

# **Terminology on Peace and Conflict**

## **1. Conflict Terms:**

**Conflict Sensitivity** means the need to understand the context in which development interventions take place, with a view to avoiding negative impact on the local context and maximizing positive ones (It is a notion of "do no harm" and "do good").

**Conflict prevention** is concerned with the outbreak, spread and recurrence of violent conflict. It is the wide range of actions, interventions and measures undertaken by a variety of actors that address the structural causes and conditions giving rise to violent conflict; prevent the escalation of tensions into violent conflict; and prevent the continuation of recurrence of violent conflict. It seeks to strengthen factors and conditions that contribute towards de-escalation while addressing those factors and conditions that contribute towards escalation.

**Conflict settlement** means ending violent behavior by reaching an agreement between the parties in conflict.

**Conflict management** is generally used in two ways:

- It is often used as a generic term that encompasses the whole gamut of (positive) conflict handling, i.e. any method or approaches for dealing with conflict. This use of the term is related to the idea that conflict is a normal, inevitable part of life and can as such, as a generic, social phenomenon, not be eradicated but can only be managed.
- The term is also used at times in a more narrow way, to refer to the limitation, mitigation and containment of violent conflict, i.e. emphasis on containing manifestations of violent conflict.

**Conflict resolution** is a more comprehensive term which means that the underlying causes of conflict have been addressed and resolved. It also seeks to build new, lasting relationship between groups that are hostile to each other. This implies the following:

- there is no more violent conflict behavior;
- the attitudes are no longer hostile; and
- the underlying incompatible goals have been resolved in an outcome that is acceptable and satisfying to all the parties.

**Conflict transformation** addresses the wider social, political and cultural sources of conflict. It implies a deep transformation in the parties, their relationship, and in the situation that created the conflict. The term refers to the deepest and most comprehensive level of change in dealing with conflict. It has been suggested that conflict transformation involves change along four interdependent dimensions:

- personal: changes in the individuals involved, in terms of emotions, perceptions, physical and spiritual conditions etc.
- relational: changes in the relationship, including recognition of interdependence and improved ways of communicating and interacting.
- structural: changes in underlying causes of conflict, by focusing on basic needs, access to resources, and institutional decision making process.
- cultural: changes in cultural patterns of groups and in how they understand and respond to conflict.

## 2. Peace Terms:

**Peace** can mean the absence of direct, physical violence (referred to as "**negative peace**") or the notion refers to the presence of conditions for social justice and political equality, and that allow for constructive inter-group relationship ("**positive peace**"). The notions 'positive' and 'negative' convey no value judgment; they are merely used to indicate that peace is either defined by the *absence* of certain conditions (negative peace or fragile peace) or the *presence* of certain conditions (positive peace or sustainable peace).

**Peacemaking** means moving towards a settlement of violent conflict, by intervening to end hostilities and bring about an agreement between the parties. this generally entails facilitating negotiations between the parties, leading to a ceasefire agreement or a more comprehensive peace accord.

**Peacekeeping** generally refers to the positioning of (International) armed forces to separate the armed forces or militia of belligerent parties. These forces may be developed before and/or after the signing of a peace agreement. In both cases, peacekeeping is meant to bring a measure of stability to a particular region or country. Peacekeeping is now also often associated with civil tasks such as policing, monitoring and supporting humanitarian intervention.

**Peacebuilding** focuses on addressing structural issues, grievances of the past and long-term relationships between parties or groups in conflict, in order to strengthen negative peace and develop positive peace. Discussion about peacebuilding generally emphasise:

- tackling the root causes of conflict within societies;
- developing processes and institutions that can manage conflict in constructive, non-violent ways;
- creating participatory and accountable forms of governance;
- improving relationships and confidence between political adversaries; and developing shared norms and values.

## 3. Key Terms for DDR:

**Disarmament** is a central objective of demobilization. It consists of the collection, control and disposal of small arms, ammunition, explosives and light and heavy weapons from combatants, as well as from the civilian population. Disarmament is essential as a

confidence-building measure aimed at increasing stability in a very tense, uncertain environment with nervous participants and a wary population. All measures must be aimed at the mindset of participants, irrespective of whether these are standing armed forces, guerrilla groups, paramilitary or militia forces or civilians. Therefore, disarmament must include the development of responsible arms management programmes.

**Demobilisation** is a planned process by which the number of personnel under arms and in military command structures is significantly reduced. It includes the reduction in size of the regular military, paramilitary forces, as well as rebel groups (sometimes after their integration into new regular armed forces). In practice, demobilization usually involves the assembly, disarmament, administration, counseling, skills assessment and then the discharge of former combatants, with a compensation package and/or assistance programme in place.

**Reinsertion** is the assistance offered to ex-combatants during demobilization but prior to the longer-term process of reintegration. Reinsertion is a form of transitional assistance to help cover the basic needs of ex-combatants and their families and can include transitional safety allowances, food, clothes, shelter, medical services, short-term education, training, employment and tools.

