Issues in Conflict Resolution

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Abstract

With regard to various issues in dealing with conflict, it is important to bear in mind not just overt, physical violence, but also the sometimes subtly disguised forms of structural and cultural violence. As to the components of conflict, the focus should not only be on hostile behaviour, but also on prejudiced attitudes and incompatible interests. From such wider perspectives meaningful insights may be developed about cultural values underlying conflicts, and power issues in the field of mediation. More attention may be given to the effects of changes in leadership on conflicts and their resolution, and to several constitutional and procedural ways of promoting post-conflict confidence building. During the crucial stage of monitoring and managing the implementation of an agreement, the various forms of violence and the different components of conflict should seriously be taken into account. Such a comprehensive understanding can even lead to a wider application of certain conflict resolution and restorative justice methods, so that they can contribute to conflict prevention. Diversified knowledge, insight and expertise can indeed improve the quality and effectiveness of present-day conflict resolution.

Introduction

Conflict management in general, and conflict resolution in particular, is almost entirely determined by our understanding of the composition of a conflict, and not only by its symptoms. In the same breath it is also important to question whether conflict resolution and peace are synonymous. In some instances the study of conflict (and its resolution) is limited to instances of physical violence (notable in this respect is the approach of the Department of Peace and Conflict Research in Uppsala, compared to that of the Department of Peace and Development Research in Göthenburg), in others a broader approach is adopted in terms of peace (like the Peace Research Institute in Oslo). Without further belabouring the point, it could be accepted that studies in conflict resolution or peace are diverse in their approaches, and therefore a summation of issues in conflict resolution is an ambitious undertaking. For the purpose of this discussion and as one of the points of departure, it is useful to note Johan Galtung's (1990:291-295) additions of structural and cultural violence to physical violence. Approaches and techniques in conflict resolution can greatly benefit from Galtung's (1969) description of conflict in terms of the following three necessary components: firstly, incompatibility of interests (or a contradiction), or what C R Mitchell (1981:18) calls a "mis-match between social values and social structure"; secondly, negative attitudes in the form of perceptions or stereotypes about others; and thirdly, behaviours of coercion and gestures of hostility and threat. Politics by definition functions in contexts of scarcity: scarcity of resources, scarcity of power, scarcity of status and so forth. Competition is, therefore, inevitable, whether it is between two or more individuals, groups or even states. Conflict can be prevented or managed if those involved are parties to a figurative agreement about the "rules" in terms of which the competition is managed an example of such an agreement being the "social contract". In the absence of such a consensus, conflict becomes prolonged, unresolved and harmful.

Galtung's triangle provides guidance to conflict resolution practitioners and researchers for understanding the root causes and basic nature of a conflict situation. Many mediation processes have concentrated mainly on the behavioural aspect. Then the objective of a cease-fire, for example, is

paramount, but the other two components are not addressed. (In the same vein Khan cautions against over-emphasis on a cease-fire in the Kashmir conflict in Khan 2001:25.) Confidence-building mechanisms, on the other hand, concentrate on the changing of attitudes, while structural changes (in the form of a negotiated constitution, for example) emphasise the reduction of incompatible interests.

Some might argue that there is a causal relationship between incompatibilities and attitudes, and between attitudes and behaviour, with the resultant view that conflict resolution should concentrate primarily either on the incompatibilities or on behaviour as its point of departure. Unfortunately for those who yearn for meta-theories in this field, no research has yet discovered such correlations. The art of conflict resolution expects a practitioner to analyse thoroughly all three components and only thereafter make a determination of where are the most appropriate entry points for facilitative interventions. Such a decision may be closely related to William Zartman's (2000) notion of a mutually hurting stalemate coupled with the danger of a catastrophe, and linked to a "way out". Chester Crocker (Crocker 1999:223-226) provides an example of how facilitators had to create such perceptions in Southwest Africa in the 1980s in order to mould a viable situation for mediation. In some instances a cease-fire (i.e. a change in behaviour) is a prerequisite before anything else. In other instances the level of distrust between the parties is so immense that elements of mutual trust and confidence must first be established (i.e. change in attitudes) which can then lead to a cease-fire and later to negotiation. Sometimes the incompatible interests are addressed head-on (like with the Dayton agreement between Croatia, Bosnia-Herzegovina and Yugoslavia in 1995) and only thereafter confidence-building and changes in attitudes are addressed (Holbrooke 1999). Experience in conflict resolution and a sound theoretical understanding of the nature of conflict appear to be absolute prerequisites to determine how a facilitation process should be approached. Textbook recipes are not available.

1. The Value Base of Conflict Resolution

The moral virtues of conflict resolution and peace are often taken for granted. Paul Salem (1997:12-13) warns against such a culture-specific assumption. According to him, struggle and not peace can be a virtue in certain traditions, including Islam. Unqualified insistence on conflict resolution or peace-making is then perceived as a predominantly Christian or Western liberal value determination. Under such conditions a facilitator might be seen as biased towards the status quo or a particular value framework. It affirms the importance of understanding all three components of a conflict, including its very specific cultural context. Zartman (2000:25-30), by implication, agrees with this sensitivity in his explanation of why mutually hurting stalemates sometimes strengthen the resolve of parties to continue with conflict, instead of encouraging them to seek a settlement, and why "mutually enticing opportunities" are also required.

