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The Four Stages from Armed Conflict to Functioning Power-sharing

Political Means for Non-violent Conflict Transformation
The Art of Conflict Transformation
3rd International Summer Academy

Why a presentation on power-sharing?

- Topic of the overall course: Political Means of Conflict Transformation
- Mainly intra-state conflicts
- 53.4% of conflicts concerned disputes about controlling part of the state's **territory** (Nancy Bermeo)
- Additional cases, who shall have power at the centre
- **Power-struggles** between different groups
- Conflict parties are only willing to accept an agenda of peace if they are guaranteed a (share of the state) or of state power
- Question is often not **WHETHER** power-sharing but **HOW** and **WHAT KIND** to introduce

The Four Stages

- Agreeing on the need for power-sharing
- Deciding on power-sharing
- Implementing power-sharing
- Conclusions: Living power-sharing



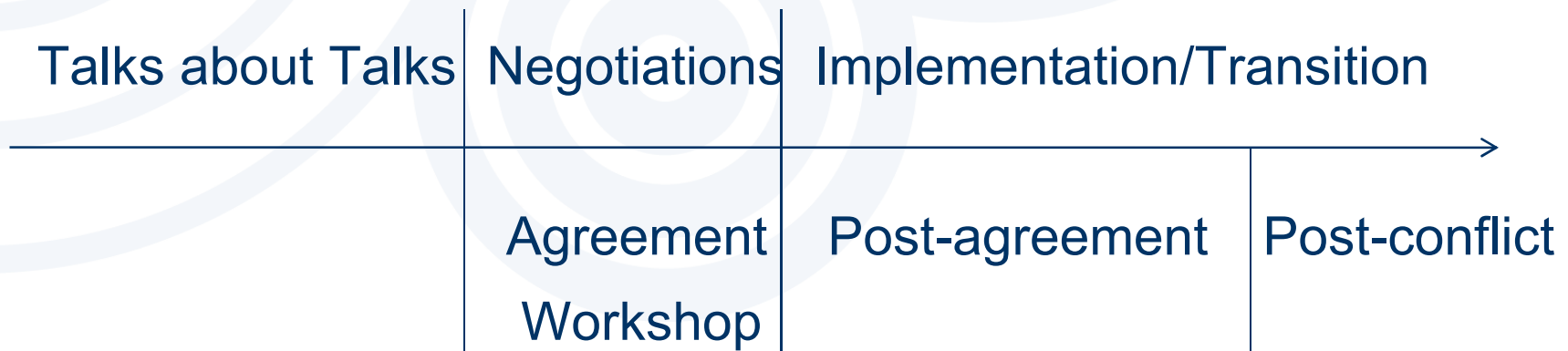
This presentation in context

- **Ueli Mäder:** Peace and conflict studies
- **Geri Müller:** Resource conflicts
- **Jay Rothman:** prenegotiations(focus on intragroup negotiations)
- **David Becker:** psycho-social dimension for conflict transformation
- **Andreas Gross:** direct democracy as peace politics

The Four Stages

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Each stage has its specific challenges



What is power-sharing?

- Power not concentrated in the hand of a few or 50% +1 (nobody can monopolise power)
- Power shared between representatives of different groups and parties, regions
- **Vertical power-sharing:** distributes power between different levels or spheres of government (political, administrative, financial autonomy to territorial sub-units or to communities/groups) Direct democracy as example of vertical power-sharing – Andi Gross (self-rule)
- **Horizontal power-sharing:** distributes power in the institutions of one state level (e.g. in the executive, parliament, judiciary) (shred rule)
- On a territorial or non-territorial basis



Focus of the Presentation

- Less on the benefits and risks of different power-sharing mechanisms
- But focus on the different stages from armed conflict to hopefully effective power-sharing and on the concrete challenges during these stages
- From a process perspective

Agreeing on the need for power-sharing

- Conflicts about who can rule over a people, territory and resources
- Existing power-structures are challenged through violent means
- Reasons why can differ, context differs
- Mutually hurting stalemate on the battlefield (Jay Rothman)
- Peace negotiations (with power-sharing) as best alternative to an unsecure victory on the battlefield
- Engagement as long as negotiations appear as the most effective approach to reach objectives
- Willingness can evaporate
- Each time negotiations fail, they are more difficult to resume (trust)

Talk about the talk

- Establish the agenda for the peace talks
- Agree on the process how to conduct the peace talks
- Agree on who shall participate in the peace talks
- Agree on who shall support the process (observers, mediators, experts)
- Decisions will have influence on the outcomes of the peace talks

Possible set-up

Ceasefire

Power-sharing

Wealth-sharing

Security



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Interventions (of an expert of power-sharing)

- Often with parties separately
- Provide conflict parties the opportunity to learn and reflect whether power-sharing could be useful.

Negotiating Power-sharing

- As part of peace negotiations
- As part of post-agreement constitution-making

As part of peace negotiations

- Constitution-making during conflict
- **Principles for a new Constitution:** South Africa
- **Interim Constitutions:** Sudan, Burundi, Nepal
- **Partial Constitutional Reform:** Macedonia
- **New Constitution:** Bosnia and Herzegovina

Challenges

- Root causes are addressed
- Time factor
- but...
- Negotiated by conflict parties, sometimes with international pressure
- Power-sharing between conflict parties can be a source of new conflict (domino effect)
- Normally elitist processes but should be inclusive process
- Legitimacy of the constitution?
- Amendments in the future – a danger for peace or only when peace is in danger?

