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**Interest-Based Collective Bargaining:
A Success Story**

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Executive Summary

It is widely accepted that in today's competitive environment the traditional adversarial union-management relationship needs to be replaced by a more collaborative approach to problem solving. Interest-based bargaining—also known as mutual gains bargaining—is a practical alternative that can benefit both parties by allowing companies to remain competitive and unions to remain relevant. Based on her detailed research into the successful implementation of interest-based bargaining in a gold mining company in Northern Ontario, the author of this study outlines the benefits of interest-based bargaining, explains where it will and will not work, and gives practical advice to practitioners who may wish to try this approach in their own organization, while avoiding the common pitfalls.

- By moving to interest-based bargaining, management will gain flexibility, labour peace, and increased success in implementing difficult proposals such as multi-skilling and pay for performance. Union members will gain employment stability, skills upgrading and enhanced employability, and a greater voice in decision making.
- Interest-based bargaining presupposes that it is possible for both sides to achieve their objectives by identifying common goals and then developing a process to achieve them. This approach will therefore be difficult, if not impossible, to implement in a competitive, conflict-ridden environment with a low level of trust. It should not be attempted until the relationship can be improved. Both sides must believe they can work together and be motivated to do so.
- The case studied here provides a good example of properly executed interest-based negotiations. Intensive training for the new approach was provided off-site. The negotiators for both sides were trained together. As the relationship improved, the two sides negotiated their own rules for bargaining. Members of the two groups sat side by side at the table, rather than facing each other as adversaries. The discussion was open, and all members were encouraged to contribute, not just designated spokespeople.

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About the Author

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- The parties focused on joint problem solving, and because the agreement was written by both sides together, it was less open to misinterpretation and easier to administer. The relationship between the parties was improved as a result.
- Some issues—wages, for example—cannot be resolved using interest-based bargaining. For these issues ‘principled’ bargaining, which uses objective standards such as market value and precedent to reach an agreement, is recommended. If objective standards are used, the relationship between the parties will be preserved: both parties will perceive the solution as fair even if they do not like the substantive outcome very much.
- The most common failure in interest-based bargaining is not to entrench it in all day-to-day relations. Both leaderships must act as models by making interest-based problem solving the new way of working. If they do not, the players will quickly revert to their old adversarial habits.

Introduction

The traditional adversarial relationship between unions and management is no longer viable in today's competitive environment. A more collaborative approach to problem solving would benefit both parties, allowing companies to remain competitive and unions to remain relevant. Most collective bargaining follows the traditional 'distributive' model: one side loses what the other side wins. In distributive negotiations the parties make unrealistic demands and then make concessions while manipulating and concealing information and finally making commitments to a position. Interest-based bargaining, on the other hand, focuses on interests rather than positions and seeks to discover the motivations behind each party's positions. The evidence suggests that interest-based bargaining can produce simple and wise solutions that enhance the relationship, but because interest-based bargaining is so different, a fundamental change in labour-management relations is required for it to be successful.

Although many areas of collective bargaining are amenable to interest-based bargaining, interests will tend to conflict for some contract items. These purely distributive contract items can be dealt with through 'principled' negotiations, which are resolved on the basis of objective criteria rather than on the basis of shared interests or power.

This study will examine these negotiation models, the impediments to the widespread adoption of interest-based bargaining, and the problems involved in training in the interest-based approach. A case study of a bargaining relationship at a gold mine in Northern Ontario will illustrate many of the advantages, as well as the problems, that flow from attempts to implement an interest-based approach

There are two types of outcomes of labour negotiations, substantive outcomes, and relationship outcomes.

Traditional and New Approaches

Substantive versus Relationship Outcomes

There are two types of outcomes of labour negotiations, or, indeed, of any kind of negotiations: substantive outcomes, such as agreements and disagreements on terms and conditions of employment and specific work practices, and relationship outcomes, including agreements and disagreements about the extent of joint activities, the level of trust between the parties, and the desired directions for labour-management relations (Cutcher-Gershenfeld, McKersie, and Walton 1995, 11).

Sometimes one side may think it is pursuing only substantive issues and ignore the relationship issues that are also involved. For example, 'a concessionary demand may be seen by management as a purely economic matter, while labour may view the demand as part of the larger strategy to undermine the power and legitimacy of the union' (Cutcher-Gershenfeld, McKersie, and Walton 1995, 11). Or one side may think it is pursuing only relationship changes, ignoring the fact that they can only come with substantive tradeoffs. Management may find that union and worker support for their joint labour-management initiatives on employee involvement depend on substantive issues such as gain-sharing and job security. It is vital for both sides to recognize the interconnectedness of the various outcomes.

Adding relationship items to the negotiating agenda 'introduces a substantial measure of uncertainty and ambiguity. Not only must the parties sort out their views on matters such as seniority, wages, and job classifications, but they must also assess the underlying values and intentions of each other regarding the institutional relationship itself' (Cutcher-Gershenfeld, McKersie, and Walton 1995, 12). Substantive outcomes that are exceptionally favourable to one side may end up doing more harm than good, since a lopsided victory may damage the relationship.

Proponents of interest-based bargaining argue that paying attention to the relationship as well as the issues will result in a contract that is perceived as fairer and one that will be simpler to administer than a contract that was negotiated without regard to the ongoing relationship between the parties.

Positions and Interests

Positions and interests form the backbone of distributive and integrative bargaining, respectively. While positions indicate how a disputant thinks a problem should be solved, interests represent the root of the problem. Positions are the outcomes that each side wants from a dispute. Interests define the problem; they are the needs, desires, concerns, and fears that motivate people, 'the silent movers behind the hubbub of positions' (Fisher and Ury 1991, 41). For every position, there are usually several solutions that would satisfy both sides' interests.

The difference between interests and positions can be illustrated by this fictitious example. During collective bargaining, the union at a sheet metal plant insists that management must adopt a new technology to reduce vibration in the plant. Management hears the proposal and balks at the installation cost of \$20,000. The union's position is that it wants the new technology; the plant's position is that this technology costs too much. Negotiations stall on this issue and a strike may be imminent. But if the union and management were to sit down and honestly discuss the reasons for their concerns, their interests might emerge.

The union's interest might be that its members are experiencing hearing loss and other physical symptoms due to the vibrations. Management's interest might be that it is aware of the development of a superior and slightly less costly technology that is due to be available within the next six months. Given that both sides share an interest in safety (workers wish to be free from danger and management wishes to minimize workers' compensation and long-term disability pay-outs) and that their interests regarding the equipment do not fundamentally clash, an interest-based solution is readily available here. The two sides may sign a memorandum of understanding that the company will purchase the newer technology as soon as it becomes available. Using brainstorming, even wiser solutions could be created; for example, the plant might volunteer to pilot the newer technology in return for receiving it at reduced cost.

Distributive Bargaining

The first complete theory of distributive bargaining—also referred to as traditional, positional, competitive, adversarial, win-lose, and fixed-pie bargaining—was developed by Walton and McKersie in 1965. In this, most common type of bargaining, each party comes to the negotiating table with positions to which they have varying levels of attachment. As mentioned, opening offers are often unrealistically high or low, and the object of the exercise is for each party to bring their opponent's offer as close to their own as possible.

