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Sociological Practice Editors

Louis Kriesberg

James H. Laue

Richard A. Salem

Paul Wahrhaftig

See next page for additional authors

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Authors

Sociological Practice Editors, Louis Kriesberg, James H. Laue, Richard A. Salem, Paul Wahrhaftig, and Hizkias Assefa

Research and Policy Implications*

Louis Kriesberg

ABSTRACT

This article focuses on intractable conflicts and how they are transformed.
Specific attention is given to the kinds of questions raised by research on such
conflicts as well as the policy implications of selected research efforts.

Although we believe that in most cases reducing the intractability of conflicts is desirable, we also recognize that often one (or more) adversary believes that any likely settlement of its conflict would be worse than maintaining the struggle.

Whether or not an intractable conflict is preferable to any particular settlement depends upon one's values and interests. Whether the reader believes that inhibiting the intractability of a particular conflict or class of conflicts is desirable or that fostering intractability is preferable, policy suggestions can be stated as if either were true. The reader can invert the policy suggestion in accord with her or his preference.

The policy implications suggested pertain to a phase in conflict settlement that is beginning to receive needed attention: prenegotiation. In the past, most attention among analysts of conflict resolution was focused on

negotiation and mediation in negotiations. Recently, attention has turned to how adversaries come to the table to conduct negotiations. To maximize the utility of research and policy suggestions, it is necessary to specify the kinds of conflicts for which the suggestions are relevant.

Specifying Kinds of Conflicts

Throughout the discussion in this chapter, we consider what is shared by all social conflicts and what is specific to particular kinds of conflicts. This assumes that they form an equivalence class but requires categorizing kinds of conflicts.

One conventional categorization of conflicts is in terms of "levels," the size of the arena and adversaries. Thus, we commonly speak of interpersonal conflicts (e.g., within families), intergroup or interorganizational conflict (e.g., within a community or country), and international conflict (e.g., within world regions). Another conventional categorization is in terms of specific issues in contention, for example, environmental policy, child custody, ethnic separatism, control over territory, or control of a state.

For purposes of research and theory building, other systems of categorization are more relevant and useful than the conventional systems. No single dimension of conflict can provide an adequate set of categories. Social conflicts are multidimensional and so must be the categorizations. We must take into account the characteristics of the adversaries, the social system within which they are contending, and the issues about which they are struggling. This is not the place to present the elaborate and detailed categorization of conflicts; it is sufficient to outline relevant major dimensions.

Adversaries vary in number (Raiffa 1982). They also vary in the degree to which they are clearly bounded and internally differentiated (Kriesberg 1982). Clearly bounded adversary units are ones with generally recognized and publicly defined members and in which the membership in a particular adversary unit does not substantially overlap with membership in others that are likely to be in conflict with it. For example, persons, states, and organizations are clearly bounded compared to social classes, ethnic groups, and supporters of different environmental policies. Units are highly differentiated insofar as there are many specialized roles, most importantly ones involving the conduct of conflict relations with other units. For example, states are highly differentiated, with special bureaucracies for external relations, including war making.

Social conflicts involving one or more adversaries who are not clearly bounded or highly differentiated are likely to follow different patterns of

intractability transformation than are conflicts among clearly bounded and highly differentiated adversaries. Thus, when heads of the adversary units have the authority to make binding decisions, shifts toward tractability can be relatively quickly done. For example, the Israeli and Egyptian governments moved toward tractability more decisively than have the Israeli Jews and Arab Palestinians.

The social systems within which adversaries contend vary in the degree to which they have institutionalized rules for managing conflicts and in the content of those rules (Wehr 1979). Conflicts are waged usually within the context of a social system with rules for their conducts and they often take on qualities of a game. Every society and most organizations have both formal and informal rules for managing conflicts. Rules, however, are not well developed for conflicts among states; even within a society, they do not effectively regulate conflicts among nonlegitimate adversaries, and about issues not considered legitimate.

The social systems also vary in the way the adversary units relate to each other in that system. Thus, the parties may have a great deal of mutual dependence, relatively independent of each other, or be in a relationship of domination and subordination.

Adversary units are related to each other in a variety of ways within different social systems. They vary in the power they have relative to each other, in the degree of dependency each has on the other, and in their relationship to the interpreters and implementors of the institutionalized means of managing conflicts. For example, an ethnic conflict might be between two ethnic groups which are both marginal in the host society or between one ethnic group that is marginal and another that occupies the dominant political and economic strata.

Conflicts vary significantly in the number and content of the issues that are matters of contention (Raiffa 1982). The nominal content of the issues—environmental damage in Alaska, the political borders of Germany, or the custody of Mary D. and John D.'s children—is infinite: every conflict is unique. We need to have more abstract ways of categorizing conflicts to make useful generalizations possible.

One general distinction that has been made for several years is between conflicts that are consensual and those that are dissensual (Aubert 1963). In consensual conflicts, the adversaries agree about what is valued and differ about the allocation of what they agree they want; this may be land or another resource. The parties are fighting about interests. In dissensual conflicts, the parties differ about what is desirable, but at least one party insists that the other adopt its vision of what is desirable; this may refer to political ideology or religious faith. The fighting is about values they do not share.

Another relevant distinction is between conflicts in which the adversaries do or do not share a common understanding of the nature of the fight between them. In some conflicts, the antagonists do not agree about the issues in contention; perhaps one side stresses one consensual and the other the dissensual nature of their struggle with each other.

Finally, a difficult conceptual matter pertaining to the issues in contention must be considered. Partisans and observers sometimes assert that a particular conflict is "unrealistic" (Coser 1956). This usually means that one or more of the adversaries is said to be mistaken about the source of its grievance. For example, ethnic conflicts in the United States are sometimes said to be unrealistic, as when prejudice is alleged to arise from the psychological displacement of other feelings. A social conflict is realistic when the analyst believes that there are objective or structural conditions which are the bases for the social conflict and that these conditions correspond to the ostensible matter of contention among the adversaries.

The distinction between realistic and unrealistic conflict has two other conventional meanings that should be recognized. One is that a conflict is unrealistic when the goals set by an adversary are unattainable. Unrealistic conflict occasionally refers to a conflict in which the means being used are out of proportion or unrelated to the ostensible purposes of the adversaries.

Every actual conflict is a blend of these features. Consensual and dissensual matters are both present; not all members of all adversary groups agree about what the issues in contention are; consequently, analysts are likely to recognize some realistic and unrealistic elements in every fight.

The utility of these dimensions about the characteristics of the adversaries, about the social systems in which they contend, and about the issues of contention is indicated as we discuss needed research and policy implications.

Needed Research

The kinds of research that the analysis and discussions suggest would be important are discussed in the following three categories: (1) the meaning of intractability, (2) the bases and deepening of intractability, and (3) the reduction and transformation of intractability. And in discussing needed research, we emphasize research questions and not research design. The designs should often include comparisons among different kinds of conflicts in order to assess the generalizability of any findings.

Meaning of Intractable Conflicts

Whether or not a conflict is regarded as intractable is a matter of social judgment based on social conventions. There are social conventions about how long different kinds of conflicts are expected to persist, about the expectations adversaries have concerning the possibility of a settlement, and about what the employable limits are to the means of struggle. Research also needs to be conducted to discover who among the adversaries effectively defines a conflict as intractable.

Who defines a conflict as intractable is important insofar as that characterization impacts on the conflict itself. Is it likely that once a conflict is labeled intractable intermediary efforts are reduced because they are regarded as doomed to fail? Is it likely that the adversaries themselves tend to believe that the struggle will not be settled for a very long time and/or must await major external intervention, once they accept the conflict as intractable?

We should also ask how answers to such questions vary among different kinds of conflicts. For example, we expect that conflicts that occur in social systems with institutionalized rules for managing conflicts will be identified as intractable in terms of their relationship to such rules, as interpreted by the rulemakers. Thus, fights about matters similar to ones usually processed through the judicial system, if not settled within that system, are likely to be viewed as intractable. This may be the case for environmental disputes.

We also believe that dissensual conflicts are more readily characterized as intractable because the expectation is that no major party will change its basic values; but adversaries are viewed as more ready to settle disputes over matters about which they share values. Thus, the value or cultural differences in ethnic conflicts obstruct finding mutually acceptable solutions.

Bases of Intractability and Increasing Intractability

One basis for intractable conflicts is felt threats to one's individual or collective identity. Research is needed about the ways in which multiple identities are related to each other and how some identifications become salient and the grounds for an intractable conflict while others do not. One arena in which relevant research has been done pertains to ethnic identities and loyalty to the state, but this research has usually focused on the emergence of conflict and its persistence. The transformation of such conflicts into tractability has been relatively neglected.

Because one of the ways identity is formed is in opposition to other groups of people, that process needs to be better understood. Once a struggle is underway, adversaries often try to define the other and impose an identification. This is exemplified by struggles to define Palestinians, Zionists, Israelis, and Arabs. Research is needed about the way efforts to define the enemy occur and threaten each party's self-identification. Research is also needed about how conflicts are waged so that they do not entail such efforts by adversaries to impose an unwanted identification on each other.

Intractability can emerge from several other bases. Once conflicts are underway, segments of each adversary group often develop a vested interest in the struggle. For the fighters, it may become a way of life. Research is needed about such developments and about what fosters and what inhibits them.

A long-standing idea in the social science literature is that conflicts in which many lines of cleavage are superimposed are likely to be intense (Dahrendorf 1959). They are also likely to be intractable. Consequently, when ethnic lines correspond to class, religious, linguistic, and regional differences, crosscutting ties are likely to be absent, and a mutually satisfactory resolution difficult to construct. On the other hand, when such divisions overlap and crosscut each other, particular disputes are likely to seem manageable. We need research to assess this idea, for different kinds of conflicts in different contexts.

Conflicts in which the outcomes sought by each side threaten the adversaries' basic interests are also likely to be intractable. For example, Paige (1975) has argued that agrarian revolutions vary in accord with the basic sources of income of the cultivators and noncultivators. He argues that when the cultivators earn their income from the land (as workers on a commercial hacienda) and so do the noncultivators (the owners of the commercial hacienda), an intense social revolution is more likely than when the cultivators earn their income in the form of wages (as on a plantation) and the noncultivators' income is largely from their capital investment (as in a plantation). In the latter case, reform is more likely than revolution, and the conflict is relatively tractable.

