

Stakes and symbolism of the "Round Table" in the settlement of international conflicts: the cases of Vietnam and the Sahara

By Mohammed Loulichki

Abstract

The initiation and conduct of any negotiation are not solely dependent on the positions of parties, their willingness to make concessions and, possibly, the mediator's talent. Similarly, they do not merely hinge on the settlement of procedural issues and the adoption of technical arrangements designed to circumvent the parties' prior objections, to accommodate their sensitivities and to secure their acceptance of a code of conduct suited to each phase of the negotiations.

Such technical arrangements include the setting of an agenda, the choice of the level and style of negotiators, the timing of the launch of negotiations, communication arrangements, the language of the negotiation, the order of speaking, the location of delegations, the use of flags, the height of seats, the venue of meetings and the shape of the negotiating table¹. These last two technical aspects are of particular symbolic importance.

¹ Henry S. Kramer, "Game, Set, Match: winning the negotiation game" p.215

The history of conflicts, particularly asymmetrical ones, illustrates the importance attached by parties to the choice of venue and form of the negotiating table as a condition of their engagement. This choice is directly linked to the status of parties to the negotiation process, their mutual or international recognition and their political will to contribute to the settlement of the conflict.

As regards the venue, options vary according to the specificities of the conflict or dispute. They range from holding talks alternately in the capitals of either party, to selecting a city located in the region of origin of both parties, at one of the three United Nations headquarters (Geneva, New York, Vienna), at a border crossing (South and North Korea), in the capital of a major power or in the capital of a country having privileged relations with one of the parties to the conflict (Doha for the negotiations between the Taliban and the Afghan Government)...

As for the negotiating table, while a round shape is preferred, triangular, rectangular, oval and U-shaped tables have been used in different circumstances, sometimes to obviate status considerations, other times to accommodate multiparty delegations insisting on being at the same negotiating table.

To grasp matters relating to the venue and form of the negotiating table, it is useful to recall the importance of technical and protocol aspects in the success of the process of settling a dispute or conflict (I). This will be followed by an account of the manner in which the two procedural aspects mentioned above were resolved in the case of Vietnam (II). Given the length of negotiations and the number of proposals exchanged on these two aspects, the Vietnamese example is a textbook case and an indispensable reference for mediators in complex conflicts. It was undoubtedly a source of inspiration for Mr Hans Kohler, the Personal Envoy of the Secretary-General of the United Nations (UN), in his efforts to organize the two Geneva meetings on the Sahara in December 2018 and March 2019 (III).

I - The importance of form in the success of negotiations

To be successful, any negotiation, irrespective of its type, the issues at stake and the protagonists, must be carefully prepared, skillfully conducted and supported by a favorable environment and the political will of all parties involved to reach a successful outcome. In this respect, procedural considerations, in particular the venue of the negotiations and the form of the table, are of paramount importance.

1- Venue of the negotiation:

The choice of location depends on several parameters relating to the complexity of the dispute, the mutual recognition or non-recognition of parties, geographical proximity, communication facilities, the parties' track record with a given location, the status of the country hosting the negotiations (former colonial power, major power, etc.), its attitude towards the parties to the conflict, etc.

If the capital cities of the parties are excluded, as they are usually discounted to avoid conferring a «home court advantage» to either party, the choice can be either a location in a country able to influence the negotiations (Ministerial meeting in Washington on 6 November 2019 between Egypt, Ethiopia and Sudan on the Renaissance Dam being built by Addis Ababa), in one of the United Nations headquarters cities or in a neutral country.

Historically², the cities of Vienna and Geneva have been chosen for international negotiations and conferences in view of the neutrality of Switzerland and Austria (Geneva meetings on Syria and negotiations on the Iranian Nuclear Agreement in Vienna). Lastly, given their balanced policies and the activism of their think tanks in promoting dialogue and peace, Scandinavian countries are increasingly positioning themselves as diplomatic destinations for secret negotiations (Oslo for the Agreements on Palestine and Stockholm for Yemen).