Each side has a target point at which it would experience success. The lower limit for the union is the point beyond which members would seek a new union. The upper limit for management is the point beyond which the company would move work sites or hire nonunion labour. Each side also has resistance points, representing minimum success and the point beyond which it will not go. The spread between the two resistance points represents the settlement range.

One of the objectives of distributive bargaining is to manipulate utilities and disutilities, and perceptions thereof by the other side. For unions, this includes manipulating information about the size of the strike fund, unfavourable settlements of other unions in similar industries, and membership support for a strike.

In distributive bargaining the object of the exercise is for each party to bring their opponent's offer as close to their own as possible

For management it includes its ability to continue production during an industrial dispute, its projected profits, its current operating costs, unfavourable settlements of other companies in similar industries, and the ability of competitors to pick up, possibly permanently, the company's market share. Clearly, full and truthful disclosure of information is anathema to this process. Intelligent bargainers realize the link between knowledge and power and keep their information to themselves.

In distributive bargaining the parties make concessions, allow themselves to move away from the opening offers and towards each other's target points (and their own resistance points). Concessions are made in the expectation that they will be matched by the other side. If they are not, they will be dropped, and the initiating party will have lost trust in the other party for violating the unwritten rules of negotiation. As concessions get smaller, the message is conveyed that the resistance point is being approached. The final offer is usually signaled by making a substantial last concession.

Disputants try to eliminate the range of indeterminateness in distributive bargaining through commitment. Commitments vary in firmness and become more important as time passes and the parties learn more about each other. Once both sides have committed, a strike or lockout is likely. It is therefore to both parties' advantage to prevent both sides from becoming committed, perhaps by ignoring or pretending not to comprehend their opponent's commitment, enabling the opponent to revise their commitment while saving face, or by abandoning their own commitment. Commitment strategies cause more tension than utility manipulation and are more likely to bring about a convergence or breakdown in negotiations. If it is to be successful, both parties to the negotiation must feel that the outcome was the best that they could have achieved and that it is worth supporting (Lewicki and Litterer 1994). If a party feels cheated, they may not honor it, or they may try in some other way to recoup their perceived lost value.

Interest-Based Bargaining

Interest-based bargaining—which is also known as integrative, win-win, collaborative, or mutual-gains bargaining—presupposes that it is possible for both sides to achieve their objectives by pursuing goals that are not mutually exclusive. The parties identify common goals and then develop and pursue a process to achieve them. Interest-based bargaining involves:

finding common or complementary interests and solving problems confronting both partners. . . . It serves to optimize the potential for joint gains ('expanding the pie') and hence often has a 'win-win' quality. Tactics center on the exchange of accurate information, the exploration of underlying interests, and the use of structured problem-solving techniques. At the level of interpersonal communications, interest-based bargaining typically involves paraphrasing, active listening, minimizing defensiveness, brainstorming, and disclosure of feelings and underlying interests. (Walton, Cutcher-Gershenfeld, and McKersie 1994, 45)

In terms of the process, then, interest-based bargaining is the polar opposite of distributive bargaining.

While labour and management may not appear to have common interests, Weiss has identified four classic common interests in the collective bargaining process: peace, people, productivity, and profit. Other common interests include customer satisfaction, job satisfaction, meaningful work, competent and trained employees,

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By using objective standards both parties will perceive the solution as fair, even if they do not like the substantive outcome very much.

competitiveness, quality and reliable products and services, a safe work environment, and effective communications. Documenting these mutual goals, perhaps in the preamble to the collective agreement, is the key to success in interest-based negotiations (1996, 132-4).

Four fundamental processes are involved in interest-based negotiation (Lewicki and Litterer, 1994). First, after reaching an understanding of their own needs, objectives, and interests, the parties try to understand their opponents' real needs and objectives. This is achieved through a dialogue in which positions are openly shared, not manipulated or hidden. Second, the parties create a free flow of information by revealing true objectives, listening to their opponents carefully, and accepting a joint solution that incorporates both positions. The third process is to emphasize the common ground between the parties, and minimize the differences. The individual goals of each side must be looked at as part of a cooperative effort to achieve a larger goal. Finally, the parties search for solutions which meet the goals and objectives of both sides.

The outcomes of interest-based bargaining are measured by the extent to which both sides' goals have been met. If one side intends to do better than the other, interest-based bargaining will be difficult; it will be impossible when both sides intend to best the other.

For their part, Fisher and Ury (1991) identify four steps to follow in interest-based bargaining partially on Walton and McKersie's foundations. Negotiators must think of each other not as adversaries but 'as partners in a hard-headed, side-by-side search for a fair agreement advantageous to each' (37). During negotiations they must separate the people from the problem; focus on interests, not positions; invent options for mutual gain (for example, through brainstorming); and base the result on some objective standard.

Principled Bargaining

Fisher and Ury's fourth guideline (objective standards) applies in the most contentious aspects of collective bargaining, particularly in bargaining about wages. Money is inherently distributive, because, for the most part, there really is a fixed pie. The only step to take is to determine the fairest way to divide revenues between workers and profits. Objective standards market value, replacement cost, depreciated book value, or precedent provide a less costly way of doing so than traditional distributive bargaining. By using objective standards negotiators benefit from past experience, the agreement is less vulnerable to attack, the relationship is better protected, neither side is likely to feel harshly or unfairly treated, the number of commitments each side makes is reduced, and negotiating time is used more efficiently for discussing standards and solutions. Both parties will perceive the solution as fair, even if they do not like the substantive outcome very much.

Objective standards are to be used in situations where interests truly do conflict and which would not be improved by attempting the other three steps first. Objective standards are part of a process that lies somewhere between integrative and distributive bargaining. It will be labeled 'principled bargaining' for the purposes of this study. 'Principled' because an objective principle such as book value or precedent governs the resolution of dispute.

Bargaining Processes: A Comparison

While traditional negotiators are trained separately, interest-based negotiators are trained together. Interest-based negotiators use common language, which results in less miscommunication than is found in traditional negotiations. To prepare for negotiations, interest-based negotiators survey their constituents and compile lists of problems and potential solutions. A common list is then created in the form of agenda. The negotiations do not begin with dramatic politicized presentations; they often take place at a U-shaped or round table; flip-charts are used rather than note-taking; and facilitation and speaking are done by all members, not just spokespersons. Interest-based bargaining is characterized by joint problem solving, openness, and candor. People move out of their assumed characters (as lead negotiators, for example). Nothing is signed until agreement is reached on everything, and the final agreement is typed up as a joint effort, rather than by management alone (Weiss 1996, 27-37). Given the significant differences between the two bargaining processes, it is not surprising that interest-based bargaining is often viewed with suspicion by labour negotiators. It is also not surprising that much of the content of interest-based training is aimed at changing old patterns of behaviour, not just imparting new technical information.

Implementing Interest-Based Bargaining

Conditions for Success in Interest-Based Bargaining

Lewicki and Litterer (1994) describe six conditions for successful interest-based bargaining. First, there must be some common objective or goal, so that both sides benefit from collaboration. Second, participants must have faith in their own problem-solving ability. When both sides believe they can work together, they will invest the time and effort in trying to do so, and will usually succeed. Third, parties must be motivated to work together. Both sides must cooperate rather than compete, be committed to pursuing a shared goal, and be willing to adopt open, congenial, and trusting interpersonal styles. To enhance motivation and commitment, each of the two parties must believe that they share a common date, that there is an enhanced pay-off from working together, and that it is necessary to maintain the relationship after the negotiations end.