All these matters are likely to vary among different kinds of conflicts. Examining any one of them comparatively, among different kinds of conflicts, should illuminate our understanding of each. To take one illustration, consider the growth of identifications in a way that threatens one or more than one of the parties in a struggle. In arenas with well-established institutionalized processes for handling conflicts among recognized parties, the parties may be clearly identified but not threaten each other's essential identity. This may be the case, for example, in highly regulated collective

bargaining between trade unions and management. In arenas with less well-established institutionalized processes, the issues in contention may be less well bounded and even the identities less clear. For example, in the emerging environmental disputes, the parties are often still in the process of defining themselves and trying to characterize their protagonists.

We might also ask how the development of vested interests in a struggle differs among conflicts in which the adversaries are large, clearly bounded, and highly differentiated, as in a struggle between unions and management, and among ones in which the adversaries are not very large, clearly bounded, or differentiated, as in a child custody struggle between divorcing parents. In conflicts between large-scale adversaries, each one tends to develop specialists in conducting the struggle who make a career of it.

Transforming Intractable Conflicts

As discussed by Hunter (1989) and Frohock (1989), one basis for intractable conflicts is the ontological differences in the adversaries' view of issues. Their fundamental differences make a resolution of their conflict very difficult. Even under these circumstances, however, the adversaries may settle a particular dispute, without a change in their ontologies. As Hunter points out, an ontology does not predict an exact position on a given issue.

Research is needed on how specific settlements are reached, without changes in ontologies. Settlements may depend on accepting the results of institutionalized procedures, as when religious and medical ontologies seem incompatible to particular sects and hospitals, but the courts rule on the settlement of a particular dispute. How does this happen in less-institutionalized arenas? What are the consequences of such settlements? Do they weaken or reinforce the ontological differences or do such settlements leave them untouched?

Adversaries never have purely conflicting relations; they always have some common interests and even shared identifications. We need research on how the balance between those cooperative or complementary aspects and the competitive or conflictual aspects shift. Presumably when the relative importance of cooperative or complementary aspects increases, a conflict becomes more tractable.

One matter that affects the relative significance of cooperative and of antagonistic aspects of the relationship is the salience of other conflicts each adversary has. When do adversaries come to regard a common enemy as a major concern? When does one adversary come to believe that enemy number one has become a secondary enemy? What circumstances and/or ideas contribute to reframing a conflict so that it becomes tractable?

In the conflict resolution literature, the intervention of a mediator is often presumed to be an important element not only in facilitating negotiations but also in initiating de-escalating negotiations. We need research about the extent to which that is the case. Under what circumstances does an intermediary facilitate de-escalation in an intractable conflict?

An important debate about the transformation of an intractable conflict is between those who argue that it is a gradual process and those who argue that it entails a rapid, fundamental shift. On one hand, the argument is that step-by-step, piece-by-piece settlements of particular disputes enable adversaries to begin to trust each other enough to think constructively about mutually acceptable outcomes (Kriesberg 1986). The conflict is then manageable and can be pursued as a tractable conflict. On the other hand, it is argued that once a conflict has become intractable, mistrust is so high that a dramatic and fundamental shift is needed. A basic change in the nature of the conflict and the way it is conceived by the partisans is necessary. When basic needs are being dealt with, movement toward resolution is possible (Burton 1987). We need to examine actual cases of conflicts becoming tractable to assess these different views.

In all these matters, comparisons among different kinds of conflicts would be useful. It is clear that within systems that have highly institutionalized conflict regulation, the roles of intermediaries are diverse and specialized. In addition to conciliators, mediators, and arbitrators, they include judges, juries, commissions, agencies, and legislative bodies. Even for conflicts that are not conducted within a regulated context, many kinds of intermediaries can and do provide a wide variety of conflict management functions. These are done informally and by persons and groups who act without explicit designation or recognition as intermediaries by the adversaries in the conflict.

Several examples of groups performing such informal intermediary actions include U.S. dialogue groups on the Middle East, the Greens in West Germany, and researchers on environmental issues in Alaska.

Research is needed about the ways formal and informal intermediary activity supplement each other and undermine each other. Analyses of alternative dispute resolution in conjunction with the judicial system and of Track II (unofficial) diplomacy in conjunction with official diplomacy are beginning to be undertaken (Bendahmane 1987). Comparisons between them would be useful. In addition, studies of the varying effectiveness of experts, intellectuals, and religious leaders mediating in conflicts that differ in the degree to which value and interest issues are in dispute would be useful.

Policy Implications

As previously stated, policy is discussed as if transforming an intractable conflict to a tractable one is the goal. This need not be the case for an actor in a particular fight, since any reasonably foreseeable settlement might be undesirable for that person or group. Such an actor might read these policy implications as providing ideas not to be implemented but turned around.

It is important to be explicit about the role being played by the would-be policy maker. The policy that might be pursued by a member of one of the adversary entities is obviously different than the policies that might be pursued by an intermediary. Policies are also likely to be different for a major officeholder, and opposition leader, or a rank-and-file member of one of the adversary parties.

Policies also should be explicitly placed in a time frame. This is especially significant when we consider intractable conflicts. After all, every fight does end, but it does matter whether this termination follows years or even generations of sacrifice. Discussions of policy should be explicit about the length of time in which the policy is to be implemented: days, weeks, months, years, decades, or centuries.

We discuss policies in terms of two major phases: preventing a conflict from becoming intractable and transforming it so that it becomes more tractable.

For preventing conflicts from becoming intractable, the analyses presented suggest several long-range strategies. One general strategy is to avoid creating vested interests for continuing a conflict. This means, for example, providing options for people who otherwise would be able to do nothing except fight or wait for the total defeat of the adversary. These matters are especially important with large-scale adversaries, such as ethnic groups and their organizations. This policy could be pursued by intermediaries as well as the adversaries themselves.

Another important long-range policy is to avoid threatening the essential identity of the adversary. This is a policy that is especially pertinent for the adversaries themselves. To prevent a conflict from becoming intractable, each adversary should not deny the fundamental claims of the other. Finally, developing institutionalized ways of handling a particular kind of conflict reduces the likelihood that one of those kinds of conflicts will become intractable. This includes making settlements that embody procedures for dealing with the recurring disputes within the context of the major conflict, which continues beyond particular settlements.

In transforming intractable conflicts, one strategy is particularly relevant for the rank-and-file members of the adversary groups if they plan to develop support for accommodation with their opponent. This is a long-range strategy in which support for accommodation when the time is propitious is gradually developed. Such efforts may take place in various constituencies. For example, Schwartz (1989) describes the work of dialogue groups in the United States in which Americans from Jewish, Palestinian, and other communities seek common ground and try to influence their communities and the U.S. government's policies toward an accommodation between the Israeli government and the Palestinians.

Another policy is applicable for all segments of any adversary or for an intermediary. That is to find some areas of possible settlement and work to attain them. This presumes that an incremental approach to the transformation of an intractable conflict is possible and perhaps even necessary.

Among the long-term policies is one in which the past and hence the current identifications are redefined. Interpreters (intellectuals and politicians) play critical roles in these redefinitions. Intellectuals and politicians are often ideological agitators, championing opposition to oppression, or they are justifiers of the status quo. Less often, they are articulators of reconciliation and accommodation between enemies. Yet, those latter roles are, in the long run, critical.

In the short run, intermediaries and officials of adversary parties may try to discover de-escalating strategies. This means selecting a set of parties who might agree on even a partial settlement, excluding those who would not agree, but not excluding those who could effectively prevent an agreement. There are dilemmas here. Excluding intransigent parties in the dispute may make it possible to reach an agreement, but the agreement may not be implemented. Furthermore, excluding any parties with a stake in the fight makes equitable treatment for them less likely. Strategies may involve finding a set of contentious issues, perhaps even relatively peripheral ones, about which an incremental agreement might be reached. The strategies may also involve a blend of inducements that is sufficiently attractive to make an agreement possible; the inducements would entail promised benefits and the avoidance of particular harms.

Finally, intermediaries can contribute in various ways to transforming intractable conflicts. For example, they can add compensatory benefits, or otherwise increase the size of the pie, thereby reducing the zero-sum nature of the conflict. This is illustrated by the U.S. government's role in the 1978 Camp David meetings between Israeli and Egyptian delegations headed by Primary Minister Begin and President Sadat.

Many actors can serve as intermediaries and perform mediating functions. They may be nongovernmental as well as governmental persons and groups, and they may be based in one of the adversary units or based in social locations that are not aligned with any of the primary adversaries regarding the particular issue in dispute.

We are well aware that we have not fully answered many of the questions we have posed. We hope that by posing them and providing partial answers, others will help answer them more comprehensively. We believe that there is much to be learned about how intractable conflicts gradually or suddenly become tractable. Furthermore, reflecting on such transformations should give those persons who would want to de-escalate an intense conflict an enhanced understanding about how such transformations can be fostered. Comparing such diverse conflicts as we have provides a test of such efforts. We believe that such comparisons can suggest insights about each kind of conflict. What seems obvious and necessary about a conflict can be recognized as a social convention that could be different under changed circumstances.

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Getting to the Table: Creating the Forum for Negotiations in Deep-Rooted Conflicts

James H. Laue

ABSTRACT

The first step in the conflict resolution process is establishing a forum in which cooperative negotiation can occur among the parties. Three aspects of this "getting to the table" process are analyzed: functional requirements for the table or setting, methods of getting the parties there, and value choices about the nature of the table and the process there.

True *resolution* of conflict—in contrast to management, settlement, winning-losing or mere termination—occurs only through negotiation or some other form of mutual problem-solving. This principle is especially relevant wherever deep-rooted conflicts persevere, particularly where differences are rooted in religion, race, ethnicity or other sources of group identity. Coercion and continued violation of the basic human needs for identity and recognition never can "resolve" deep-rooted or political conflicts (Burton 1987). A settlement imposed by one of the parties or by an outside source will not last unless the basic needs of each party are satisfied; that can only take place through joint analysis, relationship building, and problem-solving among the parties.