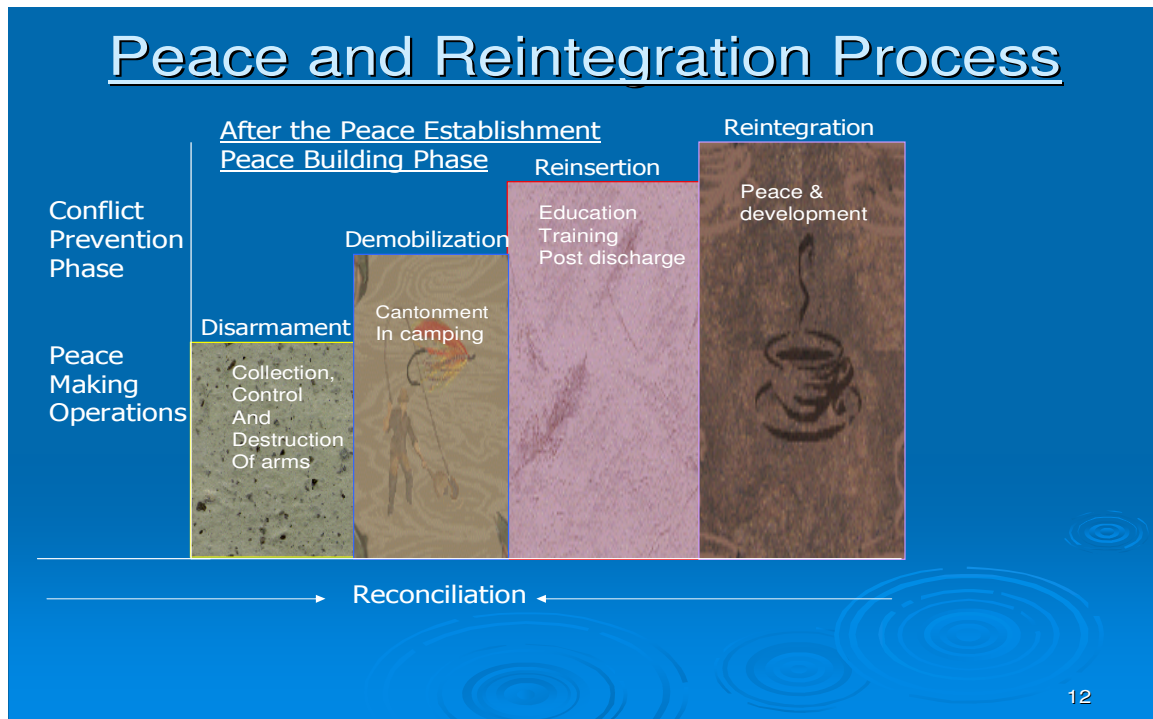
**Reintegration** is a complex economic, political, social and psychological process by which former soldiers make the transition from a military life to a civilian life. Reintegration is generally a long-term process, as it may take several years for ex-soldiers and their families to adapt to a civilian way of life. Hence a distinction is often made between economic, political, social and psychological reintegration.

**Economic Reintegration** is the process through which retired or demobilized soldiers achieve financial independence by securing a livelihood for themselves and their dependants through production or gainful employment. Economic integration is often difficult in areas where unemployment is high, poor economic growth exists and the individuals in question do not have marketable skills.

**Political Reintegration** is the process through which retired or demobilized soldiers participate in the political life of their communities, through interacting with, and/or participating in, community-based structures, processes and organizations. Examples include, amongst others, local councils, school committees, churches, trade and industry bodies and neighborhood watches.

**Social Reintegration** is the process through which former soldiers and their dependants consider themselves to be part of, and are accepted by the communities in which they live and society at large. The attitudes of communities towards categories of former soldiers are often dependent on the perceptions of the historical role these individuals played, and, if a major armed conflict had taken place, the degree of reconciliation in that society.

**Psychological Reintegration** is the process by which former soldiers make the psychological adjustment from a military lifestyle, which is generally characterized by a hierarchical system of command and control, where an individual's life is defined by a clear set of rules and regulations, to less formal and more flexible civilian lifestyle. Support and counseling may have to be provided to former soldiers who may be suffering from some form of psychological disorder as a result of being exposed to traumatic or life threatening events. In addition, some former soldiers may have lost the ability to be self-sufficient, as the military organization to which they had belonged, had consistently provided for their basic needs during the period of armed conflict



## **Conflict Transformation -10 key Ideas & Principles**

The term '**conflict transformation**' has become increasingly popular in the last decade in relation to efforts to address conflict in divided societies. It reflects the growing insight that, in order to address such conflict in a sustainable and effective manner, fundamental social, political and cultural change needs to take place. Conflict in a divided society tends to be both protracted and complex, with dynamics that have developed over long periods of time. Issues of identity, security, access to the political process and to economic resources and opportunities, relationships between different social groups are often highly polarized, characterized by mistrust, fear and enmity. Issues are defined in Zero-sum, or win/lose terms, where one side's gain is perceived as another side's loss; opportunity and advantage for the one comes at the expense of others.

In contexts like these, 'conflict transformation' is a more appropriate notion than terms like conflict resolution, mitigation, management, or peacemaking. It highlights that

substantial change must take place at a number of levels (including the behavioral, attitudinal, and structural), and in range of spheres, to transform actually or potentially violent conflict into peaceful processes of social and political change. Thus, conflict transformation refers to the deepest and most comprehensive level of change in dealing with conflict. It may involve change within the broader socio-political context; change to fundamental social, economic, political or cultural structures; change in values and world-views; change of or within main actors; a reframing or transformation of issues; and change in the dysfunctional nature of and communication styles within relationship .

### **Key ideas:**

1. The change that is sought of in the context of conflict transformation is of complex and multi-layered nature. It also implies that the *transformation of conflict is a developmental process: change is not a once-off event but a long-term process.*
2. Consequently, conflict transformation *must be conceived of as a process involving a range of strategies and activities that are sustained over a period of time, and that fit together in an overall program of change.* Key notions in this regard are: interdependence (between different processes and activities), comprehensive, and coherence.
3. *A conflict transformation process should be driven by a locally/nationally owned vision of a shared and/or inclusive future* (i.e. '**begin with the end in mind.**') Transformation can only take place if those affected by conflict own the problems, processes and desired outcomes. This highlights the need to look for, build on, and strengthen local capacity for constructive change.
4. *Interventions must consider the immediate problems to be addressed while at the same time be oriented towards long-term change* by considering the structural factors, patterns and relationship out of which such problems arise: the immediate problems or crises are embedded in larger, more systemic, factors and conditions. Immediate problems can thus be viewed as 'windows' on larger, structural problems (i.e. immediate crisis is an opportunity to uncover deeper issues & try to impact on more systemic factors and conditions.)
5. How the immediate crisis is addressed can either impact positively on root causes, or it can exacerbate them: short terms responses to particular problems must be done in such a way that they are geared towards long term change. *This means that it is not only the choice of activity that counts (i.e. what you do) but also the process of implementation (how you do of what you do.)*
6. Relationships are pivotal in that conflict happens in relationships and is an expression of the nature of relationships: relationships between different group and parties are both the result of structural causes of conflict (eg marginalization, exclusion, etc) and feed into such causes. Hence *relationship-building and*

*developing trust between key groups, are pivotal in a strategy to address root causes of conflict* in a divided society.

