

Introduction

AMRITA NARLIKAR

At the still point of the turning world. Neither flesh nor fleshless;
 Neither from nor towards; at the still point, there the dance is,
 But neither arrest nor movement. And do not call it fixity,
 Where past and future are gathered. Neither movement from nor towards,
 Neither ascent nor decline. Except for the point, the still point,
 There would be no dance, and there is only the dance.

T. S. Eliot, *Burnt Norton*, *Four Quartets*

Deadlocks are the still points of all negotiation. In their stillness lies much promise but also the potential to inflict much damage. They are a familiar feature of most negotiations, ranging from the realm of the everyday to that of high politics. While there exists a rich body of literature on how to negotiate wisely and effectively, very few works have focused specifically on the problem of deadlocks. *Deadlocks in Multilateral Negotiations: Causes and Solutions* addresses this gap, and is designed to facilitate interdisciplinary exchange on the subject of deadlocks. Together, we aim to provide a more holistic analysis of the concept, and also improve the academic’s and practitioner’s understanding of what causes deadlocks and how they might be broken. In particular, we focus on deadlocks in multilateral negotiations. Involving multiple actors and sometimes even multiple issues, deadlocks of this type pose a particularly challenging set of intellectual problems. They are a recurrent phenomenon that practitioners must encounter, and they occur across international institutions and in diverse issue areas. If successfully broken, they can generate pay-offs for a large group of countries in the system; equally, failure to break multilateral deadlocks can generate very high costs at the individual and systemic level.

In this introductory chapter, I start out by examining the anatomy of deadlocks. The first section presents a definition and typology of deadlocks. In the second section, I advance six causal hypotheses that explain the occurrence of deadlocks, and also offer six solution sets. The third

section provides a brief outline of the structure of the book. As it highlights, all the chapters in the volume use the concepts and hypotheses presented in this Introduction, and evaluate them theoretically or through case-study analysis to make an original contribution – theoretical, methodological or empirical – towards understanding the puzzle of deadlock. The book benefits from the insights of several disciplines that it brings together as well as case studies that cover several different issue areas. The fourth and concluding section provides a brief discussion of the existing literature and how this book differs from and complements it.

Anatomy of deadlocks: definition, typology and actors

Deadlocks represent a subset of the bigger set of problems of cooperation (as addressed by the extended literature on problems of collective action, cooperation under anarchy, regime theory, and different variants of institutionalism including sociological, historical and rational design) and conflict resolution (as addressed by a substantial body of work within negotiation analysis). The question then arises: are any distinctive features that typify this subset. More specifically, how do we recognise a deadlock when we see a situation where agreement or cooperation is proving elusive or a conflict is proving difficult to resolve? To the extent that deadlock is assumed to be simply a category of the problems of achieving cooperation, are we to assume that deadlock begins on Day 1 of every negotiation? And what represents cooperation: does a deadlock end every time a party changes its position, and further re-emerge until the next party makes concessions? Finally, are deadlocks and stalemates synonyms; if not, what are the differences between them, and are the two related in any way?

We define a negotiation process as deadlocked if the following two conditions are present:

- 1) An extended situation of non-agreement exists, such that parties adopt inconsistent positions and are unable or unwilling to make the concessions sufficient to achieve a breakthrough on the particular issue; and
- 2) A landmark moment in the negotiation process – which may be an ‘action-forcing event’¹ in the shape of a chair’s text or a deadline

¹ Watkins 1998.

Cambridge University Press

978-0-521-11374-8 - Deadlocks in Multilateral Negotiations: Causes and Solutions

Edited by Amrita Narlikar

Excerpt

[More information](#)*Introduction*

3

imposed by a mediator, or may be a natural landmark endogenous to the negotiation and recognised as such by the parties involved – despite having set up expectations towards a compromise, is unable to trigger the necessary concessions to ensure an agreement on the particular issue.