Does conflict resolution mean submission to the interests of the powerful? Current events suggest that most conflict resolution initiatives in the Balkan, Middle East, Latin America or South Asia will arguably be inconceivable without active American support or tacit agreement. The same principle is ostensibly applicable in respect of determining the approach to providing justice in post-conflict arrangements. Why did the international community not dictate the justice-seeking arrangement in South Africa (the Truth and Reconciliation Commission), but did so in Cambodia, Sierra Leone and Rwanda? The answer lies in the fact that the decisions have been determined by political contingencies and not by general, universal principles.

International public law is often considered to be the only universal value base of conflict resolution. Though diplomacy has always been determined by interests and political considerations, the increased prominence of political decision making has changed the de facto nature and practice of international public law insofar as it relates to conflicts. Chapters 6 and 7 of the UN Charter provide a range of conflict resolution instruments. Of the two, Chapter 7 has been most effective because it allows for economic sanctions, blockades and use of military force. International legal practices ascribe ultimate authorisation in those respects to the Security Council. But the American intervention in Kosovo in 1999, without such explicit authorisation (despite American denials) has introduced more than merely a symbolic or incidental change in international law (Cassesse 1999:23-30). The effects of international political realignment amongst the traditional Anglo-American partnership versus French, Russian and Chinese defiance and smaller state resistance have created, arguably, an anticipation that in the future international law will increasingly and more overtly be determined by political considerations rather than directing political behaviour. Test cases in this respect are the American refusal to ratify the formation of the International Criminal Court and its violations of the Anti-Ballistic Missile (ABM) Treaty. Sweden has set an example by establishing in 1999 an international commission headed by Judge Richard Goldstone to investigate possible American violation of international law in Kosovo in 1999. Unilaterally imposed sanctions are equally controversial in respect of maintaining a universal value framework. Does a state have the right to impose sanctions on another as part of its domestic policies, while the international community in general disagrees with it?

Such a state of affairs complicates conflict resolution as a practice because its value base (in the form of the UN Charter as its primary source) has become negotiable. Chapter 6 remains relevant as describing instruments for peaceful means of conflict resolution. But can they be combined with Chapter 7 instruments? Jan Eliasson (1998:205-207) suggests that Chapter 6 constitutes a ladder of resolution instruments which implies a ranking of the remedies. General legal principles normally determine that all internal remedies have to be exhausted before certain external remedies are available. Arguably, Chapter 6 and 7 fit in such a framework. But, ostensibly, it does not fit current political approaches.

2. Mediated Negotiations

Mediation, as assertive facilitation by an external party, is a special form of negotiation. Mediation should not be treated as only deadlock-breaking facilitation, but also as exploratory and trust-building facilitation. A prominent feature of mediation initiatives currently undertaken is the use of power or leverage (i.e. power mediation or leverage mediation). Examples are Camp David (1978), Madrid (1991), Dayton (1995), Haiti (1994) and Southwest Africa (1980s). Samuel P. Huntington's (1999:38-39) summary of the American approach to conflicts in recent years as a combination of military air strikes, economic sanctions and negotiation, provides an indication of its utility. The American approach to Kosovo is an example of it. Nordquist (1999:7) identified the facilitator's national interest as the main motivation for power mediation. It means that mediation, in its traditional sense as facilitation by an unbiased and non-partisan external party, is not applicable in this case. The mediating agency, in fact, becomes a negotiating partner although it is not a direct party to the conflict. Power mediators are seldom invited by the parties to facilitate, but most of the time impose themselves on the situation. Parties accept it sometimes reluctantly because of the mediator's power advantage over them and because of the negative international repercussions otherwise.

2.1 Mediation through leverage

Can any agency other than the USA be a power mediator? Power or leverage mediation depends on a number of conditions: a-symmetrical power relations between the mediator and the parties involved; the mediator's ability to reward co-operative parties with, for example, developmental aid; the mediator's ability to mobilise negative international sanctions against recalcitrant parties; and the mediator's ability to mobilise support from other powers to muster leverage in the negotiation process (Baker 1999:189-192; Crocker 1999:240-243). Theoretically, powers other than the USA can also play this role, but we have yet to experience it. The UN can also, though it does not possess interests similar to national interests to be promoted. Its emphasis on diplomatic caution and consensus building also inhibits such direct interference.

