



Lesson 22

Negotiation Skills

Learning Objectives:

At the end of the lesson, participants will be able to:

At the end of the lesson, participants will be able to:

- Identify three different approaches to negotiation
- Identify the difference between conflict “positions” and conflict “interests”
- Identify at least three situations where negotiation would be useful for improving civil-military-police coordination
- Identify the limits of interest-based negotiation
- Identify the relevance of negotiation skills for leadership in complex environments to achieve human security

This lesson provides an introduction to the skills and process of negotiation. The lesson identifies the type of situations where negotiation might be useful to support civil-military-police coordination.

1. Negotiation Defined

Negotiation is a process where two or more people or groups communicate with each other to address competing interests that appear to be incompatible. In complex environments, civilian, military and police leadership may need to use negotiation skills to address a wide variety of conflicts.

2. When is negotiation useful?

In complex environments, civilian, military and police leadership may use negotiation to address a wide variety of conflicts.

- *Intra-group conflicts within civil society, military or police* about internal conflicts. For example, some NGOs have been angry with other NGOs that work openly with the military. This is because

the safety, access, trust and legitimacy of all NGOs and their beneficiaries depend on the perception of NGO independence from armed groups or political actors. Once any NGO begins to work as a contractor for an armed group, it may damage the acceptance and security of all NGOs.

- Inter-group conflicts between civil-military-police groups about each group's roles and responsibilities in areas where they are each working and need to coordinate. For example, there may be conflicts on SSR, DDR or civilian assistance efforts.
- Identity conflicts between clashing ethnic, religious, tribal or other identity groups.
- Ad hoc conflicts happen because diverse stakeholders are all operating, living and working in the same complex environment. Negotiation can be used to improve day-to-day encounters or meetings to simply sort out logistical coordination for sharing space. This can include using negotiation at checkpoints or borders to defuse hostility and reduce the possibility of escalating conflict.

3. From Win-Lose to Win-Win Solutions

Most people approach negotiations with a belief that in order for us to “win” or get what we want from the negotiation, the other side needs to “lose.” This “win-lose” attitude makes people feel like they are against the other person and their needs. The first principle of negotiation is that people need to work together to solve their shared problem and if possible, create a “win-win” solution that satisfies everyone's basic needs. Negotiation and mediation are an opportunity to solve a shared problem. Recognising that command and control attempts rarely work in complex environments, adaptive leaders use negotiation and mediation skills and process to improve understanding and coordination between diverse stakeholders living and working in the same complex environment.

4. Positions versus Interests and Needs

Negotiation helps people identify underlying needs and interests to develop creative solutions. Module 4 on Coordination on Conflict Assessment introduced the distinction between “positions” and “interests.” People often engage in conflict to attempt to address their grievances. People may be willing to fight and die to protect their basic human needs for dignity, respect, identity, and economic and physical safety. As illustrated in the “onion” diagram in Module 4, needs and interests are often hidden underneath public positions.

- Positions are what people say they want in public. These can be political demands or conditions under which they will stop fighting.
- Interests are desires, concerns, and fears that drive people to develop a public position.
- Needs are the most basic material, social, and cultural requirements for life that drive people's behaviour and their positions and interests.

Many people believe that the best negotiation style is to decide what you want, take a “position,” and then push and coerce other people to give you what you want. Interest-based negotiation is a process to go beneath the public positions to discover each group's deeper interests and needs. If people in a negotiation discuss their positions rather than their interests or needs, it will be difficult for them to find creative solutions that allow each of them to be satisfied.

Discussing basic needs and interests is a better negotiating strategy. Needs and interests can be satisfied in many ways. Creative problem solving can be used to satisfy each person or group's interests or needs in a negotiation.

5. Three Approaches to Negotiation

Soft Negotiation: This type of negotiation style puts a large focus on maintaining relationships at the expense of solving problems. Soft negotiation is “nice” and “soft” on people and relationships. But it does not solve the problem, because people are afraid of confronting the real issues. This approach avoids the real issues. People who are accommodating are often willing to give up their own interests and needs in order to satisfy other people.