Both conditions must exist for us to identify a situation as one of deadlock. The first condition captures Faure's idea of 'a protracted standstill of the dynamics of the negotiation system'.² But it clarifies the definition by providing a harder condition for deadlock: that parties adopt inconsistent positions, and further, that movement in the form of insufficient concessions does not signify an end to the deadlock. To see the deadlock broken, we would need to see agreement on the particular issue under negotiation.³ It also helps us see resolving deadlocks as distinct from the set of tasks associated with conflict resolution: breaking deadlocks involves finding a solution to a situation of standstill rather than an escalatory dynamic. The second condition is important as it ensures that we do not regard each and every situation of non-agreement, i.e. all stages of the negotiation process until agreement is reached, as one of deadlock. Deadlock does not begin on Day 1 of every negotiation, even though the seeds of the deadlock may be sown on Day 1. We would recognise a situation of deadlock only after a landmark moment for agreement passes by, and non-agreement persists. A deadlock is a special and narrow case of non-agreement or non-cooperation.

Based on the outcome that it generates, we propose that deadlock can further be divided into three types. The first type of deadlock is stalemate, i.e. 'an impasse in terms of movement and offers no more possibilities for escalation'.⁴ Dean Pruitt, for instance, argues that in a deadlock,

² Faure 2005, p. 25.

³ Note that this does not mean that deadlock persists until a full and complete deal is achieved. For instance, if members of the WTO today were to reach an agreement on agriculture, we could regard the deadlock as having been broken as per the definition given here, even if deadlocks persisted in other issue areas under negotiation in the Doha Development Agenda.

⁴ Faure 2005, p. 25. Note that Faure makes a distinction between deadlock and stalemate, where he defines deadlock as 'an impasse in terms of position, a situation in which no concession or constructive action takes place'. We find this distinction helpful, but see stalemate as a subcategory of the broader phenomenon of deadlock or impasse, taken as protracted non-agreement. Persistent non-agreement may result in delay of the negotiation, breakdown of the negotiation, or de-escalation (i.e. stalemate).

Cambridge University Press

978-0-521-11374-8 - Deadlocks in Multilateral Negotiations: Causes and Solutions

Edited by Amrita Narlikar

Excerpt

[More information](#)

competitive actions ‘become decreasingly attractive because the other party seems quite firm’.⁵ In a later work, Pruitt and Kim continue to develop this idea in the context of stalemates: ‘Negotiation and mediation ordinarily grow out of *perceived stalemate*’.⁶ I. William Zartman similarly develops the model of the ‘ripe moment’ that emerges from a stalemate under the following conditions: ‘The stalemate must be seen as tight and hurting, reinforced by additional sticks if necessary, and a way out must first be perceived as possible and then developed as an attracting reality’.⁷ Daniel Druckman suggests the idea of precipitating events that lead to deadlock-breaking turning points with consequences for possible agreements:

Turning points are indicated by such key events as resolving an impasse, signing a framework agreement, developing formulas and then bargaining over details, and absorbing events outside the talks by changing evaluations of the terms on the table or resolving the decision dilemma in the endgame. Each of these events is viewed as instrumental to moving the negotiation from one stage to the next.⁸

Faure rightly notes, ‘In the scientific literature, the concept of deadlock is either embedded in a concession-making dynamic or viewed as a point of reversal in an escalation process’.

Deadlock conceptualised as stalemate with a de-escalatory dynamic has important normative implications. Most significantly, this view suggests that not all deadlocks need be regarded as pernicious to the negotiation process or welfare-reducing. In some instances, deadlocks may indicate the strength, independence and legitimacy of the institution as they demonstrate that the institution does not simply rubber-stamp decisions made by the powerful. Further, the short-term costs of deadlock may provide just the trigger to jolt parties into making concessions that produce longer-lasting agreements. But not all deadlocks provide the turning point to de-escalation and resolution, which leads us to the two other types of deadlock.

Deadlock, rather than take the shape of a mutually-hurting stalemate that facilitates resolution, may sometimes assume its second form: extended delay.⁹ The state of non-agreement over the particular issue

⁵ Pruitt 1981, p. 133. ⁶ Pruitt and Kim 2004, p. 172. ⁷ Zartman 2002, p. 354.

⁸ Druckman 2001, p. 52. Note also the distinction between ripe moments and turning points. The former refers to a condition for negotiation. The latter refers to changes that occur during the negotiation process.

