent to the transaction but they are by no means pleased about it.¹⁶ Under these circumstances, conflictual and cooperative interests do exist side-by-side in a bribery negotiation setting; there is competition among the parties, for example, to get expected services or approvals but not to pay extra for them.

The recent bribery scandal in Peru serves as a stark and vivid example of how negotiation processes permeate this form of corruption and how it can be manifested, not only as low-level administrative corruption, but as a potent form of high-level *state capture*, in this case by the intelligence service.¹⁷ For ten years, Vladimiro Montesino, the National Intelligence Service chief, systematically conducted “secret” bribery negotiations with politicians, judges, and media owners. He offered them large cash bribes, promotions, judicial influence, and legislative votes, in return for their political support, compliance, or silence. We know of his explicit negotiations because Montesino videotaped them all (there are estimates that 1,600 Peruvians were bribed), kept meticulous records of bribes given and extracted signed agreements (pledges) from the bribed individuals documenting the transaction and the *quid pro quo*! He apparently kept these records to prove the

others' complicity, enforce the pledges, and threaten blackmail if necessary. In an unusual turn of events, the tapes were broadcast on Peruvian television by one of the few stations that had not been bought off, leading to Montesino's arrest and prosecution and the rapid fall of the Fujimori government in 2000.

The negotiations were simple transactions. Offers of cash payments, favors, or influence were made to officials and the media to facilitate the regime's evasion of typical democratic constraints. The offer, coming directly from the head of the National Intelligence Service, was hard to resist or reject; Montesino had the muscle to retaliate harshly for noncompliance. To reduce the possibility of defection, he usually paid the bribes in installments over time and created a strong sense of camaraderie among his bribe recipients where commitments could not be forgotten.

In Russia, a public opinion survey asked citizens who had transacted with government officials recently to obtain basic services if bribes had been demanded or offered as a condition for receiving the service.¹⁸ Interestingly, for most business-related services where government provides permissions (customs, privatization, utilities), bribes were demanded by officials more frequently than offered by citizens. However, for personal services (getting drivers' licenses, obtaining healthcare, and dealing with Army draft boards, schools, and universities), bribes were more typically offered by citizens. The marketplace for government-provided public services is clearly a negotiation involving demands and offers, where power asymmetry predicts likely strategies.

Ripeness and reversing bribery negotiations

Ripeness theory, introduced by Zartman in the early 1980s, has become a central conceptual framework employed by researchers to explain the onset of negotiation processes and by policy makers to decide on those conflicts amenable to resolution and positive interventions.¹⁹ The ripeness metaphor is easily understood and intuitive which is why it has been embraced by the research, as well as the practitioner, communities. It posits that there are ripe moments in the life cycle of conflicts, which, if seized, will result in successful resolution of those conflicts. What makes a conflict ripe for resolution, in part, are "mutually hurting stalemates"—perceptions of increasingly painful conditions which will yield only further pain and ultimate catastrophe for the conflicting parties if they are left to fester. Under these circumstances, the interests of the parties will not be achieved or even approximated; an alternative approach to relieve the stalemate needs to be found. Thus, ripeness theory also proposes that in addition to these painful stalemates, the parties must be able to see a way out of the conflict; they must have a vision of a feasible and peaceful outcome which can be achieved through negotiation or mediation.

When the conflicting parties perceive a mutually hurting stalemate and a way out of their predicament, the moment is ripe for resolution. Zartman's theoretical construct offers an explanation of conflict resolution that focuses on perceptions (how aware the parties are of their conflict status), incentives (how motivated they

are by the increasing pain imposed by the conflict), and timing (how they seize upon the fleeting opportunity). Ripeness is a necessary initiating catalyst to transform conflicts, and Zartman's framework can also be a key to understanding bribery negotiations.

In his 2000 chapter revisiting ripeness theory, Zartman addressed an important but troubling aspect of the theory: Are conflicts amenable to resolution only when the pain of stalemate and catastrophe become too great to bear? Do international conflicts have to reach a crescendo or threat of violence, possibly endangering the order of neighboring states and regions, to produce the conditions for resolution? Clearly, this is the situation by which many conflicts are transformed. But it is not the only possible path. Zartman posits an extension to ripeness theory: mutually enticing opportunities. Positive incentives, not only negative incentives, can motivate conflict transformation. The vision or promise of overwhelming reward or benefit can be "the straw that breaks the camel's back," pushing decision makers to commence negotiation and search for mutually acceptable solutions. Moreover, such positive incentives have the potential to produce more attractive, and therefore, stable outcomes over time than negatively induced solutions. The psychological literature on incentives backs up this assumption.

If ripeness is determined not only by how bad it can get, but how good it can become, new approaches and strategies that promote negotiation, are feasible. Diplomats and policy makers can push conflict situations into ripeness by introducing new carrots. Conflicts may become ripe for resolution at an earlier stage in their development, thereby reducing suffering and loss of life and property. In Zartman's new extension of ripeness theory, he opens the door to creative and flexible strategies to transform conflicts, not only by the immediate parties to the conflict but by interested third parties as well. By offering and manipulating positive incentives, ripeness can be positioned and engineered to catalyze the conflict transformation process and engage the parties in a more attractive negotiated or mediated search for solutions.

Ripeness theory and this new extension present novel ways for understanding how conflicts are transformed and how the negotiation process gets started. Zartman's original ripeness construct motivated many researchers to examine and test the concepts. Policy makers will be energized by the additional concept of mutually enticing opportunity, because it suggests an activist path to generate perceptions of ripeness. Visions of future mutually beneficial solutions, promises of financial and material assistance, and possibilities of winning quickly or developing new international relationships may be able to bring the conflicting parties to quicker realization of their interests through negotiation. Proactive interventions can be introduced by potential mediators or international organizations to ripen conflicts more rapidly. As such, manipulating ripeness can be seen as a new form of preventive diplomacy.

In the case of bribery negotiations, the incentives of cash payments, gifts, or favors can bring on ripeness. When offered, they are usually sufficiently enticing to the government official to result in his/her acceding to the demand for services or turning a blind eye. When the bribe is extorted from a citizen by an official,

payment can be viewed as generating ripeness, because obtaining the desired service is sufficiently enticing in itself. Rarely would you describe the bribery situation as a mutually hurting stalemate.

If ripeness ensures bribery negotiations, could ripeness *turned in reverse* avert negotiations? If ripeness can be manipulated to promote negotiation, it should be possible to engineer situations of under-ripeness, that is, where the incentives—positive or negative—are insufficient to stimulate the bribery encounter. Perhaps the prescription for reducing bribery is to create an environment in which the benefits and incentives of bribery are minimized, thereby being under-ripe for negotiation. This suggests that the perceived benefits of bribery need to be tempered by the risks of discovery and certain punishment. Adding this ambiguity to the motives of bribery negotiators can yield a deterrent to the deal and turn a potentially ripe moment into an unripe one. While this manipulation of incentives may not represent a novel revelation about bribery dynamics, viewing bribery as essentially a negotiation process is. This different perspective on the bribery problem may open up new opportunities to sabotage it.

The building blocks of bribery negotiations

We can examine how ripeness can be turned in reverse by analyzing and deconstructing the fundamental elements that facilitate bribery negotiations. The following analytical review of the essential building blocks of negotiations point to vulnerabilities in the bribery process.²⁰

Actors and structure

The actors in most corruption negotiations are government officials and citizens. They can be depicted in a Principal–Agent–Client structure to explain the governance relationship that can turn corrupt.²¹ The Principal might be the chief of a government department who is responsible for various functions and services. The Agent might be a bureaucrat who is charged with actually carrying out specific functions and services and interacts directly with the public. The Client might be a citizen or business person who seeks a service or permission from government, in particular, from an Agent. With the proper controls, accountability mechanisms and transparent processes, these three actors can interact relatively smoothly, passing requests, information and feedback among themselves, and carrying out functions in a predictable fashion in accordance with laws and regulations. However, in systems with wide discretion, limited accountability, and low transparency, there can be many opportunities for negotiation leading to bribery among these stakeholders. Principals can select Agents based on favoritism and nepotism so their loyalty is not pledged to the public at large and they fail to see themselves as “public servants.” Agents can negotiate for extra unofficial payments from Clients (i.e. extortion) to deliver services or permissions and then pass part of these payments up the ladder to the Principals as kickbacks. Agents can also threaten to harass Clients if payments are not made. Clients, too,

can negotiate with Agents, offering bribes to get special treatment or causing Agents to turn a blind eye to illegal activity.

In a survey of public officials in four countries of Eastern Europe, it was found that officials believed it proper to expect and/or demand bribes from clients.²² Sixty percent of officials thought it right to accept bribes if offered in return for extra work to solve client problems. Fifty-three percent thought it right to accept bribes to solve problems faster than normal. Fifteen percent thought it right to ask for a bribe.

The question often asked in a corruption negotiation is “who is the corrupter?” The question revolves around who holds the stronger power position and who initiates the corrupt promise or threat. Is the government official who withholds a legal service or permission if a bribe is not provided thereby victimizing the citizen? Or is the citizen the corrupting agent, offering bribes and favors to low paid government officials who desperately need to increase their family income? Or are both actors willing accomplices, each understanding the system and how things are accomplished? Miller and his colleagues conducted public surveys in Ukraine, Bulgaria, Slovakia, and the Czech Republic in 1997 and 1998 to understand these negotiation relationships.²³ Their results do not always support the popular allegation that citizens and business people are the source of corruption, tantalizing government officials with bribes and favors. In the Czech and Slovak Republics, their findings suggest that citizens were not simple victims of official corruption, but accomplices—the public and officials were working in collusion to perpetuate the pervasive system of corruption. On the other hand, in Bulgaria and Ukraine, citizens clearly believe that they are the victims of greedy officials. In all cases, it was a combination of official greed and citizen submissiveness and tolerance that perpetuated high levels of bribery.

The corruption culture—and the resulting corruption negotiation—among domestic actors is often different from transactions between domestic and foreign parties. The expectations of the transaction are not likely to coincide. Domestic government officials may perceive foreign investors as likely prey that can pay much higher bribes than domestic business people. Foreign investors may not anticipate the domestic corruption culture. The result may be a highly contentious negotiation process.

The dynamics motivating corruption negotiations between Principal, Agent, and Client hinge on self interest. Where the rule of law is strong, respected and enforced, self interest is naturally bounded by law and the firm expectation that wrongdoers will be caught and punished. But where the rule of law is weak, the controls that circumscribe self interest may not be present. Self-gratification and power prevail. By initiating a corruption negotiation, the official or the citizen can seek certain benefits that would be denied or delayed otherwise.

Process

Corruption is an implicit, and sometimes explicit, negotiated contract specifying what each party has committed itself to accomplishing, that is, the *quid pro quo*.

It is usually the reciprocation of a service for a gift. What, in fact, is the object of this type of negotiation? It can be the size and nature of the bribe or the size and nature of what you get in return for the bribe. In a survey of corruption in Kharkiv, Ukraine at the end of 1999 bargaining over the bribe price was clearly evident.²⁴ Of those citizens who said they paid a bribe, they indicate paying 28 percent less than what was requested by the government official! Ten percent of the respondents indicate clearly that they try to negotiate with officials to avoid paying bribes or to reduce the price.

A survey of households, businesses, and public officials in Romania conducted in early 2,000 emphasizes the *quid pro quo* between officials and citizens. To obtain health care services, bribes are essential to get better service or to get any service at all.²⁵ Likewise, in the educational field, bribes are a determining factor in getting children placed in school and in getting better grades. Among public officials, 37 percent said they were offered small bribes over the last 12 months; 11 percent said they were offered expensive gifts or bribes. But 30 percent indicate that while bribes were given and accepted, they were not necessary; if you have patience, they say, you can get what you want without paying bribes. But when business people responded, 75 percent indicate that they spend over 6 percent of their working hours negotiating with government bureaucrats, increasing the opportunities for bribe-giving and bribe-taking. From the business person's perspective, their involvement in the corruption negotiation was not voluntary. Forty-one percent indicate that government officials told them a bribe was expected—to speed the delivery of services or get favorable treatment. A much smaller number of business people, 18 percent, indicated that they were the primary initiators of the corruption negotiation, offering bribes to officials.

Whether or not the negotiation situation is acceptable to either of the parties is also a question. The victim may be able to resist the bribe-request by waiting or seeking an alternative channel to obtain the desired service. The proposed bribe-taker might be able to resist the offered gift or favor by appealing to the rule of law or indicating that the risk of accepting the bribe is just too great. In both these cases, each party can be said to have a BATNA, a preferred alternative to a negotiated agreement.

Several negotiation process elements are important to consider in corruption negotiations—the secrecy of the transaction, tolerance for the transaction, the reliability of each side, and the development of dependencies. Secrecy in the negotiation enables the transaction to thrive. If the process were conducted in the open, it would cease to exist due to the very illegality of the transaction. Tolerance for the practice of corruption is another factor that perpetuates it. Victims, while damning the tradition of bribery and fraud, typically practice it actively.²⁶ Whether willing or grudging in their acceptance of corruption, they continue to practice it, not being able to conceive of any way out. In the four countries they surveyed, Miller and his colleagues found that between 62 and 91 percent of the citizens in those countries needed to pay a bribe or use a special contact to get something from government that they were entitled to by law for free.²⁷ Some suggest that only when tolerance turns to frustration and frustration

to outrage with the practice of corruption will that acquiescence cease and the required political will to make reforms to control corruption will emerge.²⁸

The reliability of the transaction is one of the uncertainties of corruption negotiations. Will the promised reciprocation actually occur if the bribe is provided? Will you get what you pay for? Is there trust among thieves? Trust in the other party is required for the negotiation to proceed. In the Kharkiv survey 50 percent of the respondents indicate that they believe that giving the bribe guarantees quicker and better service.²⁹ Of these respondents, the younger the person, the more they believe the reliability of the negotiation transaction. Correspondingly, if you do not give a bribe, it is believed that service will not be provided quickly (52 percent) or at all (38 percent). Thirty percent of respondents were unsure of the reliability of the corruption negotiation, but these people tended to have less direct and personal experience with corruption transactions. Once a bribe is given and the expected service rendered, dependencies may develop between the corrupting agent and the victim over time, yielding a situation that requires further bribery to get any services whatsoever. The resulting post-agreement negotiation process may see an escalation of the extortion involved, bidding up the price for services unless an alternative source for those services is found.

Strategy

How is power used among bribery negotiators to achieve their objectives? It is often the government official who has what the citizen or business person wants and can extort bribes or favors to provide the service or permission. Some officials view their positions, not as servants of the people, but as rent seekers who have the right to steal and plunder during their tenure. Miller and his colleagues found that officials who merely ask for a bribe actually receive the bribe; extortion works.³⁰ More so, if officials cause unnecessary problems, delays, and administrative complications for citizens, the rate of bribe-giving increases; citizens are responsive to pressure.

From the citizen's perspective, it is a popular belief that corruption and promoting corruption can be good for business. It greases the skids and enables business to operate effectively—licenses can be obtained more readily and inspections can be “passed” at just a small cost relative to the actual regulated cost of satisfying regulations and standards. In fact, some have indicated that when it comes to the health care system in many Eastern European and former Soviet Union countries, if unofficial payments were eliminated, the entire structure of health care provision would collapse. So, under such circumstances, citizen/business strategies to initiate corrupt transactions may be viewed as positive elements. On the other hand, citizens who are pressured to give bribes often acquiesce easily and tolerate the transaction. They often fear retribution or worse inconveniences if they do not pay the bribe, and see no way out of the problem that is within their power. Like coercive diplomacy, government officials can seek to impose additional difficulties on citizens to encourage or force them

to pay the bribe.³¹ Coercion works because citizens feel trapped, with no BATNA or fallback position.

Deconstructing corruption negotiations

If negotiations are a principal process channel by which bribery manifests itself, it follows logically that deconstructing negotiations—making negotiations difficult or impossible to conduct—may be an efficient means to reduce corruption. How can perverse bribery negotiations be deconstructed? One way would be to disrupt the building blocks of effective bribery negotiation encounters. Another way is to inhibit the situational factors that facilitate effective negotiation and bring parties together to the bargaining table. Specific initiatives that draw on both of these approaches are described below.

Reduce self interest in negotiation

Self interest that stimulates negotiation can be tempered. This will inhibit negotiation motives as could be seen from the following examples.

Reduce reliability in the negotiation dynamic

If the expectation that a bribe will guarantee the desired service—if permission or blind eye is less than 100 percent—negotiators may seek alternative means to achieve their goals.

Provide better alternatives to a negotiated agreement (BATNAs)

If officials believe that accepting a bribe will mean certain arrest and severe punishment, they are likely to avoid engaging in the corrupt transaction. If citizen victims find that they can hold out and still get their service or permission from government officials in a reasonable amount of time, they may desist from paying requested bribes.

Re-engineer the negotiation situation

It may be possible to modify the situation within which bribery negotiations usually are conducted to reduce their likelihood. We can draw on the negotiation research literature that evaluates situational hindrances and determinants,³² as suggested in the following examples.

Increase transparency

If all government operations, including negotiations between government agents and citizen clients, are conducted in the open—if there are standard “sunshine laws” in place—then it will be difficult, if not impossible to offer bribes or extort citizens.

Increase independent monitoring of government officials

Internal investigative units within government departments can be established to monitor the activities of officials. Alternatively, independent nongovernmental watchdog groups can be formed to ensure the accountability of officials. These groups would open government activities to public scrutiny and reduce the opportunities for secretive bribery negotiations. Citizen and business coalitions to monitor government operations would increase the power position of civil society vis-à-vis the government. By equalizing and leveling the playing field, such coalitions would become less vulnerable to harassment and abuse.

Reduce direct personal contact

If it is possible to reduce direct face-to-face contact between officials and citizens, there will be fewer opportunities for negotiation. This could be accomplished by using the postal system and the internet to renew routine licenses and to obtain registrations, for example. E-government solutions are becoming increasingly feasible in many countries. Developing one-stop centers where citizens/business people can get all necessary approvals from a single administrator, rather than going from office to office would also serve a similar purpose.

Reduce discretion for bureaucrats

If the implementing regulations for laws are made more precise, there will be less for bureaucrats to interpret as they fulfill their functions. Administrative procedures will become more predictable and clear, both to the official and the citizen/business person. As a result, there will be less to negotiate about.

Remove mutually hurting stalemate

Negotiations often occur because all parties believe that it is the only way to achieve their mutual objectives, having reached deadlock using all other means. If officials and citizens can get what they desire using ordinary prescribed methods, deadlocks will not be encountered and everyone will achieve their goals. For example, if laws, regulations, and procedures for typical government services are clearly written, detailed, and well-publicized, there should be little need to discuss, let alone negotiate, about how they are implemented.

Reduce familiarity between officials and citizens

Negotiators who are familiar with each other are more likely to be able to reach agreement. But if officials are rotated on a frequent basis, citizens will be less likely to interact with the same bureaucrat to obtain the permissions and services on a repetitive basis. As a result, bribery negotiations are less likely to commence.

Conclusions

No country has found a reliable way to escape from the problems of corruption. However, some have found ways to reduce the opportunities for corruption from emerging. Deconstructing negotiation—a central dynamic in bribery transactions—seems to be an appropriate and direct way of reducing the opportunities for the emergence of corruption.

Changing incentives will reduce corruption negotiations

The predictability of risk and cost for bribery negotiations are essential in changing the incentive structure. Parties have to know that there are negative consequences that will not serve their self interests.

Changing processes and situational factors will reduce bribery negotiations

The negotiation literature has identified situational factors that are generally favorable to promoting and sustaining effective negotiations. It is possible to use this information to re-engineer the situation so that negotiation-unfavorable conditions make bargaining unlikely. Processes can also be re-engineered so that the typical elements that make negotiations effective are not present.

Changing structures and institutions will reduce corruption negotiations

Certain institutions and structures can be established that change power relationships and open the processes within which negotiations usually take place, making them more unlikely to emerge.

What can be done from a research perspective? Simulations can be conducted in the laboratory to test the effects of deconstructing negotiations on bribery. Such simulations can seek out new ways of undoing the natural dynamic toward negotiation by controlling for different situations and conditions. In addition, practical experiments in the field can be attempted to stop perverse bribery negotiations. Agencies such as the US Agency for International Development can launch pilot projects in the field to determine if the reduction of negotiation is a viable approach to bribery control. Such pilot efforts can be accomplished within broader administrative reform or streamlining programs.

More than a decade of hard work has been spent experimenting with various approaches to reduce corruption and its effects. Some approaches have been effective, others not. But to date, no clear path has been identified to fight corruption. Tinkering with the negotiation process to make it less interesting to potential participants in the corrupt transaction seems to be a simple and direct way of controlling the problem that attacks root causes. It merits further examination and experimentation.

Notes

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4 **Putting *The Practical Negotiator* to the test**

Two examinations of the
formula–details proposition

Pamela Chasek and Lynn Wagner

In *The Practical Negotiator* (1982), Zartman and Maureen R. Berman lay out a type of phased process analysis that examines behavior during the different phases or stages in negotiations using what they call a three-stage approach: “diagnosis–formula–details.” This innovation was aimed at clarifying “the nature of the process of negotiation” (1982: 9), by identifying stages of negotiation and the different types of problems and behaviors associated with each stage. They argue that a process model is “more useful in ordering and preparing for reality than a mere checklist” (1982: 10). A model is not a prescription for victory nor is it just one of the many ways to arrive at an agreement, but rather identifies “the general path or sequence through which those different ways flow” (1982: 10).

In their introduction, Zartman and Berman express hope that their work will “illuminate the constructive process and stimulate creativity” (1982: 15). While this message was aimed at negotiators, it has also carried through to several generations of scholars of the negotiation process. This chapter examines Zartman and Berman’s diagnosis–formula–details approach through the presentation of two empirical studies of the relationship between negotiation process and outcome. In this chapter we describe the evidence we found of a diagnosis–formula–details progression in each of 2 sets of 13 case studies and elaborate on factors that influence the relationship between process and outcome in international negotiations.

The diagnosis–formula–details approach

Phased process analysis can provide a framework that reduces some of the complexities of international negotiation to a more manageable level for understanding and analysis. It essentially divides the negotiation process into a number of successive, often overlapping phases in each of which there is a particular focus of attention and concern by the negotiators. Although progress in one phase can open the way to the succeeding phase with a different concentration, this is not necessarily the case. It is not unusual for two, or even three, phases to overlap in time. It is also possible for negotiators to return to an earlier phase, in effect or by deliberate intent. They may wish to take up previously neglected

matters, to clarify others, or to start fresh in the light of new information or experience (Gulliver 1979: 121).

Zartman and Berman (1982) identify three phases in the negotiation process and associate different types of problems and behaviors with each phase.

- 1 *Diagnostic phase*: Long before the first formal session opens, the negotiation process begins with the decision by each party to explore the possibility of negotiating. Although sometimes it is determined that the dispute or issue is non-negotiable, in many cases the interested parties agree that they need a solution and that the decision to negotiate must be unanimous. When this important “Turning Point of Seriousness” has been reached—the perception by each party that the others are serious about finding a negotiated solution—this phase comes to a close and the actual negotiations begin.
- 2 *Formula phase*: During this phase the parties negotiate a formula or common definition of the conflict in terms of a framework for agreement. Finding a formula means that the parties confront the basic elements of the controversy and either deal with them all or recognize their existence and put some aside for later consideration. Although there is no way of telling why or when a proposed formula will be accepted by the other parties, acceptability is in some part a function of the formula’s relevance, comprehensiveness, flexibility, coherence, balance, and uniqueness, as well as of the skill with which it is proposed and defended. Once a formula is proposed, the parties will study it for implications, applying it to details on a trial basis to see what it means. This process is brought out into the open when the formula seems suitable to both sides, is agreed upon, and used to start addressing the details.
- 3 *Details phase*: Once the formula has been established it can provide guidelines and referents for the solution of more precise problems and the search for detailed agreements can begin. There is often movement back and forth between this phase and the formula phase. Addressing the details is often the most complex part of the negotiation. Usually the number of details agreed upon increases as the end of negotiations approaches, and the existence of a specific deadline generally causes parties to hold out until they are ready to establish final positions just before time runs out.

The two empirical studies presented below use and expand on Zartman and Berman’s negotiation process model. The first study relies particularly on qualitative analyses to identify the stages through which 13 multilateral environmental negotiations pass and the turning points that “move” them from stage to stage. The second relies particularly on quantitative analyses of the negotiation processes of 13 bilateral and small multilateral cases to examine the relationship between process and outcome, and in doing so identifies and explores a formula–details progression. We conclude with some observations on the benefits and use of a formula–details progression in negotiations.

A 13-case analysis of the process of multilateral environmental negotiations

The first study developed a model to facilitate understanding of the process by which international environmental agreements are negotiated.¹ Using phased process analysis, 13 cases of environmental negotiation from 1972–2002 were studied in depth to determine the relationship among different phases in the process and the outcome. The cases represent the range of different environmental issues, including marine pollution, forests, biological diversity, atmosphere, air pollution, endangered species, and marine living resources. The cases characterize negotiations on both the global and regional levels and both within and outside the UN system. The analysis of each of these cases was based on answering the following four questions: (1) Are there discernable phases within the negotiation process? (2) If there are phases, what key events or “turning points” enable the negotiations to move from one phase to the next? (3) Is there any relationship among the phases and turning points in the process and the outcome? and (4) Can these phases and turning points be developed into a model to help guide or explain future or ongoing multilateral environmental negotiations?

Cases and research method

The first step of the inductive comparative design was to compare 13 cases of multilateral environmental negotiation and determine the presence or absence of common threads. The cases (see Box 4.1) were chosen from the 216 international environmental treaties in the United Nations Environment Programme’s 1996 Register of International Treaties and Other Agreements in the Field of the Environment, based on the following criteria: (1) they represent the range of different environmental issues; (2) they represent negotiations on both the global and regional levels; and (3) there are sufficient primary and secondary sources of information available about the negotiations themselves. After examining each of the cases, it became clear that the negotiation processes shared common phases or stages.

Both primary and secondary source materials as well as personal interviews were used in researching the cases. The main purpose of this research was to determine what phases the negotiations passed through from the time the decision was taken to negotiate a treaty to the time that the treaty was adopted. As a result, rather than focusing in detail on the issues being negotiated, these case studies focus on the process—what were the phases and turning points of the negotiations and how were they influenced by specific internal or external events or activities. The following six phases were identified: precipitants, issue definition, statement of initial positions, drafting/formula building, final bargaining/details, and ratification/implementation.

The next step was to examine the turning points that enabled the negotiations to pass from phase to phase. While identifying the phases of the multilateral

Box 4.1 Cases of multilateral environmental negotiation

1972	Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters (London Convention)
1973	Washington Convention on International Trade in Endangered Species (CITES)
1976	Barcelona Convention for the Protection of the Mediterranean Sea against Pollution
1978	Protocol to the 1973 International Convention for the Prevention of Pollution from Ships (MARPOL)
1979	Geneva Convention on Long-Range Transboundary Air Pollution
1980	Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR)
1983	International Tropical Timber Agreement (ITTA)
1987	Montreal Protocol to the Vienna Convention for the Protection of the Ozone Layer on Substances that Deplete the Ozone Layer
1989	Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal
1992	Convention on Biological Diversity
1992	United Nations Framework Convention on Climate Change
1997	Kyoto Protocol to the Framework Convention on Climate Change
2000	Cartagena Protocol on Biosafety

environmental negotiation process is important, it is the understanding of how and why the negotiations move from phase to phase that brings the model to life. Within the framework of negotiation analysis, a turning point is a critical point in the negotiations where a decision is taken, a compromise is agreed upon or a concession is made that allows the negotiations to proceed from one phase to the next. Zartman and Berman (1982: 87–88) also discuss the role of a “Turning Point of Seriousness” in moving between the diagnosis and the formula phases of negotiation. They define the Turning Point of Seriousness as

the perception by each side that the other is serious about finding a negotiated solution—that is, that the other is willing to “lose” a little to “win” a little rather than win or lose all in a non-negotiated approach.

The turning point does not necessarily occur simultaneously for both sides, and it does not have to correspond to any formal moment in the process, such as the beginning or end of a conference. To identify the nature of these turning points, three primary questions were asked: (1) When did the negotiations move from one phase to the next? (2) What was the event or activity that led to the turning point?

and (3) Was this event or activity external or from within the negotiations themselves?

After the phases and turning points were elaborated, the model was further developed to determine whether there is any relationship among characteristics or attributes of the process (within the phases or at the turning points) and between these characteristics and the outcome. Correlation analysis was used to identify relationships between the phases and the turning points to determine if the presence of certain characteristics in the process has any discernable relationship to subsequent phases and turning points.

Phased process analysis

The case study analysis first looked at eight examples of the phased process analysis,² which concentrated on different types of negotiation (bilateral, multi-lateral, or conference diplomacy) and identified varying numbers of phases. There were a number of similarities between the examples and, in effect, all of these variations could be consolidated into four main phases, which can fit into a slightly modified version of Zartman and Berman's (1982) terminology. These four main phases can be defined as: diagnosis, formula, details, and implementation (see Table 4.1).³

When the case studies were analyzed in this framework, six different phases and turning points emerged, once again based largely on Zartman and Berman's (1982) framework. The first phase is the *Precipitants* phase (see Table 4.2)—the events that bring a particular environmental problem to the attention of the international community. Four major categories of precipitants were identified: incidents of human-induced pollution, growing scientific evidence, growing concern about the exploitation of biological resources, and economic repercussions related to the over-exploitation of natural resources. In some cases, there can be more than one type of precipitant that raises the level of awareness about a particular environmental problem. This phase is often characterized by the length of time it takes the international community to determine that multilateral negotiation is the best policy option, the nature of the event, and the role of external actors (non-governmental organizations (NGOs), the scientific community, the public, and the media) in pressuring governments to address the issue. The second phase will not begin until governments recognize that a particular environmental issue is global or regional in nature, cannot be solved on a bilateral or unilateral level, and may be best addressed through multilateral negotiation. It is this recognition that enables the first turning point to take place. Once governments decide to address the issue, they may raise the issue at a meeting of an intergovernmental body, which takes a decision to either embark on international negotiations or formally study the issue. In other cases, a concerned state, group of states, or an NGO may initiate the process by preparing a draft treaty that addresses the issue of concern.