Can individuals apply leverage and use power mediation? Jimmy Carter has come closest to it in his intervention in North Korea. But he could not apply the same power in Burundi or in Yugoslavia. Nelson Mandela is presently involved in the Burundian process and has been asked repeatedly to assist in the Middle East. His power is not based on national interest, economic or military capacity, but on moral authority and international status. It is also known to everyone that he has access to just about any international forum or leader should their leverage be required. Though his mediating tactics might be more forceful than those of other mediators, it is not the US style of power mediation, because he does not constitute a de facto negotiating party. The use of elderly statesmen is sometimes contemplated as a valuable source for mediation. Most of them cannot guarantee success, however. They have experience in negotiation as political leaders but not necessarily in mediation, and they seldom have the infrastructural support to sustain a settlement process. Therefore, irrespective of how attractive and "idealistic" it appears to be, its likely success is relatively low. Sir Ketumile Masire, on behalf of the Southern African Development Community (SADC), faces the same predicament in the Democratic Republic of the Congo (DRC).

2.2 Track II mediation

Track II mediation is normally exploratory and trust-building in nature. It is the phase during which civil society is most directly involved in conflict management. In the past, when conflict resolution resorted mainly in the domain of diplomacy, this form of mediation received little attention. In recent years it has emerged as an indispensable part of almost any peace-making process. Almost without exception, those processes that have failed did so because of a lack of civil society involvement in preparing an atmosphere conducive to negotiations, and to the successful implementation of an agreement. Church leaders, business leaders, NGOs and academics appear to be most active and involved in this area. The best-known recent example of such an initiative is the Oslo channel process for the Middle East, started by Swedish academics and continued by the Norwegian trade union movement. Business and church leaders in South Africa also took the initiative in 1991, which resulted in the National Peace Accord. In 2001, Turkish and Armenian business leaders, retired politicians and former military officers took the initiative to establish a commission for the promotion of dialogue between the two adversaries after recent Armenian efforts to gain international recognition for an Armenian genocide in 1915 in Turkey (Aktan 2001:5). Swedish academics regularly invite academics and other opinion leaders of conflicting parties (like in Nagorno-Karabakh) to experience the unique constitutional arrangement on the Åland islands in the Baltic Sea. Another popular track II approach is peace or pro-democracy

foundations that facilitate dialogue between the youth of conflicting parties.

The success of track II mediation depends largely on a delicate balance between public exposure of the process and maintaining confidentiality. This form of mediation can serve two purposes: to influence public opinion towards accepting dialogue between rivals and therefore to prepare an environment receptive for negotiation, or to create the initial contact between persons (but not yet official representatives) from the rivals. Both purposes are directed against entrenched stereotypes of each other, which are kept intact by mutual isolation and the absence of contesting impulses. Some attempts have been made to achieve both purposes in one process, but as a general observation it may be said that they are bound to fail, because of the tension between publicity and confidentiality.

An example of such a failure happened in 1996 in Turkey. At the height of the internal war between the Turkish army and the Kurdistan Workers' Party (PKK) in the southeast, a Kurdish writer, Ismail Nacar, established contact with the PKK with the knowledge of the Erbakan government. The initial motivation for his initiative was the fact that a number of Turkish soldiers had been captured by the Kurds. The fact that the military opposed the initiative because it eroded their demonisation of the PKK as communists and terrorists, and the fact that it was reported daily in the media to a public who were not yet prepared for such initiatives, resulted in its failure. On the other hand, examples of the confidential approach are the dialogue between Nelson Mandela (then still in jail) and the National Party (NP) government in the middle 1980s, and the dialogue between the African National Congress (ANC) and Afrikaner opinion leaders in the same period (Sparks 1994:76-86). Also in the same period, but as part of a public opinion socialisation process, the Institute for a Democratic Alternative for South Africa (IDASA) conducted a number of public dialogues with the ANC in exile. Though the National Party government denigrated them (despite its own dialogue in secret), the IDASA initiative did not constitute the main dialogue process. The Nacar initiative, on the other hand, was the main and only one. A certain level of confidentiality was applied in the Oslo process (as the main dialogue process) between the Palestine Liberation Organisation (PLO) and Israel, while the secondary dialogue process in Washington and elsewhere was public but did not produce any tangible results. It appears, generally speaking, that in its formative stages the main dialogue process should be kept confidential. When public opinion is not receptive for dialogue (often as a result of prolonged negative indoctrination by the parties involved), negotiators are unwilling to risk their reputation in public. The risk of failure is normally very high in the initial stages and the possibility for face-saving relatively low. In summary, the contradiction between the dehumanised images of the rival cultivated for the public, and the images of negotiators talking to the very same people, is too much to reconcile in public and with their political colleagues at that stage. Normally, because of internal differences of opinion on the matter, not even all the members of the government and their rivals are necessarily informed about the dialogue.

A special type of rapprochement comparable to track II mediation, but not real mediation, is the emergence of social movements amongst rivals. In Northern Ireland, social peace movements organised by women emerged and placed insurmountable pressure on political leaders to engage in a peace process. The earthquake in Turkey in August 1999 and the spontaneous Greek humanitarian response to it also introduced a period of improved relations between the two countries.

