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Process Matters: Conflict Resolution Insights for the South China Sea Dispute

Abstract: A brief survey of relevant international conflict resolution concepts and literature is provided as guidance regarding the South China Sea and similar disputes. This paper discusses basic assumptions implicit in most conflict resolution processes, and identifies how they vary from mainstream schools of thought in international relations. The aim is to assist involved parties as they deliberate how best to mitigate possible physical violence and conflict escalation in the South China Sea as well as other disputed islands in the region.

Keywords: China, PRC, South China Sea, Vietnam, Malaysia, Philippines, Brunei, ASEAN, Taiwan, conflict resolution, conflict transformation, mediation, international communication, diplomacy.

过程很重要：对化解南中国南海争端的见解

摘要：本文简要研究了相关国际冲突解决（CR）的概念和文献，旨在为南中国海争端及其他相似争端提供一些参考意见。考虑到各种领土问题所涉及的政府和相关方的数量，本文将重点介绍谈判专家 Roger Fisher, William Ury 和 Paul Lederach 的见解，他们是“冲突转化”领域最重要的学者和参与者。此外，本文还将讨论隐含在大多数冲突解决过程中的基本假设，以及这些假设与主流国际关系学派的区别。希望本文的讨论可以帮助各相关方，使他们能最有效地缓和南中国海地区岛屿争端可能引起的暴力和冲突升级。

关键词：中国，中华人民共和国，南中国海，越南，马来西亚，菲律宾，文莱，东盟，台湾，冲突解决，冲突转化，调解，国际交流，外交

PROCESS MATTERS: CONFLICT RESOLUTION INSIGHTS FOR THE SOUTH CHINA SEA DISPUTE

This paper provides a brief survey of relevant international conflict resolution (CR) concepts and literature¹ to provide some guidance with maritime issues, such as those regarding the South China Sea and similar disputes.² Given the number of governments and parties involved in these territorial issues, the focus here is upon providing some insights from negotiation experts Roger Fisher and William Ury as well as John Paul Lederach, the foremost scholar-practitioner of ‘conflict transformation’. In addition, this paper discusses basic assumptions implicit in most conflict resolution processes, and how they vary from mainstream schools of thought in international relations (IR).³ The hope is that this discussion may assist involved parties as they deliberate how best to mitigate possible physical violence and conflict escalation in the South China Sea as well as other disputed islands in the region.

Basic Conflict Resolution Assumptions

As a starting point, let us consider some typical stances within conflict resolution as a field.⁴ First, there is an openly normative element to most conflict-resolution approaches, as most ‘scholar-practitioners’ abhor physical violence and want to prevent the escalation of harmful forms of conflict. Unlike the standard realist assumption that conflict is a destructive in nature, however, most scholars and practitioners in conflict resolution note the creative

¹For the purposes of this paper, ‘conflict resolution’ is an umbrella term that covers all types of dispute and conflict management, resolution, and transformation approaches. In addition, I refer to CR as a ‘field’ instead of a ‘discipline’ because the latter term indicates separation from other disciplines. CR is interdisciplinary, borrowing and blending insights from different disciplines and fields.

²This distinction between disputes and conflicts stems from scholar-practitioner John Burton. More broadly, he was the first to make the significant distinction between ‘dispute resolution’ (also known as dispute settlement) and ‘conflict resolution’, with ‘disputes’ referring to smaller incidents that may be settled within existing legal and diplomatic frameworks. In contrast, ‘conflict resolution’ takes a broader perspective both in terms of space and time, noting that ‘disputes’ may be symptoms of systemic inequalities and power imbalances (at both the national and international levels). See John W. Burton, ‘Conflict Resolution as a Political Philosophy’, in *Conflict Resolution Theory and Practice: Integration and Application*, Dennis J.D. Sandole and Hugo van der Merwe, eds. (New York: Manchester University Press, 1993), 55.

³Within the confines of this paper, mainstream IR theory includes all of the variations on realism and liberalism. It is only fair to note that traditional IR theories also emerged to prevent war and promote ‘international peace and security’ as much as possible.