The second phase is the *Issue Definition* phase where government delegates and/or scientists and other technical experts work together to define the nature of

Table 4.1 Phases of multilateral negotiation: a comparison of different approaches

<i>Phases of multilateral negotiation</i>							
	<i>Touval</i>	<i>Gulliver</i>	<i>Friedheim</i>	<i>Rittberger</i>	<i>Williams</i>	<i>Porter/Brown</i>	<i>Hampson</i>
Diagnosis	Pre-negotiation	Search for an arena Define agenda and issues	Explore positions; form coalitions	Initiation of conference project	Deciding to negotiate	Issue definition	Prerenegotiation
Formula	Formal negotiation phase	Establishing maximal limits Narrowing differences Preliminaries to final bargaining	Make formal proposals; firm up coalitions Informal drafting groups	Conference preparation	Reaching an agreement	Fact-finding process Bargaining process	Negotiation
Details	Agreement phase	Final bargaining Ritual affirmation	Single negotiating text Endgame	Conference decision making	Endgame	Bargaining process	Negotiation
Implementation		Execution of the agreement		Conference implementation			Agreement and implementation

Table 4.2 Phases of multilateral environmental negotiation

Precipitants	Incidents of human-induced pollution	Growing scientific evidence	Concern about over-exploiting biological resources	Economic concerns
Issue definition	Through discussion of a draft convention	Within the framework of a UN agency	Scientific studies or meetings	
Statement of initial positions	Opening of a conference	UN agency-sponsored working group meetings	Meetings of a special negotiating group	
Drafting/Formula building	Negotiations based on prepared text	Initial drafting begins	Competing drafts form basis for negotiation	Drafting on an <i>ad hoc</i> basis
Final bargaining/details	Negotiations at a conference of plenipotentiaries	Negotiations during final days of conference	Negotiations during final session of INC	
Ratification/implementation	Treaty enters into force/conference of the parties' meets	Interim mechanism for meetings	Negotiation of protocols or amendments	Treaty does not enter into force

Note

These phases may overlap or be repeated during the negotiations. These are only indications of some of the variations in the process. They are not exclusive and more than one option may be used during the negotiations.

the problem at hand, determine its scope and magnitude, and develop a common body of knowledge before beginning actual negotiations. This phase sometimes takes place before any formal decision to negotiate. In other cases, this phase is part of the actual negotiations. It usually takes place within the framework of a discussion on a proposed draft convention, within UN agency-sponsored meetings or within the context of scientific studies and meetings. This phase is characterized by greater participation by scientists and government-appointed technical experts, rather than high-level diplomats or other government officials. This phase continues until the second turning point occurs and governments are ready to formally begin the negotiation of an agreement. In some cases, this turning point is reached following an agreement on goals for the negotiations. In other cases, a state, group of states, the Chair of a special negotiating group, or the secretariat may call on governments to submit comments or proposals for elements to be included in the final agreement. The turning point can also be precipitated by a stalemate—scientists and technical experts can only take the process so far before higher-level diplomats and lawyers are needed to advance the process to the next phase. Finally, external events, such as

a human-induced disaster, or actors, such as NGOs or the media, can influence this turning point by increasing the pressure on governments to take action.

The third phase is the *Statement of Initial Positions* phase where governments state their initial positions with regard to the environmental problem at hand, its causes, effects, and possible solutions, and start to form coalitions. Where the two previous phases are prenegotiation phases, it is in this phase where the negotiations actually begin. This phase is one of the more formal ones and usually occurs in a plenary setting. It can take place at the opening of a formal conference, the first meeting of a special negotiating group, or at a UN agency meeting. The primary actors in this phase are government delegates who make formal statements and begin to confer with other delegates who share their positions and views. By the end of this phase, it is usually clear where the different governments stand on the issues under negotiation. A key aspect of this phase is coalition-building—reaching out to a group of like-minded governments in an attempt to build momentum toward consensus.

This phase continues until delegates take the necessary decision or action that shifts the spotlight from the elaboration of one's own position to examining the positions of others and beginning to find areas of agreement. In some cases, this turning point is the result of a formal decision to request the Chair or the secretariat to prepare the first draft of the agreement. In other cases, delegates decide to establish a drafting group to elaborate the text of the agreement. A state or group of states may also take the initiative to begin drafting on their own. Finally, in cases where a more deductive approach to negotiation is used, delegates agree on the basic elements to be included in the agreement and shift their focus to the elaboration of a formula.

The fourth phase is the *Drafting/Formula Building* phase, where delegates begin to forge consensus on the nature and provisions of the basic agreement. The participants explore various alternative drafts or a draft prepared by a neutral party, such as the Chair or the secretariat, and reach conditional understandings. In some cases, no draft has been prepared in advance and the delegates begin drafting during this phase. In other cases, delegates have agreed on the basic elements to be included in the agreement and begin to elaborate a formula upon which the final agreement will be built.

This phase continues until the fourth turning point occurs. If this turning point is motivated by events from within the process, the turning point is usually influenced by agreement on a single draft text. With this text in hand, delegates are able to focus their attention to the remaining provisions that are still “bracketed” or under negotiation. In other cases, delegates take a more deductive approach and reach this turning point when they have agreed on a formula or basic elements of the agreement. At this point, they are able to focus on the details of the agreement that will implement this formula. Sometimes the final Conference of Plenipotentiaries is approaching and with it comes the introduction of high-level officials into the negotiations. When new, high-level negotiators enter the process, the negotiations move to the next phase where crucial and often controversial decisions will have to be taken. Finally, as a deadline approaches,

there may be increasing media and NGO pressure on the negotiators that forces them to abide by this deadline and start compromising and building consensus.

The fifth phase, *Final Bargaining/Details*, is where governments work out the final, often contentious, details of the agreement. The focus in this phase is on consensus building. The negotiations at this point usually take place during the final Conference of Plenipotentiaries or at the final meeting of a special negotiating group. Before many of the more difficult issues can be addressed by the plenary, numerous informal consultations are held where governments make a series of proposals and counter-proposals in an attempt to reach consensus. Sometimes the Chair, a member of the secretariat, or a neutral delegate steps in to mediate. In other cases, governments trade concessions on various parts of the agreement. The final turning point, which is marked by adoption of the agreement, is often influenced by time pressure. The final day of the conference or session is rapidly approaching and governments face a choice—either finalize the agreement or risk blame for the failure of the negotiations. In addition to time pressure, several other activities help bring the negotiations to this point. In some cases where consensus proves elusive, delegates agree to postpone consideration of a difficult issue. In cases where the potential blocking coalition does not have sufficient members to defeat the agreement, delegates put the agreement to a vote.

The final phase is the *Ratification/Implementation* phase, which takes place after the agreement has been adopted. During this phase, the agreement is usually ratified, enters into force and is, hopefully, implemented by the parties. At the national level, another series of negotiations begins where governments ratify the agreement and determine what national policies must be adopted or adapted to implement the agreement. At the international level, either nothing happens until the agreement enters into force, or interim mechanisms have been established to continue the international dialogue.

From the discussion of these phases and turning points it appears as though a large amount of attention is given to procedure rather than negotiating tactics. Process and procedures are important elements in any negotiation, however, in multilateral environmental negotiations the procedure is often the key element. The complexity of these negotiations, as demonstrated by the large number of parties, the number of issues, the scientific uncertainty, and the variety of possible policy options to solve the environmental problem at the core of the negotiations, demand that certain procedures be instituted to manage the negotiating process and ensure that the outcome is acceptable to all parties. As a result, the negotiations are guided from phase to phase through turning points that are often motivated by procedural events rather than agreements on formulas, stalemates, or details.

Some of these procedural events, including agreement to use a particular draft, bracketing of text still under negotiation, or setting deadlines, prove to be more effective in fostering an outcome arrived at by consensus rather than breakthroughs on more substantive matters. One of the reasons for this phenomenon is that the negotiations are usually controlled by diplomats, not scientists, who may only have a generalist's understanding of the scientific and technical nature

of the environmental problem under discussion. A second reason for the heavy reliance on procedure is the complexity of the negotiations themselves. Complexity in international negotiation can result from various factors, including the size of the negotiation, numerous issues being debated or positions taken by different parties, or implications that the negotiations may have for the external environment. Complexity is also created under conditions of uncertainty, when information needed for decision making is difficult or costly to obtain or is simply unavailable. The use of established procedures for propelling the parties through the negotiation process is one way of managing these complexities and facilitating consensus.

Correlation analysis

The second part of the study involved the use of correlation analysis. Correlation analysis was used to aid in discovering, analyzing, and verifying the relationships between two or more characteristics or variables. A coefficient of correlation is a single number that indicates to what extent two characteristics are related. It varies from a value of +1.00, which means a perfect positive relationship, down through the value zero, which indicates no relationship at all, until it reaches its lower limit, -1.00, indicating perfect negative correlation.

First, the characteristics of each phase and turning point were assigned numerical values for quantitative analysis. Each category was chosen after a careful review of each case so that the primary characteristic of each negotiating process was represented. These values were assigned solely for the purpose of comparing the cases. Wherever possible the numerical values were assigned to the different characteristics of each phase in a graduated scale so that similar characteristics are grouped together. For example, the Drafting/Formula Building phase is categorized on a scale based on how advanced the process is with one representing the most advanced (negotiations based on a prepared text) and four representing the least advanced (drafting on an *ad hoc* basis).

To determine the primary characteristics of each phase and turning point, each case was examined in detail by the author and coded appropriately. Information about each case was gathered from primary source material, such as UN documents, secondary source material, including articles and books written about the subject, and interviews conducted by the author. The strength of the resulting agreement was measured by a "Strength Index," which was developed to measure the theoretical strength of a legally binding international environmental agreement. A list of 12 categories was developed in consultation with academics and diplomats who have been involved in negotiating environmental treaties, in addition to a review of relevant literature. Each of the agreements was rated on the basis of its contents, not on its implementation record or evaluations of its effectiveness. Categories include: provisions for a secretariat/commission; provisions for reporting by parties; provisions for reservations to parts of conventions or annexes; provisions for the secretariat to monitor states' compliance; mechanisms for dealing with noncompliance; provisions for observations or

inspections; dispute-settlement mechanisms; provisions for amendments, protocols or annexes; explicit performance standards; liability provisions; and financial resources, arrangements, or mechanisms. The twelfth category, information about amendments or protocols adopted since the treaty was ratified, was included to measure if the treaty is a living, breathing document that continues to be adjusted, modified, or strengthened over time.

After the data were collected, the correlations among the phases, turning points, and outcomes were calculated. This part of the analysis tested two hypotheses: (1) If an intergovernmental body plays the central role in the early phases of the process, the negotiations during the later phases will be based on a draft that is not prepared by any one state or group of states and will be more susceptible to external influences; and (2) If the final phases are characterized by postponing consideration of a difficult issue, the outcome, as measured by the strength of the resulting agreement and ratification time, is more likely to be weaker than in cases where the final phases were characterized by compromise.

No attempt was made to establish causal relationships among the characteristics of the phases, turning points, and outcome. Correlations were computed among the characteristics across the cases (see Table 4.3). The type of correlation computed is the gamma coefficient. This is a measure of non-parametric correlation that can be used with variables that cannot be stated precisely enough to be capable of quantification (Connolly and Sluckin 1971: 178). Although not strictly measurable, characteristics of a negotiating process may manifestly correlate with one another to a greater or lesser extent and the gamma coefficient is one way to

Table 4.3 Matrix of gamma coefficients

	PRECIP	TP1	ISSUE	TP2	STATE	TP3
PRECIP	1.00					
TP1	0.04	1.00				
ISSUE	0.13	-1.00	1.00			
TP2	-0.59	-0.33	0.33	1.00		
STATE	-0.26	-0.33	0.33	0.86	1.00	
TP3	0.03	0.93	-0.94	-0.23	-0.11	1.00
DRAFTING	-0.03	0.57	-0.61	-0.49	-0.33	0.84
TP4	-0.06	-0.67	0.67	0.12	-0.08	-0.89
FINALBAR	0.07	0.46	-0.18	-0.53	-1.00	0.03
TP5	0.26	0.30	-0.33	-0.36	0.14	0.20
RATIF	-0.33	-0.18	0.14	0.50	1.00	-0.13
STRENGTH	0.09	0.20	0.00	-0.24	0.08	0.06
	DRAFTING	TP4	FINALBAR	TP5	RATIF	STRENGTH
DRAFTING	1.00					
TP4	-0.58	1.00				
FINALBAR	0.00	-0.11	1.00			
TP5	0.44	0.38	-0.30	1.00		
RATIF	-0.09	0.43	-0.78	0.68	1.00	
STRENGTH	0.38	0.03	-0.11	0.62	0.27	1.00

examine these relationships. (For more information about the gamma coefficient and the statistical methodology used to determine these correlations, see Chasek 2001.)

With regard to the first hypothesis, there was a strong 0.93 correlation between the first turning point (the decision to address the problem) and the third turning point between the Statement of Initial Positions phase and the Drafting/Formula Building phase. In the majority of the cases where negotiations began as the result of a decision of an intergovernmental body, delegates request the Chair or the secretariat to prepare the first draft text or a formal drafting or working group is established. In cases where the negotiations began as the result of an initiative by a state, group of states, or NGO, the third turning point is often the result of an initiative of one or more states.

There was a moderate -0.67 correlation between the first turning point (the decision to address the problem) and the fourth turning point between the Drafting/Formula Building phase and the Final Bargaining/Details phase. In negotiations that resulted from the initiative of a state, group of states, or NGO, the fourth turning point was the result of consensus on a formula or basic elements or agreement on a single draft text. In negotiations that resulted from the decision of an intergovernmental body, the fourth turning point in the majority of cases was the result of the introduction of high-level officials, time pressure, or media/NGO attention.

There was a strong -0.94 correlation between the Issue Definition phase and the third turning point between the Statement of Initial Positions and the Drafting/Formula Building phases. This indicates that when the Issue Definition phase takes place within the context of a discussion of a draft agreement, the third turning point is usually marked by the initiative of one or more states. On the other hand, when the Issue Definition phase takes place within the framework of a UN agency or during scientific studies or meetings, the third turning point is often marked by a request for the Chair or secretariat to draft the text or the establishment of a drafting group.

A moderate 0.67 correlation existed between the Issue Definition phase and the fourth turning point between the Drafting/Formula Building phase and the Final Bargaining/Details phase. When the Issue Definition phase takes place within the context of a discussion of a draft agreement, the fourth turning point is marked by consensus on a formula or basic elements or agreement on a single draft text. When the Issue Definition phase takes place within the framework of a UN agency or during scientific studies or meetings, the fourth turning point is more likely to be characterized by the introduction of high-level officials, time pressure, or NGO/media attention.

There was a perfectly negative correlation indicating that the nature of the Statement of Initial Positions phase is related to the Final Bargaining/Details phase. In cases where the Statement of Initial Positions phase took place within the context of a special negotiating group, it was likely that the Final Bargaining/Details phase was characterized by a focus on outstanding core details of the agreement. When the Statement of Initial Position phase

overlapped with the Issue Definition phase, the Final Bargaining phase usually focused on outstanding peripheral details.

There were two instances of high correlations between different phases and turning points in the early part of the negotiating process that are worth noting. The first instance was a perfectly negative correlation (-1.00) between Turning Point 1 and the Issue Definition phase. In cases where the first turning point—the decision to address the problem—was the result of a decision of an intergovernmental body, the Issue Definition phase usually took place within the framework of a UN agency or during scientific studies or meetings. In cases where the first turning point resulted from the initiative of a state, group of states, or NGO, the Issue Definition phase usually took place within the context of a discussion of the draft agreement. The second instance was a high correlation (0.86) between Turning Point 2 and the Statement of Initial Positions phase. When the second turning point was marked by an agreement on goals, the Statement of Initial Positions phase usually took place within the context of meetings of a special negotiating group.

The second hypothesis, that the outcome, as measured by the strength of the resulting agreement and ratification time, is shaped more by the nature of the final phases and turning points than by the earlier ones, was tested by looking at the relationship between process and outcome, as measured by the Ratification/Implementation phase and the Strength Index. There was a perfect 1.00 correlation between the Statement of Initial Positions and Ratification. When the Statement of Initial Positions phase took place within the context of a UN agency working group meeting (or overlapped with the Issue Definition phase), the Ratification/Implementation phase was characterized by no action until the agreement enters into force. If the Statement of Initial Positions phase took place within the meetings of a special negotiating group, the Ratification/Implementation phase was characterized by either no action until the agreement enters into force or an interim mechanism for meetings.

There was a -0.78 correlation between the Final Bargaining/Details phase and Ratification. When the Final Bargaining/Details phase was characterized by a focus on outstanding peripheral details in the agreement, the Ratification/Implementation phase in this sample was characterized by no action until the agreement entered into force. When the Final Bargaining/Details phase focused on outstanding core details of the agreement, in three out of four cases the Ratification/Implementation phase included mechanisms for interim meetings.

The 0.68 correlation between Turning Point 5 and the Ratification/Implementation phase shows that when Turning Point 5 was characterized by the postponement of consideration of a difficult issue, in six of seven cases the Ratification/Implementation phase was characterized by no action until the agreement entered into force. Finally, the 0.62 correlation between Turning Point 5 and the Strength Index, showed that postponing consideration of a difficult issue toward the end of the process (Turning Point 5) often means that the resulting agreement will be weaker, than in cases where Turning Point 5 was characterized by a vote or internally or externally motivated efforts toward compromise.

Discussion

The correlation analysis highlights several aspects of the negotiation process that the case study method did not reveal. First, as stated in the first hypothesis, it appears as though the characteristics of the phases and turning points late in the process are influenced by which type of actor plays the lead role in the early phases: individual states or intergovernmental organizations. The early phases and turning points are defined as those that shape the prenegotiation period: Precipitants phase, Turning Point 1, the Issue Definitions phase, Turning Point 2, and the Statement of Initial Positions phase. The correlation analysis demonstrated that three of these five early phases and turning points tend to have strong relationships with different phases and turning points later in the process. There is a strong four-way relationship between Turning Point 1, the Issue Definition phase, Turning Point 3, and Turning Point 4. This relationship indicates that in cases where an intergovernmental body, such as one of the UN agencies, takes the decision to begin negotiations, the intergovernmental body tends to play a strong role throughout the process. The relevant UN agency may provide the framework for the Issue Definition phase and the secretariat (usually part of a UN agency) is likely to prepare the first draft of the agreement. Finally, the drafting and redrafting process may continue until pressure is put on the delegates in the form of a deadline, such as a conference to be attended by high-level officials, or external pressure from the media or NGOs. On the other hand, in the cases where the decision to begin addressing the problem in the international arena is the result of an initiative of a state, group of states, or NGO, the nature of the subsequent phases and turning points is quite different. Usually the initiating state(s) or group circulates a draft text to serve as the focus for both the Issue Definition phase and the subsequent two negotiating phases. States continue to take the initiative throughout the process and it is this type of initiative that characterizes Turning Points 3 and 4.

These findings are important for practitioners, who may usually discount the early phases of the negotiations as the posturing before the “real” negotiations begin. If they realize the important implications of these early phases on the negotiations down the road, it may increase coherence and consistency within delegations, which may serve to improve the negotiation process as a whole. Negotiation analysts should also take note because the answers to some of the process-oriented questions that arise when studying a negotiation process may be found in the early stages before the actual drafting and bargaining begin.

With regard to the second hypothesis, if the final phases are characterized by postponing consideration of a difficult issue, the outcome, as measured by the strength of the resulting agreement and ratification time, is more likely to be weaker than in cases where the final phases were characterized by compromise. The Final Bargaining/Details phase and Turning Point 5 are the only two parts of the negotiating process that have any significant relationship to the outcome. These findings also suggest that postponing consideration of a difficult issue at the end of the negotiations may mean that the resulting agreement will be weaker both in

terms of the nature of the Ratification/Implementation phase and the strength of the resulting agreement. This could be the case because postponing consideration of a difficult issue may decrease the substantive value of the agreement and, thus, make it weaker. Second, in other cases where difficult issues are handled and consensus is achieved, governments may be forced to make compromises that they would not have made given more time. In these cases, time pressure in conjunction with creative compromise may serve to strengthen the resulting agreement.

A 13-case analysis of the process-outcome relationship

The second study empirically tests whether negotiation processes determine negotiated outcomes, and in doing so identifies a formula–details-type progression in the cases examined.⁴ This study reviews 13 international negotiations and asks whether processes predominantly characteristic of problem solving lead to the integration of negotiators' positions and whether processes predominantly characteristic of bargaining lead to compromise between or asymmetrical representation of these positions. US negotiators' reports on discussions with their counterparts, printed in the *Foreign Relations of the United States* series of declassified Department of State material, provide the primary data source. In this analysis, case studies and content analysis of negotiator statements were used to qualitatively and quantitatively compare process and outcome, along with formula development and process trends through different negotiation stages, to further refine our understanding of the negotiation process.

Cases and research method

The number of negotiating parties, topics addressed, and relationship between the countries vary in the negotiations examined for this study. Eight of the cases are bilateral, four involve three to five parties, and one is a large multilateral case. Previous agreements influenced some of the talks; others considered the issues for the first time. Negotiators met during periods ranging from one month to nine years. Table 4.4 presents the negotiating parties, issue under discussion, and years during which the negotiators met.

The data requirements made it difficult to control for the variety of theorized influences on negotiations. All but one of the cases is historical and was selected on the basis of adequate data on the statements between negotiators from the US State Department's *Foreign Relations of the United States* series. This bound compendium contains declassified cables to and from US embassies, State Department memos, and other written records regarding US foreign affairs. Additional material was gathered from the US Archives to supplement these data. The length of the negotiation influenced the decision regarding adequate data as did the quality of record keeping. The sample is not random, but no case was rejected because it did not confirm the hypothesis.

The single case that does not rely on State Department cables is the 1995 United Nations Women's Conference. The data for this case consist of personal

Table 4.4 Negotiation cases

<i>Parties</i>	<i>Topic</i>	<i>Dates</i>
US–Turkey	Trade	1938–1939
US–UK–Switzerland	Trade	1942
US–Mexico	River water division	1942–1944
US–Portugal	Airfield tenancy	1946
US–France–UK–Benelux	London conference (future of Germany)	1948
US–France–UK–Germany	Basic law for federal republic of Germany	1948–1949
US–Iran	Aid to Iran	1950
US–Saudi Arabia	Airfield tenancy	1950–1951
US–Japan	Administrative agreement	1951–1952
US–Republic of China	Mutual security treaty	1954
US–USSR–UK–France–Austria	Austrian state treaty	1946–1955
US–People’s Republic of China	Repatriation of civilians	1955
UN Member States	Fourth World Conference on Women	1995

notes of the statements of three negotiating coalitions during the preparatory meetings and the Fourth World Conference on Women (FWCW) in Beijing, China. The notes are partial, since several negotiating bodies operated simultaneously during each stage of the negotiations. Over 100 hours of negotiations, approximately one-third of all open negotiating sessions, are incorporated into the final results (see Table 4.4). Final analysis of the FWCW outcome is based on those paragraphs of the agreement for which the debate was recorded, also approximately one-third of the total.

Research method

Many theorists hypothesize that negotiators’ statements reflect one of two process types, which are labeled as problem solving and bargaining. Theorists generally expect negotiators to use both processes during a single negotiation, but one or the other may dominate. This study uses content analysis to determine which of the two processes dominates each negotiating country’s statements in each case.⁵ These assessments are then compared with analyses of the extent to which the outcome text reflected one of the outcome types. The first step for the research, therefore, is to identify the characteristics of the negotiating processes and outcomes for comparison with the case data.

Coding schemes developed by Walcott and Hopmann (1978) and Hopmann (1994, 2002) provided models for the codes that were developed to match negotiator statements with the theorized processes. Hopmann (1994, 2002) added problem-solving statements in his revision of the scheme he developed earlier with Walcott (1978), but the study aggregated the behaviors he identifies based on the research question, resulting in three types of statements for each of the two negotiation processes. Table 4.5 lists the process and outcome profiles. The majority of

discussion using both processes involves “debate,” but this discussion focuses on one’s own positions in bargaining debate while it acknowledges the other’s positions in problem-solving debate. Negotiators encourage the other to move through threatening or promising statements in bargaining processes or through reframing and brainstorming in problem-solving processes. Movement toward compatible positions takes place through accommodation in bargaining processes, with negotiators grudgingly accepting the other’s position or exchanging concessions. Cooperative statements in problem-solving processes may create movement without the grudging acceptance that accompanies accommodation or identify the negotiator’s willingness to keep looking for alternative solutions.

The three outcome types examined in this study, as profiled in Table 4.5, are integrative, compromise, and asymmetrical. Integrative outcomes improve upon and incorporate the positions of all negotiators. Compromise outcomes include something from each negotiator’s opening positions, but leave out other elements. An asymmetrical outcome emphasizes one negotiator’s position over another’s and is a variation of a compromise outcome. Integrative outcomes create value for the negotiators while compromise and asymmetrical outcomes distribute value; one party’s gain is the other’s loss in the latter two outcome types. Each of the 13 negotiated agreements consists of a number of articles, or units of text, addressing separate issues. As with the negotiator statements and profiles, each

Table 4.5 Process and outcome profiles

Bargaining statements

- 1 *Bargaining debate*: actor restates position, indicates inability to move from position, provides reasons for own position or debates other’s reasoning with no recognition of others’ needs.
- 2 *Threaten/Promise/Pressure (“Threaten”)*: actor predicts adverse consequences if a certain action is not taken, promises positive rewards for desired action, or otherwise pressures other to accept actor’s position.
- 3 *Accommodate*: actor accepts other’s position under some level of protest, or offers to accept other’s position on one point if some point of actor’s position is accepted.

Problem-solving statements

- 1 *Problem-solving debate*: actor acknowledges the legitimacy of other’s perspective, asks for clarification of that perspective, or provides reasons for own position with recognition of other’s position.
- 2 *Reframe/Brainstorm (“Reframe”)*: actor brings things in or out of discussion, brainstorms multiple options or suggests possible offers, indicates direction in which actor is willing to move or identifies terms of justice or exchange.
- 3 *Cooperate*: actor indicates a willingness to work with other negotiator to find a solution.

Outcome types

- 1 *Integrative*: increased value outcomes; improve upon and incorporate the positions of all negotiators.
 - 2 *Compromise*: include something from each negotiator’s positions, but also leave out elements of their positions.
 - 3 *Asymmetrical*: one negotiator gains at the other’s expense; agreement emphasizes one negotiator’s positions over another’s.
-

article was compared with the outcome profiles to determine the extent to which each outcome type appears in the agreed text.

After coding each statement and outcome article, the percentage of negotiator statements that reflect each process type and the percentage of agreed articles that reflect each outcome type are calculated. The cases are then ranked—1 to 13—for each process and outcome variable. The rankings are used to calculate Spearman rank-order correlation coefficients for comparisons between each outcome type and three aspects of the process: the overall percentage of problem-solving statements, the percentage of problem-solving statements on each article, and the percentage of problem-solving statements during six stages in the talks.

The content-analysis exercise permits the use of an explicit decision rule to arrange each case on a continuum according to negotiators' use of problem-solving or bargaining statements and agreement to an integrative, compromise, or asymmetrical text. A further benefit to using content analysis is that a reliability check provides the researcher and reader information regarding the reliability of the assessments. The main coding was conducted prior to in-depth evaluations of the cases to minimize any accompanying biases. A second coder was not informed of the study's objectives before coding randomly selected meetings and 10 percent of the outcome articles from the cases. The first and second coders' appraisals of whether a statement was problem solving or bargaining matched on 73 percent of the coded statements, with a categorizing reliability of 0.79 and reliability of the unitizing process of 0.05 (Guetzkow 1950). The first and second coders' appraisals of whether an outcome article was integrative or represented a compromise or asymmetrical arrangement matched at a rate of 91 percent, with a categorizing reliability of 0.98 (Guetzkow 1950).

Shortcomings with the method, many of which Druckman (1991) and Hopmann (2002) outline in their reviews of content analysis as an approach to evaluate negotiations, should also be kept in mind. For example, the study overlooks additional influences on outcomes such as power relationships between the parties, except to the extent that these relationships influence negotiators' choice of process. The process profile moves away from depicting negotiation as a purely bargaining process—a shortcoming for some content analyses—but it still does not incorporate the complexity of package construction, tactical strategizing, and other elements that can influence negotiations. Similar drawbacks hamper the "measurement" of outcomes. Negotiators may inflate their opening offers, which guide the evaluation of the extent to which outcomes represent each party's preferences, thus anchoring the analyst's expectations to a standard that may not represent their real interests. The method facilitates a systematic assessment and comparison of process for multiple actors and outcomes across 13 cases, but overlooks many factors that other research identifies as influences on negotiations.

