

SECTION ONE

The Nature of Negotiation

How to Get Them to Show You the Money

Alan M. Webber

It was the phrase of 1997: “Show me the money!” and though the words came from the movie *Jerry Maguire*, they originated in the world of Leigh Steinberg, agent to the sports elite, who was the model for Tom Cruise’s character and whose office memorabilia doubled as that of the movie’s fictional agent. Steinberg, 49, has been negotiating high-profile, high-stakes contracts for 24 years—ever since he stumbled onto the field of sports law by helping out Steve Bartkowski, a fellow University of California graduate who became the top NFL draft pick in 1975. Bartkowski landed what was then the richest rookie contract ever—\$650,000 for four years—and Steinberg began his career as a sports lawyer.

Now Steinberg’s firm, Steinberg & Moorad, represents more than 100 athletes and negotiates multimillion-dollar deals for such clients as Troy Aikman, Steve Young, Drew Bledsoe, Warren Moon, and Ryan Leaf. Sensing the growth of the free-agent market in the business world, Steinberg is now exploring ways to expand his practice to include negotiating on behalf of the talent that companies need to attract. As a lawyer and a businessman, Steinberg is involved in several high-tech ventures, including Interplay Productions Inc. (a video-game publisher), Motion Vision Inc. (which sells sports trading cards that show athletes in action via digitized video), and EastSport (which puts sports programming on the Web).

What distinguishes Steinberg’s sports-representation practice, however, is his approach to negotiation. To Steinberg, negotiations are a part of everyday life, and they need to be handled with a clear focus and a principled philosophy: “The goal,” he says, “is not to destroy the other side. The goal is to find the most profitable way to complete a deal that works for *both* sides.” Steinberg insists that his clients look at their negotiations, and at their athletic careers, not just as tests of talent but as tests of character as well. He also encourages them to “give back” part of their huge paychecks to their community—by establishing foundations or by contributing to causes.

In the recently published *Winning with Integrity: Getting What You’re Worth without Selling Your Soul* (Random House, 1998, written with Michael D’Orso), Steinberg

lays out his philosophy of business, his approach to negotiating, and his techniques for achieving positive results. To find out how you can get people to show *you* the money, Fast Company interviewed Steinberg in his office in Newport Beach, California.

EVERYONE IS A NEGOTIATOR

We're always negotiating, every day of our lives and in every kind of situation—whether it's a boyfriend and girlfriend deciding which movie to see, a husband and wife deciding which city to live in, a customer looking to buy an automobile, or an employee trying to get a raise. We all negotiate. But many of us still have a fundamental fear of negotiation. That fear can make us act meek and obsequious—which means that we're likely to end up with our goals unmet. Or it can make us behave aggressively and angrily—which would break down the discussion altogether. Anybody can learn to negotiate. There is no magic. There are no mirrors. What you need is an understanding of human psychology and an open mind. You need to be able to listen and to have respect for the other person in the negotiation. You don't need to be the stereotypical tough guy. You need to look at negotiations as a process that can be exciting, as an opportunity to improve your condition or to enhance your situation, rather than as a terrifying confrontation.

FIRST, NEGOTIATE WITH YOURSELF

The first key step is introspection. You need the clearest possible view of your goals. And you need to be brutally honest with yourself about your priorities. There are no perfect situations in life, so you will need to make choices. If you don't face that fact, you run the risk of cognitive dissonance: You'll feel increasingly torn between mutually exclusive alternatives, and you'll become more and more confused. That confusion leads to stress, and since the human psyche can withstand only so much stress, you'll be tempted to make a decision—even if it's the wrong decision—just to relieve that stress.

So you start with a comprehensive personal inventory: What do you value most? Is it short-term gain or long-term security? Is it the ability to live or work in a certain geographic area? Is it the culture of your company or the attitudes of the people you work with? Is it a high degree of autonomy or an opportunity to be creative? Is it something as simple as the hours you work, the amount of vacation time you get, or the size and quality of your office? In this constellation of values, each factor may be important. But the question is, What is *most* important? Before you enter a negotiation, you need to establish your priorities.

MOVE FROM YOUR VALUES TO YOUR VALUE

After you've come to terms with your own values, the next step is to understand your value in the world. What are your unique skills and talents? Are you irreplaceable because of those skills and talents, or could anyone fill your slot? To answer these questions, you need to do some research into your own performance—and there are all sorts of tools that you can use. There are internal and external documents that address the

issue of employee value, and sometimes you can get actual employee ratings. You can also get important information by talking and listening to other people: What is the market for your services outside your company? What are employees paid at other, comparable companies?

You also need to do research on the person you'll be negotiating with. What is his agenda? How much authority does he have? Is he attempting to impress his boss? What is his track record? Can you find out about previous negotiations that he has been in? What are his negotiating tendencies?

Next, assemble that information into a document that tells your story. Think of it as equivalent to the storybook that I create for sports negotiation: My document details, say, a quarterback's efficiency rating—his completed passes, his touchdowns versus interceptions—as well as his team's overall performance. Your document could include charts that show how productive you've been: This is where sales stood the day I began my job, and this is where they stand today. That's the story of your personal performance. You could also discuss company goals and performance.

But remember: Make sure that this is a confidential document, particularly if it contains head-to-head comparisons and actual rankings. You don't want it to create problems with your coworkers. The important thing is to present a theory about why you merit a certain level of compensation or a certain work situation. Your story should advance that theory.

FIND OUT THE OTHER PERSON'S AGENDA—AND EMBRACE IT

As you do your research, you must put yourself into the mind of the person you'll be negotiating with. You need to ask yourself a set of questions about his point of view: What represents a successful result for him? What will constitute a win for him in a negotiation session? How can you make him look better?

Find out the other person's agenda. And assume that he will be doing the same with you. You must come into a session with your homework done. Otherwise, you'll be showing the other side a fundamental lack of respect.

PRACTICE DEALING WITH FEAR

Most negotiating is tap dancing on the edge of an abyss. The reality is that this may be the best job for you, this may be the most money you will ever make—and yet, if you allow fear to fill you with anxiety, it can paralyze you. So, in any negotiation, part of your mental preparation must be to deal with fear. Remember that walking away from a negotiation is always an option. You've got to ignore the fear that you may find yourself unemployed.

The best analogy is to the fear of death. It's inevitable that we're going to die. That's a fearsome prospect, an inescapable reality. And yet the only way to live well is to come to peace with that fact and not to let it haunt your every moment. Fear comes with the territory of negotiation. But fear needs to be managed, and it needs to be kept in perspective. One way to diffuse your fear is to confront the words that make you afraid, so that they lose some of their sting. Practice saying the words that are hardest for you to hear,

or that are hardest for you to say: “If you won’t take this proposal, then I guess we have nothing more to talk about.” “I’m going to have to start looking for someone to replace you.” Or, if you’re trying to get up the courage to walk away: “Obviously this is not the place for me. I’m looking for a new job.” Rid these words of their power to paralyze.

WHOSE REALITY WILL PREVAIL?

Ultimately, negotiating is all about whose concept of reality is going to prevail. You’re facing an amorphous, confusing situation with dozens of variables. Whose vision will prove the most compelling?

In some cases, it’s hard to know whom you’re dealing with. Is an advertising executive simply one person in a big mass of people? Is he an easily replaceable part of a system that’s been in operation for a long time? Or has he pioneered techniques that have opened up new profit centers? Has he changed the company’s bottom line? Those questions reflect competing versions of reality.

Here’s an example from the NFL. I recently finished a negotiation for Warren Moon, the quarterback of the Seattle Seahawks. Now, is Warren Moon a 41-year-old player who is hanging on by a thread and who is lucky to be employed in the first place? Should he be grateful for *any* money that the team pays him? Or is he a quarterback who was among the league leaders in completions and attempts last year? Is he a team leader who took a previously moribund group of players, united them, helped them have the best record that they’ve had in recent years? Is he a testament to the fact that talent can come at any age?

In *our* reality, Warren Moon is critical to the resurgence of his team. He makes the players around him better. And off the field, he is instrumental in selling season tickets, in filling the stands, in interacting with advertisers, and in generating ancillary revenue sources for the NFL and for his franchise—in a way that no one else can. That’s our version of reality.

IT’S NOT PERSONAL—IT’S STRICTLY BUSINESS

Negotiations can get emotional. But you need to remind yourself that they’re about business. It’s natural for someone to try to save money, so don’t let that attitude be a startling revelation when you walk in to negotiate. And remember, money doesn’t reflect your worth as a human being, your value, or whether you live an ethical life.

I know this kind of thing as an employer. When it comes time for me to talk to my employees about compensation, the same thing always happens. After I’ve rationally figured out a fair salary for someone, and then added a little more for motivational purposes, I sit down with that employee, and inevitably he starts with a figure far above what I’ve conceptualized. Now, it makes no sense for me to sit there and feel grossly offended. I have to remember that this person’s expectations aren’t grandiose. From his point of view, what he’s asking for probably makes a lot of sense.

That person may not even be saying that he really needs all that money. He may be saying that he needs more recognition. There are all sorts of things that a person may want to say, but those things are usually manifested as demands for more money.

IT'S NOT ABOUT WHAT'S FAIR

There are jobs that are so much fun that you would pay your boss to let you do them! But you can't allow the discussion to turn on your personal circumstances. The real question is, What is the market value of what you do?

I recently negotiated a contract for Ryan Leaf with the San Diego Chargers. As a student last year, Ryan had been living on scholarship money at Washington State University. At a certain point in the negotiation, the Chargers' general manager turned to Ryan and said, "How can you ask for so much? You're going to be rich under any circumstances. All we're talking about is *how* rich you're going to be."

There's some truth in that. But there's also truth in the fact that professional football generates tremendous revenue, and that players take enormous risks. I ended up getting Ryan Leaf \$11.25 million as a signing bonus. But I could never have done that if the focus had been on how much he liked to play football or on how little money he had made at college—because the truth is, he might play football for nothing. That is a very important truth, but it's got nothing to do with what's fair in the world.

NEVER SPLIT THE DIFFERENCE

There are many ways to negotiate. The reasonable-person theory says that a reasonable person ought to ask for money or conditions that are very close to what he actually wants and that are close to what is fair. The problem is that those two things are often very different. If the market value for a service is \$100,000, and the employee asks for \$500,000, and the employer offers \$95,000, then splitting the difference makes no sense. In a situation like that, if you simply split the difference, you'd end up with a bizarrely unfair result. At that point, the employer has to assume that he's not dealing with a serious negotiator, because there's no validity to the \$500,000 request.

THE SAD TRUTH OF THE INEVITABLE FUDGE FACTOR

In most one-on-one negotiations, in which there are no other parties who might be interested in bidding on your services, my suggestion is that you start by making a proposal that is reasonable—but that has some fudge factor to it. It's a sad aspect of human nature, but it's a fact of life: We don't feel satisfied unless we've gone through a process that involves bargaining back and forth. All human beings like to feel some sense of achievement. They want to feel that they've won something. And they also like to justify the time they spent in the negotiating process. So you've got to play the game: Your first proposal needs to be higher than what you would ultimately take.

HOW TO DEAL WITH DEADLOCK

There is an absolutely predictable point in all negotiations when you appear to be deadlocked. And the question arises: Now what? First, when you're preparing to negotiate, you should assume that this moment will come sooner or later. When it does, don't be surprised, and don't get frustrated. Simply assume that in any negotiation process, a

schism, a chasm, a seemingly unsolvable problem will occur. Second, the key to getting through that situation is emotional resilience. You have to face the seemingly impossible deadlock, and then step back—for five minutes, for an hour, or for a couple of days. It could involve simply taking a short break, going for a walk, or moving away from the point that's produced the deadlock, or it could involve shifting to a new setting and changing the context of the negotiation.

When you and the other party get back together, you'll both return with new and creative ways to solve the problem. Both sides can use the break to refocus on the value that they offer each other. They can stop focusing on the specific issue that they're deadlocked over and instead start focusing on the valuable end point of the negotiation: Someone will have a job that he loves, and someone will have an employee whom he will treasure. The goal should be to get back to the original purpose of the negotiation.

