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Coping with Conflict: What Kind of Theory Might Help

Roger Fisher

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INTRODUCTION

It is hard to do something well unless we know what it is that we are trying to do. We are here to learn from each other as we talk about "Theories of Dispute Resolution." If we, with our different areas of expertise and backgrounds, get different answers, a major explanation may lie in the extent to which we are asking ourselves different questions. Perhaps the best contribution I can make is to try to speak clearly about what I think I am doing. How do I see the subject on which I am working, and what is the thought process that I now use to justify what I do?

I.   WHAT IS THE PROBLEM?

I see myself not as a spectator nor as a researcher who gathers data, but as someone who wants to make a constructive difference. I am caught up in a problem-solving mode, which means starting with a problem. I define a "problem" as a disliked symptom, contrasted with a preferred and plausible situation. For example, the small size of the globe does not meet my definition of a problem because it strikes me as implausible that we could do anything to make it any larger. However, world poverty, ignorance, and disease meet my definition of problems because it is plausible to assume they could be reduced, that a preferred situation could exist.

My work is primarily directed at the problem that people are not dealing with conflicting interests and perceptions as well as they might. At the outset, I assume that conflicting interests. are inevitable. In fact, as interdependence, the population, knowledge, the pace of life, and the democratic impulse all increase, our perceived interests are bound to conflict ever more frequently. We now know that every business decision affects the environment;

that desirable change for some will almost certainly produce uncomfortable change for others. In a changing world there will be more and more occasions on which the interests of some will conflict with the interests of others.

Conflicting interests themselves, however, are not the problem, for I assume that they will always exist. The problem lies in how we handle them. I also assume that in a better world, conflicting interests could be handled better – better for everyone. Today, conflicting interests are often handled at high cost through wars, strikes, litigation, controversy, deadlock, and delay. As a result, human and other resources that could be put to better use are being wasted.

Improving the process for dealing with conflict should mean that most people, most of the time, get results that better and more efficiently reconcile the interests involved. Improving the *process*, however, will not necessarily improve the substantive outcomes for everyone. Just as making the judicial system more efficient deprives some defendants of their ability to delay paying their debts, improving the negotiation process will hurt some. For example, producing possible agreements more quickly will require some to make choices that they would rather postpone. Thus, there will often be debate over what is a "better" way to deal with conflicting interests. That fact, however, does not lessen our desire for better process.

Although the general symptom with which I am concerned is that conflicting interests are not being dealt with as well as they might, this conference is focused more narrowly on *theories* of dispute resolution. Here the symptom with which I am concerned is that much of our *theory* is of little use to society. Not only are conflicting interests being badly handled, theory is of little help. Why?

II. DIAGNOSES: SOME POSSIBLE CAUSES

We can and should generate hypotheses about why our ideas about conflict are not as helpful to the world as they might be. This section lists several hypotheses that occur to me.

A. The Issues Are Not Aptly Framed

1. "Alternative Dispute Resolution" Misdirects Our Efforts

Our language shapes the world with which we deal. We tend to accept the connotations of the words we use and charge for-

ward without questioning assumptions that are built into them. When we use the phrase "alternative dispute resolution," each word is likely to mislead our efforts.

"Alternative" suggests that negotiation, mediation, and facilitated problem-solving, for example, are unexpected "alternatives" to the standard way of dealing with disputes. The phrase carries with it the built-in premise that suing people with whom you disagree is the standard way of dealing with conflicting interests. If for any reason this standard approach is inappropriate, one might then explore the "non-standard" alternative of talking with them.

A "dispute" is a verbal controversy, a contest by opposing argument, an ill-tempered altercation, a quarrel, or heated verbal contention. The word itself suggests that people are actively engaged in some kind of verbal struggle. There are, however, many situations in which people's interests are inconsistent, and some are being damaged, without anyone's doing anything about it – without any claimant taking action. For example, sewage may be needlessly contaminating the river water downstream, but those who can no longer drink the water or swim in the river do not know of any avenue of redress and, therefore, simply lump it. Although a "dispute" does not exist, the situation is unfortunate. We would like those involved – both upstream and downstream – to have the skills necessary to deal efficiently and effectively with the conflicting interests involved. By focusing our attention on "disputes," we may be overlooking opportunities to deal with conflicting interests before they ever become a dispute.

