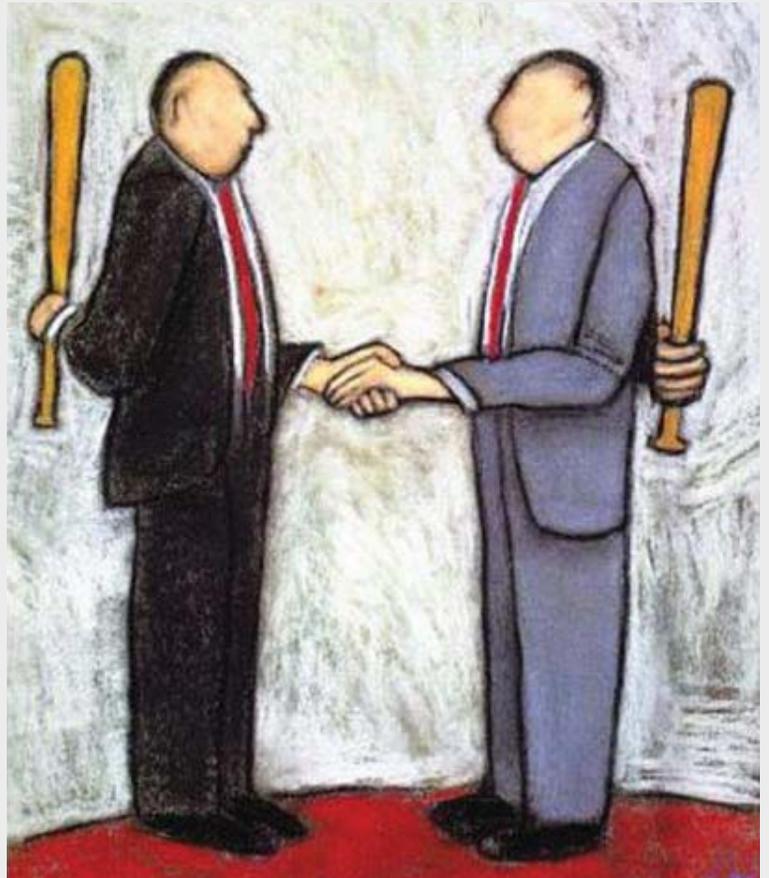


To Be A Negotiator: Strategies and Tactics

Lt. General Lazaro Sumbeiywo (rtd.)



Mediation Support Project

© Lazaro Sumbeiywo and the Mediation Support Project (Center for Security Studies, ETH Zurich and swisspeace, Bern)

Center for Security Studies (CSS)
Swiss Federal Institute of Technology, ETH Zurich
Seilergraben 45–49 – SEI
CH - 8092 Zürich
Tel.: +41-44-632 40 25
Fax: +41-44-632 19 41
css@sipo.gess.ethz.ch
www.css.ethz.ch

Swisspeace
Sonnenbergstrasse 17
P.O. Box
CH - 3000 Bern 7
Tel.: +41-31-330 12 12
Fax: +41-31-330 12 13
info@swisspeace.ch
www.swisspeace.ch/mediation

Author: Lazaro Sumbeiywo
Editors: Simon J A Mason, Damiano Sguaitamatti

This report can be accessed online at
www.css.ethz.ch> and <www.swisspeace.ch/mediation>

Front cover image: David Ross “Negotiation” 15 x 18
Pastel on paper, www.davidrossgallery.com

Acknowledgements: We are greatly indebted to Günther Baechler for initiating and supporting the Entebbe Workshop; to Julian Thomas Hottinger and Murezi Michael for helpful comments on this text; to Nadina Diday and Marion Ronca for layouting; Christopher Findlay for proofreading; and to the Swiss Federal Department of Foreign Affairs (FDFA) for supporting the MSP mediation working papers.

Disclaimer: Any opinions expressed in this article present the views of the author alone, and not necessarily those of the CSS, swisspeace, or the Swiss FDFA

Content

Foreword	3
Introduction	5
Preparing for Negotiations	5
Timing and Venue	5
Mediators and Experts	7
Establish Ethics and Ground Rules	7
How to Negotiate: The Strategies	8
Focus on Objectives and the Future, avoid Trivia	8
Know and Express Positions & Interests	9
Trade-Offs and Bargaining	10
Confidence, Confidentiality, Authority	10
How to Negotiate: The Tactics	11
Who Should Negotiate?	12
Selecting your Negotiation Delegation	12
Qualities of a Good Negotiator	13

Foreword

By Julian Thomas Hottinger, Swiss Federal Department of Foreign Affairs

Quite often, in the weeks before a peace process starts, negotiators and mediators ask themselves a thousand questions: What is the best approach to take? What have I forgotten? Or, what did I do wrong in the past? Be it negotiators or mediators, such questions probably haunt all of us as we approach an unknown negotiation process.

