

NELSON MANDELA - THE GREATEST NEGOTIATOR OF THE 20TH CENTURY?

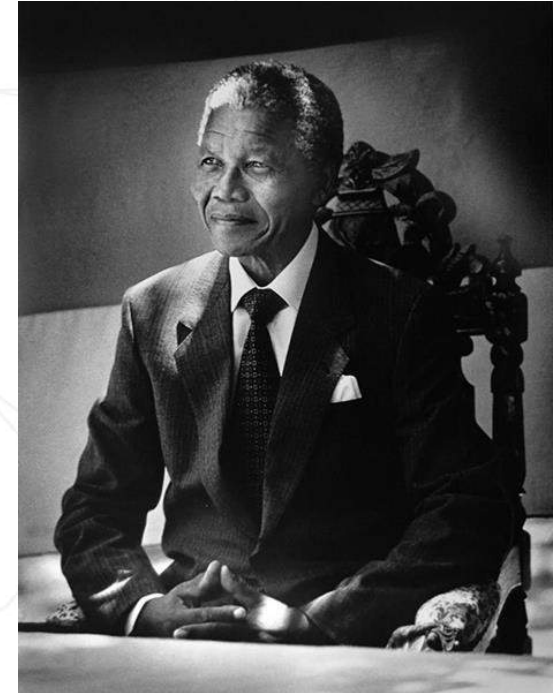
South Africa's transition - some negotiation lessons Part 2

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INTRODUCTION

- Facilitators
- Purpose:
 - 30th anniversary of Nelson Mandela's release from incarceration
 - Reflection on Nelson Mandela – the negotiator
- Process
- Programme
- Housekeeping
- Initial questions??



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SOURCES

- ◉ *Nelson Mandela as Negotiator : What Can We Learn from Him?*
 - ◉ Hal Abramson, Professor of Law, Touro Law Centre, New York
- ◉ *Bargaining with the Devil*
 - ◉ Robert Mnookin, Chair, Program on Negotiation, Harvard Law School
- ◉ *Anatomy of a Miracle – The end of Apartheid and the Birth of the New South Africa*
 - ◉ Patti Waldmeir, Washington .D.C. – based journalist working for the Financial Times
- ◉ *Mandela's Legacy of Negotiation*
 - ◉ Mark Anstey



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KEY LESSONS

- Patience
- An appreciation of the Best Alternative to a Negotiated Agreement – BATNA
- Recognising ripeness for negotiation
- Appreciating the Mandating Dynamic
- A focus on Interests
- Separating People from the Problem
- Avoiding Stereotyping
- Building Relationships
- Listening and Introspection
- Dealing with Deadlock and Setbacks



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PATIENCE

“Wisely, and slow. They stumble that run fast” – William Shakespeare

- Mandela appreciated that for substantive negotiations to succeed, the conditions for those negotiations needed to be right
- He understood that much had to be done both substantively and procedurally to be ready for formal negotiations
- He therefore spent years patiently waiting for these conditions to be right and preparing for the negotiations both procedurally and substantively



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AN APPRECIATION OF BATNA

“Part of Mandela’s legacy to negotiation is reflected in his understanding that sometimes the temperature must be raised” – Mark Anstey

- ◉ As early as 1953 Mandela began to believe that peaceful protest alone would never bring about change
- ◉ He realised that a negative alternative to a negotiated settlement with the ANC had to be created for the Government and that a starting point for this was armed resistance
- ◉ As Mnookin says *“Mandela hated violence but was not a pacifist... He understood the power of violence and used it strategically – to force the government to negotiate”*.



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AN APPRECIATION OF BATNA

- Mandela explained his decision to resort to violence as follows:
 - *“I did not plan it in a spirit of recklessness nor because I have any love of violence. I planned it as a result of a calm and sober assessment of the political situation that had arisen after many years of tyranny, exploitation, and oppression of my people by whites. We of the ANC... shrank from any action which might drive the races further apart than they already were. But the hard facts were that fifty years of nonviolence had brought the African people nothing but more repressive legislation, and fewer and fewer rights.”* and,
 - *“During my lifetime I have dedicated myself to this struggle of the African people. I have fought against white domination, and I have fought against black domination. I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities. It is an ideal which I hope to live for and to achieve. But if needs be, it is an ideal for which I am prepared to die”*