"Resolution" suggests that at some fixed point in time the conflicting interests involved will be definitively resolved – that one day a final "solution" will put the controversy to rest. But, whether a difference is among family members, businesses, or nations, there are few static solutions. Parties who interact with each other are bound to face an endless series of situations in which their perceived interests will conflict to some degree. Our goal is not to have each of these occasions become a "dispute" which will then be neatly "solved" for good, but rather to have those differences dealt with skillfully. We want conflicting interests to be reconciled fairly and continuously over time. Our goal is less likely to resemble the drawing of a boundary line which is thereafter never questioned than a marriage that is working well, involving flexibility and changes over time.

The phrases "dispute resolution" and "alternative dispute resolution" point us toward litigation and other methods that produce

binding, one-shot solutions. If that is the way we frame an issue, we are likely to come up with answers that look more like divorce than family counseling.

2. Legal Education Misdirects Our Efforts

Years ago, Dean Langdell concluded that the "law" that students should learn was contained not in the statute books or doctrine set forth in academic treatises, but in the judicial opinions issued in appellate cases. Court opinions, apparently by coincidence, turned out to be excellent teaching materials. Each opinion provided a summary of some "given" facts, a point of choice where a legal issue was sufficiently open to justify appeal, and a reasoned statement of why one conclusion was better than another. And the documents were all in the public domain.

Faculty were no longer limited to lectures or quizzing students about readings. They could easily stimulate students to become actively engaged in applying ideas to facts: "How might you have argued for the plaintiff? For the defendant? If the subject of the dispute had been a horse instead of house, how would you have decided the case?" And so forth.

The unfortunate side effect of this convenient and challenging method of learning to "think like a lawyer" was that students put litigation at the center of their thinking. There was no comparable material for all the other activities in which a wise counselor engaged. Client interviews, advice, negotiations, and problem-solving activities of all kinds do not produce convenient public documents. Nor are law-office products that do become available neatly organized around a point of choice.

Focusing on litigation often causes law students, and the lawyers they become, to adopt a litigator's mentality and to use an adversarial approach in places where it is unnecessary and inappropriate. Talking with the other side becomes an argument. Approaching others about the possibility of settlement is seen as a sign of weakness. Negotiation is equated with giving in. The assumed goal is not justice but "winning."

B. The Goals of Academic Research Often
Divert Us From Important Work

If the ways in which we frame issues about conflict tend to build in poor assumptions, so do the ways in which we identify the goals of academic inquiry.

1. "The Truth" Is Often a Poor Compass.

The truth about the world is that it is complex, chaotic, and confusing. To help us cope with this chaos, we need some partial truths and illuminating distortions, like maps. Although maps are gross distortions of reality, these schematic renditions are extremely useful. The subway map of Boston, for example, is valuable for figuring out how to get from Harvard Square to Logan Airport by public transportation. It would be dangerous, however, to rely on that map when building a subway extension.

The Harvard University motto "veritas" is perhaps more likely to inhibit open inquiry and fresh ideas than to encourage them. Further, there are an infinite number of truths. We can ill afford to waste our finite resources trying to gather them all. On one hand, "the truth" is too restrictive a goal. On the other, it fails to provide any sense of priority among the many truths that are out there.

2. Predictable Results Are Those We Cannot Change

Social scientists often feel insecure when contrasted with "real" scientists – those who deal with physical phenomena. This insecurity can press social scientists to engage in research that will produce results as predictable as the laws of gravity. To the extent, however, that a social scientist can safely predict what a human being will do in a given situation, that human being is unable to affect the outcome. Just as public opinion polls that predict election results tend to discourage people from voting, so focusing on predictability may tend to inhibit change rather than encourage it.

