

Timing and Ripeness

1. William Zartman

Editors' Note: How do you know when it's time to get serious about negotiating? When is a deal ready to be made? In the settlement of civil disputes, we often see parties expensively delaying negotiation, even waiting for mediation till they're on the proverbial courthouse steps. Is there a science to this? From the perspective of international relations, Zartman analyzes the issue of ripeness and demonstrates when it's time to settle.

After chronicling a series of failed initiatives to mediate a peace in El Salvador, Alvaro de Soto, UN Assistant Secretary General for Political Affairs, points to the turning point of the FMLN's major November 1989 offensive, which penetrated the main cities including the capital but failed to dislodge the government.

The silver lining was that it was, almost literally, a defining moment—the point at which it became possible to seriously envisage a negotiation. The offensive showed the FMLN that they could not spark a popular uprising.... The offensive also showed the rightist elements in government, and elites in general, that the armed forces could not defend them, let alone crush the insurgents.... As the dust settled, the notion that the conflict could not be solved by military means, and that its persistence was causing pain that could no longer be endured, began to take shape. The offensive codified the existence of a mutually hurting stalemate. The conflict was ripe for a negotiated solution.¹

Joe Slovo, head of the South African Communist Party, expressed a similar view. "Neither side won the war. The National Party couldn't rule any longer, and we (the African National Congress) couldn't seize power by force. So that means both sides have to compromise. That's the reality."²

While most studies on peaceful settlement of disputes see the substance of the proposals for a solution as the key to a successful resolution of conflict, a growing focus of attention shows that a second and equally necessary key lies in the timing of efforts for resolution.³ Parties resolve their conflict only when they are ready to do so—that is, when alternative, unilateral means of achieving a satisfactory result are blocked and the parties feel that they are in a painful and costly predicament. At that ripe moment, they grab on to proposals that usually have been in the air for a long time and that only now appear attractive: they are pushed by the pain into seeking resolution. Labor economists have long used this situation for their

theories; when the threat of a strike does not portend sufficient pain, the threat is executed and the parties then calculate their costs in lost sales against warchests until their strike costs mount higher than the costs of concessions and they begin bargaining on an equilibrium point for an agreement.⁴ Sometimes this can take a long time, as the 2004-2005 hockey players' season showed. In this analysis I will use imagery drawn from international negotiations, including the prospect of violence; but the underlying principles are just as applicable in domestic and lower-stakes negotiations.

The Push Factor

The concept of a ripe moment involves two subjective elements.⁵ One is the parties' perception of a Mutually Hurting Stalemate (MHS).⁶ When the parties find themselves locked in a conflict from which they cannot escalate to victory and this deadlock is painful to both of them (although not necessarily in equal degree or for the same reasons), they seek an alternative policy or a bi-/multilateral way out of the pain and hence out of the conflict or problem. If the parties were not stalemated and pained, they would simply continue to live with the problem or wage the war. An MHS is often associated with an impending, past or recently avoided catastrophe that provides a deadline or a lesson that pain can be sharply increased if something is not done about it now; catastrophe is a useful, imaged extension of MHS but is not necessary either to its definition or to its existence. Using different images, the stalemate has been termed the Plateau, a flat, unending terrain without relief, and the catastrophe, the Precipice, the point where things suddenly and predictably get worse. If the notion of mutual blockage is too static to be realistic, the concept may be stated dynamically as a moment when the upper hand slips and the lower hand rises, both parties moving toward equality, with both movements portending cost for the parties.

Chester A. Crocker, US Assistant Secretary of State for Africa between 1981 and 1989, patiently mediated an agreement for the withdrawal of Cuban troops from Angola and of South African troops from Namibia, then to become independent. For years a mutual hurting stalemate, and hence productive negotiations, had eluded the parties. "The second half of 1987 was ... the moment when the situation 'ripened.'" After a major offensive, South African troops and Cuban troops were unable to dislodge each other from their bases in southern Angola, white body bags were beginning to return to South Africa, and Cuba doubled its troops and threatened hot pursuit into South African territory in Namibia, but at the same time let it be known that it wanted to go home. In his conclusion, Crocker identifies specific signs of ripeness, while qualifying that "correct timing is a matter of feel and instinct."⁷ The American mediation involved building diplomatic moves that paralleled the growing awareness of the parties, observed by the mediator, of the hurting stalemate in which they found themselves.