No negotiation process in itself is easy, but the most difficult aspect is doubtlessly the question of how to start the peace process, or rather how to start things the right way. Flashes of past experiences come back in your sleep, moments where you might have made a mistake re-appear, and incidents where you tried to go too quickly or you pushed too hard for a deal, looking for common ground, haunt your dreams. The fear that you might forget something vital wakes you up early in the morning and robs you of your sleep. So far, most of these fears have been considered as an occupational hazard for negotiators or mediators. They might be rudiments mediators share, discuss, and nervously joke about amongst themselves, but each one of us at an initial stage – before stepping into the negotiating room – has to face these questions as part of a recurring ritual, irrespective of the substance or location of the negotiations.

When I first read Lt. General Lazaro Sumbeiywo's paper, I was conscious of all of these worries looming in the background and curious to see how an esteemed mediator advises negotiators on how to deal with them. I was interested in reading how he had handled these fears while dealing with Sudan's North/South conflict during the three years of negotiations in Kenya, but even more, I was particularly interested in seeing how he addresses them today. For me, this short arti-

cle "*To Be a Negotiator: Strategies and Tactics*" is a real eye-opener. It covers all of the main issues involved in preparation for negotiations, as well as the strategies and tactics of a negotiator during the negotiations phase, while also addressing, in parallel, the necessary qualities of a good negotiator.

What surprised me the most is the style and tone used within this working paper. Not only are vital aspects of negotiation introduced, questioned, and explained, but it is done and exposed with clarity and modesty. The entire paper is thoroughly argued and well laid out, whether the author discusses the preparation phase, the strategy phase, or tactics to be used, while highlighting the continuous scrutiny on negotiators and the expectations they are confronted with. After all, a negotiator is just another human being called upon to help find the best solutions to the problems at hand. This is a job that demands modesty and honesty, not to mention humanity, while questioning one's own ethics. It is not just negotiators who can learn from this article, but also we the mediators. It teaches us to understand better the dilemmas faced by negotiators, but also to develop further our own mediation strategies and tactics.

Lt. General Lazaro Sumbeiywo's paper is a working paper that has to be read through, contemplated, and reread, as the vital information it contains needs to sink in gradually and is not to be taken lightly due to the clarity of the style. One can say without fear that it is the work of an experienced craftsman thinking through his trade, while talking about his job from his heart. In short, it is a noble piece of art by a man whose knowledge of the negotiator's trade stems from his own hands-on experience in the field.

From 12–14 July 2008, Lt. General Lazaro Sumbeiywo, the former chief of staff of the Kenyan armed forces, participated as a lecturer in a training workshop on conflict resolution and peacebuilding for a Darfurian armed non-state actor. The workshop was organized by the Mediation Support Project, initiated and financed by the Swiss Federal Department of Foreign Affairs. The following text is based on the lectures of Lt. Gen. Sumbeiywo, and thus directly addresses armed non-state actors preparing for peace negotiations.

Introduction

The essence of negotiations is for the parties to work together to solve a problem. Negotiations are a continuation of war in a different theater of operations. It is not possible to switch off the war, and then start the negotiations. War continues, in a different theater, in a different field.

Let me start with an African saying: “If you find two brothers fighting, do not try to separate them, otherwise they will both turn on you.” This happened to me when I was chief mediator in the peace process between the Government of Sudan (GoS) and the Sudan People’s Liberation Movement/Army (SPLM/A). It took us three years of negotiations before we signed the Comprehensive Peace Agreement (CPA) in January 2005. Much of what I learned about negotiations is based on this experience. However, before being involved in this process, my career was in the army, and this has also shaped my understanding of negotiations.

Moving from peace to war has been charted, while walking from war to peace is uncharted territory. The aim of this short article is to summarize what I learned from this journey. In this article I explicitly address negotiators, i.e., delegates from a party who come to ne-

gotiate in a peace process. Hopefully, these lessons on how to negotiate can help future negotiators improve their negotiation skills. It is my firm belief that negotiators are the key to success or failure of a peace process. Mediators, such as myself in the Sudan peace process, can only help others in their efforts at negotiations. So by improving your negotiation skills and attitude as a delegate, you can improve the chances of peace.