To be sure, there is great value in helping one predict, for example, that he or she can more easily affect another's behavior with an offer than with a threat. The value of such a hypothesis lies in the extent to which the first variable is manipulable. I think of prescriptive theory as consisting of hypotheses of the general form, "If A, then B," where A is subject to human choice.

3. Emphasizing Quantifiable Results Assumes that Other Results "Don't Count"

Much wisdom is not subject to quantification. The pressure on academics to produce quantifiable results would be fine if it did not affect the questions on which they worked. But, quantification is more difficult in some areas than in others. Look-

ing for quantifiable results diverts people from important work to work that will simply produce numbers.

C. Our Research Methods Often Limit the Theory We Produce

What kind of advice would we give a young academic who hoped to obtain a tenured appointment? Our advice would probably include some or all of the following points:

(1) Don't be a generalist, specialize;
(2) Don't be too practical, be scholarly;
(3) Don't build on the work of others, be original; and
(4) Don't be one of a team, be a solo performer.

Although such advice might help a young academic gain tenure, it is unlikely to produce work that will significantly help the world deal with its conflicting interests.

Becoming a "specialist" means knowing more about less, until one knows almost everything about almost nothing. Specialization can be valuable, but it is never sufficient.

Being "scholarly" tends to mean devoting lots of time to finding and reorganizing the ideas of others – ideas that already appear in books and articles.

Being "original" often means locating, and then filling, some gap in the literature – some problem that in the judgment of others has been insufficiently important to merit study.

Finally, being a "solo performer" precludes the synergy and creative effort that comes from teamwork.

III. SUGGESTED GENERAL APPROACH

The above hypotheses offer some explanations of why we may lack the kind of dispute resolution theories that would help the world deal more effectively with its differences.

At the outset, we face a preliminary question: Should we try to produce theories that are "useful"? Is that our job? Perhaps it is better if each of us thinks about whatever it is that he or she wants to think about. Certainly, we are legally free to do so, even though few university officials are likely to criticize us for thinking some thoughts rather than others.

But *I* may. I believe that we academics are morally obliged to use the enormous freedom that we have to be "useful" to others. I would hope that each of us, whether our field is astronomy, mu-

sic, history, or art, would be able to justify what we do on some theory of acting in the public interest – in the interest of others.

Using current methods of dispute resolution, hundreds of thousands of lives and billions of dollars worth of resources are being spent dealing with our conflicting interests. If we can generate sufficient hypotheses, we may have a chance to save lives and resources. What might we do to generate theories of conflict resolution that are more useful than those that we now have?

A. Reframe the Big Questions

There is work to be done in asking better questions than those about "alternative dispute resolution." Litigation is perhaps more desirable than dueling, but human imagination can certainly produce better ways of dealing with conflicting interests.

We are seeking to improve the skills of cooperation, not those of battle. What questions should we be asking that will excite and stimulate people to work on such important questions? We may not want to ask the most important questions directly. If, for example, we conclude that process is more important than substance, we should perhaps not pose *that* question for debate. Rather, we might want to move on to subsequent questions, such as: Which process skills can best be taught in primary or secondary school, and what kind of joint training is most valuable for diplomats from different countries?

B. Re-Aim Much Research

If we want research to be useful, we might try to clarify the criteria for judging such research. If we decide to measure the results not by the extent to which they are true, but rather the extent to which they are useful, how might we measure utility? We might consider the following criteria:

(1) simple and elegant;
(2) easy to remember;
(3) easy to implement;
(4) broadly applicable to many situations;
(5) focused on points of choice;
(6) practical;
(7) diagnostic and analytical tools; and
(8) rules of thumb.