Results

Table 4.6 records the percentage of negotiator statements coded in each process category and the percentage of articles coded as each outcome type. These

Table 4.6 Process and outcome percentages

Case ^a	Process ^b				Bargaining				Outcome ^c		
	Problem solving				Debate	Threat	Acc	Total	Integ	Comp	Asym
	Debate	Reframe	Coop	Total							
Japan	28	11.4	21.1	60.5	35.1	—	4.4	39.5	74	22	4
Basic	17.3	5.8	15.6	38.7	54.7	0.9	5.7	61.3	20	60	20
Iran	29.9	3.1	5.5	38.5	57.5	1.6	2.4	61.5	20	40	40
Swiss	22	7.5	9	38.5	47	4.5	10	61.5	25	50	25
Turkey	19	3	16	38	47	—	15	62	18	64	18
ROC	17	4	13.5	34.5	61.5	1	3	65.5	11	56	33
FWCW	13.5	11.6	8.4	33.5	62	0.5	4	66.5	59	39	2
Saudi	13	1.1	14.1	28.2	60.9	1.1	9.8	71.8	—	70	30
London	16.4	4.7	6.3	27.4	65	—	7.6	72.6	—	100	—
Mexico	13.7	2.1	8.4	24.2	64.2	2.1	9.5	75.8	20	80	—
Austria	10.5	3.7	9.9	24.1	63.3	1.1	11.5	75.9	—	71	29
Portugal	11.5	6.3	5.2	23	58	9	10	77	—	67	33
PRC	10.7	0.8	7.3	18.8	67.2	5	9	81.2	20	40	40

Notes

a The cases, in order, are: Japanese Administrative Agreement, Basic Law, Iran aid, Swiss trade, Turkey trade, ROC Mutual Security Treaty, FWCW, Saudi Arabia airbase, London Conference, Mexico river water, Austrian State Treaty, Portugal airbase, and PRC repatriation.

b Reframe = reframe/brainstorm; Coop = cooperate; Total = total percent problem solving; Threat = threaten/promise/pressure; Acc = accommodate; Total = total percent bargaining.

c Integ = integrative; Comp = compromise by all parties; Asym = favorable to only one party.

figures indicate that problem-solving statements were not used as often as bargaining statements. Only one case, the Japanese Administrative Agreement, involved over 50 percent problem-solving statements; those negotiators used 60.5 percent problem-solving statements and 39.5 percent bargaining statements. Negotiators in the other 12 cases used problem-solving statements in 38.7 percent (Basic Law) to 18.8 percent (PRC repatriation) of their statements. Negotiators averaged 30 percent problem-solving statements. The outcomes also varied from case to case, with an average of 20.5 percent articles representing integrative arrangements, 58.4 percent representing compromise arrangements and 21.1 percent representing asymmetrical arrangements across all cases (Table 4.6).

Overall process–outcome relationship

Comparisons of the cases based on the overall percentage of problem-solving statements and the percentage of each outcome type result in three Spearman rank-order correlation coefficients: problem-solving and integrative articles (0.591); problem-solving and compromise articles (−0.503); and problem-solving and asymmetrical articles (−0.176). The first two of these coefficients indicate statistically significant relationships at the 0.05 and 0.10 significance levels.⁶ The coefficient for problem-solving and integrative outcome (0.591) supports the hypothesis that these variables are directly related. The coefficient for problem-solving and compromise outcome (−0.503) supports the hypothesis that these variables are inversely related (but at the $p < 0.10$ level). Although asymmetrical outcomes were hypothesized to correlate inversely with problem-solving statements, the correlation (−0.176) is not significant at a meaningful level.

Process on each article

The negotiation process and outcome for each article is also compared. This analysis increases the sample size from 13 agreements to 98 articles.⁷ The results, however, do not support the hypothesized relationship between process and outcome. Table 4.7 identifies the number of articles for which the negotiators used a problem-solving, bargaining, or mixed process. General divisions apparent in the overall process percentages (Table 4.6) are used to identify these categories—“problem solving” entails greater than 40 percent problem-solving statements, “bargaining” involves less than 30 percent problem-solving statements, and “mixed” processes involve 30–40 percent problem-solving statements. The chi-square statistic (4.294) is in the expected direction, but does not exclude the possibility that process and outcome for the articles are independent.

The insignificant relationship between process and outcome on specific articles is puzzling, given the significant correlation coefficients for overall process and outcome. Zartman and Berman’s (1982) formula–details model of negotiations offers an explanation to reconcile these findings. They suggest that negotiators pursue a broad framework at the beginning of their talks, following which they turn to specific details. These two activities may entail different processes, with

Table 4.7 Process on each article and outcome

<i>Process</i>	<i>Outcome</i>		
	<i>Integrative</i>	<i>Compromise</i>	<i>Asymmetrical</i>
Problem solving	15.3	12.3	2
Mixed	9.2	15.3	4
Bargaining	12.3	23.5	6.1

Notes

 $\chi^2 = 4.294$ ($p < 0.10$ if > 7.78); 4 *df*.

All numbers are percentages.

negotiators using more problem-solving statements to discuss the formula or overall terms of exchange and then using more bargaining statements to negotiate specific details or articles. The statements examined in Table 4.7 only looked at those related to specific articles in the final agreement. They could over-emphasize bargaining statements and omit the problem-solving discussions that established the basic framework and underpinnings for an integrative agreement, but did not touch on specific textual passages. Discussions on the exact text, or details phase, could then involve bargaining statements but not end with a strict compromise between positions. The following examination of negotiation stages suggests that a formula–details-type progression took place in the 13 negotiations.

Process during each negotiation stage

To consider process by stage, each negotiation was divided according to an equal number of meetings per case for each of six stages. Table 4.8 identifies the percentage of problem-solving statements made during each stage and notes the stage during which any preliminary exchange concluded and negotiations began on proposed text for the agreement (in bold).

The highest percentage of problem-solving statements usually corresponded with the stage during which negotiations on specific text began (in bold), and negotiators' problem solving generally decreased after that stage. This decrease supports the existence of a formula–details-type progression in the negotiations: negotiators initially identify their needs and explore alternatives while they establish the terms of exchange. Next, they bargain, focusing on their positions as they determine how to implement the formula. Negotiators in eight cases increased their percentage of problem-solving statements from stage 4 to 5. This change may have resulted from negotiators' "sense that each party ha[d] conceded as far as it [could]" and problem solving remained the only viable option to reach consensus (Pruitt 1981: 81). Negotiators had used more problem-solving statements prior to stage 4 in all but two of the cases, however, suggesting that problem solving plays its primary role during initial negotiation stages.

The Spearman rank-order correlation coefficients in Table 4.9 compare percentages of outcome articles and problem-solving statements by stage, as well as

Table 4.8 Problem-solving percentage during each stage

<i>Case</i>	<i>Stage 1</i>	<i>Stage 2</i>	<i>Stage 3</i>	<i>Stage 4</i>	<i>Stage 5</i>	<i>Stage 6</i>
Japan Admin. Agree.	95	74	40	64	47	11
German Basic Law	41	50	17	39	37	46
Iran Military Aid	29	27	50	38	48	42
Swiss Trade	35	20	32	77	40	36
Turkey Trade	69	67	35	20	38	17
ROC Mutual Security	48	29	47	28	32	25
UN FWCW	24	55	35	35	28	23
Saudi Arabia Air Base	50	17	36	22	23	31
London Conference	31	31	13	29	40	18
Mexico Water	38	21	38	0	19	14
Austria State Treaty	20	22	30	11	33	24
Portugal Air Base	62	20	0	29	19	10
PRC Repatriation	56	21	21	0	8	0

Note

Bold signifies the stage when negotiators turned from general statements to discuss a draft text.

Table 4.9 Process and outcome correlation coefficients by stage (N = 13)

<i>Problem solving percentage during</i>	<i>And percentages of outcome type</i>		
	<i>Integrative</i>	<i>Compromise</i>	<i>Asymmetrical</i>
Stage 1	0.063	-0.040	0.133
Stage 2	0.419	-0.357	-0.451
Stage 3	0.383	-0.374	0.088
Stage 4	0.500**	-0.495**	-0.087
Stage 5	0.287	-0.235	-0.168
Stage 6	0.038	-0.012	0.130
Stage during which negotiations on proposed text began (bold)	0.441	-0.490**	0.127
One stage after bold	0.285	-0.560*	0.135
Two stages after bold	0.650*	-0.360	0.144
Three stages after bold	0.275	-0.255	-0.107

Notes

* significant at 0.05 level.

** significant at 0.10 level.

problem solving for the (bolded, see Table 4.8) initial period of negotiations on a draft text and subsequent stages. These coefficients indicate a direct correlation between integrative outcomes and problem solving during the fourth stage of the negotiation (0.500), and an indirect correlation between compromise outcomes and problem solving during the same stage (-0.495). Additional statistically significant correlation coefficients include problem-solving and compromise outcomes

during the initial discussion of a draft text (-0.490) and the stage immediately following (-0.560); integrative outcomes and problem solving two stages after the initial discussion of the draft text also correlate significantly (0.650).

Negotiators began considering a draft text during one of the first three stages, but the variations in starting points on these drafts (seven cases during stage one, four during stage two and two during stage three) indicates they were not all undertaking the same tasks at the same stage. The various starting points in drafting the texts may explain the insignificant correlation between problem-solving and integrative outcomes during stages one through three. The formula–details model theorizes that bargaining-type statements dominate the final stages regardless of the outcome type. The insignificant correlation coefficients between process and outcome during stages five and six therefore are not surprising. All cases had begun discussing draft texts by the fourth stage. Problem solving during this stage and two stages after the negotiators' initial discussion of a draft text correlated significantly with integrative outcomes. These findings suggest that integrative outcomes correlate with extended discussions of needs and alternatives. Problem solving must continue beyond the initial discussion regarding a formula if the outcome is to integrate the negotiating parties' needs, and negotiators' development of a formula may provide the focus for sustained problem solving. A related finding is the inverse correlation between compromise outcomes and problem solving when draft proposals were initially discussed and the immediately following stage. This result suggests that, although more problem solving during those stages does not necessarily lead to integrative outcomes, it does correlate with a decreased percentage of compromise articles. Asymmetrical outcomes, which did not correlate with the overall percentage of problem-solving statements, also did not significantly correlate with problem solving during any negotiation stage.

Discussion

Many of this study's findings support the hypothesized relationship between process and outcome and the existence of a formula–details-type progression. Problem-solving statements correlate positively with integrative outcomes and negatively with compromise outcomes, as expected. The insignificant relationship between process and the outcome of specific articles indicates that the relationship is imperfect, although the staging of negotiation processes provides an explanation for this result. The evaluation of specific statements—details—for each article could over-emphasize bargaining statements and overlook the problem-solving discussions that established the terms of exchange—formula—for the agreement.

The examination of negotiation process during six stages indicates that negotiators followed a formula–details-type progression and helps refine the finding that process affects outcome. Integrative outcomes correlate significantly with problem-solving debate and problem solving during the middle negotiation stages. Compromise outcomes correlate with accommodating statements and bargaining during the middle negotiation stages. Compromise outcomes also correlate inversely with problem solving during initial discussions of the proposed agreement. Formula development can provide a focus for sustained problem

solving into later stages of the talks. Some negotiators searched during the initial stages for “fair” criteria upon which to base the outcome, but could not convince the other to accept a definition close to their own. These negotiators offered fewer problem-solving statements as the negotiation progressed.

The relationship between negotiation stage, process, and outcome is particularly relevant given that the overall process, rather than the process on specific articles, correlated with outcome. Negotiations involve wide-ranging discussions about needs and positions as well as specific consideration of each issue. The wide-ranging discussions generally involved more problem-solving statements and established operating understandings regarding each party’s needs or the trade-offs negotiators would make.

Conclusions

The formula–details approach first outlined in Zartman and Berman’s *The Practical Negotiator* has been used as one of the starting points for both of the empirical studies described in this chapter. In both studies, evidence of a formula–details progression was found and used to evaluate the relationship between process and outcome in two different sets of case studies on international negotiations. The first set of cases focused exclusively on multilateral environmental negotiations and the second set looked at bilateral and multilateral negotiations involving the United States on a range of different topics.

The first study used the formula–details approach as the basis for developing a six-phase process for analyzing multilateral environmental negotiations. The case studies demonstrated, however, that not every environmental negotiating process actually used the formula–details approach. Some negotiations took a more inductive approach: the delegates put the agreement together piecemeal, building it primarily through mutual compromise or exchanged concessions on specific items (Zartman and Berman 1982: 89). This was the case with the negotiations on Antarctica, biodiversity, climate change, and ocean dumping, among others. The study then examined if the different characteristics of the process had any measurable effect on the outcome and determined that negotiations that are convened by a state or group of states tend to follow a more deductive or formula–details approach, whereas those negotiations that were precipitated by one of the UN organizations tend to follow a more inductive approach. While the correlation analysis did not indicate which approach resulted in stronger outcomes, what is interesting is that the more recently negotiated environmental agreements have taken the UN-centered or inductive approach rather than the state-centered, primarily deductive, approach. This does not discount the usefulness of the formula–details approach, even if fewer multilateral environmental negotiations are following this path, but rather serves as a testimony to its ability to reduce the complexity of multilateral negotiations.

The second study found evidence of the formula–details approach in another 13-case empirical test of whether negotiation processes determine negotiated outcomes. Zartman and Berman suggest that negotiators pursue a broad framework at the beginning of their talks, following which they turn to specific

details. These two activities may entail different processes, with negotiators using more problem-solving statements to discuss the formula or overall terms of exchange and then using more bargaining statements to negotiate specific details or articles. In fact, in all but two of the cases, negotiators used more problem-solving statements in the earlier phases. The insignificant relationship between process and the outcome of specific articles is puzzling in light of the correlation between problem-solving statements and integrative outcomes, although the staging of negotiation processes provides an explanation for this result. The evaluation of specific statements—details—for each article could over-emphasize bargaining statements and overlook the problem-solving discussions that established the terms of exchange—formula—for the agreement.

In addition to speaking to the existence of a formula-details progression, both studies also address the importance of early negotiation stages on later stages and outcome. The first study focuses more on procedural decisions and their implications during the diagnosis phase, and comments on the importance of its findings to practitioners, who may usually discount the early phases of the negotiations as the posturing before the “real” negotiations begin. If they realize the important implications of these early phases on the negotiations down the road, it may increase coherence and consistency within delegations, which may serve to improve the negotiation process as a whole. Negotiation analysts should also take note because the answers to some of the process-oriented questions that arise when studying a negotiation process may be found in the early stages before the actual drafting and bargaining begin.

The second study examines negotiations once the diagnosis has been completed and the decision to negotiate has been taken, but it too would suggest a need to connect the early and later negotiation stages. This study suggests that extended discussions of needs and alternatives are important if the outcome is to integrate the needs of the negotiating parties. Given that problem solving entails learning and responding to each other’s needs, the same proposal for coherence and consistency within delegations would hold for this study to enable negotiators time to identify integrative options.

The process by which governments negotiate with one another is not a perfect one. There is no shortage of scholars and practitioners who have commented on the pros and cons of the international negotiating process. There is no doubt that the study of international negotiations will continue to enlighten the complex study of negotiation. It is hoped that these and other studies that have attempted to merge theory and practice in the grand tradition of *The Practical Negotiator* will help make a difference between success and failure in governments’ continued efforts to resolve their disagreements through dialogue rather than through conflict.

Notes

- 1 For more details on this study see Chasek 2001.
- 2 The eight variations of phased process analysis examined were: Zartman and Berman 1982, Touval 1991, Porter and Brown 1996, Gulliver 1979, Friedheim 1987, Rittberger 1983, Williams 1992, and Hampson 1995.

- 3 Zartman and Berman (1982) do not include an implementation phase in their use of the phased process method of analysis.
- 4 For more details on this study see Wagner, 2007.
- 5 For the FWCW, I examine the process of three coalitions of countries: the European Union (15 member states), the Group of 77 and China (132 developing countries), and JUSCANNZ (Japan, the United States, Canada, Australia, Norway, and New Zealand).
- 6 The Spearman rank-order correlation coefficient (r_s) is significant, at $p < 0.05$ and $N = 13$, if $-0.560 > r_s > 0.560$, and at $p < 0.10$ and $N = 13$, if $-0.484 > r_s > 0.484$.
- 7 The fact that negotiators may link their agreement on several articles, in which case a single article does not represent an independent variable, diminishes the value of this line of inquiry and should be kept in mind.

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Part II

**The international
relations of Africa**

5 The evolution of Euro-African relations

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Africa is a nonaligned part of the Western world. Its background, values, dependencies, exchanges, and aspirations are primarily with the West, as it works out its own nature and concerns.¹

Eur-African relationships are caught up in an evolutionary process, as various forms of bilateral, metropolitan influence are replaced with multilateral relations. In the process, political independence is only the first step, and the “last step” of complete independence is probably never attainable in an increasingly interdependent world.²

The sense of pessimism pervading the state of Africa’s relationship with Europe since the 1990s is best summarized in the ominous language of Fortress Europe and marginal Africa. Fifty years since its inception, the Euro-African relationship is facing a midlife crisis, searching for meaning, direction, and redefinition. Illustrative of this crisis are the debates about the future of the relationship that emerged during the transition from the Lomé to the Cotonou Conventions and, more recently, contrasting perspectives that dominated the Tony Blair Commission on Africa. For the European Union (EU), the necessity of charting a new course has entailed creating links with Africa that reflect the broadening of European regionalism and the imperatives of globalization. For Africa, the priority has entailed finding its economic and political feet against the background of gradual weakening of its postcolonial relations with Europe.

The Euro-African midlife crisis needs to be read more accurately as the maturation of a relationship that has evolved in light of changing times, actors, and contexts, a process that Zartman’s work has captured adequately. Zartman contributed to understanding the maturation of Euro-African relations by advancing a framework that has remained consistent throughout the postcolonial era. Labeled the decolonization thesis, it postulated Africa as a nonaligned part of a growing multilateralized Western world. In underscoring the continuities and changes in Euro-African relations, this perspective highlighted the whole array of cultural, political, and economic ties that eased Africa’s transitions into statehood. But as decolonization proceeded, Zartman predicted that most of the central pillars of Euro-African relations would gradually wane as a natural consequence of the maturation. He likened this process to the peeling of an onion: “the

removal of each form of postcolonial presence uncovers and renders vulnerable and unnecessary the next level of Euro-African relations.”³

This chapter draws on Zartman’s works to identify the major phases in the evolution of Euro-African relations. I first focus on the Yaoundé and Lomé Conventions, the formative institutions for Europe’s engagement with postcolonial Africa. Through these institutions, Europe retained its postcolonial responsibilities, but they also offered opportunities for Africa to steadily build its capacity for substantial decolonization. In the final sections, I will address some of the contemporary themes that inform Euro-African relations, specifically African efforts to construct national and regional institutions for responsibility such as the African Union (AU) and the New Partnership for Africa’s Development (NEPAD). In the search for a prosperous and secure future, Africa and Europe have converged about ideas and practices of burden sharing and partnership.

Charting the initial Euro-African course: from Rome to Lomé via Yaoundé

There are three significant phases in the unfolding of Euro-African relations: the signing of the Treaty of Rome in 1957 to 1972 with the accession of Great Britain, Denmark, and Ireland to the European Economic Community (EEC); the era of the Lomé Conventions (1975–2000); and the current phase that began with the birth of the Cotonou Convention in 2000. Zartman’s study of the first two phases revolved around two analytical axes. First, although focused primarily to boost integration in Europe, the Treaty of Rome unleashed the momentum for broadening African responsibilities among colonial and noncolonial European powers. Second, the institutions created by European integration had a remarkable impact on fostering regionalism in Africa, notably by breaking the bonds of cultural and political isolation erected under divergent colonial regimes. In this regard, European economic assistance started to reduce the enormous bilateral economic barriers in Africa and helped solidify the foundations for regional economic integration.⁴

In the Treaty of Rome, the six founding members of the EEC (West Germany, Belgium, France, Italy, Luxembourg, and Netherlands) allowed for the Association of the 18 French, Belgian, and Italian Countries and Overseas territories before their independence and created the first European Overseas Development Fund (FEDOM) to meet their economic needs. The Treaty recognized the “solidarity which binds Europe and overseas countries,” but limited the aid and commercial concessions to a duration of five years to allow future revisions. Zartman showed that in the negotiations for the Treaty of Rome, France insisted that European integration needed to cater for European colonies that were inseparably tied to the metropolitan economies by multiple systems of economic preferences. A deeply divided Europe considered the extreme options of either strengthening colonial ties or leaving the colonies to an uncertain economic fate; in the end, they forged a compromise that established the contours of postcolonial relationship: “The intermediate solution at this juncture of

complementary interest appears, in retrospect, as the natural, indeed the only compromise between the evils of the two extremes. Preferential colonial relations could gradually be multilateralized until a single free trade area was created, with both the burdens of aid and the benefits of protected trade and investment being shared by all the six.⁵

The looming expiration of the terms of the Association in 1962 reignited divisions in Europe between French and Belgian proponents and West German and Dutch opponents of the arrangement. Equally, Europe's bid to multilateralize African relations had its critics in Africa, particularly Ghana's Kwame Nkrumah who invoked the inauguration of "collective neocolonialism." As decolonization gathered momentum in the early 1960s critics converged around the dependency argument that dominated academic discourse in the 1970s, denouncing Association as an obstacle to intra-African economic ties. Despite divisions in Europe and criticisms in Africa, the Association generated the infrastructure for functional integration among newly independent African states that also formed the basis for new negotiations with Europe culminating in the first Yaoundé Convention in July 1963, the successor to the Association. Starting in 1960s, Association states organized a series of conferences that led to the formation of the African and Malagasy Union (UAM) and its economic arm, the Economic Cooperation Organization (OAMCE), furnishing them concerted means to exert pressure on Europe. Defying Nkrumah's crusade that continued Association would betray their nonaligned status and impede African unity, the 18 independent member states of UAM concluded the Yaoundé Convention.⁶

Although not radically different in economic terms from the Treaty of Rome, the Yaoundé I Convention established the contractual commitments that, step by step, solidified Euro-African relations. As Zartman emphasized

The African's greatest strength was their weakness. Their underdevelopment gave them the substance for appeals to the Six. It also gave them an excuse for not offering greater concessions. It was the source of their warnings. By putting their fate in the Europeans' hands (where, in the absence of procedural changes, it was anyhow), they maximized the chances of making the obligations stick, and of achieving greater results—no matter how limited—than if they had engaged in a hard bargaining process with nothing to bargain with.⁷

The negotiations for the Yaoundé II Convention signed in July 1969 were conducted against the backdrop of growing African acceptance of Euro-African multilateralism. From the initial skepticism borne out of neocolonialism, Africans gradually embraced the necessity of privileged relations with Europe. In fact, as Zartman observed of the atmosphere leading to Yaoundé II: "West Africa was complaining not about too much European attention, but too little."⁸ Moreover, in the circumstances where aid commitments to developing countries had started to fall, the aid package under Yaoundé II was generous. The Yaoundé II Convention gave the European Development Fund (EDF) more priority to fund regional development projects and regional organizations. Also, the EDF devoted

funds to local industrialization projects and strengthened safeguard clauses for infant industries. All these measures pointed to Europe's bid to encourage inter-African regional cooperation as a way to undercut some of the criticisms from non-Associates.⁹

The signing of the Yaoundé II Convention coincided with the start of discussions for the enlargement of the EEC, culminating in the January 1972 admission of Britain, Ireland, and Denmark. British membership forced corresponding negotiations between the Commonwealth countries and the Yaoundé Associates, contributing to reducing tensions between Anglophone and Francophone countries. In addition, British membership helped Commonwealth countries to multilateralize their postcolonial relationship; as Zartman aptly put it: "In outline, Britain's move to Europe started Commonwealth Africa moving toward the position of the non-Commonwealth Africans, where they met the Yaoundé Associates moving away from their past, close ties with the European Community members. A contractual relationship that was something less than Association was the result."¹⁰ In West Africa, in particular, the rapprochement between the Francophone and Anglophone countries contributed to building the bridges of regionalism in the mid-1970s.

Negotiations within the new Africa group and between it and Europe, yielded the first Lomé Convention in June 1975, a new contractual multilateral relationship that went beyond Africa to include nine Caribbean and Pacific States. Despite the comprehensive membership of Lomé, African states remained the primary beneficiaries. Zartman also saw a gradual improvement in Africa's asymmetrical position vis-à-vis Europe:

African states have clearly improved the terms of their relationship with Europe; over 15 years they have demanded and received more and more favorable provisions and the European signatories have received less and less in exchange. As in the case of the OAU, formal ties should not be confused with close ties. There can be a Eur-African convention in the postcolonial world precisely because it codifies such loose and imbalanced relations. The weaker of the two continents has the greater advantages—aid, preferences, supports, guarantees, protection—precisely because of its weakness and need.¹¹

Lomé and the cold war in Africa

As a symbol of Africa's nonaligned status within the West orbit, the Lomé Convention process captured the essential continuities in mutual, yet asymmetrical reciprocities. Both sides hailed the Lomé Conventions (1975–1980, 1980–1985, 1985–1990, and 1990–2000) as the most comprehensive contractual instruments linking regional groupings of underdeveloped and industrialized nations and a model for North–South cooperation. To Europe, the Lomé process had created a multilateral framework for slow disengagement from its myriad colonial relationships; for Africa, Lomé's multilateralism provided the collective

voice for underdogs while its contractual obligations allowed a measure of economic certainty and stability. Further, consultative institutions such as the EEC-ACP Ministerial and Parliamentary Committees widened the political structure of the relationship, allowing regular interactions.

In the previous Yaoundé Conventions, Zartman had identified three and half dimensions of the negotiating framework that often decided the negotiations outcomes: talks among the European partners; among African states; between Africa and Europe; and the half referring to “bilateral attempts to reinforce or circumvent the formal Eur-Africa setting with direct contacts between individual European and African states.”¹² Of these three, the intra-European negotiations tended to dominate the process. This pattern did not change significantly in the Lomé negotiations, particularly as the negotiated outcomes were linked to the state of the European economies and wider trends in the international political economy. These changes also altered the bargaining power of ACP states, affecting how much they could benefit from the relationship. During the protracted negotiations in the mid-1980s, the global economic recession engendered a growing reluctance by Europe to concede to most trade and aid issues, leading to decreases in aid packages relative to population increases, inflation, and the addition of new African members.¹³

As this partnership evolved in the 1970s and 1980s, Zartman questioned the validity of the dominant dependency assumptions that scholars used to study the Lomé Conventions. Refusing to be swayed by the ever-changing intellectual fads, Zartman stubbornly challenged the dependency assumptions about Africa’s international relations long before the theory fell by the wayside. He decried the impatience of dependency theorists with the sluggishness of Africa’s economic progress and their tendency to exaggerate the external economic and commercial constraints on African development. Instead, he saw the relationship as

neither a neocolonial consolidation nor an institutionalization that at the same time strengthens the capabilities of the developing African economies and polities while diluting their bilateral relations with the metropole. Measures that increase Africans’ ability to peel off successive postcolonial layers and—the qualification is important—to replace them with multilateral ties and with domestic capabilities are sound and useful, even or especially when carried out by the former metropole. Precipitous withdrawal—as in the case of Guinea—leaves vacuums, provides shock without stimulus to domestic growth, and creates unnecessary antagonisms.¹⁴

Zartman’s thesis of Africa’s nonalignment within the limits of Western ambit also had relevance throughout the cold war. He contended that the Congo Crisis of the 1960s set the parameters of Africa’s place in the cold war, underscoring the determination of Western countries to mobilize their resources to prevent the new states from falling into communist hands.

Communist and Western powers alike agreed that they would no longer try to establish an African polity in their image, that Africa would be an

autonomous part of the Western zone of influence free to pursue its own concerns as long as it did not bring in cold war interference, that great powers could hope for good relations at best with African countries and that Western economic relations would dominate in the absence of political control.¹⁵

The radical transformations in southern Africa and the cold war reverberations in the Horn of Africa in the 1970s did not drastically alter the gist of Zartman's framework. The military and political reversals and alliance shifts, he noted, were fundamentally not going to change the structure of the relations solidified by the Lomé processes. Although changes in southern Africa affected the decolonization dynamic and the relationships in the region, they did not constitute ground-shaking changes in the Euro-African relations. He also saw the political and military trajectories that shook the Horn of Africa in the same consistent lens of a steadfast Euro-African relationship. At the height of the cold war, Zartman was pessimistic about the ability of the Soviet Union to make major inroads into Africa, claiming that the ideology of communism was weakly grounded and that the ability of the Soviet Union to win more allies in Africa depended on its ability to improve its position vis-à-vis the West in theaters other than Africa. At the end of the 1970s he predicted that

In Ethiopia, Angola, and Mozambique a gradual cooling of relations with the predominant external power will probably occur during the 1980s, as the African states discover that the Soviet Union cannot supply all their needs. But this process will be gradual and will depend on the degree of assistance toward development that alternate sources from the West will provide, as well as the reduction of military threat that the West will be able to extract from the south. The new French government and to some extent the Germans have been working to provide alternative support in Angola and Ethiopia.¹⁶

Africa's economic problems of the 1980s overshadowed the ideological virulence of the cold war. This coincided with European fatigue with a relationship that had so far not produced visible development gains for aid recipients. For instance, as the linchpin of Lomé, market access, had by the early 1990s failed to stimulate diversification away from the traditional primary export commodities or stimulate trade and investment. Overall, the 1980s as Africa's lost decade spawned profound skepticism. More noteworthy, the economic crises offered Europe the opportunity to further multilateralize its Africa economic ties, coordinating with the Bretton Woods institutions and the Organization of Economic Cooperation and Development (OECD) countries on a wide range of issues. As Africa's economic burdens burgeoned, the EEC proposed the concept of policy dialogue to give donors a loud intervention voice in decisions about the spending of aid and development assistance. Questions of policy dialogue dominated the EEC-ACP agenda during the negotiations for Lomé III in the mid-1980s, constituting the start of international conditionality regimes that became the core of debt relief and structural adjustment programs. Donor coordination, in turn, launched a new phase of multilateralism that whittled down Africa's "privileged" postcolonial

position with Europe. As another “layer of the onion” disappeared in the 1980s, Europe began a subtle disengagement from Africa by devolving economic responsibilities to the disciplinary hand of the International Monetary Fund (IMF) and the World Bank.¹⁷

The new phase of multilateralism reflected Europe’s previous pattern of managing postcolonial responsibilities through collective frameworks. But it also stemmed from the accession to the EEC of new members that were less burdened by colonial ties. The end of the cold war gave impetus to the search for a monolithic European Union (EU) and drove renewed efforts to renegotiate the basis of the postcolonial relations with Africa. Throughout the 1990s, Europe strove to change the basis of cooperation with Africa, culminating in the negotiations for the Cotonou Convention. Reflecting on the relationship in the early 1990s, Zartman noted

Europe and Africa in the new phase of their relations are increasingly more strongly separated from each other in many ways, although this basic element of the previous relationship remain, often in accentuated importance... Partly, this results from a normal process of decolonization, the peeling of the onion. Partly, it results from the removal of external interferences and impositions derived from the Cold War. Partly, it is the by-product of Europe’s own inward turning and rediscovery of new opportunities and priorities nearby.¹⁸

Africa and Europe in the twenty-first century: to Cotonou and Durban via Kampala and Cairo

Zartman’s decolonization thesis recognized that while Euro-African relationships produced mutual benefits, the core challenge was on the ability of African countries to translate these gains into tangible capacities for the future.