The article is structured as follows: First, I discuss some points about preparing a negotiation and setting the framework before negotiations begin. Second, the strategies of a negotiator are outlined. Strategies concern the long-term manner of how one proceeds to achieve one’s aims. Third, I discuss negotiation tactics, the short-term modus of how one puts one’s strategies into practice. A list of these strategies and tactics can be found in box 1. Fourth, I conclude with a brief discussion of what I see as the necessary qualities of a good negotiator and a negotiation delegation.

Preparing for Negotiations and Setting the Framework

There are some key questions that must be answered before you enter a negotiation. These concern the timing, preparation within a delegation, the use of a mediator, clarifying what you want to talk about (agenda), where you want to talk (venue), and being clear on your own ethics. You also need to decide on the composition of your negotiation delegation. We will come back to this question of “who negotiates” at the end of this article, after having first discussed “how to negotiate”, as then it will be clearer what is required.

Timing and Venue

Should one stop fighting or agree to a ceasefire before negotiations begin? Do not start peace negotiations with a comprehensive

ceasefire. For a ceasefire that is not negotiated, and that is not embedded in the right context, is not a ceasefire. It must have its mechanisms, monitoring, and enforcement systems (e.g., where the forces are, what to do when the ceasefire is violated). A simple statement to the effect of “let us stop fighting” is not a ceasefire agreement.

Usually, the only weapon a rebel movement has is fighting, to force the other party to the table. Saying this may look like a contradiction for a man like me, a man of peace, but if you want a lasting agreement, the other party must negotiate seriously. For a movement to want a ceasefire before or during negotiations may indicate to the other side that they are losing. So one has to build a negotiating team while the fighting continues. Only if negotiations are making serious headway will there be a sustainable ceasefire where both parties sign, stop fighting, and agree on the enforcement modalities.

However, negotiations may also be hindered by fighting, and in such a case, negotiators should call for a temporary cessation of hostilities. When the SPLA seized the town of Torit in Sudan in September 2002, the GoS walked out of the peace negotiations. The parties first had to sign a Memorandum of Understanding on the suspension of hostilities before the talks could continue. But this was not a ceasefire; it was a temporary suspension of hostilities. Both sides kept their military potential. The SPLM and the GoS did not start with security in the negotiations; in fact, at the beginning of the negotiations in Machakos, they only agreed on the main principles regarding “state and religion” and “self determination”.

So my advice to negotiators is this: Start with agreement on negotiation modalities, then agree on the overall principles, and on the goal; then agree on the agenda; and then make a start with the easy issues. If needed,

negotiate a temporary cessation of hostilities early on. For the comprehensive ceasefire, wait until negotiations have developed.

Prepare before embarking on negotiations:

If you find you are not fully prepared, delay the start of the negotiations. Use experts to prepare you for negotiations, if necessary. If negotiating under a chief mediator, check what preliminaries you need before starting – for example, the venue for negotiations.

Avoid negotiating with yourself: As a party to the talks, you must reach agreement within your own camp before you go to the negotiations, so that you do not negotiate at the table against yourself. When you see this happen, you must delay the start of negotiations or ask for a break. If not, you increase the risk of becoming divided at the table.

Where should negotiations take place? The choice of the venue in which to host negotiations is very important, and as a negotiator you should be consulted by the mediator on this question. I do not think you can have negotiations if neither of the parties are comfortable. So the country of choice must not be partisan, especially regarding the movements fighting against the government. If the movements are not at ease, then it is pointless taking them there. The government on the other side must also feel at ease, and know that it is being listened to. So the choice of location is usually discussed before the negotiations take place. The Nuba Mountains ceasefire agreement was reached in Switzerland; this was also because the country did not have an agenda for any of the parties. The CPA negotiations rotated between three countries (Kenya, Uganda, and Ethiopia) before moving permanently to Kenya. The seating order at a table is also important. Usually, you cannot choose your seating order at the table as a negotiation delegation. It is generally organized by the mediator.

Mediators and Experts

Who should be the mediator? First and foremost, mediators – in particular, the chief mediator – must be accepted by both parties. This means that a lot of consultation is required before a mediator is appointed. A woman who wants to deliver a child goes to the doctor. It is not the doctor or midwife who goes to the woman. Even after the mediator has been appointed, for example by a regional organization, he or she should be confirmed by the parties. The parties' delegations must have confidence that the mediator can deliver the desired results. As a mediator, therefore, you must be impartial in dealing with the parties.

What can you expect from the mediators? Mediators can be asked for advice by the parties; that is why they are there. As a party to the conflict, if you have differences in your own delegation, ask for consultation. When you go to a consultation, you can be open, for no credible mediator will reveal your position in the plenary session. You can always talk to the mediator. Mediators who refuse to discuss issues with the parties are not mediators. At no time does a mediator assign a position to you. If he advises you, and you accept the advice, then it becomes *your* position, not the one of the mediator. The only decision from the mediator is on matters of procedure and administration, not on substance. The mediator is a referee. So if the referee says it is a goal, then it *is* a goal. He will not change his mind. In that way, the mediator's resolution is binding.