7. The design of *specific interventions in key sub-systems of society* (such as parliament, the security sector, education, health) presents a manageable way of working towards addressing root causes of conflict while having a short term impact at the same time. (sub-systems are institutions and social spaces established to order and structure political, economic and social life, and reflect the core structural realities in a society -interventions targeting this level can provide access for actions or strategies into the wider or underlying systems underpinning the functioning of society and organization of the state.)
8. In seeking to facilitate change, it is essential *to look for key agents of change* (the notion of '**strategic yeast.**') Key agents of change should not necessarily be conceived of (or be equated with) the notion of '**critical mass**' -it is not the numbers that count (i.e. quantity) but quality - i.e. who is involved (and quality of their relationship), rather than primarily how many are involved.
9. In this regard, it's particularly important *to look for actors that have the ability to move vertically and horizontally in society*. Vertical capacity means the ability to move up and down between levels of authority (grassroots, middle level, top level leadership); horizontal capacity means the ability to move horizontally across conflict lines, between different communities and groups.
10. The natures of changes proposed are longer that what project of 1 to 2 years can achieve-*it is important to expand one's time frames in thinking about interventions & design of interventions, and must go beyond the immediate short-term time frame* (1-2yrs) but also consider 3-5 yrs; 5-10 yrs; 15-10 yrs.) Short term time frames are both unrealistic but also potentially dangerous. Emphasis of external actors should therefore be on capacity-building and facilitating infrastructure & institutions that can take the change process further: building capacities and infrastructures for sustaining capacity to generate change.

## Forty-One Lessons from the

# South African Negotiations

Having reviewed the six years of negotiations in South Africa, it is possible to draw a number of lessons that may have some broader application. Some of these are techniques or approaches that were used successfully to build consensus, while others are drawn from the mistakes that were made in the course of the negotiations. Certain lessons apply only to particular contexts, and may even appear to contradict other lessons. The purpose of highlighting these lessons is to emphasize that negotiations are an important political tool. Most protagonists in an intense political conflict would not consider sending poorly-trained or poorly-armed militants into battle, yet they might treat negotiations in a cavalier manner, without proper consideration of the techniques and strategies required to achieve the desired political result.

### **1. Do not enter negotiations if the principal parties have no intention of negotiating in good faith**

At the outset it needs to be stated that where the negotiations are to be conducted as a charade and where neither party has any intention of negotiating in good faith, such negotiations are to be avoided until circumstances for negotiations are ripe. Premature negotiations will lead to frustrations, mutual vilification, increased levels of distrust and could even undermine any prospect of a successful negotiated settlement in the future when the circumstances have ripened. This is not to suggest that the negotiations are ripe only when both parties are near agreement. On the contrary, it is for the negotiations to effect a narrowing of ever wide differences. However, if the exercise is a sham undertaken by parties who harbour a military solution, and who undertake the negotiations in form only so as to appease donors, international opinion or investors, the end result will be to set back real negotiations.

### **2. Include all parties**

In general it is important to be inclusive with regard to the process, particularly where the objective is to create a framework for binding a variety of agreements. An inclusive process provides a better platform for stability, acceptance of the new political order and loyalty to the nation. Even a small minority, standing outside the political framework can seriously destabilize and disrupt a new constitutional state.

### **3. Promote joint ownership of the process**

Before parties participating in the process commit themselves to meeting their obligations, they must believe that they have joint ownership of the process. Bear in mind that frequently opponents, or their chief negotiators, need to be able to sell the agreement to their principals and their party's constituency. In South Africa, the NP's chief

negotiators were perhaps the ANC's most crucial allies. Their task of convincing the government or cabinet to accept agreements reached that would diminish their power was frequently more difficult than that faced by the ANC's negotiators. This type of confidence-building in the process is possible only when opponents are committed to the success of the process because they see themselves as joint owners of it.

#### **4. Promote joint ownership of the product**

It is important for an agreement to reflect the shared concerns of the parties. An agreement should not be viewed as an opportunity for meeting the demands of one party only. Of course, parties that co-own the process are more likely to claim ownership of the end product. But this is not necessarily so. The content of the agreement must also reflect joint ownership. This can be done by allowing the other side's formulation of a provision if the formulation reflects a common or shared view. It can be done by addressing issues of symbolic importance to the other side but of no moment to your side. It can be done by ensuring that every agreement addresses issues raised by every party. It can be done by insisting on joint drafting of the product.

#### **5. Build trust among the negotiators**

There are a numerous ways of building both personal and professional relationships of trust in a negotiation process. What is poisonous to relationships, is if one party fails to keep to or honour its commitments or its side of the bargain. This applies particularly to agreements regarding the confidentiality of the negotiations. More than one negotiation process has broken down simply because one or other party has attempted to exploit the meeting by revealing aspects of the negotiations to the media in breach of a confidentiality agreement.

#### **6. Avoid negotiating with messengers**

It is relatively common for leaders to send representatives who have no mandate to truly negotiate. Messengers, in effect, simply relay messages. In such circumstances, the real negotiators are not present in the process, are not subject to its pressures or its disciplines and may have limited commitment to the success of its outcome. Confidence in the process is thus compromised and makes joint ownership of it and the product more difficult to attain. In South Africa a division could be detected between insiders (from all parties) and those who were not part of the negotiation process, particularly members of the government and cabinet. Where such outsiders have the power to veto the product of the negotiations, it is preferable to find methods of involving them more directly in the process.

#### **7. Parties should avoid accepting responsibility for meeting or keeping to conditions they cannot meet, keep or enforce**

This applies particularly to accepting responsibility for the conduct of parties or armed wings of parties not under the authority of the negotiating party. Failure to meet

commitments undermines the process and reduces the status (domestically and internationally) of the erring party. It also casts doubt on the negotiators' capacity to negotiate in the negotiations and to speak for their constituency.

## **8. Principles and details: “technicians” and “diplomats”**

The importance of having negotiators who can negotiate both general principles and detailed implementation cannot be emphasized enough. Negotiating teams should be made up of both “technicians” and “diplomats”. “Diplomats” are negotiators who have a special capacity to secure broad agreement on matters of principle. The problem with “diplomats”, though, is that they are often not the appropriate people to hold the ground won in negotiations on matters of principle. Ultimately, it is details that ground an agreement and secure its implementation, and the “diplomats” find themselves blown backwards. “Technicians”, on the other hand, hold the ground by battenning down the details of the agreement. Negotiating teams frequently require both “diplomats” and “technicians” to reach effective agreements. In South Africa agreements on the release of political prisoners, for example, generated considerable animosity and frustration in the course of its implementation, as the principals neglected to negotiate definitions, timeframes and similar details.