Hard or Positional Negotiation: In hard or positional negotiation, people see each other as the enemy. They make no effort to understand or care about the interests and needs of other people. They may use coercive negotiating tactics such as threats, abusive language, or power plays to show that they will not accept anything other than their “position” in the negotiation.

Interest-Based Negotiation: In interest or need-based negotiation, people see each other as partners in an effort to solve a mutual problem. They share their own needs and interests while also listening to the needs and concerns of others. They recognise that their needs and interests are interdependent and that it will be difficult for them to meet their own needs and interests without examining the needs and interests of others. People engage in creating problem solving to brainstorm how all human needs can be satisfied. People build relationships with each other and seek to cooperate rather than compete with each other. This type of negotiation searches for a “win-win” outcome acceptable to all the people in the conflict. Interest-based negotiation is also referred to as “principled negotiation.”

The chart below illustrates these three different negotiation styles.

Soft Negotiation	Positional Negotiation	Interest-based Negotiation
Soft on the people and the problem Seeks “I lose, you win” solutions Makes offers and yields to pressure	Hard on the people and the problem Seeks “I win, you lose” solutions Makes threats and pressures others	Soft on the people and hard on the problem Seeks win-win solutions Explores interests and focuses on principles

Figure 57: Approaches to Negotiation -Adapted from Roger Fisher, William Ury, and Bruce Patton¹¹⁰

6. Best Alternative to a Negotiated Agreement or “BATNA”

Before beginning a negotiation, it is important to know the alternatives to addressing a conflict. If the negotiation fails to address the problems, what will happen? What next steps will each group take? Understanding the “best alternative to a negotiated agreement”, or “BATNA”, allows people to make decisions about what they will accept during a negotiation. Without knowing the BATNA, negotiators will have a difficult time assessing their options in the midst of a negotiation.

For example, a negotiation between police officers and community leaders over permission for civil society to hold a protest march against government policies, both sides need to know their BATNA. Police need to analyse what might happen if they reject the protest without negotiating with the civilian leaders. If the media covers the decision, and it appears to be repressive, then police leaders may face consequences for that decision. On the other hand the community leaders also need to assess their BATNA. If the community decides to hold a protest without getting police permission through a negotiation, they too may face negative consequences such as arrest or violent repression of the protest march.

A group may decide to negotiate when they believe they have more to lose by not negotiating. People may decide to negotiate for the following reasons:

- They have experienced great losses during prior violent exchanges
- Using the legal system would be slow and expensive
- Using violence has not been able to solve their problems
- They may realise that they can only solve the problem through negotiation because they recognise the interdependence between groups and they believe they can get what they want and need by negotiating with others.

7. Separate the people from the problem

Skilled negotiators address the issues and problems rather than blaming individuals or people. Negotiations are more successful when people focus on the issues, not the qualities or characteristics of groups of people. Civilians, military and police may all hold negative stereotypes about other groups. Stereotypes are broad accusations against an entire group. In negotiation, the focus of communication is to find solutions to problems, not to engage in criticisms against an individual or group based on stereotypes. For example, if police and civilians in a community disagree about the use of force in a particular situation, a negotiation would emphasise the issue of the use of force in an effort to understand all points of view as well as the legal context. A constructive negotiation would not include civilians and the police calling each other names or attacking each other’s character. When conflicts become personalised and include name-calling and stereotypes, it becomes much more difficult to find solutions to problems.

8. Use creativity and innovation to find a solution

Negotiation requires creativity. There may not seem to be solutions at the beginning of a negotiation but the technique of brainstorming helps to generate options. Brainstorming is a process of thinking creatively to develop a list of ways a problem may be solved. Brainstorming helps people to “think outside of the box” that may limit their ability to see a solution. Skilled negotiators think creatively to develop the

widest range of possible options for resolving issues without immediately judging which are good and which are not.