⁹ Evenett 2006 presents a different categorization of impasse, where he also includes the category of ‘impasse as delay’ along with four other types of impasse: ‘impasse

area persists for a long time, or even worsens, over and beyond the landmark moments through missed deadlines, rejected compromise texts, and failed summits. Deadlock in this form, rather than leading to de-escalation, results not only in delayed benefits of the agreement but also political disengagement and public apathy. These in turn can further decrease the probability of an agreement and also impose systemic costs by undermining the credibility of the institution.

The third form of deadlock is a complete breakdown in the negotiation process. The deadlock persists for so long, or worsens, that negotiators walk away from the negotiating table. A breakdown in the negotiation process results not only in costs sunk into the process but also additional costs in terms of the sustainability of the institution and the search for alternatives (some of which may be less suitable/less legitimate forums).

The three types of deadlock need not always exist as discrete alternatives. For instance, deadlock as delay may not persist indefinitely, and could well transform into a stalemate-type deadlock or result in a breakdown-type deadlock. However, there may also be situations wherein deadlock as extended delay persists, with no change occurring to compel either party to concede or escalate or indeed walk away from the negotiation. An example is when parties negotiate for ‘side effects’ that are realised by continued negotiating without an agreement.¹⁰ This is why it is analytically useful to retain the division between the three types of deadlock: stalemate, delay and breakdown.

The central actors who negotiate their ways into and out of deadlocks in multilateral settings are diplomats and ministers as agents who have been delegated with the authority of representing the interests of their respective states. As such, they are engaged in two-level games, negotiating with their international counterparts as well as their constituencies at home.¹¹ Three chapters, one written by a historian (Martin Daunton, Chapter 2) and the other two by political scientists (Alasdair Young, Chapter 5 and Sevasti-Eleni Vezirgiannidou, Chapter 7), in this book focus explicitly on the role of domestic factors in the making of international deadlocks. Additionally, third parties can play a role in the creation

as perceived failure to agree’, ‘impasse as actual failure to agree’, ‘impasse on initiation’, and ‘impasse on contents’.

¹⁰ See Ikle 1964.

¹¹ See Druckman 1977a for models of the boundary role dilemmas that occur in international negotiations.

Cambridge University Press

978-0-521-11374-8 - Deadlocks in Multilateral Negotiations: Causes and Solutions

Edited by Amrita Narlikar

Excerpt

[More information](#)

and resolution of deadlocks. Mediators may be genuine outsiders and 'third parties', but they may also include individuals who acquire such a role by virtue of their position as Chair of a particular negotiation, whilst still representing the interests of their respective countries in other contexts of the same institution. Two chapters in the volume (Chapters 3 and 10) examine the processes of mediation, and further examine the conditions in which the role of third parties can be particularly constructive.

Causes and solutions

Deadlocks can be a product of many idiosyncratic factors, some of which may include personality clashes amongst negotiators. But deadlocks can and do occur even in the absence of such idiosyncrasies. Thus deadlocks need explaining, as this book aims to do.

Deadlocks may also be a product of strategy choice. Negotiators have a range of strategies available to them, with the strict distributive strategy forming one end of the spectrum and a purely integrative strategy the other. The distributive strategy comprises a set of tactics that are functional only for claiming value from others and defending against such claiming, when one party's goals are partly in conflict with those of others. Examples of strict distributive strategies include: high opening demands, refusing all concessions, exaggerating one's minimum needs and priorities, manipulating information to others' disadvantage, taking others' issues hostage, worsening their BATNA (Best Alternative to a Negotiated Agreement), issuing threats, imposing penalties. At the other end of the continuum lies the integrative or value-creating strategy, which comprises a set of tactics that are instrumental to the attainment of goals that are not in fundamental conflict, and hence can be integrated for mutual gain to some degree. Examples include sharing information relatively openly to explore common problems or common threats; proposing an exchange of concessions that might benefit more than one party; reframing the issue space itself to ease an impasse. Such a strategy involves 'actions designed to expand rather than split the pie'.¹² If negotiators show a willingness to engage in integrative bargaining, the probability of deadlock decreases, whereas the choice of distributive strategies by one or more parties increases the likelihood of deadlock. However, to root explanations for deadlocks primarily in strategy choice presents more of

¹² Odell 2000; also see Hopmann 1995 and Odell 2006.

a descriptive than an analytic claim. In this book, we recognise that deadlock occurs at the distributive end of the strategy spectrum. For all the authors in this project, the central focus lies in the prior question – why do countries end up in a bargaining mode – often distributive – that leads to deadlocks? Our central puzzle is hence not what proximate strategies lead to deadlocks, but what the fundamental causes of and solutions to deadlocks are.