Our understanding of mediation within the ambit of political conflict resolution is definitely changing. The fact that power mediation receives so much attention, although it is actually not mediation but a redefinition of the negotiation relationships, is unfortunate. But a return to more classical forms of

mediation is not unlikely.

3. Leadership Changes

A conflict resolution issue which has so far received only tentative attention is the influence of leadership changes on resolving conflicts. Prolonged conflicts are normally cluttered with failed resolution attempts, betrayal of leaders' personal feelings, or entrenched commitments to particular demands or negotiation positions. Negative memories of aborted agreements, unkept promises, superior tactics by the other side or attacks on the characters of leaders, are all serious obstacles for conflict resolution. Because the costs of face-saving increases as the governing term of the leaders increases, a stalemate (even a hurting one) is often present, and deepens with each acrimonious exchange between the leaders. Term of office is mostly directly related to the age of leaders. Younger generations appear to be more amenable to dialogue and change. (A possible correlation between age and successful negotiation should be a worthwhile research topic.) Examples where leadership changes have increased the chances of a negotiated agreement are the UK in 1997 (for Northern Ireland), South Africa in1989 and the DRC in 2000. Leadership serves as an impediment in Cyprus and Northern Ireland. The new British Labour government with a firm parliamentary majority definitely served as a catalyst for the Good Friday Agreement in 1998. Change in leadership in South Africa from P W Botha to F W de Klerk is also an underestimated factor in the South African transition. Since the advent of the younger Joseph Kabila's presidency in the DRC, he has unbanned political parties, accepted the SADC mediator and initiated an intra-Congo dialogue, which are all positive indicators for an eventual settlement.

The issue of leadership change raises two related political issues, namely the importance of consolidated leadership authority and the use of elder statesmen in conflict resolution. Leadership change normally means a new leader with a fresh mandate and high public expectations but not yet with consolidated authority in the machinations of the state. A possible explanation for their willingness to engage in negotiation is their relative isolation from the military or armed wing. The longer they are in office, the more they become responsive to the military frame of mind, which is always status quo-oriented, unless they have already lost their battle.

Ali Mazrui (1994:41-42) is of the opinion that the involvement of elders in conflict resolution is one of its characteristic values in Africa. Examples of it in the last few years are: Julius Nyerere in Burundi, Sir Ketumile Masire in the DRC and Nelson Mandela in Burundi. The examples of Jimmy Carter, Lords Owen and Carrington in the Balkan, Henry Kissinger in South Africa in 1994, the Eminent Persons' Group of the Commonwealth in South Africa (1986), and the George Mitchell Commission of eminent persons for the Middle East (2001) are also useful. Their records as mediators are, however, not encouraging and none of them have succeeded in their missions. Even in Northern Ireland, George Mitchell chaired (not mediated) a successful negotiation process (Mitchell 1999), but failed to include a mechanism for overseeing its successful implementation. The question is, therefore, still unanswered whether elder statesmen are successful mediators and if not, why not?

4. Confidence Building

An agreement negotiated in good faith always envisages a new situation, which by implication entails

changes and uncertainties. Some would prefer the known status quo (even though it is undesirable and hurting) to unknown uncertainty. Therefore, for mediation and other facilitation processes to be successful, they depend on innovative confidence-building mechanisms and guarantees. The nature of the transition and of the incompatible interests will also determine whether the mechanisms should operate only for a temporary transitional period, or permanently. Their duration is a critical issue, because they normally reflect a negotiated compromise between the parties and are considered to be deviations from "normal" constitutional practices. Confidence building is generally treated as an ad hoc measure to create sufficient trust between the negotiating parties to secure the transition and to enable them to proceed ultimately to "normal" practices. As a general observation, such measures should not acquire permanent status, because it will signal an inability to address and remove the root causes of the conflict. On the other hand, a transition or stabilisation phase can be a relatively long period.

A number of constitutional means are available for confidence building. A popular mechanism is a government of national unity or a grand coalition. It is meant to include all the significant political movements in a particular situation, so that no one can claim political marginalisation. Joint governmental responsibility creates political checks and balances and therefore guarantees against preferential treatment for sectors in society. Switzerland is an example of such a permanent arrangement. Similar temporary arrangements were introduced in South Africa (1994-1999), Mozambique and Rwanda. In Angola (1992) and Macedonia (2001) it failed. In Lesotho (since 1999) a variation was applied, with mixed results. A government of national unity appears to be suitable when the guarantees or confidence builders are located in the national centre of the constitutional dispensation.

When the negotiating partners distrust the political and constitutional national centre and believe that co-operation in that centre is unlikely or undesirable, a decentralised approach is adopted. It can assume two forms: allocation of political and other rights on a territorial basis, or allocation based on the principle of personality. A political geography of territorial division is possible where politicised population groups are concentrated in certain areas and power can be devolved to allow them to exercise high levels of autonomy. Alternatively, in geographies of mixed composition, competences can be devolved to group institutions composed of persons with a common loyalty, irrespective of where they are located. Bosnia (1995) is an example of the first; Cyprus (1960), Lebanon and Belgium to a lesser extent, are examples of the second alternative.

