

# Article

## Psychology of Conflict

### Why Do People Fight First and Then Settle?

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#### 1 Trailer

Conflicts always have been and always will be. What is conflict? Why is it so hard to avoid conflict? Many or most conflicts get settled in the end, so why not settle straight away? What role can mediation play? In this contribution some of these questions will be addressed.

#### 2 Introduction

Let us think of those moments in history where mediation helped countries to settle their differences after a period of bitter conflict. The Viennese Convention, reached at the Vienna Congress between the victors of the Napoleonic Wars on 26 June 1815, resulting in the Treaty of Paris of 20 November of that year, is but one example.

The Austrian diplomat Prince von Metternich, chairman of the conference in Vienna, acted as mediator between Prussia, France, Russia and Great Britain. Von Metternich and four other men – Prince von Hardenberg for Prussia, Charles Maurice de Talleyrand for France, Tsar Alexander I for Russia and Lord Castlereagh for Great Britain – achieved what they had set out to do. They reached a settlement on a new international order that allowed Europe the longest period of peace it had ever known until then. No war took place among the Great Powers for 40 years, and after the

Crimean War of 1853, no general war for another 60 years. This new international order that – as Henry Kissinger points out in his wonderful book *Diplomacy* – was created more explicitly in the name of the *balance of power*, relied nonetheless the least on *power* to maintain itself. The unique state of affairs partly occurred because the *equilibrium* was designed so well that it could only be overthrown by an effort of a magnitude too difficult to mount. (This situation can be compared today to the equilibrium sought after by the Comprehensive Agreement on the Iranian Nuclear Program, agreed in Lausanne in 2015; a war involving Iran might enflame the entire Middle East.)

The result of the Viennese Convention (also known as ‘the Concert of Europe’) proved sustainable also because the Continental countries were knit together by a sense of *shared values*. There was not only a physical equilibrium, but also a moral one. Power and justice were in substantial harmony.<sup>1</sup> A balance of power reduces the opportunities for using force; a shared sense of justice reduces the desire to use force.

If a sense of justice is not shared by all parties to a convention, this may well lead to new trouble. Notorious is the Treaty of Versailles of 1918, whereby the power balance was not supported by a sense of justice to the feeling of all involved. The League of Nations, founded in 1920 as a result of the Paris Peace Conference, was more an intent to curtail the future expansion of Germany than a successful attempt to provide peace and stability in the world post World War I. The convention of San Francisco on 25 April 1945, after World War II, leading to the signing by 50 governments on 25 June 1945 of the

1. See Kissinger H. (1994). *Diplomacy*. New York: Simon & Schuster, Chapter Four, *The Concert of Europe: Great Britain, Austria, and Russia*, p. 79.

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UN Charter – incorporating the United Nations we still know today – was more successful.

There are many more examples of negotiated settlements to provide solutions to problematic situations in various regions of the world. As said, the one more successful than the other. One can think of the Geneva Convention in 1954 to end the war in Vietnam; the Oslo Accords, signed in 1993 and 1995, that came close to solving part of the conflict between Israel and the Palestinians; the Treaty of Paris of 14 December 1995 consolidating the results of the Dayton Conference earlier that year to end the civil war in Bosnia.

The common denominator in most of the aforementioned situations is that a negotiated settlement agreement did not come about before incalculable numbers of lives had been lost, immense sorrow had been caused and irreparable damage had occurred to historic heritage. Why – the question can be – did one not sit down straightaway upon the outbreak of a conflict and resolve the issue before first a lot of suffering and damage was caused? In the end – in hindsight – however serious a conflict, the result is almost always a negotiated settlement as in the case of the conventions mentioned earlier. So why not come to an agreement straightaway? An editorial in the *New York Times* of 17 July 2019 observed about the war in Yemen: ‘The war there is an unwinnable disaster. The only solution is a negotiated peace agreement among the Yemenis on sharing power and resources’. Yet, the fighting continues.

In the end in Yemen, between Israel and the Palestinians, with North Korea, Iran, Kashmir and everywhere else where conflict is ongoing, the choice is between fighting and suffering without end on the one hand and coming to some sort of negotiated arrangement, which will have to involve compromise, on the other. That is why Donald Trump’s attempt to seek a solution between the United States and North Korea by affirming Kim Yung Un’s self-esteem and seeking a continuation of the dialogue is perhaps not such a bad idea

### 3 Conflict

One definition of conflict reads as follows: ‘Conflict is a process that begins when an individual or group perceives differences and opposition between itself and another individual or group about interests and resources, beliefs, values, or practices that matter to them’.<sup>2</sup> This definition applies to conflicts between countries as well as between individuals or groups in daily life and within and outside of organisations. Apart of fighting it out, in the end there are not many more other instruments than communication.