What can you expect from the experts? Besides mediators, it is often useful to also have "neutral" experts and observers supporting the negotiations. Experts may support the mediation team, but they may also support you, the negotiation teams of the parties to the conflict. For some negotiation topics, expertise on content is required before one can

properly negotiate them. If you do not know enough about a topic, and do not have any experts to help you, ask the mediators for some coaching on that topic. They can organize experts that can provide both parties with the knowledge needed to negotiate authoritatively. Observers may also be useful at the negotiation table to keep the regional and international community informed about progress. They should, however, not intervene on matters of substance.

Establish Ethics and Ground Rules

Establish your ethics and keep them: Setting the proper tone for the negotiations requires integrity on the part of the negotiator. One does not compromise one's ethics. Three characteristics are important:

First, you must consult and communicate: In a team of negotiators, do not agree to anything, unless you have consulted your colleagues. It is better to delay until the next day, and then make a proposal that has been more carefully thought out.

Second, be prepared to apologize for any mistake: You are human; you make mistakes; do not adopt an overly rigid stance that will prevent you from saying "sorry". The final agreement is more important than your self-image. Be prepared to say: "I am sorry. I am sorry. You were right. You were right. I did not understand." These are not signs of weakness. In fact, it is a sign of strength to be able to review one's position. People will respect you even more if you are prepared to apologize for a mistake. Apologies have been known to disarm the other side, facilitating the resolution of the dispute. Be magnanimous when you are on the receiving end of an apology. Do not focus on the past.

Third, do not do things to others that you do not want them to do to you: Do not introduce a new position in the middle of negotiations. Do not retaliate with language that

does not help the process. No dirty tricks. No humiliation. You will be discovered. If you produce a document, its source should be clear. People do not like being put down. If you do not want this done to you, do not do it to others.

Establish negotiation modalities before starting: The modalities for negotiations must be established and signed by the parties. The timetable as well as the time and place of the negotiations should be clear. Insist on having a say in how the meetings are convened. The spokesperson must also be agreed upon. The involvement of the media and the release of information should be agreed upon in advance of negotiations. The rules covering the membership of each delegation should also be agreed upon.

Agree on the issues and list them in order of priority: Discuss the procedure of issues and set the framework. You must have an agenda, and it must be approved by all. Only the issues on which the two parties disagree will be negotiated. Any later addition of new issues has to be agreed on by both parties. When you are faced with the question of which topic to start with, and one of the topics is very difficult, then do not start with that one. Start with matters such as rules for food (humanitarian modalities). Do not start with a difficult topic, like a ceasefire. Start with less disputed items before tackling the more complex, disputed ones.

The agenda and negotiation modalities are often negotiated face to face with both parties in “pre-talks”. It is important that these be clear before you begin negotiating on substantive content.

How to Negotiate: The Strategies

Once the framework is set, you must be clear on your strategies. While you will often change your tactics, depending on how things evolve, you should stick to your strategies.

Focus on Objectives and the Future,
avoid Trivia

Focus on the objective: This is the first rule and principle. You must avoid emotions such as anger while you are in the negotiating group. The other side would like to provoke you to anger, to make you lose control. Remember the objective you want to achieve, and do not lose sight of it. Never let yourself be diverted from it. It does not matter if you do not like the other party – you have to respect them. You are not negotiating with your friend; you are negotiating with your adversary.

Look to the future, not at the past: We often look at the past. But the past is only good for reference. It is what you want to establish in the future that is important. You have identified a problem with your adversary, and when you have identified it, you ask them: What is your goal? What do you want to achieve? Be bold in asking the other party what they want to resolve in the dispute you both have identified. In most cases, where the conflict is complex, you need a mediator or a facilitator, simply as a referee.

Do not spend time on trivial matters: In order to avoid the trap of trivia, you should always check where you are. On a scale from 1 to 10, check the priority of the issue you are negotiating. You should always be above the halfway mark on this scale. If you are coming near the middle, check your priorities. If the negotiations produce answers to them, close the deal. Negotiations can be simple, complex, or even very complicated, so do not waste time on trivia. What is trivia? In my view, the question of “who is going to sign this agreement” is trivial. Another trivial matter is determining who will gain which appointment in the future, as you are not in the future yet. Do not negotiate an agreement with personal interests in mind. These matters are trivia. Establish institutions (e.g., “there shall be a state legislature”), but one

should not focus on personal positions in the institutions that are to be set up.