As decolonization moves forward, it moves onto less certain ground, where the rights of the new nation are less clearly related to the simple equality of sovereignty and where its ability to replace former metropolitan sources is less sure. It must therefore pave its way with newly established prerogatives. It must build up its own capabilities, for a state cannot thrive on rights alone; as decolonization proceeds, the new state may eliminate elements that are actually useful to it in the short run in order to get rid of debilitating habits of reliance. For the progression to operate most efficiently, decolonizing states use the remaining elements of European presence to create capabilities needed to replace that very presence, just as colonial rule was used by the new nationalist elites to provide training and resources that would enable them to remove it.¹⁹

Since the 1990s, capacity building as a project of African independence reemerged around the debates for the return of pluralism, democratization,

“governance as conflict management,” and “sovereignty as responsibility.”²⁰ In recent years, the yearning for a functional balance between rights and capacities has been articulated in debates about new African economic, political, and security institutions such as the AU and NEPAD. Europe remains a participant in these debates, but from the increasingly distant and askance multilateral settings of the G8, World Trade Organization (WTO), and Davos.

The policy shifts toward governance and democratization occasioned by the end of the cold war put immense pressure on most African states at a time when Europe became preoccupied with enlargement and scaling down of the postcolonial “pyramid of privileges.” As good governance became the rallying lexicon in donor-imposed economic regimens, there was movement toward creating new forms of partnerships between Africa and Europe, borne of mutual responsibility.²¹ Whereas European generosity had helped jump-start African economies in the post-independence period through economic assistance, investments, and market access, the widespread centralization of economic and political power had nullified the process of economic development. National institutions erected around Africa’s founding strong men concealed profound weaknesses that were to encumber African states in subsequent years as most of them fell into the hands of predatory elites.

Proponents of governance as a means to institutional revival attributed African economic problems to the absence of accountability, participation, human rights, transparency, and the rule of law. More important, there was recognition that people had been marginalized as the mainspring of development. Most African governments embraced the governance premises partly as a response to internal pressures for change, the changing global dynamic of the post-cold war, and promises of enhanced foreign assistance. The democratic optimism of the 1990s sought to recreate the essential links between participation and development and to retrieve the economic energies of rural dwellers and urban middle classes that had been stultified by predatory state institutions. In most respects, democracy was depicted as the panacea for the institutional erosion that had reduced most African states to fonts of insecurity for their peoples. For some states on the verge of collapse, democracy and participation seemed to be the exit out of chaos.²²

The search for governance also became an amorphous and permissive political movement, allowing some states to adopt reforms that mollified donors and domestic constituencies while ignoring the centrality of participation. But most of the democracies inaugurated in the early 1990s have started to evolve mechanisms for stability, socializing elites and masses in electoral processes, and, even against the backdrop of grinding poverty, some have made efforts to draw the peasantry into national dialogues for sustainable development. The lessons derived from presidential retirements have also begun to deepen the culture of rotation of leaderships. For instance, over a decade, Mozambique has shed the epithet of a collapsed state convulsed by civil conflict, transforming itself gradually into a working state and economy. It still confronts enormous obstacles, but the resurrection of functional institutions has spurred regional and international investors willing to contribute to Mozambique’s recovery. World Bank officials

acknowledge that Mozambique has made huge progress, with the economy growing at 8 percent per year since 1996. Even though Mozambique is still one of Africa's poorest countries, poverty levels have fallen dramatically in the last eight years, from 69 to 54 percent, with the most noticeable difference in the rural areas.²³

Other African experiments with democracy have been half-hearted, yielding not the broadening of mass participation but the scrambling of elite pacts for the continued plunder of state resources. These forms of democracies have led to electoral processes that continually shift power among ethnic power blocs without altering the fundamental rules of contestation. Once they attain power, opposition groups previously united around platforms for societal and institutional reforms have witnessed irrevocable splits as they are overwhelmed by the realities of governing. More ominously, instead of using their legitimacy to craft new institutions that would underwrite the new order for posterity, some of Africa's democratic elites have relapsed into the certainties of exclusiveness. As scrambles over state sinecures have proceeded, promises of improved governance and sound economic policies have vanished. The Movement for Multi-party Democracy (MMD) under Frederick Chiluba in Zambia set the pattern of weak democracies that ended up strengthening the structures of authoritarianism and economic decline that deepened mass apathy about political change in Africa. In the same neighborhood, Bakili Muluzi's Malawi United Democratic Front (UDF) followed a similar political trajectory, presiding over a democratic transition that became even more corrupt as Malawians became impoverished and destitute. Hopes that economic reforms would accompany the Stalinist rule of Kamuzu Banda were dashed as the Muluzi regime became more autocratic. One of the first acts of Muluzi's chosen successor, Bingu Wa Mutharika, was to resign from the ruling party, accusing its leadership of thwarting his anticorruption campaign. Not long after assuming power, president Wa Mutharika was almost impeached by parliament because of corruption claims.²⁴

The invocation of governance as the antidote to institutional crisis came too late to save most African countries from the specter of civil wars that were to engulf Burundi, Cote d'Ivoire, the Democratic Republic of the Congo (DRC), Liberia, Rwanda, and Somalia.²⁵ In their national dimensions, civil wars compounded the objectives of growth, equity, and participation, as the priorities of order and security took preeminent roles. Even countries that made measurable progress in remaking states out of the ashes of civil strife such as Uganda, Rwanda, and Eritrea paid heavy costs in the rearrangement of institutional priorities toward security and stabilization. Regionally, civil conflicts wrought the burdens of refugees, diseases, and environmental degradation. As neighbors expended resources and energies to stem the debilitating tide of civil conflagrations, they lost immense chances to deepen the ties of functional economic integration that African states were constructing. In West Africa, for instance, the Economic Commission of West African States (ECOWAS) shifted radically from its core objectives of trade expansion and market integration as it increasingly became a regional fire-brigade dealing with conflicts in Liberia, Sierra Leone, Guinea Bissau, and Cote d'Ivoire.²⁶

Civil conflicts as creatures of institutional failures drove the momentum for new norms and standards to govern African ownership of its problems and realign rights with responsibilities. In the early 1990s, Nigeria's Olusegun Obasanjo, then a prominent civil society actor galvanized the movement for continental reforms under the banner of the African Leadership Forum. These efforts culminated in the Kampala conference in 1991 that proposed a strategic vision for Africa under the rubric of the Conference for Security, Stability, Development, and Cooperation in Africa (CSSDCA) or the Kampala principles.²⁷ Reflecting on the significance of the CSSDCA in African international relations, Deng and Zartman contend

the genius of the Kampala principles lies in their universality and in their uniqueness to Africa. In fact, they are an African creation, one of the most important works of statesmanship of the postwar era... The document establishes a regime of principles, conditions, rights, and obligations drawn from the crossroads of African and world experiences and indicates policies that derive from these basic elements. The most revolutionary aspect of the Kampala principles, starting with security and running through other calabashes of the document is their penetration into internal affairs of the state. The Kampala principles break the wall of sovereignty and install instead a program of responsible sovereignty. Formerly, state rulers could hide behind the concept of sovereignty as a defense against external interference and a license to do what they would with their own people, but now sovereignty is asserted as an engagement of responsibility for the welfare of one's population.²⁸

The CSSDCA normative framework formed the groundwork for attempts to design new continental institutional mechanisms to deal with problems of state collapse and civil conflict. Toward this end, the OAU came up with the Mechanism for Conflict Prevention, Management, and Resolution (MCPMR) at the 1993 Cairo summit that defined peace and stability as the preconditions for social and economic development. Although the MCPMR sought primarily to anticipate and prevent conflicts, the mechanism contained a provision to undertake peacemaking and peace-building functions in circumstances of the occurrence of full-blown conflicts.²⁹

The Kampala spirit and Cairo experiments were captured in reforms to create the AU in the latter half of the 1990s. These reforms pitted the grandiose vision articulated by Muammar Qaddafi (and once associated with Nkrumah in the 1960s) and the minimalist vision converging around South Africa's Thabo Mbeki and Nigeria's Obasanjo. Taking advantage of the disarray in continental leadership, Qaddafi invited African leaders to an extraordinary summit in Sirte in September 1999 to deliberate on strengthening the OAU. At Sirte, Qaddafi unveiled a radical plan for the United States of Africa, but alarmed at the pace of events, the OAU Executive Council with the prodding of Mbeki and Obasanjo proposed a new continental body with more realistic institutions and mandates. Moving with haste to checkmate Qaddafi, South Africa and Nigeria played an essential role in drafting the AU Constitutive Act that was inaugurated in Durban in July 2002.³⁰

Through its new institutions such as the 15-member Peace and Security Council, the AU Commission, the Pan-African Parliament, and the African Standby Force, the AU is working toward a new architecture for peace, security, and stability in Africa. At Durban, African states also adopted the Memorandum of Understanding on the CSSDCA that provides common benchmarks with regard to security, stability, development, and cooperation. Of critical note are the security and stability components that underscore the relationships between governance and security. It enjoined African states to redefine security in multidimensional terms, including human and societal security. Moreover, stressing the inseparable links of African security, the memorandum envisages a collective security system whereby sovereignty no longer protects African states from abusing their citizens. The memorandum also proposed that African stability should be anchored in liberal principles such as respect for the rule of law, human rights, good governance, and participation.³¹

Equally germane, in a bid to accelerate interstate economic development and cooperation, the AU adopted NEPAD, a plan that seeks to develop an integrated socioeconomic development framework for Africa.³² Africa's previous attempts to establish institutions for development and economic prosperity always ran against the problems of translating lofty goals into manageable policy outcomes. Furthermore, while admirable, continental platforms depended for their implementation on national actors, who typically had other priorities. The difference that NEPAD seeks to make is to articulate a core set of principles and guidelines that national actors can voluntarily buy into in exchange for development assistance from donors. This approach recognizes that differentiation in capacity and political will is a problem that is not going to disappear anytime soon, and that establishing a stringent reward system based on political and economic reforms may be one way to inject uniformity in the process of institutional development.

In its internal dimensions, NEPAD represents the domestication of the donor conditionality regimes that have marked Africa's contentious relationships with external actors since the late 1980s. Key to this dimension is the proposal for African countries to adopt and implement principles of democracy and good political, economic, and corporate governance, and the protection of human rights. The countries also pledge to develop and implement effective poverty eradication programs and accelerate the pace of investment in human development goals. To guarantee adherence to these principles and practices, NEPAD has created the African Peer Review Mechanism (APRM), a mutually agreed instrument for self-policing by the participating member governments. Of Africa's 53 countries, 23 have signed up to APRM, opening their countries to evaluators assessing their performance in democracy, human rights, peace and security, economic policy, and business environment. The external component of NEPAD hinges on the promises by the G8 countries to boost ODA to reforming countries that have met the stipulated political and economic benchmarks. Although most of NEPAD's projects are still on paper, its framers hope to secure commitments to help finance projects in areas such as peace and stability, infrastructure development, agriculture, water and sanitation, and affordable drugs and medicines.³³

Irrespective of whether both sides of the divide meet their obligations, NEPAD is the first genuine attempt to articulate the objective of African ownership of its problems and a paradigmatic shift in defining them. Economic adversity has forced the wider acknowledgment that African governments must compete for global investment on the basis of good governance and efficient markets. Furthermore, the enthusiasm that has greeted NEPAD in some African circles arises from the conviction that African development should start from addressing the issues of security and governance that have produced ethnic wars and misery that contribute to the perception of continental disarray. Given the voluntarism of the Peer Review mechanism, NEPAD may eventually evolve a more indigenous and, perhaps, legitimate winnowing process in which governments that pass the inspections are rewarded with the whole array of development assistance initiatives, debt relief, and market access. In addition, reforming countries may legitimately present themselves as zones of relative prosperity and as stable destinations for foreign investment.

NEPAD's objective of a new reciprocal engagement between Africa and Western donors reflects the decisive reappraisal in the tenor and structure of post-Lomé Convention Euro-African relationships. Beginning with the signing of the fourth Lomé Convention in 1990, the reorientation process accelerated with the conclusion of the Cotonou Agreement in June 2000. Spurred by European integration and the imperatives of globalization, Cotonou sought a new compact that emphasized political dialogue, poverty reduction, sustainable development, African integration in the global economy, and need for differentiation among African countries. More critical, because of the need to comply with the provisions of the WTO, Cotonou proposed replacing the long-standing nonreciprocal trade preferences with regional free trade agreements, Economic Partnership Agreements (EPAs), with the EU. Substantive negotiations on EPAs have been going on since January 2005 and focus on market access for agricultural and nonagricultural products and fisheries, trade in services, development cooperation, other trade-related issues, and legal provisions. At the end of the negotiations in December 2007, the EU will have separate EPAs with six ACP regions—the Caribbean, Central Africa, Eastern and Southern Africa, Pacific, Southern Africa (the SADC group), and West Africa.³⁴

The Cotonou Convention reflects both the continuities and discontinuities that Zartman had identified in previous years. Although confirming the longevity of Euro-African relations, the transitory nature of Cotonou's trade provisions speaks to the unstoppable changes that globalization has forced on the relationship. In a new twist on multilateralism, Europe has managed to wiggle out of the foundational pillars of the Lomé Convention by invoking the necessity of compliance with WTO rules. Also significant, globalization has allowed Europe to shed some of the more awkward relics and layers of the colonial era. By constructing future relationships on economically differentiated regions, Cotonou heralds not just the demise of the ACP group, but also the fragmentation of the African continental voice that dominated the economic partnership since the first Lomé Convention.

Just as the process of European integration fostered corresponding aggregation of African regionalisms, the future beyond Cotonou is one in which Europe is

forcing its African partners to reorient integration toward closer trading partners. In the ongoing negotiations for EPAs, African states confront the problem of rationalizing and harmonizing the multiplicity of regional organizations. Long dodged by the challenges of overlapping memberships, African states have to resolve the nagging issue of regional economic belongingness as they seek new economic relationships with the EU. In southern Africa, for instance, the 14 member Southern African Development Community (SADC) is negotiating as a depleted grouping after six of its states with overlapping membership in the Common Market for Eastern and Southern Africa (COMESA) opted for negotiations with the EU under the Eastern and Southern Africa (ESA) banner. Only Angola, Botswana, Lesotho, Mozambique, Namibia, Swaziland, and the United Republic of Tanzania are negotiating under the umbrella of SADC. But even Tanzania is under pressure to decide whether it belongs to southern or eastern Africa. The leading member of SADC, South Africa, concluded its own trade agreement with the EU in the late 1990s, and has requested the EU to consider a single SADC trade pact based on its own free trade deal.³⁵

In West Africa, there is increasing opposition to EPAs because of their potential threat to regional trade and poverty reduction. In a petition to ECOWAS governments, a coalition of Non-governmental Organizations (NGOs) charged that EPAs will be built on the principle of reciprocity and envisage the abolition of all tariffs for at least 90 percent of all imports in ECOWAS from the EU.

This has de-industrialization effects and constitutes a severe threat to small, medium scale farmers, and traders in the sub-region. The immediate effect of EPAs would be the further decline in incomes of about 50–60 percent of people being employed in these sectors and will retard the poverty reduction efforts in the sub-region. We therefore call on the leaders of both countries to have the moral fortitude to call for the stoppage of the Economic Partnership Agreements in their current form.³⁶

Differentiation may undermine the negotiating positions of African regional economic institutions vis-à-vis the EU, but it may resolve the questions of overlapping memberships and proliferation of multiple organizations. Over the years, there has been growing recognition that as Africa builds Regional Economic Communities (RECs) anchored on Free Trade Areas (FTAs) and Customs Unions, there is need to rationalize the existing institutions. As Richard Gibb notes,

Countries will have to decide not only which REC will serve their interests best, but also how to restructure and rationalize the institutional architecture supporting regionalism. The priority for the governments of the region is to develop a recognized and formal working and trading relationship among the different regional institutions.³⁷

Toward this end, AU has embarked on a program to harmonize operations and commitments of RECs to reduce overlapping memberships and duplication of efforts.

Beyond the multilateralism that informs economic relations, Europe has also tried to phase-out some of the relics of the postcolonial security layer by forging a common European security policy toward Africa. In European and other donor capitals, a major component in the dialogue with Africa on peace and security has hinged on plans to build local capacity, notably to assist African regional organizations to engage more effectively to prevent and resolve conflicts. As an aspect of multilateralism, the parceling of security responsibilities to African regional organizations has been demonstrated in wide-ranging discussions that have gravitated toward creative versions of African peacekeeping capacities that do not overly burden the international community.³⁸ Since 2002 the EU has developed a conflict management and resolution strategy that involves the adoption of common guidelines for arms exports and for dealings with countries engaged in violent conflicts and, more specifically, a common position paper on Africa. In the *Cairo Declaration* and *Cairo Plan of Action*, adopted jointly by the EU and the OAU in April 2000, Europe pledged to support Africa's conflict prevention endeavors, to support programs for disarmament, demobilization and reintegration of former combatants, including child soldiers, and to take steps to stem the illicit trade in conflict diamonds, small arms, and light weapons. Subsequently, the EU provided 250 million Euros in its development cooperation funds in 2004 to the AU to promote peacekeeping in Africa.³⁹

Conclusion

Zartman's sharp analytical reflections have stood the test of time, affording subsequent generations of scholars and policy makers the tools to capture the evolutionary nature of Euro-African relations. Managing multilateralism against the backdrop of receding economic privileges is Africa's greatest challenge in the twenty-first century. Europe, on the other hand, is trying to redefine its partnerships with Africa in the direction of responsibility and reciprocity. The debates sparked by the Kampala principles and NEPAD afford Western countries unique moments for transparency and openness in engagement with Africa about the sources of African conflicts and economic marginality. NEPAD's objective of a more equal and less asymmetrical relationship between Africa and the rest of the world is oversold, but it nonetheless underscores the perennial search for capacity that underlies the independence project. Although Europe and Africa have increasingly converged around the notion of mutual partnerships, the transition to more mature and differentiated relationships will continue to hinge on African abilities to build structures of responsibility and confidence. Africa's beneficial engagement with the rest of the world can only emerge from states that are comfortable internally with their own peoples, neighbors, and foreigners.

Notes

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- 3 Zartman, "Introduction," in Zartman (ed.) *Europe and Africa: The New Phase*, Boulder, CO: Lynne Rienner Publishers, 1993, p. 5.
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- 10 Zartman, *Europe and Africa*, p. 333.
- 11 Zartman, *Europe and Africa*, pp. 332–333.
- 12 Zartman, "The EEC's New Deal," p. 31.
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6 Post-cold war conflict in West Africa

A subordinate state system in collapse?

Terrence Lyons

West Africa suffered from some of the world's most vicious and protracted conflicts in the 1990s, as civil violence in Liberia spawned conflict in Sierra Leone, actors based in Sierra Leone engaged in warfare within Liberia, and violence spread across borders into Guinea and Côte d'Ivoire. A regional peacekeeping operation known as the Economic Community of West African States (ECOWAS) Monitoring Group (ECOMOG) and dominated by Nigeria intervened in both Liberia and Sierra Leone with little success for many years. In fact some argued that ECOMOG's intervention prolonged the conflict and drew in other neighboring states into the cluster of interlinked conflicts. While conflict in West Africa clearly had regional dynamics and sources, efforts to rebuild regional stability focused on the state and reconstruction of postconflict governments through elections. If conflict analysis suggests that some conflicts are regionalized, does that imply that conflict resolution must be regionally focused or does reconstructing a collapsed region begin with the state? This question will be examined here with reference to West Africa but has relevance for regionalized conflicts in the Horn of Africa, Great Lakes region, Balkans, Caucasus, and Central Asia.

In trying to analyze and understand regionalized conflict and conflict resolution processes, two concepts developed by Zartman are useful. The first goes back to his 1967 article in *International Organization* where he argued that Africa should be understood as a "subordinate state system" with a set of regional dynamics that shaped relations above the state level but below the global international system level.¹ The second is the concept of a "collapsed state" articulated in *Collapsed States: The Disintegration and Restoration of Legitimate Authority* (1995).² Can we link these two ideas and develop a concept of a "collapsed regional system?"

Zartman's concept of Africa as a subordinate state system in international relations represented an effort to reflect both the specificity of the African context and the broader debates in the field of international relations. Africa, he argued, is "a particularly apt area to study two other major problems in dealing with international relations: the choice and use of policy alternatives when power is consistently low, and the formation and enforcement of norms."³ In the mid-1960s, the context was one of vulnerable postcolonial states in a continent that still contained white redoubts and where the international context was the highly polarized bipolar world of the cold war. African international relations, in this context, were

shaped by power that was low in absolute terms and highly diffused across the continent, with patterns of relations reflecting classic international relations concepts such as Kautilyan patterns, balance of power, and concert systems. International relations in the “new Africa” responded to the same imperatives as international relations in other parts of the world.⁴

The focus on the state in African international relations was related to a focus on African heads of state in analyzing foreign policy decision making. In the 1960s, African foreign policy analysis did not require assessing the roles of parliaments, non-governmental organizations, or the press. As Zartman observed,

specific, even minute, decisions may be made by the president whose prestige in Africa and experience in dealing with other leaders gives him a special competence in inter-African relations. His anger and his ardor, his whims and his convictions, may become the mood of his country’s policy, and his friendships and acquaintances mark its limits... Within this pattern of relations and decisions, the role and influence of all other groups and institutions work through the president and must be seen to as modifications of the rule of centralized personalized power.⁵

Personalized politics and weak civil societies characterized the context for African international relations. In *International Relations and the New Africa* Zartman traced the links between nation-building and the development of foreign policy, noting how the new states of Africa conducted foreign policy at the level of elites rather than bureaucracies and through ideological appeals rather than the exercise of power, given the limited capacities and capabilities of African states in the 1960s.⁶

While politics in general and foreign policy in particular was highly personalized, the state remained the starting point for understanding regional relationships. Zartman started his *International Organization* essay noting, “Interpretations of patterns and trends in postwar international relations have frequently noted the outmoded position of the nation-state [and] the shrinking nature of the world.”⁷ Following the end of the cold war and the increased pace and scale of globalization, these predictions are prominent again, making a return to Zartman’s initial conceptual framework useful. The question of the position of the nation-state in the international system has been a particularly pertinent question for those international relations scholars with an interest in post-cold war Africa. Despite globalization and state collapse in parts of Africa, the African state remains an essential actor in any initiative to build a more peaceful order.

In the early 1990s, this questioning of the link between the state and policy making resulted in *Collapsed States*. Zartman begins this volume by noting that the ending of the cold war seemed to dissolve not only the bipolar interstate system but in many places the state itself. State collapse, in Zartman’s important early definition, was a “deeper phenomenon than mere rebellion, coup, or riot. It refers to a situation where the structure, authority (legitimate power), law, and political order have fallen apart and must be reconstituted in some form, old or new.”⁸ The relationships between the state, the region, and the international levels of analysis

(the starting point for Zartman's subordinate system argument) remained critical to the thinking about collapsed states. Zartman noted that in some cases state collapse led to "political space"—the territory where politics is played—becoming broader than the formal boundaries of the state as neighbors become more involved as the state's power and authority retracts. This notion gestures toward a concept of regionalized collapse, or the collapse of regional systems as well as states. If state collapse reverberates across political space that is not contained by sovereign boundaries and if regions have autonomy, then we may consider certain zones as "collapsed regions."

This chapter will build upon Zartman's ideas relating to regional systems and his framework for analyzing state collapse by combining the two into a concept of regional collapse. Consistent with Zartman's lines of inquiry, regional collapse focuses our attention on a level of analysis above the state but below the international system and suggests that the regional dimension has its own autonomous scope for explaining conflict and its resolution. Furthermore, the notion of collapse as the failure of structure, authority, and order may be applied at the regional level. The usefulness of this conceptualization will be suggested by a survey of conflicts in West Africa in the 1990s and 2000s. While focusing on the implications of regional collapse for conflict analysis in places like West Africa, the initial steps of resolution suggest that rebuilding collapsed regions begins with the reconstitution of the component states.

West Africa and regionalism in the post-cold war era

West Africa in the 1990s and early 2000s, with its web of linked and overlapping conflicts, raised questions regarding whether concepts such as "regionalization" or "regional systems" and "collapsed states" could help analysts capture such complex dynamics. On the one hand, West Africa suffered from civil wars over control of the central governments in Liberia, Sierra Leone, and later Côte d'Ivoire and potentially Guinea. At the same time, state and non-state actors intervened militarily in neighboring states with the goal of pressuring the incumbent regimes to change policies. Military actors in Liberia, for example, such as the insurgent National Patriotic Front for Liberia (NPFL) and later the National Patriotic Party (NPP) regime in Monrovia (both led by Charles Taylor) crossed international boundaries and supported the Revolutionary United Front (RUF) insurgency in Sierra Leone.⁹ While classic international cross-border war between two states was missing, conflicts were thoroughly regionalized and cannot be accurately analyzed without consideration of the interstate dynamics.¹⁰

Another layer or set of strands in the web of conflict incorporated a range of non-state actors who often constructed their operations to take advantage of opportunities derived from operating on both sides of a border or locating in frontier zones with minimal state interference. Some of these actors were linked to criminal and black market structures, including illicit diamond mining and arms trade but other economic activities were technically legal or perhaps best described as "gray," such as some timber deals and currency transactions. Certain

powerful non-state actors thrive in the violent context of regional war by using local predation and access to global markets to maximize accumulation.¹¹

Finally, the formal regional organization the Economic Community of West African States (ECOWAS) and its military peace enforcement wing ECOWAS Military Observation Group (ECOMOG) was deeply involved in Liberia and Sierra Leone for years, often supporting one or another faction. Within ECOWAS, however, there was a division between a Nigerian-led largely Anglophone bloc that supported military intervention and a largely Francophone bloc that either favored negotiations with the military factions or in fact supported the NPFL.¹² Clearly analyzing the conflict system in West Africa as a series of civil wars or collapsed states or as a set of regional peacekeeping efforts or a region-wide black market captured only a portion of larger dynamics. Factors that sustained civil wars in Liberia and Sierra Leone were interlinked and the resolution or failure to resolve one had implications for the prospects of peace in the other. Each had its own internal dynamic but each simultaneously was shaped by regional processes.

Regional level of analysis

The end of the cold war and the fall of the apartheid regime in the 1990s removed two overarching organizing themes of African international relations. The problem confronting African leaders and scholars seeking to understand African politics was to discern what framework would take their place in structuring relations. Despite these changes in the external context, however, African regional relations remain dominated by the constraints of weak states and the struggles of vulnerable regimes to survive in a hostile, globalizing world.¹³

The primary sources of conflict in Africa are those that link the internally focused challenges of state building with those challenges located in externally focused processes both at the regional and global levels. The intermeshing of domestic insecurities and interstate antagonisms creates an autonomous dynamic of regional conflict and therefore the potential for regional actions to either increase or reduce security and cooperation, and thereby to either facilitate or inhibit the construction of more legitimate and effective states.¹⁴

In the immediate aftermath of the cold war there were a number of scholars looking at regionalism as a potential new organizing component of global politics. As the superpowers lost interest in the continent, many posited that regional organizations would help fill the vacuum and promote responsible sovereignty and cooperative security arrangements.¹⁵ In areas of the world like Africa, however, where the state was weak or failing, regional organizations had difficulties in fostering stability and security. As Andrew Hurrell explains, "It is no coincidence . . . that the most elaborate examples of regionalism (the EC, NAFTA, ASEAN, Mercosur) have occurred in regions where state structures remain *relatively* strong and where the legitimacy of both frontiers and regimes is not widely called into question. . . . States remain the essential building-blocks with which regionalist arrangements are constructed."¹⁶ Formal regional structures like ECOWAS derive their ability to order regional relations from the relative strength

and capacities of their constituent states (Nigeria in the case of West Africa). Strong regional organizations cannot be built upon weak or collapsed states.