Below I advance six hypotheses to explain the occurrence of deadlock. I use examples from the deadlocks of the recent Doha negotiations in the WTO in each of the hypotheses to illustrate the comparative value-added and limitations of each type of explanation. Solutions vary depending on the cause. Indeed, a driving assumption of this book is that we cannot understand breakthroughs in the negotiation process without a clear analysis of the causes of the deadlock in the first place. Further, deadlocks are seldom mono-causal, and different phases of the deadlock may be explained by referring to different causes. The subsequent chapters examine the way the hypothesised factors are manifest in a variety of complex cases, illuminating their role in the dynamics of extended negotiation processes. Such an examination reveals the relevance of these factors or conditions as aspects of the explanation for the causes and solutions of deadlocks. It is also worth noting that there are some important links between the different hypotheses. For instance, one's own perception of one's BATNA (as per Hypothesis 1) may differ from the outside party's recognition of the alternatives available, producing considerable uncertainty in the negotiation and making it deadlock-prone (as per Hypothesis 2). Similarly, one's own BATNA may change dramatically due to alterations at the domestic level (Hypothesis 6), including the changing power of particular interest groups or indeed regime change that brings new preferences to the negotiating table. These linkages are important in themselves, and also generate implications for the solutions on menu.

Hypothesis 1: Deadlocks occur because of superior 'BATNA' or occur whenever and as long as parties believe their alternative to agreement is superior to the deal on offer.

Standard negotiation analysis suggests that a deadlock occurs if all the parties, or at least the key parties, believe that their BATNA is superior to the proposed agreement. As such, they have no incentive to make

concessions to reach an agreement.¹³ For instance, it could be argued that the current round of trade negotiations – the Doha Development Agenda – has repeatedly run into deadlock because key negotiating parties have regional alternatives that they can easily turn to. An alternative argument would be that the zone of agreement has shrunk so much that it is better to have no agreement at all than the one on the table with its limited gains and high costs. The importance of the BATNA in both causing and breaking deadlocks is explored in some depth in Chapter 3, which applies insights from labour–management relations to the multilateral level. This hypothesis is further investigated in the two case studies on the Doha negotiations, as well as the chapters on climate change negotiations and Kosovo negotiations.

Hypothesis 2: Deadlocks occur because negotiators bluff and lie.

Bluffing is commonplace in most bargaining situations.¹⁴ And not all bluffs result in deadlocks. But when levels of uncertainty and/or distrust are high, deadlock can result. One party may indeed have a superior BATNA or firmly believe that no deal is better than the one offered. But if the negotiator is unable to communicate these bottom-lines credibly (partly because they have a reputation for lying, or because such claims go against all previous behaviour), the other party may understandably assume that he/she is bluffing, and refuse to make any concessions. Deadlock ensues. Amrita Narlikar and Pieter van Houten argue in Chapter 6 that an important reason for the first phase of the deadlock in the Doha negotiations, i.e. at the Cancun Ministerial Conference, was the inability of the developed world to recognise that it was dealing with a much more powerful coalition of developing countries than ever before, and one that would not yield as easily as former coalitions of the South had done. Several other chapters in this volume, including Chapter 3 on strikes, and Chapter 4 on litigation in the EU, NAFTA and WTO, also investigate the importance of bluffing in causing and exacerbating deadlock.

¹³ Fisher and Ury 1991, who also coined the acronym of BATNA in the first edition of their book, have made such an argument: ‘If both sides have attractive BATNAs, the best outcome of the negotiation – for both parties – may well be not to reach agreement’ (p. 110).

¹⁴ For classics on the problem of credibly communicating and recognizing commitment, see Schelling 1960 and Walton and McKersie 1965.

Cambridge University Press

978-0-521-11374-8 - Deadlocks in Multilateral Negotiations: Causes and Solutions

Edited by Amrita Narlikar

Excerpt

[More information](#)*Introduction*

9

Hypothesis 3: Deadlocks occur because of certain types of balances of power.