⁴There are many similarities between diplomacy and conflict resolution, as both are applied fields. Moreover, both involve work from the interpersonal to international levels of analysis. The East Asia Security Symposium and Conference has been an excellent place to have an exchange of ideas because there are some ‘stove pipe’ or ‘silo’ problems in terms of duplicating efforts and not learning from one another. To address this concern, I. William Zartman has a project that brings diplomats and CR ‘scholar-practitioners’ together to share information about techniques and approaches.

possibilities and improved futures that can emerge from (non-violent) conflicts. In John Paul Lederach's words, 'conflict is seen as a transforming agent for systemic change'.⁵ In terms of a definition of the field, Jacob Bercovitch and Richard Jackson note,

By *conflict resolution* we mean a range of formal or informal activities undertaken by parties to a conflict, or outsiders, designed to limit and reduce the level of violence in conflict, and to achieve some understanding on the key issues in conflict, a political agreement, or a jointly acceptable decision on future interactions and distribution of resources. Conflict resolution is about accepting a conflict, recognizing that there are ways out of it, and engaging in some tacit or explicit coordination, without which none of these goals can be achieved.⁶

This description is broad enough to include both mainstream and more critical approaches within the field of CR.⁷

Insights from Mainstream Conflict Resolution

Interpersonal negotiation

Arguably, the best representatives of traditional conflict resolution are its most famous practitioners, Roger Fisher⁸ and William Ury. *Getting to Yes* remains a well-read text on negotiation,⁹ influential in a number of arenas, especially business and diplomacy. Fisher and Ury promote a universal theory of conflict—one shared among all human beings. Depending upon how public the setting is, the following techniques are quite useful in bilateral as well as multilateral negotiations.

⁵John Paul Lederach, *Preparing for Peace: Conflict Transformation across Cultures* (Syracuse: Syracuse University Press, 1995), 19. Moreover, anthropological research reminds us that 'If it were true that humans are violent by nature, then logically societies with extremely low levels of physical aggression simply should not exist'. Douglas Fry's survey of anthropological findings lists 'over 80 examples' ... [of] 'internally peaceful societies' ... [who may] 'be found in all quarters of the globe'.⁵ Douglas P. Fry, *The Human Potential for Peace: Anthropological Challenge to Assumptions about War and Violence* (New York: Oxford University Press, 2006), 80.

⁶Jacob Bercovitch and Richard Jackson, *Conflict Resolution in the Twenty-first Century: Principles, Methods, and Approaches* (Ann Arbor, MI: University of Michigan Press, 2009), 1; emphasis in original.

⁷The term 'mainstream conflict resolution' includes I. William Zartman's 'conflict management' school of thought, which has many affinities to mainstream IR. For more information, see Elizabeth S. Dahl, 'Oil and Water? The Philosophical Commitments of International Peace Studies and Conflict Resolution', *International Studies Review* 14 (June 2012): 240-272.

⁸As some examples of his lifetime achievements, Roger Fisher successfully persuaded or advised Presidents Carter and Reagan to utilize conflict resolution approaches during crucial moments in Egypt-Israel and US-USSR negotiations. Moreover, he trained Afrikaaners and ANC representatives (separately), which helped pave the way for the end of the South African government's blatantly racist *apartheid* policy. He also began the famous Harvard Negotiation Project ('Roger Fisher', *The Economist*, 15 September 2012, 86).

⁹'Negotiation' simply means communication between two parties.

As Fisher and Ury note, ‘positional bargaining’ is a simplistic model people frequently use in negotiation. As part of this approach, disputants may opt to use ‘hard negotiation’ or focusing on winning no matter what the costs. Alternately, ‘soft negotiators’ frequently acquiesce to the other party so that the relationship is maintained.¹⁰ Rather than advocating either of these extremes, Fisher and Ury promote a ‘both/and’ approach¹¹ that, in effect, ‘change[s] the game’.¹²

Similarly, Fisher and Ury advise that the parties not focus on mutual distrust and a ‘zero-sum’ or black-and-white interpretation of conflict in which one side’s victory is the other side’s loss. In addition, one avoids using the term ‘compromise’ both because the word has negative connotations in several languages¹³ and is ‘lazy’ decision making, reliant on a fifty-fifty outcome whether or not this result is optimal¹⁴ (as with the famous example of King Solomon and the two women fighting over a baby).

Given the heightened emotions that occur during stressful exchanges, Fisher and Ury advocate that negotiators ‘separate the people from the problem’, and ‘focus on interests, not [stated] positions’.¹⁵ Fisher and Ury’s important advice is that parties in a conflict need to investigate their respective ‘underlying interests’ and figure out a solution that best suits everyone involved.¹⁶ After all, mutually achieved decisions are more likely to be durable. To achieve this positive outcome, Fisher and Ury advocate the use of ‘principled negotiation’, in which practitioners are ‘hard on goals and soft on people’.

Trust frequently is a significant issue when a conflict has escalated over time. Nevertheless, Fisher and Ury advocate that one should ‘proceed independent of trust’.¹⁷ Fisher and Ury are optimistic that conflicts are resolvable instead of ‘intractable’, and they believe that just about any topic is open to discussion during negotiations.