Other scholars of regionalism in the post-cold war era have urged that the focus move beyond the state to focus on the wide range of non-governmental and transnational organizations and processes, particularly among civil society, that they argue are key to regionalization. Hettne and Söderbaum, for example, define regionalization as “the (empirical) process that leads to patterns of cooperation, integration, complementarity and convergence within a particular cross-national geographical space.”¹⁷ This concept therefore explicitly goes beyond the state-centric focus of much of the international relations literature. As politics is increasingly deterritorialized in a globalized age, non-state actors may take on new authority and influence.¹⁸

Regionalization, however, need not move only in the direction of cooperation and integration but may also result in increasing levels of conflict and division. As Hettne and Söderbaum point out elsewhere, regional arrangements in regions where states are weak, as in West Africa, “are necessarily as fragile and ineffective as their states.”¹⁹ This conception of “security regionalism” is similar to Buzan’s conception of a regional security complex that he defines as a set of states whose “primary security concerns link together sufficiently closely that their national securities cannot realistically be considered apart from one another.”²⁰ Similarly, Zartman’s notion of subordinate state systems emphasized autonomy and intrarelatedness within regions in contrast with those states outside the region.²¹

Many focus on regions, particularly in the post-cold war world, as a setting for cooperation and collaboration. Over time, many anticipated that the regions would take on more and more authority as the state gave up parochial authority in exchange for the regional benefits of larger markets, opportunities to manage environmental challenges, and the drive to build regional security communities. Even in Africa, where intraregional trade has been exceptionally thin, regional organizations (whether the continental Organization of African Unity/Africa Union or subregional organizations like ECOWAS and Southern African Development Council, SADC) analysts looked at the region as a potential source of stability, growth, and more responsible sovereignty.

The transformation of the OAU into the AU in 2002 included clear normative statements of new regional responsibility for security and peace. Article 4 of the new Charter stated that “The right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide, and crimes against humanity.” Said Djinni, the AU Peace and Security Commissioner, suggested that “we are replacing the principle of non-interference with the principle of no indifference.”²² Zartman recognized the role of regional organizations such as the OAU and had written on the potential of the Conference on Security, Stability, Development, and Cooperation in Africa (CSSDCA) process to develop norms and institutions capable of promoting peace and stability on the continent.²³

Regions, however, are defined by the intensity of interrelationships and interdependence, not by their institutional expressions or on the quality of relationships among the states within a region. A region may be bound by the

conflicts that structure relations in a given space rather than by the cooperation within such a space.²⁴ In some cases, regions that had a clear shape and set of meaningful institutions in the context of conflict have struggled to find their role after the conflict ends. During the apartheid era the Front Line States had a clear and legitimate mission to develop cooperative security for South Africa's neighbors who faced a common threat from the apartheid regime and its policies of destructive engagement.²⁵ After majority rule in South Africa, however, the region has struggled to find a new purpose and has been tripped up by such small crisis as those in Lesotho in 1994 or by the major challenge represented by Mugabe's policies in Zimbabwe in the 2000s.

Regional organizations have the capacity to act in the face of regional threats to security in large part when regional hegemony perceives it in their interest to act. Regional organizations such as SADC, ECOWAS, and the Horn of Africa regional organization Inter-governmental Authority on Development (IGAD) are most effective when they have leadership from a major power. In West Africa, for example, the ECOMOG interventions in Liberia and Sierra Leone were overwhelmingly sponsored and paid for by the Nigerian state and it is impossible to imagine similar interventions in the 1990s without Nigeria's support. Similarly ECOWAS' decision to expel Togo in 2005 was driven by Nigerian leader Olusegun Obasanjo's global agenda to promote the Africa Union and the New Partnership for Africa's Development (not to mention Nigeria's claims to a seat on the UN Security Council). Obasanjo would not allow parochial competition in a tiny state like Togo to divert his ambitions. In Southern Africa, South Africa played similar roles during localized crises in Lesotho. When a major challenge arose in Zimbabwe as Mugabe seized white-owned lands and stifled both political opposition and civil society, however, South Africa remained silent, tentative, and unsuccessful. This in part was due to South African President Mbeki's calculation that Mugabe's moves would resonate among key constituencies within his ruling coalition. In the Horn of Africa, Kenya, Ethiopia, and Sudan are all plausible hegemony but each is hampered by having interests in other regions (Kenya, Sudan) or by internal and regional conflict (Sudan, Ethiopia). Addis Ababa's potential as a regional hegemon was demonstrated in December 2006 when Ethiopian forces brought the Transitional Federal Government into Mogadishu. This military capacity, however, was offset by perceptions among many Somalis that Ethiopia is their traditional rival and that Ethiopian meddling is illegitimate. Regional leadership and the willingness of regional hegemony to pay the costs of creating regional order rather than autonomous organizational capacity influences how regional peace initiatives develop and whether or not they are pursued.

Regional collapse

One characteristic of a collapsed region is that such regions are "(in)security complexes" in that the security of each actor is linked to the security of the other actors.²⁶ It may or may not be a region in the minds of either the elite or the common folk and it may or may not have an institutional focus. The cluster of

interlinked conflicts revolving around Zaire/Democratic Republic of Congo in the 1990s, for example, was a regional security complex but Central Africa had no regional organization that included the relevant parties to the conflict and the leaders in Zimbabwe and Sudan did not see themselves as members of the same subregion.²⁷ It is not identity or regional organization that defines a region but the reality of interdependence as regards security and conflict. Some regional organizations such as the Preferential Trade Area for Eastern and Southern African States are too diffuse to serve as the institutional setting for regional security policies. The OAU and now Africa Union may be too broad and inclusive to act effectively to structure continental security relationships.

A collapsed region, like a collapsed state, breaks down along lines of alternative structures of authority, legitimacy, and power. Zartman considered state collapse as a situation “where the structure, authority (legitimate power), law, and political order have fallen apart and must be reconstituted in some form, old or new.”²⁸ While this definition usefully focuses our attention on how state collapse is different from a coup or a rebellion, it fails to reflect how alternative structures, authorities, and orders arise to fill the niches left by the retreating state.

In West Africa not every state collapsed even if the overall region had collapsed. Nigeria, Ghana, Senegal, and others remained *de facto* as well as *de jure* states. The argument here, however, is that a critical mass of power and authority normally structured by the state system had been released as certain states either collapsed (Liberia, Sierra Leone) or lost control over parts of their territory (Guinea, Côte d’Ivoire). As a significant degree of state authority crumbled, however, it left behind not a vacuum but a series of alternative institutions and organizations that competed (often violently) for a share of power. In many cases these powerful institutions are insurgencies and militias, sometimes organized on the basis of identity, other times around patron–client relationships and resource distribution, and perhaps most often utilizing multiple sets of incentives. Alternative sources of authority such as social groups mobilized on the basis of ethnic, clan, or religious identity, local militias, and criminal networks are likely to come to play statelike roles such as providing protection of citizens and provision of welfare. Collapse of political structures, whether states or regions, results in rise of alternative and often violent structures that come to fill the vacuum.

The institutions that develop in the context of state and regional collapse generally are based on violence, fear, and predation. War creates specific incentives and opportunities that certain types of institutions can exploit and gain power and wealth. Other institutions that are ill adapted to violence fade away or are destroyed. Institutions of war, such as the militarized organizations of the state and the insurgency, black market and humanitarian relief networks, and chauvinistic, exclusionary identity groups develop and even thrive in the context of conflict. Rather than creating anarchy, war restructures economic, political, and social life in profound and specific ways. Duffield argues that war is “an axis around which social, economic, and political relations are measured and reshaped to establish new forms of agency and legitimacy.”²⁹ War represents, according to Keen, the “creation of an alternative system of profit, power, and protection.”³⁰

Finally, Elwert, Feuchtwant, and Neubert argue that “war is a moment in the creation of a new social totality.”³¹ In other words, regionalized conflict in West Africa and elsewhere are processes of institutional development as well as institutional destruction.

Under such a collapsed regional system, the distinction between civil war and interstate war becomes blurred or even meaningless. While states continue to matter, rival forms and locations of institutionalized power and strategies develop. Both state and non-state actors simultaneously are engaging in civil war (to gain or retain power in a state) and regional intervention (to influence a neighboring state or non-state movement). In a region in collapse, as the state becomes one among an array of actors, the classic international relations distinction between internal (intrastate) conflict and external (interstate) loses its meaning.

Rebuilding collapsed regions

In a context of a collapsed region, states are no longer the sole institutional structure around which security may be built. The struggle for survival and sustenance shifts from the state to alternative organizations, whether based on kin, the mosque, or the relative security of militias and UNHCR camps. Local residents often rally behind effective if brutal military leaders who promise individual clients protection. Militias in Liberia, eastern Congo, and Bosnia that are regarded by international human rights prosecutors as implicated in violations of humanitarian law are regarded by some within collapsed regions as the only fragments of protection available to the vulnerable.

For security to be regularized and made predictable, however, it must be institutionalized. The re-creation (or creation anew) of security and order in regions as in states is a process of institution building. In theory, regional order might be built upon components other than states, including structures such as civil society organizations or transnational networks that may be more civic and less characterized by militarism than the state. The story of the reconstruction of the West African regional security system, however, has been a process of reconstitution of viable states (often with international help, as in Sierra Leone, Liberia, and Côte d’Ivoire) as the first step to rebuilding the collapsed region. While non-state actors have increased their role, authority, and influence in the post-cold war years, viable states remain the requisite foundation for secure regions and strong regional institutions. Globalization has eroded the state but has not yet provided a viable alternative for the basis of regional security systems.

A brief sketch of the very complicated processes of conflict escalation, peace agreements, elections, escalation again, and finally settlement with the potential of peacebuilding in West Africa suggests that state rebuilding is a prerequisite for rebuilding collapsed regions. Liberian militia leader Charles Taylor exported violence to Sierra Leone as part of an explicit strategy to destabilize that state. Taylor’s NPFL spawned the Revolutionary United Front (RUF) insurgency that developed a particularly brutal reputation for attacks on civilians and for its apparent lack of a political agenda. Expanding the conflict across the region

promised to weaken and distract the ECOMOG peacekeeping forces that kept Taylor out of Monrovia. In addition, deepening control over the diamond fields of Sierra Leone provided significant profits that could in turn fund Taylor's military and administrative apparatus in "Greater Liberia," the territory Taylor's National Patriotic Front for Liberia controlled from its "capital" in Gbanga. In May 1997 a military coup took power in Freetown and ECOMOG expanded its mandate to reinstate President Ahmad Tejan Kabbah.

As part of the Abuja II peace agreement, elections in July 1997 led to the inauguration of Charles Taylor as president.³² This transition, however, proved to be a short interregnum rather than a sustainable move away from conflict. Taylor continued to derive his power from predation and violence, failed to transform his militia into a civilian force, and continued to rely upon the networks that he developed during the war to remain in power despite his election. The networks around Taylor remained deeply engaged in diamond, gun, and other illegal or grey economic activities and maintained control within Liberia through terror and the assassination of rivals.

With Liberia relatively quiet under Taylor's military domination, ECOMOG focused on returning Kabbah to power in Freetown and succeeded in displacing the military junta in 1998. This regime change did not end the violence, however, and the insurgent RUF attacked Freetown in another bloody wave of conflict in January 1999. In 2000, the UN peacekeeping mission in Sierra Leone seemed on the verge of defeat as the RUF began a campaign of kidnapping peacekeepers. Finally, the United Kingdom decided to reinforce the operation. In 2002, Kabbah and his party won the presidential and parliamentary elections in a landslide and began the long task of reconstructing the war-torn Sierra Leonean state.³³

As conflict declined in Sierra Leone, fighting escalated once again in Liberia. In 2002–2003, the insurgent Liberians United for Reconstruction and Democracy (LURD) and Movement for Democracy in Liberia (MODEL) received support from neighboring Guinea and Côte d'Ivoire, suggesting that Liberia as a state remained subject to regional dynamics it could not control. In 2003, under heavy pressure from the insurgents, from Nigeria and ECOWAS, and with the United States and others in the international community threatening sanctions, Taylor left Liberia and flew into exile in Nigeria. In January 2006 a civilian president, Ellen Johnson-Sirleaf was inaugurated and returned Liberia to civilian rule. Later in 2006, Taylor was arrested and extradited to Sierra Leone to face war crimes charges.³⁴

The process of rebuilding regional relations and the structures of peaceful cooperation in West Africa began when a more robust peace process took hold in Sierra Leone. With international help (particularly the support of London), Sierra Leone moved forward in 2001 and 2002 in ways that Liberia had failed to do following the election in 1997. As Sierra Leone began the process of rehabilitating itself some of the momentum that had fed the regionalized war began to dissipate and pressure mounted on Liberia to transform itself. By 2006, Liberia also seemed on the path to rehabilitation. Côte d'Ivoire, however, remains divided by warring factions and questions remain about the future stability of Guinea.³⁵ But

the transformation of Sierra Leone and Liberia provides at least hopeful indications that a war-torn state can be retrieved and that regional relations can be mended.

This sketch of recent events in West Africa suggests that whereas there are regionalized conflicts solutions are only local. Calls for “comprehensive” solutions misunderstand that the roots and driving forces behind militarism, the instrumental use of violence and terror, and predation are located in particular spaces while making use of regional networks. Globalization has not ended the power of the state to organize political space and reconstructing a region in collapse must begin with reconstructing the failed states of the region. While recognizing the regional networks and regional dimensions to the conflicts in Liberia and Sierra Leone, rebuilding the region requires managing each conflict in its local setting.

Conclusion

As Zartman’s work has suggested, analyzing African politics and conflicts entails paying attention to processes at the state, regional, and international levels. In particular, as Zartman suggested in 1967, regional systems provide the structure within which African states operate both domestically and internationally.³⁶ With regard to West Africa in the 1990s, these regional structures collapsed in a process reminiscent of the kinds of processes Zartman analyzed as collapsed states.³⁷ The West African conflict complex of the 1990s linked civil wars in Liberia and Sierra Leone to intervention by a number of states in neighboring states to a regional peacekeeping force. While the conflict became regionalized, the means by which some measure of conflict resolution developed was through processes to rebuild the failed states of Sierra Leone and then Liberia. This pattern suggests that while conflict analysis should conceptualize conflicts regionally, resolution may still require processes that start with the reconstruction of the failed state.

Notes

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- 8 I. William Zartman, “Introduction: Posing the Problem of State Collapse,” in I. William Zartman (ed.) *Collapsed States: The Disintegration and Restoration of Legitimate Authority*, Boulder, CO: Lynne Rienner, 1995, p. 1.
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Part III

Conflict and conflict resolution in Africa

7 **Conditions for mediation success**

Evaluating US initiatives in Sudan and Liberia

*Donald S. Rothchild*¹

With the US committed militarily in Iraq and Afghanistan, it has prudently opted to achieve its African objectives through diplomacy. As Secretary Colin Powell stated in a telephone interview, “I think there are a lot of things we’ve done that sometimes get missed in the rush of business.”² It seems important to ask in terms of this current strategic preference: Under what circumstances is it possible for the United States, as an external actor, to use its power to influence African adversaries to negotiate an end to violent conflict and to contribute to resolving the root causes of conflict?

The United States, because of its current economic and military prominence, inevitably finds itself drawn into intrastate conflicts in Africa. If it is unwilling to intervene militarily, then its influence must be wielded through diplomacy. This means working under the auspices of the United Nations or an African regional organization, or as a formal or informal mediator. In the event that a US representative assumes the mantle of intermediary, that person may still act indirectly, seeking to use his or her influence to persuade, communicate, arrange talks, exert pressure, and offer incentives to encourage local African elites to alter their behavior in a cooperative direction. America’s greatest challenge in Africa, writes Bruce Jentleson, is “not about doing what it wants to do but about getting others to do what it wants them to do.”³ This is a recipe for diplomatic action.

In analyzing the US role as facilitator and mediator in Africa, I will start by discussing recent African conflicts and US efforts to promote peace processes, paying particular attention to its 2003–2004 initiatives in Sudan and Liberia. In an effort to make an evaluation of the US response, I will then set out some initial guidelines on the conditions for successful mediation (i.e. bringing a violent intrastate conflict to an end and becoming the basis for a collaborative relationship). These indicators of success will draw heavily upon the collective works of Zartman, the current dean of international mediation studies. Once the guidelines have been set up, it will be possible to compare and contrast the Sudanese and Liberian mediation efforts and to gauge the relative effectiveness of US diplomats in realizing their interests and objectives on advancing peace.

Africa's challenge and the US diplomatic response

Saadia Touval and I. William Zartman, writing with the cold war period in mind, assert that

While many states may occasionally become mediators, the United States often finds itself “condemned” to play this role . . . the United States, because of its power and prestige, is often solicited for support by smaller states engaged in conflicts, and is challenged to prove the value of its friendship.⁴

Although this remains true (as in the case of the Israeli–Palestinian negotiations in the 1990s), it is also important to stress the United States’ unmistakable political and economic interests in mediating African conflicts. Such interests can involve the promotion of stability by bringing the conflict to an end, fulfilling humanitarian objectives, expanding influence, encouraging friendships and alliances, and enhancing its reputation. The United States is motivated to intervene in intrastate disputes “because the conflict threatens to escalate and bring about national and regional destabilization or because it is damaging [its] own relations with the parties involved.”⁵

Facilitating the management of conflict in Africa is often viewed as a desirable strategy, because it helps to further primary US objectives on international stability. This in turn promotes American goals on building trade relations, encouraging economic development, and furthering democracy and human rights. In addition, since September 11, the administration of George W. Bush has given increased attention to transnational security threats arising from the weakness of many of Africa’s states. Rather than downplaying the significance of Africa’s state weakness, as was Bush’s tendency in the initial months after his election, Bush now describes the United States as being “threatened less by conquering states than . . . by failing ones.”⁶ Such threats include an enhanced scope for international terrorist activities associated with training militants and funding their activities, arms smuggling, and drug and mineral movements.⁷ Yet, even if US interests in Africa are increasing in the post-September 11 context, the United States still has relatively low interests in Africa by comparison with other regions of the world.⁸ This affects its willingness to take on the risks and burdens of mediation and implementation.

At their roots, the Liberian and Sudanese conflicts exhibit some similarities in the structural, economic, and political conditions that gave rise to civil war. Most prominently, these conditions include state weakness, rapid population growth, political discrimination and repression, communal disrespect, hostile political memories, group exclusion from influential political and economic positions, economic stagnation, unequal regional modernization, and inequitable resource allocation.⁹ As political elites manipulate these discontents and mobilize their ethnic and religious constituents for change, latent grievances may be transformed into active demands for a rebalancing of power and opportunity.

It is during the early phases of conflict (i.e. the phases of potential conflict and the politicization of conflict), before group sentiment gathers momentum and

coalesces in a dangerous manner, that constructive international intervention has the best opportunity to intercede and attempt to head off new cycles of violence.¹⁰ Although the costs of great power intervention remain relatively low in these early conflict phases, US policy makers, mindful of an anticipated domestic public opposition as well as other pressing problems more immediately at hand, have been inclined to put off hard choices on interceding. Over time, this procrastination has proved expensive in Liberia and Sudan, leading to an increase in group insecurity and elite concerns about political positions and access to scarce resources. Such group insecurity about the future has the effect of polarizing society and reducing the scope for intergroup reciprocity and negotiation.¹¹

As grievances and desperation are manipulated by elites to trigger collective violence, the conflict enters a new and perilous phase. Various types of politicized groups become more polarized than ever, resulting in intensified demands and the breaking of interelite connections. As information gaps become pronounced, it becomes more difficult to communicate across group barriers without the aid of a third party. The United States and other country diplomats have interceded as mass violence is triggered, attempting to contain the fighting and to encourage negotiations. Where these diplomatic initiatives fail, as is frequently the case, the conflict escalates and a long trajectory of war becomes evident. As Zartman points out, "Once violence has been tried, it probably must be played out to a stalemate for the ripe moment for negotiations to appear."¹²

In Liberia, war occurred intermittently between 1989 (when Charles Taylor led an uprising against the government) and 1996 (when a peace agreement was put in place); it emerged again from 2000 (when Liberians United for Reconciliation and Democracy [LURD] forces attacked government troops) to 2003 (when Nigerian troops under the auspices of the Economic Community of West African states [ECOWAS] and a small contingent of US peacekeepers intervened to halt the rebel advance and prepare for peace talks). In Sudan a new round of war was triggered in 1983 and escalated to a deadly encounter in the 1990s, when, true to the scenario on a "mutually hurting stalemate," perceptions of an unending war without the prospect of victory led to agreement on a series of protocols in the 2003–2004 period (see Table 7.1).¹³ The Liberian case was the more limited of the two in terms of the issues in contention. Whereas the Liberian struggle involved efforts by elites to resolve essentially divisible issues (i.e. to assure their inclusion in positions of power), the Sudanese conflict was marked by less divisible issues (such as conflicts over identity and autonomy) as well as divisible ones (such as wealth and power sharing).

The US and international indecisiveness in these wars left a heavy toll, although no guarantees of international action would necessarily have proven decisive in bringing these conflicts to a halt. Allowed to run their course, the level of destruction was high, with casualties estimated at over 200,000 deaths in Liberia and 2,000,000 in Sudan, to say nothing about the massive dislocations, individual humiliations, destruction of property, and unemployment caused by these terribly damaging encounters.

In its involvements in Africa's civil wars, US participation in the conflict management process has taken various forms: the gathering of early warning data,

Table 7.1 Civil wars in Liberia and Sudan

<i>State</i>	<i>Begin</i>	<i>End</i>	<i>Magnitude (1–10)</i>	<i>Description</i>
Liberia	1989	1997	4 (Serious warfare)	Civil war (Repression by military leads to widespread civil war. Rival ethno-military and region-based groups compete for political access and resources. Abuja Peace Accord in August 1997 leads to new elections and inauguration of President Taylor in August 1997)
Liberia	2000	2003	1 (Sporadic or expressive political violence)	Civil violence (Attacks by LURD guerillas)
Sudan	1956	1972	5 (Substantial or prolonged warfare)	Ethnic war (Anyanya rebellion by non-Muslim population of southern Sudan against Muslim-dominated government ended with 1972 autonomy agreement)
Sudan	1983	2004	6 (Extensive warfare)	Ethnic war (Southern rebellion against Muslim-backed Northern Government resumes and inter-factional differences lead to conflict in the South)

Source: Monty Marshall, "Major Episodes of Political, 1946–2002," May 25, 2003, University of Maryland-CIDCM, Center for Systemic Peace, <http://members.aol.com/cspmgm/warlist.htm> and, Monty Marshall, 2003, "State Failure Problem Set: 1955–2001," University of Maryland-CIDCM, [website]: <http://www.cidcm.umd.edu/inscr/stfail/> accessed November 1, 2006.

exhortation, humanitarian assistance, economic and military aid to one of the adversaries, withdrawal of support or recognition, the application of sanctions, pressure on state or insurgent movement leaderships to negotiate and reach an agreement, the offer of incentives to the bargaining parties, indirect mediation (the backing of a formal mediatory effort mounted under the auspices of another state or international organization), and formal mediation.¹⁴ Because the United States has tended to adopt a low profile stance on African issues, it has generally preferred various forms of quiet diplomacy to direct mediation or military engagement. US Assistant Secretary of State for African Affairs Chester A. Crocker did act as the formal mediator in the 1988 international negotiations on Angola, but this was an exceptional case. The Angola conflict involved a prominent role for a great power, backed by its cold war adversary, the Soviet Union, in an effort to settle an African regional conflict that continued to put the US–Soviet relationship at risk.¹⁵

The United States has commonly pushed for reconciliation while avoiding high profile commitments. It criticized the apartheid South African regime and the Idi Amin government in Uganda for their discriminatory policies; pressured apartheid South Africa and the government of President Juvénal Habyarimana

in Rwanda to pursue policies of racial and ethnic reconciliation; placed sanctions of various kinds on Uganda, Rhodesia, and South Africa; backed initiatives by IGAD (East Africa's Inter-Governmental Authority on Development) in Sudan and ECOWAS in Liberia; supported Zairean and Portuguese mediation efforts in Angola; and intervened with military forces to restore human security in Somalia and (briefly) in Liberia.

The parallel mediation efforts by the Bush administration in 2003 in Liberia and 2003–2004 in Sudan were largely in line with this past low profile posture. Although the circumstances (and therefore the sense of urgency) had changed with September 11, the preference for indirect mediation remained in place. “One of the keys to success” in Sudan, explained Acting Assistant Secretary of State Charles R. Snyder, “is actually falling in behind the work already done by the Africans, reinvigorating it, and taking it further” to include new, expanded measures.¹⁶ In the Liberian negotiations, prominent sources interviewed by this author emphasized that the United States was active in a supporting role, with the leadership of the peace process being a regional one.¹⁷ On occasion, however, US diplomats adopted a high profile stance in an effort to overcome an impasse. For example, in March 2004 US mediators intervened in the Sudanese peace talks over the oil-rich region of Abyei, proposing that it be granted interim self-administering status pending a referendum on whether to join the north or south.¹⁸

Yet the Sudanese and Liberian mediations represented something of a change from the tendency to disengage that followed the post-Somali debacle. As one high-placed Bush administration official told me in December 2003, the United States was no longer loath to engage diplomatically or militarily in Africa.¹⁹ If the United States were to become active once again in African mediation, it is important to review the extent to which US mediators can use their power to influence African leaders to alter their behavior and adopt reconciliatory outcomes. I will turn to this in the next section.

Mediation and the settlement of conflict

Zartman and Jeffrey Rubin describe mediation as one among a number of approaches that international actors can use to manage conflict; the other approaches they discuss include domination, capitulation, inaction, withdrawal, and negotiation.²⁰ Other analysts have added such strategic choices as displacement, partition, protection, redistribution, and transformation.²¹ The selection of which strategy to apply in a particular case is dependent upon a third party's capacity, willingness to engage, and assessment of what will prove effective in advancing the objectives of peace and reconciliation. For Zartman, choice is based on a combination of the perception of interests and the ability of the strategic approach to achieve its desired purposes at a reasonable cost.²²

Mediation entails the intervention of an external third party or parties in the internal affairs of sovereign states. By intervening in the conflict, the mediator exerts various levels of influence on state and substate (ethnoregional, religious, or other) elites in an attempt to get them to move toward a more cooperative

relationship. Invariably the mediator transforms the bargaining encounter from a dyadic to a triadic relationship, persuading or inducing the parties to alter their attitudes on the issues at hand. The third party reconfigures the conflict, legitimating the way that the parties transform it. To the extent the third party allies itself with one of the parties against the other/s, it becomes part of the encounter itself.²³

A mediator's power comes from his or her ability to facilitate an outcome that is minimally acceptable to both parties or that threatens a worse outcome by allying the third party with one of the local rivals.²⁴ In attempting to promote a peaceful outcome, US diplomats have used their power to perform various roles at one time or another. In a large number of African conflicts, such as Mozambique, Burundi, and Rwanda, mediators have used a variety of noncoercive means to keep open the channels of communication and provide information on the intentions of rival parties. At the next level, as in Sudan and Liberia in 2003, US mediators have been more proactive, persuading and criticizing, giving advice, encouraging parties to reconsider their options, and formulating proposals. Finally, as seen in the Angolan–Namibian negotiations, high-level US public officials have intervened energetically and influenced the strategies of local actors through direct mediation and the manipulation of various pressures and incentives to influence the way local elites rank their priorities.²⁵ Also, in Somalia and briefly in Liberia, the United States combined diplomacy with humanitarian military intervention to promote a dialogue leading to conflict resolution.

“Mediation,” Zartman asserts, “requires an ability both to create incentives for Need-based situations to receive even-handed government attention, to open opportunities for Greed-based groups to overcome their fears, and to close possibilities for Greed-based leaders to achieve their goals by destroying other groups.”²⁶ Calibrating the necessary means of assuring equitable outcomes among group interests or determining policies that will allay the fears of weaker parties while at the same time facilitating effective governance requires considerable skill and judgment, and extensive knowledge of local cultures. Effective great power mediation of Africa's intrastate conflicts encounters constraints of commitment, political will, and local resistance. As Zartman warns, mediation is “a tough job of uncertain entry and long duration.”²⁷ The possibility of failure and a return to civil war, as in Angola and Liberia in the 1990s, can never be discounted. This uncertainty can at times discourage potential mediators from taking a diplomatic initiative, because it affects ties between the mediator and the parties—and even the credibility of the mediator itself.

In most circumstances it is imprudent for a great power mediator to impose his or her views on the political elites of developing countries, something that the United States was accused of doing in Latin America but is less evident in the African cases under discussion.²⁸ Coercive commitments are risky, note Dean Pruitt and Sung Hee Kim, because one “party may think it is committed to take the stated action, but [the] Other may doubt that commitment.”²⁹ Because US third party intervention represents an unequal power relationship with Africa's governments and movements, it is important for US mediators to exercise

restraint in pushing for a peaceful settlement. In dealing with the Sudanese and Liberian negotiators, US mediators interviewed by this author in Fall 2003 did express considerable awareness of their limited ability to wield influence. They opted to hold themselves in reserve, preferring to act as observers, communicators, advisors, and possibly formulators. In these instances, they avoided assuming the more prominent functions that accompany manipulation. Had US diplomats assumed the tasks of lead mediator, as the Liberians pressed them to do, they would have had to use their power and resources with extreme care and sensitivity. If local actors are to emerge as stakeholders of the peace agreement and be expected to engage in ongoing political interactions after the third party has disengaged from the scene, the mediator must involve the adversaries as much as possible in the determination of strategy and outcome.