Know and Express Positions and Interests

Know what you want, and what the other side wants: From the onset, make sure you know what you want. If you proceed only based on assumptions as to what you want, you may negotiate for the wrong reason, and the wrong cause. Have a detailed plan of what you want. Also ask the other party to clarify its wishes. Provide a plan, and ask the other side for a plan in response.

Negotiations are likely to break down, stall, or end in deadlock if issues of fundamental concern to the other side are left out. If your own fundamental issues are left out, stall the negotiations, call for a break. Sometimes your opponents will want an explanation of why you want something so much. They have a right to ask, and you can explain this to them. But you should also ask why they are so intent on their own priorities.

State your wishes directly and clearly in the negotiations: You must clearly articulate what you want, otherwise your statement will not be of use to the other party, or the mediator will not be able to help you get what you want. If you do not say what you want, you cannot get it. No one will give you anything unless you express a desire to have it. Sometimes you must give reasons for why you want it. Clarity is important in the presentation of your position. Avoid being distracted by ridiculous offers. Know what you want and go for it.

If you explain it clearly, the other side will respect your clarity. If the issues are complex, put them down in writing, so that trade-offs can start early on in the negotiations.

Note here a difference between *strategies*, where it is important to be clear on one's overall goals, and *tactics*, where it is often wise not to be clear about what one wants (see below).

Box 1: Negotiations in a Nutshell

Preparation

1. Prepare before embarking on negotiations
2. Establish your ethics and keep them
3. Establish negotiation modalities before starting
4. Agree on the agenda

Strategies

5. Focus on the objective, look to the future, do not spend time on the trivial
6. Know what you want, and what the other side wants
7. Ask directly and clearly what you want; understand the importance of words and body language
8. Do not give up anything for nothing
9. Be realistic and rational
10. Have some fallback position
11. Be on top of the situation, take control
12. Protect your negotiating documents
13. Agree on implementation modalities, negotiate with people who have authority
14. Reality check

Tactics

15. Use temper sparingly
16. Do not accept “no” for an answer, or give “no” for an answer
17. Be firm, be flexible, and use a friendly tone
18. Take away and walk out
19. Mask what you really want
20. Bracket issues you cannot achieve at a particular time
21. Maintain the final line of defense

Understand the importance of words and body language: Every word has a meaning; use words carefully. One of our first meetings ended in disagreement because of the words “interim” and “transitional”. One group wanted one word, the other the other word. For me, they meant the same thing. For them, the distinction was a matter of life and death. Interim means “from to”, transition means “passing through this”. Individual words can trigger lengthy discussions. The CPA had to be translated. I brought in my

own UN translators; I did not let the parties translate the document.

Watch out for body language! It is important to understand what the other side is saying. Are they saying: “Yes, we are ready to clinch a deal”, or “No, we are not ready”? Deals are won based on an understanding of two people who want to make progress and finish.

Trade-Offs and Bargaining

Do not give up anything for nothing: At the beginning of a negotiation, do not give away things. If you do so, you will create the wrong impression that you are a pushover. You must have chips for bargaining. These are very important as trade-offs at a later stage when you are about to close a deal. Be the devil’s advocate from time to time: Put yourself in the shoes of the other side. Always request for more, and be prepared to give something for it. When it comes to the close, you may have to squeeze more from the other side. But you must be prepared to concede things that you are prepared to live without. Do not drive the other party to the wall. They may conclude that you do not want an agreement after all.

Be realistic and rational: Be reasonable in your demands; otherwise, you will not be taken seriously. If you ask for less, then you may end up even getting less than less. The parties have to be realistic if the dispute is to be resolved. In most cases, parties go to negotiations with idealistic positions and wishes. You should not make unrealistic and outrageous demands. Sometimes, parties start with highly exaggerated demands. They adopt this position so that they can achieve a trade-off at a later stage of the negotiations. When you are confronted with such a strategy, just laugh it off. Do not get angry about it.

Have a backup position: It is important to have a backup position. This is not really a fallback position, but more along the lines of

a “Plan B”. Do not start a negotiation with your back against the wall. Leave room for maneuver. Propose alternatives to unlock the talks if they reach a stalemate. Think very fast.

Confidence, Confidentiality, and Authority

Be on top of the situation, take control: Confidence is very important in negotiations. Your body and mind presence is important in negotiations. It is good to be seen, but do not show all your hidden cards. Project the image you want the other party to see in order to convince them to go along with you. As a negotiator, you must maintain eye contact and be a good listener. You should be firm but flexible, honest, and have a sense of humor. Negotiations are a continuation of war. So at the table, you are trying to disarm your adversary.