IT CAN ALWAYS GET WORSE

There's one last thing to remember about the hard part of negotiating, about that point when the discussion comes to a stop, when you're thinking that you might do better to walk away than to resolve the deadlock—because, you think, things can't get any worse. But let me assure you, they *can* get worse. Unintended consequences occur all the time as a result of botched negotiating sessions. Football players end up being needlessly cut from teams. Careers get cut short before people have really produced their best work.

It is not a victory to play a game of chicken and to let the two cars collide: One car gets totaled, and its driver is lying on the ground in critical condition; the other car has its steering wheel intact, and one of its wheels still works—but let me assure you that its driver is also in critical condition. He did not win. When it comes to negotiating, you can't let the Neanderthal side of your nature dominate. You need to rise above that.

WHEN YOU'RE GOING TO LOSE, GET CREATIVE

Never push a totally losing argument to the end. When you start to face a deadlock and you know that you can't win, it's time to back off. That's when you push yourself to think of a new way to solve the problem.

Here's an example. At one point, the negotiation that I just finished on behalf of Warren Moon was breaking down. The Seahawks' management was concerned that if it paid Warren a signing bonus, and then he retired next year, some portion of that bonus would count against the team's salary cap—which would limit the amount of money that the team could use to sign someone else. So, for instance, if the Seahawks paid Warren a signing bonus of \$3 million on a two-year contract, and Warren played for only one year, the team would be held accountable under the salary cap for \$1.5 million in the second year. And since they looked at Warren and saw a player who would then be approaching his 43rd birthday, this was a serious issue—so serious that it produced a deadlock that went on for quite a while. Finally, we decided to try something different. We suggested a new provision: If Warren did retire, he would pay back a portion of the signing bonus.

We treated the team's concerns as legitimate and came up with a way to get what we wanted: the signing bonus and the two-year contract. Instead of just speechifying, we thought of something that we could live with—something that was less than perfect but still very desirable. Often, when you get into a deadlock, that's the moment when creativity comes into play.

A NEGOTIATION IS NOT A SEARCH-AND-DESTROY MISSION

In most cases, a negotiation will not be the last time you interact with the other side. And since you will keep interacting with the other side, either in the workplace or in later negotiations, your goal should be to find the most profitable way to complete a deal that works for both sides. The one sure thing that I know about business is that, if you've got your foot on someone else's neck, at some point in the future, that person will have his foot on your neck.

And you never want to treat any one negotiation as the last opportunity to get a fair result. If you come to what seems like a horrendous confrontation, look for a way to take care of the problem that avoids a monumental blowup. You need to look at the whole picture and at the whole relationship—especially at your long-term interests—as opposed to obsessing over the current situation. You can't afford to lose that perspective.

IT'S NOT JUST A CONTRACT—IT'S YOUR REPUTATION

Let's say that you agreed to a deal that gives you \$100,000 in salary and two weeks of vacation, but the contract you get calls for \$105,000 in salary and three weeks of vacation. Do you sign the contract?

The answer is, no, you don't sign it—because those terms aren't what you agreed to. It's possible that, if you bring the discrepancy to the attention of people on the other side, they may feel indebted enough to do something for you. At a minimum, they will know that you're someone they can trust. I tell the lawyers in our firm, "It's acceptable if we don't get every last client or piece of business that we want. It's *never* acceptable if you lie or mislead someone—that's the one thing that can destroy what we do."

THE ART OF CLOSING A DEAL

There are a few things to keep in mind about closing a deal. Most people—especially on the employer side—will have concessions that they're willing to offer to get the deal done. So the concept of "if it will make the deal" is always worth keeping in mind. One way of doing a deal can be first to agree on a general framework that's still somewhat sketchy, and then to work out the rest of the deal—because at that point, conflict has been replaced by partnership, and both sides have dropped their defenses.

But you can't allow the feeling of exultation, or of relief that the process is almost done, to dull your senses. There are critical points at the end that need to be negotiated and documented. That's when you should draw on your mental discipline: You shouldn't be concerned with what time the last flight leaves. You shouldn't start thinking of what it would be like to surprise your wife by being home half a day early. You must remain focused until the very end.

There is another part of negotiating that you need to anticipate: As a deal comes to a close, there will again be seemingly unsolvable problems. One side or the other is very likely to look at some part of the deal and say, “If that’s what you meant, then the whole deal is off.” At that point, it’s important for you to provide motivation. You may need to buck up people on the other side, to encourage them to stay with the process—“Look, we’re almost done. This always happens at this stage”—because at the very last minute, charges of bad faith can surface. You started with wariness, but then you worked through it to achieve what you think is a partnership, and now, as both sides let their guards down, something arises that seems to threaten the whole deal. As hard as it may be, that’s the time for you to stay rational.

TAKE TIME TO CELEBRATE

Once the deal is done, remember to have some kind of a ceremonial function. Take a moment to give yourself a sense of emotional completion. Have a celebration with the other side. Have dinner together. Have a drink together. Give each other a present. Do something that commemorates the moment and makes it special. Symbolism is important.

When I finished the deal for Troy Aikman with Jerry Jones, the owner of the Dallas Cowboys, or the one for Drew Bledsoe with Robert Kraft, the owner of the New England Patriots, we all sat down together to sign footballs and jerseys. We made one memento for each of us, so that everyone had a trophy to celebrate the deal.

Did you really graduate from school if you didn’t go through your graduation ceremony? Yes. But do you have the *feeling* of completion? Probably not. So when you reach the end of the deal, be sure to celebrate what you’ve accomplished—and to treat it as something that both sides can feel good about.

Three Approaches to Resolving Disputes: Interests, Rights, and Power

William L. Ury

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It started with a pair of stolen boots. Miners usually leave their work clothes in baskets that they hoist to the ceiling of the bathhouse between work shifts. One night a miner discovered that his boots were gone.¹ He couldn't work without boots. Angry, he went to the shift boss and complained: "Goddammit, someone stole my boots! It ain't fair! Why should I lose a shift's pay and the price of a pair of boots because the company can't protect the property?"

"Hard luck!" the shift boss responded. "The company isn't responsible for personal property left on company premises. Read the mine regulations!"

The miner grumbled to himself, "I'll show them! If I can't work this shift, neither will anyone else!" He convinced a few buddies to walk out with him and, in union solidarity, all the others followed.

The superintendent of the mine told us later that he had replaced stolen boots for miners and that the shift boss should have done the same. "If the shift boss had said to the miner, 'I'll buy you a new pair and loan you some meanwhile,' we wouldn't have had a strike." The superintendent believed that his way of resolving the dispute was better than the shift boss's or the miner's. Was he right and, if so, why? In what ways are some dispute resolution procedures better than others?

In this chapter, we discuss three ways to resolve a dispute: reconciling the interests of the parties, determining who is right, and determining who is more powerful. We analyze the costs of disputing in terms of transaction costs, satisfaction with outcomes, effect on the relationship, and recurrence of disputes. We argue that, in general, reconciling interests costs less and yields more satisfactory results than determining who is

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right, which in turn costs less and satisfies more than determining who is more powerful. The goal of dispute systems design, therefore, is a system in which most disputes are resolved by reconciling interests.

THREE WAYS TO RESOLVE DISPUTES

The Boots Dispute Dissected

A dispute begins when one person (or organization) makes a claim or demand on another who rejects it.² The claim may arise from a perceived injury or from a need or aspiration.³ When the miner complained to the shift boss about the stolen boots, he was making a claim that the company should take responsibility and remedy his perceived injury. The shift boss's rejection of the claim turned it into a dispute. To resolve a dispute means to turn opposed positions—the claim and its rejection—into a single outcome.⁴ The resolution of the boots dispute might have been a negotiated agreement, an arbitrator's ruling, or a decision by the miner to drop his claim or by the company to grant it.

In a dispute, people have certain interests at stake. Moreover, certain relevant standards or rights exist as guideposts toward a fair outcome. In addition, a certain balance of power exists between the parties. Interests, rights, and power then are three basic elements of any dispute. In resolving a dispute, the parties may choose to focus their attention on one or more of these basic factors. They may seek to (1) reconcile their underlying interests, (2) determine who is right, and/or (3) determine who is more powerful.

When he pressed his claim that the company should do something about his stolen boots, the miner focused on rights—"Why should I lose a shift's pay and the price of a pair of boots because the company can't protect the property?" When the shift boss responded by referring to mine regulations, he followed the miner's lead and continued to focus on who was right. The miner, frustrated in his attempt to win what he saw as justice, provoked a walkout—changing the focus to power. "I'll show them!" In other words, he would show the company how much power he and his fellow coal miners had—how dependent the company was on them for the production of coal.

The mine superintendent thought the focus should have been on interests. The miner had an interest in boots and a shift's pay, and the company had an interest in the miner working his assigned shift. Although rights were involved (there was a question of fairness) and power was involved (the miner had the power to cause a strike), the superintendent's emphasis was on each side's interests. He would have approached the stolen boots situation as a joint problem that the company could help solve.

Reconciling Interests

Interests are needs, desires, concerns, fears—the things one cares about or wants. They underlie people's positions—the tangible items they *say* they want. A husband and wife quarrel about whether to spend money for a new car. The husband's underlying interest may not be the money or the car but the desire to impress his friends; the wife's interest may be transportation. The director of sales for an electronics company gets into a dispute with the director of manufacturing over the number of TV models to produce.

The director of sales wants to produce more models. Her interest is in selling TV sets; more models mean more choice for consumers and hence increased sales. The director of manufacturing wants to produce fewer models. His interest is in decreasing manufacturing costs; more models mean higher costs.

Reconciling such interests is not easy. It involves probing for deep-seated concerns, devising creative solutions, and making trade-offs and concessions where interests are opposed.⁵ The most common procedure for doing this is *negotiation*, the act of back-and-forth communication intended to reach agreement. (A procedure is a pattern of interactive behavior directed toward resolving a dispute.) Another interests-based procedure is *mediation*, in which a third party assists the disputants in reaching agreement.

By no means do all negotiations (or mediations) focus on reconciling interests. Some negotiations focus on determining who is right, such as when two lawyers argue about whose case has the greater merit. Other negotiations focus on determining who is more powerful, such as when quarreling neighbors or nations exchange threats and counterthreats. Often negotiations involve a mix of all three—some attempts to satisfy interests, some discussion of rights, and some references to relative power. Negotiations that focus primarily on interests we call “interests-based,” in contrast to “rights-based” and “power-based” negotiations. Another term for interests-based negotiation is *problem-solving negotiation*, so called because it involves treating a dispute as a mutual problem to be solved by the parties.

Before disputants can effectively begin the process of reconciling interests, they may need to vent their emotions. Rarely are emotions absent from disputes. Emotions often generate disputes, and disputes, in turn, often generate emotions. Frustration underlay the miner’s initial outburst to the shift boss; anger at the shift boss’s response spurred him to provoke the strike.

Expressing underlying emotions can be instrumental in negotiating a resolution. Particularly in interpersonal disputes, hostility may diminish significantly if the aggrieved party vents her anger, resentment, and frustration in front of the blamed party, and the blamed party acknowledges the validity of such emotions or, going one step further, offers an apology.⁶ With hostility reduced, resolving the dispute on the basis of interests becomes easier. Expressions of emotion have a special place in certain kinds of interests-based negotiation and mediation.

Determining Who Is Right

Another way to resolve disputes is to rely on some independent standard with perceived legitimacy or fairness to determine who is right. As a shorthand for such independent standards, we use the term *rights*. Some rights are formalized in law or contract. Other rights are socially accepted standards of behavior, such as reciprocity, precedent, equality, and seniority.⁷ In the boots dispute, for example, while the miner had no contractual right to new boots, he felt that standards of fairness called for the company to replace personal property stolen from its premises.