## **9. Agree to the rules of the process at the outset, in particular the eligibility of parties**

Because the leadership and nature of parties can change, the process should take into account in advance that should be able to participate in the negotiations. This is especially important when one or other side tries to swamp the process with surrogate parties or additional representatives.

If there is a misunderstanding about the rules of the process, complications will arise, including possible allegations of bad faith. If the rules have not been negotiated, or have not been negotiated in proper detail at the outset (before disputes arise), it may be difficult, even impossible, to re-negotiate the rules of the process once a dispute has burst out into the open. Re-negotiating rules is particularly difficult if a new rule appears to favour one side over the other with regard to a particular issue under discussion or in dispute. It is far better to agree on the rules of procedure and the obligations of the parties with cool heads at the outset, rather than in the heat of debate when the process is well under way. In particular, it is worth considering which body or person can authorise or nominate the particular negotiating team.

## **10. Choose an appropriate decision-making formula**

Depending on the nature of the negotiations and the bodies represented, the decision-making formula may take a consensus or a majoritarian form. In the South African process, an important development was the application of “**sufficient consensus**”. This refers to significant consensus amongst all the parties, as well as on an agreement by the major players. It did not, however, require unanimity. Sufficient consensus effectively

prevented small players, who carried little weight in society, from using a veto to block the negotiating process (see section 41 for more details on the principle of sufficient consensus). Significant problems can arise further down the line if there is no clarity on the decision-making formula and the decision-making powers of the negotiating forum itself. In this regard, the Irish peace process has subsequently adopted the “sufficient consensus” modality of reaching agreement.

## **11. “Setting” the negotiating table**

“Setting” the negotiation table is a generic term that covers the arrangements regarding:

- Who actually sits at the negotiating table (which parties and represented by whom);
- Where they sit (in a hall, around a table and with what type of hierarchy, for example, will parties sit in a form of pre-eminence); and
- In what sequence they sit (in delegation, in mixed format, across the table, etc.).

Different negotiations require different formats and “setting” the table correctly can be decisive in promoting an agreement.

## **12. Treat both your opponents and allies with respect**

It is important to avoid triumphalism at the conclusion of an agreement. Triumphalism can make your opponents suspicious about the agreement or agitate their supporters. In any event, claiming victory is not conducive to the process of building joint ownership of the agreement. If this is true for your opponents, it is also true for your allies who should not be treated as junior partners. It is vital to treat both your opponents and allies with respect, at least, publicly.

## **13. Develop an awareness of the multiple audiences that need to be addressed about the negotiations**

In addressing the issues, demands and related matters, you must be aware that the audiences listening include not only your own supporters, but the constituencies of the other parties and civil society elements. It may be necessary to talk in different ways when making statements directed at different audiences. And take note that this rule also applies to your adversary. Accordingly, do not be offended if your opponent “talks up” their performance at the negotiations when reporting to their constituency. For these reasons, clear lines of communication between adversaries are needed to prevent misunderstandings about what in reality may merely be a public relations exercise. Similarly, if you “talk up” your performance at the negotiations (for example, claiming you have defeated your opponent), it may place unbearable pressure on your opponent from his or her constituency to leave the negotiations.

#### **14. Maintain constant communication with your grassroots or constituency**

It is important to build in both time and opportunity to obtain the views or consent of your support base. This is critical if your agreement is to be supported by your constituency. Communication not only keeps your support base informed and prevents suspicion building over the negotiations, but it also offers an important opportunity to introduce them to strategic considerations and thinking, which in turn enables them to appreciate the nature of the negotiations and the agreement. It is important for grassroots and leadership alike to appreciate that negotiating with an adversary does not constitute capitulation or “selling out” to a cause. In any event, agreements usually require that members of your organisation will be obliged to behave or conduct themselves in a particular way. They are more likely to do so if they have been consulted. Indeed, it may be wise to insist that your adversary does likewise for the same reasons.

#### **15. Consider when to hold confidential negotiations and when to conduct them in public**

Certain kinds of negotiations can only be held in private, but in other circumstances the very confidentiality of the negotiations can arouse suspicion. In general, negotiations conducted publicly frequently give rise to posturing and are used as public-relations exercises. Parties to the negotiations use their enhanced visibility to talk not to parties in the negotiations, but to their own constituencies. When this occurs, negotiators may find their opponents unwilling to compromise — the focus shifts away from responding to the substance of the negotiations to how a party will appear to outsiders. Negotiations can often be separated into two processes — one invisible and informal where real negotiations and trade-offs take place and a second where an agreement is “publicly” recorded.

#### **16. Be creative and flexible in the use of negotiating forms**

Where there are two major contending forces, negotiations may best be conducted bilaterally. Where the objective is to reach an inclusive agreement with the diverse parties, multi-lateral negotiations are suggested. In the case of the National Peace Accord (see appended document) in South Africa, multi-lateralism and inclusivity were used to put pressure on the major parties to submit to the popular demand for peace. In certain circumstances it may be preferable to leave the highest level of leadership out of the negotiations so that they can play a mediating role in the event of a deadlock. In South Africa provision was made for such deadlock breaking at two levels:

- The channel involving the two chief negotiators, Roelf Meyer of the NP and Cyril Ramaphosa of the ANC; and
- The summit involving the two main leaders, Nelson Mandela and F.W. de Klerk.

The role of leadership by means of their indirect participation in the negotiating process is crucial. It was considered important to have a mechanism at a level higher than the negotiators to resolve deadlocks or breakdowns in the negotiations. Had Mandela and De Klerk participated directly in the on-going constitutional negotiations, there would have been no such higher authority. Furthermore, Mandela and De Klerk were spared any damage to their stature and personality, which could have followed direct engagement in acrimonious exchanges.