C.   Improve Methods of Research

Rather than looking for original work, we should probably build on the ideas of others. We might find ways to encourage teamwork more than solitary efforts and to encourage people from different disciplines to work together side by side. One of the greatest challenges may be to improve the ongoing interactive process by which practice benefits from theory and theory learns from practice.

IV.   ILLUSTRATIVE EXAMPLES OF "THEORY FOR PRACTITIONERS"

Here is some work in process. It may illuminate more than an essay the kind of ideas that I hope will enable people to deal more skillfully with their conflicting interests. Attached are a few pages written not for academics but for "real people."[1]

A.   The Seven Elements

There is no one right way to organize ideas. We have found it useful to sort the building blocks of a conflict into seven elements, each of which is relevant to every conflict. These elements can be used to help prepare for a negotiation, to help diagnose a conflict situation, and to help understand the "game" people are playing in the course of a negotiation. (With which elements are they dealing? Which are they ignoring? If we want to change the game, add an element.)

B.   The Circle Chart

Another way of understanding what is going on is to sort our thinking into four modes of thought. These modes are similar to those that a medical doctor might use: with which symptoms are we concerned?; what are possible causes of those symptoms?; if those are the causes, what is our general strategy?; if that is our strategy, who should do what tomorrow?

C.   A Devising Workshop

This is a brief memo suggesting a way of using the Circle Chart to deal with a particular conflict.

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1 See *infra* Appendix for some ways to use these ideas.

D. One-Text Procedure

These are draft instructions to a mediator on how to use one technique that has proven to be valuable.

CONCLUSION

Today, people with differing concerns, differing perceptions, and differing views are not handling those differences as well as they might. Yet we face a future in which such conflicting interests are bound to bump into each other even more frequently and more seriously. We academics, I believe, have a moral obligation to do our best to develop and articulate ideas that will help society cope with an expectable endless stream of differences, disputes, and conflicts.

In this brief Article I have advanced the case for developing "theory for practitioners" and illustrated the sort of ideas that such theory might contain.

Is this the kind of theory we should be trying to produce? If not, what kind of theory? Why?

APPENDIX

THE SEVEN ELEMENTS*

1. ALTERNATIVES[1]
These are the walk-away alternatives which each party has if agree-
ment is not reached. These are things that one party or another
can do by self-help, without requiring the agreement of the other.
In general, neither party should agree to something that is worse
for that party than its "BATNA"–its Best Alternative To a Negotiat-
ed Agreement.

2. INTERESTS
This is the word we use for what it is that somebody wants. Un-
derlying the positions of the parties are their needs, their con-
cerns, their desires, their hopes and their fears. Other things be-
ing equal, an agreement is better to the extent that it meets the
interests of the parties.

3. OPTIONS
We use this word to identify a full range of possibilities on which
the parties might conceivably reach agreement. We refer to op-
tions "on the table" or which might be put on the table. "We
might decide that you get the orange, that I get it, that we cut it
in half, or we might decide that I can have the peel for baking
and that you can have the fruit to eat. They are all options. We
have not yet decided." Generally speaking, an agreement is better
if it is the best of many options; if it could not be better for one
party without being worse for another.

4. LEGITIMACY
Other things being equal, an agreement is better to the extent
that each party considers it to be fair as measured by some exter-
nal benchmark, some criterion or principle beyond the simple will
of either party. Such external standards of fairness include interna-
tional law, precedent, practice, or some principle such as reciproci-
ty or most-favored-nation treatment.

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1 Each element represents something desirable in a good outcome. There are likely
to be trade-offs among them. Doing better on one may mean doing worse on another.

5. COMMITMENTS

Commitments are oral or written statements about what a party will or won't do. They may be made during the course of a negotiation or may be embodied in an agreement reached at the end of the negotiation. In general, an agreement will be better to the extent that the promises made have been well planned and well-crafted so that they will be practical, durable, easily understood by those who are to carry them out, and verifiable if that is important.

6. COMMUNICATION

Other things being equal, an outcome will be better if it is reached efficiently without waste of time or effort. Efficient negotiation requires effective two-way communication.