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AN APPRECIATION OF BATNA

- In addition he said:
 - *“Non-violent passive resistance is effective so long as your opposition adheres to the same rules as you do. But if peaceful protest is met with violence, its efficiency is at an end... [T]here is no moral goodness in using an ineffective weapon.”*
 - Mandela also realised that armed resistance alone would not create a sufficient negative BATNA for the Government
 - He said *“[We] could not defeat the Government on the battlefield, but could make governing difficult for them”*
 - As Abramson says *“Mandela believed that ultimately apartheid would not be defeated by an armed struggle; he understood its limits. It would be defeated by negotiation”*



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AN APPRECIATION OF BATNA

- ⦿ So Mandela waited nearly thirty years until, in addition to the armed struggle, a significant negative BATNA had been developed via:
 - ⦿ the rise of Union activity from 1973 onward
 - ⦿ the Soweto student uprising of 1976
 - ⦿ the actions of the United Democratic Front in rendering the country ungovernable
 - ⦿ international economic sanctions and isolation
 - ⦿ Socratic trials



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AN APPRECIATION OF BATNA

- Even though he appreciated the limits of armed struggle, he refused to renounce violence in order to secure his release from prison or upon his release
- He wanted to maintain it, both to satisfy his constituency and as one of his bargaining chips



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AN APPRECIATION OF BATNA

- ☉ He said: *“we express the hope that a climate conducive to a negotiated settlement will be created soon so that there may no longer be the need for armed struggle”*
- ☉ In the end, the outcome the ANC achieved in the constitutional negotiations could never have been achieved without weakening the government’s BATNA and strengthening the ANC’s
- ☉ Therefore Mandela *“rejected the simple-minded notion that one must either negotiate with the devil or resist. He did both”* - Mnookin



RECOGNISING RIPENESS FOR NEGOTIATION

“What set his leadership apart were the choices he made once the heat was on” - Mark Anstey

- ⦿ Often negotiators become trapped in their use of power and their adversarial positions
- ⦿ Instead, Mandela did not reject his opponents' negotiation overtures and seek to defeat them by the use of power
- ⦿ He realised that, whilst they could not be defeated by the use of power, the time was right to achieve his ends by negotiation



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APPRECIATING THE MANDATING DYNAMIC

“Movement without a mandate can see a leader quickly discredited as a non-trustworthy representative. Achieving a clear mandate however may be as complex a task as doing a deal with an ‘old enemy’” – Mark Anstey

- ☉ Mandela demonstrated a keen understanding of the mandating dynamic
- ☉ His special treatment in prison and the negotiations in prison caused suspicion among ANC followers and his mandate givers
- ☉ He was very conscious of this and appreciated that he needed to build trust among them in order to get the mandates he needed



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APPRECIATING THE MANDATING DYNAMIC

- He says, for example, of his first meeting after his release with the ANC leadership in Lusaka:
 - *“I could see the questions in their eyes. Was Mandela the same man who went to prison twenty-seven years before or was this a different Mandela, a reformed Mandela? Had he survived or had he been broken?”*
- In his inimitable way he communicated openly, honestly and empathetically with them and won their confidence and support



APPRECIATING THE MANDATING DYNAMIC

- ☉ He also appreciated that his engagement with his mandate givers was a kind of negotiation
- ☉ He did not see himself as the mere messenger of his mandate givers
- ☉ Instead, he saw himself as a leader and said he learnt from his guardian, the Thembu regent that *“a leader... is like a shepherd. He stays behind the flock, letting the most nimble go out ahead, whereupon the others follow, not realizing that all along they were being directed from behind”*



APPRECIATING THE MANDATING DYNAMIC

- An example of this was when following the Boipatong Massacre his followers urged him to cease negotiations and revert to violence. He said:
- *“We must accept that responsibility for ending violence is not just the government’s the police’s, the army’s. It is also our responsibility... If you are going to kill innocent people, you don’t belong to the ANC. Your task is reconciliation.”*



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APPRECIATING THE MANDATING DYNAMIC

- ⦿ When some objected he went to the brink:
 - ⦿ *“Listen to me! Listen to me! I am your leader. As long as I am your leader I am going to give leadership. So you want me to remain your leader?”*
- ⦿ The crowd roared back, it did
- ⦿ Mandela also appreciated how, like a mediator, he could explore substance without a mandate in order to assist him to get a mandate if necessary.