2. See Carsten K.W.D. & Gelfand M.J. (2012). *The Psychology of Conflict and Conflict Management in Organizations*. New York: Psychology Press, Taylor & Francis Group, p. 6.

## 4 Mediation

Switching now to the notion of *mediation* in the title of this pre I draw on my experience as a corporate mediator. I deal with conflicts on an entirely different scale than conflict between nations; yet, the dynamics show certain analogies with those other conflicts. Let me mention but a few examples taken from the last batch of cases that came my way.

The first case pertained to an international joint venture that had gone sour. The parties had agreed to jointly develop, produce and sell raw material for a chemical product. When the mediation started, they had been engaged with each other in litigation about breach of contract, damages and what have you for 14 years. They had been to the Dutch Supreme Court and back and still there was no definite outcome. They confessed to already have spent €1 million on court cases, not counting the loss of energy, missed business opportunities and other damages.

The second case also involved a joint venture that had not delivered what the parties had hoped for when they decided to join forces for the production (by one of the parties) and the sale (by the other) of an industrial product. By the time the mediation started, these parties had been litigating between each other for 13 years, having tried their luck with the Enterprise Chamber of the Court of Appeals in Amsterdam and other courts, not getting very close to being able to stop spending more legal fees in addition to the amount of €800,000 they had already burnt.

The third example concerns a fight over the right to use a logo and wordmark in a certain territory, where one party held the intellectual property rights and the other held the rights to a similar logo and wordmark in the countries surrounding the relevant territory. The latter wanted to engage in commercial activities in that territory as well. After a legal fight for 22 years and spending already about €600,000 on legal fees, neither had progressed much into the direction of the solution each of them was striving for.

The last example is about a fight during already 8 years between a brother and a sister who succeeded their father in the family business. The sister would continue the production unit of the company and the brother would run the maintenance unit. The sister, however, had also undertaken maintenance activities. After 8 years of litigation, a bankruptcy, restart and much destruction of the client base, they still were at odds. The brother, as a private shareholder, had to pay his own legal fees; the sister held the shares in a personal holding that paid her legal fees. Already the brother had incurred a debt of €450,000 for legal fees.

Again, the question can be, why did these parties not sit down straightaway upon the outbreak of the conflict and resolve the issue before first suffering a lot of material damage and at the same time suffering a lot of negative energy, loss of *joie de vivre* and missed opportunities?

Research<sup>3</sup> shows that the majority of all legal conflicts are ultimately resolved by means of settlement, either before, during or after litigation. Even winning in litigation seldom leads to the successful execution of an award, either because the conflict is settled by agreement after all or there are no assets left to take recourse to. This is why, as an attorney receiving a new case, I always asked my clients how much money they intended to burn before they would be willing to consider settling their case.

## 5 Psychology of Conflict

Why is it that people fight before they reconcile? Reconciliation is a gift parties can bestow upon themselves and their adversary. Reconciliation is an antioxidant, beneficial for one's own mental and physical health; yet, like with much other conflict-related cognitive wisdom, emotions appear to be hard to control when a conflict occurs, and this forces better judgement to the background.

We tend to function on the premises and the assumption that the way we experience and see things renders the realistic view on a situation. *Perception is truth*, however, is a valid saying only if interpreted to mean that *your perception is your truth*, which applies to everybody else as well. Provided two or more parties to a conflict are sincere – and not cheating or acting in bad faith – each one of them is right. To have parties understand this, one can ask two parties to imagine that on the floor between them a figure is written and they each find themselves on the opposite side of that figure. One party maintains that the figure is a six while the other is convinced it is a nine; yet, they are both looking at the same figure, which might instead of that figure as well have been a set of facts or any other issue over which the parties may be holding different positions. The variety of perceptions that can exist in any one given situation was aptly epitomised by the American comic George Carlin<sup>4</sup> when he said,

Have you ever noticed when you are driving on the freeway, that anyone who is driving slower than you is an idiot, and anyone driving faster is a maniac, while at the same time perceiving themselves to be perfectly normal. Consequently, in a situation where three persons occupy three metaphorical “lanes of a motorway”, there will be nine different perceptions of the very state of being: the idiot in one person's view is the maniac in another's, while normal in his own perception – and vice versa.