## **17. Maximize the participation of women**

In South Africa the special attention paid to maximizing the participation of women in the negotiations was considered important for many reasons. All the political parties were required to ensure that women made up fifty per cent of their voting delegates. Initial reservations to this prescriptive ruling — even resentment against this externally imposed quota — gave way to some surprise on the part of all the participants at the special value and perspectives that women brought to the negotiations. It should be self-evident that in any situation where more than fifty per cent of the population comprises women, they should therefore be well represented in negotiating teams across the political spectrum. However, this is seldom the case. Often women are regarded as a silent and invisible component of political organizations. Yet women bring a capacity to find common ground to the table, because they often share similar experiences in violent conflict (mostly as casualties) and common perspectives on the effects of war, (such as loss of children and injury to and break up of the family). These experiences and perspectives cut across political positions. In South Africa, the establishment of a multi-party women's coalition played an important role in bridging race, class and political differences. The presence of women at the negotiations also increases the likelihood that the outcome of the negotiations and the emerging political culture will be gender sensitive and address gender issues. All too often, women have found that once political negotiations have been concluded (most often in their absence), the task of establishing a gender equity agenda is difficult.

## **18. Build alliances for a coherent negotiating process**

It is in the interests of the leading and contending forces in a negotiating process to build alliances with political and civil society allies, either within the negotiating process or outside it. Building alliances can:

- Promote inclusivity (by maximising the range of groups involved in the negotiations); and
- Address the need for the process to be manageable and effective.

In the context of a variety of loose organizations, each claiming its right to control the process or determine its outcome, negotiations are often chaotic, frustrating and flounder without direction. (The Burundi and Congo dialogues displayed these features) Building coherent blocs of political opinion allows the negotiations to take place between a few

(preferably two) pre-eminent positions. For those blocs to maintain coherence, alliances need to be developed between the allies in each bloc. Generally, a party may have to take a leading role in encouraging the crystallization of an alliance around it. In South Africa the negotiations were given direction and coherence because all twenty four parties recognized that, despite their formal equality of status, there were in fact two lead players, the ANC and the ruling regime. It then fell upon these two lead players to ensure that deals struck between them would be accepted by the alliance partners falling under their respective umbrellas. In contrast, the Burundi peace talks, amongst others, were a shambolic process, because of the inability of the various participants to recognize the key players.

## **19. Develop a single text**

It is not unusual for negotiations to commence with a profusion of contending texts and proposals. This proliferation of texts may serve the initial purpose of bringing all parties on board. However, it is advisable to consolidate proposals into an appropriate text at an appropriate moment, even if the text itself allows for options and contending solutions. A single text allows all the parties to concentrate on the same text that is before them. Where there is a proliferation of texts, parties talk only about their own proposals and hence past each other. In addition, they become entrenched in the formulations they originally proposed and the text they know and are comfortable with; movement to a compromise position becomes ever more difficult. In South Africa, third parties or experts were used to generate common texts, which allowed for parties to accept compromises without losing face (see section 20 below on the role of third parties).

## **20. Using third parties or experts to mediate or to make independent proposals**

Whether and when to use third parties (that is, experts, foreigners or international organizations) is a matter of judgement. However, the following considerations may assist in deciding this:

- Agreements forged between parties without any external assistance are likely to result in parties having greater pride, a sense of achievement and ownership in them. It is easier to walk away from an agreement or a process if it is owned or managed by an international agency or foreign power (for example, the Tanzanian process, the Norwegian agreement and United Nations mediation);
- Constitutional negotiations (negotiations concerning the causes of bitter division) should be approached as an opportunity for nation-building and promoting a common culture of national self-reliance;
- Use of third parties can be both a strategically important tool in forging consensus, as well as a necessity imposed by the conditions under which the negotiations take place;

- Where the relationship between the parties is so antagonistic, or where there is little prospect of finding agreement on the basic elements of the negotiating process (for example, who will chair the talks, deciding the venue or the agenda of the talks, etc.), it may then be necessary to request the assistance of an international or independent agency to play that role. The involvement of such an agency, organization or nation state can also serve to internationalize the negotiations and assist in imposing restraints on a regime in power. However, even where there is such third party facilitation or mediation it is still possible to insist that the process belongs to the parties (for example, the Anglo-Irish talks chaired by Senator Mitchell) rather than the mediator.

The most important task for experts or third parties is generating proposals and propositions in circumstances where the parties themselves could never accept, or be seen to be accepting, proposals emanating from the enemy, or even compromising on their own propositions. This is often the case in the politically-charged atmosphere of peace negotiations. Proposals by politically-literate third parties, who are informed and acquainted with the fall-back positions of both parties, can serve to provide propositions acceptable to both because they are face saving.

## **21. Learn negotiating skills: prepare for negotiations and analyse your adversary**

Key political actors regard political and military engagement as a professional activity, yet see negotiations as an intuitive or amateur activity. However, negotiations will often be the most important determinate in the outcome of any struggle for democracy and liberty. Indeed, almost all political engagements or military conflicts are finally concluded with “**end-game**” negotiations. Victories won on this terrain can be lost in the details of a negotiated agreement. Preparing for negotiations may involve undertaking the following:

- Comparative international research;
- Diplomatic ground work;
- Internal strategizing and formulation;
- Preparation of opening and fall-back positions;
- Analysing your adversary’s position;
- Analysing your adversary’s strengths and weaknesses;
- Consulting one’s constituency or membership;

- Formulating ways to accommodate your adversary's anxieties while meeting your own objectives; and
- Learning negotiating skills (see section 30).

## **22. Avoid negotiating with opponents who are unskilled negotiators**

It is a questionable blessing to have unskilled and unprepared negotiating partners. It is certainly possible in the short-term to exploit confusion, ignorance and inexperience in an adversary. But the problem of negotiating with such opponents is that they tend not to follow the rules of negotiations. They may renege on undertakings or agreements. Most often, however, if your adversaries lack confidence, they will take no risks, be uncomfortable in the negotiating process and will balk at entering serious negotiations. The frustration of dealing with such negotiators is greater than any short-term advantages. In South Africa, ironically, the ANC possessed the more astute negotiators who were better armed with comparative research (from their greater international exposure) and better equipped with an intellectual support-base experienced in negotiations (from years of trade union negotiations at both shop-floor and industry-wide levels). Authoritarian governments usually have little negotiating experience, as they have never had to negotiate. The South African government was initially awkward and hesitant in the cut and thrust of bargaining, which was disadvantageous to the process. The process improved as they became more experienced. During peace negotiations in the Horn of Africa and the Great Lakes region in the late 1990s, it was recognized that parties to the conflict needed basic training in negotiations for effective peace talks to occur. In other contexts (South East Asia and South America to the author's knowledge) it is military insurgency movements whose approach to and understanding of negotiations that constitute barriers to effective peace processes.