Sometimes a solution developed during a brainstorming session seems impossible at first, but can be adapted and combined with other options to create a win-win solution. For example, the countries of France and Spain were in conflict over a river on their borders. Rather than fight a war over the river, or decide that one country owned it, they developed a win-win solution. They developed a creative idea of alternating years that they could use the resources of the river.

9. Find objective ways of making decisions

Some negotiations can borrow solutions from others who have faced similar conflicts. Where there are laws, rules, or standards, negotiators can use these as standards for deciding what is fair. For conflicts facing civilians, military, and police, each country's national constitution and laws, International Human Rights Laws, the Law of Armed Conflict (International Humanitarian Law) and other related laws may be helpful.

10. Every culture has their own way to negotiate

The interest-based negotiation skills described here can be helpful across diverse cultures. But it is not enough to have these basic negotiation skills. Western negotiation experts designed interest-based negotiation to be used in interpersonal or organisational conflicts or business negotiations to address very specific problems. A military, police, or civil society leader may find interest-based negotiation very useful for negotiating with their colleagues who are working within a shared cultural and organisational framework. But it might not be as useful for negotiations that take place between local civilians and foreign military forces. Every culture has its own style and rituals to support negotiation. Leaders who want to use negotiation in complex environments to support human security will have to learn how negotiation is carried out in the local culture. It might involve an exchange of gifts, the sacrifice of an animal, eating or drinking tea together.

11. Negotiations in complex environments require advanced negotiation skills

In complex environments with civil, military, and police stakeholders, people and groups may not have any pre-existing relationship with each other, or any interest in having a relationship in the future. There may be little will to improve relationships or solve problems together through negotiation if groups do not want to coexist in the same environment. There may be few incentives for reaching a negotiated agreement and many rewards for continuing conflict.

The divisions within each side may also make reaching an agreement difficult. There may be internal conflict over whether or not to negotiate with other groups. For example, some civil society organisations and communities may want to negotiate on conflicts with military and police forces and others may not. Similarly some military and police leaders may want to negotiate with local civilian leadership at the community level and others may prefer to use force to intimidate or repress the civilian population.

If any of the armed groups walks away from negotiation deciding that violence is their BATNA, fighting may resume, even though some groups may prefer to negotiate. This makes the failure of negotiations very costly. While the negotiation skills identified so far in this lesson are valuable for solving technical problems, they fall short in providing guidance for what have become known as "wicked problems" occurring in many complex environments.

12. Wicked conflicts

Wicked problems, defined and described in lesson 1, include types of conflict that occur in complex environments. Wicked conflicts may involve many stakeholders and different issues, including complex religious, political, social and environmental issues. Wicked problems are particularly difficult to negotiate. Wicked problems require advanced negotiation skills.

Any solution to the problem may create new problems. For example, an attempt to address religious extremism can be perceived as attacking the religion itself, creating even more religious extremism. Or an attempt to negotiate between tribal leaders may cause other leaders who do not want to negotiate to assassinate those leaders in their own group that do want to negotiate. This may cause even more violence between groups.

Wicked conflicts are each unique. It is often not possible to take a solution that worked to address one wicked problem and use it to solve another. For example, a conflict between military leaders and tribal

elders in one country may involve specific religious law, tribal rituals and customs, specific opposition to government policies and a specific environmental context with other issues and factors driving conflict at play. This makes it much more difficult for military leaders to take a negotiated solution that worked in one region of a country and implement or impose the same solution on another region.

The complex environments in which wicked problems develop are themselves in flux. Social norms, political agreements, cultural and religious values, and social identities may all be shifting. This means groups are not able to calculate their alternatives or predict a BATNA to assess what might happen if they negotiate or decide not to negotiate. Complex environments and the wicked problems that happen within them are unpredictable, which make civil-military-police negotiations especially challenging.

13. Negotiation in Wicked Conflicts

In the midst of a crisis in a complex environment, some of the assumptions about negotiation change. Listed below are some of the challenges military, police or civilian negotiators face when trying to solve problems in complex environments when they face wicked conflicts.