² Ali Omid, "Symbolic Importance of the Venue of Negotiations in Diplomatic Efforts", *Iran Review*, February 4, 2013

2- The negotiating table:

The table constitutes a material object which symbolizes both the readiness to communicate with one another and the state of the balance of power between parties. Its shape is a technical consideration, which can impact a negotiation, positively or negatively. It acquires a decisive meaning, particularly when negotiations take place between a government and insurgents or when parties do not recognize each other.

Generally speaking, and notwithstanding the character and purpose of the negotiations, the shape of the table and the positioning of parties around it have an impact on the process. In a study on the state of mind of the parties on the eve of the start of negotiations, it was shown that 54% of respondents believe that a round table reduces tension between parties and 53% consider it to be a factor conducive to improving the atmosphere of discussions.³

In the Arab-Islamic world, the Round Table has a sociological significance rooted in the cultural traditions of the region. It provides a framework around which family and relatives meet regularly to share a meal and converse, without any consideration as to the social status of its members. It also brings the family or tribe together to resolve disputes or make a collective decision on a subject of common interest.

At an international level, the question of the shape of negotiating tables arises whenever the recognition of one of the parties is at stake or when a conflict's seriousness and longevity creates such animosity that parties, refusing to go head-to-head in bilateral or multilateral negotiations, are at a political or psychological stalemate. This formalism becomes more complex when negotiations are covered by the media due to the impact on the parties' respective public opinions.

The first case that springs to mind when considering protocol complications prior to or preceding negotiations is the Paris negotiations between Vietnam and the United States (1968-1973) and the length of the negotiations on the shape of the negotiating table.

³ Tuong-Minh Ly-Le, «Business Negotiations Between American and Vietnamese Businesses: The Influence of Proxemics and Site Setting on Negotiation Outcomes.», *Inquiries* Vol. 7(04), août 2015

II - The Paris Conference on Peace in Vietnam

The Vietnam War, which lasted some twenty years (1955-1975), pitted the North, supported by the Soviet Union, against the South, an ally of the United States. During the last ten years of that period, American involvement was more intense and extensive.

However, faced with the impossibility of a military victory over the Democratic Republic of North Vietnam, the United States resolved to end the war and withdraw its 543,000 troops, without weakening its ally, the Republic of Vietnam, representing the south. This decision, taken by President Lyndon Johnson in March 1968, was reaffirmed and carried through to completion by his successor, President Nixon, under the influence of his Secretary of State Henry Kissinger.⁴

For its part, supported by the USSR and China, North Vietnam had set the goal of ousting US troops and establishing its legitimacy over the entire national territory, while at the same time achieving the reunification of the country.

The North Vietnamese government's position of strength enabled it to capitalize on early signs of an increasingly certain military victory and practically dictate the terms of the Paris Agreement.

This posture was dictated by three constraints in US domestic politics. The United States President's concern to end a war that had damaged his presidency and forced him to give up a second term of office, public pressure for the withdrawal of American forces and Washington's desire to secure «peace with honor», in order to ensure that his disengagement would not affect the image of the United States as a power in the eyes of its friends and enemies.⁵

Once the principle of finding a negotiated outcome to the war was agreed upon, the two main parties to the conflict,

⁴ Hanhimäki, Jussi M, « La négociation dans les combats : la Conférence de Paris et la fin de la guerre du Viêt-nam », *Relations internationales*, vol. 135, no. 3, 2008, pp. 53-72

⁵ Henry Kissinger, *American Foreign Policy: Three Essays*, New York, Norton, 1969, p. 134

the United States and North Vietnam, had to resolve three procedural issues: the location of the preliminary «official talks», the number of parties and the form of the negotiating table.