Lewicki and Litterer's fourth condition is that the parties must accept the accuracy and validity of their opponents' attitudes, information, and desires. A fifth condition is that there must be clear and accurate communication. This includes stating needs in specific and concrete terms to ensure that the communication is understood by the other party. Common communication problems include talking only to impress constituencies, not listening to each other, and misinterpreting each other (Fisher and Ury 1991). To solve these problems, negotiators must listen actively and acknowledge what is being said, keeping in mind that understanding is not agreeing. Negotiators should also speak to be understood, not to persuade.

Both sides must cooperate rather than compete, be committed to pursuing a shared goal, and be willing to adopt open, congenial, and trusting interpersonal styles.

The Role of Trust

Lewicki and Litterer's final condition is trust. Contract negotiators who do not trust each other are not likely to place themselves in the potentially risky situation of interest-based bargaining. Increased trust, on the other hand, leads to increased communication of needs, positions, and facts, and is likely to be reciprocated. Four factors contribute to the development of trust: similarity to, or the holding of a positive attitude towards, one's opponent; mutual dependence; initiating cooperative and trusting behaviour; and making concessions. Unions often feel that they have forgone their bargaining leverage by agreeing to an interest-based process and that management does not accept the legitimacy of the union. Trust can help mitigate these feelings of vulnerability (Friedman 1994b, 272-3). Friedman (1994b, 274-5) makes several suggestions to increase trust between negotiators. Bargainers can spend time together, allowing them to discover things in common and shared experiences. Trust can be enhanced by identifying common core interests and by avoiding actions that are most feared by the other common core interests and by avoiding actions that are most feared by the other side. If mistrust already exists, it should be explored and openly discussed. If a certain negotiator is associated with past incidents that have contributed to distrust, that individual should not be assigned to the negotiating committee. Trust can also be enhanced by opening the books, pledging to share information, and finding ways to analyze data quickly and competently.

Friedman notes that overall union-management trust can also be enhanced by interest-based bargaining. This can be done through initiatives such as mediation—and also simply by deciding to try interest-based bargaining and the subsequent training. Actions are most credible, so management might also choose not to fight certification drives, and to maintain labour peace at other sites (1994b, 277).

Lasting Change in Labour Relations

Many theorists point out that the ultimate goal of interest-based bargaining is long term: the transformation of the labour relations system. Susskind and Landry (1991) have designed a six-step process for implementing lasting change, based on their real-world experiences with interest-based bargaining:

1. Pre-training private (not secret) meetings are held with each side, to allow both leaderships to get to know each other and to discuss upcoming bargaining and how each side would like to see it changed
2. An initial joint training session which emphasizes individual building is held. A broad cross-section of interested parties spend a day learning about interest-based bargaining before committing to applying the concepts.
3. An initial off-site joint training session is held for members of both bargaining teams. Negotiating simulations may be used, as well as role-reversal and teaching of brainstorming techniques.
4. A second off-site joint training session for members of both bargaining teams reviews what was learned in the first session and negotiates the ground-rules for bargaining.
5. A trainer-coach participates in the contract bargaining to assist both sides in living up to the ground-rules. The coach does not, however, mediate substantive problems in the negotiations.
6. A post-contract follow-up institutionalizes the interest-based approach. This joint debriefing discusses shifting the organizational focus from contract negotiations to continuous problem solving. Frequent retraining sessions are also recommended.

Training in Interest-Based Bargaining

Susskind and Landry (1991) note that joint training in interest-based bargaining is most likely to succeed when both sides are unhappy with the outcome of the last round of negotiations, because arguing for a new process is difficult when the current process is working well. During training, both parties must be given opportunities to reassess their values and beliefs. As well, it is important to emphasize to the parties 'that the option of returning to their "old" way of bargaining is not compromised by their exploration of the mutual gains approach' (9). In other words, participants must be assured that should interest-based negotiating not work, they have the option of principled bargaining.

The cost of training can be controversial. The higher the training cost, the more aggressively the value of interest-based negotiations may be challenged. Disputes can arise over who will pay for the training, and when, as is likely, management pays for most or all of the training, the neutrality of the trainers can be called into question (Friedman 1992).

In interviews with Friedman (1992) trainers identified several features of a good training session: the necessity of simulations, the usefulness of role reversals and some post-training outside facilitation. Labour relations trainers felt that constituents should be involved and that training simulations should involve realistic issues. Some trainers also felt that success in interest-based bargaining was predicated on workers being highly educated and white-collar, while others felt that using negotiators who were less experienced in traditional negotiations was beneficial.

Benefits of Interest-Based Negotiations

Both sides can benefit from interest-based bargaining (Weiss 1996, 7-9). Management will gain flexibility, labour peace, increased chances of implementing difficult proposals such as multiskilling and pay for performance, and security of labour supply. It will therefore have no need to open other plants in case of a strike. The union will gain increased employment stability for the membership, skills upgrading, a greater voice in decision making, and enhanced employability of members.

Difficulties with Interest-Based Bargaining

In addition to the ingrained win-lose attitudes towards collective bargaining already mentioned, several factors make interest-based bargaining difficult. A competitive and conflict-ridden relationship with a low level of trust will lead both sides to expect competitive negotiations. One or both sides may be biased towards an either-or mentality, which will preclude interest-based bargaining. Further, because distributive and interest-based problems will need to be solved in many bargaining situations, the distributive model will often continue to dominate the negotiations (Lewicki and Litterer 1994).

The Dominance of Distributive Bargaining

Despite the many calls for change in the labour relations system, there has been little effective movement away from distributive bargaining. Friedman argues that distributive bargaining dominates because, as the 'old,' traditional system, it works and makes sense. Far from being irrational or illogical, the 'traditional negotiation process represents an institutionalized pattern of behaviors and helps negotiators respond sensibly to the demands placed on them' (1994, 3). He argues that the negotiation process

is not an arbitrary set of actions. It is a carefully crafted ritual that has evolved to achieve a set of practical and symbolic goals. The barrier to change lies not in negotiator irrationality but in the fact that the traditional process represents the way in which sensible people respond to the role structure of labour negotiations. The current system . . . enables negotiators to manage constituent pressures, maintain group identity, and act as leaders of a team. (1994a,17)

The ultimate goal of interest-based bargaining is lasting change of the labour relations system.

Distributive bargaining dominates because, as the 'old,' traditional system, it works and makes sense.

But the problem is that the negotiating process is heavily scripted, with expected behaviour, language, and roles (lead bargainer, for example) for each side. The script 'reinforces antagonisms between the two sides, the conversations are highly constrained, and many people are unable to contribute' (Friedman 1994a, 5).

Friedman (1992) describes three constraints standing in the way of interest-based bargaining: negotiators find it difficult to understand the implementation of these powerful ideas, and they are often unable to see the integrative potential in a situation. The cost of training may be prohibitive, particularly for unions. And the labour relations structure itself includes seasoned professional negotiators, highly mobilized constituents, and labour law constraints. While some of these problems may be quickly overcome, others require structural change that tends to take many years.