- It may be difficult to define the problem that needs to be negotiated. Negotiating on a conflict related to climate change shocks, religious extremism, and government corruption would require a complex set of processes to address these three challenges. When negotiating in complex environments, civilian and security sector leaders often have to take into account external factors that they cannot immediately control or understand. Local community leaders may insist that their community members are joining non-state armed groups in response to perceived humiliation from military and police night raids on community homes. Military and police leaders may insist that local people are joining an “insurgency” because of religious extremism and demand that religious actors be held accountable. The conflict itself is not clear. There may be multiple factors driving conflict, making it difficult for security sector leaders and community leaders to negotiate over goals, strategies or tactics since they define the conflict in different ways.
- It may not be possible to include all the stakeholders in a negotiation due to political, geographical or logistical concerns. Those who were excluded may contest or try to undermine an agreement reached by the negotiating parties which means negotiations will have to restart again. In some security forces, there is a frequent rotation of personnel. This creates a situation where rotating personnel come and go, each not fully learning or understanding the complexity of issues and wicked conflicts.
- Stakeholders may have a difficult time determining their BATNA (Best Alternative to a Negotiated Agreement) because there are so many different factors to take into consideration.
- The emotional stakes in negotiations in complex environments are very high. Negotiation partners may fear for their personal security and may have been deeply traumatised because of the loss of their colleagues. Such fear may lead them to harden their positions, adopt more extremist views, and lose trust. It may also make it difficult to think rationally about costs and benefits or the “BATNA”. For example, NGO representatives may be in outright refusal of any type of contact with military actors after attacks on their offices occurred. A military officer may have no idea of the negative consequences for choosing not to negotiate with a tribal elder. A police leader may not be able to analyse any alternatives to a negotiated solution because there are so many diverse stakeholders and factors at play that it is not able to predict what risks or benefits may be achieved through negotiation. Furthermore, each side may be willing to fight and die for their cause. It may be difficult to convince them to consider alternatives to their positions if they feel their very identity is at stake.
- In some cultures, to acknowledge wrongdoing requires carrying out revenge attacks. In some contexts, any attempt at negotiating a problem that includes naming the history of wrongdoing risks increasing the violence, as naming, blaming and shaming tactics (often used by civil society, especially human rights groups) may humiliate stakeholders who may respond with cultural norms that call for revenge or increasing violence. This may affect civil-military-police negotiations in complex environments. Civil society may unknowingly set off new violence by publishing human rights accounts that name perpetrators. Military and police leaders may unknowingly set off new violence by negotiating with community leaders in a way that makes it impossible for community leaders to save face, causing them humiliation and prompting them to take revenge. Negotiation in these contexts requires extra attention to anticipate and mitigate these potential negative impacts.

14. Adaptive Negotiation and Social Transformation

Wicked conflicts that take place in complex environments may not have a negotiated solution. Official diplomacy between states, sometimes involving the UN is known as “Track I diplomacy.” Track I diplomacy may take many years to address wicked conflicts by starting with “low hanging fruit” or confidence-building mechanisms to solve small problems which then allows the stakeholders involved in negotiation to sequence the issues they address. Ultimately, negotiation on wicked conflicts in complex environments almost always involves “social transformation”; a fundamental shift in a country’s economic, political and social systems.¹¹¹

Unofficial diplomacy or “Track II diplomacy” involves civil society. Local conflict prevention and peacebuilding use Track II diplomacy to bring together academics and mid-level leaders across the lines of conflict in an attempt to analyse the conflict and begin brainstorming possible solutions that can then support Track I diplomacy. Civil society has played significant roles in negotiating the end to civil wars in South Africa, Mozambique, and dozens of other countries.

