On Negotiating the Non-Negotiable*

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This paper is divided into two main sections. The first uses the discussion of a case of marital conflict to articulate a framework for thinking about negotiating the non-negotiable. For various parties involved in the Arab-Israeli conflict, many of the issues seem non-negotiable and it may be helpful to consider the general conditions that are relevant to determining whether negotiations are apt to take place and to succeed. The second section addresses the question of what could be done, under present circumstances, to promote constructive negotiations.

I. A Framework for Thinking About Negotiating the Non-Negotiable

As a psychologist, I have had the opportunity to do therapeutic work with couples who have been involved in bitter conflicts over issues which they considered non-negotiable. Let me briefly describe a young couple who were involved in what I have elsewhere characterized as a "malignant process" of dealing with their conflicts (Deutsch, 1985, ch. 17).

The malignancy was reflected in the tendency for them to escalate a dispute about almost any specific issue (e.g., a household chore, their child's bedtime) into a power struggle in which each spouse felt that his or her self-esteem or core identity was at stake. The malignant process resulted in (as well as resulted from) justified mutual suspicion, correctly

perceived mutual hostility, a win-lose orientation to their conflicts, a
tendency to act toward the other which would lead the other to respond in a
way which would confirm one’s worst suspicion of the other, an inability
to understand and empathize with the other’s needs and vulnerabilities, and
a reluctance -- based on stubborn pride, nursed grudge, and fear of
humiliation -- to initiate or respond to a positive generous action to break
out of the escalating vicious cycle in which they were entrapped.

Many couples in such conflicts do not seek help: they continue to
abuse one another, sometimes violently, or they break-up. The couple that
I worked with sought help for several reasons. On the one hand, their
conflicts were becoming physically violent: this frightened them and it also ran
counter to their strongly-held intellectual values regarding violence.
On the other hand, there were strong constraints making it difficult for
them to separate. They felt they would be considerably worse off
economically, their child would suffer, and they had mutually congenial
intellectual, esthetic, sexual, and recreational interests which would be
difficult for them to engage in together if they separated.

**Developing a Readiness to Negotiate**

Before I turn to a discussion of the negotiation of a non-negotiable
issue, let me briefly discuss the steps involved in getting the couple to the
point where they were ready to negotiate. There were two major
interrelated steps, each of which involved many substeps. The first entailed
helping each spouse to recognize that the present situation of a bitter,
stalemated conflict no longer served his or her real interests. The second
step involved aiding the couple to become aware of the possibility that each
of them could be better off than they were currently if they recognized that
their conflict was a joint problem which required creative, joint efforts in order to improve their individual situations. The two steps do not follow one another in neat order. Progress in either facilitates progress in the other.

**Irrational Deterrents to Negotiation**

There are many reasons why otherwise intelligent and sane individuals may persist in engaging in behaviors which perpetuate a destructive conflict which is harmful to their rational interests. Some of the common ones are:

1. It enables one to blame one’s own inadequacies, difficulties, and problems on the other so that one can avoid confronting the necessity of changing oneself. Thus, in the couple I treated, the wife perceived herself to be a victim and she felt that her failure to achieve her professional goals was due to her husband's unfair treatment of her as exemplified by his unwillingness to share the responsibilities for the household and child care. Blaming her husband provided her with a means of avoiding her own apprehensions about whether she personally had the abilities and courage to fulfill her aspirations. Similarly, the husband who provoked continuous criticism from his wife for his domineering, imperial behavior employed her criticisms to justify his emotional withdrawal, thus enabling him to avoid dealing with his anxieties about personal intimacy and emotional closeness. Even though the wife’s accusations concerning her husband’s behavior toward her were largely correct, as were the husband’s toward her, each had an investment in maintaining the other’s noxious behavior because of the defensive self-justifications such behavior provided.
2. It enables one to maintain and employ skills, attitudes, roles, resources, and investments that one has developed and built up during the course of one's history. The wife's role as "victim" and the husband's as "unappreciated emperor" had long histories. Each had well-honed skills and attitudes in relation to their respective roles that made their roles very familiar and natural to enact in times of stress. Less familiar roles, in which one's skills and attitudes are not well-developed, are often avoided because of the fear of attempting the unknown. Analogous to similar social institutions, these personality "institutions" also seek out opportunities for exercise and self-justification and in so doing help to maintain and perpetuate themselves.

3. It enables one to have a sense of excitement, purpose, coherence, and unity which is otherwise lacking in one's life. Some people feel aimless, dissatisfied, at odds with themselves, bored, unfocused, and unenergetic. Conflict, especially if it has dangerous undertones, can serve to counteract these feelings: it can give a heightened sense of purpose as well as unity and also be energizing as one mobilizes oneself for the struggle against the other. For depressed people who lack self-esteem, conflict can be an addictive stimulant which is sought out to mask their underlying depression.