The mutually hurting stalemate is grounded in cost-benefit analysis, fully consistent with public choice notions of rationality,⁸ and public choice studies of war termination and negotiation,⁹ that assume that a party will pick its preferred alternative, and that a decision to change is induced by increasing pain associated with the present (conflicted) course. In game theory terms, it marks the transformation of the situation in the parties' perception from a prisoners' dilemma game (PDG) into a chicken dilemma game (CDG).¹¹ Or, in other terms, the realization that the status quo or no negotiation is a negative-sum situation, and that to avoid the zero-sum outcomes now considered impossible the positive-sum outcome must be explored. The idea is also related to prospect theory, which indicates that

parties are more responsive to losses than to gains and will try to prevent them more readily than they will try to attain new benefits.¹² [Korobkin & Guthrie, *Heuristics*]

Ripeness is necessarily a perceptual event, but, as with any subjective perception, it is likely to be related to objective referents. These can be resisted so long as the conflicting party refuses or is otherwise able to block out their perception. But it is the perception of the objective condition, not the condition itself, that makes for a MHS. If the parties do not recognize "clear evidence" (in someone else's view) that they are in an impasse, a Mutually Hurting Stalemate has not (yet) occurred, and if they do perceive themselves to be in such a situation, no matter how flimsy the "evidence," the MHS is present.

An MHS is the necessary but not sufficient condition for initiating negotiations. It is insufficient to pull the negotiations to a successful conclusion, but it needs to continue to be felt throughout the negotiations, lest the parties reevaluate their positions and drop out, in the revived hope of being able to find a unilateral solution through escalation. The MHS is the basis of the parties' security points, the value of the outcome to be obtained in the absence of negotiations, against which the parties judge the current offers. If the hurt or the prospect of it fades during negotiations, a party will adopt a tougher position, raising its demands and losing its interest in a successful outcome. Bosnian President Alija Izetbegovic accepted the Vance-Owen Plan for his country in early 1993, under the pressure of rising violence, but then reneged when he felt that the violence was sustainable and the U.S.—opposed to Vance-Owen—would offer better terms if the Bosnians would hold out. It is therefore important that constraints or "pain" imposed by the unresolved problem continue to be present and felt, with the problem occasionally reminding the parties of its presence or the conflicting party "brandishing a little violence" or a strike threat from time to time, to keep the MHS alive. For the most part, the supply of pain is latent and contingent (as is the other side's supply of concessions, as in any negotiation, until the deal is closed), as a threat to be used if negotiations break down.¹³ However, exogenous inputs such as unexpected catastrophes and new information have been seen to spark negotiations and by extension promote progress in negotiations already underway, as they heighten the sense of an MHS.¹⁴ Chernobyl, Exxon Valdez, and fish depletion information have all been exogenous inputs that have convinced interested parties that they are stalemated before a problem and must concert to overcome it.

As in any bargaining problem, the agreement is determined by the intersection of supply and demand, so the supply of real or potential constraints and violence must be high enough to cover the demands or the demands must be lowered to correspond to the available threats and dangers. The demanders make demands, and they supply armed conflict; in the negotiations, they trade off the abstention from violence against the satisfactions of their demands. Violence is the only money of exchange that they have, and they are not going to give it up until they have bought the concessions they need. Its cessation is almost always the major demand of the government side. It is obvious therefore that ceasefires will not be granted on mere faith, but will be part of the concluding elements of the bargain, because ceasing fire means ending the MHS that brought about the negotiations. In interstate conflicts over cooperation or problem-solving, the pressure of the constraint comes from outside the parties and acts on them, even if to varying degrees, but the notion of the MHS still obtains: the parties are stalemated in their individual attempts to deal with the problem and are hurting as a result, and need to cooperate.