## **23. Use time-frames to avoid an endless negotiating process**

All negotiating processes need to be approached with a measure of flexibility, both with regard to time-periods and the subject of the negotiations. However, such flexibility should be by agreement of the parties and not because one party has the capacity to drag out or stall the negotiations. In any negotiation there is normally a party that is seeking to negotiate change and a party seeking to resist it. In such circumstances, the party resisting change always has a vested interest in drawing out the negotiations, while the party seeking change is under pressure to make compromises simply to obtain the changes sought. Some of the most important issues to establish in a negotiating process, and with regard to any substantive constitutional reform being negotiated, are the questions of time-frames and deadlock-breaking mechanisms (see 24 below).

Time-frames set out the period within which elements of the process must be finalized. The objection to time-frames is that they impose an external discipline or parameters on a difficult and sensitive process. Parties that enter into a process without time-frames may find themselves trapped in an unending process, where they are obliged to continue

negotiating in a context where there is no serious intention to affect a real transition or peace.

## **24. Consider deadlock-breaking mechanisms**

Deadlock-breaking mechanisms are methods by which deadlocks or impasses that serve to prevent any agreement being reached or the process being finalised can be overcome. Such mechanisms may include:

- Third-party arbitration by an international organization (for example, in the Arusha Peace and Reconciliation Agreement for Burundi, third-party intervention is considered as a deadlock-breaking mechanism); and
- Bringing into play some means of disadvantaging an intransigent party (for example, in South Africa a referendum was to be used to resolve deadlocks in the Constitutional Assembly).

## **25. Managing carrots and sticks**

One way of ensuring continuing momentum to the negotiations is to tie carrots (rewards) and sticks (penalties) to the completion of phases of the negotiations. A common benchmark used in South Africa (and elsewhere) was the notion of “irreversibility”. Irreversibility marks the point where the process is so advanced that the status quo ante cannot be restored. When regimes enter into a negotiating process only to avert international censure in order to secure the lifting of boycotts and sanctions, the relief or reward should be tied to the irreversibility of reform processes and not merely to their commencement with the process.

The ANC for its part, sought to reward its negotiating partners by progressively supporting the normalization of South Africa’s economic, sports and cultural life. The softer sanctions (such as the sports boycott) were lifted early as a distinct carrot — a reward for steps taken by the government to normalize its practices and policies in the country — even though the process was not yet deemed irreversible. It was only when the process became irreversible, that the ANC argued in favour of lifting the most effective of the sanctions — economic sanctions.

## **26. Develop mechanisms for dealing with internal division and anticipate problems**

The negotiating process places stress on political organizations. Aside from being a period of heightened political activity and intrigue, there will be behind-the-scenes positioning for political leadership. Compromises reached in the course of negotiations will expose party leaders to criticisms and even ridicule. Unity within alliances and political parties will be tested. In addition, the political unity of a resistance movement

will be tested as the prospect of a multi- party electoral democracy becomes more real. It is important to anticipate such divisions and to establish mechanisms and structures for dealing with political differences without compromising the negotiations themselves. The problems may include issues relating to converting broad resistance movements or family parties into political parties.

## **27. You must win victories or make gains to justify your participation**

For a negotiating process to be sustainable it needs to be viewed as a plausible strategy for accommodating the objectives of all parties. It is critical that political parties and their constituencies perceive the advantage of negotiations as a means of resolving differences. Therefore, the parties should from the outset be able to justify their participation with regard to a distinct improvement in the position of the party, its supporters or the citizens at large. Parties need concessions from their negotiating partners to satisfy their own militants. Strategic approaches to negotiations will recognize this. In South Africa the measures designed to build confidence in the negotiating strategy involved securing the release of political prisoners, the repeal of racist legislation and the cessation of hostilities. In the absence of visible benefits from the negotiating strategy, critics will increasingly spread scepticism concerning the benefits of the negotiations. In South Africa, the upsurge in violence and assassinations by the “third force” nearly derailed the negotiations.

## **28. The questionable benefit of undermining your adversary’s support-base**

A mature approach to the negotiating process recognizes that both parties need to justify “sitting down with the enemy”. For negotiations to succeed, it is critical that both major players retain the confidence of their supporters. It is therefore necessary to recognize that your opponent must show the visible benefits of negotiating with you. In South Africa the ANC recognized this factor and suspended, temporarily, its armed struggle so that the regime could justify negotiating with it, and later supported the lifting of certain categories of sanctions (that is, sports and cultural sanctions).

It is also short-sighted to believe that undermining and dividing a negotiating partner will strengthen the outcome of the negotiations in your favour. Such strategies may lead to:

- Introducing an atmosphere of hostility and distrust into the negotiations;
- Withdrawal of the opposition if they feel overly threatened or humiliated through the negotiations; and
- The opposition merely participating in the negotiations as a hollow shell, without its constituency (for example, the armed forces).

A fragmented and disintegrating adversary is not always optimal. You may find that your opponent’s forces coalesce behind a more extreme party which is then outside the

discipline and reach of the negotiations process, or that the opposition's authority has been weakened to the point that it cannot sell, and hence cannot sign, the agreement.

## **29. The risks of delaying, stalling or suspending negotiations**

There will probably be deadlocks in any negotiating process. But do not underestimate the importance of maintaining the momentum of the negotiations. Progress begets progress in negotiations. One agreement induces another. As some parties go on to successfully participate in the negotiations, other parties will join the process. The contrary is also true. When the negotiations are suspended, the process usually moves backwards. It is like walking in the opposite direction on an escalator; if you stand still, you move backwards. The personal chemistry between the negotiators is eroded and the parties dig deeper trenches around their positions. Off-the-table developments may subject the already fragile and possibly discredited process to possible rupture. There may always be a good reason to suspend negotiations — sometimes to exercise organizational or political muscle — but suspension should be undertaken with the knowledge of its consequences. In South Africa the suspension of the negotiations after CODESA came to be seen as a mistake, as the security and political situation in the country deteriorated sharply.<sup>4</sup>

## **30. Distinguish between “interests” and “positions”**

The cardinal rule for effective negotiations is to distinguish between:

- **Interests** — the objectives you seek to protect or achieve; and
- **Positions**— the exact mechanisms, formulations or propositions advanced as the means to achieve your objectives.