7. RELATIONSHIP

A negotiation has produced a better outcome to the extent that the parties have improved their ability to work together rather than damaged it. Most important negotiations are with people or institutions with whom we have negotiated before and will be negotiating again. Whatever else a relationship may involve, one crucial aspect is an ability to deal well with differences. One dimension of the quality of a negotiated outcome is the quality of the resulting working relationship: Are the parties better or worse able to deal with future differences?

THE CIRCLE CHART[*]

A Tool for Organized Thinking

One problem-solving tool that has proven to be particularly effective for the preparation and conduct of negotiations is the "Circle Chart."[1] This tool divides the task of problem-solving into four modes of thinking:

I. THE PROBLEM: IDENTIFY THE GAP BETWEEN DISLIKED SYMPTOMS AND A PREFERRED SITUATION

We begin by defining the problem as the gap between "what is" and "what might be." We can create two columns in Quadrant I of the Circle Chart. On the left, we can list aspects of the current situation that trouble us. Opposite each entry, we can list in the right-hand column elements of a preferred situation.

For example, if we are concerned about a number of programs, the "disliked symptoms" might include programs are understaffed, some programs are not undertaken at all, projects are not getting the resources they deserve, and the budget dictates priorities, etc. The "preferred situation" would be there are enough staff for all appropriate programs, there is the ability to undertake any selected projects, sufficient resources are dedicated to all programs, and priorities are determined regardless of current budget. The purpose of the Circle Chart can be seen as helping us invent ways to close the gap between these two lists.

II. DIAGNOSES: CONSIDER POSSIBLE CAUSAL EXPLANATIONS

Next we consider what may be the causes underlying the disliked symptoms. At the outset, rather than trying to decide on a single, most important cause, we should try to list possible causes about which we might be able to do something. For example, "past history" and "geography" are often cited as causes of a conflict, but they are causes we have no power to affect.

Some diagnoses are more abstract than others. Our goal is to develop specific diagnoses that will shed better light on possible

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1 *See* diagram *infra* p. 1342.

prescriptive approaches. In this quest, abstract diagnoses can stimulate more specific sub-diagnoses that prove helpful. For example, "lack of money" may be one cause of a problem. "Lack of organized fund raising" is more specific. Keep searching for a variety of causes, at a level of specificity that begins to suggest what might be done.

III. GENERAL PRESCRIPTIONS:
DEVISE GENERAL PRESCRIPTIVE APPROACHES

We can now invent a wide variety of possible approaches that might solve the problem by dealing effectively with the causes we have identified. These approaches should be general, i.e., capable of being implemented in several different ways. For example, to overcome a lack of organized fund raising we might think of approaching foundations, using direct mail, or holding a benefit.