How is it possible for parties who have sworn not to talk with one another to get to a negotiating table? How is it possible to build an environment for problem-solving when the other party is defined as the problem? How can a setting be created for parties who have vowed never to compromise, to shape compromises?

This article examines the process required to build a forum (i.e., an environment, setting, or set of conditions) to which parties are willing to come—at least for one meeting—to examine the prospects for resolution of their conflicts. I have developed the phrase "getting to the table" which describes that process, with "table" as a broad metaphor for the forum (face-to-face, shuttle, or electronic) in which negotiation and problem-solving may take place among the disputing parties.

The Problem-Solving Paradigm in Political Conflicts

"Realism" and "Problem-Solving"

The so-called "realist" paradigm in international affairs has dominated thinking about protracted political conflicts within nations and at the regional level as well. The goal has been security in a dangerous world of adversaries, with the strategic focus on control, enforcement and deterrence. Winning is the immediate objective in any conflict.

In the last two decades, a growing group of scholars and practitioners has shifted the focus to resolving rather than winning conflicts, with the strategic focus on analysis, problem-solving and negotiation (Burton 1969; Doob 1970; Kelman and Cohen 1976; Zartman 1977; Fisher and Ury 1981; Mitchell 1981; Banks 1984; Saunders 1985a). In this framework, all of social life is a negotiated order, and self-interest is best served by engaging in negotiated problem-solving with other self-interested entities in an uncertain but interdependent world. Sustaining and improving the relationship is as important as achieving a satisfactory substantive outcome in conflict.

The getting-to-the table problem is set in the context of the joint problem-solving approach to political and deep-rooted conflicts. It values joint approaches over unilateral action, face-to-face interaction, viewing the other party or parties as negotiating partners with whom an agreement is possible (rather than as enemies or opponents to be beaten, and a focus on good relationships as well as good substantive outcomes. These are clear process preferences, which may not be shared by the parties. Helping the

parties to create and own the process is always the first step in helping
them create and own satisfactory outcomes.

Political Acts and Problem-Solving Fora

Harold Saunders, former U.S. assistant secretary of state for Middle
Eastern Affairs and a key player in the negotiations which led to the Camp
David Accords in 1978, appropriately insists that negotiation in political
and policy conflicts can only be understood by placing it in the context of
the ongoing flow of political acts of the parties. Negotiation is only one
form of interaction between nations or identity groups. It does not take
place in political isolation. It often occurs informally or through "back
channels" even when the dominant mode of interaction is war or some
other mode of adversarial behavior.

The beginning of negotiations usually represents a conscious choice of
the parties to change the forum in which their dispute is being conducted—
or at least a change in their perceptions of the relative advantages and dis-
advantages of a win-lose adversarial forum for conducting their dispute.
The brokering or coercion of a third party or parties may convince them to
change the forum. Changing the forum also is a political act and has a
political impact on the nature of the ensuing process.

This stage of conflict resolution, according to Saunders, is the most
neglected element in analyses of the process. Most of the myriad frame-
works explaining the phases of negotiation and mediation begin somewhere
near the middle of the actual process with a stage such as "Define the
Problem," tacitly assuming that the parties already have been identified and
have agreed on a venue and a set of procedures for negotiating. Instead, the
first stages are what a number of authors (Saunders 1985b; Zartman 1985;
and Bendahmane and McDonald 1986, 311) have termed "pre- negotia-
tion," du Toit "bargaining about bargaining" (1989), and Laue "getting to
the table" (1986; Laue et al. 1988; see also Stein 1989; Rothman 1990;
Potapchuk et al. 1990).

Cases abound to illustrate these processes and stages—and their essen-
tial functions in the transition from war or other adversarial fora to the
negotiating table: the preparation over several years of the Carter White
House for Camp David (Carter 1985; Quandt 1986), of Costa Rican
President Oscar Arias Sanchez in convening the Central American Peace
Process (Esquipulas Dos), of U.N. Secretary General Javier Perez de
Cuellar in Afghanistan and Iran-Iraq, of U.S. Assistant Secretary of State
Chester Crocker in Namibia (Laue 1991).

Getting to the Table: Theory, Process, and Problems

A Theory of the Forum

A *forum* is any structured setting in which parties may communicate their interests to each other and conduct problem-solving behavior about issues between them. Establishing a forum acceptable to all the parties is the first major stage in the resolution of deep-rooted political and identity group conflicts. The forum in conflict resolution usually involves face-to-face interaction among the parties, but also may be conducted with the aid of third-party shuttles ("proximity talks" in United Nations parlance) or electronic communications technology.

The concept of forum is not new. Archimedes understood it when he said, "Give me a piece of ground to stand on, and I will move the world." No significant social action occurs unless the participants have the appropriate base from which to move. The "peace pipe" ritual among Native Americans and the structured exchange of peace masks and other ritual objects among many tribal peoples provided the forum for religious, political, and other types of negotiation with the gods or other humans. The "Samoan Circle," the Quaker meeting, the New England town meeting, the diplomatic conference, neighborhood "mediation" in China—all are examples of fora in which negotiation and other forms of social interaction have taken place throughout history.

Elements of the forum required for resolution of conflict include:

1. *Auspices.* What persons or institutions provide the necessary societal or group approbation necessary for legitimation of the forum? Who can convene or otherwise cause the parties to meet initially? The auspices may be provided by elders, the church, secular community leaders, any organization or combination of organizations (the United Nations or the Organization for African Unity, for example, or the Red Cross or the Urban Foundation), a person with credibility—any combination of persons and or institutions acceptable to the parties.

2. *Location(s).* Where will the parties meet? In one location acceptable to all? In several settings for balance and constituency acceptance? Only via personal messenger or electronic means instead of face-to-face? Is a high prestige venue required—or should it be highly confidential? Historically, parties have gotten to the stump, the kitchen table, the woodshed, the circle on the ground, the bench, the bar, the altar, the street, the battlefield, the bed, the press, or the hot tub. All are appropriate fora, depending on the perceptions and preferences of the parties (or in some cases, as with the woodshed, the dominant party).

3. *Time Frame.* When shall we meet? How often? With what frequency? Over what time period? Do we set the full schedule in advance, or are meeting dates determined serially or as the need is defined? Is this a conflict clearly limited by elections, military plans, the nature of the issue, the parties, the phases of the moon, or other elements outside the control of the parties? Who decides often is a crucial question in the politics of scheduling.

4. *Participants.* Who should be at the table—the direct parties, their representatives, second-level parties, parties-in-exile, or scholars who understand the parties' positions, sympathizers, relatives, indirect parties, constituents or observers (how many?), only those bearing political recognition or other form of legitimization, or only some of the parties? Who decides who is a "direct" party? Who decides how big the table should be?

5. *Role Relationships.* The formal and informal role relationships parties bring to the table are critical in determining their interaction. Is there a prior relationship among any of the parties? Do they wish to maintain and enhance it? Do any of the parties have direct authority over any of the others (a cardinal and a priest, a tribal chief and a tribal member, a boss and an employee)? Do the parties bring different historical relationships with the mediator or other third-party who may be involved?

6. *Procedures.* Often the first joint decision fashioned by the parties at the table, the ground rules, or the procedures under which the parties will interact may proscribe the range of behaviors and outcomes in any given forum. Are they imposed by an authority or developed jointly by the parties? How are they enforced? What is the decision rule (voting, consensus, other)? Caucuses? Observers? Who may speak? Is there a third party? Media? Reporting to constituencies? Gandhi said it most succinctly: means are pregnant with ends.

7. *Issues.* Issues are the substance of conflicts. An issue arises when Party A believes Party B's behavior will prevent Party A from reaching an important goal. Two basic types of issues in conflict are those about *resources* (those goods, services and symbols valued by parties as necessary for survival and the conduct of appropriate social interaction—e.g., food, shelter, clothing, money, education, information, security, territory, prestige, affect) and *power* (control over decisions about the allocation of resources). Conflicts involving power struggles always are more protracted, deep-rooted, and contentious than those over resources alone. The use, maintenance, and efficacy (and often the expansion) of power are at the heart of all political disputes.

8. *Communication Medium.* The media for communication among disputing parties may be live (face-to-face or through a shuttling intermediary), electronic (computer conference or telephonic connection), or print

(thought exchange of hard copy though human or computer as intermediary). Parties ask, at least tacitly: what are the advantages and disadvantages of joint, face-to-face interaction compared to the other communication modes? Do we want to confer recognition on the other party or parties by being in the same room with them? Can we vary modes of communication to suit our perceived interests? What about the role of outside media— should our communication with them be individual, joint, through a third party, or not at all?

9. *Values.* Values (conceptions of the desirable and undesirable) underlie every element in a given forum and all the behavior exhibited there. Choices are made, explicitly or implicitly, about a range of questions that present themselves as a forum is built and operated. The most important values underlying any negotiation or joint problem-solving approach have to do with the nature of the process and the mode of interaction between the participants. They are examined below in "Value Choices in Building the Forum."

Why go to the Table?

Getting to the table does not assure getting to resolution. Parties in conflict may seek a forum, and/or agree to take part in negotiated problem-solving, for a wide variety of reasons. In negotiations over policy and political issues, coming to the table may be viewed as a political act itself (i.e., designed to enhance one's power or the potential for a better outcome by changing the forum), and what happens at the table as an extension of political interaction in another forum.

Why go to the table? Parties may enter into negotiation or joint problem-solving to accomplish any one or a combination of the following objectives:

- to stall
- to avoid reaching an agreement
- to legitimate present political or military activity
- to save face
- to gather intelligence on the other party or parties
- to test the water or float an agreement
- to unify the home team
- to ceremonialize
- to ratify a prearranged understanding or agreement
- to send a message
- to solve a short-term problem
- to resolve the conflict through negotiation

Those interested in achieving resolution of conflict through direct negotiations have to find ways to assure that the major focus of the at-the-table work will be on joint problem-solving and reaching a mutually acceptable agreement, rather than on the range of other possible objectives illustrated above. Carefully choosing the path to the table and the specific steps along the way can help ensure the integrity of the process once there.