Barriers to Implementing Interest-Based Bargaining

Resistance

Possibly the most common barrier to implementing interest-based bargaining is that one of the parties may resist, thinking that interest-based bargaining is a trick, particularly if they have been tricked in past negotiations. Or the stakes might be considered too high to try something new. One side may be satisfied with the outcome of traditional negotiations and therefore unwilling to tamper with an approach that works. One side may be unable to forgive the other for past injustices and may plan to use the next round of negotiations to get back at them (Weiss 1996, 212-13).

An initiating party can respond to this reluctance by using 'soft' opportunities to educate the other party: they might organize conferences or visits to other enterprises that have had success with interest-based bargaining. The parties could engage in nonbinding joint training and agree to use an external facilitator, at least for the first time they attempt an interest-based process. The facilitator will attempt to uncover each party's real objectives, help them see the other's perspective, and explore options beyond the barriers set by the problem (Weiss 1996,10).

The parties should not label interest-based bargaining with a fancy name, perhaps calling it joint problem solving—or nothing at all. The initiating party can 'just do it' by slipping into an interest-based bargaining mode in grievance and other meetings. The ground-rules for the negotiations should be settled and a negotiations contract signed to apply throughout the interest-based bargaining. The initiating party should demonstrate how seriously they want a new relationship, by being honest, keeping lines of communication open, and capitalizing on any softening of the reluctant party's resolve against interest-based bargaining. As a last resort, they should let the negotiations reach the boiling point (Weiss 1996, 214-15), at which point the disputants may be more willing to try new things.

Incomplete Adoption of the Model

The negotiating parties should be careful not to resort too quickly to old habits. Even where interest-based bargaining is attempted, there are always two sides to the bargaining. Union and management officials, while playing the 'correct' roles during negotiation sessions, may nonetheless revert to competitive 'us-and-them' discussions while caucusing and unwinding (Friedman 1994a, 44). The parties' dedication to interest-based bargaining is often simply not thorough enough. In order for interest-based bargaining to work, 'simply presenting the ideas and training people through simulations is not enough. A great deal of work is needed before such training begins, both with top management and with the unions' membership' (Friedman 1994b, 278). The parties must be prevented from giving in to the temptation of reproducing the traditional process despite their desire for change. Traditional role expectations, power dynamics, and relationships must be discouraged.

Setting the stage and context for integrative negotiations in this way is far more difficult than teaching the ideas and perfecting the simulations.

Discontinuity with Daily Labour Relations

Interest-based bargaining is not a project or an event; it is a way of life. The interest-based bargaining approach must apply to all problem solving and should not be discontinuous with day-to-day union-management relationships. It 'is more than a technique or a useful tool; it is a change in the mind-set, a change in the culture of the enterprise. If it remains on the level of a technique, the full value of this approach will not be realised and union-management peace will be elusive' (Weiss 1996, 227).

To deal with day-to-day discontinuities, both leaderships must act as models by making interest-based negotiation and problem solving the new way of working. Both leaderships must also embrace their new roles as problem-solving facilitators in all encounters with employees, managers, and the union. Managers' ability to function as interest-based problem solvers should be assessed by peers, employees, and supervisors. The organizational culture might possibly be altered simultaneously with, or even before, adoption of interest-based bargaining, to help make interest-based bargaining part of the daily fabric of the enterprise. Union-management teams that use interest-based problem solving can be designed with a mandate to make decisions and operate autonomously. Success stories should be publicized, both to help people learn from other experiences and reinforce the enterprise's commitment to an interest-based culture (Weiss 1996).

Union Issues, Constituent Pressure

Constituent pressure plays an enormous role in collective bargaining for union bargainers, who always face potential resistance to adopt interest-based negotiations. Constituents fear that there will be collusion and that their negotiators will not get as much as they could have if they had not tried interest-based bargaining. Unions attempt to maintain power over management during negotiation through strike readiness. In order to maintain this state, the union must communicate its sense of unjust treatment by management. The union rank and file generally do not want to see too much labour-management cooperation, which can appear to be a sellout. They are mostly concerned with a narrow set of bargaining issues, most importantly wage and benefit increases. Generally, the bargaining mix will contain only one complex qualitative issue, and the rank and file will expect it to have a clear winning outcome for them (Heckscher and Hall 1994).

Union negotiators are almost always elected officials, and there are usually a number of rivals waiting for a chance to undermine their credibility, perhaps by using the latent mistrust of members for their own purposes. Interest-based bargaining is often seen as an end-run around the union, a way to access the voice of workers without the conduit of the union. Interest-based bargaining decentralizes union solidarity by involving workers in task forces and other activities related to interest-based bargaining. It also reduces union control over member interactions with management (Cutcher-Gershenfeld 1994, 330). Union leaders who propose interest-based negotiations to the membership may soon find themselves out of office. It is therefore much easier for management to propose and adopt interest-based bargaining, since they do not face re-election.

But there are barriers on the management side as well. Because labour negotiations are often a relatively low-prestige function, negotiators may not have full access to upper management. Asking for permission to widen the arena of potential solutions is often met with incomprehension and resistance from superiors.

The initiating party should demonstrate how seriously they want a new relationship.

Union rank and file generally do not want to see too much labour-management cooperation, which can appear to be a sellout

Level-One Interventions

Because of the constraints on union and management, attempting to change their behaviour at the negotiating table simply by expecting them to sit down and invent new options is unrealistic. This approach is referred to by Heckscher and Hall (1994) as level-one intervention, which can be divided into two categories: training, in which the intervenor conducts training in key skills and then leaves the site, and active facilitation, in which the intervenor stays at the site to actively shape the negotiation process.

Level-one interventions presuppose that the main obstacle to creating new options is lack of knowledge and skill on the part of the negotiators. This ignores the important fact that there is already a lot of interest-based activity taking place at the bargaining table. When the power of both parties is evenly matched, it is advantageous to create and maintain a positive working relationship. Negotiators are, therefore, quite sensitive to the needs and interests of the other side and tend to consider their requests and positions with a long-term view of the future. This is shown in the tremendous amount of progress that is often made in informal meetings between the two sides, away from the inflamed rhetoric of the bargaining arena (Heckscher and Hall 1994).

Both the process and the results of level-one interventions will be difficult to sell to constituents and may even alienate union and management negotiators from their principals (Heckscher and Hall 1994). Sometimes, the use of interest-based bargaining is even hidden from constituents. The weaknesses of level-one interventions stem from the fact that they are aimed only at the negotiators, not at the organizations behind them. Consequently, both types of level-one change will tend to degenerate over time, in contrast to the intervenor's probable expectation of the growth and development of a 'virtuous circle' of trust and communication. This is not to say that level-one interventions are never useful; even experienced negotiators will find power and novelty in the insights of interest-based training, especially in the areas of communications and brainstorming (Heckscher and Hall 1994).

Level-Two Interventions

Heckscher and Hall (1994) contend that only level-two interventions can transform labour relations. Level-two interventions require not just strategic but structural changes. The goal is not simply to develop new sets of personal skills but to develop a new organizational capacity to create consensus and trust within both sides, so that bargainers can create new options. Level-two interventions attempt to transform the internal relationships between negotiators and their constituents. They are difficult to perform and have rarely been carried out, but they are far more likely to result in long-term cooperative relationships.