Rights are rarely clear. There are often different—and sometimes contradictory—standards that apply. Reaching agreement on rights, where the outcome will determine who gets what, can often be exceedingly difficult, frequently leading the parties to turn to a third party to determine who is right. The prototypical rights procedure is adjudication,

in which disputants present evidence and arguments to a neutral third party who has the power to hand down a binding decision. (In mediation, by contrast, the third party does not have the power to decide the dispute.) Public adjudication is provided by courts and administrative agencies. Private adjudication is provided by arbitrators.⁸

Determining Who Is More Powerful

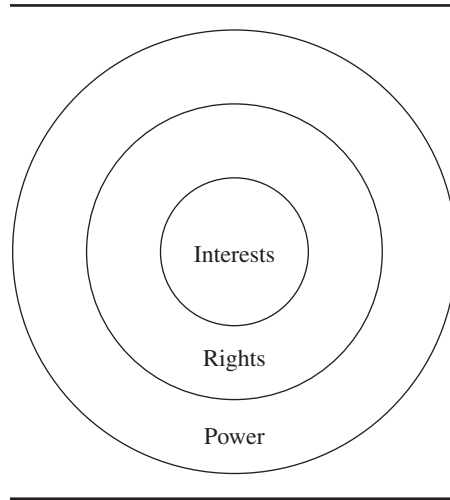
A third way to resolve a dispute is on the basis of power. We define power, somewhat narrowly, as the ability to coerce someone to do something he would not otherwise do. Exercising power typically means imposing costs on the other side or threatening to do so. In striking, the miners exercised power by imposing economic costs on the company. The exercise of power takes two common forms: acts of aggression, such as sabotage or physical attack, and withholding the benefits that derive from a relationship, as when employees withhold their labor in a strike.

In relationships of mutual dependence, such as between labor and management or within an organization or a family, the questions of who is more powerful turns on who is less dependent on the other.⁹ If a company needs the employees' work more than employees need the company's pay, the company is more dependent and hence less powerful. How dependent one is turns on how satisfactory the alternatives are for satisfying one's interests. The better the alternative, the less dependent one is. If it is easier for the company to replace striking employees than it is for striking employees to find new jobs, the company is less dependent and thereby more powerful. In addition to strikes, power procedures include behaviors that range from insults and ridicule to beatings and warfare. All have in common the intent to coerce the other side to settle on terms more satisfactory to the wielder of power. Power procedures are of two types: power-based negotiation, typified by an exchange of threats, and power contests, in which the parties take actions to determine who will prevail.

Determining who is the more powerful party without a decisive and potentially destructive power contest is difficult because power is ultimately a matter of perceptions. Despite objective indicators of power, such as financial resources, parties' perceptions of their own and each other's power often do not coincide. Moreover, each side's perception of the other's power may fail to take into account the possibility that the other will invest greater resources in the contest than expected out of fear that a change in the perceived distribution of power will affect the outcomes of future disputes.

Interrelationship among Interests, Rights, and Power

The relationship among interests, rights, and power can be pictured as a circle within a circle within a circle (as in Figure 1). The innermost circle represents interests; the middle, rights; and the outer, power. The reconciliation of interests takes place within the context of the parties' rights and power. The likely outcome of a dispute if taken to court or to a strike, for instance, helps define the bargaining range within which a resolution can be found. Similarly, the determination of rights takes place within the context of power. One party, for instance, may win a judgment in court, but unless the judgment can be enforced, the dispute will continue. Thus, in the process of resolving a dispute, the focus may shift from interests to rights to power and back again.

FIGURE 1 Interrelationships among Interests, Rights, and Power

Lumping It and Avoidance

Not all disputes end with a resolution. Often one or more parties simply decide to withdraw from the dispute. Withdrawal takes two forms. One party may decide to “lump it,” dropping her claim or giving in to the other’s claim because she believes pursuing the dispute is not in her interest, or because she concludes she does not have the power to resolve it to her satisfaction. The miner would have been lumping his claim if he had said to himself, “I strongly disagree with management’s decision not to reimburse me for my boots, but I’m not going to do anything about it.” A second form of withdrawal is avoidance. One party (or both) may decide to withdraw from the relationship, or at least to curtail it significantly.¹⁰ Examples of avoidance include quitting the organization, divorce, leaving the neighborhood, and staying out of the other person’s way.

Both avoidance and lumping it may occur in conjunction with particular dispute resolution procedures. Many power contests involve threatening avoidance—such as threatening divorce—or actually engaging in it temporarily to impose costs on the other side—such as in a strike or breaking off of diplomatic relations. Many power contests end with the loser lumping her claim or her objection to the other’s claim. Others end with the loser engaging in avoidance: leaving or keeping her distance from the winner. Similarly, much negotiation ends with one side deciding to lump it instead of pursuing the claim. Or, rather than take a dispute to court or engage in coercive actions, one party (or both) may decide to break off the relationship altogether. This is common in social contexts where the disputant perceives satisfactory alternatives to the relationship.

Lumping it and avoidance may also occur before a claim has been made, thus forestalling a dispute. Faced with the problem of stolen boots, the miner might have decided to lump it and not make a claim for the boots. More drastically, in a fit of exasperation, he might have walked off the job and never returned.

WHICH APPROACH IS “BEST”?

When the miner superintendent described the boots dispute to us, he expressed a preference for how to resolve disputes. In our language, he was saying that on the whole it was better to try to reconcile interests than to focus on who was right or who was more powerful. But what does “better” mean? And in what sense, if any, was he correct in believing that focusing attention on interests is better?

What “Better” Means: Four Possible Criteria

The different approaches to the resolution of disputes—interests, rights, and power—generate different costs and benefits. We focus on four criteria in comparing them: transaction costs, satisfaction with outcomes, effect on the relationship, and recurrence of disputes.¹¹

Transaction Costs. For the mine superintendent, “better” meant resolving disputes without strikes. More generally, he wanted to minimize the costs of disputing—what may be called the transaction costs. The most obvious costs of striking were economic. The management payroll and the overhead costs had to be met while the mine stood idle. Sometimes strikes led to violence and the destruction of company property. The miners, too, incurred costs—lost wages. Then there were the lost opportunities for the company: a series of strikes could lead to the loss of a valuable sales contract. In a family argument, the costs would include the frustrating hours spent disputing, the frayed nerves and tension headaches, and the missed opportunities to do more enjoyable or useful tasks. All dispute resolution procedures carry transaction costs: the time, money, and emotional energy expended in disputing; the resources consumed and destroyed; and the opportunities lost.¹²

Satisfaction with Outcomes. Another way to evaluate different approaches to dispute resolution is by the parties’ mutual satisfaction with the result. The outcome of the strike could not have been wholly satisfactory to the miner—he did not receive new boots—but he did succeed in venting his frustration and taking his revenge. A disputant’s satisfaction depends largely on how much the resolution fulfills the interests that led her to make or reject the claim in the first place. Satisfaction may also depend on whether the disputant believes that the resolution is fair. Even if an agreement does not wholly fulfill her interests, a disputant may draw some satisfaction from the resolution’s fairness.

Satisfaction depends not only on the perceived fairness of the resolution, but also on the perceived fairness of the dispute resolution procedure. Judgments about fairness turn on several factors: how much opportunity a disputant had to express himself; whether he had control over accepting or rejecting the settlement; how much he was able to participate in shaping the settlement; and whether he believes that the third party, if there was one, acted fairly.¹³

Effect on the Relationship. A third criterion is the long-term effect on the parties’ relationship. The approach taken to resolve a dispute may affect the parties’ ability to work together on a day-to-day basis. Constant quarrels with threats of divorce may

seriously weaken a marriage. In contrast, marital counseling in which the disputing partners learn to focus on interests in order to resolve disputes may strengthen a marriage.

Recurrence. The final criterion is whether a particular approach produces durable resolutions. The simplest form of recurrence is when a resolution fails to stick. For example, a dispute between father and teenage son over curfew appears resolved but breaks out again and again. A subtler form of recurrence takes place when a resolution is reached in a particular dispute, but the resolution fails to prevent the same dispute from arising between one of the disputants and someone else, or conceivably between two different parties in the same community. For instance, a man guilty of sexually harassing an employee reaches an agreement with his victim that is satisfactory to her, but he continues to harass other women employees. Or he stops, but other men continue to harass women employees in the same organization.

The Relationship among the Four Criteria. These four different criteria are interrelated. Dissatisfaction with outcomes may produce strain on the relationship, which contributes to the recurrence of disputes, which in turn increases transaction costs. Because the different costs typically increase and decrease together, it is convenient to refer to all four together as the costs of disputing. When we refer to a particular approach as “high-cost” or “low-cost,” we mean not just transaction costs but also dissatisfaction with outcomes, strain on the relationship, and recurrence of disputes.

Sometimes one cost can be reduced only by increasing another, particularly in the short term. If father and son sit down to discuss their conflicting interests concerning curfew, the short-term transaction costs in terms of time and energy may be high. Still, these costs may be more than offset by the benefits of a successful negotiation—an improved relationship and the cessation of curfew violations.

Which Approach Is Least Costly?

Now that we have defined “better” in terms of the four types of costs, the question remains whether the mine superintendent was right in supposing that focusing on interest is better. A second question is also important: when an interests-based approach fails, is it less costly to focus on rights or on power?

Interests versus Rights or Power. A focus on interests can resolve the problem underlying the dispute more effectively than can a focus on rights or power. An example is a grievance filed against a mine foreman for doing work that contractually only a miner is authorized to do. Often the real problem is something else—a miner who feels unfairly assigned to an unpleasant task may file a grievance only to strike back at his foreman. Clearly, focusing on what the contract says about foremen working will not deal with this underlying problem. Nor will striking to protest foremen working. But if the foreman and miner can negotiate about the miner’s future work tasks, the dispute may be resolved to the satisfaction of both.

Just as an interests-based approach can help uncover hidden problems, it can help the parties identify which issues are of greater concern to one than to the other. By trading off issues of lesser concern for those of greater concern, both parties can gain from the resolution of the dispute.¹⁴ Consider, for example, a union and employer negotiating over two

issues: additional vacation time and flexibility of work assignments. Although the union does not like the idea of assignment flexibility, its clear priority is additional vacation. Although the employer does not like the idea of additional vacation, he cares more about gaining flexibility in assigning work. An agreement that gives the union the vacation days it seeks and the employer flexibility in making work assignments would likely be satisfactory to both. Such joint gain is more likely to be realized if the parties focus on each side's interests. Focusing on who is right, as in litigation, or on who is more powerful, as in a strike, usually leaves at least one party perceiving itself as the loser.

Reconciling interest thus tends to generate a higher level of mutual satisfaction with outcomes than determining rights or power.¹⁵ If the parties are more satisfied, their relationship benefits, and the dispute is less likely to recur. Determining who is right or who is more powerful, with the emphasis on winning and losing, typically makes the relationship more adversarial and strained. Moreover, the loser frequently does not give up, but appeals to a higher court or plots revenge. To be sure, reconciling interests can sometimes take a long time, especially when there are many parties to the dispute. Generally, however, these costs pale in comparison with the transaction costs of rights and power contests such as trials, hostile corporate takeovers, or wars.

In sum, focusing on interests, compared to focusing on rights or power, tends to produce higher satisfaction with outcomes, better working relationships and less recurrence, and may also incur lower transaction costs. As a rough generalization, then, an interests approach is less costly than a rights or power approach.

Rights versus Power. Although determining who is right or who is more powerful can strain the relationship, deferring to a fair standard usually takes less of a toll than giving in to a threat. In a dispute between a father and teenager over curfew, a discussion of independent standards such as the curfews of other teenagers is likely to strain the relationship less than an exchange of threats.

Determining rights or power frequently becomes a contest—a competition among the parties to determine who will prevail. They may compete with words to persuade a third-party decision maker of the merits of their case, as in adjudication; or they may compete with actions intended to show the other who is more powerful, as in a proxy fight. Rights contests differ from power contests chiefly in their transaction costs. A power contest typically costs more in resources consumed and opportunities lost. Strikes cost more than arbitration. Violence costs more than litigation. The high transaction costs stem not only from the efforts invested in the fight but also from the destruction of each side's resources. Destroying the opposition may be the very object of a power contest. Moreover, power contests often create new injuries and new disputes along with anger, distrust, and a desire for revenge. Power contests, then, typically damage the relationship more and lead to greater recurrence of disputes than do rights contests. In general, a rights approach is less costly than a power approach.