4. It enables one to obtain support and approval from interested third parties. Friends and relatives, on each side, may buttress the opposing positions of the conflicting parties with moral, material, and ideological support. For the conflicting parties to change their positions and behaviors may entail the dangers of loss of self-esteem, rejection, and even attack from others who are vitally significant to them.
How does a therapist help the conflicting parties overcome such deterrents to recognizing that their situation of a bitter, stalemated conflict no longer serves their real interests? The general answer, which is often quite difficult to implement in practice, is to help each of the conflicting parties change in such a way that the conflict no longer is maintained by conditions within the parties which are extrinsic to the conflict. In essence, this entails helping each of the conflicting parties to achieve the self-esteem and self-image which would make them no longer need the destructive conflict process as a defense against their sense of personal inadequacy, their fear of taking on new and unfamiliar roles, their feeling of purposelessness and boredom, and their fears of rejection and attack if they act independently of others. Fortunately, the strength of the irrational factors binding the conflicting parties to a destructive conflict process is often considerably weaker than the motivation arising from the real havoc and distress resulting from the conflict. Emphasis on this reality, if combined with a sense of hope that the situation can be changed for the better, provides a good basis for negotiation.

**Conditions that Foster the Recognition of the Conflict as a Joint Problem Requiring Joint Efforts**

What are the conditions which are likely to help conflicting parties become aware of the possibility that each of them could be better off than they are currently if they recognize that their conflict is a joint problem which requires creative, joint efforts in order to improve the individual situations? A number of such conditions are listed below:

1. Crucial to this awareness is the recognition that one cannot impose a solution of the problem, which is acceptable or satisfactory to
oneself, upon the other. In other words, there is recognition that a satisfactory solution for oneself requires the other’s agreement and this is unlikely unless the other is also satisfied with the solution. Such recognition implies an awareness that a mutually acceptable agreement will require at least a minimum degree of cooperation.

2. To believe that the other is ready to engage in a joint problem-solving effort, one must believe that the other has also recognized that it cannot impose a solution, i.e., it has also recognized that a solution has to be mutually acceptable.

3. The conflicting parties must have some hope that a mutually acceptable agreement can be found. This hope may rest upon their own perception of the outlines of a possible fair settlement or it may be based upon their confidence in the expertise of third parties or even upon a generalized optimism.

4. The conflicting parties must have confidence that if a mutually acceptable agreement is concluded that the other will abide by it or that violations will be detected before the losses to the self and the gains to the other become intolerable. If the other is viewed as unstable, lacking self-control, or untrustworthy, it will be difficult to have confidence in the viability of an agreement unless one has confidence in third-parties who are willing and able to guarantee the integrity of the agreement.

The foregoing conditions for establishing a basis for initiating the joint work necessary in serious negotiation are much easier to develop when the conflicting parties are part of a strong community in which there are well developed norms, procedures, professionals, and institution which encourage and facilitate problem-solving negotiations. This is more apt to be the case in interpersonal conflicts than in conflicts between ethnic
groups or nations that do not perceive themselves as members of a common community. When the encouragements to negotiation do not exist as a result of belonging to a common community, the availability of helpful, skilled, prestigious, and powerful third parties who will use their influence to foster problem-solving negotiations between the conflicting parties becomes especially important.

Negotiating the Non-negotiable

Issues which seem vitally important to a person such as one’s identity, security, self-esteem, or reputation often are experienced as being non-negotiable. Thus, consider the husband and wife who viewed themselves in a conflict over a non-negotiable issue. The wife who worked (and wanted to do so) wanted the husband to share equally in the household and child care responsibilities; she considered equality between genders to be one of her core personal values. The husband wanted a traditional marriage with a traditional division of responsibilities in which he would have primary responsibility for income-producing work outside the home, while his wife would have primary responsibility for the work related to the household and child care. The husband considered household work and child care as inconsistent with his deeply rooted image of adult masculinity. The conflict seemed non-negotiable to the couple -- for the wife it would be a betrayal of her feminist values to accept her husband’s terms; for the husband, it would be a violation of his sense of adult masculinity to become deeply involved in housework and child care.

However, this non-negotiable conflict became negotiable when, with the help of the therapist, the husband and wife were enabled to listen to and really understand the other’s feelings and how their respective life
experiences had led them to the views they each held. Understanding the other’s position fully and the feelings and experiences which were behind them made them each feel less hurt and humiliated by the other’s position and more ready to seek solutions which would accommodate the interests of both. They realized that with their joint incomes they could afford to pay for household and child care help which would enable the wife to be considerably less burdened by these responsibilities without increasing the husband’s chores in these areas: doing so, of course, lessened the amount of money they had available for other purposes.