Cyprus (in its 1960 Constitution) provides an example of a combination of a central government of national unity and a decentralised personality-based constitutional structure. It failed, probably because of this ambivalent combination. If the choice is for an integrative government of national unity, it should not co-habit with instruments which do not encourage co-operation and integration, but sectoral autonomy. The tension between the two will be so immense that both are bound to fail. In South Africa the Government of National Unity co-existed with relatively weak territorial provinces. The constitutional and political nature was quite clear: the emphasis is on the centre and the confidence should be built around that centre.

Conflict resolution and confidence building will always under-emphasise mutually exclusive arrangements or arrangements which can lead to polarisation. Therefore, ingenious measures to soften the impact of majorities and minorities are required. A first possibility is to apply a guiding principle of proportionality in the composition of institutions like the executive, parliament, the public

service, the judiciary, the military and so on. It does not guarantee equality in representation, but equality in constitutional status. It guarantees predictability and certainty about representation and it takes countenance of fears of marginalisation. On the negative side, it entrenches group identities and does not provide any motivation for eventual national integration. Proportionality is only really feasible in the absence of a majority (50%+1) grouping. If all the associations are minorities, it encourages cross-cleavage coalition building and therefore stabilisation.

Proportionality is not only encapsulated in representation but also in decision-making mechanisms. Ordinary or absolute (50%+1) majorities are susceptible to polarisation and pure power politics. Especially when overlapping identities and associations create patterns of permanent majorities and minorities, the political dispensation is prone to conflict. Galtung would refer to it as structural violence. Many examples exist of (ethnic) groups who support a particular political movement and, as the beneficiaries of its governing power, receive disproportionate economic benefits. When ethnicity, political class and economic class coincide in the case of a majority or a minority, the use of conventional democratic instruments (such as simple majorities) produce undemocratic results, and cannot create confidence in a constitutional dispensation. Confidence building therefore requires arrangements in which the intentions of the majority principle are incorporated, but by other means such as special or loaded majorities. Consensus, on the other hand, is also not desirable because the veto right of everyone does not encourage coalition building or cross-sectional support. Do-it-yourself approaches are not long-term options for conflict resolution, because the international tendency in about everything is in favour of integration, and not disintegration.

Another variation of proportionality is autonomy. Less than independence, it accommodates unique features which are sub-national characteristics. These can be a unique regional history, language or social composition. In the absence of autonomy these unique features would enjoy the status of minority features or will be assimilated into the majority features. If they are considered to be vital for the identity of their adherents, autonomous decision making about matters pertaining to those characteristics, but within a national value framework, is an option. A federal dispensation is such a possibility it can even be extended to an a-symmetrical federation like Canada (Quebec) and Spain (Catalonia and Basques). Autonomy is also possible in more united, centralised states like the Åland islands (in Finland) and Zanzibar (in Tanzania).

Elections are normally considered to be one of the pillars of a democracy. Many peace processes are directed at an election as their main objective, implying that an election in itself is a conflict resolution instrument. Elections are normally viewed as the most legitimate means of distributing political power in a society. But the distribution can cause conflict if it is not supported by mechanisms which can prevent or resolve that conflict. Lesotho (1998), East Timor (the referendum on 30 August 1999) and Zanzibar (October 2000) are examples of such conflict. On the other hand, an election can be a means of conflict resolution or a means through which confidence can be created. If the conflict was about the absence of a democratic dispensation, a free and fair election can be one of the most powerful symbols indicating the beginning of a democratic era.

An election date can provide a deadline for a negotiation process and it can indicate a serious commitment to negotiation. A negotiation process without a deadline and timeframes can continue indefinitely, and the negotiating parties can develop a suspicion that negotiations are being used merely for tactical purposes and not in good faith towards reaching a settlement. Such distrust can be

addressed by a commitment to a particular closing date in the form of an election.

Confidence building may also be promoted when an election is not administered by the incumbent government or its bureaucracy, but by an autonomous electoral commission. Electoral manipulations in the form of gerrymandering, election fraud, undue utilisation of state resources and the media for electioneering, are possible grounds for elections to become causes of conflict. An autonomous commission should secure a level playing field, should also establish faith and confidence in the fairness of the election, and should be able to determine independently whether it was free and fair, thereby providing the election's legitimisation (Harris & Reilly 1998:309-319). India was one of the first to institute such an agency in 1950 in the form of the independent Chief Electoral Commissioner and later an Election Commission.

Other means of securing confidence in elections are the presence of domestic and international monitors or observers, and electoral tribunals to adjudicate disputes between parties. In the case of Cambodia (1993) the election was administered and conducted by the UN. It provided the credibility that no domestic institution was capable of providing, since the Khmer Rouge still enjoyed impunity and their influence permeated all sectors of society.