After all, the parties’ problems are mutual, so they should be faced side-by-side, rather than in opposition to one another. The parties also should engage in ‘reflective listening’, in which the different sides ‘paraphrase and ask for corrections’¹⁸ of the other’s thoughts. Active listening allows the various disputants to feel respected by the other side(s), which promotes

¹⁰As I have mentioned before, however, this ‘hard’/‘soft’ dichotomy is problematic as it reflects and reinforces gender stereotypes of ‘strength’ versus ‘weakness’. For these reasons, I avoid using these terms in my own teaching and practice.

¹¹Roger Fisher, William Ury, and Bruce Patton, editor, *Getting to Yes: Negotiating Agreement without Giving In* (3rd ed.) (New York: Penguin Books, 2011), 123.

¹²Fisher et al., 2011, 10.

¹³Roger Fisher and William Ury with Bruce Patton, editor, *Getting to Yes: Negotiating Agreement Without Giving In* (2nd ed.) (New York: Penguin Books, 1991), 33.

¹⁴Dean G. Pruitt and Sung Hee Kim, *Social Conflict: Escalation, Stalemate, and Settlement* (3rd ed.) (New York: McGraw-Hill, 2003), 41.

¹⁵Fisher et al., 2011, 13.

¹⁶*Ibid.*, 12.

¹⁷*Ibid.*, 13. I have heard other conflict resolution practitioners point out that if mutual mistrust is particularly high, one actually may want to bring up the issue in negotiations. That way, the issue leads to creating a mutually devised back-up plan in case any problems arise during implementation of the agreement.

¹⁸William Ury, *Getting Past No: Negotiating Your Way from Confrontation to Cooperation* (rev. ed.) (New York: Bantam, 1993), 57.

learning about other perspectives. Another tip is to use the word ‘and’ instead of ‘but’¹⁹ (as well as phrases, such as ‘With all due respect...’ that often preface negative and judgmental statements).

The principled negotiation approach includes a particularly important phase, brainstorming, which goes much farther than traditional versions of this process. All of the parties to the conflict should think as creatively as possible,²⁰ generating many options and not engaging in a ‘reality check’ during this stage. During times of stress, one frequently encounters a sense of despair and ‘learned helplessness’ that inhibits inventiveness. By abstaining from immediate judgment, the parties can ‘invent multiple options looking for mutual gains before deciding what to do’.²¹

Even before negotiations begin, however, Fisher and Ury note the importance of knowing one’s own BATNA (‘Best Alternative To a Negotiated Agreement’) or ‘what you will do if the negotiations fail to produce an agreement’.²² It also is essential to have a good sense of the other parties’ BATNA. Together, these respective BATNAs act as a prudent check against rash decision-making.²³

Last, Fisher and Ury assert that a good solution is ‘...one that meets the legitimate interests of each side to the extent possible, resolves conflicting interests fairly, is durable, and takes community interests into account’.²⁴ At the same time, however, as Fisher et al. note, ‘When faced with any conflict, ... it is more useful to think about a good *process* for handling a flow of problems than to think about ‘solving’ a particular problem once and for all.’²⁵ This emphasis on process is what makes conflict resolution approaches unique. Many of Fisher and Ury’s negotiation principles transfer easily to mediation, which is when an outside party facilitates communication between two (or more) parties.²⁶ Considerable debate exists however about whether these outside actors should be entirely neutral or at least merely impartial. An additional complication is that, at the international level, some high-profile government figures act as mediators, regardless of whether they have training in diplomacy or conflict resolution.

At the same time, however, conflict-resolution practitioners encourage disputants to weigh several important questions. For example, what would improve the situation? What should we do if problems arise again in the future? These questions promote enhanced decision

¹⁹Fisher et al., 2011, 123.

²⁰Fisher et al., 1991, 17.

²¹*Ibid.*, 11.

²²Fisher et al., 2011, 183.

²³I have heard conflict resolution practitioners also advocate knowing everyone’s WATNA (‘Worst Alternative To a Negotiated Agreement’) and MLATNA (‘Most Likely Alternative To a Negotiated Agreement’). Despite some research into the matter, I do not know as of yet who invented these terms. Nevertheless, I wish to include them here given their usefulness.

²⁴Fisher et al., 2011, 4.

²⁵For international conflicts, a more useful text is Roger Fisher with Elizabeth Kopelman and Andrea Kupfer Schneider, *Beyond Machiavelli: Tools for Coping with Conflict* (New York: Penguin Books, 1994), 4; emphasis in original.