Hypothesis 3a: Deadlock is more likely, the more equal the power distribution.

Hypothesis 3b: Deadlock is more likely, the more diverse the culture of the parties that constitute the balance of power.

Power matters crucially in the making and breaking of deadlocks. Negotiation analysis recognises this: for instance, it has been pointed out that deadlock occurs if there is symmetry of power and neither party is able to impose its will on the other.¹⁵ This simple idea can be taken much further when applied to multilateral negotiations. First, we can hypothesise that a multipolar world would be more deadlock-prone, in comparison to systems of hegemony. Second, concerts and clubs of power are less likely to be prone to deadlock in comparison to systems where considerable diversity of interest or culture exists among the Great Powers. To apply this example to trade, it could be argued that a key reason for the recurrent Doha deadlocks is because of the rise of Brazil, China and India as key players in the WTO. These countries are not part of the traditional decision-making group of the GATT – the old ‘Quad’ comprising the EU, Canada, the United States and Japan – and bring some very different interests and also diplomatic strategies to the high table of trade negotiations. Andrew Gamble, in Chapter 1 on the politics that underlie deadlocks, analyses the impact that pronounced power asymmetries and the ability of a system to accommodate new powers have on producing major deadlock. Martin Daunton, in Chapter 2 on the failed negotiations towards the International Trade Organization, explores the impact of the huge power differential at the end of the Second World War on the difficulties faced by trade negotiators at the time. Indeed, this is our most popular hypothesis. It is explored by nine chapters of the book, with all four of the disciplinary chapters, and five of the six case studies, engaging with it.

¹⁵ Faure 2005; Zartman 2002. Deadlocks are more likely when parties are symmetrically strong, but not when they are equally weak (Beriker and Druckman 1996). However, it has also been found that mild discrepancies in power often leads to stalemate as stronger parties respond to the weaker party's demand for equal treatment with escalatory tactics (Vitz and Kite 1970).

Cambridge University Press

978-0-521-11374-8 - Deadlocks in Multilateral Negotiations: Causes and Solutions

Edited by Amrita Narlikar

Excerpt

[More information](#)

Hypothesis 4: Deadlocks occur because certain institutional structures facilitate or deter agreement.

Most of the specific cases examined in this book take place within institutions, or at least have multilateral institutions exercising a shadow on the negotiation. Certain institutional peculiarities can make a system more deadlock-prone. For instance, some would argue that the consensus rule of the WTO is precisely what makes it so prone to deadlock as it gives de facto veto power to all 152 members. Or, alternatively, it could be argued that the problem lies with the Single Undertaking of the WTO, which allows parties to take all other issues hostage to one particular issue. The role played by institutions in deadlocks is highlighted in seven chapters in this volume. For instance, Martin Daunton (Chapter 2) provides a historical analysis of the critical institutional differences between the Bretton Woods negotiations and the ITO negotiations, which contributed to the success of the former versus the failure of the latter. William Brown (Chapter 3), drawing on the repertoire of literature on industrial bargaining, identifies the institutional features of both parties as the first necessary condition for the avoidance and management of deadlock. Chapter 8 by Jochen Prantl examines the institutional features of the Security Council that make it more deadlock-prone. Pieter van Houten (Chapter 9) provides a comparative insight into the impact of different features of particular institutions (including the UN, NATO and the EU) involved in the negotiations over Kosovo, and Markus Gehring (Chapter 4) also focuses on institutional differences – particularly the nature of their negotiation and litigation processes – between the EU, NAFTA and the WTO, and the tendency of these institutions to deadlock.

Hypothesis 5: Deadlocks occur because fairness and justice matter.

Only a limited amount of previous research has been done to investigate the impact of fairness considerations on negotiation,¹⁶ especially when fairness is defined in harder terms of going beyond and even against the self-interest of the parties. Max Bazerman and Margaret Neale argue that ‘fairness considerations can lead negotiators to opt for joint outcomes that leave both parties worse off than they would have been had fairness considerations been ignored’.¹⁷ These agreements are also

¹⁶ Exceptions include Brown and Stern 2007 and Kapstein 2008.

¹⁷ Bazerman and Neale 1995, p. 89.