An election or referendum can also enhance the confidence of negotiators or political leaders if it provides a mandate to continue with a negotiation process, or to approve an agreement and its implementation. Negotiators are always concerned about the effect of their actions on public opinion, because they know that at some stage in the process they will be judged in an election. Examples of such confidence-building referendums are the one in South Africa in 1992 about continuation of the constitutional negotiations, and the referendums in Ireland and Northern Ireland in terms of the Good Friday Agreement (1998).

In conflict situations crimes are committed on all sides and prisoners are taken. Perpetrators of the crimes, and in particular the military components on all the sides, as well as those with political responsibility for the perpetrators, will not be party to an agreement without guarantees against prosecution afterwards, unless they have been militarily defeated. It entails a form of indemnification, like amnesty. It is a priority in situations where the perpetrators will be part of the new dispensation (like part of a new defence force or police force) and where their support for the new dispensation is critically important. The reverse side of the demand for indemnity is a demand for retributive justice also as a prerequisite for confidence in the fairness of the new dispensation. Where the perpetrators will be isolated from the new dispensation, it is unnecessary to balance justice against amnesty. (Situations where international war crimes tribunals are used or where perpetrators are permanently disqualified from public office, are examples of such circumstances.) More complex are situations where they are integrated. Blanket amnesty for everyone does not appear to be an appropriate option. (It has been used in Latin America, for instance Chile, and also in the Macedonian agreement in August 2001). Qualified amnesty for conflict-related crimes and retributive justice for all other crimes, is one of the tested options. The option of doing nothing (in for example Namibia, Zimbabwe or Cambodia until recently) is very attractive, because it does not engage with the problems around retributive justice, but at the same time it does not provide any form of security or predictability about the future, and undermines confidence in the just nature of an agreement.

Release of political prisoners is a complex issue, but an indispensable confidence-building mechanism.

Similar to the release of prisoners of war, it signifies either the end of a conflict or a gesture of goodwill and reconciliation. And it removes a useful but potentially disruptive bargaining chip from the negotiation process. For example, it is then no longer possible to argue: "Our leaders are in prison and therefore we cannot negotiate". Examples where release of political prisoners at the beginning of a negotiation process contributed towards a normalisation of the situation and enabled negotiations were in Zimbabwe in the late 1970s, in Namibia in the 1980s and in South Africa after 1990. An example where the releases were part of implementing an agreement and served as a confidence builder for implementation of other sections of the agreement, was seen in Northern Ireland (Sentence Review Commissioners 1999:6-8).

Release of political prisoners is conceptually (and sometimes also tactically) packaged with decommissioning of arms or a cease-fire. Negotiation as a peaceful means should, strictly speaking, be void of any default positions of an armed or military nature. Otherwise, threats of violence can be a bargaining chip which is unlikely to encourage any real negotiation probably only concessions under duress. However, negotiators whose status as a party to the conflict depend greatly on its armed capacity are unlikely to forego that capacity before it has been fully exploited in the negotiation process. For example, Gen. Wesley Clark, NATO (North Atlantic Treaty Organisation) Commander in the Balkan at the time of the Dayton agreement, claimed that they did not apply their airpower sufficiently against Serbia during the initial negotiation, but did so in 1999. The Provisional IRA in Northern Ireland also risked the Good Friday Agreement with its reluctance to decommissioning its arms. In the case of the ANC in South Africa, it unilaterally announced a suspension of its armed activities in August 1991 (in the Pretoria Minute) and in the following year started with decommissioning because, although the military dimension did not hold much bargaining value, the "cease-fire" had high symbolic value. Agreement on the National Peace Accord in September 1991 also made a valuable contribution not only to dealing with political violence, but to building confidence in the settlement process.

5. MANAGING IMPLEMENTATION OF AN AGREEMENT

A neglected aspect of conflict resolution is the period directly after an agreement, when the facilitating agency has quite often left the scene and the parties are left to their own devices in implementing the agreement. The period after finalising an agreement is normally an anticlimax. And if the agreement does not specify who is responsible for its implementation, it can cause uncertainty. Moreover, the details of agreements often exclude the possibility of likely disputes about procedural and substantive matters. It is therefore critically important that the agreement provides for a centrally-placed authority that can provide a final and authoritative interpretation of disputed aspects of the agreement, enforce the agreement's timeframes, resolve implementation disputes, and engender trust in the agreement. It is not the same as international guarantees offered by witnesses to the agreement or by international organisations. An implementation authority should supply a political and security dimension to secure the transition and provide a stimulus for the process. The UN often provides such an implementation authority. Two examples are the UN Transitional Administration in Cambodia (UNTAC), established in 1992, and the UN Transitional Administration in East Timor (UNTAET) since 1999.