Some Paths to the Table

The previous section outlined the elements of the forum for which provision must be made before parties can begin substantive negotiations. The process of putting those elements in place is the next focus of analysis.

There are a number of paths to the table for deeply divided parties. In each case, the process is one of building confidence in the major actors that they can—without serious political or physical vulnerability—hold at least one exploratory contact with the other party or parties, usually in the form of a joint meeting. Since moving from isolation or armed conflict into negotiation is a high-risk political decision for parties in this type of conflict, they cannot be expected to buy into an entire plan for negotiation; getting them to come to an exploratory meeting for discussion of conditions and ground rules for possible negotiation is enough. Their expectation in going even this far is not to be embarrassed or made vulnerable; maximally they can predict that a change of venue and form of the disputing proces may work to their advantage.

In many conflicts, such movement toward a negotiation forum develops as part of the ongoing perceptions and calculations of the parties regarding their goals and the means available to achieve them, and response to the incentives and disincentives to negotiate evolving from their conflict interaction. While the decision to go to the table is always a political act, the ebb and flow of the political process often is the direct cause of such a decision. Escalation of relationships from conflict to crisis occurs only when at least one of the parties *defines* the situation as a crisis, thus requiring new behaviors to protect perceived interests. Often the crisis definition moves the parties to take military or other coercive action to reassess internal functioning—or to move to deal with a long-festering conflict that can no longer be avoided or ignored. Building a forum to negotiate a solution and prevent further crises now appears politically realistic and imminently logical.

The process leading to the Limited Nuclear Test Ban Treaty, negotiated in July 1963 by American, British, and Soviet representatives, had gone

through a fitful series of starts, stalls, and stops for several years in the late 1950s. According to Griffiths (1989),

> The ultimate prenegotiation that brought about the tripartite Moscow talks might be said to have begun with the resolution of the Cuban missile crisis of October 1962 (78).
>
> The Cuban crisis in particular served to underline [Soviet Premier Nikita] Kruschev's inability to achieve a breakthrough in improving the Soviet capacity to negotiate from acknowledged strength (81).
>
> The venture to the brink in the missile crisis had surely drawn attention to the need for greater stability in Soviet-American relations (82).

A crisis definition (and in this case, resolution of the crisis) changed the parties' relationships, and helped move them to the table for negotiated problem-solving. Stein concludes that the evidence from the six cases in her study of international negotiation "suggests that leaders have decided to consider negotiation when they see the need for a strategy of crisis avoidance or post-crisis management or when they see a conjunction of threat and opportunity, when prenegotiation promises to reduce some of the risks associated with negotiation, and when they anticipate benefits from the process which are largely independent of whether or not it culminates in agreement" (1989, 247). When politics-as-usual fails to bring parties to the negotiating table—or directly blocks the path—there are a variety of paths to the table which may be promoted by third parties, including at least the following.

1. *One-on-one Analysis.* One person or a team may call on parties one at a time, enlisting their aid in assessing the conflict and the prospects for establishing a negotiating process. This approach goes directly to the basic requirement to move parties form bi-lateral or multi-lateral ad hominem attacks to a consideration of turning their focus away from each other to a third focus—in this case, joint analysis of the problem and the creative task of fashioning a table. I have found in a number of applications of this approach that most parties quickly become interested in the analytical and strategic questions being posed, for they are directing energy to a task on which they have some considerable expertise.

During the interviewing and assessment stage, it is possible to accomplish, in the most direct way possible, the identification of elements of the potential forum outlined earlier in this paper. Of equal importance to an assessor cum mediator is the development of relationships with the

stakeholders and helping serve as a medium to start moving information among the parties—which they inevitably ask for as they discover the assessor has had broader contact with the dispute and the other parties than they have.

The key requirement in this approach is to gain access to the parties for the interview. Often an academic base and a clear scholarly task which requires the parties' assistance is enough to get in the door.

EXAMPLE: Under the auspices of the mayor and a member of the state highway commission, my colleague Sharon Burde and I interviewed 26 persons individually between October 1985 and January 1986 in Fort Worth about their role in and analysis of a dispute over downtown highway expansion that had been brewing since 1979. Study documents, consultant reports, lawsuits, and the operation of the traditional highway planning process had failed to resolve the dispute. The interviewees were asked to join us in an analysis of the issues and help build a process and agenda for resolution. Most interviews were one to two hours; one lasted for five hours. The process culminated in an analysis of the dispute presented to all those interviewed and an invitation from the mayor and the commissioner to the seven major parties identified to attend an exploratory meeting with the interviewers. Through a hybrid negotiations/problem-solving process that operated under the auspices of the Conflict Clinic for three years in conjunction with the prescribed federal, state and city planning frames, full consensus on a plan was reached. Implementation of the plan now is under way (Laue et al. 1988).

2. *Convenor.* In some situations, a powerful broker may be required. Who has the power, the credibility and/or the relationship with the parties to bring them to the table? This is the first and crucial question in considering the convening role. To convene the parties for the first meeting requires that the convening person, organization or governmental jurisdiction be perceived as fair and credible—or possess sufficient sanctions over the parties to make it virtually mandatory that they come to the table. There are at least three types of convenors:

  – a convenor with the required prestige or credibility
  – a convenor with coercive power over the parties
  – a convenor with considerable perceived influence or access to resources desired by some or all of the parties.

EXAMPLES: Representatives of the first type are religious leaders and elder statespersons (e.g., Pope John Paul in the Beagle Channel dispute and former President Jimmy Carter in the 1989-90 Ethiopian-Eritrean talks). A coercive convenor typically appears in international disputes where a third nation believes it is in its best interest to bring disputing nations to the

table (Touvaal and Zartman 1985). Carter's role as convenor of the Israel-Egypt Camp David meetings is a good example of the third type, as is the "mediation" of President Theodore Roosevelt in the 1906 Russia-Japan conflict. The same is true of many of the good offices efforts of the secretary general of the United Nations (Afghanistan, Iran-Iraq, and Cyprus have been mentioned), as well as President Arias' role in convening the five Central American states in the Contadora process. U.S. Secretary of State Henry Kissinger's "shuttle diplomacy" between Egypt and Israel in 1974 is another much-publicized example of a powerful nation serving as a convenor—although on this occasion the forum was a moving one, embodied in a person, rather than a single place.

3. *Emissaries and Brokers*. When one or more of the parties wants to explore negotiations but fears that direct contact will weaken its positions or signal compromise, emissaries or brokers may initiate contact and conduct quiet or back channel negotiations about getting to the table. An historical ally, a trading partner, a friendly academic or NGO—all are typical occupants of this role.

EXAMPLES: Quiet Quakers, with no formal power and no diplomatic portfolio, have brokered relationships and carried pre-table messages between parties in a wide range of international and ethnic conflicts (Yarrow 1978). An unusual broker's role was played by CBS anchor Walter Cronkite in the activities leading to the Camp David talks between Israel and Egypt in 1978. When Cronkite interviewed Egyptian President Anwar Sadat on videotape in Cairo, Sadat made his now-famous "I will go to Jerusalem" statement. Cronkite immediately flew to Israel to interview Prime Minister Begin, who was prepared to respond to the electronic offer. Sadat went to Israel, addressed the Knisset, and important pre-Camp David relational groundwork was in place for President Carter.

4. *Joint Problem-Solving Workshop*. The joint problem- solving workshop may become a path to the negotiating table when the participants are drawn from a specific conflict with some degree of ripeness. Such workshops—pioneered by John Burton in London in the 1960s and Herbert Kelman in Cambridge and the Middle East in the 1970s, provide an ideal "third focus" for the parties: analysis, in a non-negotiating, formally apolitical setting, of their dispute and the development of parameters and innovative ideas for dealing with it. Alternately, the substantive focus may be another subject of joint interest to the parties, so they may practice joint analysis and problem-solving on *an* issue, with the expectation that the experience may make a similar treatment of the actual issue possible. The problem-solving workshop embodies most of the values for building the forum presented in the next section. Keeping the parties focused on

analysis rather than answers, and generating options rather than negotiating solutions, are the central dynamic of this process.

EXAMPLE: Such workshops have been conducted regarding Northern Ireland, the Arab-Israeli conflict, Cyprus, Lebanon, and a variety of other conflicts. Because of their confidential nature (and the cardinal rule that facilitative third parties never publicly take credit), it is hard to prove direct links between the workshops and subsequent negotiations. Parties and observers do agree, however, that a series of Cyprus workshops in 1966 led directly to the talks between Turkish Cypriot leader Denktash and Greek Cypriot president-to-be Clarides in 1968 (Mitchell 1981).

5. *Joint Training.* Bringing potential or actual disputants together for training in analytical, negotiation, or other skills is another major potential path to the negotiating table. Again the emphasis is on creating a situation in which parties can interact in a non-bargaining, non-advesarial manner. They are not brought together to negotiate or to solve a problem per se. Nevertheless, such a setting can provide the opportunity for exploration of the other party's interests, for building relationships, for sensing the parameters of an agenda, and for some negotiating about negotiating.

EXAMPLES: Roger Fisher and John Murray report their conduct of joint training of management and union representatives of the aluminum industry of Canada in 1983. Costly strikes in each of the two prior contract periods prompted management to ask for help, and the Fisher/Murray response was to convert the request for management consultation into the provision of joint training in negotiation skills for management and the 15 labor organizations involved. The training provided the setting in which informal non-committing exchanges could take place, and management credits the Harvard team with creating the atmosphere in which a mutually satisfactory contract was reached and another strike avoided. More recently, the Harvard Negotiation Project has used this model in working with school districts in Michigan and Ohio, resulting in negotiated resolution of difficult disputes.

While it is too early to measure its effectiveness in getting to the table, the Hebrew University two-month Training Seminar in Pre-Negotiation for Diplomats ("The Art and Science of Getting to the Table") is the first attempt to apply this approach over an extended period of time (Rothman 1990). Fifteen diplomats posted in Israel took part in the training, whose main aim was to develop in them critical thinking about conflict and its resolution. The participants represented a dozen different countries and reported great satisfaction with the experience. Whether there will be transfer of the skills and the relationships awaits the entry of these diplomats directly into the major conflicts of the region.