A FOCUS ON INTERESTS

“He understood that ‘push’ strategies targeting whites would harden resistance and that greater prospects lay in ‘pull’ strategies that were responsive to their fears” - Mark Anstey

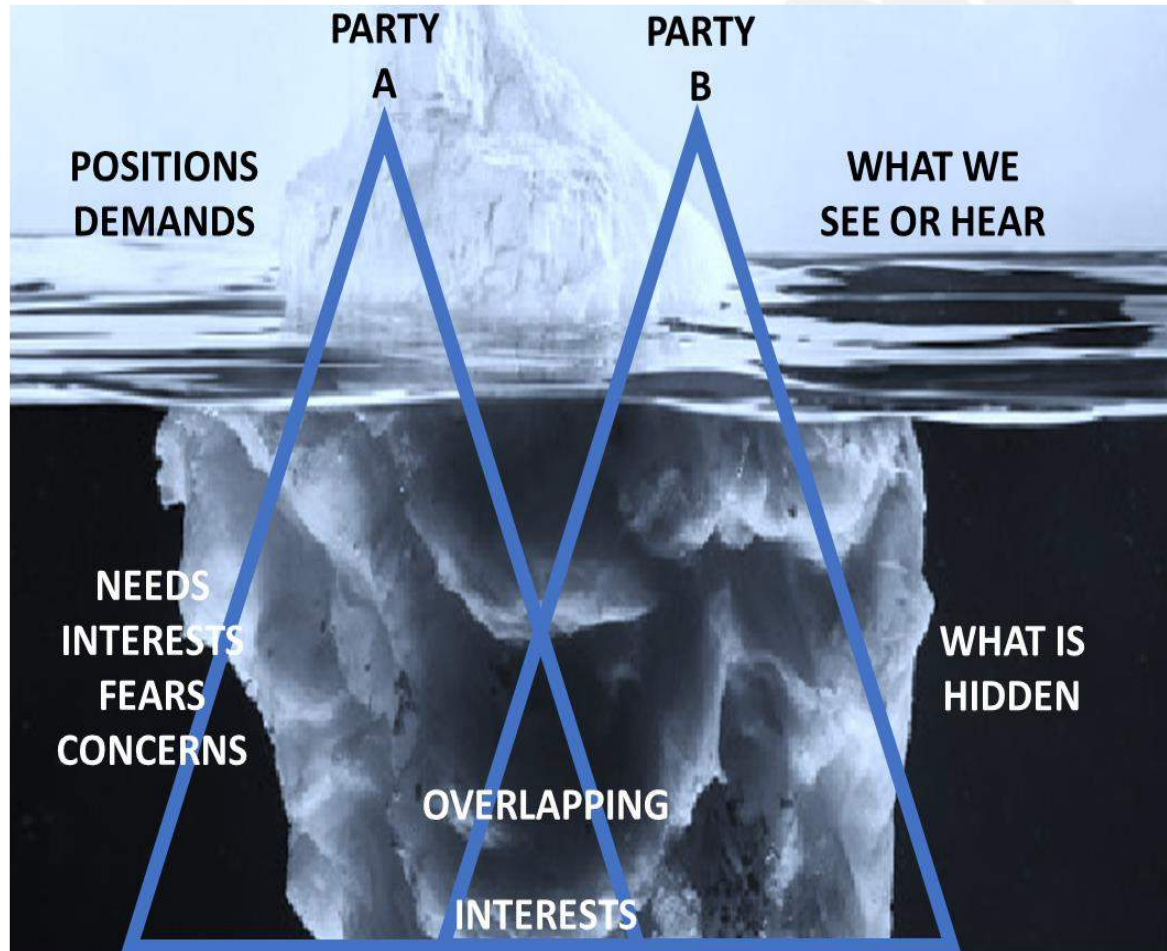
- ☉ Mandela understood that the difference between interests and positions was that an interest is a basic need whereas as a position is a means of addressing an interest
- ☉ He was constantly assertive of his and the ANC's interests but flexible on positions to meet those interests
- ☉ Mandela also sought to understand other people's interests and to find ways of meeting those interests without compromising his or the ANC's interests