A good example of a comprehensive implementation authority is the General Framework Agreement of Dayton (1995) which included the Agreement on Civilian Implementation of the Peace Settlement. It established the High Representative with a staff to "maintain close contact with the Parties to promote

their full compliance with all civilian aspects of the peace settlement" (article II, 1(b)), and to facilitate "resolution of any difficulties arising in connection with civilian implementation" (article II, 1(d)). The High Representative should also maintain in constant contact with the Commander of NATO's Implementation Force (IFOR). The military dimension is accommodated in accordance with the Agreement on Military Aspects of Peace Settlement, which provides for the Joint Military Commission chaired by the IFOR Commander. It is established to oversee implementation of the military aspects of the agreement (Grant 1998:28-31).

Angola and Northern Ireland are examples where such an agreement implementation agency has been absent, and where lack of adherence to the agreements has become a major stumbling block (Ohlson 1998:180-182).

Inclusion of such an implementation authority in an international settlement process is less problematic than in instances of internal processes. Two examples of such an internal implementation authority are the Transitional Executive Council (TEC), used between January and April 1994 in South Africa, and the Interim Political Authority (IPA) in Lesotho since 1999. The TEC consisted of all the negotiation parties and served almost as a parallel government to the National Party government, and as a monitor of its activities. It used seven sub-councils to monitor critical areas of policy and security during the transition (Sarakinsky 1994:74-81). The IPA followed the same approach but did not attain a similar level of success.

Galtung's conflict triangle implies that conflict resolution should not be confined to treating the symptoms of a conflict situation; in other words, firstly, conflict behaviour and secondly, conflict attitudes. The incompatibility of interests should also be removed, which means that the unjust structural dimensions of structural conflict and the hegemonic cultural dimensions of cultural conflict should be removed. Conflict resolution should, in other words, proceed to conflict prevention. It is a much longer-term project and much less attractive, and therefore less attended to by professional mediators.

6. Prevention of Conflicts

Conflict prevention is in the first instance associated with preventive diplomacy. Diplomatic pressure and influence including the classic "carrot and stick" diplomacy associated with Realpolitik are used to reach agreements before it can develop into conflict. Conflict prevention, manifested as deterrence, whether in the form of a nuclear threat, conventional military power, economic or technological capacity or other considerations, is a variation of power or leverage politics. Conflict prevention can also be approached from a more idealist point of view. In this sense, conflict is viewed as a cyclical phenomenon, and not as a linear beginning-end event. It implies that the root causes of a conflict can be addressed in the form of negotiation and other forms of conflict prevention before they develop into open conflict. As part of the cyclical nature, after an open conflict has been resolved, its deep-rooted resolution also requires conflict prevention, although in different forms. If the essential incompatibilities are addressed, it will prevent the conflict from recurring, but if unsuccessful, it can be the beginning of a new conflict cycle.

While track II mediation is conventionally associated with the early stages of conflict resolution, when

the situation is ripening and when preparations take place for "talks about talks", it appears to be also appropriate for conflict prevention and consolidation of a peace process. Involvement of civil society at this stage is again an imperative. Implementation of agreements requires further dialogue and negotiations, albeit less in the limelight. An example of such an approach is when traditional opponents, who have to co-operate in the light of the new agreement but who still distrust each other, are jointly involved in a process of learning new conflict resolution techniques. If the negotiating teams of an employer/management and a trade union can jointly undergo a course in alternative negotiation techniques to avoid stalemates, political opponents can do the same. If political opponents have a sound understanding of the fundamental principles of mediation and have jointly gained that understanding through workshops and exercises, they have a common basis of understanding those techniques and therefore can easily refer to aspects of it without the danger of misunderstandings. Training in aspects of peace studies is another popular endeavour in conflict prevention.

A long-term conflict prevention objective, which is equally applicable to the consolidation of democracy, is to cultivate a culture of respect for human rights, including political tolerance. Equally important as a preventive measure and as a democratic principle, is socio-economic development. Today most political conflicts include a prominent socio-economic dimension. With more resources available, competition for them is not necessarily less intense, but it is considered to be less mutually exclusive and less threatening for their survival. The Swedish approach to humanitarian assistance within the framework of development is an example of such an understanding of conflict prevention. Its underlying assumption is "that programmes of development co-operation can contribute to the prevention of armed conflict before they break out. This can be achieved through targeted development projects, programmes for strengthening democracy and human rights, regional co-operation programmes and supporting communication between hostile parties" (Norberg 2000:25).

Over the last decade a relatively new phenomenon has appeared in the context of conflict prevention. It is the use of war crime tribunals and truth commissions. Most of the research work in this respect focuses on the legal dimension of the tribunals, its impact on the sovereignty of states, the new nature of international humanitarian law, and the way in which it promotes (retributive) justice. Truth commissions, on the other hand, are assessed in terms of the ostensible dualism between truth and justice, and granting of amnesty appears to be a focus point in this respect (for example Gutmann & Thompson 2000). These issues are seldom presented in the context of conflict resolution, and hardly ever in that of conflict prevention. The significance of this debate is, however, that it adds an important philosophical and jurisprudential dimension to conflict prevention. In this respect, the function of a legal system in political conflict resolution and prevention should receive more attention. What also deserves to be explored, is the impact of religious values on the conceptual understanding of truth commissions as motivation for conflict prevention.