Proposition

To sum up, we argue that, in general, reconciling interests is less costly than determining who is right, which in turn is less costly than determining who is more powerful. This proposition does not mean that focusing on interests is invariably better than

focusing on rights and power, but simply means that it tends to result in lower transaction costs, greater satisfaction with outcomes, less strain on the relationship, and less recurrence of disputes.

FOCUSING ON INTERESTS IS NOT ENOUGH

Despite these general advantages, resolving *all* disputes by reconciling interests alone is neither possible nor desirable. It is useful to consider why.

When Determining Rights or Power Is Necessary

In some instances, interests-based negotiation cannot occur unless rights or power procedures are first employed to bring a recalcitrant party to the negotiating table. An environmental group, for example, may file a lawsuit against a developer to bring about a negotiation. A community group may organize a demonstration on the steps of the town hall to get the mayor to discuss its interests in improving garbage collection service.

In other disputes, the parties cannot reach agreement on the basis of interests because their perceptions of who is right or who is more powerful are so different that they cannot establish a range in which to negotiate. A rights procedure may be needed to clarify the rights boundary within which a negotiated resolution can be sought. If a discharged employee and her employer (as well as their lawyers) have very different estimations about whether a court would award damages to the employee, it will be difficult for them to negotiate a settlement. Nonbinding arbitration may clarify the parties' rights and allow them to negotiate a resolution.

Just as uncertainty about the rights of the parties will sometimes make negotiation difficult, so too will uncertainty about their relative power. When one party in an ongoing relationship wants to demonstrate that the balance of power has shifted in its favor, it may find that only a power contest will adequately make the point. It is a truism among labor relations practitioners that a conflict-ridden union-management relationship often settles down after a lengthy strike. The strike reduces uncertainty about the relative power of the parties that had made each party unwilling to concede. Such long-term benefits sometimes justify the high transaction costs of a power contest.

In some disputes, the interests are so opposed that agreement is not possible. Focusing on interests cannot resolve a dispute between a right-to-life group and an abortion clinic over whether the clinic will continue to exist. Resolution will likely be possible only through a rights contest, such as a trial, or a power contest, such as a demonstration or a legislative battle.

When Are Rights or Power Procedures Desirable?

Although reconciling interests is generally less costly than determining rights, only adjudication can authoritatively resolve questions of public importance. If the 1954 Supreme Court case, *Brown v. Board of Education* (347 U.S. 483), outlawing racial segregation in public schools, had been resolved by negotiation rather than by adjudication, the immediate result might have been the same—the black plaintiff would have attended an all-white Topeka, Kansas, public school. The societal impact, however,

would have been far less significant. As it was, *Brown* laid the groundwork for the elimination of racial segregation in all of American public life. In at least some cases, then, rights-based court procedures are preferable, from a societal perspective, to resolution through interests-based negotiation.¹⁶

Some people assert that a powerful party is ill-advised to focus on interests when dealing regularly with a weaker party. But even if one party is more powerful, the costs of imposing one's will can be high. Threats must be backed up with actions from time to time. The weaker party may fail to fully comply with a resolution based on power, thus requiring the more powerful party to engage in expensive policing. The weaker party may also take revenge—in small ways, perhaps, but nonetheless a nuisance. And revenge may be quite costly to the more powerful if the power balance ever shifts, as it can quite unexpectedly, or if the weaker party's cooperation is ever needed in another domain. Thus, for a more powerful party, a focus on interests, within the bounds set by power, may be more desirable than would appear at first glance.

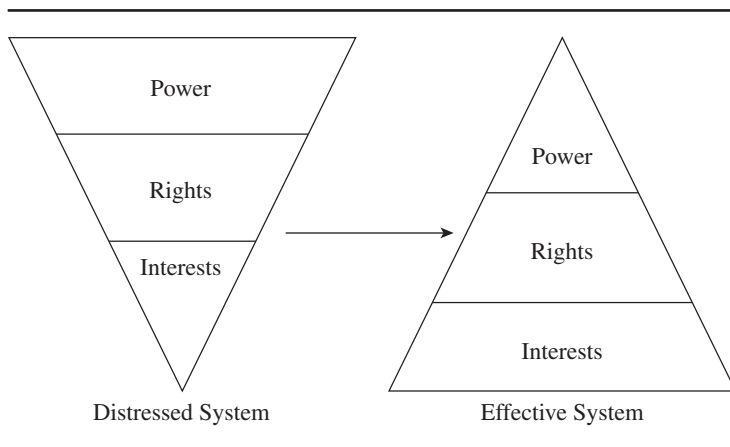
Low-Cost Ways to Determine Rights and Power

Because focusing on rights and power plays an important role in effective dispute resolution, differentiating rights and power procedures on the basis of costs is useful. We distinguish three types of rights and power procedures: negotiation, low-cost contests, and high-cost contests. Rights-based negotiation is typically less costly than a rights contest such as court or arbitration. Similarly, power-based negotiation, marked by threats, typically costs less than a power contest in which those threats are carried out.

Different kinds of contests incur different costs. If arbitration dispenses with procedures typical of a court trial (extensive discovery, procedural motions, and lengthy briefs), it can be much cheaper than going to court. In a fight, shouting is less costly than physical assault. A strike in which workers refuse only overtime work is less costly than a full strike.

THE GOAL: AN INTERESTS-ORIENTED DISPUTE RESOLUTION SYSTEM

Not all disputes can be—or should be—resolved by reconciling interests. Rights and power procedures can sometimes accomplish what interests-based procedures cannot. The problem is that rights and power procedures are often used where they are not necessary. A procedure that should be the last resort too often becomes the first resort. The goal, then, is a dispute resolution system that looks like the pyramid on the right in Figure 2: most disputes are resolved through reconciling interests, some through determining who is right, and the fewest through determining who is more powerful. By contrast, a distressed dispute resolution system would look like the inverted pyramid on the left in Figure 2. Comparatively few disputes are resolved through reconciling interests, while many are resolved through determining rights and power. The challenge for the systems designer is to turn the pyramid right side up. It is to design a system that promotes the reconciling of interests but that also provides low-cost ways to determine rights or power for those disputes that cannot or should not be resolved by focusing on interests alone.

FIGURE 2 Moving from a Distressed to an Effective Dispute Resolution System**ENDNOTES**

1. In order to steer between the Scylla of sexist language and the Charybdis of awkward writing, we have chosen to alternate the use of masculine and feminine pronouns.
2. This definition is taken from Felstiner, W. L. F., Abel, R. L., and Sarat, A. "The Emergence and Transformation of Disputes: Naming, Blaming, Claiming." *Law and Society Review*, 1980–81, 15, 631–54. The article contains an interesting discussion of disputes and how they emerge.
3. See Felstiner, W. L. F., Abel, R. L., and Sarat, A. "The Emergence and Transformation of Disputes: Naming, Blaming, Claiming." *Law and Society Review*, 1980–81, 15, 631–54.
4. In speaking of resolving disputes, rather than processing, managing, or handling disputes, we do not suggest that resolution will necessarily bring an end to the fundamental conflict underlying the dispute. Nor do we mean that a dispute once resolved will stay resolved. Indeed, one of our criteria for contrasting approaches to dispute resolution is the frequency with which disputes recur after they appear to have been resolved. See Merry, S. E., "Disputing Without Culture." *Harvard Law Review*, 1987, 100, 2057–73; Sarat, A. "The 'New Formalism' in Disputing and Dispute Processing." *Law and Society Review*, 1988, 21, 695–715.
5. For an extensive discussion of interests-based negotiation, see Fisher, R., and Ury, W. L. *Getting to Yes*. Boston: Houghton Mifflin, 1981. See also Lax, D. A., and Sebenius, J. K. *The Manager as a Negotiator*. New York: Free Press, 1986.
6. Goldberg, S. B., and Sander, F.E.A. "Saying You're Sorry." *Negotiation Journal*, 1987, 3, 221–24.
7. We recognize that in defining rights to include both legal entitlements and generally accepted standards of fairness, we are stretching that term beyond its commonly understood meaning. Our reason for doing so is that a procedure that uses either legal entitlements or generally accepted standards of fairness as a basis for dispute resolution will focus on the disputants' entitlements under normative standards, rather than on their underlying interests. This is true of adjudication, which deals with legal rights; it is equally true of rights-based negotiation, which may deal with either legal rights or generally accepted standards. Since, as we shall

show, procedures that focus on normative standards are more costly than those that focus on interests, and since our central concern is with cutting costs as well as realizing benefits, we find it useful to cluster together legal rights and other normative standards, as well as procedures based on either.

8. A court procedure may determine not only who is right but also who is more powerful, since behind a court decision lies the coercive power of the state. Legal rights have power behind them. Still, we consider adjudication a rights procedure, since its overt focus is determining who is right, not who is more powerful. Even though rights, particularly legal rights, do provide power, a procedure that focuses on rights as a means of dispute resolution is less costly than a procedure that focuses on power. A rights-based contest, such as adjudication, which focuses on which disputant ought to prevail under normative standards, will be less costly than a power-based strike, boycott, or war, which focuses on which disputant can hurt the other more. Similarly, a negotiation that focuses on normative criteria for dispute resolution will be less costly than a negotiation that focuses on the disputants' relative capacity to injure each other. Hence, from our cost perspective, it is appropriate to distinguish procedures that focus on rights from those that focus on power.
9. Emerson, R. M. "Power-Dependence Relations." *American Sociological Review*, 1962, 27, 31–41.
10. Hirschman, A. O. *Exit, Voice, and Loyalty: Responses to Declines in Firms, Organizations, and States*. Cambridge, Mass.: Harvard University Press, 1970. Exit corresponds with avoidance, loyalty with lumping it. Voice, as we shall discuss later, is most likely to be realized in interests-based procedures such as problem-solving negotiation and mediation.
11. A fifth evaluative criterion is procedural justice, which is perceived satisfaction with the fairness of a dispute resolution procedure. Research has shown that disputants prefer third-party procedures that provide opportunities for outcome control and voice. See Lind, E. A., and Tyler, T. R. *The Social Psychology of Procedural Justice*. New York: Plenum, 1988; Brett, J. M. "Commentary on Procedural Justice Papers." In R. J. Lewicki, B. H. Sheppard, and M. H. Bazerman (eds.), *Research on Negotiations in Organizations*. Greenwich, Conn.: JAI Press, 1986, 81–90.

We do not include procedural justice as a separate evaluation criterion for two reasons. First, unlike transaction costs, satisfaction with outcome, effect on the relationship, and recurrence, procedural justice is meaningful only at the level of a single procedure for a single dispute. It neither generalizes across the multiple procedures that may be used in the resolution of a single dispute nor generalizes across disputes to construct a systems-level cost. The other costs will do both. For example, it is possible to measure the disputants' satisfaction with the outcome of a dispute, regardless of how many different procedures were used to resolve that dispute. Likewise, it is possible to measure satisfaction with outcomes in a system that handles many disputes by asking many disputants about their feelings. Second, while procedural justice and distributive justice (satisfaction with fairness of outcomes) are distinct concepts, they are typically highly correlated. See Lind, E. A., and Tyler, T. R. *The Social Psychology of Procedural Justice*. New York: Plenum, 1988.

12. Williamson, O. E. "Transaction Cost Economics: The Governance of Contractual Relations." *Journal of Law and Economics*, 1979, 22, 233–61; Brett, J. M., and Rognes, J. K. "Intergroup Relations in Organizations." In P. S. Goodman and Associates, *Designing Effective Work Groups*. San Francisco: Jossey-Bass, 1986, 202–36.
13. For a summary of the evidence of a relationship between procedural and distributive justice—that is, satisfaction with process and with outcome—see Lind, E. A., and Tyler, T. R. *The Social*

Psychology of Procedural Justice. New York: Plenum, 1988. Lind and Tyler also summarize the evidence showing a relationship between voice and satisfaction with the process. For evidence of the effect of participation in shaping the ultimate resolution beyond simply being able to accept or reject a third party's advice, see Brett, J. M., and Shapiro, D. L. "Procedural Justice: A Test of Competing Theories and Implications for Managerial Decision Making," unpublished manuscript.