The success of a level-two interest-based bargaining relationship will very much depend on constituency relations. A well-integrated and involved constituency will be more likely to allow negotiators to take advantage of the trust and communication opportunities offered; more bureaucratically distant constituents will throw up obstacles. Whether constituency relations can be changed through interest-based bargaining is an open question. The required changes are large and many, including decentralization, reduced bureaucracy, extensive communication, and an increase in active constituent participation in the bargaining mechanism (Heckscher and Hall 1994).

Day-to-day organizational changes, such as ongoing dialogue and joint implementation among all employees, are also required for a successful level-two intervention. Overall, a bureaucratic organization is far less likely than a participatory one to be transformed by interest-based training and facilitation; the former type of organization will require a wide transformation of labour relations and organization (Heckscher and Hall 1994).

Negotiations must change from 'episodic showdowns' every few years to continual exercises in conflict resolution. Parties must be committed to spending more time on the actual negotiation process, and the collective agreement must become a 'living document' characterized by informal problem solving (Hunter and McKersie 1992).

The Distributive-Integrative Synthesis

As mentioned earlier, not all items in the bargaining mix lend themselves to an interest-based solution: for example, layoffs, contracting out, plant closings, wage concessions, and work rules may require distributive solutions. Cutcher-Gershenfeld (1994) therefore proposes a synthesis between the two techniques. Because the interests of labour and management will always involve conflict but will also always involve areas of common interest, this approach will help identify points of conflict to resolve and points of common concern to pursue. While distributive bargaining constrains creativity and the exploration of areas of mutual interest, interest-based bargaining is vulnerable to power tactics and a tendency to gloss over significant differences between the two sides. Cutcher-Gershenfeld's synthesis combines the best of both strategies, while avoiding the pitfalls. Moreover, it is

a unique process where parties are educated about interest-based processes and structure[s] . . . of which they may not be aware, but then explicitly urged to fashion their own process that will be attentive to the power and relationship realities of their situation. They will be, in effect, designing the very institutions within which they will then interact—historically, a very rare social phenomena. (1994, 334)

Although much has been written about interest-based bargaining, workplace realities are often not taken into consideration. Without realistic plans and contingency options (such as principled negotiations), the dominance of distributive over interest-based bargaining is painfully predictable. Nevertheless, the interest-based negotiation model has been adopted with some success in some instances in North America. The next section examines one such case in detail.

Background

This chapter explores the results of interest-based bargaining at a gold mine ('the mine') in a small town in Northern Ontario ('the town'). The mine is owned by a large global mining company and has been in operation since the beginning of the century. The miners belong to a large international union ('the union') which represents other miners in the area. There was a six-and-a-half month strike at the mine in 1990. Interest-based negotiations took place during the 1996 round of bargaining. A now-retired labour relations manager ('the manager') who was a negotiator for the company for twenty years was interviewed. Also interviewed was the staff representative ('the staff rep') from the union. The staff rep is a former miner now employed full-time by the union who has been negotiating since 1985. The staff rep was the chair of the negotiations committee for the union in the 1996 negotiations. There is mutual respect between the manager and the staff rep. Each described the other as 'a good guy' and the manager was recommended as a potential interview subject by the staff rep, who was contacted first.

Before the 1996 negotiations, labour relations at the mine were quite traditional, business-like, and at arm's length. Communication was not open, and mistrust was markedly high after the 1990 strike. The staff rep was especially quick to recall that bitterness and anger were prevalent during and following the strike. The manager described the resulting mistrust as a large barrier to overcome before beginning negotiations and convincing the union that the company was interested in pursuing a new personal, as well as professional, relationship. Enhanced communication would also enhance this relationship, the company reasoned.

The goal is not simply to develop new sets of personal skills but to develop a new organizational capacity to create consensus and trust.

Without realistic plans and contingency options, the dominance of distributive over interest based bargaining is painfully predictable.

Interest-Based Bargaining in Action: A Case Study

Why Interest-Based Bargaining?

The 1990 strike provided a strong impetus for attempting interest-based bargaining. After the strike, the manager indicated, he wished to improve the relationship with the union by trying 'to form some sort of an alliance so that things would work better not only with bargaining but also the normal day-to-day interactions between the union and the company.' In addition, interest-based bargaining had been successfully attempted at a nearby mine also owned by the company, increasing confidence that it might work at this mine. A third impetus for trying the interest-based approach came from a change to a more supportive management in 1992 or 1993. The shift to interest-based negotiations probably would not have occurred under the previous senior management: without senior management support, according to the manager, 'these things never work.' The new senior management appears to have paid more than lip service to the change. The interest-based approach, said the manager, was a natural extension to new attitudes of openness, to improved communication, and to seeing the worker-management relationship as a potential alliance, a way for employees to feel more like an integral part of the company.

The manager also viewed interest-based bargaining as a strategic choice. After all, the goal was to mine gold at the lowest price, so the question for him became, 'how could I in the labour relations field contribute to that objective? One way was to reduce the number of labour disputes.'

Perhaps because they were trained jointly, the manager and the staff rep had very similar conceptions of interest-based bargaining. While both men supported the principles behind the process, the staff rep appeared to have a slightly more cynical attitude towards the process itself, referring to it occasionally as the 'love-in.'

Before proposing interest-based negotiations, the manager spent the better part of a year investigating the model. The staff rep said that the union did not have extensive research on interest-based bargaining, but that it was open to adopting it on a case-by-case basis. He had first heard of interest-based bargaining when the manager aired the idea; his reaction at that time was cautious: 'What is this stuff?'

This case is in many ways a textbook example of the adoption of interest-based bargaining. First, there was a solid base of professional respect between the staff rep and the manager; as mentioned, both supported the theory and aims of the model. Despite the large size of both the company and the union, there was enough decentralization to allow the mine to proceed somewhat independently of international company policy. There was support from the head office of the union, as well as from senior management of the company, for attempting the process. Finally, as Hunter and McKersie (1992) recommend, the move toward interest-based bargaining was precipitated, at least in part, by a crisis: the bitter strike of 1990 and a desire not to repeat history.

The staff rep said it was not difficult to be convinced of the wisdom of the interest-based approach. Both sides knew something had to be done about the 'impossible to interpret' agreement. The manager said he worked on convincing the union for six to eight months. He was able to convince the staff rep to seek membership permission to hold a joint meeting for the company to make a presentation to the union executive. After the presentation, the union also had to seek permission from the national office. Because the union had experience with interest-based bargaining throughout North America, it was amenable.

The manager cautioned, however, that 'it was not as though we could go to the staff rep and say, "We'd like to try mutual gains bargaining next time." The first reaction was, "Why are you doing this," and all sorts of questions like "What do we have to do," and so on.'

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Training

Training for the new approach was organized and paid for by the company, at an approximate cost of \$35,000. As recommended in the literature, it was conducted by outside consultants, off-site, in another city, and lasted one week. The staff rep noted that the union did not commit itself to the interest-based approach before attending the training, but they did subsequently agree to proceed with interest-based negotiations.

The one-week training session had three purposes, according to the manager: first, to provide training in the actual mechanics of interest-based bargaining; second to improve relationships between people on the two sides; and third, to 'structure how we were going to bargain before we started to bargain, establish joint goals and objectives and so on.' As recommended in the literature, the parties negotiated their own rules of negotiation.