In Yugoslavia, Secretary of State James Baker looked for a ripe moment during his quick trip to Belgrade in June 1991 and reported the same day to President George Bush that he did not find it: "My gut feeling is that we won't produce a serious dialogue on the future of Yugoslavia until all the parties have a greater sense of urgency and danger;"¹⁵ Richard Holbrooke called this "a crucial misreading."¹⁶ Holbrooke had his own image of the MHS (or the upper hand slipping and the underdog rising): "The best time to hit a serve is when the ball is suspended in the air, neither rising nor falling. We felt this equilibrium had arrived, or was about to, on the battlefield [in October 1995]," and he tried to instill a perception of a ripe moment in the mind of Bosnian President Izetbegovic.¹⁷ A State Department official stated, "Events on the ground have made it propitious to try again to get the negotiations started. The Serbs are on the run a bit. That won't last forever. So we are taking the obvious major step...."¹⁸

As the notion of ripeness implies, MHS can be a very fleeting opportunity, a moment to be seized lest it pass, or it can be of a long duration, waiting to be noticed and acted upon by mediators. In fact, failure to seize the moment often hastens its passing, as parties lose faith in the possibility of a negotiated solution or regain hope in the possibility of unilateral escalation; parties frequently fall back on their previous perceptions that the other side will never be ready and the only course left is to hope and fight for a total realization of one's goals, no matter how long it takes. Israel's reluctance to implement the agreed steps of the Oslo Agreement, especially after Netanyahu's election as prime minister, led many Palestinians to think that no agreement would be honored by Israel and so total resistance was the only course open, a conclusion which then convinced many Israelis that the Palestinians would never agree to share the land of Palestine and so a military policy was the only course open. By the same token, the possibility of long duration often dulls the urgency of rapid seizure, and parties fall into an S³ situation (a soft, stable, self-serving stalemate); with no incentive to negotiate their way out of it.

The Pull Factor

The other element necessary for a ripe moment is also perceptual: a Way Out (WO). Parties have to be able to sense that a negotiated solution is possible for the searching and that the other party shares that sense and the willingness to search too. The negotiators must provide or be provided prospects for a more attractive future to pull them out of their problem or conflict, once an MHS has pushed them into negotiations. That is the function of the Mutually Enticing Opportunity (MEO).¹⁹ The seeds of the pull factor begin with the Way Out that the parties vaguely perceive; as part of the initial ripeness, but that general sense of possibility needs to be developed and fleshed out into the vehicle for an agreement, a formula for settlement and a prospect of reconciliation that the negotiating parties design during negotiations. The negotiators' challenge is to turn the initial sense of a Way Out into a satisfying MEO.

Without the pull of a Way Out, the push associated with the MHS would leave the parties with nowhere to go; they need to devise something to impel them through their negotiations and into an agreement.²⁰ When an MEO is not developed in the negotiations, they remain truncated and unstable, even if they reach a conflict management agreement to suspend violence.²¹ The 1994 ceasefire in Nagorno-Karabagh has never been complemented by a resolution of the area's territorial status, keeping the conflict alive and the truce unstable; the 1984 Lusaka and Nkomati agreements that South Africa negotiated to bring ceasefires to its

conflicts with Angola and Mozambique suspended the fighting but provided no solution to the two conflicts, and so soon fell apart.

Like the MHS, the WO/MEO is a figment of perception, a subjective appreciation of objective elements, but unlike the MHS, it is an invention of the parties (and their mediator) internal to the negotiation process, not a result of an objective external situation. It must be produced by the parties, using their analysis of the conflict and its causes, their appreciation of their interests and needs, and their creativity in crafting a mutually attractive solution. It resolves the conflict and is perceived to contain elements that continue to carry the resolution process into the future. An MEO contains forward-looking provisions to deal with the basic problem or dispute, with unresolved leftovers of the conflict and its possible reemergence, and with new relations of interdependence between the conflicting parties.

In judging the attractiveness of any posited formula, or in proposing one, conflicting parties compare the value of the proposed solution to the value of the status quo (their security point or reservation price.²²) The S³ Situation is a condition not conducive to solution but in potentially cooperative cases, it is the normal condition, and this again is why attempts at cooperative agreement so often fail.²³ Unless a non-solution is actually painful, it may constitute a viable alternative that leaves the future open, creates no pressure for a search for a solution, and requires no risky decision. The decision to seize a negotiating opportunity and turn it into a search for a solution depends not merely on a judgment of how well that or any solution meets the parties' needs and interests or objectively solves the problem or resolves the conflict, but an estimation of how its uncertainty compares with the better known value of the status quo.²⁴ These calculations will be determinant in deciding whether any proposed resolving formula will or can constitute an MEO. Thus an MEO is a resolving formula that is seen by the parties as meeting their needs better than the status quo.