The most common barrier to effective negotiations is the confusion between interests and positions. Parties frequently lose sight of the interests and objectives informing their positions. They become obsessed with defending the proposals (positions), which are in fact only the means. The problem frequently arises because campaign or struggle slogans often attach to the position or tactic rather than the long-term interests and principles. Positional bargaining occurs when parties become obsessed with their position and find it difficult to shift from that position. Effective negotiations require the parties to:

- Look behind their respective positions;
- Identify the true interests or underlying objectives;

- Identify compromises that, as far as possible, allow both parties to have their real interests addressed;
- Identify the technical aspects to be negotiated and do the necessary comparative research;
- Learn the technical skills of negotiations; and
- Do the necessary groundwork within your own movement or party so that you can negotiate with the appropriate mandate and with the necessary tactical flexibility.

### **31. Creative or dangerous ambiguity**

How precise should an agreement be? Should there be exactly the same understanding of the problems and solutions amongst all the parties? The truth is that ambiguity can be both a blessing and a curse. It is a curse where there is indeed a need for both parties to have exactly the same understanding of a matter (whether this relates to the process or the product). On the other hand there are various situations that make it impossible for the parties to have precisely the same understanding of a matter. In the Burundi negotiations, for example, the parties were required to reach agreement on the history of Burundi. Such agreement as was reached necessarily relied on general statements to satisfy both sides, either because of the generality or the ambiguity.

However, there are issues to which reference must be made in a peace agreement but which are not ripe for finalization. There are also issues that are not central, with solutions acceptable to one side, but not the other. In such cases the need to make progress in the talks to prevent a deadlock may allow the parties the licence to frame the solution in a creatively ambiguous manner, with each side being aware of but ignoring the different interpretations yielded by the formulation.

“**Creative ambiguity**” is thus a label used to describe an agreement in such general terms that it embraces the different understandings and demands of various parties. For example, an agreement stated as “the provinces shall have all the necessary legislative executive and financial powers to perform their functions” allows both parties to have very different conceptions of what the appropriate powers of the provinces might be. Yet it is possible to proceed to negotiate the next item on the agenda, the concrete specification of the powers of provinces having being deferred to a later stage in the process when there is greater clarity on the federal structures and a greater degree of consensus on the shape of the future state.

### **32. By-pass problems**

Because of the imperative of making progress in the negotiations, negotiators can and should look to areas where they are likely to obtain agreement, rather than commencing with an initial item which they are unlikely to find agreement on, at least, until greater

common purpose has been found. For this reason, negotiators should pass over areas where no consensus can be reached, rather than imposing a rigid sequence or order of matters to be agreed. It can be problematic if the agenda for negotiations requires matters to be dealt with sequentially (and separately). This precludes the parties from by-passing the issue. Reaching agreement on a significant issue may be deferred if:

- Agreement would be impossible to obtain because of the acrimony between the parties;
- Agreement would be impossible to obtain because the levels of trust do not permit an agreement on that issue at that stage of the negotiations;
- The parties have not considered the matter properly; or
- “Risk-taking” is not possible at that stage in the negotiations.

In such circumstances the issue could either be moved further down the agenda or a process solution to the issue could be sought (see Section 33 below).

### **33. Finding a process solution to a substantive impasse**

Certain issues will not yield a solution that is shared by all the parties. For example, one party may demand the release of political prisoners, which may give rise to debate about the definition and identification of political crimes and political prisoners. However, not all problems or issues require final resolution at the negotiations.

A process solution to a substantive impasse involves recognition that it is not possible to bridge the differences that exist between the parties in the negotiations. The way in which the problem will be solved in the future is agreed, rather than attempting to resolve it there and then. Intractable matters can be:

- Deferred by agreement to a later stage of the negotiations;
- Deferred to another process or body;
- Resolved by means of establishing a joint committee, mechanism or body to resolve the dispute either concurrently or in the future;
- Resolved by identifying an international organization to facilitate resolution; or
- Resolved by formulating a procedure that will deal with or “process” the problem; for example, establishing an independent commission to define political crimes and to identify political prisoners; and establishing a representative or expert body to establish the share of national assets or

revenue to be apportioned to states, regions or provinces, instead of attempting to resolve such technical issues at high level negotiations.

In South Africa, process solutions were used to deal with issues or aspects of issues, including the Land Claims Court with regard to land claims and the Truth and Reconciliation Commission (TRC) with regard to amnesty.

### **34. Conditional bargaining**

In negotiations many parties, quite understandably, will not offer compromises for fear that these might weaken or diminish their negotiating position without extracting corresponding concessions from the adversary. In such cases both parties should be encouraged to offer conditional compromises, that is, compromises which do not come into force unless conditions regarding matching compromises are also tabled. In this way parties preserve their overall position and are encouraged to enter the bargaining process without losing any ground.

### **35. Single-issue negotiations do not allow trade-offs**

Where negotiations concern a single issue with a “yes-no” outcome, negotiations are self-evidently difficult. Such negotiations do not allow for compromises, matching trade-offs or bargaining. They are blunt negotiations in which one party must concede, and may be unwilling to do so, if only because of the appearance of defeat. For this reason, it is preferable to enter into negotiations over many issues. This allows for “package bargaining” where concessions on one issue can be matched by victories on other issues. Where there is a single issue of substance, it may be useful to break the issue into component parts and present it as a set of issues (for example, cease-fire negotiations, amnesty, etc). Similarly, negotiations should not be conducted in an ordered or fixed sequence where each issue must be separately negotiated in isolation before preceding to the next. Negotiating in this fashion reduces a basket of issues to a sequence of single-issue negotiations. In South Africa, in the final hours before the expiry of the deadline for agreeing on a new constitution, a number of emotive issues, including mother tongue education and the property clause, were outstanding. The parties’ mandates had been exhausted on each of them. It would not have been possible to reach a settlement if each issue had been negotiated separately. A final solution became possible only when all these intractable issues were collected together and a package of concessions was agreed in terms of which the parties were able to share a balance of losses and gains.