IV. SPECIFIC ACTION IDEAS: INVENT SPECIFIC
PLANS TO IMPLEMENT THE GENERAL APPROACHES

Finally, we can examine each of the general prescriptive approaches and invent several specific action plans for implementation.
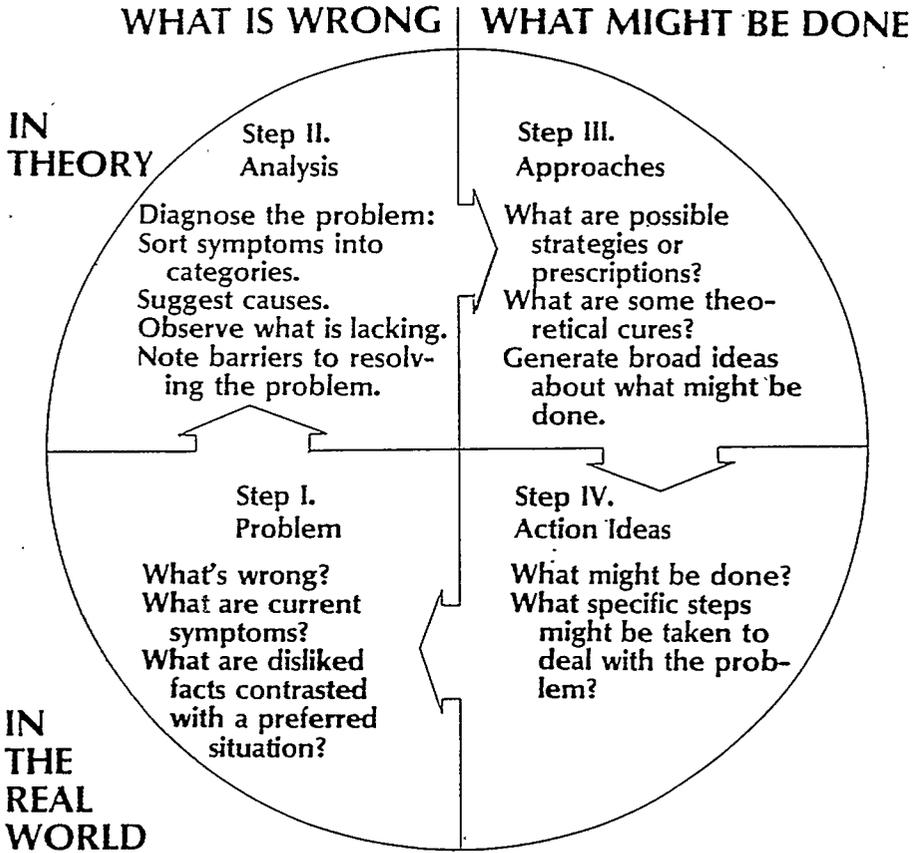
Final Notes: The Circle Chart can be used by one individual or a group preparing for a negotiation, and can also be used by negotiators from both sides working together as joint problem-solvers.

Although these four steps are the logical order in which a problem could be analyzed and solved, the human mind often makes intuitive, non-linear leaps from one mode of thinking to another. The Circle Chart can help us keep track of those ideas: place them in the quadrant where they seem most appropriate, and then move backwards or forwards from that idea around the Circle Chart.

Occasionally, users of the Circle Chart may be uncertain about which Quadrant an idea should be placed. For example, "lack of trust" may be seen as a problem (Quadrant I), or a diagnosis (Quadrant II). The idea should be placed on the chart where it will be most useful: that is, where it stimulates other thoughts that help address the problem.

The Circle Chart
A 4-Quadrant Tool for Clear Thinking

WHAT IS WRONG | WHAT MIGHT BE DONE

IN
THEORY

Step II.
Analysis

Diagnose the problem:
Sort symptoms into
    categories.
Suggest causes.
Observe what is lacking.
Note barriers to resolv-
    ing the problem.

Step III.
Approaches

What are possible
    strategies or
    prescriptions?
What are some theo-
    retical cures?
Generate broad ideas
    about what might be
    done.

Step I.
Problem

What's wrong?
What are current
    symptoms?
What are disliked
    facts contrasted
    with a preferred
    situation?

Step IV.
Action Ideas

What might be done?
What specific steps
    might be taken to
    deal with the prob-
    lem?

IN
THE
REAL
WORLD

A DEVISING WORKSHOP*

One suggested·way of dealing with. ethnic or other conflict

1. SET A REALISTIC GOAL.

Not to "solve" a whole conflict, but to get people working together on constructive tasks.

2. GATHER A FEW PEOPLE TOGETHER.

Invite about 5 to 8 able people from different groups in conflict.

Ask each of them, if they would like, to bring along a useful colleague.

Explain that participation involves no commitment to agree to anything.

3. SET A TIME AND PLACE FOR A "DEVISING WORKSHOP" ON AN ASPECT OF THE PROBLEM.

Arrange participants in an informal semi-circle facing four big sheets of paper on the wall.

