Chapter 1: Introduction

About the Course

This *Certificate Course in Negotiation and Conflict Management* is the second self-study course in a series that includes our *Certificate Course in Conflict Analysis* and *Certificate Course in Interfaith Conflict Resolution*, and will include courses in mediation and other elements of conflict management—all available online.

Our *Certificate Course in Conflict Analysis* is the first in the series, and we strongly recommend that you take it prior to taking this course. Effective action is invariably the product of insightful analysis. The *Certificate Course in Negotiation and Conflict Management* is the second course in the series because negotiation is a fundamental skill for anyone practicing conflict management and peacebuilding, perhaps the most important tool in a practitioner's toolkit. It informs other skills, such as mediation, and can be crucial to effectiveness at any point in the life cycle of a conflict.

Certificate of Completion

Throughout the course you will be prompted to test your understanding of terms and concepts. When the course is complete, you will have the opportunity to take a course exam. When you pass the exam, you will earn our ***Certificate of Completion*** in this negotiation course.

1.1: An Alternative to Violence

Protest Against Injustice

On March 21, 1960, in the township of Sharpeville, South Africa, police opened fire on a large but peaceful protest, killing and wounding scores of unarmed demonstrators. The day marked a particularly tragic event in a long, bitter struggle against racial oppression. On the anniversary of this massacre, 25 years later, police opened fire once again, killing and wounding more unarmed protestors. With this macabre replay of history, townships across South Africa erupted in a wave of desperation.

Like the generation before them, these desperate men and women were protesting *apartheid*, a brutal, comprehensive system that through a range of notorious laws and practices—including the Mixed Marriages Act, the Group Areas Act, the Bantu Education Act, and the Job Reservation Act—was designed to enforce racial privilege.

By 1986, in a determined attempt to hold on, the South African government declared a national state of emergency and launched a bloody crackdown. Tens of thousands of youths were detained without trial, and many were tortured and killed. In response, the Mass Democratic Movement, representing over 7,000 organizations and 2,000,000 individuals, called for general insurrection. The nation teetered on the edge of civil war.

The First Free Election

Yet in an extraordinary example of farsighted statesmanship, South African President F. W. de Klerk and African National Congress (ANC) leader Nelson Mandela found ways to negotiate their vast differences and curb the violence engulfing their nation.

In 1990, with security costs out of control and the economy in a tailspin, de Klerk surprised the world with his decision to release Mandela from his prison on Robben Island, where the graying leader had languished for 27 years. In their first face-to-face negotiation, de Klerk agreed to lift the state of emergency, while Mandela committed the ANC to restrain its supporters and help curb the nation's violence.

In their next encounter, the ANC agreed to suspend its armed struggle, while the government agreed to release political prisoners and allow political exiles to return to the country.

In December of 1991, the government and the ANC held the first Convention for a Democratic South Africa (CODESA), which included parties and stakeholders from across the country. Their mission: to negotiate a new constitution, one that would protect and empower all citizens, and to prepare the divided nation for its first multiracial election.

Dawn of the Nuclear Age

The South African example shows how courageous negotiations can curb violence within a state, but what about violence between states? In 1945, the United States became the first nation to test and use nuclear weapons. Just four years later, the Soviet Union detonated its first nuclear device.

In 1950, American President Harry S. Truman authorized the development of the first hydrogen bomb, which was detonated in 1952. The yield of this weapon was 500 times that of the original nuclear device. By 1955, the Soviet Union detonated its first H-bomb. The United Kingdom detonated its first nuclear weapon in 1952 and its first H-bomb in 1957.

By 1959, with French and Chinese nuclear weapons on the horizon, substantial concern about the spread of these devices was growing throughout the international community. To address this concern, the General Assembly of the United Nations called for an agreement to control the proliferation of nuclear weapons.

But the challenges to negotiating such an agreement were substantial. For example, aspiring nuclear powers would have to be convinced to forgo their efforts, while those who already had such weapons would have to accept constraints on their own strength in a still dangerous world. Also, such an agreement would require Cold War adversaries to work together in a way that seemed improbable during a prolonged period of confrontation.