Benefits and Drawbacks

According to the staff rep the major benefit of interest-based bargaining for the union was improved contract language. The old collective agreement had been drafted by lawyers, and many clauses 'could be interpreted in several different ways. The advantage was to simplify and clarify the agreement, which leads to fewer problems of interpretation.' The union appears to have benefited substantively from the language change, as did the company, in particular the line managers: 'they also have to interpret the agreement every day.' The staff rep also found that interest-based bargaining 'was a nicer way to bargain.' There was less stress and more insight into issues, since all members of the team had input. There was also a better flow of information.

According to the manager, the company found that there was more trust and better communication between the parties, a recognition that 'everybody is working together towards the same overall goal.' Other benefits included potentially lower labour relations costs in terms of arbitrations, strikes, and lockouts. The union stood to benefit, said the manager, from 'more information, faster and better communication with management, and more understanding of the workings of the company.'

On the other hand, there were more potential pitfalls for the union. The manager recalled the membership accusing the union executives of being in bed with the company, particularly when social meetings were held to develop and maintain the relationship. 'If the line manager had committee members over to his house after a meeting for a beer, or a dinner, well, it's a small town and the membership would know that and they would become very suspicious and mistrustful.' The staff rep agreed that 'there was a little bit of that, and I think the reason for that was the 1990 strike. Not that it affected [the bargaining committee].' He also agreed that these perception problems were exacerbated by the small size of the town: 'everybody knew that negotiations were taking place. In Toronto, nobody knows what you are doing, even if you are just around the corner from them.' The mine's location increased the intensity of personal relationships and automatically put the negotiations in the public eye.

The manager also took personal risk in spearheading the drive to interest-based negotiations: 'I stuck my neck out and if it failed, well, what are the options? We spent a whole bunch of money doing training and doing various things, so if it doesn't work you are back to the traditional negotiating again.' Many people were watching the experiment, because interest-based bargaining was unusual in the mining industry: 'Not only from some people within my company but from other companies, there were a lot of detractors. Waiting for failure!'

The major benefit of interest-based bargaining for the union was improved contract language.

In marked contrast to traditional negotiations, everybody around the table was given an opportunity to participate in the discussions.

Negotiations

The negotiations had their own particular structure which had itself been negotiated by the two parties. Union and management sat side by side at the table rather than having the two groups face each other. Since they had been trained in facilitation, the negotiators did not use an outside facilitator. Instead, somebody new was selected each day. His or her role was to write everything on flip charts and generally keep order and ensure people would not speak out of turn, which was particularly important because in these negotiations everybody around the table—and there were large bargaining committees on both sides—was given an opportunity to participate in the discussions. As the staff rep and the manager both noted, this was in marked contrast to traditional negotiations, where only the two spokespeople were allowed to speak and everything was scripted.

As recommended in the literature, language was crafted and put on paper by the two groups together, instead of by management alone. Subcommittees with one or more union and company representative were formed to keep negotiations moving reasonably quickly. As the manager noted,

One I can recall that was every successful was on a health and safety article where one management person and one union person went away and rewrote the whole clause, came back, and presented it to the committee for approval. The benefit was that they both came back together in support of it. So they can both make a presentation in support of it and sometimes there are some changes that the group makes, things that were overlooked, but most times they did a very good job, those subcommittees.

The conduct of the two parties at the bargaining table also followed the recommendations in the literature in terms of the seating arrangements, the speaking order, the lunches together, and the use of breaks when tension rose. The only area in which the parties did not follow the recommendations in most of the literature was in deciding not to use an outside facilitator.

Breaks during the negotiations were usually taken together, said the manager:

We negotiated in a hotel and we'd go to the lobby and people would mix together and talk about things, sometimes it would be about fishing, or their families, or hunting, whatever it might be. Other times it was the problem at hand, and a lot of times solutions came from that. We maintained a relationship that way.

The staff rep found that taking breaks together was 'a way to take the pressure off the negotiations.' Stress and anger in the group were dealt with by saying 'let's just take a break here.' The relationship was also put on a human level by having lunch, catered by the company, brought in and eaten together every day. The key, said the manager, was showing that despite their different roles in life, the objectives of people on both sides were not completely opposed: 'Having different philosophies doesn't mean you can't disagree and still work together. You know, every strike comes to an end, every lockout comes to an end sometime, the trick is to avoid that and try to have a better way of doing business.'

Trust

Trust plays a paramount role for many practitioners in their adoption of interest-based bargaining. In fact, the manager identified gaining trust as the first step. The first few days of joint training were spent building the relationship, airing old problems and past hurts. Those first days, he said, were a chance for members of both negotiating teams to show their vulnerability and humanity and clear up misperceptions of each other.

Before becoming a full-time staff member of the union, the staff rep had worked as a miner for another company in the town. This company had a very poor labour relations climate, and hundreds of grievances were always outstanding. The staff rep indicated that under no circumstances would he have agreed to undertake interest-based bargaining had it been proposed by this company. In that bargaining situation, the staff rep had to be cautious: 'Sometimes you had to watch what you were saying, because you could have been set up for something else.' Trust and openness were clearly not part of that relationship.

The staff rep's experience at the other mine is telling, since it illustrates not only that trust is essential for parties to agree to attempt interest-based bargaining but also that in some cases this process simply will not work. In those cases, labour relations managers need to take a long-term view of the shift and work for many years to build trust before trying anything as radical as interest-based bargaining.

The manager found that certain issues lent themselves well to interest-based bargaining, including seniority, hours of work, and contracting out. Another benefit of interest-based negotiations was the elimination of 'laundry lists' of demands prepared by both the union and the company. Typically, many items are there strictly for the purpose of being exchanged for something else, and they are not really desired or logical choices. Inefficiency can result when an unwanted item actually makes it into the agreement, and much time is wasted on 'horse-trading' insignificant items.

Laundry lists did not form a part of the interest-based negotiations. The manager explained that 'if you get a long list of demands you just go through them and ask, "Why is that proposal there?" and everybody around the table has input into that and you sort it all out and there's really no problem. Why was it there? Well, it was there because somebody thought it might be traded away.'

Evaluating the Results

The interest-based negotiations at this Northern Ontario gold mine were considered successful by both sides until monetary issues were broached as the final items. Success, according to the staff rep, meant that the contract language was cleaned up and 'the company understood the issues as we saw them, and we understood the problems they had.' He attributed the success to the personalities of those involved in the negotiations, to the level of trust, which was vital, and to concern from both sides for the issues.

The staff rep was particularly impressed with the successes achieved in simplification of contract language. He estimated that between 40 and 50 percent of the contract language was rewritten, or at least touched upon, during the negotiations. Traditional negotiations, he said, would not have been concerned at all with trying to clarify old and obscure language. Both sides benefit from clearly written clauses, especially, as mentioned, the line managers who have to interpret the collective agreement on a day-to-day basis.

The success that was achieved in bargaining nonmonetary issues in this case can be attributed to several factors. The manager stressed the importance of individual and group personal commitment to the process. The staff rep stressed the importance of intragroup dynamics on the bargaining committee: 'If you have a bargaining committee that got into squabbles about contentious issues, that would be difficult, but I didn't run into that.' He also found it absolutely vital to have at least one person at the negotiating table who was experienced in the interest-based negotiating process. This person was in fact the manager: he 'was a good person to have sitting at the table, actually.' The staff rep also emphasized that it was important for the union to do periodic checks to ensure the process was working properly: 'There were times where the committee said, "OK, is this thing working?"'