Protect your negotiating documents: The documentation of a negotiation process is very important. Individual deals that are not related to the broader process are not permissible. Avoid going over issues again that have already been agreed upon. You must have some hard copy of each draft or proposition of your side and the other side, for fraudulent documents are often circulated. That is why you should not rely on electronic versions only. A paper copy is essential.

Agree on implementation modalities; negotiate with people who have authority: From a military point of view, one cannot let an operation take place without guidelines on the “how”, “when”, “what”, and “who” of implementation. The international community tried to push us to reach an agreement in Sudan before we had achieved agreement on all the implementation modalities. This is short-sighted; the danger is that the agreement will unravel once it is signed. So you must agree on implementation modalities *before* signing the final agreement. They are

part of the peace agreement. For the same reason, only negotiate with the one who has power and can act in the name of the parties. There are different levels of a negotiator's authority.¹ The person you are negotiating with should be in a position to implement the agreement.

The road to peace is never smooth, and it is uncharted territory. We expected obstacles in the implementation of the CPA, but as long as both parties stick to the agreed principles, peace will prevail, and they will still deliver the peace dividends that the people on the ground expect.

Reality check: Take a reality check after each negotiation step, and especially before the final signature. When you think you have achieved a deal, you may have lost a deal. Therefore, ask for time to read the document before the end of talks and the signing. If you really want to have an agreement, you will not be prevented by such a final delay. You, the negotiating parties, are the ones who are going to live with the agreement.

You are now ready to strategize your next negotiations.

How to Negotiate: The Tactics

I present some negotiation tactics here, but this list is neither exhaustive nor prescriptive. Each negotiation is different from another. It may be confusing to distinguish between the issues you need and those you do not need. Your issues must be internalized. Your position must come from within you. You may want to wear a professor's suit, but you are not a professor. Certainly the suit will cover you, but it will not be as smart as when it is on the professor. One cannot act like a negotiator, one has *to be* a negotiator.

Negotiations are an extension of war; you cannot go to war without tactics. You can have a great strategy, but you must operationalize the strategy.

Use temper sparingly: The first natural tactic when talks reach a difficult point is to raise your temper. But in negotiations where tempers are already high, this is not the right tactic. It is not useful in consultations. In plenary session, this is important, when you are making a point. You must make it in a statesmanlike manner so that everyone can understand your position. You should raise a point without using insulting language.

Do not accept "no" for an answer, or give "no" for an answer: Do not just walk away because someone has said "no" to a demand. Find out why they did so, and try and convince the other side of what you need. Make a suggestion of a trade-off if you really want the item you asked for. On the other hand, do not give a "no" answer to a demand from the other side. Try to listen to their proposition and to modify their request to suit your position. Let the other party know that you are prepared to negotiate as long as it takes to solve the problem.

Be firm, be flexible, and use a friendly tone: If the other side is arrogant, change the mode. The use of words is essential in establishing identity. This does not mean you need to convey yourself to the other side. If you refer to the other side as brothers or sisters, it will help to bring down the temper of the negotiations without changing your principles. Keep your options open. Do not insist that your positions are the right ones; otherwise, your case will unravel. In most cases, people go to negotiations with a fixed mind, which is not helpful.

Take away, and walk out: This tactic is a threat to the other side. If the other party agrees not to attack a certain position in the

¹ Robert Weibel (www.cenad.org) speaks of five levels of negotiation power: 1) power by being "legitimately" at the negotiation table, and being adequately mandated to be there; 2) power to take a position, 3) power to leave your initial position, to show flexibility, 4) power to take an initial decision at the "table", at the level of the negotiation, 5) power to float the decision back home at your company or government and win support for it.

field, but attack your position with military force on the day of negotiations, then a tactic is to say you will not stay at the table: “I will walk out, as you did not keep your word.” But do not make a habit of it; otherwise, you will be seen as crying wolf, or uttering empty threats. People will ignore you. Only use this tactic once – do not repeat it.

If the other side uses the “walking out” tactic all the time, what can you do? You have to be a saint not to be provoked by the other side. However, if the conflict is not resolved, you will know that when the party walks away, they will come back. It may take a month, a year, or six years for your opponents to come back (as in Sudan, where talks were in hiatus between 1994 and 2000). So you should only stage a walk-out if the other side can really be convinced that you are not going to come back soon.