This solution was not a perfect one for either. The wife and husband, each, would have preferred that the other share their own view of what a marriage should be like. However, their deeper understanding of the other’s position made them feel less humiliated and threatened by it and less defensive toward the other. It also enabled them to negotiate a mutually acceptable agreement that lessened the tensions between them despite their continuing differences in basic perspectives.

The general conclusions that I draw from this and other experience with a “non-negotiable” issue is that most such issues are negotiable even though the underlying basic differences between the conflicting parties may not be reconcilable. The issues become negotiable when the conflicting parties learn to listen, understand, and empathize with the other party’s position, interests, and feelings: providing they are also able to communicate to the other their understanding and empathy. Even though understanding and empathy do not imply agreement with the other’s views, they indicate an openness and responsiveness to the other which reduces hostility and defensiveness and which also allows the other to be more open and responsive. Such understanding and empathy help the conflicting
parties to reduce their feelings that their self-esteem, security, or identity will be threatened and endangered by recognizing that the other's feelings and interests, as well as one's own, deserve consideration in dealing with the issues in conflict.

"Non-negotiable" issues also become negotiable when the conflicting parties can be shown that their vital interests will be protected or enhanced by negotiation. It is helpful for negotiators to learn the difference between "positions" and "interests." The positions of the conflicting parties may be irreconcilable but their interests may be concordant. Helping parties in conflict to be fully in touch with their long-term interests may enable them to see beyond their "non-negotiable" positions to their congruent interests. An atmosphere of mutual understanding and empathy fosters the conditions which permit conflicting parties to get beyond their initial rigid, unnegotiable positions to their underlying interests.

II. Breaking Through the Impasse of the Arab-Israeli Conflict

Although the Arab-Israeli conflict is vastly more complex, more multilateral, and more difficult than the case I have used for illustrative purposes, I believe the ideas contained in the discussion of the simpler situation are applicable to the more complex situation. From my perspective as a "conflict-resolver," the two key process issues in resolving the Arab-Israeli conflict are: (1) creating the conditions in which the various parties to the conflicts are ready to engage in creative joint problem-solving efforts as part of a negotiation to resolve their disputes, and (2) helping the disputants to negotiate the substantive concerns which they consider to be non-negotiable.
I have no special knowledge or expertise relating to the Middle East or of the nations and their leaders so the discussion which follows is speculative. The situation as this is being written has changed in many respects from the circumstances prior to the 1990s. I select two changes for emphasis because I believe that they bear strongly on the likelihood that constructive negotiations can be initiated and conducted. First of all, I believe that a number of factors have contributed to the increased recognition by the leading actors in the multiple Arab-Israeli conflicts that they cannot impose a solution of the problem which is acceptable or satisfactory to them, upon their adversary. Secondly, changes within the former Soviet Union and the United States and in their relations with one another provide new possibilities for developing a constructive context for negotiations.

The increase recognition that one cannot impose a solution upon one’s adversary comes from several sources. The repeated Arab-Israeli wars, none of which have enabled the parties involved to achieve their maximalist objective nor even to achieve gains that would not be subject to future challenge, have led the conflicting parties to reduce their aspirations and to have more realistic objectives vis-a-vis one another. Although not pleased by it, most of the Arab nations have come to accept the idea that Israel will continue to exist as a nation: they are only in the beginning stages of coming to terms with the practical implications of this idea. Similarly, most Israelis have come to accept the view that the Palestinian aspirations for autonomy and nationhood cannot be ignored and denied forever: they, too, are only in the early stages of coming to terms with the practical implications of this recognition and of the additional recognition
that missiles reduce the value of the occupied territories as a barrier to attack.

The economic situation of all of the nations in the Middle East has worsened considerably in the past decade. For Israel, this was largely due to the costly consequences of the Lebanon invasion and the occupation of the West Bank and Gaza as well as the large influx of Jews from the former Soviet Union. The oil glut has severely affected the Arab nations as has the Gulf War.

Another factor contributing to the growing acceptance of the fact that neither the Arabs nor the Israelis can impose their “solutions” on the other is the recognition that the United States and other influential powers will not allow this to happen. The end of the Cold War has also meant that the nations involved in the Arab-Israeli conflict are less likely to be used as pawns in superpower conflict, and hence are less likely to be built-up militarily by outside powers.

Despite the growing awareness that the Arab-Israeli conflict cannot be resolved by military force and the increasing recognition that the continuing military jostling is debilitating to the economies and to the national well-being of the various nations involved, it is evident that there is considerable resistance to participating in serious negotiations about the issues within each of the parties to the conflict -- Israel, Syria, Jordan, Egypt, Lebanon, the Palestinians (and the PLO). I suspect that the internal deterrents to serious negotiations are sufficiently strong at the present time to make it unlikely that a creative initiative which could overcome the obstacles to negotiations will come from the Arab leaders in the Middle East. The results of the recent Israeli election, combined with Israel’s current “unprecedented military superiority over its Arab neighbors,”
suggest that the initiative can come from Israel and can focus on the Israeli-Palestinian conflict.