The Nuclear Non-Proliferation Treaty

Yet by 1968, persistent negotiators completed the Nuclear Non-Proliferation Treaty (NPT), representing a substantial breakthrough in efforts to control the spread of these weapons. The agreement consists of three pillars. Through the first pillar, the five permanent members of the United Nations Security Council, which were the only five nations possessing nuclear

weapons at the time of the signing, would not transfer nuclear weapons technology to other states. For their part, the other signatories to the treaty would not seek such weapons.

Through the second pillar, those states already possessing nuclear weapons would pursue limits on their arsenals, with the ultimate goal of eliminating them, so that all treaty members would be of equal status.

The third pillar provided non-nuclear-weapons states with the promise of assistance in pursuing peaceful uses of nuclear technology, a crucial incentive for societies in search of scientific and economic development.

For roughly half a century, the NPT has provided a highly effective framework for controlling nuclear proliferation. More than 190 member-states have agreed to extend it indefinitely, although today the treaty faces some of the toughest challenges in its history.

The Negotiator's Challenge

These examples show how bold, farsighted leaders used negotiation to prevent violence, to resolve violent conflict, and to take significant steps forward in the process of reconciliation. Negotiation can be useful at each stage in the life cycle of a conflict.

In a way it sounds so rational, so simple: talking out differences, instead of fighting. Yet experience proves the difficulty of the task. Convincing potential foes to lay down their arms and negotiate is by no means a simple undertaking, especially for embittered combatants. Getting meaningful, mutually satisfactory, lasting results is usually very hard work, and is never guaranteed.

Negotiation and Risk

Moreover, negotiations of this kind are not without risk. They require vision and courage. Although negotiators in South Africa eventually succeeded, political violence actually increased in the few short years following the release of Mandela. Likewise, success looked doubtful at many points in the negotiations over the NPT. In both cases, it was never evident throughout the course of negotiations that agreement would eventually emerge.

In his writing, Herbert Kelman discusses the kinds of stakes involved in long-running, intractable conflicts where both sides often fear, rightly or wrongly, that "negotiations and concessions might jeopardize their national existence."[1] Harold Saunders also observes that negotiators are sometimes "reluctant or even fearful to reach out to the other side," noting that "governments risk vehement backlash," while "citizens in some situations risk assassination."[2] In this context, Charles Freeman calls compromise "a weighty matter."[3]

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[1] Kelman, Herbert. "Social-Psychological Dimensions of International Conflict," in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 73.

[2] Saunders, Harold. "Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process," in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 490.

[3] Freeman, Charles. *Arts of Power: Statecraft and Diplomacy* (Washington, DC: United States Institute of Peace Press, 1997), 101.

Perspectives
It's important to analyze a conflict because if you haven't analyzed it, if you don't understand it, you're not in a position to know what to do about it. But analysis, from our perspective, is not an end in itself. It's just the basis to then actually do something about the conflict—to reduce the violence; to cause the conflicting parties to find ways to work together; if you are one of those parties, to advance your own interest, but in a way in which you reach some kind of agreement, in which there's a reasonable prospect that the other side will be prepared to implement in good faith. That process of dealing with the other side is called a negotiation.
-Mike Lekson

In any negotiation in which violence has taken place—or even at a minimum, bad feelings, feelings of hurt—you always have to think about how that is going to have an impact upon your negotiation; how it's going to impact not only on the negotiator, the person you are dealing with, but how it's going to impact upon the positions they are going to articulate and the needs they are going to have, to be addressed in the course of the negotiation. Any negotiator who ignores the emotional quotient, is ignoring a very important part of the negotiation.
-Ted Feifer

Purpose of this Course

In any environment of actual or potential conflict, finding common ground and building bridges can be difficult, risky tasks.