Mask what you really want: Do not expose yourself to the other side. Sometimes it is useful to create a diversion from the real situation and from your true intention. By being too open, you will jeopardize the mission. This applies to war as it applies to negotiations. As any soldier knows, your intentions should never be clear. So use a smoke-screen to conceal your movement or your intentions. This may cause the other side to make quick decisions and expose their flank. If you have attacked their flank, do not show it. Maintain a face that is always the same, whether you have lost or won.

Bracket issues you cannot achieve at a particular time: Do not spend too much time on issues you know you do not have agreement on at the moment. Do not be pinned down by a sniper. Look out for blockers, who divert from negotiations by pretending they want something they are not really aiming at. If you find there is something you cannot agree on, bracket it or resolve it. You will probably find that the issues will resolve themselves anyway when you continue negotiations. Work on the big picture and bear in mind the future relations with the parties. Do not just look at the gains of the present, but

consider what you will have achieved in the long run.

Maintain the final line of defense: In negotiations, this is the point where you say: “Take it or leave it.” Abandoning this bottom line will jeopardize the whole reason why you went into negotiations. Try to read the other side’s body language, to understand their true intentions. In the moment of final defense, never use words like “take it or leave it” unless you really mean it. When you have used such language, you must have an alternative plan when you walk away from talks.

This list is not exhaustive. Be careful when you use every tactic. Be ready to defend it or deflect it.

Who Should Negotiate?

Now that we have discussed *how* to negotiate, we are in a better position to address the key question of *who* should negotiate, both as a team and as an individual. This will be discussed in the following section.

Selecting your Negotiation Delegation

When getting ready for negotiations, one key task is to choose a delegation. You have to choose a delegation that represents the interests of your constituency. Otherwise, the problem will still be there in 50 years’ time. The way to select a team is to determine what the negotiations are all about. The composition of the team is determined by the issues that are to be negotiated. Those who have internalized the essence of what the conflict is all about are the only ones that should come in. They should be people with education and commitment. Not anyone can join the negotiations. You need an invitation; you cannot have just anybody in the room. When the agenda has been set, the delegation and number of people will also have to be agreed on. The larger the delegation, the longer it will take to get an agreement. Who should be part of the delegation?

First, the political leadership must be represented. Politicians know how to relate to the people, and to their constituency. They must inform their constituency, in particular the women, as women carry the hardest burden. Do not include women in your delegation just because of gender, but include them because they have a right to be there. Women have a sense of intuition that men do not have. Men frequently do not acknowledge the importance of intuition. God gave women that intuition, to see backwards, that men lack. So they will be an asset to the delegation.

Second, you must brief field commanders who have combat experience and know how it feels to be fighting. When it comes to security issues, you must have military commanders in your negotiation delegation.

Third, you must have a lawyer. Otherwise it is not possible to draft the documents; a lawyer knows how to do that and how to modulate the terminology.

Fourth, you can include representatives of civil society in the delegations. I have a lot of respect for civil society, but civil society alone cannot negotiate an agreement. However, representatives of civil society have a major role to play in rallying the constituencies you come from. They are also very useful, when you make progress, for communicating the information to the constituencies. You cannot make an agreement for yourself without your constituency.

Depending on the issues, you will need other people, but generally, these will be the critical delegation members. They must be representatives of the entire people; they should not all come from one area. The delegation cannot be a group of friends, or consist solely of commanders; because the people on the ground must see themselves as being represented by the delegation.

Another important point is maintaining unity within your party. The role of bringing

Box 2: The “Square Out of String” Exercise

Aim: To learn through direct experience what it takes for a group to manage a task effectively.

Instructions: Make groups of about 8 or 12 people. Everyone is blindfolded. They get a piece of string, about 3 meters long. Their task is to make a square with the string, everyone holding part of the string in their hands. When they think they have done it, they tell the facilitator, and they can take their blindfolds off.

Source: Responding to Conflict, Birmingham, UK

your side together for negotiations is a key step towards negotiating with your enemy. If you stand together, you live; if you are divided, you die. Unity is strength. In the talks on Sudan, we found it difficult to have the GoS maintaining a unified front on the one side, while the other side consisted of two rival parties: the “SPLM United” and the “SPLM Mainstream”. Riek Machar and the late John Garang had to negotiate to rejoin their forces. Only after the two SPLM factions had joined forces did the negotiations with the GoS move ahead in earnest.

Qualities of a Good Negotiator

Good negotiators are calm, cool, collected, creative, ethical, firm, and fair. When the situation demands it, they must be flexible. A negotiator must be a good listener, not a quick talker. He or she must have knowledge of many things and must be patient and persistent. Negotiators must have special abilities of perception in order to “read the feel” and to sense what is in the air. They must be able to feel what is going on. They must be able to make their presence known. They must not be perceived just as an empty chair. Sometimes, a person sits on a chair, and you see through the person, and just see the chair;

that is not good. Such a person should not be part of the delegation. A good negotiator must be reasonable and respectful. He must possess a sense of humor. If not, you will end up having high blood pressure, like me. You have to be able to laugh it off, even when situations are serious. You must be sincere and honest.