6. *Scholarly Conference.* Bringing the conflict participants (or their close academic allies) together can provide another setting in which the possibilities of establishing direct negotiations can be addressed. The ritual of formal academic presentations allows parties to effect a more objective posture while presenting their cases, and often provides a vehicle to send messages and float ideas to other parties. These ideas could not come in a direct diplomatic or negotiating context for fear they would sound like offers or demands which require a response.

EXAMPLES: The South Africa case offers many illustrations, all of which provided protected environments in which scholars and activists (many of them later involved in the post-February 2 negotiations shaping the country's future) exchanged papers and built relationships. The Williamsburg Conference of April 1988 brought major players in South Africa together and produced a report in wide circulation in policy circles. Former U.S. Senator Dick Clark's Southern Africa Policy Forum in Bermuda in March 1989 offered a similar setting, with some participants consenting to be on the island only when opposition parties were not. That conference also produced a thoughtful document addressing many major issues now on the table in ANC/government negotiations. A number of scholar-activists from Israel and the West Bank attended the Conference on Conflict Resolution in south Africa, Israel, and Northern Ireland sponsored by the Friedrich Naumann Foundation and the Institute for a Democratic Alternative in South Africa in September 1989 in Bonn. The scholarly norms and climate of gatherings provides active combatants the space to try different conceptualizations and behaviors regarding their conflict—often the first step toward willingness to negotiate.

7. *Ongoing Non-Official Mechanisms.* Mechanisms built for ongoing contact of scholars, diplomats, private citizens, and policy-makers across the lines of a major conflict cleavage can provide the setting to negotiate toward the table.

EXAMPLE: The Dartmouth Conference—now in its 22nd year of continuous U.S.-Soviet contact and beginning similar formats with China and some Latin American countries—is the best illustration. It is not officially sponsored by national governments, yet it has generated a number of initiatives which have found their way into official channels and is conducted with the blessing of the foreign ministries.

8. *Other Mechanisms.* There are a number of other activities that can help create the environment and build the tracks to the table for parties who, for face-saving or other reasons, cannot meet directly about negotiation. The varieties of "Track II" or non-official citizen diplomacy have been growing rapidly. Peace walks, naturalist expeditions and other "field

trips" have created among adversaries an atmosphere impossible to achieve at the formal diplomatic table. U.S. and Soviet officials have been reported to develop close personal and working relationships through such foxhole experiences as mountaineering and gondola rides.

The object is always the same: find a setting in which disputing parties can meet in a politically safe environment to explore ideas, build relationships, learn the other parties' interests, and either directly or indirectly discuss the conditions under which they will be willing to come to the table.

Value Considerations: What Kind of Table?

Every human activity represents a choice among competing values, however implicit or unintended. Building a forum for negotiation of deep-rooted political or constitutional conflicts is no exception. Not just any table will do—not, for example, a table where the power relationships are so asymmetric that the dominant group's reasons for being present are stalling, public relations, and/or intelligence. Any third party committed to helping get parties to the table in rancorous international or inter-identity conflicts should be cognizant of the value choices implied, make them explicit to all involved, and help the parties deal with them with clear purpose and intentionality.

Values are conceptions of the desirable—and the undesirable. In well-integrated cultures and social groupings, values are so well internalized that most actors are not aware of them nor do they make conscious choices about them. Conflict brings values to the surface, forcing consideration and choice. Values beget (or at least justify) norms. How shall we make decisions? What are the most important goals we should pursue? Is everyone here to be treated as an equal participant? Every social interaction operates based on norms or rules undergirded by values. Since the nature of the forum and the interaction therein can be a dominant influence on the range of outcomes possible and pursued, the mandate for explicitness is especially strong.

There are at least eight major value choices that are made—explicitly or implicitly—in building a forum for negotiation and joint problem-solving. For each, a mode is chosen, and it in turn contributes to the nature and direction of the process:

1. *Facilitative or Adjudicative?* Is the aim of the forum to promote adjudication of the dispute by a legitimate authority, or to facilitate, joint solution by the parties? While the answer is obvious that facilitated joint problem-solving is the goal, often parties (and sometimes third parties)

come to the table with the goal of imposing a solution through superior force or influence.

2. *Cooperative or Adversarial?* Litigation and formal diplomacy are inherently adversarial. The parties are seen as opponents who must win or at least get the best of the other party in a compromise. The negotiation forum operates within a cooperative metaphor. Without the ability to establish this mode of operation, joint problem-solving (and thus, I would argue, real resolution and long-term political stability) are impossible.

3. *Private or Public?* Peace conferences, many aspects of formal diplomacy, summit meetings, and similar vehicles for dealing with serious political problems generally occur in public. While it is the public's business that is being done, often serious negotiation only can take place in private, away from the minute-by-minute scrutiny of the constituency or the constant playing to the media and the court of public opinion. While timely and appropriately concrete public reporting to constituents and other crucial entities is important, the forum is conducted predominately in private. A major reason for the success of Camp David in contrast to media-driven summits is the 13-day isolation imposed by the convenor.

4. *Formal or Informal?* A key to successful negotiation is the ability of parties to get beyond formal positions, absolutist historical arguments (often clung to for face-saving reasons) and ritualized oppositional behavior toward one another. A good negotiation setting should promote considerable informal interactions, where common interests are discovered, trust built, and a sense of the zone of agreement developed.

5. *Problem Solving, Truth Telling or Fault Finding?* The preferred value here is, of course, the goal of problem- solving. Academic or research forums rely on finding the right answer and presenting it in a timely and generally highly elaborate form. Truth telling is not effective as a mode of promoting negotiated resolution of conflict. Legal approaches are driven by the finding of fault based on precedent. Fault finding is not appropriate as the dynamic for negotiating resolution.

6. *Analytical or Political?* Negotiation of a resolution in a conflict between nations or identity groups is ultimately a political act. But to achieve such a resolution often requires a degree of analysis that is not common in the heat of interaction in conflict. One of the most important contributions that can be made by a properly-constructed forum is to keep the emphasis sufficiently on analysis so the parties can develop a joint understanding of the problem. Most negotiation sessions start with answers instead of questions. "Position papers" are written and presented. Demands (i.e., pre-chosen answers) are put on the table. The focus is on trading and giving/taking. Ultimately that may happen in any negotiation, but the

possibility of constructing joint solutions is greatly enhanced if analysis is made a legitimate, early, and extensive activity.

7. *Facilitated or Non-Facilitated?* Can the parties manage their own process? A good problem-solving process requires attention to site(s), frequency of meetings, pacing, timing, plenary/caucus/task group mix, relation to outside constituencies, developing and adhering to ground rules, and team discipline. The parties ultimately must chose whether any negotiations should be conducted without a third party or with a coercive power who thereby already has purchased a seat at the table.

8. *Inventing or Deciding?* To be effective, negotiations in complex conflicts must devote considerable energy to creating options that can unblock impasses and move the process forward. Typical position-based negotiation begins with demands and moves to trading, often overlooking a whole range of creative options. The forum should promote periods when the parties clearly understand they are not required to make a decision on what is put on the table, but may be free to invent or generate new options. Sometimes referred to as brainstorming or the nominal group technique, inventing periods can promote creative interaction and provide innovative plans for consideration (see Fisher and Ury 1981). An inventing interlude can promote constructive deciding.

Summing Up: Building The Table

Getting to the table refers to the many process and substantive requirements that must be met if parties are to change the forum of their conflicting behavior from win/lose adversarial interaction to cooperative problem-solving. Parties in deep-rooted, protracted conflicts are willing to enter into negotiated problem-solving only if they perceive sufficient incentives in turning from adversarial to cooperative methods. Such incentives often are the result of the ongoing political interaction between the parties, in which both come to see some form of negotiation or other joint processes as more timely, less costly, or otherwise superior to war or other forms of physical or economic coercion. Third-party intervenors have available to them a wide range of approaches to induce parties to come to the table when their ongoing interaction prevents or simply does not provide adequate incentives. These approaches are referred to in this analysis as paths to the table, and they include, most prominently, one-on-one analysis, joint training, the use of emissaries or brokers, and track II interaction. Negotiating about negotiating can be as complex as substantive negotiations, with the attention necessarily directed to putting in place

mutually acceptable auspices, location(s), procedures, time frame, level of publicity, etc. If cooperative problem-solving is to take place, the table to which the parties come must be undergirded by certain values: cooperation, a problem-solving orientation, informality, analysis rather than politics, and a willingness to invent options rather than be mired constantly in positional bargaining.

Putting these elements and values in place by whatever path is only the first step toward cooperative problem-solving. But no other steps are possible until the table is built.

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Mediating Political and Social Conflicts: The Skokie-Nazi Dispute *

*Richard A. Salem***

ABSTRACT

In 1978, a mediation team from the Community Relations Service [CRS] of the United States Department of Justice attempted to mediate the dispute between residents of Skokie, the predominantly Jewish suburb of Chicago and the Nazi party members of the National Socialists Party of America. This dispute involved a number of issues of legal and legislative significance. After a series of complicated negotiations, the Nazis canceled the Skokie demonstration.

The Community Relations Service (CRS) of the United States Department of justice was established under the Civil Rights Act of 1964 to provide assistance to communities and community residents in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin. The CRS was mandated by Congress to offer its services whenever in its judgment peaceful relations among the citizens of the community involved are threatened.

The main tool used by CRS mediators and conciliators is persuasion. They lack enforcement authority, they are precluded by law from investigating, and they are governed by a confidentiality clause that makes it a federal offense to reveal information shared with them in confidence. These prohibitions make it easier for CRS personnel to gain the trust of parties to a dispute, trust that often is imperative in helping to bring about peaceful settlements.

In February 1978, a mediation team from the CRS entered the Skokie-Nazi dispute. Its initial objective was to gain acceptance as an impartial outside party and provide conciliation and technical assistance services that would reduce tension and the likelihood of violence when a small band of Nazis exercised their right to demonstrate there on June 25, 1978. But, when it became apparent in May 1978 that the Nazi demonstration in the predominantly Jewish Chicago suburb would lead to life-threatening confrontations and massive property damage, we expanded our role to include mediation that might lead to cancellation of the planned demonstration. The CRS normally attempts to move the disputants into a negotiating stance so that a settlement can be worked out by the parties. But, in the Skokie case we knew that for both moral and political reasons, none of the other parties would engage in negotiations with the Nazis. That role would fall to the CRS. This article reports on our efforts to persuade the Nazis to examine all the options available to them, including voluntary withdrawal. Our endeavor had the full support of all the parties involved, although to this day most would not acknowledge that they had actively encouraged the mediation process.