### **36. Choosing your targets: using compromise as an offensive weapon**

To some, the concept of compromise suggests a weakening of a party’s position and a concession to the other side. This defeatist and defensive understanding of compromise misconstrues the nature of negotiations. Offering to compromise can be a most aggressive and strategic intervention, throwing adversaries off-guard and placing them

under inordinate pressure to make a concession. By compromising, a party can seize the initiative in negotiations and shape the areas in which the adversary is required to compromise. If a party desperately needs to protect its interests regarding issue A, it may make compromises in the areas of B and C, while pressurizing its adversary to compromise in area A. Once again, this underscores the importance of properly preparing for talks and developing a negotiating strategy.

### **37. Pre-conditions, and “opening” and “fall-back” positions**

The question of whether a party should insist on pre-conditions being met before it negotiates will depend on the context and circumstances of the negotiations. In general, pre-conditions can be unhelpful to the party advancing them, especially if they are rejected and the negotiations do not get underway. There is no opportunity to develop reformulated pre-conditions. Parties that insist on pre-conditions are frequently left with no option but to capitulate and abandon them, if only to allow negotiations to get under way. It is only in face-to-face negotiations that so-called pre-conditions can be addressed.

Similarly, it is important to distinguish and consider the difference between opening positions and fall-back positions. Such a distinction enables a party to negotiate without an all-or-nothing approach. In an all-or-nothing approach, unless the demand is met in the terms in which it is advanced, the party is required to either capitulate or abandon the negotiations. In any event, strategically, an adversary may be most prepared to accept your proposal if it is the outcome of some give-and-take. An opening and fall-back position anticipates this.

### **38. “Sunset” and “sunrise” provisions**

In negotiations there are frequently issues of fundamental importance to one party, but unacceptable to the other, at least in the short-term. In South Africa some intractable issues were resolved with the help of sunset and sunrise conditions:

**38.1 The sunset clause:** A sunset clause allows for:

- Introducing a provision which will lapse after a period of time (say five to ten years);
- Introducing an expedient provision that provides reassurance to the other side, but will not become an enduring feature of the country’s political and economic life; and
- Letting both sides claim advantage from the measure, the one in the short-term and the other in the long-term.

In South Africa the political settlement provided for a government of national unity which was subject to a sunset clause. A sunset clause can also be used to provide for a phased reduction of the role of the military in a society. Indeed, a sunset clause would lend itself to such a task because it allows negotiators to deal in principle with the confinement of the military to a proper military mandate, while not directly threatening the status quo. Such a sunset clause has been proposed for Indonesia where the TNI (the Indonesian armed forces) have a right to representation in all legislative structures. This clause would have allowed for the immediate acceptance of the principle of demilitarizing the legislature, but is likely to engender only limited opposition to the measure in view of its deferred implementation. Such clauses are suggested where it is necessary to achieve a phased disengagement of the military. (In Indonesia, this question was still being debated at the time of writing.)

**38.2 The sunrise clause :** A sunrise clause allows for:

- Enshrining some essential element of a party's political programme in the settlement and as a central feature of the future dispensation;
- Deferring implementation temporarily in the interests of creating the conditions for transition; and
- Letting both sides claim advantage from the measure, the one in the short-term and the other in the long-term.

In South Africa the political settlement provided for a sunrise clause on democratically-elected local governments. This addressed the concerns of traditional leaders on the one hand, and the anxieties of certain predominantly white rate-payers on the other, and was to be fully affected only after a period of time.

### **39. Distinguishing the specific phases and commitments in a cease-fire agreement**

Many political or peace negotiations involve contending belligerent parties. Although this paper has concerned itself with methodological rather than substantive issues, a word of caution is warranted with regard to the question of agreeing on a cessation of hostilities and a comprehensive cease-fire. In most, if not all negotiations, one of the recurring themes in the sustainability of peace agreements concerns the inadequacy of the text dealing with aspects of cease-fire. It is important to spell out the fundamental aspects clearly. Many of the technical aspects of a cease-fire agreement can be left to the relevant military experts and personnel. However, the baseline distinction must be clearly and commonly understood between:

- Suspending hostilities, pending the negotiation of a cease-fire; and
- Negotiating a comprehensive cease-fire itself, together with the obligations of the belligerent forces at each stage.

There is no place for “creative ambiguity” regarding questions such as:

- When are the belligerent forces to cease armed actions?
- When are the belligerent forces to decommission, that is, surrender their weapons and ordinance?
- When are the belligerent forces to commence the process of integration or demobilization, as the case may be?
- How are combatants to be identified?
- How are breaches of agreements and defaulters to be dealt with?
- Which body will monitor or adjudicate the observance of the cease-fire?

Confusion over these issues bedevilled the South African process, and continues to be a source of tension in the Northern Ireland peace process and in various African peace initiatives.

#### **40. Give considered attention to the mechanisms, details and funding of implementation**

There are a variety of modalities of implementation. A recent survey of peace agreements concluded in Africa reveals that it is often at the beginning of the implementation stage that agreements break down or fail to take off. Consider:

- Ways in which agencies will be precisely identified to implement the agreement;
- Ways in which agencies will be mandated to implement the agreement;
- Ways in which all parties assume joint responsibility (for example, a joint implementation committee); and
- Ways of invoking the necessary external guarantees to hold the process to its agreed course.

The implementation plan may have to:

- Distinguish various phases of the implementation;
- Establish its time-frames;
- Identify the international bodies, friendly states or moral guarantors who will play specified roles in the process;

- Specify who will represent the process in its dealings with the outside world; and
- Specify where the funds for implementation will come from.

#### **41. Sufficient consensus**

In multi-party negotiations in the absence of any agreement on decision-making, it is not unusual for the decision-making to be determined by consensus. In such an event all parties are held captive by the veto of any one party. This can make negotiations tedious, cumbersome and difficult to manage.

On the other hand, if decision-making is going to be by majority vote, then many parties will not participate, not least because no negotiations need take place at all. In such a situation a decision will be taken, not in accordance with the weight (or the reasoning) of the parties, but in accordance with the sentiment of the majority of the participating parties, even though such parties may not have substantial support or influence outside the process. In such circumstances the important parties may not wish to participate for fear of being out-voted.

“**Sufficient consensus**” is a compromise between these two positions. In effect it guarantees for the major players that their consent is a prerequisite before a decision can be made, but it removes the veto from smaller or individual parties. The notion of “sufficient consensus”, developed in South Africa, has now been used in other negotiating processes.