This is a nice example of the multiple perceptions at play while people find themselves in the same situation. So, why do people fight first and come to their senses and a negotiated settlement only later?

As a species we have not emancipated to be all understanding and totally elevated above the mundane world, like an enlightened Buddhist. Such a superhuman would be so all understanding and wise that he or she would probably never get involved in conflicts, and if a conflict would occur nevertheless, would know how to resolve it without any bloodshed or other damage being caused first. We are not there yet.

Monkeys, the primates that may have had to do with the composition of our DNA, may hold up a mirror for our own species. In his latest book about animal emotions and what they tell us about ourselves,<sup>5</sup> the Dutch scholar Frans de Waal notes that we humans have a deep-rooted longing for power. Bernard Mayer described *power* as the ‘currency of conflict’,<sup>6</sup> it may get you what you want and enable you to protect what you have got. Power is inextricably connected with control: control provides power, and power delivers control. This is, for example, evidenced by the response we show when we lose control. He mentions the example of Steve Ballmer, CEO of Microsoft, who was told that an engineer, a key personnel member, was leaving the company to join Google. The story has it that he picked up a chair and threw it through the room, shouting a promise to murder those boys of Google. Another example is the tantrum children can throw when they are disappointed in their expectations. Power and control in turn are inextricably connected with self-esteem. Power and control help to protect self-esteem; both serve to help uphold the image we have of ourselves.

The role of self-esteem is so subtle, yet overwhelmingly important. In an improvisation, two people were asked to act out a conversation following a fender bender. One of the two was told they had been driving a Mercedes; the other a Ford Fiesta. After a few minutes, the actors were told to switch cars. Despite their actual status, gender, age or other marker, the mere naming of a car and its reversal appeared to be a decisive factor in how they acted towards each other.<sup>7</sup> The one driving a Mercedes behaved more confident.

Back to the question why people often fight before they come to reason. Before I say more about that, I want to note that mediation is not one cure for all that – if only everyone would avail over mediation skills – would make the need for fighting obsolete. Fighting is sometimes unavoidable or even desirable. Kenneth

3. MacFarlane J. (2008). *The New Lawyer, How Settlement is Transforming the Practice of Law*. Vancouver: UBC Press, p. ix. She says that in Canada 95% of all conflicts are settled either before, during or after litigation.

4. As reproduced in Randolph P. (2016). *The Psychology of Conflict*. London: Bloomsbury, p. 30.

5. De Waal F. (2019). *Mama's Last Hug. Animal Emotions and What They Tell Us About Ourselves*. New York: W.W. Norton & Company Inc.

6. Mayer B. (2012). *The Dynamics of Conflict*. San Francisco, CA: Jossey-Bass, p. 68.

7. Richard Barbieri mentions this example in 'Power as Role and Reality in Mediation', Mediate.com, This Week in Mediation #790, 7 August 2019. He in turn learnt it from a book written by Keith Johnstone, called *Improvisation and Theatre*, published by Eyer Methuen in London (ISBN 978-0713-68701-9). The book offers 100 practical techniques for encouraging spontaneity and originality by catching the subconscious unawares.

Cloke mentions two examples where he calls it fortunate that an attempt to mediate failed:<sup>8</sup> One is the effort to mediate the growing conflicts over slavery just before the U.S. Civil War; the other is the mediation attempted by Mussolini between Hitler and Chamberlain just before World War II. The world might have looked totally different today, would that attempt to sacrifice Czechoslovakia have succeeded for an arrangement that would have given Hitler free reign in Europe. People fight, we fight, when our autonomy is threatened (defensively) because this impinges on our feeling of control and self-esteem. The feeling of loss of some or all control causes a feeling of being powerless. This equates to a sense of having failed, causing one to feel ineffective, feeble and vulnerable. As Paul Randolph explains, this is demeaning, and one's self-esteem will not allow this state to continue indefinitely. A blow to our self-esteem will invoke an attempt to no longer feel ineffectual and helpless, so all energy will be aimed at restoring the self-esteem and regaining power and recovering control. Sometimes people will simply seek profit or other gain, such as status, offensively at the expense of others. They seek to exercise their power and possibility to control others. Under normal circumstances such attempts will be met by the response of others who see their autonomy impinged upon as described earlier. The latter will in turn seek means to inflict pain, suffering and humiliation upon their assailant in order to regain a feeling of control.