²⁶In contrast, ‘arbitration’ is a more formal, legalistic approach in which two (or more) parties agree to obey a judgment handed down by an arbiter. This process does not give the disputants as much say in the proceedings or outcome.

making among the involved parties, and help them face their shared future as positively as possible.

Dealing with violence at the international level

Violent conflicts are commonly defined as by the 1992 former United Nations Secretary-General Boutros Boutros-Ghali's work *An Agenda for Peace*. Boutros-Ghali provides useful distinctions among the more militarized terms 'peacemaking' and 'peacekeeping,' versus the broader possible meanings of the terms, 'preventive diplomacy' and 'peacebuilding.' According to Boutros-Ghali, *preventive diplomacy* includes 'action to prevent disputes from arising between parties, to prevent existing disputes from escalating into conflicts and to limit the spread of the latter when they occur'. In essence, preventive diplomacy '...seeks to resolve disputes before violence breaks out'.²⁷ Meanwhile, *peacebuilding* occurs after overt violence has ceased, and is 'action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict'.²⁸ Most conflict-resolution efforts focus on post-conflict peacebuilding and preventive diplomacy.

Critiques

Many note that Fisher and Ury's approach assumes a shared diplomatic (or business) culture—in our case, among high-ranking officials, military leaders, diplomats, and civil servants. Some elements of this Western culture include a legalistic focus on concluding negotiations with a written settlement. Furthermore, American negotiators as well as conflict-resolution experts tend to be ethnocentric about timing, so when they are involved, negotiations (or trainings) tend to be intense yet brief in terms of the number of days. More broadly, many mainstream CR scholars continue to pursue a universal (and therefore a-historic and a-cultural) theory of conflict. Of course, all of these assumptions are in keeping with liberal cosmopolitanism within IR. At the same time, Jacob Bercovitch et al. note

Traditionally, conflict resolution amounted to an attempt, successful or otherwise, between parties and/or outsiders to do something about their conflict, that is, to reach an agreement, reduce violence, and modify some aspects of their behavior. Yet, in fact, most of the conflicts that were apparently settled or resolved tended to reignite into violence within a few short years. As a result, the topic of durability arose as a subject of concern and of study, as research continues to identify the reasons why agreements last, or don't. We recognize the need for an extended approach to the issue of resolution. We now expect a genuine approach to conflict resolution to involve changing ... aspects of a relationship, not just its violent behavior.²⁹

These concerns are ones that already have been part of the conflict transformation (CT)³⁰ approach for quite some time.

²⁷Boutros Boutros-Ghali, *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-keeping* (New York: United Nations, 1992), 11.

²⁸*Ibid.*

²⁹Jacob Bercovitch, Victor Kremenyuk, and I. William Zartman, eds. *The SAGE Handbook of Conflict Resolution* (Thousand Oaks, CA: Sage, 2009), 673; emphasis added.

³⁰I should note that my training is in the conflict transformation school.

Insights from the Conflict Transformation School

Conflict transformation is one school of thought within conflict resolution. CT is even more interdisciplinary than mainstream CR, as scholar-practitioners assume that national, cultural, historical, religious, gender, and other identity differences have an impact upon conflict processes. Moreover, across levels of analysis, CT practitioners survey the *power dynamics* among the parties involved, and work during CR processes to give the less powerful a place to raise and address their concerns.

Interpersonal mediation

In mediations, the outside party ‘focus[es] on opportunities for empowerment and recognition that arise as conflict interaction unfolds’.³¹ CT mediators utilize non-directive CR techniques and do their best to avoid playing the role of being a ‘fact finder’ about what ‘actually happened’ among the disputants. Instead, ‘the mediator . . . does not interject his or her own opinions or solutions’.³² Moreover, given the focus on enhancing communication, the lack of a settlement not viewed as failure.³³ The mediation process still may set the necessary groundwork for the parties to improve relations on their own. If an agreement arises during the mediation, however, there is a greater likelihood of compliance since the parties created it themselves.

Intra-state and international levels

While the lines between traditional CR and conflict transformation (CT) may be blurry, Jacob Bercovitch and Richard Jackson note

...these new approaches to conflict resolution are built on the shortcomings of the traditional methods ...they involve as many nonofficial actors as official ones. This group ... adopts a more intersubjective view of conflict, including politics, particularly with respect to representation and identity. Thus, it offers a new perspective on human security, and on the role of states and individuals in world politics. Individuals matter, as do states, and human security is as sacrosanct as state sovereignty.³⁴

CT and other critical variants of CR³⁵ are more likely to subscribe to an alternate interpretation of political power as based upon cooperation. After all, all political regimes,

³¹Joseph P. Folger, Marshall Scott Poole, and Randall K. Stutman, *Working through Conflict: Strategies for Relationships, Groups, and Organizations* (5th ed.) (Boston: Pearson Education, 2005), 327; emphasis added.