14. Lax, D. A., and Sebenius, J. K. *The Manager as Negotiator*. New York: Free Press, 1986.
15. The empirical research supporting this statement compares mediation to arbitration or adjudication. Claimants prefer mediation to arbitration in a variety of settings: labor-management (Brett, J. M., and Goldberg, S. B. "Grievance Mediation in the Coal Industry: A Field Experiment." *Industrial and Labor Relations Review*, 1983, 37, 49–69), small claims disputes (McEwen, C. A., and Maiman, R. J. "Small Claims Mediation in Maine: An Empirical Assessment." *Maine Law Review*, 1981, 33, 237–68), and divorce (Pearson, J. "An Evaluation of Alternatives to Court Adjudication." *Justice System Journal*, 1982, 7, 420–44).
16. Some commentators argue that court procedures are always preferable to a negotiated settlement when issues of public importance are involved in a dispute (see, for example, Fiss, O. M. "Against Settlement." *Yale Law Journal*, 1984, 93, 1073–90), and all agree that disputants should not be pressured into the settlement of such disputes. The extent to which parties should be encouraged to resolve disputes affecting a public interest is, however, not at all clear. See Edwards, H. T. "Alternative Dispute Resolution: Panacea or Anathema?" *Harvard Law Review*, 1986, 99, 668–84.

Consider Both Relationships and Substance When Negotiating Strategically

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When David Peterson, director of services for Dickerson Machinery, arrives at his office, he notes four appointments on his schedule. With his lengthy experience in negotiating important contracts for this large-equipment repair service, he does not take long to identify the agenda for each appointment.¹

A steering clutch disk salesman from Roadworks will arrive at 8:30 A.M. Peterson has relied for years on disks supplied by Caterpillar and knows those disks can provide the 8,000 hours of service Dickerson guarantees. Price is an issue in Peterson's selection of a supplier, but more important is a guarantee on the life span of the part.

A meeting is scheduled at 9:30 with a mechanic who has swapped a new company battery for a used battery from his own truck. This "trade" is, of course, against company policy, and the employee has been reprimanded and told his next paycheck will be docked. However, the mechanic wants to discuss the matter.

A representative for Tarco, a large road-building contractor, is scheduled for 10:00 A.M. Peterson has been interested in this service contract for a couple of years. He believes that if he can secure a short-term service contract with Tarco, Dickerson's high-quality mechanical service and guarantees will result in a long-term service relationship with the contractor. The night before, Peterson had dinner with Tarco's representative, and this morning he will provide a tour of service facilities and discuss the short-term contract with him.

A meeting with management representatives for union negotiations is scheduled for 1:00 P.M. That meeting will probably last a couple of hours. Peterson is concerned because the company has lost money on the shop undergoing contract talks, and now the union is demanding higher wages and threatening to strike. The company cannot afford a prolonged strike, but it also cannot afford to increase pay at current service production rates. Negotiating a contract will not be easy.

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CHOOSING NEGOTIATION STRATEGIES

Peterson's appointments are not unique. Researchers and scholars have examined similar situations. What strategic advice does the negotiation literature offer for handling these four situations?

One of the best developed approaches is *game theory*, which focuses on maximizing substantive outcomes in negotiations.² Peterson would probably do well by focusing on only the best possible outcome for Dickerson Machinery in his meetings with the salesman and the employee: He already has a good contract for a steering wheel clutch, but if the salesman can offer a better deal, Peterson will take it; and in the case of the employee, Peterson will hear him out but foresees no need to deviate from company policy.

In contrast, an exclusive focus on maximizing the company's substantive outcomes would probably not work in the other two situations: Tarco may continue being serviced elsewhere unless enticed to try Dickerson; and during the union negotiations, strategies to maximize outcomes for management only could force a strike.

Another well-developed strategic approach is *win-win problem solving*. It is designed to maximize outcomes for both parties and maintain positive relationships.³ This approach could work in the union negotiation, but the outcome would probably be a compromise, not a true win-win solution.

Win-win negotiation probably is not the best strategy in the other three situations. Either Roadwork's salesman meets the guarantee and beats current prices, or he does not; trying to find a win-win solution would probably be a waste of time. Similarly, because the meeting with the employee will occur after company rules have been applied, a win-win solution is probably not in the company's best interest. Lastly, an attempt to maximize the company's substantive outcomes in a short-term service contract with Tarco could hinder long-term contract prospects.

Any one approach to negotiation clearly will not work in all situations. Executives need a framework for determining what strategies are best in different situations. We believe the best strategy depends on desired outcomes. In this article, we characterize the two major outcomes at issue in the previous examples as *substantive* and *relationship* outcomes. Although both types of outcome have been discussed in the literature, relationship outcomes have received much less attention. Our contention is that a systematic model of strategic choice for negotiation must account for both substantive and relationship outcomes. In articulating such a model, we suggest that executives can approach negotiation strategically by assessing the negotiation context; considering unilateral negotiation strategies; transforming unilateral into interactive negotiation strategies; and monitoring tactics and reevaluating negotiation strategies.

ASSESSING THE NEGOTIATION CONTEXT

A crucial context for any negotiation is the manager's current and desired relationship with the other party. Unfortunately, in their rush to secure the best possible substantive outcome, managers often overlook the impact of the negotiation on their relationships. This oversight can hurt a manager's relationship with the other party, thus limiting his or her ability to obtain desired substantive outcomes now or in the future.

Each interaction with another negotiator constitutes an *episode* that draws from current and affects future relationships. Intertwined with pure concerns about relationships are concerns about substantive outcomes. Many times negotiators are motivated to establish or maintain positive relationships and willingly “share the pie” through mutually beneficial collaboration. Other negotiations involve substantive outcomes that can benefit one negotiator only at the expense of the other (a fixed pie). These cases often motivate negotiators to discount the relationship and claim as much of the pie as possible.

Most negotiations, however, are neither clearly win-win nor win-lose situations, but combinations of both (an indeterminate pie). Such mixed-motive situations, in which both collaboration and competition may occur, are particularly difficult for managers to handle strategically.⁴ The relationship that exists prior to the negotiation, the relationship that unfolds during negotiations, and the desired relationship often will determine whether either negotiator will be motivated to share the pie, grab it, or give it away.

In any case, managers should keep existing and desired relationships in mind as they bid for substantive outcomes. For example, when negotiators are on the losing end of a win-lose negotiation, they should examine the implications of taking a short-term loss. During his third appointment, Peterson’s willingness to make only minimal gains in service contracts for the short term may create a positive relationship that will lead to a lucrative, long-term contract with Tarco. The relative importance of possible substantive and relationship outcomes should help executives decide whether and how to negotiate. To guide their decision process, managers should begin by assessing their relative power and the level of conflict between them and the other party. Both are key determinants of their current relationship with the other party.

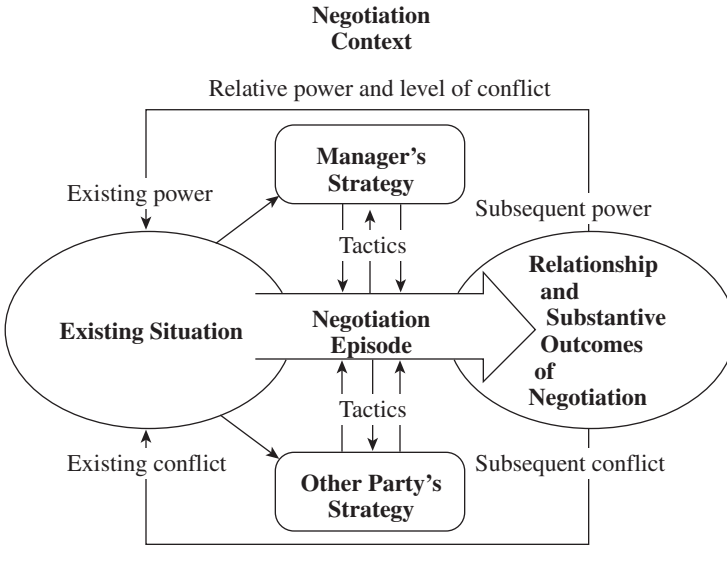
Exhibit 1 illustrates the negotiation context, showing those aspects of the situation and negotiation episode that shape relationship and substantive outcomes. Existing levels of power and conflict influence (1) the relationship between the executive and the other party and (2) the negotiation strategies they choose. These strategies are implemented through appropriate tactics during a negotiation episode—a one-on-one encounter, a telephone call, or a meeting with multiple parties—and result in substantive and relationship outcomes.

The multiple arrows linking strategies, tactics, and the negotiation episode in Exhibit 1 show the monitoring process through which both the manager and the other party refine their strategies and tactics during an episode. A complex and lengthy negotiation, such as a union contract negotiation, may include many episodes; a simple negotiation may be completed within one episode. Each episode, nonetheless, influences future negotiations by changing the manager’s and the other party’s relative power, the level of conflict between them, and their relationship.

Relative Power

The relative power of the negotiators establishes an important aspect of their relationship: the extent of each party’s dependence on the other. Researchers have found that individuals assess their power in a relationship and choose whether to compete, accommodate, collaborate, or withdraw when negotiating with others.⁵ Managers can assess their power relative to the other party by comparing their respective abilities to

EXHIBIT 1 Assessing the Negotiation Context



induce compliance through the control of human and material resources. To what extent do they each control key material resources? To what extent do they each control the deployment, arrangement, and advancement of people within the organization?⁶

These questions will help managers determine whether their relationship with the other party is based on independence, dependence, or interdependence. Additionally, these questions should help executives consider how *and* whether their relationship with the other party should be strengthened or weakened. Often managers will find themselves or their organizations in interdependent relationships that have both beneficial and detrimental aspects. These relationships are called mixed-motive situations in the negotiation literature because they provide incentives for both competitive and cooperative actions.

In his relationship with the Roadwork salesman, Peterson has considerable power. He is satisfied with his current vendor and has other vendors wanting to sell him the same product. The numerous choices available allow him to make demands on the salesman. Similarly, Peterson has more relative power than the mechanic. On the other hand, he has relatively little power with Tarco, since the contractor can choose from a number of equipment-service shops. Moreover, Tarco's representative did not make the initial contact and has not actively sought Dickerson's services.

Level of Conflict

The level of conflict underlying a potential negotiation establishes how the negotiators perceive the affective dimension of their relationship—that is, its degree of supportiveness or hostility. Managers can assess the relationship's level of conflict by identifying the differences between each party's interests. On what issues do both parties agree? On what issues do they disagree? How intense and how ingrained are these differences?⁷

EXHIBIT 2 Considering a Unilateral Negotiation Strategy

		Is the substantive outcome very important to the manager?	
		Yes	No
Is the relationship outcome very important to the manager?	Yes	<i>Strategy C1</i> Trustingly collaborate When both types of outcomes are very important <i>Situation 1</i>	<i>Strategy S1</i> Openly subordinate When the priority is on relationship outcomes <i>Situation 2</i>
	No	<i>Strategy P1</i> Firmly compete When the priority is on substantive outcomes <i>Situation 3</i>	<i>Strategy A1</i> Actively avoid negotiating When neither type of outcome is very important <i>Situation 4</i>

Answers to these questions will reveal whether negotiations will easily resolve differences and whether the relationship is perceived as supportive or hostile. These questions, like the questions about relative power, should also help executives consider how *and* whether the relationship should be strengthened or weakened. Very few negotiations begin with a neutral relationship. Indeed, the affective state of the relationship may be a primary reason for negotiating with a powerful other party, especially if the relationship has deteriorated or been particularly supportive.

In Peterson’s case, neutral to positive relationships exist with the Roadwork salesman and the Tarco representative. However, his relationships with the mechanic and the union are potentially hostile. For example, management and union representatives have already had confrontations. Their conflict may escalate if the relationship is not managed and both sides are not willing to make concessions.⁸

Considering a Unilateral Negotiation Strategy

Before selecting a strategy for negotiation, a manager should consider his or her interests and the interests of the organization. These interests will shape the answers to two basic questions: (1) Is the substantive outcome very important to the manager? and (2) Is the relationship outcome very important to the manager?