What pushes a great power such as the United States to become involved as a mediator is a perception that its own interests, enlightened or unenlightened, are at stake and that the encouragement of local actors can result in a commitment to peace. In 2003, when Liberians invoked what they viewed as their “special relationship” with the United States and urged Washington to become involved diplomatically and militarily, it signaled to American leaders that US intervention held out important benefits in terms of interests and reputation. Because both of the adversaries in Liberia sought out US mediation and were prepared to cooperate with US diplomats, the way was smoothed for an initiative on its part. The same signals of local interest and preparedness to cooperate were also forthcoming in Sudan, where both parties were predisposed to accept the United States as a mediator.³⁰ Given the Bush administration’s changed sense of international mission in the new circumstances of 2003, it is not surprising that it shifted from the penchant to disengage so evident after Somalia to the more proactive role of third party communicator and formulator in the African conflict management initiatives of 2003–2004.

Guidelines for successful conflict management

Mediation is viewed as successful if it produces an intrastate settlement that ends the violence for a period of five years or more and begins the process of rebuilding durable relations.³¹ Neither of the cases discussed here have reached the five-year mark, making this yardstick problematic in this context. Mediation involves the management of conflict, not its resolution. “An alternative test of success [in resolving conflict],” write Zartman and Touval, “might be a contribution toward a formal agreement promising the reduction of conflict.”³² The settlement does not necessarily deal directly with the root causes of conflict, but it marks an important step toward that objective.

What guidelines can we use to signify progress on the difficult road toward mediation success? We need appropriate indicators of the process leading to resolution, even though these indicators may be rough and imperfect. To help in achieving this goal, we turn to the corpus of Zartman’s scholarship on this subject, because it represents as thoughtful an overall view as is available at this juncture.

As Zartman suggests, the indicators used as suggestive of mediation progress must be “independent, meaningful, applicable, and evaluable (even if not necessarily measurable).”³³ The guidelines have to be reasonably specific to serve as rough yardsticks of success. They represent conditions favoring conflict management, although they are not likely to be determinative on their own of actions leading to peaceful outcomes. Instead they exist in combination with other indicators that are likely to promote successful mediatory outcomes. For Zartman, many of the following indicators are critical for managing intrastate conflict through the mediation process.

Preventive action in the early phases of conflict

Preventive action during the initial phases of conflict (i.e. the potential conflict and politicization phases) seems most likely to keep conflict at acceptable levels. Put in cost/benefit terms, “the parties calculate that unless actions are taken in the present, at some cost, the future costs will be significantly higher and future actions significantly more difficult.”³⁴ Conflict prevention at the early phases focuses on grievances and realizable expectations. However, in the later phases, as polarization occurs and the possibility of a military encounter looms, leaders concentrate on mobilizing their memberships for action and security considerations become uppermost.³⁵

The proponents of early intervention contend that once organized violence has occurred, the intensity of conflict increases significantly, touching off a dangerous cycle of aggressive behavior that can spread across a society and possibly spill over into neighboring lands. It may still be possible for state and substate leaders as well as external third parties to intercede and help prevent the crisis from escalating, but this requires that such actors assume the costs and risks of preventive action.³⁶ The triggering of violence marks a major worsening in a society’s conflict relations. Society becomes deeply polarized, adversarial perceptions prevail, and the destruction and loss of life arising from the struggle contributes to a perception of sunk costs that can be used to justify continuing sacrifices. Once the adversaries have become locked in a violent encounter, then, it is likely to be difficult to avoid protracted conflict, and with it the frightful political memories that may persist for years to come. As a consequence, preventive action—action that takes place prior to the triggering of organized violence—often represents the most cost-efficient and positive course of conflict management in these circumstances.

When third parties are prepared to intercede early in a developing confrontation, they may be able to prevent the escalation phase of the violent encounter.³⁷ Such an intervention usually requires considerable capacity and willingness on the part of the third party intervener. Its public, however, may be “risk averse” and not inclined to support an undertaking in a far-off land that is not deemed to be directly vital to its national interests.³⁸ Moreover, as Zartman asserts, preventive action is complicated by the lack of hurting stalemates as well as a lack of “sharply defined window[s] of opportunity in front of them.” The third party must therefore generate its own openings and reasons for taking action—a formidable task where

the general public is uncertain about the prudence of intervention.³⁹ In both Sudan and Liberia, the United States missed significant opportunities to intercede in the early phases of the conflicts.⁴⁰ The early warning signs pointed toward a serious worsening of these clashes; nevertheless, public officials resisted interceding until they perceived the ripe moment to be at hand.

Negotiation and mediation are often linked to preventive diplomacy. The task of the mediator is to make parties aware of the likelihood of impending dangers that may be averted as well as new opportunities that would avail if the crisis were avoided.⁴¹ The third party must be able to foresee approaching dangers, and it needs to convince the parties that a crisis looms and that action is required in advance of the crisis to reach a cooperative solution. It is essential that the third party convinces the adversaries that prospect of war represents a worse outcome than negotiations if the conflict is to be preventable. "Preventive diplomacy always involves costs incurred in heading off worse costs," Zartman states, "and it is the costs of current actions, not of avoided catastrophe, that enter first into the calculations of the preventing negotiators."⁴² In intrastate conflicts, arguments based on cost/benefit calculations may not always be convincing because certain interests benefit by a continuance of the fighting; however, if these calculations can contribute to meaningful negotiations, they can result in enormous advantages in terms of preventing dangerous conflicts from taking place.

Heightened perception of ripeness

In a keen insight into the process leading to genuine negotiations, Zartman emphasizes the central importance of perceptions of threat or catastrophe in driving the warring parties to the bargaining table.⁴³ Because a mutually hurting stalemate is the point in a conflict when both parties are unable to impose unilateral solutions, a third party intervention becomes relatively favorable and can have the greatest impact. The continuance of a mutually hurting stalemate is likely to appear costly; therefore, the prospect of extended attrition may induce the warring parties to move toward either escalation or compromise.

A mediator's intervention at such a moment can influence the decision toward deescalation, concession and compromise. Moreover, because the mediator is constrained by his role not to exert harsh pressure on the adversaries, then pressure of circumstances can be turned to the mediator's favor.⁴⁴

Even so, a mutually hurting stalemate is not a sufficient condition to motivate the parties to agree on peace. Such stalemates can be long-lasting events. For a hurting stalemate to be effective in inducing negotiations, Zartman explains,

it generally needs to be riveted to the parties' perception through a recent or looming catastrophe that acts as a deadline or is remembered as a warning and that threatens to impose additional and unacceptable costs of a higher magnitude.

Furthermore, it is critical that a negotiated formula exists that provides a way out of the costly deadlock and that the rival parties are both willing to accept and implement.⁴⁵

The potential to influence a policy tilt toward de-escalation has been in the minds of American diplomats on several occasions. For example, during the prenegotiation phase and later during the 1979 Lancaster House conference on Zimbabwe's independence, US State Department officials, adhering to notions on appropriate timing of third party interventions, made various financial pledges to induce local parties to reach an accommodation.⁴⁶ E. Gibson Lanpher, the US State Department's Director of Southern African Affairs who was active behind-the-scenes during the Zimbabwe independence negotiations in London, described himself in an interview as being "from the timing school of diplomacy." Lanpher argued that the two sides were not sufficiently fatigued at the earlier Geneva conference to reach an accommodation. However, by the time the Lancaster House conference had occurred, a settlement became possible, because "the pain levels were sufficiently high and the prospects of continu[ing] what people were doing were sufficiently grim."⁴⁷ He therefore offered incentives aimed at facilitating the ripening process.

Similarly, in the 2003 negotiations on the Sudan, US Secretary of State Powell referred pointedly to mutual exhaustion and the prospect of finding a beneficial solution to explain the appropriateness of a third party push toward peace. By 2002, US mediators perceived a mutual hurting stalemate to be present in Sudan. The North was viewed as being weary of war; it could control the oil fields in the South in good weather but when the weather turned bad it had great difficulties doing so. Although southern forces were less war weary, its leaders perceived no "victory" in sight. A well-placed source reported that US mediators used this approximation of a hurting stalemate to influence the negotiations.⁴⁸ Secretary of State Powell gave another insight into official thinking on the timing of an American intervention: "After a while," he stated, "people start to wonder why they continue to fight when it is clear neither side will ultimately prevail, and a period of exhaustion sets in."⁴⁹ Perceiving the time for a settlement to be propitious in the Sudan, US diplomats facilitated the mediation process. They persuaded the parties to negotiate, offered alternatives, and influenced the negotiating process from behind-the-scenes.

Ripe moments, Zartman writes, are "likely conditions" for negotiations, "but certainly not self-implementing and so not sufficient to the inauguration of negotiation."⁵⁰ This raises questions about their usefulness to scholars and practitioners as indicators for successful mediation. Clearly, State Department policy makers such as Lanpher and Powell looked upon ripeness as an important factor, so it should be taken into account in terms of the timing of US interventions. Nevertheless, it should be kept in mind that it is difficult to evaluate the ripeness indicator with any kind of specificity or precision, partly because ripeness is difficult to identify in the midst of a war and because adversaries can absorb the costs of continued war longer than rational assumptions about hurting stalemate might lead the observer to assume.⁵¹

Perhaps some of these problems could be overcome by focusing on third party efforts to accelerate the ripening process through diplomatic influence and, in particular, through the manipulation of pressures and incentives.⁵² Touval and Zartman point to such a possibility when they note that “it is advantageous to get the mediation process started, even if the ripe moment for settlement is not yet evident. During the initial period, mediators should position themselves so as to cultivate access, generate alternatives, and explore positions.”⁵³ Such actions to prepare in advance of and possibly to accelerate ripeness may add an element of specificity and predictability to the indicators on possible diplomatic initiative.

Building mediator leverage

Leverage, described by Touval and Zartman as including power, influence, and persuasion, is essential if the mediator is to be in a position to exert pressure, provide incentives, or offer desirable alternatives.⁵⁴ When a mediator acts as a communicator or formulator, it does not necessarily require extensive leverage in order to be effective. During the negotiations leading up to the Oslo accords, for example, the mediator helped to shape an agreement based on what Zartman calls a “mutually enticing opportunity.”⁵⁵ It is when a conflict is intense and strong and third party influence is needed that a mediator requires the capacity to raise the costs for proceeding on a given course of action.⁵⁶ In that circumstance, when the mediator seeks to manipulate the parties in an effective manner, he or she must have leverage at his or her disposal to be able to influence the behavior of the adversaries. In this respect, the international influence brought to bear on the Liberian negotiators seems more evident than in the Sudanese experience. Whereas the Liberians accepted the draft prepared by the International Facilitating Committee, the Sudanese debated the protocols on power and wealth sharing in great detail.

Leverage is derived from the parties’ need for a solution they cannot achieve on their own. To the extent they depend on a mediator to facilitate an agreement, they strengthen his or her ability to reward cooperative moves and raise the costs on inaction. The Bush administration has dropped Sudan from the list of countries considered non-cooperative in the war on terror and it holds out the possibility of lifting US sanctions, seeking thereby to influence Sudanese leaders to work toward a peace settlement with the South.⁵⁷ In addition, the mediator can attempt to influence the priorities of the adversaries by offering or threatening to offer support to one side or the other, as in the case of economic or military assistance or the application of sanctions. In April 2004, the US State Department expressed frustration over the slow progress in the Sudanese peace talks and warned of possible US sanctions under the 2002 Sudan Peace Act if the parties failed to reach an agreement soon.⁵⁸ Powerful states, as Touval notes, are at an advantageous position “to exert influence to persuade the disputants to change their stance and agree to terms they are reluctant to accept.”⁵⁹ Their leverage gives them the ability to persuade and threaten the adversaries to adopt more cooperative positions on the issues that divide them.

In the 2002–2004 period, the United States had leverage with both parties in the Sudanese negotiations, enabling it to play a constructive role in influencing the priorities of these rivals. In its relations with the Sudanese government, it held out the prospect of benefits in terms of trade and aid opportunities, while at the same time signaling that it had no intention of bombing Sudanese targets again or acting harmfully toward it in the United Nations. In its relations with the Sudan People’s Liberation Movement/Army (SPLM/A), which had close ties with members of the US Congress, its leverage came essentially from the damage a lack of cooperation on the peace process would entail for the SPLM/A’s reputation (i.e. the SPLM/A could not afford to be seen as opposed to negotiations on peace).⁶⁰ But while US leverage in the Sudanese negotiations was essentially noncoercive, that in Liberia combined economic sanctions with a limited display of military force. In addition, the United States had pressed the former Liberian leader, Charles Taylor, to resign and leave the country, but it did not use similar pressure to bring a change of regime in Sudan.

Zartman is no doubt correct that too little attention has been paid to side payments or incentives in the negotiation process.⁶¹ Both noncoercive and coercive incentives are important instruments of leverage. The mediator creates pressures by placing conditionalities on political and economic relationships to overcome stalemates, by threatening sanctions and the ending of relations, by cutting off economic and military aid, or by offering positive inducements.⁶² The mediator employs the resources at his/her disposal to enlarge private opportunity or state capacity, and in this way to make a shift toward peace more acceptable to a rival or rivals. In doing so, the third party actor increases the value of certain alternatives in an effort to make them more politically acceptable to leaders who otherwise face a situation of limited choice. Carrots (or rewards), Touval and Zartman explain, “may be matters of perception, produced by the mediator’s ability to persuade the parties of a better outcome without conflict, or they may be tangible additions to the terms of an agreement between warring parties.”⁶³

Third party commitment to stay the course

Because the peace process is an extended one, it is generally facilitated when the third party not only stays the course during the mediation process but also during the implementation phase. Continuity furthers mediation and implementation because the third party can draw on his or her memory of past accommodations to smooth over new points of difference that may arise. Continuity acts to build confidence, particularly when a powerful external actor is involved. A great power commitment to the peace process raises local hopes that it will invest generously in any peace agreement it has helped to bring to fruition. In addition, as Victor Kremenyuk and Zartman have noted, a major power, such as the United States, has the capacity to coordinate a cooperative effort, not just respond to a crisis situation.⁶⁴ Unless capacity is linked to political will, however, it may not prove directly relevant.

Although the United States declared its resolve to stay the course in Liberia and Sudan, these expressions of steadfastness always seemed to be hedged by its low

profile commitment on many issues. In Liberia during the 1989–1997 period, US diplomats gave limited but important financial and logistical support to the ECOWAS peacekeeping effort, helping to finance the deployment of troops and putting moderate pressure on factional leaders to bring an end to the fighting. However, the United States missed important opportunities to intercede and stop the fighting in 1995–1996, when its ships lay off the coast of Liberia; a show of force at that juncture might well have brought an end to the fighting.⁶⁵

Then, following a three-year let-up in warfare, the struggle took a grave turn in 2000 as the LURD began a new round of combat. By September 2002, the United States became concerned over the increasing level of violence and, as a member of the International Contact Group for Liberia, was active in meeting with and advising the various negotiating parties. Pressure was placed on the United States to take the lead role in the negotiations, but it resisted these appeals and opted instead for a more limited form of involvement (funding an ECOWAS force, training and equipping West African troops, and demanding that Charles Taylor vacate his position).⁶⁶ Another missed opportunity emerged in 2003 when the United States deployed 180 troops to secure the airport and embassy; some well-placed officials concluded that had the force been enlarged and allowed to stay longer, it would have helped with the demobilization and disarmament processes.⁶⁷ Violence did continue in the rural parts of Liberia after Charles Taylor left the scene for Nigeria; nevertheless, evidence of an improving security situation in the country did emerge. This improved security situation led Department of State and Defense officials to start planning in 2004 for long-range development assistance, including a further \$245 million in military-related support for ECOWAS and \$200 million in humanitarian assistance.⁶⁸ Subsequently, at a donors' conference in February 2004, participants pledged \$520 million for Liberia's reconstruction; even so, UN Envoy Jacques Klein complained months later over the slow pace at which these funds were released.⁶⁹ In brief, the involvement of the United States in Liberia was slow and not without setbacks, but by the time of the 2003 peace negotiations the international conflict situation had evolved to the point that the United States could not remain aloof any longer and US diplomats became meaningfully engaged.

In the conflict between the Sudanese government and the SPLM/A, the US role remained marginal from 1983 (when the civil war broke out again) until 2000 and the advent of the George W. Bush administration. A number of reasons account for the new administration's preparedness to involve itself in this long and destructive internal war—the desire of the United States to enlist Sudanese cooperation in counteracting international terrorism, the pressure of evangelical Christians in the United States to accord a high priority to the fate of the southern Sudanese; the collaboration of the United Kingdom, Norway, and the IGAD countries; the desire for humanitarian access to the South; and the feeling that the time was ripe for a new US initiative on negotiations. Accordingly, the Bush administration made the Sudanese peace initiative a top priority and appointed Senator John Danforth a special envoy to that country.

Following on Danforth's initiatives in the Sudan, a US State Department team helped to negotiate a cease-fire in the Nuba mountains area in 2001 and then supported its implementation by setting up and funding the Joint Military Commission/Joint Monitoring Mission. This operation, which assisted the parties by monitoring the cessation of fighting, received important logistical backing from the US State Department—acting largely through a private subcontractor, Pacific Architects and Engineers (PAE) Government Services, Inc.⁷⁰ Then in May and June 2002, the IGAD initiative made important progress in the North–South negotiations, facilitating the Machakos Protocol. At Machakos the parties agreed on a broad framework setting forth the principles of governance and the structures of government as well as the general procedures to be followed during the transition. It was assisted in this by the Troika of principal observers consisting of Norway, the United Kingdom, and the United States. During these negotiations and the negotiations on the security and wealth-sharing protocols which followed, the State Department representative and US-based lawyers played important roles advising the delegations, drafting documents, and pressing for the adoption of certain basic principles such as self-determination within a united Sudan.⁷¹

Clearly the bargaining parties had made considerable strides toward a settlement. Confidence in the peace process rose to new heights as the bargaining parties signed the Nairobi Declaration on the Final Phase of Peace in the Sudan in June 2004, launching what proved to be the last phase in the peace process. Nevertheless, in the months that followed the momentum leading to the Comprehensive Peace Agreement slowed noticeably. Some issues such as a permanent cease-fire, provisions on international peacekeepers, the Sudan government demand that the Southern militias be brought into the negotiations and the uncertainty over resolving the conflicts in the Northern enclaves of the Nuba mountains, Darfur, Abyei, and the Blue Nile region continued to delay the process.⁷² The Sudan government was clearly fearful that the demands made by the Northern enclaves for some form of self-determination would have a diffusion effect. As one observer commented on this,

The concern in Khartoum is not so much that the south will sooner or later claim its independence, and take with it much of Sudan's oil reserves of 1 billion barrels or more, it is more the precedent of a region winning terms which allow it to secede. With this comes the threat that other marginalized and disaffected groups will be encouraged to follow suit. Those in Darfur may have already done so.⁷³

In this situation, US diplomats remained committed to stay the course. As Secretary of State Powell observed, "Diplomacy doesn't happen overnight. It takes time. It takes dedication. It takes being prepared to accept some slip backs as you move forward."⁷⁴ This dedication is encouraging. However, had the momentum toward peace slowed further, it remained uncertain how long a great power would have stayed focused on this issue.

***Ensure the involvement of societal actors
in the peace process***

If peace agreements are to emerge as the basis for durable relations, they must gain extensive legitimacy in the eyes of civil society organizations and their memberships. Societal participation in the peace process encourages civil associations and their members and civil society to view themselves as stakeholders in the institutions emerging from negotiations. The societal self-determination resulting from bargaining among genuine representatives of group interests can lead to interelite linkages and crosscutting societal ties that are stabilizing in their effects, especially when they contribute to ongoing bargaining encounters.

Mediators often need to tread warily to promote this sense of local self-determination and ownership of the peace process. For a great power, this often means avoiding the temptation to manipulate societal spokespersons and to act as a facilitator rather than a mediator with muscle.⁷⁵ The United States, according to public officials interviewed by this author, has heeded this need for restraint in both the 2003 Liberian and 2003–2004 Sudanese negotiations. Consciously adopting the strategy of facilitator, then Acting Assistant Secretary Snyder contended that US policy has been shown time and again to be most effective when it complements African efforts already underway.⁷⁶ In the Sudanese peace negotiations, US influence came from giving advice to the parties, particularly the SPLM/A which sought its counsel, and not pressing for principles that US diplomats favored. Similarly, in the Liberian negotiations, the peace process was very much a regional one, with the mediation effort led by ECOWAS and supported by the Friends of Mediation (the United States, the United Nations, and European Union). Acting under the auspices of regional leaders, US mediators actively facilitated the negotiation process but nonetheless avoided the role of primary actor.⁷⁷ This is not to say that US representatives held back on all issues (e.g. on the need for Sudanese unity or the initiative on Abyei's self-administering status, or on preventing the possibility of a military victory by one of the Liberian factions), only that the United States sought local empowerment by shunning a prominent public role in these African interventions.

***Responsiveness to demands for inclusion
in the government***

Mediators can contribute to a sense of identification with the outcomes of negotiations by encouraging the bargaining parties to develop inclusive governing institutions. Because inclusive institutions hold out a prospect of active insurgent participation in decision making, they provide an incentive to sign on to peace accords. On the contrary, if the negotiating parties feel that they will be excluded from positions in future governments, they may prefer continuing the insurgency to compromising for peace. The likelihood of opting for continued struggle

increases as the number of warring parties rises and as militia leaders perceive less to gain through accommodation.⁷⁸ In addition, because civil society organizations—churches, labor unions, and human rights associations—have been important elements in the postsettlement peace process, it is also important that they be included in postsettlement political arrangements. Mediators play a potentially important role in using pressures and incentives to assure interest groups access to government and helping to allay the fears of ethnic and religious groups about their future. Not only do these mediators offer incentives of their own but they provide “credibility to the incentives emerging from the process itself.”⁷⁹

In the Sudanese and Liberian cases, the negotiators and their US facilitators recognized the need for inclusion in the institutions of governments if and when a settlement took place. In Sudan’s North–South negotiations, the peace agreement provides for a president and a first vice-president (initially SPLM/A leader John Garang and now Salva Kiir) who had virtual veto powers over legislation affecting his home base areas. The vice-president was placed at a vantage point where he could exert considerable influence. The South was also allocated 33 percent of the ministerial and civil service positions.⁸⁰ Furthermore, important provisions were also hammered out regarding the Joint/Integrated Units of the army. The military unit deployed in the South was limited to 24,000 troops, 12,000 from the South and 12,000 from the North. This unit was coordinated by a Joint Defense Board which was commanded by a senior officer from one side and whose deputy was drawn from the other.⁸¹ In the Sudanese negotiations, it became clear that the United States supported power sharing in principle during the transition period; even so, it is important to stress that its position on this was not a firm one, leaving open the possibility for new compromises as the final constitutional arrangements were firmed up.

The United States also pressed for a policy of inclusion in Liberia; nevertheless, it was prepared to leave Liberians with the task of shaping the institutions to make this inclusion a reality. Prior to the negotiations, Charles Taylor had claimed to put a power-sharing system into effect, and he did in fact include some Mandingo representatives in his government. However, most of the prestigious positions were assigned to Americo-Liberians and Taylor’s power-sharing arrangement came to be seen as a cover for Taylor’s own control and for Americo-Liberian supremacy.⁸²

In the Liberian negotiations, US representatives took an assertive stance on one issue—for example, ruling out the possibility of a military victory by one of the factions. They sought instead to find a leader acceptable to all parties. US diplomats did not encourage the adoption of formal power-sharing institutions *per se*; nevertheless, what emerged from the negotiations were very specific provisions about a balanced allocation of cabinet posts among the warring parties under the Transitional Government. Five ministries were assigned to each of the warring parties (the Government of Liberia, the LURD, and the MODEL) and five others were reserved for the political parties and civil society. A roughly similar balance was provided for in allocating positions to the public corporations and autonomous agencies and commissions.⁸³ The peace agreement assigned 12 seats in the Legislative Assembly to each of the three warring parties as well as 18 seats

to the political parties, 7 to civil society and special interest groups, and 15 to the counties.⁸⁴ Adherence to the principle of inclusion could also be seen in the institutions set up under the peace agreement to supervise and monitor the cease-fire. Thus, the security arrangements provided that the Joint Monitoring Committee was to be chaired by a representative of ECOWAS and was to include equal representation of the warring parties as well as representatives of the UN, African Union, and the International Contact Group on Liberia. In brief, US pressures to adopt the principle of inclusion did help to produce the desired outcome. Despite US denials on promoting a formal system of power sharing, the results clearly pointed toward such an outcome.

Guarantees of the agreement

After an agreement comes into force, there is an ongoing necessity for the mediator to act as a protector of the institutional arrangements set up under it and, in particular, to assure that the security requirements of minorities are respected. The need to build a moderate, centrist regime that protects the rights of citizens and prevents effective outbidding practices seems imperative if the new institutions are to gain legitimacy. As Zartman notes, the mediator's role in influencing the parties to adopt an enlightened course in the changed context of post-agreement times is a difficult one, "since it involves convincing sovereign governments to do what they should be doing on their own and are presumably not doing for some reason."⁸⁵

The third party cannot stand on the sidelines if the spirit of the agreement's provisions is violated during the implementation phase. It must intercede to support progressive regimes and not give an imprimatur of international respectability to governments that use their sovereign jurisdiction to abuse their citizens.⁸⁶ The representatives of the United States did give support in principle to the obligation to guarantee the agreements they were mediating, viewing such backing as an inducement to the parties to sign on. However, they tended to be vague about their commitments in this regard. Thus, US facilitators of the Liberian agreement looked toward UN oversight of the peace process prior to the general elections but spoke cautiously about financial responsibilities during the long-term postsettlement phase.⁸⁷ And in the Sudanese conflict, US mediators expected that they would be involved in the commission overseeing the agreement.⁸⁸

Pressure on neighboring states to support the peace process

Because intrastate wars often involve states in the wider region, it is necessary at times for mediators to exert pressure on neighbors who align themselves with one of the parties. Zartman stresses the need for a mediator to find a multilateral solution to the problem at hand, something that applies to both internal and external actors involved in the conflict.⁸⁹ Neighboring states can support the peace process, preventing arms and financial support from reaching one of the adversaries or

acting as peacekeepers (as with the Nigerian participation in the Economic Community of West African States Mission in Liberia [ECOMIL] in the summer of 2003). Neighbors can also become troublesome players, allowing insurgent forces to train and reequip themselves, permitting hostile broadcasts, providing fuel and equipment, and, as seen with Charles Taylor's support for rebel forces in Sierra Leone, enabling them to export their minerals or commodities to international markets. The United States has at times been deservedly criticized for failing to use its influence on neighboring states that are undercutting efforts to negotiate an end to internal wars. For example, John Shattuck and his colleagues write disapprovingly of the US decision in 2003 to allow Rwanda to obtain weapons only two days after the UN imposed an arms embargo on actors involved in the bitter war in the Democratic Republic of the Congo.⁹⁰ More positively, however, the United States did send diplomatic signals to Côte d'Ivoire and Burkina Faso not to provide the Taylor forces with military equipment.⁹¹

Conclusion

Paradoxically, the Bush administration, which signaled extreme caution about engagement in Africa upon coming to office, has shown itself to be increasingly prepared to involve itself in African affairs. With the Somali crisis a distant memory, the Bush team has assumed a global mandate to deal with security issues. Africa's weak states are no longer dismissed as irrelevant, but regarded as potentially destabilizing sources of unruliness that are to be taken seriously. Although much of the Bush response to this threat has been in military terms, it has also engaged in diplomatic action when the circumstances have been deemed propitious. Its preparedness to engage diplomatically has been evident in Liberia in 2003 and Sudan in 2003–2004, where, in collaboration with regional powers, it has played an important behind-the-scenes role in managing dangerous conflicts capable of spreading to their wider regions.

The indirect mediation by the United States has been a difficult effort aimed at encouraging rival parties to alter their behavior and to view their interests in cooperative terms. As Zartman and Touval contend, a mediator's power comes from its ability to facilitate an outcome that is preferable to either party's unilateral solution or to threaten a worse outcome by allying itself with one party against another.⁹² Given the relative autonomy of the African state and the perceptions of national interest among US government officials and the general public, it can be expected that such indirect mediation will be a difficult task requiring persistence, skill, support from neighboring powers, and preparedness to use diplomatic pressures and incentives in an effective manner.

In attempting to make an initial evaluation of the US initiatives in Sudan and Liberia, I have drawn on the corpus of Zartman's work to pinpoint the conditions for effective mediation and attempted to apply these guidelines to the cases at hand. Were a significant number of conditions met to make US facilitation of a peace accord likely? And what were the differences between the cases in terms of their ability to promote the peace process? It is important to stress that we need

Table 7.2 US mediation effort*

	<i>Liberia</i> (2000–2003)	<i>Sudan</i> (1989–2004)
Preventive Action in the Early Phases of Conflict	Low/Medium	Medium
Heightened Perception of Ripeness	High	High
Building Mediator Leverage	High	Medium
Third Party Commitment to Stay the Course	Medium	Medium
Ensuring Local Involvement in Negotiations	Medium	Medium/High
Ensuring Local Involvement in Implementation	Medium	N/A
Responsiveness to Demands for Inclusion	High	High
Guarantees of the Agreement	Low	Low
Pressure on Neighboring States to Support the Peace Process	Medium	Low

Note

* Highlighted entries indicate differences in the US approach toward mediation concerning Liberia and Sudan.

to be guarded about arriving at any conclusions about the achievement of US policy objectives because such a low number of cases are involved here.