Fortunately, to help negotiators improve their chances of success, there is a substantial body of experience from which to draw. Since ancient times, diplomats and political philosophers have written extensively about negotiation. Since the latter half of the 20th century, the subject has been studied systematically by both academics and practitioners. Drawing on academic studies and practitioner experience, this course will focus on the techniques and skills of successful negotiation.

Some people appear to be born negotiators. Others don't like negotiating and may even find the process intimidating. But you don't have to have any kind of special gift to hold your own in a serious negotiation; negotiating techniques can be learned. It helps to realize that we all negotiate as part of our daily lives—at home with friends and family, at work with colleagues and supervisors, and in the marketplace with partners and competitors. Most of the principles that apply in these negotiations apply in every context at all levels.

Context and Scope

Courses and books on negotiation typically focus on specific contexts, such as negotiation in business settings, within the legal profession, concerning personal matters, etc. This course will draw upon wide-ranging scholarship and practice from these and other fields; however, it will focus on negotiation as it applies to the prevention and management of international conflict—negotiation as an alternative to violence.

The course will explore challenges facing top-level leaders in developing specific, formal peace agreements, but our scope will not be limited to this level of leadership. The course will also examine vital roles that can be played by midlevel leaders, local leaders, and individuals in paving the way for peace. The principles covered in this course will also apply to related forms of international negotiation, such as trade talks, as well as to the kinds of negotiations faced by those who work in zones of conflict every day: soldiers, civilian police, legal professionals, business leaders, civil society leaders, aid workers, and local government officials.

In their scale, these day-to-day negotiations may not be comparable to comprehensive peace agreements, but they are very important to those involved, as when soldiers and aid workers must negotiate safe passage for food and medical supplies through hostile territory. Moreover, in their cumulative effect, these day-to-day interactions can determine what is and is not possible in wider peacemaking and reconciliation.

Perspectives

There are people who are born negotiators. They just relish the engagement, the give and take, it's a game to them maybe, or they feel they have powerful rhetorical skills so they enjoy it. But I do think that negotiation can be learned, so there is hope for the reticent and the doubtful. I think the way to learn it is to first of all understand the elements of negotiation, to feel that you understand the process and that it's not a big mystery to you. But also with seeing that negotiation is a normal part of everyday life and not part of something that only a top-notch ambassador or special envoy does or only the president or his specific designee does. We all negotiate with our friends and family everyday, all the time. So if you are alive to that and alert to the negotiation in your everyday life—that it's a part of how you navigate your friends, life, family, and relationships with other people—negotiation is a form of human relationship. Knowing that and being alert to that, I think, it may intimidate some people but I think it's also a way of realizing that none of us is completely new to negotiation. And I think it is also important for those who feel that they may not be good negotiators to realize that there is always a kind of power that can be used even if you are not the one with the money or the military or the international community at your back. There are always forms of power that can be used in a relationship situation because negotiation comes from human relationships. There is a way to have a human relationship and make something out of that.
-Linda Bishai

Everyone knows how to negotiate. You can't go through life without it because everyone deals with conflicts in every aspect of their lives. Negotiation is a process where you try to reduce the differences between you or whoever you're representing and the other parties with which you're interacting. So, everyone has some intuitive knowledge at least, even if they haven't studied it, of what negotiation is. What we're trying to do is give people a systematic way of analyzing the negotiating process just as we analyzed conflict in a previous course. And then, reduce that to certain steps that you need to consider and how you might go about considering those steps in order to be more effective as you negotiate.
-Mike Lekson