Regarding the venue, the Americans suggested Geneva (which had hosted the 1954 negotiations which led to partition of the country), and subsequently New Delhi and nine other capitals, all of which were rejected by the Hanoi government. North Vietnam suggested its own capital and Warsaw. Ultimately, the Paris Conference Center was chosen.

As regards the parties admitted to the negotiations, the main dispute was over the National Liberation Front (NLF), better known as Việt Cộng, which was denied the right to participate autonomously in the negotiations by the United States and South Vietnam.

The final compromise consisted in circumventing the issue of legitimacy by including all four parties in the negotiations, identified simply as «your side» and «our side». But, in reality, the talks were publicly recognized as bilateral in nature between the United States and North Vietnam.

While the issue of representation was circumvented in terms of participation, it arose again with respect to where the parties would sit at the negotiating table. More specifically, it was a question of determining the shape of the table to reflect the status of the parties to the conflict.



Several scenarios were considered:

- A Triangular table: typically, this shape allows two parties, who do not recognize each other or who are

emerging from a conflict fraught with hostility, to gather around a table, while avoiding a face-to-face meeting. In this configuration, the two parties face the mediator and communicate through him. This form was preferred by the Americans and the South Vietnamese but rejected by the North on the grounds that it implied the inclusion of the NLF in the North Vietnamese delegation, thus creating an imbalance to the advantage of the Americans and their ally;

- The North Vietnam delegation suggested a rectangular table with flags and plaques as a way to have the NLF recognized as an equal party, to which the Americans objected, proposing two long rectangular tables without flags or plaques;
- The same delegation proposed a round table to have the NLF recognized as having the same status as South Vietnam;
- The oval shape was suggested by the Americans to be closer to the idea of a round table, while marking the difference in status between their southern ally and the NLF;
- Various options were discussed, including a round table cut in half, a table in the form of a collapsed ellipse and a parallelogram.

This «Battle of the Tables»⁶ captured people's imaginations to the point that a Danish mathematician, Piet Hein, proposed the idea of a table that is neither round nor oval, but which has the particularity of allocating to the United States and North Vietnam 2.54 meters each, and to the others, 15.6 centimeters each, by applying a very sophisticated formula

$$(x \cdot 2.5 + [y/a] \cdot 2.5 = 1 \text{ when } a = [.5][\sqrt{5-1}])^7$$

Finally, after ten weeks of discussions, the parties agreed to a proposal by a Soviet diplomat consisting of two round tables flanked by two smaller ones. In the wake of this agreement, the parties decided to renounce the use of placards and flags in order to overcome the disagreement over the recognition of the NLF.

This controversy was such that in 1990, the English playwright David Edgar was inspired to write a play entitled «The shape of the table», in which representatives

⁶ George C. Herring, *America's Longest War: The United States and Vietnam, 1950-1975 with Poster* (4th Edition)

⁷ Jeffrey Michaels, "Stuck in Endless Preliminaries: Vietnam and the Battle of the Paris Peace Table", November 1968- January 1969

of Eastern European countries negotiating the future governance of their respective countries after the disintegration of the Soviet Union met in the same room. The effort and time expended in sorting out these technical details was considered «the most incredibly absurd investment of diplomatic ingenuity in history»⁸ and «a silly distraction and delaying tactic».⁹

Once these procedural battles were resolved, it took five and a half years of negotiations to finalize the 1973 Paris Accords, which ended the state of war between the United States and Vietnam and paved the way for the gradual normalization of relations between the two countries.

There is no doubt that Vietnam's example was a source of inspiration for Mr. Kohler, despite its fundamental differences with the Sahara dispute.

III- The Geneva negotiations on the Sahara: The form first

At a time when the United Nations Secretary-General is working hard to find a replacement for Mr Kohler, so as not to lose the momentum created by the two Geneva meetings in December 2018 and March 2019, it seems appropriate to consider how matters relating to the venue and form of the negotiating table were resolved in order to ensure the success of both meetings. Accordingly, a reminder of the stances of the parties to the dispute over the Sahara enables a better understanding of the cautious and gradual approach adopted by Mr. Kohler to promote a resumption of talks between the four parties and his decision to choose Geneva as the venue and a round table as the medium for the talks.