The Liberian and Sudanese initiatives indicated considerable continuity in the US approach to the containment of African conflict. As Table 7.2 suggests, there were broad similarities of approach with respect to perceptions of ripeness, acceptance of the principle of inclusiveness, commitment to stay the course, and the desirability of indirect mediation. There were also similarities, albeit negative ones, with respect to the US government's general unpreparedness to act in early phases of the conflicts and its vagueness regarding postsettlement guarantees.

At the same time, Table 7.2 highlights some significant contrasts in the US approach to these two conflicts. First, the United States strongly pressed for regime change in Liberia (forcing Taylor out), but accepted the legitimacy of the Omar Hassan Ahmad al-Bashir government in Khartoum. Second, the external mediators displayed greater leverage in Liberia where international actors handed down a draft of the agreement; as a consequence, the Liberians were less involved in negotiating terms of agreement than their counterparts in Sudan. Third, the third party actors used both diplomatic incentives and military force to promote the peace process in Liberia, but largely relied on pressures and incentives in the Sudanese negotiations. And fourth, the mediators exerted pressure on neighboring states in the Liberian negotiations to a greater extent than they did in Sudan. In brief, where the United States combined carrots with sticks, it accelerated the process leading to a formal accord. It is still too early to determine, however, whether this represents only a short-term achievement.

Notes

- 1 Editor's note. Our dear friend and colleague Don passed away in January 2007. The editors made only minor editorial changes to his chapter. He wished to express appreciation to Nikolas Emmanuel for assistance on the tables and to Jennifer De Maio, Nikolas Emmanuel, Caroline Hartzell, Matthew Hoddie, Edmond Keller, Letitia Lawson, Miroslav Nincic, and Edith Rothchild for their advice on the first draft of the chapter.
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8 The Zimbabwe independence settlement revisited

Race, land, class, and ripe moments

Fadzai Gwarazimba

Zimbabwe became independent in 1980, after 90 years of colonial rule and a protracted period of nationalist struggles for majority rule. Many analysts of conflict resolution hailed the success of the 1979 Lancaster House agreement that ended the conflict and ushered in the birth of an independent Zimbabwe as a miracle, the triumph of reason over folly. Pursuing a human development agenda, the new rulers witnessed record school enrolment rates, expanded access to health for the black majority, and a doubling of indigenous peasant agricultural productivity. From a pariah state, torn by racial conflict and saddled with an economy battered by decades of UN sanctions and trade embargos, overnight, Zimbabwe became “an international star,” the new kid on the block.

Twenty years later, Zimbabwe’s economy totters on the brink of collapse. Political tensions between the government and the opposition parties are high and the “miracle state,” in some circles, is being talked of as possibly a “failing” state. With poverty and HIV/AIDS escalating, and the land reform crisis pitting the black political elites against the white economic elites, the immediate prospects seem gloomy. Ironically, the country has come full circle. Today’s Zimbabwe is more or less where the minority white government of Rhodesia was in 1979 on the eve of Lancaster House Agreement.¹ What went wrong? Can humpty dumpty be put back together?

This chapter revisits the Lancaster House agreement and examines the peace settlement and the present-day Zimbabwe from the perspective of Zartman’s theories on conflict resolution, especially the concept of “mutual hurting stalemates” and “ripe moments.”² This chapter examines what works and what does not in peace building beyond brokering the peace settlement itself. It argues that getting politically expedient agreements that do not take into account the structural and root causes of the conflict (in this case, the historical injustices and legacy of land dispossession), invariably set the stage for future conflicts. In some ways, Lancaster House and the desire to exit “the mutually hurting stalemate” (MHS) not so much on the part of the parties to the conflict, as on the part of external parties and regional patrons explains how the combustible cocktail of race, class, and land has combined to plunge the country into the present political and economic quagmire. The focus is not so much on the history and process of Lancaster House but on the land question and an analysis of the implications of

a MHS exit strategy without a transformation conflict strategy for long-term stability.

The road to Zimbabwe: the Lancaster House agreement

Although national protests for majority rule spanned the 1940s to the 1950s, the struggle for Zimbabwe's independence gained momentum in the 1960s and reached its peak in 1970s, following the collapse of Portuguese rule in Mozambique and Angola in 1974.³ Throughout the 1960s, Britain made several abortive attempts to broker a negotiated settlement that pitted the indigenous black population against the minority white settler regime of Ian Douglas Smith. Following Ian Smith's 1965 unilateral declaration of independence (UDI) from Great Britain, armed struggle seemed the only course open to Zimbabwe's liberation movements. By the late 1970s, armed struggle had escalated sharply and the country seemed set on a course of prolonged racial conflict that was increasingly engulfing the whole region, especially the Front Line States (FLS).⁴ Both parties to the Zimbabwe conflict followed a dual track: war and negotiations. In this respect, the mid-1970s witnessed the emergence of the Anglo-American initiative to seek a resolution to the "Rhodesia" problem. These initiatives culminated in the Geneva Conference of 1976. Although the Geneva talks collapsed, due to the perceptions of the parties who still hoped for a unilateral victory, most analysts argue that the Anglo-American initiative laid the groundwork for the 1979 Commonwealth accord that led to Lancaster House agreement three months later.⁵

In his pathbreaking work on conflict resolution and conflict management, Zartman advanced the view that "the timing of efforts for resolution" is as important as the issues for resolution. Analyzing the conflicts in Rhodesia (Zimbabwe), Namibia, and South Africa, he convincingly illustrates how the concept of "ripe moments" and "mutually hurting stalemates" account for the protracted armed struggles and the many failed attempts at negotiated independent settlements that were only reached after parties to the conflict had exhausted options for a unilateral solution through military victory.

Zartman defines ripe moments in three overlapping ways: (a) as mutual painful stalemates marked by a recent or impending catastrophe; (b) as a time when both parties' efforts at unilateral solutions or "tracks" are blocked and bilateral solutions or "tracks" are conceivable; and (c) as a place on a long slope where the "ins" start to slip and the "outs" start to surge.⁶ In 2001, Zartman elaborated on the concept of "ripe moment" as follows:

The concept of ripe moment centers on the parties' perception of a Mutually Hurting Stalemate (MHS) optimally associated with an impending, past or recently avoided catastrophe. The concept is based on the notion that when the parties find themselves locked in a conflict from which they cannot escalate to victory and this deadlock is painful to both of them (although not necessarily in equal degree or for the same reasons), they seek an alternative

policy or Way Out. The catastrophe provides a deadline or lesson indicating that pain can be sharply increased if something is not done about it now; catastrophe is a useful extension of MHS but is not necessary either to its definition or to its existence.⁷

Zartman's theory of "ripening moments" and "mutually hurting stalemates" provide a powerful and convincing analytical framework for the decision to negotiate by the parties to the Zimbabwe conflict and accept the terms reached at Lancaster House in 1979, rather than pursue a unilateral decision on the battlefield. In 1976 when the Geneva Conference collapsed, the moment was not ripe. But by 1978, the war had escalated to a point where the countryside was under martial law. Despite the Internal Settlement and the election of Bishop Abel Muzorewa, the liberation movements of the Patriotic Front had won "the hearts and minds" of the people and Smith increasingly took refuge in cosmetic reforms and military intimidation of the FLS. In a country already crippled by 15 years of sanctions, the regime's war effort against the liberation movements was costing US\$ 1 million a day.⁸ Failure to stop the war and gain international recognition of Zimbabwe-Rhodesia foreclosed all hopes for resolving the conflict unilaterally.

The combined effects of sanctions, the growing capacity of the guerrilla war to extract high military and economic costs, war weariness among the white population, and the abortive Zimbabwe-Rhodesia experiment precipitated a "hurtful stalemate" for Smith. The "ripe moment" was also crystallized by pressure from South Africa (the traditional ally which was facing its own domestic unrest) as well as from Britain and the United States for Smith to accept a negotiated settlement before further radicalization of the liberation movements. In addition, like Britain and South Africa, Smith also believed that Muzorewa would win the elections, which followed the signing of the Lancaster House constitution in February 1980. The lavish support Smith and South Africa afforded Muzorewa's party in the election campaign leading to independence support this view. As far as the nationalists were concerned, Muzorewa's credibility was damaged by the failure to stop the war and extract significant political concessions from Smith to bolster the quasi-trappings of power that effectively remained in the hands of the whites. A compromised group dependent on Smith for leverage and negotiating positions at the Lancaster House negotiations, Muzorewa and Ndabaningi Sithole had no choice but to accept the gamble.

Prior to the negotiations, ZANU and ZAPU merged into the Patriotic Front at the insistence of the FLS. The Patriotic Front's hurting stalemate was intensified by the fact that its major backers, the FLS badly needed and wanted a settlement. The military and economic costs of hosting Zimbabwe's guerrillas and refugees had crippled the economies of Zambia and Mozambique.⁹

Conflict transformation through national reconciliation

During the first decade of independence, Zimbabwe faced the unenviable challenge of orchestrating and managing multiple transitions. First was the

transition to statehood under the first ever black-led government and meeting the expectations of the population while demobilizing and reintegrating former combatants; second was the transition to democracy and, third, the transition of managing Zimbabwe's transformation into a society based on racial equality and harmony.¹⁰ In addition, there was the transition to an open market economy, away from the tightly controlled UDI economy during a decade marked by the wholesale adoption of structural adjustment programs (SAPs) and the dominance of market forces over government-led social engineering. Zimbabwe's transition was also complicated by the threat and, in some cases, near-breakdown of traditional markets and financial ties with South Africa, a traditional and staunch ally of UDI Rhodesia that became a hostile neighbor.¹¹ High economic dependence on a hostile and militarily aggressive South Africa was compounded by the high expectations of the population, the demands of postwar reconstruction and the debts owed to neighboring allies, particularly Zambia, Mozambique, and Botswana that had supported Zimbabwe's liberation war.

Eschewing a revolutionary nationalist stance as had been expected of a Marxist Leninist Party born of a nationalist armed struggle, the ZANU government that won an overwhelming majority at the polls in February 1980, embraced a policy of national reconciliation and extended an olive branch to its former enemies. To the citizens and most observers, it was as if everything had changed and yet in some fundamental sense, everything seemed the same. National reconciliation set the stage for the abdication of social responsibility by Zimbabwe's whites. As the economic elite, they focused on reaping the rewards of peace and political normalization without investing in conflict transformation and long-term peace.

As one of the last African countries to become independent, socialist political rhetoric notwithstanding, Zimbabwe's moderate market-driven policies and scrupulous adherence to the terms of the Lancaster House agreement reassured the donor community and emboldened domestic and international efforts to dislodge another white minority-ruled pariah in South Africa. The formation of donor-driven Southern African Development Coordination Committee (SADCC), later transformed into the Southern African Development Community, attests to this.¹²

Lancaster House and the land question

Zimbabwe's recent political and economic history has been dominated by the controversy surrounding the Land reforms since July 2000 when the government adopted the "Fast Track" Land reform policy.¹³ It is necessary to provide a brief overview of the land question to assess how the Lancaster House independence settlement sowed the seeds of today's crisis. At independence, Zimbabwe had one of the highest income disparities between the poorest 80 to 90 percent of the black population and the wealthiest 5 percent of its whites. Race coincided with class and at the heart of the conflict were struggles for political power and racial equality as well as a fair and equitable allocation and distribution of the primary resource, land. Not surprisingly, land ownership has been the running theme in

Zimbabwe's successive Chimurenga (liberation) wars of 1893–1896 and 1960s to the 1970s.

Historically land expropriation without compensation in Zimbabwe began in 1890 with the arrival of Cecil Rhodes' Pioneer Column under the British South Africa Company (BSAC) and the pattern continued throughout the colonial period.¹⁴ The colonial state of Southern Rhodesia was founded by Cecil Rhodes, the British imperial magnate under considerable optimism that vast mineral resources would be discovered, as had been the case with South Africa.¹⁵ Following the conquest of the Shonas and Ndebeles in the first Chimurenga wars of 1893 and 1896, the BSAC proceeded to employ the four-pronged strategy of colonial dispossession and subjugation, specifically, land expropriation, imposition of the poll tax, forced labor, and racial discrimination against the indigenous population.

The failure to discover mineral riches in Zimbabwe led to land speculation and a focus on agriculture which led to massive land dispossession, forced relocations of African farmers to agriculturally marginal lands, and the creation of parastatals that heavily subsidized white settler farmers and set prices that discriminated against African agriculture.¹⁶ In 1930, the settler state imposed the Land Apportionment and Land Husbandry Act, which allocated 30.1 percent of the land to the indigenous population and 69 percent to the white settlers, further undermining African land rights and ensuring their entry into the white labor market as peasant agriculture became less competitive. The Land Apportionment Act of 1969 which allocated 50 percent of the arable land to less than 150,000 whites and 50 percent of the communally held so-called Tribal Trust Lands (TTLs) to 5 million Africans sought to make land theft from its indigenous owners irreversible.¹⁷ The "white" land would span prime agricultural zones and run along the country's railway arteries and the mineral rich Great Dyke.

Not surprisingly, land rights became the battle cry of Zimbabwe's nationalist struggles—the ticking time bomb that Lancaster House studiously ignored and the contentious issue the Mugabe government failed to address from 1980 until political and economic imperatives forced its hand in 2000. Mugabe underlined the centrality of land to the Zimbabwe conflict in comments he made after the Lancaster House negotiations: "Even as I signed the document I was not a happy man at all. I felt we had been cheated to some extent . . . that we had agreed to a deal which would to some extent rob us of the victory that we had hoped to achieve in the field."¹⁸

Until the Land acquisition Act of June 2000, very little had changed in the land ownership and land distribution structure of Zimbabwe. At independence in 1980, out of a total surface area of 39.6 million hectares, 18 million were owned and controlled by 250,000 white settlers. By 2000, these holdings had been reduced to approximately 12 million, some 70 percent of the country's best land. There is no doubt that this historical anomaly and the need to redress it was the cause and solution to the conflict. At independence, Zimbabwe's constitutional settlement, drawn at Lancaster House, preserved the colonial settler pattern, and

included a clause that forbade any changes to land rights for ten years without an affirmative vote by all the members of the National Assembly. Significantly, 20 seats of the Assembly were reserved for the white population, virtually turning them into a privileged interest group with protected minority rights. Already wealthy and economically dominant, the white Zimbabwean class could not have started off better in the “new” Zimbabwe. As Martin Meredith aptly notes

No other group received such favorable attention from Mugabe when he gained power in 1980 as white farmers. Their role was regarded as crucial to the economic welfare of Zimbabwe. . . . They were well organized, resourceful, and long accustomed to exerting influence to get their way. They had for years been the backbone of Ian Smith’s Rhodesian front, voting for him in one election after another, determined to protect their land interests. Mugabe saw the need to treat them as “royal game,” awarding the industry generous price rises and other financial incentives, ensuring that technical services and support remained at a high standard, and proceeding with plans for land reform in a cautious and orderly manner. But as his popularity faded and discontent over the government’s manifest corruption and inefficiency spread, Mugabe turned on white farmers as scapegoat for the country’s ills, fanning grievances over land that had fuelled two previous wars.¹⁹

The Lancaster agreement effectively divided the parties to the conflict groups by race, which in 1980 coincided with, class, a theme of privilege and unequal access to the most precious resource—land—that has continued to bedevil Zimbabwe’s colonial and postcolonial rulers.

Addressing the land question: limits of Lancaster and national reconciliation

Zimbabwe has a total land area of 39.6 million hectares, 33.3 million hectares of which are designated for agricultural purposes and the remaining 6 million reserved for national parks, wildlife, and urban settlements. In 1980, agricultural holdings broke down into the following categories. The first was the large-scale, mechanized commercial farming dominated by about 6,000 white commercial farmers with freehold titles to 15.5 million hectares (more than 45 percent of the agricultural land) more than half in the high rainfall regions I, II, and III. The second category was the small-scale, labor-intensive commercial farming involving about 8,500 black indigenous farmers who lease approximately 1.4 million hectares (about 5 percent of the agricultural land), half of which lies in the drier regions, IV and V. The third category was the communal, labor-intensive, semi-commercialized subsector in which about 700,000 black peasant farmers occupy 16.4 million hectares (about 50 percent of the agricultural land), more than three quarters of which lie in low rainfall and infertile regions IV and V. Because of intensive use and erosion, most communal areas were infertile and provided only subsistence living standards for their populations. The state officially holds title to

the communal lands. Land reform sought to reduce congestion in the communal subsector, meeting its land needs; settling the squatter population displaced during the war of liberation, as well as the war veterans; and tackle rural poverty by improving food security among rural households as well as improve and modernize agriculture.

Following independence the government made attempts to meet the needs of the landless black population. A resettlement program, initiated shortly after independence, redistributed about 3.5 million hectares among 70,000 families, using the “willing seller-willing buyer” in line with the constitution.²⁰ General impatience with the slow pace of land reform was compounded by allegations that government was distributing land and other holdings to politically well-connected and influential individuals, as opposed to poor landless peasants. This argument has been used by the donors as a lever for redefining the government’s present policy framework and approach to land reform and resettlement. Donors have also used the same argument to justify the discontinuation of financial support for Zimbabwe’s land reform.²¹

Overall, the initial attempts at land reform between 1980 and 1992 did not succeed. Very little land became available voluntarily through the “willing buyer-willing seller” approach. In 1990, the Government set out to resettle 162,000 families on 8.3 million hectares of land to be acquired from the large-scale commercial subsector. By the end of Phase I in 1997, only 70,000 black families had been resettled in addition to another 750 influential indigenous black elites.²² From 1980 to 1990, 66,000 families were resettled on 3 million hectares, compared with slightly more than 4,000 families from 1990 to 1997. Until 1997, land was bought according to the “willing seller-willing buyer” principle and price/compensation was market value enshrined in the Lancaster House constitution. Compulsory acquisition of land began for the following reasons: limited government resources; high prices, part to be paid in foreign currency, and non-availability of land in appropriate locations or in appropriate block size.

In 1992, the government amended the constitution to create a legal and administrative framework for the compulsory acquisition of land. Only when the entrenched provision of the Lancaster House constitution expired in 1990, could Parliament adopt the Land Acquisition Act of 1992, which listed the types of land that could be compulsorily acquired. These included derelict lands, underutilized lands, and cases of multiple holdings, absentee ownership, and land contiguous to communal areas. The Act also laid down the procedures to be followed in compulsory acquisitions of land, claims for, and assessment, and payment of compensation, the designation of rural land for resettlement and other provisions. The power to designate land required for compulsory acquisition became a powerful tool in the hands of the Minister of Lands and Agriculture to ensure orderly planning and distribution of land. If properly exercised, it could minimize dislocation in agricultural production. However, the Land Acquisition Act of 1992 proved to be too cumbersome.²³

In a 1997 measure designed to accelerate the land reform process, the government identified 1,471 farms for designation in line with the new provisions

of the constitution and the Compulsory Acquisition Act of 1992. Some 630 farms did not meet the criteria for designation and were delisted, reducing the number of farms to 841. Notices for compulsory acquisition were served on the owners of the 841 farms, all of whom contested the designation of their farms in Court. This further delayed the Government's resettlement of the beneficiaries and created the stalemate that led to the Land Conference in September 1998. At the Land Conference held in September 1998, donors endorsed the Phase II resettlement program with the insertion of an initial inception phase covering two years, during which time various models were to be tried and tested. Following the conference, the Land Reform and Resettlement Phase II (Policy Framework and Project Document) was published in 1998. The program provided for the acquisition of 5.0 million hectares of land from the large-scale commercial farming sector to resettle approximately 91,000 families. The land to be acquired by government was to be identified by an appointed committee representing the stakeholders and officials based on the criteria for the types of land listed above. In the initial inception phase, 1.0 million hectares were to be acquired and resettled.

At the end of the 1998 Conference, donors listed the conditions under which they would pledge their financial and other support for the program. The United Kingdom was the major donor for land acquisition for resettlement, while other donors pledged support for infrastructural development, training, credit, and market services in accordance with their recognition that Phase II would demand greater financial, human, and logistical resources than those available during Phase I so as to meet the program's economic and social objectives. The cost of Phase II was budgeted at US\$ 1.9 billion, to be met from the contributions of the government, donors, the private sector, NGOs, and other possible contributors.

However, 18 months into the initial inception phase no progress had been made and no donor contributions were forthcoming. The institutions to monitor the program had not been put in place. Furthermore, during this period, the government experienced considerable difficulties in its relationship with the World Bank and the International Monetary Fund (IMF) and it had limited funds at its disposal to implement the program. Only 4,600 families were resettled on 145,000 hectares of land between October 1998 and June 2000. A subsequent inception phase, launched in November 1998, also fell far short of expectations, in part because the donor support pledged at the 1998 Conference, failed to materialize.

The escalation of the land crisis

Against the background of mounting economic difficulties and political opposition from organized labor and civil society in February 2000, the government submitted a revised constitution to a referendum and it was rejected. The referendum for the first time resulted in a significant erosion of the ruling party's stronghold over the electorate and the emergence of a new opposition party, the Movement for Democratic Change (MDC). Although section 57 of the draft that provided for the government's acquisition of land with compensation to be paid by the

United Kingdom was incorporated into the existing constitution, the rejection of the revised constitution led to massive “invasions” of commercial farms by war veterans, peasants from the largely marginal communal lands, and unemployed city residents, many of them recent migrants from a countryside ravaged by drought between 1991 and 1994. In July 2000, the government initiated its “Fast Track” phase for the Land Reform and Resettlement Program.

When the courts ordered the government to stop the invasions, the government did not comply, thereby aggravating its already strained relationship with both the international donor community and the white commercial large-scale farmers. In May 2000, the government amended section 16 of the constitution to allow for compulsory acquisition of agricultural land for resettlement with compensation—which was divided between compensation for the land itself and compensation for improvements on the land. While the government would pay compensation for the improvements, compensation for the land would be paid only where donors provided funds. Under Presidential Powers (temporary measures) Land Acquisition Regulations 2000, the land Acquisition Act was further amended to repeal the Fair Compensation clause and to replace it with “fair” compensation as determined by the Compensation Committee, among others. In June 2000, using these special powers, the President gazetted 804 farms, amounting to approximately 2.0 million hectares for compulsory acquisition. Between July 2000 and September 29, 2000, 6,446 families were resettled on 292,000 hectares of land under what is now called the “Fast Track” program.

What is the balance sheet on Zimbabwe’s land reform and the crisis that it has generated? Phase I of the Land Reform and Resettlement Program did register positive results in relation to poverty reduction among resettled families and the provision of basic physical infrastructure. However, the number of beneficiaries felt short of the target of settling 162,000 families on 8.3 million hectares. Instead, only 70,000 families were settled on only 3.5 million hectares. The period, however, saw a substantial increase in the output of small farmers. In the communal areas, maize production increased from 35 percent to 63 percent of total national output, while their cotton share increased from 26 percent to 50 percent between 1980 and 1990. These gains were attributable largely to increased fertilizer use and improved access to extension, market, and credit services. Resettlement schemes, which in 1990 and 1991 had contributed 5 percent of the total suitable crop-producing area, now contributed 7, 4, 3, and 4 percent of the total annual sales of maize, cotton, groundnuts, and sorghum respectively. While these rates were marginally higher than those of communal areas, they remained lower than those of the large-scale farming sector. Between 1990 and 1994, resettled families employed about 8,465 nonfamily members per year. Of these, 1,880 were permanent workers and 6,585 casual laborers. The resettlement program had no significant effect on the production output of the large farms, despite the loss of 3.5 million hectares to resettlement. This can be explained by the high rate of underutilization of these lands, which varies from 20 to 80 percent.

On the negative side, the program had a limited impact on alleviating population pressure in the communal areas, many of which remain over-crowded

and environmentally and economically unsustainable. The program failed to relieve congestion because the selection of qualifying individual families from the scattered villages did not create significant changes. The effects of the drought of 1991 and 1992 on agricultural output, the difficulty in the relationship between the Zimbabwe government, the IMF, and the World Bank during this period, the government's inability to finance the program, and the lack of support from the international donors impeded the pace of resettlement, as well as the provision and maintenance of proper extension, research, and marketing services.

At the end of 1991, the government adopted an Economic Structural Adjustment Program formulated with the help of the IMF and the World Bank to attract foreign investment by the liberalization of the economy. However, subsequent price increases had very negative implications for the population in general, a situation aggravated by the droughts. Migration to the cities from the stricken countryside led to increases in both unemployment and urban violence, all of which became manifest in wide popular disenchantment with the government. Once gain, the problem of land resettlement resurfaced in this context.

In a nutshell, until 2000, 20 years after independence in 1980, Zimbabwe's agrarian structure had barely changed. Until the 2000 land acquisition measures, it reflected the colonial status quo. Of the 33 million hectares of land designated as prime agricultural land, 11 million belonged to some 4,400 large-scale white commercial farmers, who employed some 320,000 permanent and semi-permanent workers, as well as a large number of casual laborers. By contrast, 3 million hectares were resettlement land and just over 1 million were worked by small-scale commercial farmers. In the communal areas, about 100,000 families or some 6.5 million people, occupied 16 million hectares of land where families own an average of 2 hectares of arable land, which is inherited within the family. Grazing areas, which average less than 15 hectares per family, are utilized as communal land by villagers.

In its land policy of 1990, the government set out a strategic structure of the distribution among various land tenure categories that required the acquisition of 8.3 million hectares for the benefit of 162,000 families. However, by 1997, only 3,498,444 hectares had been made available for resettlement. This prompted the government's decision to acquire the remaining 5 million hectares in the Phase II Land Reform and Resettlement Program. As noted above, although the Phase II program was expected to be an orderly process, the situation changed drastically in February 2000 after the rejection of the revised constitution. The "Fast Track" program aimed initially at the compulsory acquisition of 841 farms. Of these 841 farms, 804 of which were gazetted in June 2000 for compulsory acquisition, 109 were not contested and were available for immediate resettlement. An additional 110 of the contested farms were subsequently acquired through orders served to their owners on August 10, 2000. Applications for confirmation of these orders were filed with the Administrative Court, which is allowed 30 days to respond positively or negatively.

According to the initial Fast Track program documents, the government also intended to acquire the remaining 4 million hectares over a three-year period starting in 2001 for the resettlement of an additional 120,000 families. Though

recent events indicate that the government had decided to acquire the entire 5 million hectares far more rapidly, shortcomings in resources, along with legal considerations, the Fast Track was moving more slowly than the government had hoped. Of the 48,000 families of Mashonaland West Province scheduled for resettlement at the beginning of October 2000, only 748 have been resettled on 19 farms. In Mashonaland Central, 800 families have been resettled out of a total of 13,000 on a waiting list.

There were immense challenges and implications for the economy and Zimbabwe's relations with its external partners. Most of the land allocated to new settlers had no basic infrastructure, precluding production. The peasants settled had to build their own houses, even temporary shelters, prepare the land, and seed it with their own resources. Another significant resettlement problem concerned the peasant workers employed on the farms before government acquisition. In addition to these permanent workers, the commercial farm employs seasonal workers, some of whom come from neighboring countries.

With a Human Development Index (HDI) of 0.507 Zimbabwe has plunged to number 130 position out of 174 countries.²⁴ The land reform crisis has been a time bomb that has ticked since 1980. Even the harshest critics of the government concede that the land problem is real, with the only disagreements being the modalities of the land reform process.²⁵ Land reform has plunged the agricultural sector into crisis.

For the first time since independence, Zimbabwe has no special interest group with a constitutionally entrenched position or the ability to extract political concessions through economic blackmail. How the outcome of political brinkmanship is turned into a positive force to address acute poverty and inequalities and resolve the current political tensions will determine the long-term impact of Zimbabwe's land reform strategy. In the long run, the cautious and risk aversion strategy adopted at independence has not served the country well. Zimbabwe faces the same sets of political and economic hard choices that it would have faced soon after independence or in 1990 when the Lancaster House constitution was amended: white capital flight, domestic tensions, donor withdrawal, and condemnation abroad. The difference now and then is that Zimbabwe has drawn down on the international political good will that it had in 1980. More fundamentally, change was expected and could have been countenanced by Zimbabwe's white population and Zimbabwe's allies.

The most significant international donors have suspended aid and imposed economic sanctions. After suspension for failure to abide by the terms of the 1991 Commonwealth's Harare Declaration on "good governance," Zimbabwe left the Commonwealth. The economy has, over seven years, been in a free fall and control of political dissent and opposition using laws similar to Smith's notorious Law and Order Maintenance Act is on the rise. Food insecurity in rural areas, which is exacerbated by HIV/AIDS, has worsened the unequal development and very high-income disparities between rich and poor and between urban and rural populations.

Conclusion: reassessing the Lancaster House settlement

Zimbabwe's independence settlement perhaps goes down in history as one of the most unusual peace settlements in its studied magnanimity toward the aggressor. The aggrieved parties got nothing more than the political power. While it secured the peace and put a lid on possible retribution, it only delayed the emotional passions that would be unleashed some 20 years later: land ownership and the ease with which this has lent itself to politicization. Currently most peace agreements are conscious of the need to address issues of culpability and compensation. There are tribunals as was the case in Rwanda and Bosnia and, in South Africa's case, a Truth and Reconciliation Commission. As Nytagodien argues, there are limits to what Truth and Reconciliation Commissions, which are purely confessional, can do to avoid future conflict based on a legacy of structural dispossession.²⁶ But they provide at least some measure of national and individual catharsis, an acknowledgment of guilt and culpability.