The most important thing, and people forget it, is that before you speak, you must be thankful. Thankful, even to the person you are fighting, for having come to the table. So before negotiations start, thank each other and cool off tempers. This will induce the other side to let its guard down; in this way, you can disarm them.

A good exercise for practicing the work of a negotiation delegation is the “Square Out of String” game (box 2). What can we learn from this exercise? First, to negotiate well, you must have a leader. The whole group

must act through that leader. Someone has to coordinate its work. But we should not just rely on one person in a negotiation delegation. A leader must communicate the information to the rest of the team. If the leader leaves, and the delegation is not well informed, all may be lost. For example, the death of John Garang was a severe blow for the implementation of the CPA. Second, you must have a solid idea of what the problem is (in the exercise, what a square looks like!), otherwise you cannot solve it. Third, you need to be able to work well in a team. The members of the delegation must be team players. They should not overrate their own importance. You have to listen to each other. You must be able to communicate and anticipate. From this exercise, you realize that with others you can do anything, if you have the *correct leadership, the right perception, and the correct communication skills.*



Lazaro Sumbeiywo, Entebbe, July 2008

Lt. Gen. Lazaro Sumbeiywo (Rtd.)

In 2001, Lt. Gen. Sumbeiywo was appointed as Kenya's Special Envoy to the Inter Governmental Authority on Development (IGAD), a regional organization for the Horn of Africa. In this position, Lt. Gen. Sumbeiywo was the lead mediator in the Sudanese peace process that led to the signing of the Comprehensive Peace Agreement between the Sudan People's Liberation Army / Movement and the Government of Sudan in January 2005.

Lt. Gen. Sumbeiywo was chief of staff of the Kenyan army from 2000 until he retired in February 2003 in order to devote himself fully to completing the peace process in Sudan. He was born in 1947 in Elgeyo (Marakwet district of Kenya). In 1968, he was enrolled in Britain's Royal Military Academy at Sandhurst. After stints in the Air Force, and thereafter as the head of military intelligence, and also as the head of liaison in the President's Office from 1993 to 1998, he became involved in the Somalia-Kenya Peace Initiative in 1996.

See also the book: "The Mediator. Gen. Lazaro Sumbeiywo and the Southern Sudan Peace Process", by Waithaka Waihenya, East African Educational Publishers, 2007.



The Mediation Support Project (MSP) was founded in 2005 as a joint venture between the Swiss Peace Foundation (swisspeace) and the Center for Security Studies (CSS) at the ETH Zurich. The Swiss Federal Department of Foreign Affairs is the initiator and main partner of MSP. MSP supports mediators and conflict parties in gaining knowledge and skills for effective peace negotiations.

The Center for Security Studies (CSS) at the ETH Zurich is a Swiss academic center of competence that specializes in research, training, and information services in the fields of international relations and security policy. The CSS also acts as a consultant to various political bodies and the general public. The CSS is engaged in research projects with a number of Swiss and international partners; focusing on new risks, European and transatlantic security, strategy and doctrine, state failure and state building, and Swiss foreign and security policy. The CSS runs the International Relations and Security Network (ISN), and in cooperation with partner institutes manages the Comprehensive Risk Analysis and Management Network (CRN), the Parallel History Project on NATO and the Warsaw Pact (PHP), the Swiss Foreign and Security Policy Network (SSN), and the Russian and Eurasian Security (RES) Network. The CSS is a member of the Center for Comparative and International Studies (CIS), which is a joint initiative between the ETH Zurich and the University of Zurich. www.css.ethz.ch

The Swiss Peace Foundation (swisspeace) is a practice-oriented peace research institute in the area of conflict analysis and peacebuilding. swisspeace researches the causes of wars and violent conflicts, develops tools for early recognition of tensions, and formulates conflict mitigation and peacebuilding strategies. swisspeace contributes to information exchange and networking on current issues of peace and security policy through its analyses and reports as well as meetings and conferences. swisspeace was founded in 1988 as the Swiss Peace Foundation with the goal of promoting independent peace research in Switzerland. Today swisspeace engages about 30 staff members. Its most important clients are the Swiss Federal Department of Foreign Affairs (DFA) and the Swiss National Science Foundation (SNF), as well as national and international organizations and foundations. www.swisspeace.org