A- Status and position of the parties with respect to the UN process

In the case of the Sahara, the UN process involves three

8 Deepak Malhorta, "Negotiating the impossible: How to break deadlocks and resolve ugly conflicts (without money or muscle)"

9 This week in history: Paris Peace Accords signed, Vietnam War draws down January 26, 2018 People's world

sovereign states and the Polisario, which claims to represent part of the Sahara's population and which was admitted to the Organization of African Unity (OAU) in 1984 as the «SADR,» in controversial circumstances.

1- Morocco considers that the Sahara was re-integrated into the national territory of the Kingdom, in accordance with international law and the principles of the United Nations Charter, through an international agreement duly negotiated with Spain, endorsed by the United Nations General Assembly in its resolution 34/58 B, of 19 December 1975, and submitted to the Secretary-General of the United Nations. Morocco's involvement in the current process of seeking a resolution to this regional dispute stems from a concern to preserve good-neighborliness with Algeria and to offer a democratic solution to the refugees in the Tindouf camps, within the framework of a negotiated autonomy, constitutionally guaranteed and respectful of the territorial integrity and unity of the Kingdom.

2- Algeria: In 1975 and 1976, during the years of negotiations and talks between Rabat and Madrid for the return of the territory then under Spanish occupation to Morocco, Algeria expressly claimed the status of «concerned» and «interested» party¹⁰, on the basis of a «national interest which is underpinned by obvious political considerations» and «which cannot be ignored in any search for a settlement of the Sahara issue».¹¹

Since the United Nations took up the matter, Algeria has presented itself merely as a neighboring State playing the role of a simple observer in the process, while continuing to provide diplomatic, political and financial support to the Polisario, not to mention the incursion by the Algerian Army into Amgala, located more than 120 kilometers from the border between the two countries, in January 1976.

Moreover, Algiers' steady mobilization in international fora in support of the Polisario, notably through the presentation of draft resolutions on the Sahara, written comments to all settlement proposals and a proposal for the partition of the territory,¹² show the level of commitment of this country which goes beyond its observer status. Is it possible, under these conditions,

10 See Security Council minutes: S/PV/ 1850 of 22 October 1975

11 United Nations document: A/C.4/SR 2125 du 03/12/1975

12 See SG Report S/2002/178 of 19 February 2002

to continue to consider Algeria as a mere observer on an equal footing with Mauritania?

3- Mauritania: since its withdrawal from Tiris El Gharbia, Nouakchott has maintained a neutral stance and assumes the role of a neighboring state in the ongoing settlement process.

4- The Polisario: presents itself both as a State (the «SADR») and as the «sole representative» of the populations of the Sahara. Yet, the Polisario is neither a State, in the sense of international law, nor a national liberation movement recognized by the OAU Liberation Committee, which was the sole authority to deliver certificates recognizing African liberation movements. As for its claim to represent the population of the Sahara, it is disproved by the outcome of the identification process which gave a majority in favor of Morocco as well as by the elections which have been regularly organized in the region since 1976. At most, the Polisario is considered both as a petitioner before the Fourth Committee and the Committee of 24 and as an interlocutor for the purposes of the ongoing negotiation process under the aegis of the United Nations.

It is this ambiguity surrounding the true status of Algeria and the Polisario that Morocco is trying to dispel at the United Nations, through the arrangements for the organization and conduct of the new Geneva process.

B - The choice of venue and negotiating table:

Mr. Kohler's hosting of the talks in Geneva and his decision to opt for a round table can be explained by the following considerations:

1- The venue: Neutral Geneva

The choice of this city is not fortuitous. Apart from its geographical proximity, Geneva has the particularity of being the historic headquarters of the United Nations, hosted by a country known for its legendary neutrality, including on the Sahara issue.