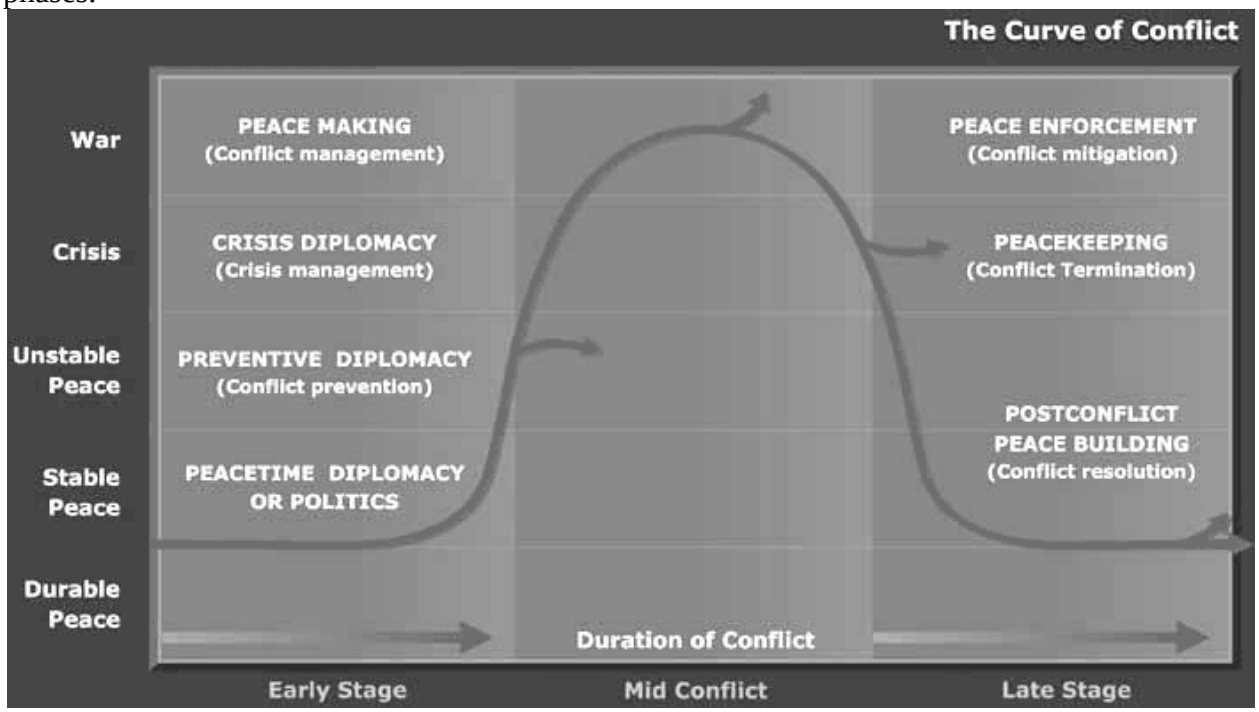
I believe there are several things people can do to enhance their negotiation skills. One of them is simply through training and learning the different techniques that go into negotiating both in optimal and impossible types of circumstances. Another one is to prepare yourself for negotiation. Another one is experience—the more you practice the better you get. Another one is that the more confidence you have the better negotiator you'll be. Part of building confidence is experience and knowing the skills, it's also preparing and having all the facts at your disposal, and having a good understanding of the context in which you are negotiating—the history, the background, and as much as you can learn about the party with whom you are negotiating—the more confidence you'll have and the better job you'll do.
-Mary Hope Schwoebel

Course Sequence

This course in negotiation is the second in a series produced by the *Education and Training Center* of the *United States Institute of Peace*. It follows our course in conflict analysis and precedes our course in mediation. Although our courses may be taken in any sequence, we've designed them so that ideas and concepts covered in one course are built upon in the courses that follow. We strongly recommend that the conflict analysis course be taken before this one, and this course in negotiation before the course in mediation.

Conflict Analysis

In the conflict analysis course, we presented the *Curve of Conflict*,[4] which shows how the use of force in violent conflict tends to rise and fall over time, how to recognize different phases of conflict, and how to characterize conflict management and peacebuilding efforts used in different phases.



[4] United States Institute of Peace, "Certificate Course in Conflict Analysis," Page 9, http://origin.usip.org/training/online/analysis/2_0_2.php.