Self-serving bias is something we all suffer from. It is the trust we put in what we believe and stand for and what we do with that. If we get into an argument where our beliefs and sincerely held feelings are concerned, we begin to argue with ourselves and the opponent to underscore that our perspective is the righteous one and our arguments are better than those of our opponent. It is often action and reaction, and as Friedrich Glasl<sup>9</sup> has made visibly clear with his image of an escalation ladder, a dispute begins with arguments (content). When unable to convince the other of the righteousness of those arguments, the argumentation intensifies and, before long, the focus shifts from the content to the person of the opponent, the one who *refuses* to see the difference between right and wrong. If the dispute continues, the opponent gradually will turn into the enemy and may ultimately even come to be seen as the devil. All the time there is an important role for power and control, as said, hanging directly together with self-esteem. The wish to avoid loss of self-esteem is often seen as one of the reasons why it took the United States so long to admit that the war in Vietnam could not be won. To admit that the most powerful nation on earth – at that time – would not be able to come out of that conflict as the victor was, for a long stretch, considered too much of a loss of face to envisage, in terms of its

position of power and its ability to control things. I believe there is a basic resistance in all of us to be at the losing end of a conflict, derived from the evolutionary subconsciousness that losing meant being ousted from the group and having to linger alone until perished or eaten by others. Every conflict, therefore, will have to end in the other not losing.

The evolutionary approach to conflict still is *fight, flight or freeze*, and 300,000 years of evolution in this respect have not yet turned this into *sit down and self-reflect*. My conclusion is that conflicting parties will try to get their way if they feel they still have a chance to gain the upper hand. Fighting or litigating is one way to try to remain in control or to regain control. Only after spending all their effort and means to have things go their way will parties grow exhausted, frustrated – not only with their opponent but also with the situation they are not able to surmount by themselves – and become susceptible to reason.

Putting up a fight can so create the conditions that make a settlement possible that otherwise would not be achievable when one or more opponents do not want to yield, believing they still can gain the better hand. A standoff will make them look for options to alter the situation, in the first instance, to their own advantage. As long as the parties still have the energy and the means to pursue their own perspective on things, they may be inclined to think that there may come a moment when they can prevail.

## 6 In Conclusion

Mediators are optimists. They believe that their deployment of mediation skills can make opposing parties come to see things from each other's perspective, sometimes already before parties have first put up a fight. That may be possible given the right circumstances, but in many instances, a fight is what it takes first, before most attempts to force one's own views or position upon the other have been halted by the resistance of the other. *Such is life*. Only if the deployment of power or control fails to bring success, a deeper layer of reflection may open a gateway to negotiation and settlement.

We must hope that over time – when our species becomes more cooperative than competitive – the realisation will grow that a fight may not be needed before mutual respect and understanding can be found between conflicting parties. In that respect mediation skills can render an important contribution. It is like democracy – it may not be ideal, but it is the best there is on offer. Preventing and resolving conflicts may be served well by the deployment of mediation skills. The same conversation, differently, may make all the difference.

In many cases solutions appear to be feasible indeed. A lot can be achieved if a mediator succeeds to have parties listen to each other in order to understand, rather than

8. Cloke K. (2015, Jan 28). *The Future of Mediation: Toward a Conflict Revolution*, Mediate.com, pp. 6/14 and 7/14.

9. Glasl F. (2015). *Handboek Conflictmanagement*. Amsterdam: Uitgeverij SWP, Chapter 10.

to reply, listen as if they are wrong and with suspension of their own judgement. If they are willing to respect each other's autonomy, and when a mediator succeeds in bringing things to a point where the parties are willing to mutually validate the self-esteem (self-respect) of their opponent, much can be achieved. Certainly, when parties can be coaxed also into owning up to their own contribution to the occurrence and continuation of the conflict.

The title of this presentation ought really to have been, 'Why do *some* people fight and then settle?' Not everyone is the same, and, fortunately, there are people who respond to conflict in a much wiser fashion than fighting. It is my hope and belief that the number of what can be called *dispute-wise* people will increase over time. One way to accelerate this will be to teach mediation skills already in kindergarten.