No easy answers

- Process design (big is sometimes beautiful) Jay Rothman
- Power-sharing between conflict parties for an interim period (what will come afterwards?)
- As much as possible in a separate constitution-making process (how much is possible?)
- Constitution-making in post-agreement but in a conflict mood

Post-agreement constitution-making

- Can be a more inclusive, participatory process but does not need to be
- Inclusive processes increase legitimacy but also complexity
- If disputes about power and resources is a cause of conflict, debates on the constitution can bring up old conflicts again
- What if compromises reached in peace negotiations are questioned in the constitution-making process?
 - Constitution-making as extension of peace negotiations
 - Constitution-making can be jeopardised by other aspects of the peace process
 - If constitution-making fails the peace process fails

The case of Nepal

- Constitution-making after agreement
- Inclusive process (601 member Constituent Assembly (CA))
- Constitution-making is getting blocked by political disputes along old conflict lines (ideological, others)
- Huge debate whether the peace agreements are binding for CA
- CA members do not manage to agree on parts of the new constitution – relapse into elite negotiations
- Elite negotiations get blocked due to other aspects of the peace process which are not part of constitution-making (security reforms)
- Some groups threaten to go back to conflict if the constitution is not drafted soon

Process design

- Conducive to conducting difficult political and technical debates on complex and interlinked issues in a fragile environment
- Make or break issues (e.g. sharing of power and resources)
- Sequencing of the debates

Example Nepal

- Nepal- a multi ethnic, multilingual and multi-religious country
- A country of minorities
- Ethnic diversity (100 ethnic groups, 69 have less than 100,000 population)
- Linguistic diversity (92 languages and dialects, 76 have less than 100,000 population)
- Geographical diversity
- Diversity in availability of resources

Federalism in Nepal

- Interim Constitution 138 based on Amendments of April 13, 2007 and July 12, 2008
- (1a) Accepting the aspirations of indigenous ethnic groups and the people of the backward and other regions, and the people of Madhes, for autonomous provinces, Nepal shall be a **Federal** Democratic Republic.
- The provinces shall be autonomous with full rights. The Constituent Assembly shall determine the number, boundary, names and structures of the autonomous provinces and the distribution of powers and resources, while maintaining the sovereignty, unity and integrity of Nepal

Deciding on federalism:

Constitutionally Guaranteed Amendment procedure

Self-rule

- Definition of Federal Units (Provinces/States)
- Internal Organisation of Federal Units
- Powers of Federal Units
- Resources

Shared Rule

- Political institutions at the centre
- Powers of the Centre
- Resources

Interaction

- Concurrent Powers
- Shared Powers
- Fiscal equalisation
- Coordination
- Control
- Dispute Resolution

Structure

- Constitutional Committee + 10 subject committees
- Committee on State Restructuring and Distribution of State Power
- Committee on the Division of Natural Resources, Financial Rights and Public Revenue
- Committee to Decide the Form of the Legislative Body
- Committee on the Judicial System
- Committee to Determine the Form of Governance of the State
- Committee to Decide on the Structure of the Constitutional Bodies
- Committee on the Protection of Rights of Minorities and Marginalized Communities
- Committee on Preservation of National Interests
- Committee to Decide on the Basis for Culture and Social Solidarity
- Committee on Fundamental Rights and Directive Principles

Major issues (make or break)

- As identified by representatives of political parties (make or break issues)
- Basis of Federalism
- Resource sharing
- Parliamentary vs. Presidential System

Basis of Federalism

- Focus on geographic/economic criteria
- Focus on ethnic criteria
- One Madhes one pradesh
 - Trend of mobilisation of different groups and communities
 - Political parties signal willingness to compromise
 - Political costs of compromise, if costs are too high, willingness will diminish (intra-group challenge)
 - How to reach the compromise



Challenges

- Will need time
- ‚package deal‘
- Need for coordination between committees to allow for cross-committee bargaining
- An unsatisfactory report from one committee will harden positions on other issues

Deciding on power-sharing

- An emotional issue
- identify common goals, collecting and **exploring** issues
- From principles to options to constitutional provisions
- Issues are **inter-related!** The isolation or sealing off of any of these facets could limit the possibility for necessary cross-topic adjustments or trade-offs.
- Complex issues – but **adding complexity** might help
- No linear process of decision-making!
- Public Participation
- Own constituency

Interventions (of an expert on power-sharing)

- As part of the process
- In cooperation with the mediator, peace-building adviser
- Explore issues
- Open up the agenda
- Creativity to support developing acceptable solutions
- Broad capacity building to support public participation
- Intragroup discussions (to prepare for compromises)

Implementing Power-sharing

- Peace agreements as utopia
- The process of negotiation will reflect on the chances of implementation
- How much political will (buy-in not only of political leaders – compromises as betrayal)
- Buy-in of the administration
- Buy-in of the society
- Psycho-social dimension for conflict transformation – David Becker
- external pressure, capacities, implementability of provisions
- The importance of implementation - escalation cycle

Implementation

- A topic for the Constituent Assembly
- (1) Who is (2) doing what (3) with what means (4) when + alternatives + monitoring mechanisms
- A long process
- Phases

Interventions (of an expert of power-sharing)

- Technical support
- Capacity building

Conclusions: Living Power-sharing

- Different actors remained dedicated to power-sharing
- Different actors managed to agree on power-sharing
- Power-sharing mechanisms were implemented
- In a successful scenario inclusive and participative decision-making created a buy-in of those who could spoil
- Decision- and implementation process created trust and respect for the rules of the games
- Pre-requisite for the functioning of power-sharing mechanisms.