As far as the parties are concerned, while for the Polisario the city of Geneva symbolises the human rights and humanitarian law underpinning its international action, Morocco sees it as the headquarters of the

Office of the United Nations High Commissioner for Refugees (UNHCR), which is responsible for protecting the populations of the Tindouf camps and for registering them.

In addition, Morocco sees this new Geneva process as a break with the Manhasset process (United States). Lastly, the fact that these talks are being held at the European headquarters of the United Nations corroborates the exclusive responsibility of the international organization to use its good offices for the final settlement of this regional dispute, away from any interference by the African Union.

As for Algeria, it has always had a strong bond with the Swiss Confederation, Geneva in particular, for historical reasons which have to do with the fact that the FLN war treasury was channelled through Swiss banks before Algeria's independence, that several historical figures of the Algerian struggle for independence resided there, and that the country played an active role in the resumption of contacts between the French Government and the Algerian provisional government, which led to the Evian Agreements.¹³

2- The shape of the table: round to maintain ambiguity

In his April 2019 Report to the United Nations Security Council, the Personal Envoy of the Secretary-General stated that he had «chosen the format of the round table as a symbol of the willingness of people with divergent positions to find a new way forward through dialogue».¹⁴ This choice was necessary in view of the positions reiterated by the various parties in the weeks leading up to the first meeting in Geneva.

Thus, the affirmation by Morocco, on 4 April 2018, that 'Algeria has a flagrant responsibility in this regional dispute'¹⁵ and should therefore «take an active part in the political process, assume its responsibilities in the search for a solution and play a role commensurate with its responsibility in the genesis of this dispute.» Algeria

13 Marc Perrenoud, "La Suisse et les Accords d'Evian" in *politorbis*, revue trimestrielle de politique étrangère du Centre d'analyse et de prospective N. 3,2/2002 pp 14 et 18

14 Report of the Secretary-General of the United Nations, Doc. S/2019/282 of 1 April 2019

15 Statement by the Minister for Foreign Affairs of Morocco made in New York on 4 April 2018

replied, on April 5, that «Algeria’s support for the Sahrawi people and its legitimate representative, the Polisario Front, in no way means that it should be involved in (the) negotiations»¹⁶ and that Algeria’s participation in the Geneva meeting will be that of a «neighboring state.»

If one adds to this initial divergence the actions undertaken by the Polisario in the buffer zone prior to the meeting, and their denunciation by Morocco to the United Nations through a letter from the Sovereign, it is easy to conclude that the Personal Envoy faced difficulties in reviving the negotiation process with the assistance of all the parties. Under these conditions, the holding of the first meeting in Geneva required impetus from the Security Council and the maintenance of constructive ambiguity around the issues of status and representativeness.

In an attempt to encourage the parties to silence their demands and show flexibility, the Security Council, in its resolution 2440 (2018),¹⁷ included incentives for the parties to engage positively in the Geneva process through:

- an expansion of the purpose of the meeting to encompass a «review of recent developments» and consideration of «regional issues and the next steps in the political process» (paragraph 4 of the Preamble). This formulation undoubtedly facilitated Algeria’s participation, without prejudice to its position with regard to the process;
- the appeal to the four parties to «increase their participation in the political process and move towards a political solution» (Operative paragraph 7), and to «work constructively with the Personal Envoy, in a spirit of compromise, throughout the duration of the process, with a view to its successful conclusion» (Operative paragraph 3).

The round table format brought together the four parties to the dispute regardless of their status. Different delegations have different interpretations of these meetings in this format.

While Morocco can express its satisfaction to see Algeria acting as a party and participating substantially in

the debates organized by Mr. Kohler on the future of the Maghreb region and the prospects for the future, Algeria can maintain that it participated in talks and not negotiations and that the general nature of the topics on the agenda lends itself to direct engagement by its delegation. It can be inferred from statements by the Algerian delegation that its attitude would be quite different once the process moves from preliminary talks to the negotiation stage.