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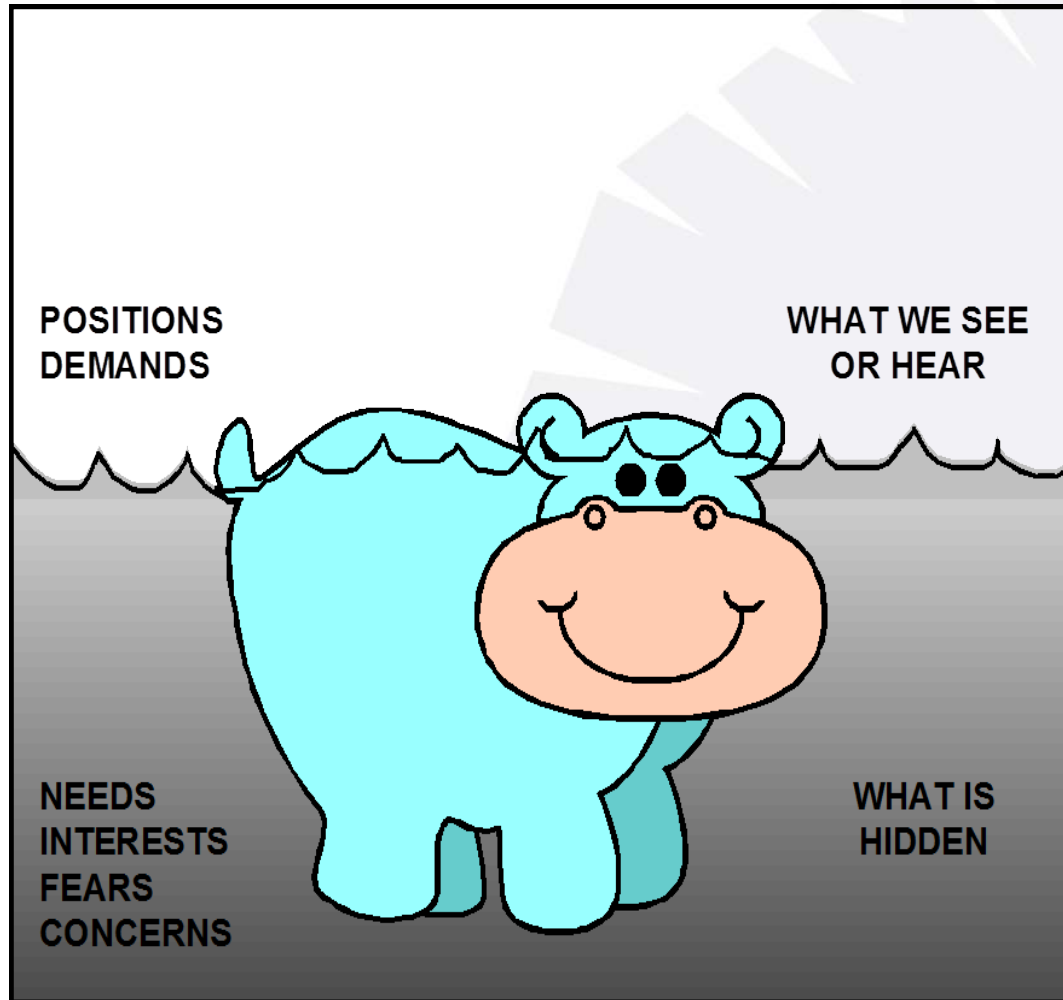
A FOCUS ON INTERESTS



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A FOCUS ON INTERESTS



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A FOCUS ON INTERESTS

- For example, at a press conference on the day after his release he carefully addressed white South Africans' need for recognition, security and economic stability as follows:
 - *"I wanted to impress on the reporters the critical role of whites in any new dispensation.... We did not want to destroy the country before we freed it, and to drive the whites away would devastate the nation. I said that there was a middle ground between white fears and black hopes... "Whites are fellow South Africans," I said, "and we want them to feel safe and to know that we appreciate the contribution that they have made toward the development of this country." Any man or woman who abandons apartheid will be embraced in our struggle for a democratic, non-racial South Africa..."*



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A FOCUS ON INTERESTS

- Upon his release Mandela stated his key interests to be:
 - *“for a democratic, non-racial and unitary South Africa... and an end to white monopoly of political power and a fundamental restructuring of our political and economic systems”*
- Mandela also always tried to find overlapping interests and common ground
- For example, when he first met President Botha, he *“drew 'parallels between their rival nationalisms' – the Afrikaner nationalism and its rebellions, which pitted white brother against brother, and the ANC’s nationalism, which involved a struggle 'between brothers who happen to be different colours’”*