³²*Ibid.*, 327; emphasis added.

³³Folger et al., 326.

³⁴Bercovitch and Jackson, 8-9.

³⁵Many figures should be included in this discussion, such as John W. Burton, Edward Azar, Leonard Doob, Harold Saunders, Herbert Kelman, John Montville, Louise Diamond, and John McDonald, for pushing CR beyond its mainstream origins. Such scholar-practitioners challenge preconceptions of the Other, promoting individuation of different parties, and working toward mutual understanding and acknowledgment.

even repressive ones, only survive if they retain the positive will of their citizens. From a long-term perspective, political cooperation is the most efficient way to proceed.³⁶

As the representative scholar-practitioner of CT, John Paul Lederach reminds us that ‘quick fixes in protracted conflict rarely lead to sustainable processes or solution’.³⁷ Moreover, when it comes to civil and interstate wars, Lederach notes,

*Power is diffuse in such settings, and does not operate out of a statist hierarchy. It is diffuse because of the multiplicity of groups, weakened central authority, the shifting of alliances, the autonomous nature of action within alliances and groups by subgroups, and the general dynamic of groups and individuals seeking local influence and control.*³⁸

Therefore, Lederach states that CT efforts ‘must be embedded within the painstaking tasks of relationship and confidence building’³⁹ as part of a ‘nested’, holistic effort.⁴⁰ As part of this process, facilitators do not provide ‘expertise’ as much as they elicit knowledge from the people who live in the conflict zones.

While meetings among political elites and everyday people from the respective sides of the conflict are quite useful, Lederach believes that the greatest impact comes from workshops involving influential mid-level officials and other community leaders. They direct an important flow of information between the government and grassroots levels.

Conclusion

As my East Asia Security Symposium and Conference colleagues’ have published significant and excellent papers on the subject, my comments about applications toward the South China Sea dispute will be brief.⁴¹ Understandably, the Chinese government and citizens have a high sense of threat since they share land borders with fourteen other states. That number only increases if one considers maritime issues. The potential danger is that the government of the People’s Republic of China (PRC), is focused too much on having ‘won the last border negotiation’ (instead of the frequent mistake among governments of ‘fighting the last war’). Moreover, Chinese officials and citizens must try to understand the other claimants’ perspectives—their fears, domestic situations, history, and so forth.

Speaking more generally, there is a political economy aspect to conflict, as the presence of certain valuable resources can spur tensions. Deng Xiaoping was incredibly bright and took the long perspective on resolving territorial issues. Times have changed, however. Deng’s approach is not as easy to accomplish in a world of social media and instantaneous reaction in

³⁶Conrad Brunk, ‘Shaping a Vision: The Nature of Peace Studies’, in *Patterns of Conflict, Paths to Peace*, Larry Fisk and John Schellenberg, eds. (Toronto: University of Toronto Press, 2008), 27.

³⁷Lederach, 1997, 78.

³⁸Lederach, 1997, 14; emphasis added

³⁹Lederach, 1997, 78.

⁴⁰Maire Dugan (1996), ‘A Nested Theory of Conflict’, *Women in Leadership* 1, 1, cited in John Paul Lederach (1997), *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, DC: United States Institute of Peace), 55-56.

⁴¹ See http://epublications.bond.edu.au/eassc_publications/

all of the interested parties, even China. ‘Saving face’ among all parties is difficult and necessary.⁴²

Regardless, people who work in conflict resolution never give up on CR processes. We refuse to believe that violence is the only answer. We urge governments as well as unofficial parties to do what they can to keep bilateral and even multilateral processes⁴³ going.

When the situation seems the most dire, true leadership must arise to promote restraint and encourage creative problem solving, both within and among different governments. The parties engaged in the South China Sea dispute have had periods of peaceful co-existence. That positive shared history can help shape a mutually constructive future.

⁴²‘Face’, or what Erving Goffman terms ‘facework’ (*Interaction Ritual: Essays in Face-to-Face Behavior* (Chicago: Aldine Publishing Company, 1967), 12) has both universal and culturally specific dimensions. Parties must keep in mind the face, prestige, and honor pressures other claimants confront.

⁴³Imagine what might happen if multilateral negotiations include all interested parties except the Vietnamese. If a collective agreement is reached, that likely would leave the Vietnamese government isolated and under pressure.