Whether, in either situation, a particular resolving formula is enticing to the parties or not is for them to perceive and decide; the best an external analyst or practitioner can say is whether the formula fits the past and future extensions of the problem or conflict, that is, whether the parties "should" see their interest in taking it, but not whether they will. A resolving formula is the objectively necessary, if insufficient, condition for durable agreements; subjectively, the parties need to see it as such for it to constitute an opportunity that will pull them out of the conflict or problem and into new, positive relations. While external parties can do much to create a resolving formula and bring the parties to accept it, the outcome is ultimately in the hands of the parties themselves, as it should be.

In cases of interstate cooperation, involving problem-solving rather than conflict resolution in usual terms (although in fact each involves the other), there are important differences in the same categories of variables. The constraints are not violent and the source of the constraints is external—the pain of the situation, the externalities of non-cooperation. There is no demander among the parties, no one to bargain on behalf of the problem to be overcome, which in itself also explains the difficulties of arriving at a high level of cooperation, as opposed to a lowest common denominator agreement. The closest thing to a demander is a particularly affected party among the others who presses for a high-level solution. However, this means that there is nothing for a party to use to purchase agreement other than positive inducements;²⁵ the situation, not any party, has control of the constraints or negative inducements, and it is for the parties together—who feel the pain differently—to bargain a solution to control them.

Ripeness in Practice

While ripeness has not always been seized upon to open negotiations, there have been occasions when it has come into play, as identified by both analysts and practitioners. Touval's work on the Middle East was particularly important in launching the idea.²⁶ A number of studies beyond the original examination²⁷ have used and tested the notion of ripeness in regard to negotiations in Zimbabwe, Namibia and Angola, Eritrea, South Africa, Philippines, Cyprus, Iran-Iraq, Israel and Mozambique, among others.²⁸ In general, these studies have found the concept applicable and useful as an explanation for the successful initiation of negotiations or their failure, while in some cases proposing refinements to the concept.

Some practitioners have given a more nuanced endorsement of the concept, although not all have read the conceptual fine print carefully. Itamar Rabinovich, the careful historian and skillful ambassador in the failed negotiations between Israel and Syria, terms the concept "a very useful analytical tool ... but ... less valuable as an operational tool," but he expects that "ripeness will account for the success of negotiations" rather than simply provide a necessary but insufficient condition for their initiation.²⁹

Implications

There are intriguing problems raised by ripeness theory. One complication arises when increased pain increases resistance rather than reducing it (it must be remembered that while ripeness is a necessary precondition for negotiation, not all ripeness leads to negotiation.) The imposition of pain to a present course in conflict is not likely to lead to a search for alternative measures without first being tested. Although this may be considered "bad," irrational or even adolescent behavior, it is a common reaction and one that may be natural and functional. Reinforcement is the normal response to opposition: "don't give up without a fight," "no gain without pain," "hold the course, whatever the cost," "when the going gets tough, the tough get going," and "if at first you don't succeed, try, try again." The theory itself takes this into account by focusing on the parties' perception that they cannot escalate their way out of their stalemate, implying efforts to break out before giving in (without being able to predict when the shift will take place).

In addition to increased means and efforts, escalation also refers to the image of the party in conflict, a natural tendency which justifies resistance and so also lessens chances of reconciliation,³⁰ but which has the functional advantage to the parties of strengthening their resolve. Particular types of adversaries such as "true believers," "warriors" or "hardliners" are unlikely to be led to compromise by increased pain; instead, pain is likely to justify renewed struggle.³¹ Justified struggles call for greater sacrifices, which absorb increased pain and strengthen determination. The cycle is functional and self-protecting. To this type of reaction, it is the release of pain or an admission of pain on the other side which justifies relaxation; when the opponent admits the error of its ways, the true believer can claim the vindication of its efforts which permits a management of the conflict.³²