Four *unilateral* strategies (see Exhibit 2) emerge from the answers: *trusting collaboration*, *firm competition*, *open subordination*, and *active avoidance*.⁹ We call these unilateral strategies because in using them, managers consider only their own interests or the interests of their organization, ignoring for the time being the interests of the other party.

The unilateral strategies presented in Exhibit 2 are similar to the conflict management styles suggested by the combined works of Blake and Mouton, Hall, and Kilmann and Thomas.¹⁰ However, while we agree that personalities and conflict-management preferences influence a person's ability to negotiate, our selection of terms reflects our focus on strategies instead of styles. For example, Johnston used the term "subordination" to refer to a strategy similar to the conflict-management style variously termed "accommodation" (Kilmann and Thomas), "smoothing" (Blake and Mouton), or "yield-lose" (Hall).¹¹ We, however, see using the openly subordinative strategy as more than simply "rolling over and playing dead" or "giving away the store." Rather, this strategy is designed to strengthen long-term relational ties, usually at the expense of short-term substantive outcomes. Our discussion below also goes beyond Johnston's conception, showing how a negotiator can focus the openly subordinative strategy according to his or her substantive goals.

Our view is consistent with research that suggests that individuals adopt different strategies in different relational contexts.¹² We anticipate that managers' success with these unilateral strategies depends on their ability to exhibit a variety of conflict styles. To highlight the role of relationship and substantive priorities, we describe these four unilateral strategies in their most extenuated, ideal form, and articulate their underlying assumptions. In many ways our descriptions are classic depictions of each type of strategy. Two of these strategies—competition and collaboration—are frequently discussed in the conflict and negotiation literature.

1. Trusting Collaboration (C1). In general, if both relationship and substantive outcomes are important to the organization, the manager should consider *trusting collaboration*. The hallmark of this strategy is openness on the part of both parties. By encouraging cooperation as positions are asserted, the executive should be able to achieve important relationship and substantive outcomes. The executive seeks a win-win outcome both to achieve substantive goals *and* maintain a positive relationship.

Trustingly collaborative strategies generally are easiest to use and most effective when the manager's organization and the other party are interdependent and mutually supportive. These circumstances normally create a trusting relationship in which negotiators reciprocally disclose their goals and needs. In this climate, an effective problem-solving process and a win-win settlement typically result.

2. Open Subordination (S1). If managers are more concerned with establishing a positive relationship with another party than obtaining substantive outcomes, they should openly subordinate. We use the term *subordination* instead of *accommodation* to differentiate this strategic choice from a conflict-management style. An openly subordinative strategy is a yield-win strategy that usually provides desired substantive outcomes to the other party but rarely to the manager. A subordinative strategy may be used regardless of whether the manager exercises more, less, or equal power relative to the other party. Our argument is that subordination can be an explicit strategic negotiation behavior—not simply a reflection of power. If the manager has little to lose by yielding to the substantive interests of the other party, open subordination can be a key way for him or her to dampen hostilities, increase support, and foster more interdependent relationships.

3. Firm Competition (P1). If substantive interests are important but the relationship is not, the manager should consider *firmly competing*. This situation often occurs when managers have little trust for the other party or the relationship is not good to begin with. In such situations, they may want to exert their power to gain substantive outcomes. To enact this competitive strategy, they may also become highly aggressive, bluffing, threatening the other party, or otherwise misrepresenting their intentions. Such tactics hide the manager's actual goals and needs, preventing the other party from using that knowledge to negotiate its own substantive outcomes. Not surprisingly, the credibility of the executive's aggressive tactics and, thus, the success of the firmly competitive strategy often rests on the organization's power vis-à-vis the other party. When following a firmly competitive strategy, the manager seeks a win-lose substantive outcome and is willing to accept a neutral or even a bad relationship.

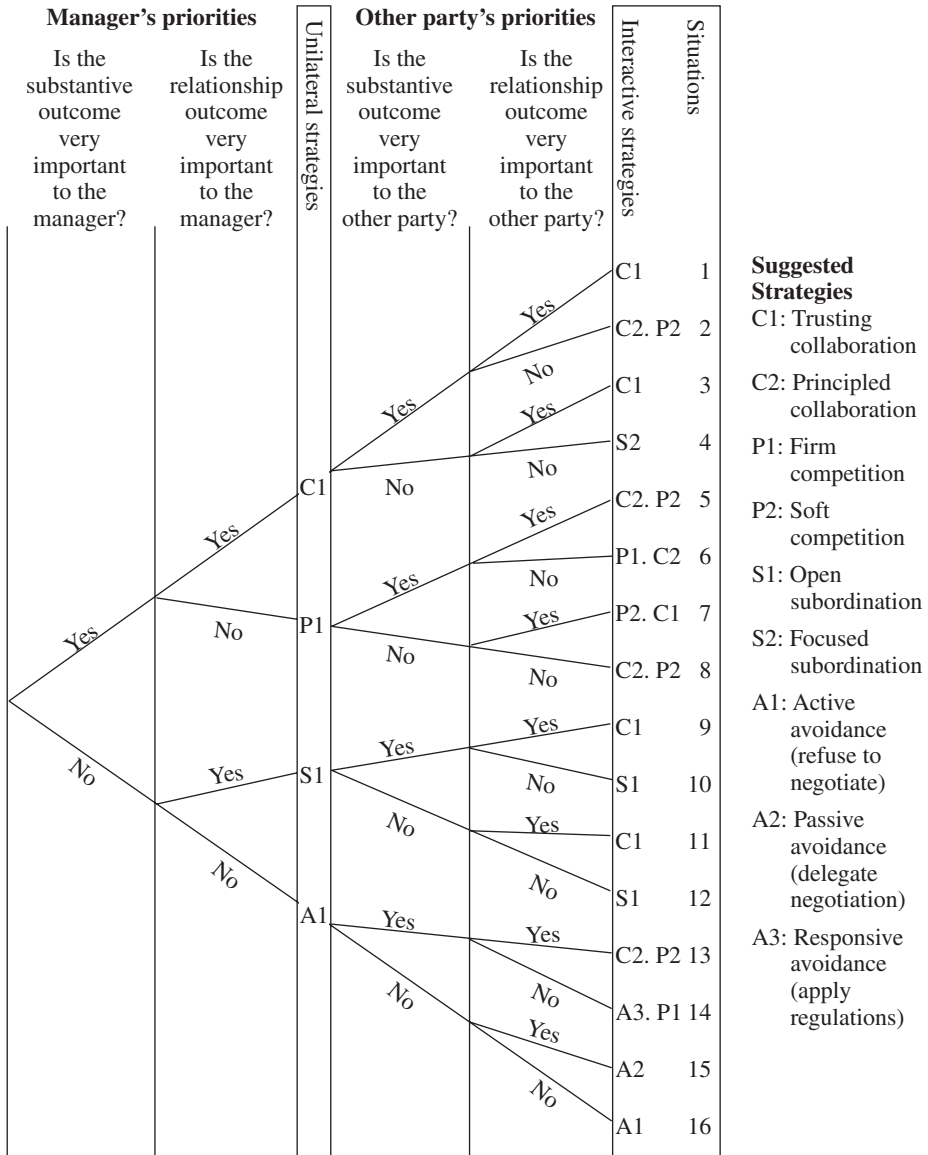
4. Active Avoidance (A1). Managers should consider *actively avoiding negotiation* if neither the relationship nor the substantive outcomes are important to them or the organization. Simply *refusing* to negotiate is the most direct and active form of avoidance. Executives can simply tell the other party they are not interested in or willing to negotiate. Such an action, however, will usually have a negative impact on the organization's relationship with the other party. Moreover, managers must determine which issues are a waste of time to negotiate. We treat avoidance, like subordination, as an explicit, strategic behavior rather than as an option taken by default when the manager is uncertain about what to do.

However, we recognize that these unilateral strategies are most successful only in a limited set of situations. In the next section we include various *interactive* modifications that make these classic, unilateral strategies applicable to a wider set of negotiation situations.

INTERACTIVE NEGOTIATION STRATEGIES

Before using the unilateral strategies suggested by Exhibit 2, the executive should examine the negotiation from each party's perspective. The choice of a negotiation strategy should be based not only on the interests of the executive or organization, but also on the interests of the other party. The manager should anticipate the other party's substantive and relationship priorities, assessing how the negotiation is likely to progress when the parties interact. This step is crucial because the unilateral strategies described above could lead to grave problems if the other party's priorities differ. For example, when using either trusting collaboration or open subordination, the manager is vulnerable to exploitation if the other party is concerned only about substantive outcomes. When anticipating the other party's substantive and relationship priorities, executives should consider the kinds of actions the other party might take. Are those actions likely to be supportive or hostile? Will they represent short-term reactions or long-term approaches to the substantive issues under negotiation? Are those actions likely to change the party's degree of dependence on, or interdependence with, the organization? The answers will depend on (1) the history of the executive's relations with the other party and (2) the influence of key individuals and groups on the manager and the other party.

EXHIBIT 3 Selecting an Interactive Strategy



In short, executives should take into account both their own and the other party's substantive and relationship priorities in choosing a negotiating strategy. Exhibit 3 is a decision tree designed to help managers decide which strategy to use. The left side represents, in a different form, the analysis in Exhibit 2; thus, Exhibit 3 also shows how the

manager's substantive and relationship priorities lead to *unilateral strategies* based solely on the manager's position. The right side illustrates how these unilateral strategies may be continued, modified, or replaced after the manager considers the other party's potential or apparent priorities.¹³

Managers should examine the appropriateness of a unilateral negotiation strategy by accounting for the other party's priorities before they use it. Sometimes such scrutiny will simply justify its use. For example, when both substantive and relationship outcomes are important to an executive, the appropriate unilateral strategy is trusting collaboration. If the manager anticipates that the other party also values both substantive and relationship outcomes (see Exhibit 3, Situation 1), he or she would continue to favor this strategy. At other times, scrutiny of the other party's priorities may suggest some modifications. We discuss next each of the interactive variations of the classic, unilateral strategies.

1. Principled Collaboration (C2). The C1 collaborative strategy assumes that the other party will reciprocate whenever the executive discloses information. However, if the manager negotiates openly and the other party is not open or is competitive, the manager could be victimized. Under such circumstances, the manager should use the modified collaborative strategy of principled collaboration.¹⁴ Rather than relying on only trust and reciprocity, the manager persuades the other party to conduct negotiations based on a set of mutually agreed upon principles that will benefit each negotiator.

2. Focused Subordination (S2). The openly subordinative strategy (S1) assumes that the substantive outcome is of little importance to the organization. Sometimes, however, an organization has both substantive and relationship interests, but the other party has little stake in either interest. By discovering and then acquiescing to those key needs that are of interest only to the other party, the manager can still gain some substantive outcomes for the organization while assuring a relatively positive relationship outcome. Here, managers both create substantive outcomes for the other party and achieve substantive outcomes for themselves or their organization.

3. Soft Competition (P2). Under some circumstances the directness of the firmly competitive strategy (P1) may need to be softened. For example, even though the manager may place little importance on the relationship outcome, this relationship may be very important to the other party. If the other party is powerful and potentially threatening, the manager would be wise to use a competitive strategy that maintains the relationship. Here the executive would avoid highly aggressive and other "dirty" tactics.

4. Passive Avoidance (A2). If the manager does not consider either the relationship or the substantive outcome important but the other party views the negotiation as important for a relationship outcome, the manager probably should *delegate* the negotiation. By passively avoiding the negotiation, the manager allows someone else within the organization to explore possible outcomes for the organization and keep the relationship from becoming hostile. Delegating ensures that possible opportunities are not ignored while freeing the executive from what appears to be a low-priority negotiation.

5. Responsive Avoidance (A3). By contrast, if the manager considers neither the relationship nor the substantive outcome important and the other party considers the substantive outcome important and the relationship unimportant, the manager should *regulate* the issue. Direct interaction with the other party is not necessary; the manager can be responsive but still avoid negotiating by either applying standard operating procedures or developing new policies that address the other party's concern.