In some cases, labour relations managers need to work for many years to build trust before trying anything as radical as interest-based bargaining.

When the union became uncomfortable during monetary discussions, both sides agreed to switch the bargaining method.

Monetary Issues

Principled bargaining through the use of objective criteria played an important role when monetary issues were discussed. Objective criteria were gathered using an industry compensation survey. The company did an extensive market survey on many aspects of the contract, such as wages, contracting out, statutory holidays, and vacations. The company determined in advance where it wanted to be in relation to the market, and the definition of the market itself was agreed upon to prevent 'cherry picking,' that is, choosing survey information that helps or hinders one's own position.

The accuracy of the benchmarked information was crucial, as was the determination of the appropriate market when the company wished to propose something that went below market standards or when the union proposed language that went above what the market would bear. Once the outside standards had been set by the surveys, the information was freely shared with the union. During principled negotiations, said the staff rep, 'everybody gets to state their [point of view]; nobody can manipulate the information.'

According to the manager, it had been anticipated during the training that the negotiation method would change if interest-based negotiations were not working. Consequently, when the union became uncomfortable during monetary discussions, both sides agreed to switch the bargaining method. Both the staff rep and the manager said that this second round of negotiations worked well: it was marked by a distinctly more respectful and pleasant atmosphere, due to the shared experience and enhanced relationship. The staff rep thought the negotiations 'were much more pleasant than they would have been. It was much easier to negotiate because we had set up the trust, and it would have been hard to go back on that.' The much more pleasant bargaining atmosphere was, of course, in marked contrast to the terrible strike that both sides had suffered through several years before.

The manager identified education and lack of stock ownership plans for all employees as hindrances to the use of interest-based negotiations in bargaining wages. He described how each mine, despite being owned by the company, was expected to be self-sufficient and would not be subsidized, except for capital equipment, which has a return on investment. The union and workers may have seen that the company had posted a world-wide profit of millions of dollars, and they may have seen the shareholder earnings and what the principles were paid. They may have expected raises as a result, even if their own mine had merely broken even. Unions and workers have to be educated in—and accept—the idea that their mine must be self-sufficient if wages are to be negotiated integratively. Employee stock ownership might contribute to success in interest-based wage negotiations, since workers would have more stake in making the company profitable by keeping costs down. Whether each plant is also treated as a separate self-sufficient company in setting management compensation is unknown. However, if a double standard did exist, principled bargaining would be rendered more difficult.

Enhanced Relationship

There were different interpretations of the labour-management relationship at the mine after interest-based negotiations were concluded. According to the manager, the enhanced relationship continued for some time. The players now knew each other personally, and there was a shift in day-to-day relations:

We took the initiative. The union also took the initiative, and we worked hard together at the operations level. If there was a problem or potential grievance there were many cases where the union would come to the company first and say, 'look, we have this particular problem here, we want to talk about it and if we can solve it without having to resort to the grievance procedure all the better.'

The staff rep took a different view of the relationship after negotiations, however. Although he described the labour relations climate as somewhat improved, especially compared to the climate during and immediately after the 1990 strike, he reported that labour relations have since gone downhill due to a layoff of forty employees, shortly after the bargaining concluded. The layoff did not seem to have followed interest-based methods. In fact, the standard unilateral method was used: employees simply received letters advising them of their layoffs. The staff rep also found errors in the allocation of layoffs: 'the company did not do things the way they should have. We ended up with several arbitration cases. So things went downhill because of that layoff.'

Thus, the company did not take advantage of an early opportunity to attempt interest-based day-to-day interactions. It is difficult to speculate why without a fuller understanding of the relationship, history, and circumstances. However, one must begin by asking whether necessary layoffs can possibly be handled integratively. Seniority usually governs layoffs, and a conservative interpretation of the contract determines seniority. There may simply not have been a better way to proceed, but, on the other hand, the labour relations department's vision may have differed from that of head office. There may have been a philosophical difference at the upper levels of management: such differences are not uncommon and can easily derail the best-intentioned interest-based relationship.

Clearly, then, the most controversial question was whether the enhanced relationship continued after the interest-based negotiations ended. Although no employee satisfaction surveys were done, the manager detected an improved work relationship and atmosphere. But, as mentioned, the staff rep was disappointed by the layoff, which indicated to him that there had been no fundamental shift in labour-management relations. He sensed that labour relations had gone downhill since the layoffs. Nonetheless, relations were better than they had been following the 1990 strike and remained reasonably calm. The staff rep reported that there were only about a dozen active grievances from the mine on his desk.

Recommendations

The manager offered a caveat about ongoing training: one intensive training session is inadequate. People come and go on negotiating committees, 'and they have to be brought up to speed. The union may have new people on their bargaining committee and the company may have new people. They have to be trained in the process and also buy into it.' A carefully nurtured relationship can be threatened by a single cynic or by inadequate training. Because union negotiators are often elected, their turnover tends to be considerably higher than that of the permanent management staff, whose job it is to negotiate for the company. High turnover is antithetical to the durability of interest-based bargaining.

The staff rep had some caveats as well. The process must be well-conceived and followed carefully, and, as mentioned, the labour relations climate has to be appropriate. In some cases, interest-based bargaining would simply be a waste of time. For example, the staff rep was also bargaining with a nearby mine that was scheduled to close in 1999. Since severance packages were the only issue being negotiated and there was no future relationship to protect, only the traditional distributive approach was worthwhile.

The staff rep shared the opinion in the literature that interest-based bargaining probably would not work if there was an incomplete understanding of, and commitment to, the process. He was approached by another global gold mining company to try interest-based bargaining. The company felt that interest-based bargaining did not require training: if the parties wanted to do it, it would just happen. But the rep believed that you have to have an understanding of the process, and refused to attempt it with this mine. When deciding whether to pursue interest-based bargaining, he added, 'you have to look at each situation separately.'

The most controversial question was whether the enhanced relationship continued after the interest-based negotiations ended.

Both the manager and the staff rep expressed concerns with how much longer interest-based bargaining took.

Both the manager and the staff rep expressed concerns with how much longer interest-based bargaining took. The staff rep reported that the process took over twice as long as a typical contract negotiation. The manager indicated, however, that it was worth the extra time to get better results.

The staff rep was torn between which type of negotiations he found more difficult to do, but overall he found traditional negotiations a little easier. On the one hand, he was originally trained in traditional negotiations, on the job, by the union. On the other hand, interest-based negotiations were more difficult, in part simply because they are different. Negotiations tend to be very draining, particularly for the spokesperson. The staff rep said he 'can work at physical labour for ten hours a day and not be as tired as after a day of negotiations. I do it all the time now, so the others on the bargaining committee find it worse than I do.' However, the manager, found interest-based negotiations easier due to the lower stress levels, more input, less game playing and the fact that 'you're not trying to guess what's happening all the time. Everything is out in the open.'

Analysis of the Case

As we have seen, the integrative-distributive bargaining synthesis was proposed by Cutcher-Gershenfeld (1994) because many items in the bargaining mix do not lend themselves to an interest-based solution. This synthesis was adopted in the bargaining relationship studied here, and it seems to have worked quite well. The parties bargained integratively when it was appropriate (for example, for health and safety issues), and they used distributed methods when necessary (when bargaining for wages, for example). The synthesis improved the tone of all negotiations.