A FOCUS ON INTERESTS

- ☉ The conflict between the Government's demand for group rights to protect white interests and the ANC's demand for majority rule was eventually resolved by means of the Bill of Rights which protected everyone's interests, including those of minorities
- ☉ This is an example of how the Government's and the ANC's underlying interests were met, notwithstanding initial conflicting positions



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A FOCUS ON INTERESTS

- ☉ Mandela also prioritised the peoples' interests above his own and said:

- ☉ *"I cherish my own freedom dearly, but I care even more for your freedom. Too many have died since I went to prison. Too many have suffered for the love of freedom. I owe it to their widows, to their orphans, to their mothers and to their fathers who have grieved and wept for them. Not only I have suffered during these long, lonely, wasted years. I am not less life-loving than you are. But I cannot sell my birthright, nor am I prepared to sell the birthright of the people to be free. I am in prison as the representative of the people and of your organisation, the African National Congress, which was banned."*



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A FOCUS ON INTERESTS

- ☉ Therefore when he was offered release from prison on condition that he publicly reject violence, unlike some others, he rejected it
- ☉ He only accepted it when the Government had agreed to conditions conducive to constitutional negotiations namely:
 - ☉ the release of all remaining political prisoners
 - ☉ the return of exiles
 - ☉ the unbanning of the ANC
 - ☉ the end of the state of emergency



SEPERATING PEOPLE FROM THE PROBLEM

“Resentment is like drinking poison and then hoping it will kill your enemies” – Nelson Mandela

- Mandela was a master at separating people from the problem
- For example, he said:
 - *“The liberation struggle was not a battle against any one group or colour, but a fight against a system of repression.”*
- He said further:
 - *“I wanted South Africa to see that I loved even my enemies while I hated the system that turned us against one another.”*



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SEPERATNG PEOPLE FROM THE PROBLEM

- He also said:
 - *“No one is born hating another person because of the colour of his skin... People must learn to hate, and if they can learn to hate, they can be taught to love...”*
- In addition he said:
 - *“In prison, my anger toward whites decreased, but my hatred of the system grew. I hated the system that turned us against one another”*



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AVOIDING STEREOTYPING

“Through small gestures of respect and kindness, even among his persecutors and jailers, he came to recognize that ‘deep down in every human heart, there was mercy and generosity. No one is born hating another person because of the colour of his skin, or his background, or his religion. People must learn to hate, they can be taught to love, for love come more naturally to the human heart than its opposite’” - Mark Anstey.

- ☉ He saw his political adversaries as individual people and avoided the simplistic generalisations and assumption associated with identity politics
- ☉ Thus he said of his white guards:
 - ☉ *“Men like Swart, Gregory and Warrant Officer Brand reinforced my belief in the essential humanity even of those who had kept me behind bars for the previous twenty-seven and a half years.”*



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BUILDING RELATIONSHIPS

“To make peace with an enemy, one must work with that enemy, and that enemy becomes your partner” – Nelson Mandela

- ☉ Mandela was an expert at building relationships with his adversaries
- ☉ For example he said that he *“adopted a policy of talking to the wardens and persuading them to treat us as human beings. And a lot of them did, and there were lots of things we could talk about. And the lesson was that one of our strongest weapons was dialogue. Sit down with a man [and] if you have prepared your case very well, that man... will never be the same again”*



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BUILDING RELATIONSHIPS

- ☉ Mnookin points to another example. Mandela, he says *“tried to establish a “personal link” with each member of the [Special Committee]... The trust Mandela earned with these simple gestures “counted for far more than Mandela’s policy position on any particular issue”*
- ☉ Waldmeir also mentions that Mandela won the hearts of his own followers in a similar way:
 - ☉ *“They came in pilgrimage to their legendary leader, and he made each feel special. He knew the names of wives and children; had followed the career of each one with attention; he awed them with his grasp of the South African political situation. They left under the same spell of seduction as their enemies.”*



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LISTENING AND INTROSPECTION

“One of the things that I learned when I was negotiating was that until I changed myself, I could not change others.” – Nelson Mandela

- ☉ Mandela was a consummate listener
- ☉ He understood that to hear properly one needs to listen beyond one's biases
- ☉ He sought first to understand and then to be understood
- ☉ He said:
 - ☉ *“I have always endeavoured to listen to what each and every person in a discussion had to say before venturing my own opinion”*



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DEALING WITH DEADLOCKS AND SETBACKS