Negotiation is a principal tool used in conflict management and resolution. Negotiation can be used to prevent violence before it has taken hold (upward slope of the curve), to stop violence once it has begun (top of the curve), and to prevent its recurrence and create conditions for a lasting peace in the aftermath of violence (downward slope of the curve). In this course, we will discuss how the context for negotiation can vary depending on a conflict's phase.

In the conflict analysis course, we also introduced a framework to help dissect a conflict into fundamental component parts, including its *actors*, *issues*, *root causes*, *scope*, *resources*, *relationships*, and *history* of *peacemaking efforts*.[5] In this course, we'll show how each of these can affect and be affected by efforts at negotiation.

Mediation

For all their efforts, negotiators often do not succeed. In some cases, primary actors won't even come to the table without the help of an actor who is not a party to the dispute. This is particularly true for the kind of existential conflicts previously described by Kelman, Saunders, Freeman and others.

This outside actor is often called a "mediator," although mediation is just one type of intervention that may be appropriate; alternatively, the outside actor might play another role, such as conciliator, facilitator, arbitrator, etc. The general term for such an actor is "third party."

Third parties help disputants reach agreement when they cannot come to terms on their own. Many of the examples that we use in this course—and many of the principles apply to them—will come from negotiations that were conducted with the help of a third party.

Our next course will focus specifically on how third parties can assist in negotiation and will draw substantially on elements from this course. Mediation and other third party roles are often highly complex and require full separate treatment. First and foremost, though, a mediator must have a thorough grounding in the principles, processes, and best practices of effective negotiation.

1.2: Purposes of Negotiation

Long-Range Goals

At the outset of this course, it's fair to ask how these skills will help you, particularly in the context of conflict management and peacebuilding. What kinds of aims, long- and short-range, will this course help you achieve?

Depending on the subject of the negotiation, these aims will be defined in various ways. When focused on conflict management and peacebuilding, negotiators generally come to the table with a few broad goals in mind:

[5] United States Institute of Peace, "Certificate Course in Conflict Analysis," Page 48, http://origin.usip.org/training/online/analysis/5_0_1.php.

Preventing or stopping violence. When a conflict escalates, negotiators will try to prevent potential violence or stop actual violence, either through preventive or crisis diplomacy, often resulting in cease-fires or other rapidly negotiated agreements. When successful, such agreements are substantial accomplishments that immediately start saving lives. However, by themselves these agreements generally do not address the root causes that led to violence in the first place.

Advancing and protecting interests. Thus, another motive for negotiators is to accomplish around a table what they might have otherwise tried to gain on the battlefield. In Kelman's words, "each party seeks to protect and promote its own interests by shaping the behavior of the other." To illustrate, he describes U.S./Soviet relations during the Cold War, where for several decades negotiators for both sides angled to advance their various interests.[6]

Parties also negotiate to reduce their exposure to risk or to limit damage. The NPT described earlier is a good example of a treaty aimed at mutual risk reduction, in this case by enhancing overall international stability.

Building durable peace. To the extent that negotiators are successful in advancing and protecting their interests by talking through problems, their efforts put them in position to build the kind of long-term durable peace that we described in our conflict analysis course.[7]

[6] Kelman, Herbert. "Social-Psychological Dimensions of International Conflict," in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman (Washington, DC: United States Institute of Peace Press, 2007), 71-72.
[7] United States Institute of Peace, "Certificate Course in Conflict Analysis," http://origin.usip.org/training/online/analysis/2_1_1.php.

Perspectives
The purpose of negotiation is to try to reduce differences between parties. If differences between parties are increasing, if, in the curve of conflict (which we address in the conflict analysis course) the conflict is moving up that curve on the left hand side, so that you might be going from the situation of unstable peace to one of crisis or even from crisis to war, that is clearly a time in which negotiation certainly needs to be considered and needs to move forward as fast as possible, if the differences are going to be resolved in a way which produces a peaceful outcome rather than a violent one.