Although the possibility of mediation arose when we first intervened in the Skokie case, we viewed it as unlikely for several reasons. First, experience had taught us that it is generally counterproductive to enter into any type of negotiations with extremists, since their objective is conflict, not to produce resolution. Second, we rarely asked any group to consider abandoning its right to conduct a lawful demonstration, even when a physical confrontation seemed inevitable, especially in a case where obtaining a permit to demonstrate was a central issue to the dispute. Such an action by the CRS could be misinterpreted as the very antithesis of the Civil Rights Act under which it works. Thus, we originally anticipated that our only meeting with the Nazis would be brief, in the presence of their attorney, just before the June 25 demonstration. In that way, they would recognize us in Skokie if there was a need to communicate during their demonstration. CRS personnel would be the only persons present who had met previously with all parties.

The National Socialist Party.of America, led by Frank Collin, was a splinter group composed at the height of its strength by no more than twenty-five men of varying ages. While their rhetoric was venomous, it was difficult to view Nazi party members as a serious threat to the security of the community. Normally, the Nazis were at home in Marquette Park, a white ethnic neighborhood on Chicago's southwest side where many residents feared the entry of black families into their community. Many wanted the Nazis out of the neighborhood, but some felt that the Nazi rhetoric, as well as the storefront headquarters across the street from the park, discouraged blacks from moving in. Nazi rallies in the park had been peaceful and well received, mostly by younger, beer-drinking members of the crowds that flocked there on warm spring and summer days. But, violence that occurred when the Nazi band tested the waters outside the Marquette Park neighborhood twice in the mid-1970s or when venturesome black organizations attempted to march into the area led the Chicago Park District in 1976 effectively to ban the Nazis from Marquette and most other city parks through a prohibitive insurance bonding requirement.

The park district initially set the bond at $100,000 for coverage against personal liability suits and $50,000 for property damage. A federal judge ruled these sums to be prohibitive, and the park district lowered the figures to $50,000 personal liability and $10,000 property damage. But, even that, the Nazis contended, was both beyond their reach and a violation of their First Amendment rights. Collin's first response to the ban was to announce in early 1977 his intention to move his demonstrations from Chicago and the far south suburbs, where he had found some blue-collar support, to the northern suburbs, which, according to a leaflet prepared by his group, was heavily populated by the "real enemy—the Jews." The leaflet continued, "Where one finds the most Jews one also finds the most Jew haters." He proposed taking his group to several communities, including the village of Skokie, where an estimated 10 percent of the 70,000 residents were concentration camp survivors.

Skokie residents responded in anger, and the village council adopted three ordinances. One prohibited demonstrations by political parties wearing military-style uniforms repugnant to the tradition of civilian control of government and to local standards of morality and decency. Another banned distribution of material inciting hatred against race or ethnic groups. The third established a substantial insurance bond requirement.

The American Civil Liberties Union (ACLU), which had challenged the Chicago Park District many times over the years and which was engaged in a running battle with the district over freedom of speech in Chicago

parks, had accepted the Nazis as a client in the insurance bond case. It agreed to represent them in the Skokie matter as well.

As the Skokie ordinances began to run into trouble in the courts, two bills were introduced in the state legislature that would ban Nazi demonstrations anywhere in Illinois. One prohibited parades by quasi-military hate groups. The other created a new crime of criminal group defamation and gave local officials the right to seek injunctions to stop derogatory demonstrations and the distribution of hate literature.

While battles were being fought in the courts and the legislature, another front was opened in the media. The story received worldwide publicity and extensive coverage both on the news and editorial pages of the Chicago press, especially the *Chicago Sun-Times*, which regularly featured articles about the issue on its front page, and on television. Into late spring, each week brought several announcements that outside groups were coming to Skokie to confront the Nazis. The *Los Angeles Times* reported that one travel agent had booked air passage from Los Angeles to Skokie for 2,000 people. A rabbi in Lawrence, New York, announced that his group would converge on Skokie by air and by land at a cost of $50 a person round trip by bus, $140 by air. The Jewish Defense League (JDL) promised 134 buses carrying 1,800 from the New York area. JDL ran an ad in a Jewish newspaper advising those who couldn't join them that $50 would send a Jew to Skokie. A group called Vermonters Concerned was chartering a bus from Burlington. A leader of the Jewish War Veterans from Allentown, Pennsylvania, promised to deliver up to 10,000 members of his organization. More than 300 were scheduled to come from Phoenix, where a former JDL leader announced that there would be no march in Skokie. "We will break their legs if we have to." Earlier, JDL's national director had assured a press conference in Skokie that there would be violence—"blood on the streets."

These reports did not go unnoticed by the Nazi band. A newspaper columnist reported in late May that Collin's followers were wavering. Was it true? The CRS was asked in a confidential phone call by a Skokie village official. He recalled that we had mentioned the possibility of mediation in our initial meeting. He asked whether we planned to meet with the Nazis. We told him that we did. By then, it had become apparent that the official estimate of 50,000 peaceful counterdemonstrators might be realistic. Some two years earlier, Skokie streets were impassable for hours when just 3,000 people showed up at a local high school to hear presidential candidate Jimmy Carter.

The CRS had been working closely with Jewish leaders in Skokie who were planning a counterdemonstration and with state and local officials,

including police, to minimize the likelihood of a confrontation on June 25. One Skokie civic leader, a concentration camp survivor who had emerged as a powerful spokesman for the Jewish community, proposed to a planning committee of the Metropolitan Chicago Jewish Federation that counter-demonstrators should confront the Nazis face to face. Others prepared a quiet, symbolic response. But, the thought of uniforms and swastikas aroused anguished memories and emotions that ruled out anything but a direct and highly visible counterdemonstration.

The planners, headed by Eugene Dubow, regional director of the American Jewish Committee, agreed on a compromise first proposed by the CRS. They would conduct their large rally some distance from the site of the Nazi demonstration, but a representative leadership group would "con-front" the Nazis with a silent vigil. Later, we brought Dubow together with Chicago's deputy police superintendent James Riordan in the CRS office to discuss strategies. Riordan was known for his effectiveness in dealing with street confrontations. With his superintendent's approval, Riordan agreed to be on call to work behind the scenes with Skokie police if asked. State offi-cials had agreed to commit up to 1,000 state troopers and national guards-men and extensive equipment to supplement several hundred local police from Skokie and neighboring communities.

Despite the extensive planning, nobody believed that tens of thousands of emotional counterdemonstrators could be restrained, especially if hun-dreds of JDL members were on hand to arouse the crowd. Some predicted that the Nazis would be too frightened to appear and that they would can-cel at the last minute. But, by then it might take only a rumor that the Nazis had crossed the village line to stampede the crowd. Deputy superintendent Riordan told the CRS that he saw no way the peace could be preserved. This position was shared by village officials and community leaders, and it was reflected in newspaper columns and editorials.

We knew that the decision to sit down at the table with the Nazis would cause a number of moral and ethical questions to be asked of the CRS. Was it proper to negotiate with a group that espoused a Nazi philosophy? Was it legitimate to trade off Skokie for an alternative site? Can mediators main-tain impartiality when dealing with such a group? The questions seemed more theoretical than actual when they arose. Collin's real power, we felt, was his ability to create emotional distress and violence in Skokie. We gave credibility to the media report that Collin's supporters were wavering, and we sensed that he needed a face-saving way out. Helping to find that way was the only course we could consider in light of the risks of not doing so.

There were also some operating problems for the mediators. For one thing, none of the other parties would go to the table. Negotiating with

Nazis was taboo. For some, it was a moral issue. For others, the political stakes were too high. But, none would go on record in favor of a settlement. This meant there could be no signed agreement, the traditional hallmark of successful mediation. Whose word, then, could we trust? How could we be sure that the parties would abide by any agreement that was reached? In the case of the Nazis, we would rely on their attorney to hold them accountable. This, we assumed, he could do; they would have difficulty finding new counsel. With politicians and public officials, we would take our chances.

But, there was the other side of the coin. Would the parties trust the CRS, especially the ACLU? Our civil rights mandate notwithstanding, the ACLU had not always viewed the CRS as an ally. It was a Department of justice agency, which was enough for some civil libertarians to rule us out. In addition, we avoided making advocacy statements. We sought to bring about positive change through the process of negotiations. We could not publicly advocate change without impeding our effectiveness as a change agent. In this case, we made the assumption that any credibility gap between the CRS and the parties would be more than compensated for by the common goal of all the players≈preventing physical violence in Skokie.

We were wrestling with a strategy for mediation when on May 23 Collin issued a press release that showed us the way. Citing a federal appeals court ruling of the previous day that upheld the Nazis' right to demonstrate in Skokie, Collin declared he would be there unless three demands were met: First, Skokie must repeal its restrictive ordinances; second, the state must withdraw its proposed anti-Nazi legislation; third, the Chicago Park District must abolish its restrictive insurance requirement. Calling his demands reasonable, lawful, and irreversible, Collin pledged to go to Skokie without violence, but he said that they would fight back if they were physically attacked.

The response by public officials was not surprising. Their statements were politically sound but they did not reflect the pressure that the officials must have felt as the date of the scheduled demonstration grew closer. Skokie Mayor Albert Smith said he wouldn't ask the Park District to yield. Two state senators, sponsors of anti-Nazi bills, adamantly refused to deal with Collin. Finally, the Park District's public information officer said that the district had not heard from Collin.

At our request, the Chicago Park District information officer came to the CRS office to brief us on the park district's position. He held out no hope for lifting the insurance requirement. He pointed out that there were four other parks in the city where the Nazis could demonstrate without a permit, including Lincoln Park, which, he said would give the Nazis "good

exposure." However, the park district would not allow Collin and his followers to demonstrate in Marquette Park unless it was ordered by the court to do so.