The Polisario, for its part, regains visibility with the resumption of meetings, regardless of their nature. This enables it to allay impatience and contestation within the camps, uphold its equal status with Morocco and demonstrate its representativeness. This last aspect is nevertheless thwarted by the very composition of the Moroccan delegation. Indeed, Morocco has included two elected representatives from the region in its official delegation. These are the President of the Laâyoune-Sakia El Hamra region, Hamdi Ould Errachid, and the President of the Dakhla-Oued Eddahab region, Ynja El Khattat, both from the Sahara region and elected in this capacity.

While the Geneva meetings have made it possible to re-establish an inclusive dialogue between Morocco, Algeria, Mauritania and the Polisario, thanks to technical arrangements, it is premature to conclude that the process of settling the Sahara issue can be truly relaunched. Only at the end of this preliminary phase will it be possible to gauge the willingness of all parties to reach a mutually acceptable compromise solution.

In the current regional situation, pursuing the process around a round table seems the most appropriate solution to maintain the collective momentum initiated in December 2018. In this regard, Algeria’s attitude will be decisive in the continuation of this process and transition to the negotiation stage proper.

As for a possible change in this format, it can be envisaged only when the outlines of a compromise solution begin to take shape, in accordance with the parameters set by the Security Council over the past 10 years.

¹⁶ Statement by the Algerian Minister of Foreign Affairs at the official APS Agency on 6 December 2018

¹⁷ UN Security Council Document S/res/ 2440 of 31/10/2018

Conclusion

The cases of Vietnam and the Sahara illustrate the significance attributed to the choice of venue and form of the negotiating table, in order to initiate and bring to fruition efforts to settle disputes and conflicts. It is important to stress, however, that while the decision on the venue is a technical matter, which is relatively easy to resolve, the decision on the form of the negotiating table is more complicated, in that it straddles procedure and substance. Indeed, such a decision is directly linked to the question of eligibility of parties to sit at the negotiating table and the recognition of their representativeness, both of which are fundamental factors in the resolution of disputes or conflicts.

Experience shows, however, that parties' emphasis on formal issues may, in certain situations, reflect an intention to hinder the start of negotiations or to delay them pending a more favorable climate that could increase their bargaining power.

In the case of the Sahara, the ease with which the parties accepted the formula for roundtable talks provides each of them with the latitude to interpret this initial process in such a way as to at least not undermine it, if not reinforce.

About the author, Mohammed Loulichki

Mr. Loulichki is a Senior Fellow at the Policy Center for the New South, previously known as OCP Policy Center, who focuses on Diplomacy, conflicts resolution and Human rights. He has an extensive experience of 40 years in diplomacy and legal affairs. He assumed inter alia the functions of Head of the Department of Legal Affairs and Treaties in the Ministry of Foreign Affairs. He was also Ambassador of Morocco in Hungary, Bosnia – Herzegovina and Croatia (1995-1999), Ambassador Coordinator of the Government of Morocco with MINURSO (1999 – 2001), Ambassador of Morocco to the United Nations in Geneva (2006-2008) and New York (2001-2003 and 2008-2014), as well as President of the Security Council (December 2014).

Mr. Loulichki was appointed President of the Counter-Terrorism Committee of the Security Council (2013), President of the working Group on Peace Keeping Operations (2012), Vice-President of the Human Rights Council (2006), Facilitator of the Universal Periodic Review of the said Council (2006 and 2010) and President of the National Committee in charge of the follow up on nuclear matters (2003-2006).

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Policy Center for the New South

Suncity Complex, Building C, Av. Addolb, Albortokal Street,
Hay Riad, Rabat, Maroc.

Email : contact@policycenter.ma

Phone : +212 (0) 537 54 04 04 / Fax : +212 (0) 537 71 31 54

Website : www.policycenter.ma