Transforming Unilateral Strategies

The model of strategic choice in Exhibit 3 connects unilateral and interactive negotiation strategies. In many instances the interactive strategies are modifications of the unilateral strategies. We base the decision to modify or replace a unilateral strategy almost exclusively on the manager's and other party's differing outcome priorities. Three outcome conditions and three sets of assumptions influence the choice of interactive strategies.

1. Outcome Condition One: The manager may value the relationship, but the other party may not. For example, a manager who assumes that trust and cooperation will result in a fair outcome may be taken advantage of by another party who is concerned with only substantive outcomes.¹⁵ Hence, we suggest either principled collaboration or soft competition for such cases to ensure that the other party does not take advantage of the manager (see Exhibit 3, Situation 2). On the other hand, the manager may simply want to create a long-term business relationship with someone who currently is interested in neither substantive nor relationship outcomes. In these cases the manager should choose to subordinate in a focused fashion—rather than trustingly collaborate—to establish a relationship with the other party (see Exhibit 3, Situation 4).

2. Outcome Condition Two: The manager may not value the relationship, but the other party may. Given only their own substantive priorities, managers would firmly compete or actively avoid negotiation under these circumstances. However, if the other party is interested in the relationship, the manager may not have to compete firmly to obtain desired substantive outcomes. The manager may collaborate or softly compete and still gain substantive goals without alienating the other party (see Exhibit 3, Situations 5–8). Such strategies may also foster a long-term relationship with substantive dividends for the manager.

Similarly, in situations where neither substantive nor relationship outcomes are important to the manager but the relationship is important to the other party, the manager may choose an interactive strategy other than avoidance. The other party is in a position to choose a subordinative strategy and may offer substantive incentives to the manager. If the manager chooses principled collaboration or soft competition, he or she may gain some positive substantive outcomes (see Exhibit 3, Situation 13).

3. Outcome Condition Three. Both parties may value the relationship, but the manager may not value substantive outcomes. In these cases, whether or not the other party is interested in substantive outcomes, the manager may choose a trustingly collaborative strategy to maintain positive ties with the other party (see Exhibit 3, Situations 9 and 11).

4. Transformation Assumptions. Underlying these three outcome conditions are three sets of assumptions. First, we assume that most relationships will involve some mixture of dependence and interdependence as well as some degree of supportiveness and hostility. Second, we assume that most negotiators will view the relationship outcome as important under four separate conditions—high interdependence, high dependence, high supportiveness, or high hostility—or possible combinations of those conditions. Third, from a manager’s perspective, each of the basic strategies has a different effect with regard to power and conflict: (1) collaborative strategies strengthen the interdependence of the manager and the other party while also enhancing feelings of supportiveness, (2) subordinate strategies increase the other party’s dependence on the manager while also deemphasizing feelings of hostility, and (3) competitive strategies decrease the manager’s dependence on the other party but may also escalate feelings of hostility.

Thus many of the interactive negotiation strategies in Exhibit 3 seek to enhance interdependent relationships or favorably shift the balance of dependence within a relationship. These same strategies also attempt to dampen feelings of hostility or heighten feelings of supportiveness.

Illustrations of Negotiation-Strategy Transformations

To demonstrate more concretely how Exhibit 3 works, we will examine how Dickerson’s Peterson might act if he were to follow the decision tree to choose his negotiation strategies.

1. From Avoidance to Collaboration or Competition. In planning to meet with the steering clutch salesman, Peterson first considers whether the substantive outcome is very important to Dickerson Machinery. Because the company already has a satisfactory source for clutch disks, the substantive outcome is not very important. Second, Peterson considers the importance of the relationship outcome. Given that Dickerson Machinery currently has no ties with Roadworks and Peterson foresees no need to establish a long-term relationship, the relationship outcome is not very important either. Based on Peterson’s priorities only, unilateral avoidance strategy (A1) seems appropriate.

However, Peterson now considers the salesman’s priorities. First, is the substantive outcome important to the salesman? Obviously, it is—Roadworks is a struggling, new company and needs new clients. Second, is the relationship outcome important to Roadworks? Because the salesman works on a commission with residuals, he probably desires a long-term sales contract, so the relationship outcome is important. The salesman’s priorities suggest that he would probably collaborate trustingly (C1).

After answering the questions forming the decision tree in Exhibit 3 (see Situation 13), Peterson has two options for an interactive strategy. Since he is in a position of power, he does not need to make concessions. Moreover, the salesman may have products worthy of consideration. Thus, Peterson can engage in principled collaboration (C2) or softly compete (P2). In other words, he can collaborate based on principles, taking a strong stand on what he expects in a sales contract; or he can softly compete by making product demands that do not offend the salesman.

2. From Collaboration to Subordination. For the situation with the contractor, the relationship outcome is very important to Dickerson Machinery but the immediate, substantive outcome is not. Peterson realizes that Dickerson needs Tarco's business for long-term stability but does not need to make a profit in the short term. Therefore, his unilateral strategy would be to subordinate openly (S1). He decides to change his strategy from the trustingly collaborative (C1) approach he has used in past dealings with Tarco.

As Peterson considers the contractor's priorities, he anticipates that the substantive outcome is important to Tarco but the relationship outcome is not. Tarco's representative has made clear the need for reliable service at the lowest possible price; conversely, Tarco has not responded to Peterson's bids to provide service for more than two years. Peterson recognizes, based on Exhibit 2, that Tarco can compete firmly (P1). After assessing both parties' priorities using the decision tree (see Exhibit 3, Situation 10), he decides he should continue with an interactive strategy of open subordination (S1). Such a strategy is more likely to induce Tarco's representative to offer a contract than the trustingly collaborative strategy he has used previously. For example, he is prepared to subordinate by offering a "winter special" to reduce labor costs by 10 percent, cutting competitive parts costs by 15 percent, and providing a new paint job at 50 percent the normal costs or providing a six-month deferment on payment, all in addition to paying for the trip to the plant.

3. From Competition to Collaboration. Peterson's analysis of the negotiation with the labor union includes an assessment of the recent history of and level of conflict between the union and the company. Previous episodes in this contract negotiation have led both the union and Dickerson Machinery to change their priorities. During the first few episodes, both parties focused on only substantive outcomes and ignored relationship outcomes, using firmly competitive strategies. Also, during these earlier episodes, both sides' demands hardened to the point where the union threatened to strike and management threatened to give no increases in wages or benefits.

Now, however, Peterson believes that both substantive and relationship outcomes are important to Dickerson. The company wants to find a way to increase productivity without giving much of an increase in pay and benefits. It also does not want to lose good mechanics or stimulate a strike. Dickerson's unilateral strategy under these new conditions should be trustingly collaborative (C1).

From analyzing the union's position, Peterson realizes that both the substantive and relationship outcomes should be important to the union. His informal discussions with union representatives have assured him that both sides are now concerned about maintaining the relationship. Nonetheless, the union clearly wants an increase in pay and benefits even though it also does not want a strike. In short, the union now is likely to trustingly collaborate but could easily shift its priorities and choose to firmly compete.

As he enters the negotiation strategy session this afternoon, Peterson plans to recommend to the management negotiation team the use of a principled collaborative (C2) strategy (see Exhibit 3, Situation 2). Because of the current instability in the relationship, he does not want to provide the union with any opportunity to exploit a perceived weakness that a more trustingly collaborative strategy might create.

Monitoring and Reevaluating Strategies

After implementing their interactive strategy, managers should monitor the other party's tactics. How the other party acts will signal its strategy. Based on the other party's tactics, executives can (1) determine if their assumptions and expectations about the other party's strategy are accurate and (2) modify, if needed, their strategies during this and subsequent negotiation episodes. Exhibit 1 provides an overview of this process. The arrows linking strategies to tactics and the negotiation episode represent how tactics (1) are used to implement a strategy (first arrow), (2) provide information to each party (second, reversed arrow), and (3) may affect the choice of alternative strategies during a negotiation episode (third arrow).

Monitoring Tactics

More specifically, we view tactics in two ways: (1) as clusters of specific actions associated with the implementation of one strategy or another, and (2) as actions that derive their strategic impact from the particular phase of the negotiation in which they are used. In Exhibit 4, we combine these two perspectives to provide executives with descriptions of competitive, collaborative, and subordinative tactics across various phases of negotiation. We suggest that most negotiations go through four phases: (1) the search for an arena and agenda formulation, (2) the stating of demands and offers, (3) a narrowing of differences, and (4) final bargaining.¹⁶ Not every negotiation will involve all of these phases. Rather, these phases characterize typical negotiations in mixed-motive situations. Hence, a specific phase may be skipped or never attained.¹⁷

For example, the search for an arena in which to carry out discussions may be unnecessary for some ongoing negotiations; however, most negotiations will initially involve some Phase 1 interaction about the items to be discussed. During the second phase, both the managers and the other party express their preferences and establish their commitments to specific issues and outcomes. The third phase may be skipped, although it usually occurs if the manager and the other party are far apart in their preferences and commitments. Both sides may add or delete bargaining items or shift preferences to avoid an impasse. The fourth phase completes the negotiation: The manager and the other party reduce their alternatives, making joint decisions about each item until a final agreement is reached.

Exhibit 4 should help managers recognize (1) how using certain tactics during various phases of a negotiation is essential to implementing their strategy and (2) how the tactics of the other party reflect a particular strategic intent. An unanticipated strategy implemented by the other party may indicate that the executive inaccurately assessed the negotiation context or under- or overestimated the strength of the other party's priorities. Hence, once the manager recognizes the other party's actual strategy, he or she should reassess the negotiation, repeating the process discussed in previous sections to check the appropriateness of his or her strategies.

Sometimes, however, the other party's use of an unanticipated strategy does not mean the executive's assessment of the negotiation context was inaccurate. In Exhibit 3, some combinations of the manager's and other party's priorities result in the listing of

EXHIBIT 4 Using Tactics across Negotiation Phases

<i>Negotiation Phases</i>	<i>Negotiation Tactics</i>		
	<i>Competitive</i>	<i>Collaborative</i>	<i>Subordinative</i>
The search for an arena and agenda formulation	<ul style="list-style-type: none"> • Seek to conduct negotiations on manager's home ground • Demand discussion of manager's agenda items; curtail discussions of other party's items • Ignore or discount the other party's demands and requests 	<ul style="list-style-type: none"> • Seek to conduct negotiations on neutral ground • Elicit the other party's agenda items and assert manager's items; incorporate both • Consider other party's demands and requests 	<ul style="list-style-type: none"> • Seek to conduct negotiations on the other party's ground • Elicit the other party's agenda items and subvert manager's items • Concede to the other party's demands and requests
The stating of demands and offers	<ul style="list-style-type: none"> • Insist other party make initial offers or demands on all items • Respond with very low offers or very high demands • Commit to each item; exaggerate manager's position and discredit other party's 	<ul style="list-style-type: none"> • Alternate initial offers and demands on items with other party • Respond with moderate offers or moderate demands • Indicate reasons for manager's commitment to item outcomes; probe the other party's reasons 	<ul style="list-style-type: none"> • Make initial offers or demands on all other party-relevant items • Make high offers or low demands • Accept the other party's commitments to items; explain manager's commitments
A narrowing of differences	<ul style="list-style-type: none"> • Demand that other party make concession; back up demand with threats • Delete, add, or yield only on low manager-interest items • Magnify degree of manager's concessions; downplay other party's 	<ul style="list-style-type: none"> • Seek equitable exchange of concessions with the other party • Delete, add, or yield items if mutual interests converge • Honestly assess manager's and other party's concessions 	<ul style="list-style-type: none"> • Concede to the other party's demands • Delete, add, or yield to any other party-relevant item • Acknowledge the other party's concessions; downplay manager's concessions
Final bargaining	<ul style="list-style-type: none"> • Seek large concessions from the other party • Concede only minimally on high manager-interest items • Use concessions on low manager-interest items as bargaining chips 	<ul style="list-style-type: none"> • Seek equitable exchange of concessions from the other party • Seek mutually beneficial outcomes when conceding or accepting concessions on items 	<ul style="list-style-type: none"> • Yield to the other party's relevant preferences by accepting low offers and making low demands

two interactive strategies. Managers should normally use the first (left-hand) strategies in these listings. The secondary (right-hand) strategies are suggested as countermoves the executive should use if the other party uses a strategy different from the one expected, but the executive remains convinced that his or her diagnosis is accurate.