But a court decision appeared to be months away, and we needed a solution within a matter of weeks, so we met with an influential planner of the counterdemonstrations to seek help from the Jewish leadership. We asked whether there was someone among the shakers and makers in the Jewish community who would use clout with the mayor and the head of the Park District. The answer was a clear and irrevocable no. It appeared that the matter had already been considered. Nobody in the Jewish leadership would be involved in making a deal with the Nazis, we were told.

The next and obvious step was to meet with Collin. We cleared the meeting with his ACLU counsel. There were three ground rules: We would make no misrepresentations, we would do nothing to interfere with the progress of the legal cases or Collin's civil rights, and no one would mention the meeting to the press unless all parties concurred. Thus, on June 1, CRS conciliation specialist Werner Patterson and I met with Collin and his counsel. One day earlier, in response to a U.S. Supreme Court ruling, Skokie officials had issued a permit to Collin and said that a permit for a counterdemonstration would be forthcoming. In another development, the ACLU had initiated court action to force the park district to issue a permit for July 9 in Marquette Park.

We opened the meeting with Collin by expressing our concern about the ability of police to maintain order and protect Collin and his followers on June 25. Despite the planned presence of more than 1,000 state and local police, we said, it was questionable whether anybody could control the tens of thousands of counterdemonstrators. Collin said that he did not want violence, and if it occurred it would not be his fault. He said that he wasn't interested in going to Skokie but that he had to prove his First Amendment rights. It was a matter of principle. He would rather be in Marquette Park. We suggested that his victories in court meant that it was just a matter of time until his First Amendment rights were sustained. Everybody, it seemed, expected him to win the Marquette Park case. Why not postpone Skokie until the Chicago Park District case was resolved? He declined.

With victory virtually in hand, we asked, why was Collin holding out for all three of his demands? Would he consider less than all of them? He said that he might, and we said that we would be back in touch within a day or two.

Telephone calls to determine the status of the proposed state legislation revealed that, while the anti-Nazi bills had cleared the senate, they were on shaky ground in the house. But, they might pass the house if it appeared

that the Nazis were going to Skokie. If the demonstration was called off, we were assured that there would be no support for the bills. There was considerable sentiment in the State Capitol that the bills were bad legislation-a political necessity for legislators with a Jewish constituency, perhaps, but bad legislation nonetheless.

We had been surprised by Collin's willingness at our first meeting to consider a compromise, so we decided to press harder at a second meeting on June 2. At that meeting, we proposed to Collin that he allow the CRS to announce that, since he already had his Skokie permit and since it was a matter of time until he prevailed in Marquette Park, he had decided that his First Amendment rights were being upheld and that he was cancelling the Skokie demonstration. This would assure defeat of the bills in the state legislature. Two of Collin's demands would thereby be met, and he would have made his point without having to go to Skokie. We suggested that Collin's group demonstrate elsewhere on June 25 while waiting for court access to Marquette Park. Four city parks were available without a permit. But Marquette Park was where Collin wanted to be, and he agreed only to consider the proposition that I had made.

On June 4, I was summoned to a meeting at the home of a legislative leader who had learned of our quiet mediation effort from a legislator we had consulted on the Skokie bills. The leader said that the bills would be heard in committee in a matter of days. Unless there was some sign that Collin was backing out of the Skokie demonstration, it appeared that the bills would pass. Emphasizing that no deals were possible, the leader pointed out that the bills would keep the Nazis from demonstrating anywhere in Illinois until all the court challenges were over.

We sensed that these words were a bluff. There would have been other indications in our earlier discussion with legislators or in the media if the bills were close to passage. Despite a strong sentiment in the legislature against the Nazis, there were equally strong concerns that the proposed legislation was unconstitutional and that it would do nothing more than buy time. The meeting suggested to us that the bills might actually be in serious trouble and that legislative leaders with strong Jewish constituencies were feeling the pressure. They in turn wanted to put more pressure on Collin. Being precluded from dealing with him directly, they chose the obvious conduit. We played our role and took their message back to Collin.

The possibility of a full summer without demonstrations concerned Collin when we discussed it with him the following day. He had already considered it but wasn't ready to act. However, he agreed to our suggestion that the CRS should float a story in the media saying that, in our view, there was a distinct possibility that an alternative to Skokie would be found. The

Chicago Sun-Times ran such a story on June 9, and the wire services quickly spread it throughout the state and across the country. We went to the media for three reasons: First, the story might influence action on the anti-Nazi bills in the legislature. Second, it might help to slow down the flow of out-of-state counterdemonstrators who were planning to move on Skokie. Third and most important, we hoped it would change the dynamics either within the Nazi group or between them and the other parties and thereby help to make something happen. We weren't certain whether Collin would ulti-mately agree to cancel Skokie, but we sensed that cancellation was within reach, because we felt that nobody really wanted the demonstration to hap-pen. But, we didn't know how this end was to be achieved. We certainly didn't feel in control of the situation—something a mediator never wants to acknowledge—and we were careful not to acknowledge it.

The anti-Nazi bills died in committee on June 12. With two of his three demands in hand, what would Collin do? Unfortunately, he was not available to discuss the matter. He had departed on a trip east to round up support for his demonstration, and the answer would have to wait on his return. Before he left, Collin had written a letter to the General Services Administration (GSA) declaring that on Saturday, June 24, one day before the scheduled Skokie demonstration, the Nazis would conduct a rally at the Federal Plaza in downtown Chicago. The Federal Plaza was a favorite rally place for all manner of organizations, in part because no permit was required. The ACLU had established that right in court for an earlier client.

ACLU's executive director, David Hamlin (1981), has credited the CRS with first proposing the Federal Plaza alternative. While the CRS initiated a general discussion of alternatives with Collin, the one that he chose came from elsewhere. The CRS was advised in confidence in mid June that a let-ter would soon be mailed to the GSA administrator. Our only role at that point was to provide the caller with the administrator's name and address. We advised the GSA to be on the lookout for the letter, and once it was received we arranged for the U.S. Attorney to convene a meeting with local and federal law enforcement officials, Collin, and his counsel to set ground rules for June 24.

Nothing was to come easily in this case. GSA officials in Chicago advised us that their top Washington administrator was incensed when he learned of Collin's plan and was considering imposing a ban that would keep the Nazis out of Federal Plaza. Surely he was acting on his own. Was he under the impression that a ban would be looked upon favorably by the Jewish community? We responded with three phone calls. First, we asked the director of the CRS to try to reach the GSA administrator and explain the need for the Federal Plaza alternative, which he did. Next, we spoke to

a leader in the Jewish community and suggested that, if he agreed on the value of the Federal Plaza alternative, he might want to generate some calls to the GSA administrator. Finally, we asked the GSA general counsel in Washington to review the law and consider the ramifications of the proposed action. We heard of no further effort to block the Federal Plaza rally.

This was the situation on June 13: The Nazis planned to hold two demonstrations, one at the Federal Plaza in downtown Chicago on June 24 and one in Skokie on the following day. Their attorneys were in court seeking to force the Chicago Park District to grant them a permit for Marquette Park on July 9. A hearing on that matter had been scheduled for June 20. While lower court actions had convinced most observers that the Nazis would ultimately win their way back into Marquette Park, it was by no means clear whether they would get there by July 9. Collin was traveling somewhere in the East. A demonstration in Skokie still appeared to be likely.

We decided to approach the Chicago Park District once again on June 14. The previous day, park district superintendent Edmund Kelly had told the *Chicago Sun-Times* that he would not yield on the insurance requirement. Skokie and Marquette Park were unrelated, he said, and the Chicago Park District would make no special effort to let the Nazis demonstrate on July 9. The same article noted that the Jewish community's estimate of 50,000 peaceful demonstrators did not include 12,000 demonstrators recruited by the Jewish Defense League, which had vowed to stop the Nazi rally with violence if necessary. We assumed that Kelly must have been feeling some pressure and decided to approach him. However, his information officer referred us to the attorney who was handling the Federal Court case for the park district.

The attorney responded promptly to our call of June 14. We asked if we could come by to see him, but he preferred to meet in our office and was there within an hour. Before getting to the purpose of the meeting, we engaged in the small talk that typically occurs at the outset of important meetings. I commented on the pros and cons of mediating community disputes when lawyers were involved. One of the problems, I said, was the question of lawyers' fees, which sometimes made a settlement more difficult. Fees and damages, he responded. He had run into the problem, too. I didn't relate his comment to the Nazi dispute and thought the point had been dropped.

Our discussion then turned to the Nazis. The attorney saw no way to waive the insurance requirement. The Nazis claimed that they could not afford the bond, he said, yet they refused to reveal their finances to the park district. For the park district to waive the insurance requirement, the Nazis would have to show that they were destitute. He said that he was

going to court to prevent the July 9 demonstration. There were four parks where no permit was required, he noted. I pointed out that Collin wanted Marquette Park.

The only way the Nazis could have Marquette Park, the attorney said, was by applying for seventy-four people or fewer. But, the Nazis always applied for a hundred or five hundred or a thousand. Collin would not admit, the attorney said, that he could not find seventy-five followers. However, if Collin would use the rule of seventy-four, as it was called, he did not need a permit even for Marquette Park, but merely had to give the park supervisor a few days notice. The attorney added that Collin and his attorney were aware of the rule, which had come up in court repeatedly.

The rule of seventy-four had never come up in CRS conversations with Collin or his attorney. If it offered a possible alternative, I wondered why they had never mentioned it. As the discussion wound down, I stared at my notes. I was not certain of our positions at that moment. Was there nothing new to explore? Had we exhausted the options? The park district attorney leaned forward in his chair and asked me what I thought. The answer, I said, seemed to be in my notes. "Good," he replied, adding on his way out that he did not want any claims against the park district for damages if the rule of seventy-four was invoked, and he did not want to litigate fees for the ACLU attorneys. I prefer to credit the success of that meeting to intelligent persistence, not to luck.

I called the ACLU attorney. I asked, Why couldn't Collin use the rule of seventy-four? and added that I had just met with the park district's attorney and that I had a proposal to discuss. The ACLU attorney told me that damages and fees would be no problem, but there was a problem with the rule of seventy-four: The audience and the onlookers were always counted. I proposed limiting the count to Collin and his supporters. The ACLU lawyer did not know whether Collin would agree, but he suggested that I present the proposal in writing and give assurances that spectators of their own free will would not be counted as part of the seventy-five.