In Zimbabwe's case, national reconciliation absolved the whites but it did not dispel the perception among the black majority that the white community had gotten off easily. This enduring perception has made it easy to turn political brinkmanship into what supporters of the ruling party, especially the war veterans, call the "Third Chimurenga." Politically this is easy to understand because the Lancaster House agreement sought a quick and in a lot of ways a painless exit for Britain, which for decades had been saddled with the Rhodesia problem. For Zimbabwe's minority whites, securing property rights and a privileged place in Zimbabwe may have clouded their judgment as to what concessions they would make to build a new order and protect their long-term interests. Significantly, in 2000 following the constitutional referendum, Mugabe underlined the ambivalence of white Zimbabwe's regarding their place and role in the political and social architecture of an independent Zimbabwe when he noted

Especially remarkable was the sense of order, maturity and tolerance during the process. The world now knows Zimbabwe as that country where opposing views can file so singly and so peacefully to and from the booth without incident. I have every confidence that the forthcoming general elections will be just as orderly, peaceful and dignified. May I also make a special mention of the white part of our community who this time around sloughed off apathy to participate vigorously in the whole poll.²⁷

What went wrong in Zimbabwe? Can humpty dumpty be put back together? The lessons are clear. Peace is costly and expensive. To sustain it beyond the resolution of conflict, it requires massive infusions of resources and guarantees. The focus of Lancaster should have gone beyond simply extracting a settlement from the warring parties. It needed to acknowledge the deep-seated hurt and enormity of injustices suffered by the black majority population. It needed to go beyond the constitutional or legal settlement of the Rhodesian problem.

Lancaster House provides compelling strategy on how to exploit a mutually hurting stalemate and ripe moments. However, the limits of this approach in deterring future conflicts arising out of the original grievances are clear.

The focus should also have been on conflict transformation beyond Zimbabwe's independence settlement, should have been on the land question, addressing the inherited racial inequalities and developing comprehensive strategies for addressing land reform and the inherited structural inequalities. No less important "nudging" Zimbabwe's white population toward an informed self-interest and genuine understanding of what they needed to give up to become part of the solution and secure the hard worn peace and become citizens of Zimbabwe, instead of a privileged minority sitting on the fence. To extract agreement, Lancaster House negotiations overly simplified the problem. The land question was central to the Zimbabwe conflict and had always been the rallying point for all the liberation movements, yet it barely rates a footnote.

Zimbabwe is in many ways where it was on the eve of Lancaster House Conference in 1979—politically tense, internationally isolated, and economically under stress. Once considered a grain basket of the region, it is experiencing famine, astronomical inflation rates, very high unemployment rates, and escalating poverty, and human insecurity for the majority. To many analysts, Zimbabwe is just another African statistic—yet another failing state hell bent on a self-destructive course. It has little economic or military leverage in the region as it did when it provided military support to a war battered Mozambique in the 1980s to fight RENAMO and keep the Beira Corridor open. An independent and wealthier South Africa is the big power in SADC. South Africa and Botswana are bigger magnets than Zimbabwe for the region's population, including Zimbabwe's own citizens who are migrating by the thousands for economic reasons.

From a human development perspective, clearly a multitrack and multidimensional approach needs to be considered. There is no doubt that the international donor community has adopted the policy of isolation and abandonment. By abandoning Zimbabwe to induce a "mutually hurting stalemate" on the government, it would seem that international donors have worsened the vulnerability of the most vulnerable group—the poor—without in any way inducing changes in the rulers. Political elites always have the uncanny ability to survive even in the most unimaginable crises. Access to resources and unlimited extra-constitutional powers which tend to increase in direct proportion to the magnitude of the crisis faced and, no less important, sycophancy on the part of the ruled, especially the inner circle that typically takes advantage of the lapsed watchdog functions, cushions the political elites from the harsh economic and social realities and hardships the average person faces. A system like that is typically immune to "hurting stalemates" and to pronouncements on "good governance." Its constituency is by definition the 100 families, closest to the power elites, not the 13 million citizens that it should serve. Sanctions, embargos, and international reprimands will have no effect.

On the other side of the equation is the white community that needs to locate its lot within with the system. The trekking of Zimbabwe's white farmers to

farms in Zambia and Mozambique, is reminiscent of what Lancaster House agreement pretended to ignore: Southern Africa's white population is African and bears equal responsibility for the success or failure of its governments. To craft a solution that is durable and mutually beneficial to all groups, negotiations of conflicts between them and their black counterparts have to take this into account.

Notes

- 1 Following the collapse of the Geneva talks in 1976, Ian Smith brokered an internal settlement with Chief Chirau, the late Reverend Ndabaningi Sithole and Bishop Abel Muzorewa and elections were held in 1978 to install a black government acceptable to the white population. The "Zimbabwe-Rhodesia" was never recognized internationally, hence reference to Rhodesia.
- 2 I. William Zartman, *Ripe for Resolution: Conflict and Intervention in Africa*, Oxford University Press, 1989; Zartman and Maureen Berman, *The Practical Negotiator*, New Haven, CT: Yale University Press, 1982.
- 3 For a history of Zimbabwe's liberation war, see David Martin and Phyllis Johnson, *The Struggle for Zimbabwe: The Chimurenga War*, Harare: Zimbabwe Publishing House, 1981.
- 4 The Front Line States were a diplomatic alliance of independent Southern African states formed in 1974 by Angola, Botswana, Mozambique, Tanzania, and Zambia to push a united front on Zimbabwe's independence and the other two remaining white minority regimes in the region, South Africa and Namibia. For a detailed treatment of the subject see Carol B. Thompson, *Challenge to Imperialism: The Frontline States in the Liberation of Zimbabwe*, Harare: Zimbabwe Publishing House, 1985; Martin and Johnson, *The Struggle for Zimbabwe*.
- 5 J. Davidow, *A Peace in Southern Africa*, Boulder, CO: Westview Press, 1984.
- 6 Zartman, *Ripe for Resolution*, p. 10.
- 7 Zartman, "Ripeness: The Hurting Stalemate and Beyond," in P. Stern and Daniel Druckman (eds) *International Conflict Resolution after the Cold War*, Washington, National Academy press, 2000, pp. 225–250.
- 8 Carol B. Thompson, *Challenge to Imperialism*, p. 2.
- 9 Ibo Mandaza, *Zimbabwe Since Independence, The Political Economy of Transition*, Dakar: CODESRIA, 1986.
- 10 I. Mandaza, *Zimbabwe Since Independence*.
- 11 Carol B. Thompson, *Challenge to Imperialism*; David Martin and Phyllis Johnson, *The Struggle for Zimbabwe*.
- 12 For a full treatment of SADCC see Fadzai Gwaradzimba, *The Southern African Development Coordination Conference (SADCC): Search for Autonomy and Regional Security in Southern Africa, 1980–1990*, Ph.D. Dissertation, Baltimore, MD: Johns Hopkins University, 1992.
- 13 T.A.S Bowyer and Colin Stoneman, *Land Reform Issues in Zimbabwe*, 2000; Human Rights Watch, New York, *Fast Track Land Reform in Zimbabwe*, March 2002; Moyo: 2000, Maposa: 2000.
- 14 Terry Ranger, *Revolt in Southern Rhodesia, 1896–1971: A Study in African Resistance*, London: Heinemann, 1967.
- 15 William Minter, *King Solomon's Mines Revisited: Western Interests in the Burdened History of Southern Africa*, New York: Basic Books, 1986.
- 16 Ibo Mandaza, *The Land Question in Zimbabwe*, pp. 21–33; A. Taylor, and H. Wiseman, *From Rhodesia to Zimbabwe: The Politics of Transition*, New York: International Peace Academy, 1981; and David Anderson, "Mugabe is Right about Land Reform," *The Independent*, May 4, 2000.
- 17 Mandaza, *The Land Question in Zimbabwe*, pp. 21–33.

- 18 Mandaza, *The Land Question in Zimbabwe*, pp. 21–33.
- 19 Martin Meredith, *Mugabe: Power and Plunder*, New York: Public Affairs, 2003, pp. 111–112.
- 20 Sam Moyo, “The Political Economy of Land Acquisition and Redistribution in Zimbabwe, 1990–1999,” *Journal of Southern African Studies*, Vol. 26, No. 1, March 2000, pp. 5–28.
- 21 Sam Moyo, *Land Reform under Structural Adjustment in Zimbabwe: Land Use Change in the Mashonaland Provinces*, Uppsala: Nordiska Afrikainstitutet, 2000.
- 22 Four hundred of the 750 indigenous black farmers leased state land, while 350 bought their farms.
- 23 See Government of Zimbabwe, *Land Acquisition Act*, Harare, 1992; Sam Moyo, *The Land Question in Zimbabwe*, Harare: SAPES, 1986.
- 24 Published annually by the United Nations Development Program (UNDP), the Human Development Index (HDI) ranks countries according to the quality of life of their citizens rather than on the basis of economic growth figures alone. The rankings are calculated on the basis of life expectancy, educational attainment, and adjusted real income. See Human Development Report 2003.
- 25 Colin Stoneman, *Land Reform in Zimbabwe: Constraints and Prospects*, Aldershot: Ashgate, 2000.
- 26 Stoneman, *Land Reform in Zimbabwe: Constraints and Prospects*.
- 27 Meredith, *Mugabe: Power and Plunder*, p. 166.

9 African conflict “Medicine”

An emerging paradigm shift in African conflict resolution?

Ben K. Fred-Mensah

This chapter is a response to the key issues raised in Zartman’s edited book, *Traditional Cures for Modern African Conflicts: African Conflict “Medicine.”*¹ I will briefly assess the feasibility of applying the indigenous African conflict resolution principles to the resolution of modern conflicts in Africa and highlight some of Zartman’s contributions to the understanding of the indigenous African conflict resolution systems. Most of the contributors to this book were anthropologists and political scientists with an interest in local communities. They were asked to explore the nature of the indigenous African conflict resolution systems and contribute to ongoing search for viable conflict resolution systems for the region.

The book’s diverse empirical cases of conflict resolution and their underlying principles in Africa and elsewhere have advanced the discussions beyond the cephalic–acephalic divide that has dominated indigenous African political systems. They have also added comparative dimensions to the study of conflict resolution in the region.² Thus, as Zartman put it, such a comparative approach could be “a way of dealing with the mercurial subject of culture and of cutting through the raucous debate between the poles of cultural relativism and human universals.”³ Judged by the scope of the subject matter, *Traditional Cures for Modern African Conflicts* represents an important development in the search for viable conflict resolution systems for Africa.

Although Zartman has reinforced the legitimacy of the current discussions on the application of Africa’s indigenous values and practices to the resolution of its modern conflicts, one of the puzzles is whether these efforts amount to an emerging paradigm shift in African conflict resolution. This is more so because the protracted nature of the contemporary conflicts in Africa points to the ineffectiveness of the modern conflict resolution systems. As Zartman has pointed out, the “persistence of violent conflict in Africa indicates that modern international methods are . . . defective in facing the challenge. Despite increased attention and improved knowledge about conflict management in the post-cold war era, African conflicts elude international as well as domestic efforts to bring them under control.”⁴

In light of these deficiencies, Zartman posed two key questions: “What kinds of conflicts did traditional conflict management practices handle best, and how do those kinds compare with contemporary ones?” “Can traditional methods yield

insights and approaches that can enrich the work either of African or of international peacemakers?”⁵ These questions are central to the current discussion because they direct attention to what Woodman and Morse view as the difficulty of resolving modern African conflicts because modern conflict resolution systems are not adaptations of the institutions of indigenous communities that the new nation-states imposed in their jurisdiction.⁶

The key concepts

For this analysis, I provide a broad definition of the term, “conflict resolution,” to embrace “conflict management” and “social control.” This entails the principles, methods, and skills that are employed to prevent, reduce, or resolve conflict. Thus conflict resolution includes postconflict activities such as reconciliation, reinsertion, reintegration, and rehabilitation of ex-combatants and war-affected persons, plus the design and implementation of early warning systems. This broad definition of conflict resolution is important because in indigenous African settings, unlike in Western systems, conflict resolution primarily aims to heal social relationships.⁷ This conception is analogous to the conception of medical practice in which the modern medical practitioner primarily aims to heal the physical body while the indigenous African medical practitioner primarily aims to heal social relationships.⁸ In addition, this conception of conflict resolution takes into account the ending of open hostilities and the healing of the wounds of war—a process meant to abate the lasting impact of what Perelli called *memoria de sangre* or “blood memory.”⁹

I will use the concept “tradition” interchangeably with the term “indigenous.” Zartman considers conflict management principles to be traditional if they have been practiced for an extended period and have evolved within African societies rather than emanating from outside.¹⁰ Some other writers, too, have argued that the traditional or the indigenous can be contemporary, suggesting that what makes a phenomenon traditional or indigenous in Africa is its authentic expression or outcome of Africa’s history, social evolution, or culture.¹¹ In my perspective, traditional or indigenous should not be limited to the past; rather, it should be viewed in term of its nativity and practice in the region. This is the definition similar to Dean’s and Levi’s who see indigenous as being “native or belonging naturally to a place.” I will also use the terms traditional and indigenous interchangeably with the terms “customary”¹² and “pre-colonial.” Used as an ideal type in the Weberian sense, these terms will refer to conflict resolution institutions, the judicial officials, and the underlying value systems that originated and sustained in Africa, as opposed to the imported ones.¹³

Social order in precolonial Africa

In discussing the systems of conflict resolution in precolonial Africa, including conflict resolution forums, the judicial officials, the underlying principles, and the enforcement of judicial decisions, there are problems of data availability and

reliability. This is primarily because unlike the practice in the more literate Western and some Asian societies, where a number of indigenous thinkers translated their ideas into writing by themselves, the knowledge about the majority of the indigenous African institutions and practices is not gained from written records handed down by Africans themselves in the precolonial settings. This makes the role of local chiefs and community elders, who could be relied upon as sources of such knowledge, crucial. It also makes research findings of anthropologists and political scientists with expertise in indigenous cultures and local politics unquestionably important.¹⁴

Both current and earlier anthropologists working in Africa have continued to devote attention to the study of the indigenous mechanisms of social control and disputes settlement in the communities. Magistro suggested that the contemporary moment in Africa's search for viable conflict resolution system is fitting for anthropologists to become more active in applying their knowledge of social process to the field of conflict resolution. He noted that because of their training to holistically understand societies, anthropologists generally have a broad view of social, economic, political, and environmental processes that shape a people's cultural orientation.¹⁵

In spite of the laudable achievements of anthropologists in this regard, there is an apparent contradiction between their dominant methodologies and their overall perspectives on social order in Africa. On one hand, much of the anthropological research has placed emphasis on the consensus model that proceeds from the assumption that African societies placed emphasis on social harmony as the overriding ideology of social order.¹⁶ According to this view, the interests that developed from marriage or economic cooperation between different ethnic or descent groups would tend to evolve into institutional norms that would impose constraints upon community members who would be inclined to use violence.¹⁷ On the other hand, anthropological records present conflict-endemic picture of the precolonial African settings, hence the use of phrases such as "perpetual state of war," "widespread conflicts," "feuding," "internecine wars," "tribal wars," "regicide," "incessant wars," "fear- and death-inducing conflicts," and "conflict-prone communities" and their modern version encapsulated in the notion of "the African warlords."¹⁸

Like any human society, conflict was part of indigenous African communities. After all, conflict is an integral part of human existence and interaction and, as Zartman noted, conflict is an inevitable aspect of human interaction, an unavoidable consequence of human decisions and choices.¹⁹ Disputes in precolonial Africa were primarily a result of various conflicts of interests such as breach of contract, slander, accusations of witchcrafts, marital misunderstandings, injuries against persons, and damage to property. Conflict could also occur between communities over problems of determining ownership rights over natural resources or territorial boundaries.

Among the main conflict-handling forums identified in precolonial Africa were mediation, diplomacy, arbitration, adjudication, fission, trial by ordeal, slanging-match, and joking relationships, of which the main judicial officials were the kings

and chiefs, lineage heads, diviners and healers, and fetish priests. Also, central to these conflict resolution systems were individuals with high standing in the community who Kouassi, among others, referred to as *du nkuwo*.²⁰ These were individuals with linguistic skills and moral uprightness who were often called upon to mediate in the event of conflicts and/or serve as diplomats handling intercommunity relations.²¹ Of equal interest to traditional conflict resolution were the mechanisms for the enforcement of judicial decisions. Given limited technological and institutional capabilities of indigenous precolonial systems, there were ideological and mystical methods for carrying out verdicts.

Sustaining progress on the indigenous?

To assess the feasibility of applying Africa's traditional principles to the resolution of its modern conflicts, one must take into account the current practices and potentials. On his part, Zartman asked: "In the end, what is the role of traditional conflict management today—should it take over the field, should it be combined with modern and foreign methods, or should it leave the field to newer and better methods?"²² In other words, what are the chances of effectively applying Africa's traditions to the management of its contemporary conflicts? Considering the changes in the indigenous sociocultural structures since contacts with the West, what use can they be in the politico-judicial development of African states?

Some have argued that the application of Africa's own traditions to conflict resolution will help to mitigate the extensive foreign intervention in regional conflicts, particularly under the auspices of the United Nations and Western governments.²³ There is also the view that African traditional institutions and practices remain strong. Ake, for example, has argued that loyalty to primary groups is still strong in spite of the apparent disintegration of some of the social structures traditionally associated with them.²⁴ There are others, too, who argue that Africa's ongoing efforts to develop regional organizations can benefit from the value systems associated with precolonial interstate practices such as the long-distance trade, which, currently, are labeled illegal cross-border trade.²⁵ There have also been calls for the incorporation of Africa's indigenous knowledge and practices in development initiatives, as demonstrated by the hiring of development anthropologists and sociologists by development organizations with an interest in Africa.²⁶

Proponents of resurrecting African traditions in conflict resolution emphasize the resilience of these traditions against the onslaught of modernity. They have argued that tradition is a widespread phenomenon since the bulk of Africa's population is rural and rural areas tend to be the bastion of tradition. As Osaghae has put it, tradition is too clear in present-day Africa to be ignored.²⁷ Indigenous approaches have been widely applied at communal levels, particularly in countries such as Ghana and Nigeria where traditional rulers are constitutionally recognized and customary laws are part of the national statute. For example, as defined by Ghana's Interpretation Act of 1960 and its current Fourth Republican Constitution, customary laws consist of laws which

originated and still are in use in particular communities. It thus happens that cases that are considered to be better tenable under the relevant customary law are often referred from the national courts to the traditional courts. There is a belief that traditional courts are more competent in handling such cases since they require knowledge in local customs and local history—the preserve of traditional rulers and elders.²⁸

There is also widespread use of cathartic and reconciliatory methods associated with traditional rituals and principles in the management of conflict. Some authors have noted that the use of traditional rituals to rehabilitate and reinsert war-affected people into their communities in some of the war-torn countries in Africa.²⁹ Wolff examined how the postwar Eritrean Government has designed an orphanage system, based on the country’s extended family values to rehabilitate and protect children whose biological families died in protracted war with Ethiopia. Green and Honwana, too, showed how indigenous religious rituals have been used for the treatment of post-traumatic stress disorder (PTSD) among Angola’s and Mozambique’s ex-combatants.³⁰ This view also brings to mind the reconciliatory principles enshrined in *ubuntu* in southern Africa, which South Africa has applied to its postapartheid reconciliatory efforts. In Rwanda, the government has resorted to the *gacaca*—Rwanda’s main indigenous conflict resolution system—in the trial of the alleged perpetrators of the 1994 genocide.³¹ Comparing the *gacaca* system with the international criminal court in trying the alleged perpetrators, Uvin and Mironko noted that the *gacaca* system had “the potential to create significant benefits in terms of truth, reconciliation, and even grassroots empowerment.” They believe that the application of the *gacaca* system will offer an added benefit of healing social relations.³²

In the area of diplomacy, some scholars have identified parallels between the structures of diplomacy of some of the modern states and the diplomatic networks identified in some of Africa’s precolonial states. Modern Nigeria, for example, might have borrowed its current system of diplomacy from the precolonial Oyo empire where, according to Schraeder, diplomacy operated through networks consisting of four “concentric circles of power.” Schraeder has argued that these concentric circles grew from the inner core of the empire to the outlying independent political systems, of which Nupe in the northeast corner was the furthest point of diplomatic contact.³³ Similarly, Gambari has emphasized that while Africa has remained the core of Nigeria’s foreign relations, its foreign policy apparatus operates “within a series of concentric circles, with the country’s internal security constituting its innermost circle. This is followed by the West African subregion, then the African continent as a whole, and lastly, countries and institutions outside Africa.”³⁴

There is an enduring colonial legacy of disconnect between the principles of governance of modern states and those of the indigenous communities over which they have established their jurisdiction. This has generally been seen by Africans as an obstacle to the development of effective political and judicial systems.³⁵ To address this problem, the immediate postcolonial era was marked by what Deng and Zartman referred to as the adoption of ideological symbols and

development models based on some interpretations of traditional African cultural values as the means of achieving sustainable nationhood and legitimacy.³⁶ Leopold Senghor's *Négritude*, Kwame Nkrumah's *Consciencism*, Julius Nyerere's *Ujamaa*, Seretse Khama's *Kagisano*, and Kenneth Kaunda's *Humanism*, are examples of this phenomenon. Similarly, postcolonial leaders such as Felix Houphouët-Boigny of the Ivory Coast and Kwame Nkrumah of Ghana invoked the structure and ideology of the African kinship system to create what Schatzberg has called the "basis of legitimate governance," invoking a "metaphor of father and family." Schatzberg has argued that this is a vision of modern governance derived from an idealized concept of patterns of authority and behavior within the indigenous African family systems.³⁷

Some analysts have contended that despite efforts to apply African traditions to modern political and judicial principles such efforts have been nullified by corruption and abuse by some of the modern rulers.³⁸ This has led to the loss of the people's confidence in the conflict resolution systems built around these structures, raising the question as to whether the invocation of Africa's traditions to political and judicial development serves primarily the parochial interests of the political leaders and their cronies.³⁹ If, therefore, the problem lies in the failure of African leaders to live up to the culturally defined moral codes enshrined in traditions, how can Africa benefit from its own tradition in its search for more viable conflict resolution systems?

Conclusion

It is futile to attempt a wholesale application of Africa's indigenous conflict resolution principles to contemporary conflict resolution, but African policy makers must look for ways to revamp some of these principles and practices at all levels of polity—local, national, and supranational levels. Although this task entails integrating the indigenous with the foreign, there is also the problem of reconciling differences within indigenous settings themselves. This is particularly important because of the practical role of language in promoting social order and resolving conflict in multinational and multilingual states. Communal life is possible only because members of a community possess sets of shared meanings, which are incorporated in their mother tongue and enable them to make coherent sense of the world. In other words, a people's mother tongue, which citizens of most of Africa's nation-states do not have in common, is crucial since it is the main repository of a community's common sense.

I would like to conclude with an enumeration of the defining principles of the indigenous African conflict resolution systems that African policy makers can take into account in their search for more viable conflict resolution systems. These include

- *The use of mediation and diplomacy.* These conflict resolution forums fundamentally meant congenial and less adversarial conflict settlement processes. Available evidence shows that mediation and diplomacy were the

most popular conflict-handling forums in precolonial Africa. Mediators who, in most cases, were also the intercommunity diplomats, were usually lineage elders, fetish priests, and influential individuals known for their wisdom, linguistic skills, and trustworthiness in their official and personal lives. Often referred to as the eyes of the city or community, these individuals were those who excelled in the art of negotiation, persuasion, conciliation, hence were often invited to mediate conflicts outside of their own communities. This point brings to mind the current role played by personalities like Nelson Mandela of South Africa and Botswana’s former president Ketumile Masire in resolving conflicts in the Great Lakes Region.

- *The emphasis on unanimous concurrence to judicial decisions by adversarial parties.* This meant that full and free discussion of complaints by the disputants was encouraged and would lead to a high measure of agreement between the parties. In this context, the politico-judicial officials would ensure that parties to a dispute unanimously concurred on the fairness of both the conflict resolution process and the judicial decision. This was necessary if the conflict was to be resolved. With this practice, losing parties would recognize the justice in the winning side’s case. This principle is relevant in contemporary peace talks throughout Africa because most peace agreements fail when the losing parties feel that there is no justice or fairness.⁴⁰
- *The emphasis on personnel and institutional trustworthiness.* Judiciously successful settlements of conflict in precolonial Africa often were regarded by the disputants as having been resolved. More important, they had the capacity to reinforce conviction among the people that their politico-judicial officials could bring about the resolution of other disputes in the future. This would increase the people’s trust in their officials and institutions and enhance their legitimacy and political standing in the community. It would also earn them community support in bringing recidivism under control and thus enhance the enforcement of judicial decisions. This does not only reflect a traditional African version of collective security, but also the world view that maintains that “we are so I am,” as enshrined in such philosophies like *ubuntu*, *ujamaa*, *kagisano*, *harambee*, *kanye ndu bowi*, and *zimbabele*. As some of the key social values that generally undergirded the indigenous African conflict resolution systems, the three points mentioned above build on the concept of social capital in conflict resolution. Social capital in this context refers to the capability of social norms, principles, and customs to hold members of a group together by effectively setting and facilitating the terms of their relationships.⁴¹ While these social values had both secular and metaphysical dimensions to them, they also constituted the ethical frameworks within which the precolonial African judicial systems generally operated.
- *The role of civic education and political socialization.* To promote these values for the purpose of institutionalizing them as an integral part of the region’s conflict resolution culture, the role of civic education and political socialization is crucial. Thus, African governments and the various agencies of political socialization must educate the public and the younger

generation in particular on the importance of these principles. This calls for genuine and sustained research that must unearth these values and present them as the unifying factor in Africa's efforts to forge security communities. Geography may provide the spatial framework for Africa but fundamentally, it is the region's indigenous values which primarily and collectively define Africans that should constitute the African nation and serve as the Geist of its development. Since "research globalizes knowledge," as Zartman has put it, these efforts will help to Africanize conflict resolution in Africa and add to Africa's contributions to the global repertory of ideas in conflict resolution.⁴²

Notes

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- 3 Zartman, "Introduction: African Traditional Conflicts," in Zartman, *Traditional Cures for Modern Conflicts*, p. 6.
- 4 Zartman, "Introduction: African Traditional Conflicts," p. 4.
- 5 Zartman, "Introduction: African Traditional Conflicts," p. 9.
- 6 G.R. Woodman and B. Morse, "How State Courts Create Customary Law in Ghana and Nigeria," in B. Morse and G.R. Woodman (eds) *Indigenous Law and the State*, Dordrecht (Holland): Fows Publications, 1987, p. 182.
- 7 Cited in Zartman, *Traditional Cures for Modern Conflicts*, 2000, p. 8.
- 8 P.A. Twumasi, *Medical Systems in Ghana: A Study in Medical Sociology*, Tema: Ghana Publishing Corporation, 1975.
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- 11 Claude Ake, "Sustaining Development on the Indigenous," in World Bank (ed.) *Institutional and Sociopolitical Issues*, Volume 3, Background Papers, The Long-Term Perspective Study of Sub-Saharan Africa, Washington, DC: The World Bank, 1990, p. 9.
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- 16 Laurel L. Rose, *The Politics of Harmony: Land Dispute Strategies in Swaziland*, Cambridge: Cambridge University Press, 1992.
- 17 For a summary of these views, see R.H. Bates, "The Preservation of Order in Stateless Societies: A Reinterpretation of Evans-Pritchard," in Bates, *Essays on Political Economy of Rural Africa*, New York: Cambridge University Press, 1983, pp. 7–20.
- 18 E.E. Osaghae, "Applying Traditional Methods to Modern Conflicts: Possibilities and Limits," in Zartman, *Traditional Cures for Modern Conflicts*, p. 206.
- 19 Zartman, "Conflict Reduction: Prevention, Management and Resolution," in E.M. Deng and Zartman (eds) *Conflict Resolution in Africa*, Washington, DC: Brookings Institution, 1991, pp. 299–319.
- 20 E.K. Kouassi, "West Coast Diplomacy among the Akan and their Neighbors," in Zartman, *Traditional Cures for Modern Conflicts*, pp. 73–75. *Du nkuwo* is an Ewe expression, which literally means the eyes of community. *Du* (singular) is the community or the polity and *nku* (singular) refers to the eye. Ewes are ethnic communities in Ghana, Togo, and Benin.
- 21 For an insight into both the classical and modern views on the indigenous African conflict resolution systems, see M. Fortes and E.E. Evans-Pritchard (eds) *African Political Systems*, London, Oxford: University for the International African Institute, 1940.
- 22 Zartman, *Traditional Cures for Modern Conflicts*, p. 9.
- 23 Osaghae, "Applying Traditional Methods to Modern Conflicts," p. 201.
- 24 Ake, "Sustaining Development on the Indigenous," p. 9.
- 25 Gualbert Arhin, "Traditional Models of Mental Health and Illness in Benin," in Paulin Hountondji (ed.) *Endogenous Knowledge: Research Trails*, Dakar: CODESRIA, 1997.
- 26 There are numerous international conferences and publications that seek to establish relationships between culture and development such as The World Bank's publication of a monthly journal called *IK Notes* in its Africa Region.
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- 38 E.E. Osaghae, "Applying Traditional Methods to Modern Conflicts," p. 215.

- 39 This view is particularly supported by findings by Kofele-Kale that Cameroon's urban and rural dwellers said they preferred the modern judicial system to the traditional ones. Cited in E.E. Osaghae, "Applying Traditional Methods to Modern Conflicts," p. 215.
- 40 See Stephen John Stedman, Donald Rothchild, and Elizabeth M. Cousens, *Ending Civil Wars: the Implementation of Peace Agreements*, Boulder, CO: Lynne Rienner, 2002.
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- 42 Zartman, *Traditional Cures for Modern Conflicts*.

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