The sheets of paper are headed:

II. DIAGNOSES	III. POSSIBLE
Possible Causes?	PRESCRIPTIONS
	General
	Approaches?
I. SYMPTOMS	IV. ACTION
What's Wrong?	IDEAS
	Specific Things
	People Might Do?

4. BRAINSTORM: COLLECT EVERYONE'S IDEAS AND ENTER THEM ON THE CHARTS.

Ask for options, not commitments.

Welcome wild ideas.

Postpone evaluations.

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* Written by Roger Fisher and colleagues for the Harvard Negotiation Project.

5. IDENTIFY AND IMPROVE THE BEST IDEAS.
   Invite people to improve the suggestions of others.
   Ask people to suggest which ideas look most promising.

6. TURN IDEAS INTO ACTIONS.
   Ask people to suggest ideas they would be willing to work on.
   Encourage people from different groups to work together on
      the same idea.
   Now ask people to commit to what they will work on.

7. SET A TIME AND PLACE FOR THE NEXT MEETING.

A Devising Workshop*

Explanatory Notes

The tougher the problem, the more important – and more difficult – it is for the people who disagree to come up with fresh ideas about what to do. The Harvard Negotiation Project has developed guidelines that experience suggests are helpful.

1. Goal

We cannot expect quick "solutions" to conflicting interests. A realistic goal is to get people from different sides in a conflict to work together on some practical steps. Doing so will also help build the kind of working relationship that can deal successfully with differences.

2. People

A good size group for generating ideas tends to be about six to twelve. Some participants will feel more comfortable if they can bring along a colleague, and if they understand that participating does not involve making any commitment to anything.

3. Structure of the Workshop

A devising workshop is a way of running a meeting so that the focus stays on inventing fresh approaches. It is informal. Participants do not sit across a table facing "adversaries" but rather side by side, facing various aspects of the problem represented by charts. The four charts help organize discussion without imposing a rigid agenda. They also help people identify what it is about which they disagree. Writing points down helps keep the discussion constructive, reduces repetition, provides a sense of progress, and collects ideas on which people might later work.

4. Brainstorming

Even advancing an idea does not mean that someone is in favor of it. Criticizing ideas tends to inhibit creativity. (It suggests that we are looking for conventional ideas that no one will criticize). Wild ideas, even if impractical, can stimulate other new ideas that may be better.

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5. IDENTIFYING AND IMPROVING THE BEST IDEAS

Focusing on good ideas and how to improve them tends to be more constructive than vetoing poor ideas. Having everyone nominate what they now think is a good idea helps sort out the most promising ones.

6. TURNING IDEAS INTO ACTION

At some point people will want to stop brainstorming and start making commitments. Having a number of practical ideas on the wall can make it fairly easy for people to find ideas on which they are willing to work and find others willing to work with them. There is no necessity for unanimity or for voting of any kind. If two or three people, or even one, wants to go to work on some task, they can do so. And it is probably far better than having no one do so.

7. NEXT MEETING

If a process has been constructive, it should be kept going. Before parting, people should decide when and where some or all of them will get together again.

THE ONE-TEXT PROCEDURE*

I. THE PROBLEM

Complex, high-stake, multi-issue negotiations, both bilateral and multilateral, do not seem to work as well as they might. Agreements, when reached, too often reflect lowest common denominator thinking. Deadlocks are frustrating and can be costly.

II. SOME CAUSES

1. *We measure progress by concessions.* In tough negotiations, we tend to focus on positions and define progress by the number of concessions made. In this way, we learn little about what the other side really wants and what most concerns them, and run the risk of missing significant opportunities for joint gain.

2. *Questions focus on positions.* When asked "Will you accept this today?" it is often most logical to say "No." Committing to a proposal makes little sense when others are not yet committed and you can still wait. Saying "No" today can also lead to a better package tomorrow. As a result, people get increasingly locked into their positions, and reveal little about the interests and concerns underlying those positions.