This case was a level-one intervention, to return to the terminology of Hechscher and Hall (1994), because the extensive organizational change required for a level-two intervention did not occur. However, the bargaining relationship might be described as a sophisticated or as an advanced level-one intervention because, while the necessary enhanced relationship did not continue after the negotiations ended, it was recognized that it should have. There is hope that the next round of bargaining might result in a more permanent relationship shift.

Another example of the sophistication of this level-one intervention was that it was seen as a strategic process, a business decision that would integrate into the rest of the business functions of the company, perhaps as a first step toward thoroughly transforming the labour relations system at the mine.

To summarize, this case is again an excellent example of the properly executed interest-based negotiations that are described in the literature. The negotiators were trained together, and there was open discussion and thus little miscommunication. The seating arrangements were as recommended, there was no note-taking except for the flip charts, and all members of the bargaining team were encouraged to speak, not just designated spokespeople. There was a focus on getting to the root of each problem and solving it together. Finally, the agreement was not written by the company but by both sides together.

The Future

It is difficult to maintain the momentum for change in a field like labour relations where political problems make interest-based bargaining very fragile indeed. As the manager noted, 'if you have been doing something for twenty years the same way and then you go and do something different, you're uncomfortable, so it is very easy to slide back into the old ways if you aren't careful to ensure you stay on track.' Nonetheless, he remains optimistic: 'it's difficult because it's a major shift in the way labour relations has been practiced in North America for the last hundred years. You can't change it overnight. You have to get some of the old dinosaurs out first, and once that happens, it'll become commonplace someday. But it will take a while.'

Conclusion

Conflict resolution in North America has been strongly influenced by Fisher and Ury and their successors. However, this influence has not truly permeated collective bargaining. It is widely accepted that interest-based bargaining is highly desirable, even necessary: there are real benefits for both union and management. Controversy arises concerning aspects of training and implementation, its universal application, and its place in the overall labour relations system.

Interest-based bargaining is in direct contrast to distributive bargaining in many ways. Unlike traditional bargaining, interest-based bargaining involves joint training, open and honest discussion, a focus not on positions but on the interests behind them, a joint search for creative solutions, a non-confrontational room layout, the opportunity for all members of the negotiating committees to contribute to the discussions, and contract language written by the parties together.

Success in interest-based bargaining is best defined by the participants in the bargaining relationship. Usually, success means a good agreement (one that makes both parties better off) negotiated in a relatively pleasant atmosphere, with an enhanced labour relationship. Failure can take a number of forms. Interest-based negotiations can break down, resulting in a strike or lockout. An agreement can be reached that does not satisfy both sides' interests. Negotiations can even revert to the distributive model. The most common failure in interest-based bargaining is a failure to entrench an interest-based approach in all day-to-day aspects of labour relations, not only contract negotiations.

When items arise that cannot be negotiated integratively, choosing to move to principled negotiations instead of to traditional bargaining makes sense. Principled negotiations, in which objective criteria are used to provide a logical resolution, solve distributive issues outside of power differentials, and, like interest-based negotiations, tend to result in a better post-bargaining relationship by ensuring a fair substantive outcome. The danger lies in the naïve belief that all problems can be solved using interest-based negotiations. That attitude ignores the fundamentally distributive nature of certain conflicts, and it will not result in a wise agreement. Using objective criteria in a principled negotiating framework can help the parties come to an agreement that both see as fair and logical.

The case study reported here illustrates many of these generalizations. The attempt at interest-based negotiations was precipitated by a bitter strike, but the distrust that had resulted had retreated enough for the company to propose an intensive off-site training session. Both sides were impressed with the training, and the union agreed to participate in interest-based bargaining. The actual negotiations followed the recommendations found in the literature, including such innovations as the parties taking lunch together every day. Constituent pressure on the union was a factor, but the union did not allow itself to be swayed by allegations of collusion with management. Many issues were dealt with integratively, and the negotiators moved to principled bargaining only when wages were discussed. The language was composed by the parties together, with the help of subcommittees. Both sides considered the results a success, with a vastly improved agreement that would be easier for both sides to administer. There were different interpretations of whether the enhanced relationship continued once the negotiations were over; management's handling of the layoff seems to indicate that a transformation to an interest-based problem-solving organization had not taken place.

Considerably more long-term research remains to be done on this subject. Fisher and Ury's principled negotiations model needs considerably more elaboration and evaluation, particularly in the labour relations field. Other areas requiring research include the effects of negotiator turnover on the process, and analysis of specific bargaining outcomes to evaluate whether integratively bargained clauses are superior to those negotiated traditionally, the short-term and long-term benefits of interest-based bargaining, and, perhaps most importantly, concrete ways an enterprise can facilitate its shift towards becoming an interest-based organization in its day-to-day problem solving and labour relations. Until more research has been done, practitioners who wish to use interest-based negotiations must learn the lessons from this study, traverse the various obstacles to implementation, separate the two models put forward by Fisher and Ury, and have realistic expectations of what can be achieved.

Success means a good agreement negotiated in a relatively pleasant atmosphere, with an enhanced labour relationship.

References

- Cutcher-Gershenfeld, Joel E. 1994. Bargaining over how to bargain in labor-management negotiations. *Negotiation Journal* 10(4):323-35.
- Cutcher-Gershenfeld, Joel E., Robert McKersie, and Richard Walton. 1995. *Pathways to change: Case studies of strategic negotiations*. Kalamazoo, MI: W.E. Upjohn Institute for Employment Research.
- Fisher, Roger, and William Ury. 1991. *Getting to yes: Negotiating agreement without giving in*. 2d ed. New York: Penguin.
- Friedman, Raymond A. 1992. From theory to practice: Critical choices for mutual gains training. *Negotiation Journal* 8(2):91-8.
- Friedman, Raymond A. 1994a. *Front stage, backstage: The dramatic structure of labor negotiations*. Cambridge, MA: MIT Press.
- Friedman, Raymond A. 1994b. Missing ingredients in mutual gains bargaining theory. *Negotiation Journal* 3(3):235-43.
- Heckscher, Charles, and Lavinia Hall. 1994. Mutual gains and beyond: Two levels of intervention. *Negotiation Journal* 10(3):235-48.
- Hunter, Larry W., and Robert B. McKersie. 1992. Can mutual gains training change labor-management relationships. *Negotiation Journal* 8(4):319-30.
- Lewicki, Roy J., and Joseph A. Litterer. 1994. *Negotiation*. Homewood, IL: Irwin.
- Susskind, Lawrence E., and Elaine M. Landry. 1991. Implementing a mutual gains approach to collective bargaining. *Negotiation Journal* 7(1):5-10.
- Walton, Richard E., and Robert McKersie. 1965. *A behavioral theory of labor negotiations*. New York: McGraw-Hill.
- Walton, Richard E., Joel Cutcher-Gershenfeld, and Robert B. McKersie. 1994. *Strategic negotiations: A theory of change in labor-management relations*. Boston, MA: Harvard Business School Press.
- Weiss, David S. 1996. *Beyond the walls of conflict: Mutual gains negotiating for unions and management*. Chicago: Irwin