That isn't to say that negotiation is guaranteed to succeed because obviously it is not. There's no guarantee a negotiation will succeed. Nor is it to say that any negotiated outcome is better than none. The negotiated outcome at the Munich conference in the 1930s was clearly a failure on its own terms. It did not bring peace in our time as was proclaimed, but negotiation can be tried. It has to be tried with a very cold-eyed and clear sense of what you're trying to achieve, what your objective is, and what you have to bring to bear, what leverage you have to bring to bear in the process. So, everyone will say it's the time for diplomacy when an agreement is necessarily going to produce the result that people hope for.
-Mike Lekson

Why are you negotiating? It's the first basic question you have to ask yourself. Can I achieve my goal without negotiation? Do I need something from the person I'm thinking about negotiating with? Do they have something that I want? Can they block me from getting something I need? Do I want them to legitimize something that I can achieve by myself but I want them to legitimize my getting it?
-Ted Feifer

Tactical Objectives

To accomplish these broad, general goals, negotiators may start with a range of more specific objectives:

Changing attitudes and behaviors. Negotiation can help to change attitudes and behaviors, for example to break down false stereotypes. Saunders sees this principle at work in Mikhail Gorbachev's attempts to change attitudes about his society toward the end of the Cold War. A decade after the end of détente, the Soviet president "recognized the need not just to negotiate arms control agreements but to address directly the deep distrust Americans felt toward the Soviet Union."[8] The U.S. tried this as well.

Defining a process. Through the course of a negotiation, parties may at times focus on procedural achievements. As Kenneth Stein and Samuel Lewis point out, "putting together a negotiating process is almost as difficult as trying to negotiate the actual substance of a peace settlement." Parties tend to see procedural and substantive issues as "fundamentally entwined,"

[8] Saunders, Harold. "Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process," in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 2001), 486.

with each side calculating how "a particular procedure might affect the eventual substantive outcome."[9]

Jointly solving problems. If negotiators are particularly insightful and creative, they will find ways of advancing interests that seem, at least at first, to be divergent or incompatible. Reconciling opposing interests requires determined efforts at joint problem-solving. John Paul Lederach states, "Negotiation means that the various people or groups involved recognize they can neither simply impose their will on nor eliminate the other side, but rather must work with one another to achieve their goals."[10]

Building relationships. Joint problem solving usually helps improve the relationship between parties. Because an improved relationship can often lead to continuing achievements, this improvement can be as important as any single specific agreement. Richard Solomon and Nigel Quinney explain, "The chemistry that developed between Reagan and Gorbachev, and between Shultz and Shevardnadze, was reinforced a little lower down the diplomatic ladder. Richard Schifter formed a remarkably close and productive relationship with Anatoly Adamishin as the two negotiated human rights issues from 1987 through 1991. Working together, the two pushed successfully for Soviet reform on human rights issues such as emigration and the abuse of psychiatry for political purposes."[11] In broad overview, these are typical goals and objectives of negotiation in the context of conflict management and peacebuilding. Throughout this course, our aim will be to provide information and impart skills to help you reach goals and objectives such as these when you negotiate. We will begin with a look at principles of effective negotiation, drawing on a range of current scholarship and practice. We'll follow this with extended application to two real-world case studies: the South African negotiations to end apartheid, and the U.S., Soviet, and worldwide negotiations to establish the NPT. We'll close with a section on practical steps, focused on helping you negotiate more effectively in real-world situations.

[9] Stein, Kenneth W. and Samuel W. Lewis. "Case Study: Mediation in the Middle East," in *Managing Global Chaos: Sources Of and Responses To International Conflict*, ed. Chester Crocker, Fen Osler Hampson, and Pamela Aall (Washington, DC: United States Institute of Peace Press, 1996), 468.
[10] Lederach, John Paul. *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, DC: United States Institute of Peace Press, 1997), 65.
[11] Solomon, Richard H., and Nigel Quinney. *American Negotiating Behavior: Wheeler-dealers, Legal Eagles, Bullies, and Preachers* (Washington, D.C.: United States Institute of Peace Press, 2010), 53.