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Practical Tips on “Process Design” for Political and Peace Negotiations

Based on lessons learned from different peace and/or political negotiation processes of the last two decades, this IFIT briefing outlines a number of technical and practical considerations for their effective design.

When the parties to a political or armed conflict begin to realise that they have more to lose from continued confrontation – and by corollary, more incentive to seek a negotiated settlement – the success or failure of the ensuing process can depend significantly on its effective design.

Process design is often perceived as a merely technical matter, but it is an indispensable condition for a viable negotiation and the possibility of an eventual accord.

In the best cases, the structure and rules of the process become the new centre of gravity for the resolution of the conflict. As such, *how* a negotiation is designed deserves as much of the parties’ time and attention as *what* they are negotiating.

Among other things, the definition of a negotiation’s objectives, the establishment of a limited agenda, and the design of cooperation-inducing rules, contribute to the achievement of the following objectives:

- i) Mitigating the inevitable lack of confidence between the negotiating parties;
- ii) Managing expectations, both within and across the negotiating blocks;
- iii) Building public trust in the process;
- iv) Enabling the resolution of crises that emerge within the process; and
- v) Increasing the chances of compliance with accords that are reached.

In the following sections, this briefing offers a catalogue of methodological considerations that, depending on the context, can facilitate the success of a negotiation in its various stages. Given the diversity of contexts, not all of these considerations will apply in all cases.

1. The structure of the negotiation

Some key considerations include to:

- Establish the negotiation’s ultimate objective clearly and transparently from the start (e.g., “to end the armed conflict,” or “to agree on the conditions for a democratic transition”).
- Agree on a limited and precise agenda which lists the issues up for negotiation neutrally, avoiding the appearance of predefined positions.
- Distinguish clearly between the substantive topics of the negotiation, and the procedural rules according to which the negotiation will unfold, ideally making both of these public.
- Define the composition of each delegation (including, when feasible, the more radical elements of each side) and establish the number of people who will attend the sessions and exercise plenary powers.
- Establish meeting formats that simultaneously facilitate political decision-making and technical advances.
- Create parallel spaces and committees that can be utilised, in coordination with the principal negotiating table, to accelerate the process for reaching accords.
- Establish periodic review mechanisms to discuss and redress the source of any delays in reaching results.
- Determine the location and frequency of negotiation sessions to help produce more organised and rapid accords.
- Distinguish between issues that form part of confidence-building measures (which can be effected while the negotiation is underway) and those related to future implementation of the comprehensive settlement.

- Establish national, international, or hybrid mechanisms for mediation, facilitation, observers and/or guarantors, in order to fortify the process.
- Establish rules that reduce the scope for any party to use the negotiation space tactically to buy time or rearm itself. For example, have rules that guarantee the continuity of the negotiation irrespective of what happens outside of the process.
- Ensure that there are robust technical and operational support teams.

2. Confidence-building measures (CBMs)

Some key considerations include to:

- Encourage the parties to agree on bilateral and tangible CBMs capable of increasing trust in the negotiation.
- Ensure that any agreed CBMs can be implemented rapidly, so that the public experiences concrete benefits in advance of a comprehensive agreement.
- Ensure that time spent negotiating bilateral CBMs doesn't crowd out the larger negotiation.
- Agree to de-escalate and de-radicalise the language used in public.

3. The drafting of accords

Some key considerations include to:

- Have a detailed exchange of views on the various agenda items before drafting any related text.
- Use precise and neutral language, avoiding constructive ambiguities except where they may be necessary, for example, to overcome major differences or to ensure an acceptable narrative for sceptical supporters.
- Include specific commitments in terms of performance obligations, expected results, and indicators of compliance.
- List the party or parties responsible for ensuring the fulfilment of each commitment.
- Indicate the milestones, or the specific dates, upon which each commitment should be fulfilled (e.g. whether during or at the end of the negotiation), as well as the source of funds that will be used.
- Work on the basis of a single authoritative text, making use of tools such as tracked changes to reflect competing positions, and brackets to denote unresolved points.
- Designate a technical adviser from each side to keep track of the agreed text.

- Decide up front whether the negotiation is intended to culminate in a detailed and comprehensive settlement, or a minimalistic framework agreement that leaves most details to future processes and mechanisms.

4. Communication

Some key considerations include to:

- Agree on strict rules of confidentiality —public airing of dissents will weaken confidence in the negotiation.
- Develop and announce a strategy for the release of periodic joint statements on the progress of the process. These should preferably be issued by the guarantors or the facilitators and not the parties themselves.
- Ensure that each party designates a single spokesperson to avoid multiple accounts of the purpose and results of the negotiation.
- Establish an official website for the negotiation to facilitate the dissemination of accurate and objective information regarding the process.
- Establish a unified “pedagogy” for explaining the rationale for and benefits of a negotiated solution.

5. Participation mechanisms

Some key considerations include to:

- Establish an official mechanism to enable civil society and other sectors to present recommendations, either physically or electronically, thus increasing the legitimacy of the process and generating valuable input.
- Create a formal mechanism through which independent technical experts can be called upon to provide impartial input to the negotiating table on issues jointly agreed by the parties.
- On especially sensitive or complex issues, consider mechanisms that allow the parties to delegate the resolution of the matter to an ad hoc subcommittee of third-party experts.

6. The role of mediators, facilitators and guarantors

Such actors should aim to:

- Ensure absolute neutrality before the parties and the public.
- Serve as monitors of the parties' compliance with the agreed rules and procedures.

- Confidentially propose creative alternatives to overcome crises the parties appear unable to resolve themselves.
- Facilitate the participation of independent technical experts in discussions on the most complex or sensitive issues.
- Serve as a repository for the written agreements reached by the parties.
- Announce agreements to the public when the parties so authorise.
- Play a constructive role in enhancing the incentives for reaching agreement and for compliance afterwards.
- Promote support for the process by other like-minded governments, institutions, leaders and special envoys.

7. Design of monitoring and verification mechanisms

Some key considerations include to:

- Establish a principle of simultaneity with regard to the implementation of any bilateral mid-negotiation commitments, so that both parties assume the cost of any default by the other.
- Identify impartial and independent national and/or international organisations with specialised technical knowledge and experience on the subject matter of particular accords.
- Establish implementation and verification committees comprising not only representatives of the different sides, but also of the specialised technical organisations mentioned above.
- Agree on a system of periodic public reports, which will reflect where there has been progress and where there has not.
- Establish systems of penalties for non-compliance or non-performance, and positive incentives for continued compliance.

Founded in 2012, IFIT is an independent non-governmental organisation offering comprehensive analysis and advice to national actors involved in high-level negotiations and transitions in fragile and conflict-affected societies. IFIT has worked in various countries including Tunisia, Sri Lanka, Syria, Ukraine, Venezuela, Gambia, El Salvador, and Colombia.