Wherever the initiative comes from -- the Israelis, the Arabs, or the United States - let me suggest that it should be guided by several basic principles:

1. **It should start the process of building a constructive relationship between the conflicting parties.** The Arabs and Israelis can continue to live in a state of alternating hot and cold wars to their mutual detriment or they can seek to change their relationship so that their inevitable disagreements and conflicts are experienced in the context of their mutual needs for peaceful co-existence and economic development. It is evident that a lasting peace will require a basic change in relationship. The initiative should be formulated and articulated as an important, first step in bringing about this basic change.

2. **The initiative should clearly and openly address the basic anxieties of both sides.** There is considerable reason to believe (see Kaplowitz, 1975; Saunders, 1985) that the basic anxieties of the Jewish people in Israel center about the images of the Nazi Holocaust and their history of centuries of rejection and traumatic persecution. Given these anxieties, it is not surprising that security and acceptance have become overriding objectives of Israel. Nor is it surprising that being "strong" and "tough" have come to be viewed as national virtues. There is also reason to believe that the basic anxieties of the Arab people center about being humiliated and treated as inferiors, about being dominated and exploited by intruders. It is easy to understand the Arab preoccupation with self-determination, with having some of its territories occupied, and with its proud refusal to be treated as a defeated party.
A constructive relationship-building initiative will address the anxieties of both the Israelis and the Arabs, whether it is begun by the Israelis, the Arabs, or a third-party such as the United States. The initiative should affirm and support Israel’s realistic needs for security and acceptance as well as the Palestinian needs for independence, dignity, and equality. It must be responsive to the needs of both sides.

3. It should establish informal (in addition to the formal) dialogues between influential representatives of the Israelis and of the various Arab groups in order to prepare themselves and their constituents for constructive, realistic negotiations about the issues in conflict. At this informal stage of pre-negotiations, it would be very useful to have impartial discussion facilitators available to help the conflicting parties deal successfully with the difficulties available that are apt to rise in such meetings. (See Burton, 1969, and Kelman & Cohen, 1976, for a description of how such facilitators might function.) Such informal meetings would not only precede substantive negotiations but would continue during and subsequent to such negotiations. They would provide an opportunity to test out proposals, for each of the conflicting parties to communicate their views and feelings fully to the other, for possible agreements to be developed, and to work out some of the underlying emotional concerns that might stand in the way of agreement.

As the Arabs and Israelis are enabled to listen to and to really understand the other’s feelings and how their respective experiences have led to the views each side holds, they will become more able to seek solutions which would accommodate the interests of both. This will be true even for issues which are considered to be non-negotiable. As I have stated earlier in the paper, non-negotiable issues become negotiable (even though
underlying basic differences may not be reconcilable) when the conflicting parties learn to listen, understand, and empathize with the other party’s position, interests, and feelings: providing they are also able to communicate to the other their understanding and empathy.

4. Given the lack of trust between Israel and the Arabs, the initiative should initially focus on areas of likely agreement which do not require trust for their successful implementation. Realistic aspirations would anticipate slow but significant progress in developing the constructive relations which would permit a creative problem-solving orientation to some of the current non-negotiable issues between the Israelis and the Arabs -- e.g., the status of Jerusalem.

5. Given the difficult internal political situation within the various groups and nations involved in the Middle East, it is my judgment that the United States will have to play a strong third-party role if constructive negotiations are to take place and succeed. It can facilitate constructive negotiations through its role as a mediator, through its use of positive and negative incentives to overcome resistances to constructive negotiations, and through its ability to assist in giving credibility and enforceability to negotiated agreements.

Thomas L. Friedman in his book, From Beirut to Lebanon (1990, pp. 523-526), has articulated an initiative regarding the Palestinians which an Israeli Prime Minister could take that addresses Israeli anxieties clearly and well and Arab anxieties also but not so fully. I believe that Friedman’s statement could easily be modified to be a more generous and fuller response to Arab concerns without weakening the response to Israeli anxieties. Basically, Friedman’s statement calls for the step-by-step creation, over a five year period, of an independent, demilitarized
Palestinian state in most of the West Bank and Gaza strip which would recognize and be recognized by Israel. Israel would be allowed to maintain early-warning and security systems in this new state as well as observation posts and checkpoints at its various potential entry points. Placed in a context of Israeli desire to develop constructive relationships with the Palestinians and other Arab nations, accompanied by extensive informal contacts between Israelis and Arabs, and bolstered by the influence and support of the United States, such an initiative could be the start in breaking the impasse between the Arabs and Israelis.