3. *Lack of inventing.* Faced with fears like appearing too flexible, getting "taken," and being misunderstood as committed when we're not, we tend to do little inventing with the other side. Given this, we may stay on the same course not because of its merits, but because we fear the costs of suggesting change will be too great.

4. *Too many cooks cause indigestion.* Fifty negotiating parties, let alone one hundred and fifty, cannot constructively discuss fifty different proposals. Nor can they make concessions contingent upon mutual concessions by everyone else.

III. GENERAL APPROACHES

1. *Proceed without making concessions.* Use a procedure that facilitates agreements without requiring any concessions, thereby avoiding positional bargaining dynamics that may get in the way of achieving better outcomes.

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2. *Ask questions that get at underlying interests and concerns.* People love to criticize. If, instead of asking you to accept my draft proposal, I ask you to criticize it, I am more likely to learn about your perceptions of the problem and how we might best resolve it.

3. *Reduce the risks of inventing.* One approach is to delegate the task of inventing to a facilitator. Third parties can raise options that people directly involved would have significant fears about raising. In this way, ideas can be put on the table with little if any cost.

4. *Use one cook.* In multilateral negotiations, appointing one facilitator to be responsible for designing and shaping a proposed agreement helps avoid the chaos of multiple proposals.

IV. SPECIFIC ACTION IDEA

The One-Text Procedure is a systematic, third-party approach for shifting a negotiation away from concessions, eliciting underlying interests, and simplifying the process both of inventing options and deciding jointly on one.

IMPLEMENTATION STEPS*

To use the One-Text Procedure, a third-party facilitator should follow these steps:[1]

1. *Explore underlying interests*
Meet with the various parties to explore interests and concerns underlying such positions as they may have.

2. *Write a first draft*
Equipped with an initial sense of what the different parties want, write a first draft of a possible agreement, which outlines the key issues that need to be dealt with, and presents one way of meeting them. Two guidelines will help avoid premature commitment:
a) Emphasize the draft's incompleteness by writing "DRAFT" at the top of each page, using double-spacing, and leaving blanks in the text.
b) The more sensitive the conflict, the more incomplete and non-operational this first draft should probably be.

3. *Discuss with each party*
a) Explain the groundrules: "No one will be asked to commit to any part of this draft or to the whole draft until the end of this process. During this process, you can neither accept nor reject any part of the draft since it is not being proposed. When I am finally through with my work on it, then I will give you an opportunity to accept it or reject it."
b) Ask for criticism (and listen for underlying interests and concerns): "What's wrong with this? What legitimate interests of yours are not reasonably met by this draft? Which are?"
c) Avoid asking a party for a specific solution to their problem, since this runs the risk of locking them into that option.
d) Make no commitments to anyone regarding how you will re-draft the text. Preserve your flexibility.

4. *Keep only one copy (your "one-text") and make no copies for*

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    1 For more detail, see ROGER FISHER ET AL., GETTING TO YES: NEGOTIATING AGREE-MENT WITHOUT GIVING IN 112-16 (2d. ed. 1991).

anyone else

Avoid giving copies of the text to the parties. (If you give them their own copy, they will tend to amend them to their complete satisfaction, take a position, and start a process of multiple texts.)

5. *Write Draft #2*

With this new information, revise your draft in an attempt to better meet the different parties' interests by exploiting potential joint gains.

6. *Ask for parties' criticisms again*

Remind the parties that no acceptance of any terms is allowed under the groundrules.

7. *Continue repeating this process*

This procedure of drafting, asking for criticism, and then re-drafting continues until you either run out of time, or think you have a draft that cannot be significantly improved. (When President Carter used the One-Text Procedure at Camp David, he went through twenty-three iterations.)

8. *When you finally present it, change the question*

When you present the final text to the parties, don't ask for criticism. Ask for acceptance: "Having listened to your criticisms and re-drafted in light of them, I have prepared this proposal for you. Under the circumstances this is the best I can do. This is the final text. No changes will be allowed. I now ask you for simply a 'yes' or a 'no.' Will you accept this now?"