The issue of justice is arguably one of the centre-pieces in conflict prevention. An essential part of the debate about tribunals versus truth commissions as the most appropriate instruments, deals with the notion of justice. Implicit in the debate is the question: which form of justice is necessary or most appropriate for conflict prevention retributive or restorative? The liberal democratic perspective insists on retributive justice with a strong emphasis on the rule of law and a positivist emphasis on procedural prudence in the application of justice. Those who emphasise the contingent nature of a transitional period immediately after an intense conflict are in favour of restorative justice, which is less procedural and formal, and aimed at rehabilitating a fractured society. Procedural justice is normally intimately

linked to democracy, which is similarly defined in procedural terms. It provides an explanation why those with a predominantly procedural view of moral and value-determined issues in society insist so vehemently on retributive (and not restorative) justice.

An underdeveloped aspect of tribunals and truth commissions, in the context of conflict prevention, is their real impact on societies. Can their methods of operation address the fundamental incompatibilities of interests and finally remove the root causes of the conflict? In other words, is there any correlation between individual involvement in a tribunal or commission and a wider societal impact? It will not amount to conflict prevention if it affects only individuals. Little empirical work has been done in this respect. In the case of the South African Truth and Reconciliation Commission (TRC), a general opinion poll was directed at determining public opinion two years after its completion. The general conclusions were firstly the marked attitudinal differences based on race, secondly a general acceptance of the TRC and its work, and thirdly a perception that in a procedural sense it treated the perpetrators of violence fairly, but that the victims were not treated fairly in terms of granting amnesty to the perpetrators (Gibson & Macdonald 2001:3-5, 6-8, 19, 20-23). It established a complex picture of a high level of legitimacy for the TRC in general, but lower legitimacy levels on specific issues. A possible explanation is that the symbolism of reconciliation (with also strong religious undertones and calls on traditional ubuntu humanism) is more powerful than the specific nature of its functions.

International preference, however, favours tribunals. In addition to those established for the former Yugoslavia and Rwanda, the International Criminal Court is in its formative stages. A new variation also appeared lately in Sierra Leone and Cambodia. In both the latter instances, the UN has been instrumental in creating war crime tribunals of a combined international-national nature in which the two states play a critical role. On the other hand, since the arrest of Slobodan Milosevic, a debate has emerged about establishing also a truth commission (in addition to the tribunal) for the former Yugoslavia.

It is difficult to envisage a truth commission with authority to grant amnesty, in the absence of possible prosecutions for those who did not apply for amnesty or for those who failed in their application. Otherwise, the motivation for amnesty would be absent. Opponents of amnesty view it as an alternative to justice and a form of impunity. If, however, amnesty has an equal status to justice, it follows that the substantive requirements for receiving amnesty are equal to the substance (not procedural requirements) of justice. Arguably, full disclosure of information (i.e. truth) within a closely circumscribed set of political activities with a demonstrable political (and not a personal) motive and objective, meet the substantive requirements of both justice and amnesty. For everything outside this ambit, retributive justice should still be applicable. There is little argument about the fact that in procedural terms amnesty is not equal to retributive justice. The question is then whether procedural justice is an absolute precondition for substantive justice. The legal answer is no, but the moral answer is debatable. The politics-of-transition answer is also no.

Conclusion

All the dimensions of conflict its causes, its management and its resolution are undergoing significant adjustments over the last number of years. It will be an oversimplification to ascribe everything to post-Cold War dynamics or globalisation. Changes in the state, new tendencies in international public law,

new social-political movements and the penetrating tremors of development, are very radical for the minds of people who yearn for stability and security, but who are constantly exposed to insecurity and change.

In the past, ideological solidarity and categorisation of the world into those for, those against and the non-aligned, made conflict resolution across those categories almost impossible. In the minds of many, this ideological contestation has been replaced by contestation between two fundamentalisms: ideology and religion or between economically reduced Western/liberal ideology and religiously reduced fundamentalism. More space for conflict resolution has emerged, but still severe qualifications are placed on its options in terms of ideology or religion. Ironically, together with the neoliberal notion of a "smaller and leaner" state, there has emerged a concomitant greater sensitivity for minorities and both have weakened the state. In circumstances without well-consolidated constitutional states, state structures cannot absorb all these pressures and thus become prone to conflict.

Conflict resolution, nowadays, is therefore more often faced with structural inefficiencies of both the state and society, and less often with inter-state realpolitical ambitions of power. What has remained unchanged is the phenomenon of states exploiting internal conflicts in other states.

Today, the main issues of conflict resolution are all inextricably linked to the changing dynamics within states and in the international community. No conflict can be isolated any more and treated in controlled conditions, though Dayton came closest to such an attempt. Conflict resolution, therefore, requires real expertise and sound knowledge in a range of disciplines, including political dynamics and history, diplomacy and psychology. Peace studies or conflict studies are hardly sufficient as disciplines on their own.

Notes

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