Ripeness is only a condition, necessary but not sufficient for the initiation of negotiations. It is not self-fulfilling or self-implementing. It must be seized, either directly by the parties or, if not, through the persuasion of a mediator. Thus, it is not identical with its results, which are not part of its definition, and is therefore not tautological. Not all ripe moments are so seized and turned into negotiations. Although ripeness theory is not predictive in the sense that it can tell when a given

situation will become ripe or turn into negotiations, it is predictive in the sense of identifying the elements necessary (even if not sufficient) for the productive inauguration of negotiations. This type of analytical prediction is the best that can be obtained in social science, where stronger predictions could only be ventured by eliminating free choice (including the human possibility of creativity, blindness and mistakes). As such it is of great prescriptive value to policymakers seeking to know when and how to begin a peace process.

Finding a ripe moment requires research and intelligence studies to identify the objective and subjective elements. Subjective expressions of pain, impasse, and inability to bear the cost of further escalation, related to objective evidence of stalemate, data on numbers and nature of casualties and material costs, and/or other such indicators of MHS, along with expressions of a sense of a Way Out, can be researched on a regular basis in a conflict to establish whether ripeness exists. Researchers would look for evidence, for example, whether the fluid military balance in conflict has given rise at any time to a perception of MHS by the parties, and to a sense by authoritative spokespersons for each side that the other is ready to seek a solution to the conflict, or, to the contrary, whether it has reinforced the conclusion that any mediation is bound to fail because one or both parties believes in the possibility or necessity of escalating out of the current impasse to achieve a decisive military victory.³³

In his parting report as Under-Secretary-General of the United Nations, Mar rack Gouling,³⁴ specifically cited the literature on ripeness in discussing the selection of conflicts to be handled by an overburdened UN. "Not all conflicts are 'ripe' for action by the United Nations (or any other third party)... It therefore behooves the Secretary-General to be selective and to recommend action only in situations where he judges that the investment of scarce resources is likely to produce a good return (in terms of preventing, managing and resolving conflict.)" Similarly, research would indicate that there was no chance of mediating a settlement in the Ethiopia-Eritrean conflict in the early 1980s and the early 1990s, or in the Southern Sudan conflict in the 1990s, the skills of President Carter notwithstanding, because the components of ripeness were not present.³⁵

Unripeness should not constitute an excuse for inaction, even if one or both of the conflicting parties are mired in their hopes of escalation and victory. Crocker states very forcefully (in boldface in the original) that "the absence of 'ripeness' does not tell us to walk away and do nothing. Rather, it helps us to identify obstacles and suggests ways of handling them and managing the problem until resolution becomes possible."³⁶ Crocker's own experience indicates, before and above all, the importance of being present and available to the contestants helping the moment to ripen, so as to be able to seize it when it occurs. Two strategies are available: either to ripen or to position.³⁷ Ripening involves convincing the parties that escalation and unilateral victory are impossible or too costly, that there is an acceptable diplomatic Way Out, and that the other party can be made to share this perception. For a third party, giving the others fresh ideas; building basic principles; identifying the parties necessary to a settlement and the issues to be resolved, and separating out issues not resolvable in the conflict; airing alternatives to the current conflict course; clarifying costs and risks involved in seeking settlement; and working to assure support for a settlement policy within each party's domestic constituency are all tactics for the ripening. It may also require concrete measures to block escalation and attempts at unilateral solutions or to keep the weaker party in the conflict or problem.

Positioning means being there for when the parties finally feel a need. Tactics can include becoming an indispensable channel for contacts and such low-intensity or specialized negotiation between the parties as may be happening while the "big table" is empty; tending trust with the conflicting parties or those affected by the problem, and building a reputation among them for fairness and reliability; establishing basic principles to form building blocks of a settlement; and establishing an acceptable mechanism for negotiation and for registering an agreement.

Most of the work on negotiation—including most of the contributions in this book—has concentrated on ways of bringing the conflicting parties together to resolve their problems, but recognizing the necessity of ripeness is crucial to the success of these efforts. If parties do not feel they have to seek a settlement with their opponents or their problem because the status quo does not hurt or they feel they can escape it on their own, they simply will not negotiate. Parties who want to get their adversary or their problem to the table, or mediators who want to help produce a settlement among the parties, must recognize that first the status quo must be painful to the parties. If it is not, the parties must be convinced of their predicament before they will want to look for a way out.