Reevaluating Negotiation Strategies

Take, for example, Peterson's appointment with the mechanic who had swapped a battery from a company truck with his own used battery. Going into the negotiation, Peterson decides that his unilateral strategy should be trusting collaboration: The mechanic is highly skilled and would be hard to replace, yet the infraction is a serious matter. He also anticipates that the employee will be interested primarily in retaining a good relationship with Dickerson's management. Hence, Peterson decides to stick with trusting collaboration as his interactive strategy (see Exhibit 3, Situation 3).

However, during the first five minutes of the meeting, Peterson's efforts to discuss returning the battery to the company and removing the infraction from the mechanic's personnel record are repeatedly rebuffed by the employee. Instead, the mechanic threatens to retire early from Dickerson and collect the benefits due him unless Peterson transfers him. Peterson recognizes that the mechanic is employing competitive tactics to set the agenda, which reflects an interest in substantive outcomes but little concern for relationship outcomes.

As the negotiation enters the next phase, Peterson considers the mechanic's apparent priorities and reevaluates his own priorities. Now neither the substantive nor the relationship outcomes are very important to him. He knows that Dickerson has no opening for the mechanic at any other shop; moreover, if the employee wants to leave, the relationship is of little value. Based on this reassessment (see Exhibit 3, Situation 14), Peterson sees that he has two interactive strategic options: He can regulate the matter (A3) by pressing criminal charges or compete firmly (P1) with the employee.

Rather than withdraw from the interaction, Peterson decides to compete firmly and tells the mechanic that unless the battery is returned, he will do everything he can legally do to prevent the mechanic from receiving optimal severance benefits. If the employee refuses to return the battery, Peterson can still request Dickerson's legal department to file criminal charges against him (A3) as a way to publicize and enforce a legitimate regulatory approach designed to help the company avoid this kind of negotiation.

DISCUSSION

Most of the negotiation literature focuses on substantive outcomes without systematically considering the ways negotiations affect relationships. The approach we have taken underscores how negotiation strategies should address both parties' substantive and relationship priorities. Further, we encourage executives proactively to view negotiation as an indeterminate, reiterative, and often confusing process. It requires them to anticipate and monitor the other party's actions. The other party's tactics will inform managers as to whether their assumptions about the other party's priorities and strategy are correct. Based on this assessment, managers can modify their negotiation strategies as needed during current or future episodes.

Managers should heed, however, a few caveats about our advice:

1. Underlying the strategic choice model in Exhibit 3 is the assumption that most negotiations are of the mixed-motive sort; that is, the manager and other party usually negotiate over several substantive items. Some items have potential outcomes

that can benefit both negotiators; others have potential outcomes that can benefit only one negotiator. Under these conditions, collaborative, competitive, and subordinative strategies may all come into play as the negotiators seek either win-win, win-lose, or yield-win substantive outcomes. Our emphasis in the model is on win-win substantive outcomes brought about through collaborative strategies (C1 and C2).

2. We assume that most relationships will involve some mixture of dependence and interdependence. Furthermore, we posit that most negotiators will view the relationship outcome as important when it is characterized by either high interdependence or high dependence. Collaborative strategies will strengthen the interdependence of the organization and the other party, subordinative strategies will increase the other party's dependence on the organization, and competitive strategies will decrease the organization's dependence on the other party. Our advice about negotiation strategies is directed particularly toward managers who want to enhance relationships of interdependence or favorably shift the balance of dependence within a relationship.

3. We also recognize that the history and level of conflict between an organization and another party strongly influence each negotiator's attitude toward the existing relationship. Feelings of hostility, we assume, will be escalated by a competitive strategy; in contrast, feelings of hostility will be deemphasized by a subordinative strategy. Following this same logic, feelings of supportiveness will be enhanced by a collaborative strategy. Several of the strategies suggested in Figure 3—trusting collaboration, soft competition, open subordination, and passive and responsive avoidance—attempt to dampen hostilities and increase supportiveness between the manager and the other party.

4. Our advice to executives is simultaneously well supported and speculative. On one hand, the classic (unilateral) strategies suggested in Exhibit 3 are fairly well supported within the negotiation literature; the link between these strategies and both relationship and substantive outcomes is the special focus of our approach. On the other hand, the effectiveness of the interactive strategies suggested in Exhibit 3 remains open to continuing empirical investigation. We have developed this interactive model of strategic choice by linking our concerns about relationship outcomes with what is currently known about the basic strategies of negotiation.

Although the three sets of assumptions we make about relationships are usually warranted in most organization-related negotiations, executives should carefully consider whether their situations fit with these constraints before using our strategic choice model (Exhibit 3). However, regardless of the situation, we believe that managers will generally be more effective negotiators when they carefully assess both (1) the relationship and the substantive aspects of any potential negotiation and (2) what is important to the other party and what is important to them.

ENDNOTES

The authors wish to thank the three anonymous Editorial Review Board members who reviewed an earlier draft of this article for their developmental critiques and constructive suggestions for improving the manuscript.

1. The incidents reported in this vignette and throughout the article are based on actual experiences in a multistate machinery servicing company.
2. See H. Raiffa, *The Art and Science of Negotiation* (Cambridge, MA: Harvard University Press, 1982), for a discussion of how game theory can help negotiators maximize their substantive outcomes under a diverse set of situations.
3. Both R. Fisher and W. Ury, *Getting to Yes: Negotiating Agreements without Giving In* (Boston: Houghton-Mifflin, 1981) and A. C. Filley, "Some Normative Issues in Conflict Management," *California Management Review*, 21, no. 2 (1978), pp. 61–65, treat win-win problem solving as a principled, collaborative process.
4. See S. Bacharach and E. J. Lawler, *Power and Politics in Organizations: The Social Psychology of Conflict, Coalitions, and Bargaining* (San Francisco, CA: Jossey-Bass, 1980) for a recent discussion of mixed-motive negotiation situations.
5. See L. Putnam and C. E. Wilson, "Communicative Strategies in Organizational Conflicts: Reliability and Validity of a Measurement Scale," in M. Burgoon, ed., *Communication Yearbook 6* (Newbury Park, CA: Sage Publications, 1982), pp. 629–52. See also R. A. Cosier and T. L. Ruble, "Research on Conflict Handling Behavior: An Experimental Approach," *Academy of Management Journal* 24 (1981), pp. 816–31.
6. Power as the ability to induce compliance is discussed in J. March and H. Simon, *Organizations* (New York: Wiley, 1958) and in P. Blau, *Exchange and Power in Social Life* (New York: Wiley, 1964). Two recent books discussing power from a material-resource perspective are H. Mintzberg's *Power in and around Organizations* (Englewood Cliffs, NJ: Prentice Hall, 1983), and J. Pfeffer's *Power in Organizations* (Marshfield, MA: Pitman, 1981). A. Giddens, *The Constitution of Society: Outline of the Theory of Structuration* (Berkeley: University of California Press, 1984), discusses power from a critical-theory perspective within the field of sociology, emphasizing how power involves control over human resources.
7. For discussions of conflict intensity and durability, see I. R. Andrews and D. Tjosvold, "Conflict Management under Different Levels of Conflict Intensity," *Journal of Occupational Behaviour* 4 (1983), pp. 223–28, and C. T. Brown, P. Yelsma, and P. W. Keller, "Communication-Conflict Predisposition: Development of a Theory and an Instrument," *Human Relations* 34 (1981), pp. 1103–17.
8. See M. Deutsch, *The Resolution of Conflict* (New Haven: Yale University Press, 1973), for a discussion of how spiraling conflicts can be both inflamed and controlled.
9. For further discussions on these basic strategies, see C. B. Derr, "Managing Organizational Conflict: Collaboration, Bargaining, and Power Approaches," *California Management Review* 21 (1978), pp. 76–82; Filley, "Some Normative Issues in Conflict Management"; Fisher and Ury, *Getting to Yes*; R. Johnston, "Negotiation Strategies: Different Strokes for Different Folks," in R. Lewicki and J. Litterer, eds., *Negotiation: Readings, Exercises, and Cases* (Homewood, IL: Richard D. Irwin, 1985), pp. 156–64; D. A. Lax and J. K. Sebenius, *The Manager as Negotiator: Bargaining for Cooperation and Competitive Gain* (New York: The Free Press, 1986); and D. G. Pruitt, "Strategic Choice in Negotiation," *American Behavioral Scientist* 27 (1983), pp. 167–94.

10. For an overview of the contributions by these and other conflict-management researchers, see the special issue on "Communication and Conflict Styles in Organizations," L. L. Putnam, ed., *Management Communication Quarterly* 1, no. 3 (1988), pp. 291–45. See also R. Blake and J. Mouton's "The Fifth Achievement," *Journal of Applied Behavioral Science* 6 (1970), pp. 413–26; J. Hall's *Conflict Management Survey: A Survey of One's Characteristic Reaction to and Handling of Conflicts Between Himself and Others* (Conroe, TX: Teleometrics, 1986); and R. H. Kilmann and K. W. Thomas, "Interpersonal Conflict-Handling Behavior as Reflections of Jungian Personality Dimensions," *Psychology Reports* 37 (1975), pp. 971–80, and "Developing a Forced-Choice Measure of Conflict-Handling Behavior: The 'Mode' Instrument," *Educational & Psychological Measurement* 37 (1977), pp. 309–25.
11. See notes 9 above; especially see Johnston.
12. M. L. Knapp, L. L. Putnam, and L. J. Davis, "Measuring Interpersonal Conflict in Organizations: Where Do We Go From Here?" *Management Communication Quarterly* 1 (1988), pp. 414–29; Putnam and Wilson, "Communicative Strategies in Organizational Conflicts"; and J. Sullivan, R. B. Peterson, N. Kameda, and J. Shimada, "The Relationship between Conflict Resolution Approaches and Trust—A Cross Cultural Study," *Academy of Management Journal* 24 (1981), pp. 803–15.
13. We call these strategies *interactive* because they take into account the interactive effect of the manager's and the other party's anticipated or actual priorities concerning substantive and relationship outcomes. Interactive strategies based on anticipating the other party's priorities, as we later discuss in some length, may be changed to reflect more closely the actual priorities of the other party, as revealed through the interaction during a negotiation episode.
14. See Fisher and Ury, Endnote 3.
15. See, for example, L. L. Cummings, D. L. Harnett, and O. J. Stevens, "Risk, Fate, Conciliation and Trust: An International Study of Attitudinal Differences among Executives," *Academy of Management Journal* 14 (1971), pp. 285–304.
16. Different researchers offer varying descriptions of negotiation phases. See L. Putnam, "Bargaining as Organizational Communication," in R. D. McPhee and P. K. Tompkins, eds., *Organizational Communication: Traditional Themes and New Directions* (Beverly Hills, CA: Sage, 1985), for a summary of this research. Ann Douglas proposed the first three-step model in "The Peaceful Settlement of Industrial and Intergroup Disputes," *Journal of Conflict Resolution* 1 (1957), pp. 69–81. However, this model and subsequent three-stage models do not consider the search for the arena as a component phase of a negotiation. P. Gulliver, *Disputes and Negotiations: A Cross-Cultural Perspective* (New York: Academic Press, 1979), proposes an eight-stage model of negotiation, remedying that oversight. Our proposed four-phase model condenses and draws extensively from Gulliver's work.
17. Additionally, we view the phases of negotiation as conceptually separate from our notion of negotiation episodes (see Exhibit 1). All four phases may take place during one episode, particularly if the negotiation involves a single issue of low concern to one or another negotiator. On the other hand, during very complex negotiations stretching over a period of months, numerous episodes may constitute each phase.