“It always seems impossible until it’s done” - Nelson Mandela

- ☉ Waldmeir says of the collapse of CODESA II that:
 - ☉ *“Even in the dark hours, the ANC and the National Party kept their sights firmly fixed on the dawn. While Mandela and de Klerk were trading insults from Boipatong to Bisho, their two young lieutenants – Cyril Ramaphosa, thirty-nine, and Roelf Meyer, forty-four - were meeting secretly to look for a deal. Between June and September 1992, they met something like forty-three times in what became known as “the channel”. More than any other two men – indeed, arguably more than Mandela and de Klerk themselves – it was Ramaphosa and Meyer who opened the road to peace, and kept it open right up until the election.”*



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DEALING WITH DEADLOCKS AND SETBACKS

- Mandela thus demonstrated how to use his team and to mix formal with informal negotiation to overcome obstacles



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CONCLUSION

- Mnookin says of Mandela:
 - *“Mandela understood that the goal of negotiation is to persuade your adversaries. He ultimately achieved through negotiation an outcome that could never have been accomplished solely through violence or resistance. Moreover, he did this without making any concessions with respect to his core political beliefs. Why was he so persuasive? I don’t want to claim that the implicit threat of black violence played no role. But fear of civil war does not fully explain why de Klerk and the Afrikaners were able to make concessions to Mandela....*



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CONCLUSION

- ◉ *... The explanation lies in the fact that Mandela was a negotiator to whom one could make concessions and yet maintain one's self-respect. Mandela worked hard to establish and maintain a personal, human connection with Afrikaner leaders whose life experiences and attitudes were radically different from his own. These leaders came to see that Mandela really believed in racial reconciliation. They saw that his vision for South Africa included them."*



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CONCLUSION

- ☉ *“Peace was made,” Waldmeir concludes, “because Mandela was able to persuade such Afrikaners that he had the best interests of the nation – their nation, his nation, the South African nation – at heart. They learned to trust him with their fate.”*



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CONCLUSION

- ☉ Mark Anstey says of Mandela:
 - ☉ *“Mandela’s legacy of negotiation is extraordinary – and a legacy that his successors and wider South African society are struggling to live up to. He provided principled direction for the wider struggle; he understood the need to raise the temperature to get the attention of his oppressor and rally support to the cause; he understood the changing conditions effectively; he was able to work the interfaces between his constituency and his enemy with integrity; and he was able to frame the negotiation process in a manner that reduced resistance and offered his opposition security into the future. He moved flexibly between the roles of warrior-activist and negotiator–conciliator. He understood the importance of his role as a prisoner of principle in the wider mobilization strategy of the ANC.*



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CONCLUSION

- ◉ *As an activist he helped to build his organisation for the long struggle. As philosopher, he brought wisdom to a struggle that in its closing stages could have seen a collapse into civil war, but instead was delivered through negotiation and the ballot box. He understood power dynamics - when to step up pressure, when to take a stand of principle, when to offer an opponent a back door, and when he had enough power to leverage a negotiation not a defeat of an opponent. Most importantly, he understood and lived out a strategy of reconciliation. This cannot be done unless it is directly from a set of deeply held personal values”.*



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CONCLUSION

- ◉ Obama said of Mandela that he:
 - ◉ *“taught us the power of action, but... also... ideas; the importance of reason and arguments; the need to study not only those you agree with, but those who don’t... Mandela understood the ties that bind the human spirit. There is a word in South Africa – Ubuntu – a word that captures [his] greatest gift : his recognition that we are all bound together...”*



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CONCLUSION

☉ Mnookin concludes that:

- ☉ *“I would award him the title of the greatest negotiator of the twentieth century. You have seen his patience and tenacity. When negotiating with his adversaries, he was respectful but never fawning or sycophantic. He demanded respect in return. You’ve seen his pragmatism. He hated violence but was not a pacifist. He understood the power of violence and used it strategically – to force the government to negotiate. He rejected the simple-minded notion that one must either negotiate with the Devil or forcibly resist. He did both. He was willing to make concessions, but not about what was more important to him. With respect to his key political principles, he was unmovable.*



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CONCLUSION

But the most important lesson goes to the core of this book: We must reject as foolish the categorical claim that it is wrong to negotiate with an evil adversary. Mandela hated the apartheid regime, which most people would agree was evil. But he didn't demonize whites, including those who participated in the oppressive regime"



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