Endnotes

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² Quoted in Paul Taylor, *South African Communist Sparks an Explosive Debate*, WASHINGTON POST, Nov. 22, 1992, at A32.

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⁴ FRANCIS Y. EDGEWORTH, MATHEMATICAL PHYSICS (1881); FREDERIK ZEUTHEN, PROBLEMS OF MONOPOLY AND ECONOMIC WARPARE (1930); see also, BARGAINING: FORMAL THEORIES OF NEGOTIATION (Young Oran ed., 1975).

⁵ The original formulation of the theory added a third element to the definition of ripeness, the presence of a Valid Spokesman for each side. As a structural element it is of a different order than the other two defining perceptual elements. Nonetheless, it remains of some importance, as Stedman and Lieberfeld have pointed out. The presence of strong leadership recognized as representative of each party and able to deliver compliance to the agreement is a necessary (while alone insufficient) condition for productive negotiations to begin, or indeed to end successfully. Daniel Lieberfeld, *Conflict 'Ripeness' Revisited: South African and Israeli/Palestinian Cases*, 15 NEGOTIATION JOURNAL 63, 63-82 (1999); DANIEL LIEBERFELD, TALKING WITH THE ENEMY: NEGOTIATION AND THREAT PERCEPTION IN SOUTH AFRICA AND ISRAEL/PALESTINE (1999); STEPHEN JOHN STEDMAN, PEACEMAKING IN CIVIL WAR: INTERNATIONAL MEDIATION IN ZIMBABWE (1991).

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⁷ CHESTER A. CROCKER, HIGH NOON IN SOUTHERN AFRICA: MAKING PEACE IN A ROUGH NEIGHBORHOOD 363 (1992).

⁸ *Id.* at 481.

⁹ AMARIYA SEN, COLLECTIVE CHOICE AND SOCIAL WELFARE (1970); KENNETH ARROW, SOCIAL CHOICE AND INDIVIDUAL VALUES (1963); OLSON MANCUR, JR., THE LOGIC OF COLLECTIVE ACTION: PUBLIC GOODS AND THE THEORY OF GROUPS (rev. ed. 1971) (1965).

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¹¹ Joshua Goldstein, *The Game of Chicken in International Relations: An Underappreciated Model*, American University School of International Service (1998) (unpublished paper, on file with author).

¹² Daniel Kahneman & Amos Tversky, *Prospect Theory: An Analysis of Decisions Under Risk*, 47 ECONOMETRICA 2, 263-92 (1979); CHOOSING TO COOPERATE: HOW STATES AVOID LOSS (Janice Stein & Louis Pauly eds., 1992); Christopher Mitchell, *Cutting Losses* (George Mason University Institute for Conflict Analysis & Resolution, Working Paper No. 9, 1995); ESCALATION AND NEGOTIATION (I. William Zartman & Guy Olivier Faure eds., 2005).

¹³ THOMAS C. SCHELLING, STRATEGY OF CONFLICT (1960).

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¹⁶ RICHARD HOLBROOKE, TO END A WAR 27, 73 (1998).

¹⁷ *Id.* at 193.

¹⁸ R. W. Apple, Jr., *Clinton Sending 2 Foreign Policy Advisors to Europe with new Proposals on Balkans*, N. Y. TIMES, Aug. 9, 1995, at A7.

¹⁹ Thomas Olson, *Power Politics and Peace Politics* (Uppsala University Department of Peace and Conflict Research, Working Paper No. 9, 1998); Dean G. Pruitt & Paul V. Olczak, *Approaches to Resolving Seemingly Intractable Conflict*, in CONFLICT, COOPERATION AND JUSTICE (Barbara Bunker & Jeffrey Rubin eds., 1995).

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³⁶ CROCKER, *supra* note 7, at 471-72; see also, HAAS, *supra* note 27; Goulding, *supra* note 34.

³⁷ CROCKER, *supra* note 7.