Recognising the important role of negotiation and diplomacy, some military academies now train “soldier diplomats” who can participate in negotiation and reconciliation processes. Where civilian government, security forces, and civil society are all participating in negotiation and diplomatic efforts, coordination is essential. This type of coordination could significantly contribute to a systematic approach to wicked conflicts. Without coordination, the potential for negotiation efforts to undermine each other is significant. For example, civil society, military and police leaders may not themselves be able to assist in negotiations of “wicked conflicts” that stem from a diverse set of factors fuelling the violence. Adaptive leaders, as defined in Module 1, need to be able to determine when negotiation will be useful for civil-military-police coordination on human security and when it is not possible or needs to be carried out by other stakeholders, such as the UN or high-level diplomats.

Civil-military-police leaders can use “adaptive negotiation” to identify “sub-conflicts” or specific problems that would benefit from negotiation between security forces and civil society. Adaptive negotiation will also include an ability to think of negotiation as a broader process of social transformation, including negotiation on government and security sector reforms, rule of law programmes, religious values, economic development, and a wide range of other efforts may also be necessary.

LESSON REVIEW

This lesson reviewed three common approaches to negotiation: hard, soft, and interest-based. The lesson described why interest-based negotiation is usually more effective in that it takes into consideration the interests of all stakeholders involved in the negotiation, enabling all of them to create a solution that satisfies their interests. The lesson ends by describing the difficulty of negotiating solutions to “wicked problems” that frequently occur in complex environments where civil society, military and police may all be working toward human security. Leaders may need to negotiate broader social processes, like government reform initiatives, in addition to negotiating on specific issues such as how to manage water or how to divide land.

Citations

¹¹⁰ Roger Fisher, William L. Ury and Bruce M. Patton, *Getting to Yes: Negotiating without Giving In*. (New York: Penguin Books, 1983).

¹¹¹ See also the following publications:

Calvin Chrustie, Jayne Seminare Docherty, Leonard Lira, Jamil Mahuad, Howard Gadlin & Christopher Honeyman, “Negotiating Wicked Problems: Five Stories” in *Venturing Beyond the Classroom*, ed Christopher Honeyman, James Coben, Giuseppe De Palo. (Saint Paul, Minnesota: DRI Press, 2010).

Jayne Docherty and Leonard Lira, “Adapting to the adaptive: How can we teach negotiation for wicked problems?” in *Educating negotiators for a connected world: Volume 4 in the Rethinking Negotiation Teaching Series*, Christopher Honeyman, James Coben, and A. Wei-Min Lee, (St. Paul, Minnesota: DRI Press, 2013).

Leonard Lira, “Design: The U.S. Army’s Approach to Negotiating Wicked Problems,” in *Venturing Beyond the Classroom*, ed Christopher Honeyman, James Coben, Giuseppe De Palo. (Saint Paul, Minnesota: DRI Press, 2010).

Lesson 22

Learning Exercises

Anchor

10 minutes

To begin the lesson, anchor the content in this lesson with an open question:

- What is one experience of a successful negotiation you have had in your life? What was effective or ineffective in this negotiation?

Add

20 minutes

Present the PowerPoint slides or ask participants to discuss the lesson readings in a small group.

Apply

25 minutes

The goal of this exercise is to practice using negotiation skills. Given the rising tensions following the earthquake and the killing of eighteen civilians in the IDP camp, each of the stakeholders in this scenario decides to renew efforts to negotiate an end to the crisis by building a common national vision. Each stakeholder team has thirty minutes to formulate their negotiation plan based on the lesson and then to seek out other stakeholder teams with whom they want to negotiate with to achieve their goals.

- What approach to negotiation will each team take – soft, hard or interest-based?
- What is each team's BATNA?
- Which issues might not be negotiable?
- What are the potential risks or benefits of negotiation?

Debrief the negotiation role-play by asking each team to reflect on the challenges and opportunities to use negotiation to achieve their goals.

See the "Scenario-based Learning" section in the [Handbook on Human Security: A Civil-Military-Police Curriculum](#) for explanation of the scenarios and teams.

Away

5 minutes

To end the lesson, the trainer can ask participants to divide into groups of 2 or 3 people. Participants can share with each other their reflections on this lesson.

This Lesson is part of the *Handbook on Human Security* found at www.humansecuritycoordination.org

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