I called the park district attorney to ask for details on the rule of seventy-four. The code specified that permits were not required for public gatherings, ceremonies, or assemblies of less than seventy-five. I asked whether bystanders were included. The park district attorney said that they were not but that the district construed bystander quite literally. The crowd would not be counted if Collin and his followers did not post notices or leaflet the community. If the CRS were to draft an agreement on those terms, the park district attorney said that he would stand behind it.

Trust levels were always low, and emotions ran high between the ACLU and its persistent adversary, the Chicago Park District. Bringing them

together to work out their differences would be too risky. We continued our dialogue with both sides the following day.

On the morning of June 16, we learned from a newspaper reporter that a clear-cut split over Skokie had developed at Nazi headquarters in Collin's absence. A press conference had been scheduled for that evening, just around the time when Collin was due back from his East Coast recruiting trip.

We had to act quickly. There had been some progress in our talks with the park district attorney. I phoned him and said we needed an agreement that day. Because a large turnout would be inevitable on July 9, we proposed that the park district agree not to count the crowd on that day only. I argued that it would not matter whether Collin leafletted the neighborhood. There would be a large crowd in any case, and it would be impossible to determine how many had been attracted by the leaflets and how many by the media. He agreed. That afternoon I brought him a draft letter from the CRS covering our understanding. He made some minor revisions, initialed the margin, and handed it back to me with a smile: "Here's your evidence," he said, "just in case it ever comes up." I asked whether a copy of the letter should be sent to the park district superintendent and the public information officer. The attorney said that it wouldn't be necessary. The attorney always acted as though he had full authority to speak for his client.

A companion letter from the CRS was prepared for Collin and shared with his attorney. Both letters were signed and hand delivered by 5:00 P.M. on June 16. The man who accepted delivery at the Nazi headquarters was told that the letter should be opened in Collin's absence. We confirmed by a phone call an hour later that the letter had been received and read. Collin was still away when the Nazis started their press conference. Waving the CRS letter before the cameras, they announced that they had gained access to Marquette Park. However, since the access was limited, they were inclined to reject the offer.

Collin arrived just after the press conference ended. A reporter asked him whether he was going to Skokie. Collin said that he was, and added that he was not interested in a one-shot arrangement to go to Marquette Park.

The CRS was not represented at the press conference, but I learned from a reporter what had transpired. I telephoned Nazi headquarters and reached Collin at 10:30 P.M., just after the television news, and asked whether he had had a chance to read my letter. He replied that he had and that the letter was good. I asked him if he still needed to go to Skokie. He said that he wanted to think about it over the weekend.

A reporter called me late Friday night to say that the Chicago Park District's public information officer was denying that a deal had been

offered. For the record, we delivered copies of the two letters to the key newspapers and radio stations the next day.

Collin did not respond after the weekend. On Tuesday, June 20, U.S. District Judge George Leighton ruled that the insurance requirement was unreasonable. He ordered the Chicago Park District to give the Nazis a permit to demonstrate in Marquette Park on July 9. The following day, Collin announced that he had cancelled his Skokie demonstration and that for the time being he would limit his demonstrations to Marquette Park and the Federal Plaza.

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MOVE/Philadelphia Bombing:
A Conflict Resolution History*

Paul Wahrhaftig
Hizkias Assefa

ABSTRACT

In 1985 police bombed the Philadelphia headquarters occupied by members of the black counterculture group MOVE. What began 15 years earlier as a neighborhood squabble provoked by conflicting lifestyles ended in the destruction of sixty-one homes and the death of eleven residents—five of them children. Some 250 people were left homeless. The authors examine the dynamics of the conflict, analyzing attempts at third-party mediation and the possibility of resolution without violence. Interventions raised ethical issues, and there were failures to define and involve appropriate parties, break down mutual misperceptions, oversee implementation of an agreement, and understand the decision-making structure of the groups involved. All these contributed to the failure of third party intervention and may have accelerated the violence.

Father Paul Washington recalls seeing Philadelphia Mayor Wilson Goode in church in April 1985. The mayor told him he was going to have to do something about the radical, back-to-nature group, MOVE. "I am going to have to move very carefully and cautiously, because we want to

avoid making any of the mistakes that were made back there in 1978." A month later, on May 13, 1985, an assault on MOVE's Osage Avenue headquarters began. Police shot 10,000 rounds of ammunition in ninety minutes and finally dropped a bomb from a helicopter incinerating five MOVE members and six children, and destroying sixty-one homes.

"Back there in 1978," a long brewing series of conflicts with MOVE erupted in a shoot-out with police in which one policeman was killed. What "mistakes" was Mayor Goode trying to avoid? What lessons can conflict resolvers learn from these confrontations?

To answer these questions, the Conflict Resolution Center International undertook a major research project. The Center interviewed people who had tried to intervene in the MOVE conflicts between the early 1970s and 1985. All agreed that to understand the 1985 disaster, one must first study the 1978 shootout.

MOVE

MOVE began in the early 1970s as a non-violent, predominantly black, counterculture activist group. It originally called itself "the Movement," later shortened to MOVE. Its founder, John Africa, was the philosophical leader. He advocated an anti-technology approach, respect for animal life and communal living. Its members took on the surname "Africa" to express their sense of communal family. MOVE is often labeled as an urban, back-to-nature, primitivist group.

In the mid-1970s, MOVE established a headquarters in Powelton Village, an integrated, new left, section of Philadelphia. There they disrupted community meetings with lengthy harangues based on the teachings of John Africa. Their primitivism included recycling garbage by throwing it in their yard; respect for animal life included rats and stray dogs,. They constantly used profanities and aggressive, confrontational language. These traits sparked a major lifestyle conflict with the neighborhood.

Police abuse became MOVE's major political issue. In the politically charged, post-Viet Nam 1970s, led by the tough "law and order" oriented Mayor Frank Rizzo, the Philadelphia police were frequently accused of racism and brutality. MOVE concentrated on protesting police abuse, and the police in turn focused their attention on MOVE. This led to clashes, court hearings, protests in courtrooms, contempt citations and more clashes.

A pivotal event was an April 1976 clash between MOVE and police in which three MOVE leaders were convicted and imprisoned. They referred to them as "political prisoners," and their release from prison became MOVE's main concern.

Stages of Conflict

The 1978 Powelton conflict consisted of four phases.

Phase I involved ongoing clashes with the police, neighbors, and the courts.

Phase II involved a heavy police presence at MOVE headquarters. Police established a twenty-four hour presence to arrest MOVE members if they left their headquarters.

Phase III was an attempt to evict MOVE from its headquarters by blockading it, to "starve them out."

Phase IV was an attempt to evict MOVE using armed force—the shootout.

The Parties and Issues

Most of the interveners interviewed stated that the parties to the 1978 confrontation were MOVE and the City. In fact, the parties were much more complex. One set was MOVE and the Powelton neighborhood. The neighborhood, in turn,m was divided in its response. Some advocated police intervention while others insisted the problem should be settled in the community. A third faction sought to reconcile the first two.

MOVE's conflict with the city involved many sub-parties. To MOVE, Mayor Rizzo represented the law-and-order rule they opposed, and the police department was continually in confrontation with the activist group. The department itself was split between the highly professional, trained, civil disturbances squad and the rank-and-file police who were often called "Rizzo's thugs." As confrontations with the rank and file evolved, MOVE came into confrontation with the courts. It used them as a vehicle to dramatize its beliefs and issues. MOVE's fundamental issue involved the city and courts, and more specifically, freedom for its three "political prisoners."

Merger of Issues

In Phase I these issues initially moved on separate tracks. For instance, there were negotiations between MOVE and its neighbors. However, in May 1977, MOVE, in responce to another law enforcement incident, dramatically appeared on the porch of their barricaded headquarters wearing military uniforms and carrying weapons. Alarmed, residents called the police, who responded by laying siege to the house. After a tense initial

confrontation, the city vowed to maintain a massive police presence and arrest any MOVE member who left the headquarters. They would mainly be charged with firearm violations and incitement to riot. These pending charges became another major issue in the negotiations.

Phase II

Bringing in the police, already a party to the conflict, as a third-party intervener transformed the conflict and issues. The issue of police presence outweighed all others. Rather than focus on their conflict with MOVE, the neighbors argued with each other over whether the police presence was appropriate. A major faction of the new left neighborhood generally opposed police intervention. To disengage the police, this group became involved as third-party intervenor in MOVE's conflict with the city.

MOVE apparently began to see that by upsetting the neighborhood and involving the police, it could get public attention for its main issue—release of its prisoners. Although MOVE seemed to have had little incentive to negotiate with the neighbors at this stage, there is some evidence they it made at least one agreement.

Composting Agreement

Neighbors approached MOVE about the garbage in their yard. They suggested if MOVE were serious about recycling, then they could do it more efficiently by composting. That would also meet the neighbors needs by reducing the odor and vermin food. This example of needs-based bargaining resulted in "wins" for both sides. Although MOVE apparently lived up to that agreement, the Powelton people interviewed did not remember it. They were so focused on the life-and-death issues of the massive police presence, they did not notice an environmental agreement that may have worked.

Interpol

An example of early mediation intervention was given by Father Paul Washington, an active black minister. He knew the MOVE leadership and had helped them visit their incarcerated members. MOVE sympathizers called him in during Phase II. MOVE was parading on their porch with

guns, and a tense confrontation with police was in progress. Washington
calmed both sides down and got MOVE to go back into their house to talk.
They were upset because they had heard one of their members, who was
recently arrested, had been beaten by police. Washington shuttled between
MOVE and the police commissioner. He received assurances from the
police that no beating had taken place. He negotiated an agreement that if
the police brought the arrested member to MOVE headquarters to show he
was uninjured, MOVE would relinquish its arms. On his final visit to con-
firm the agreement, Delbert Africa, MOVE's negotiator, insisted they
would only turn in their guns if their colleagues were released. Washington
concluded that negotiations with MOVE were impossible because they
would keep escalating the stakes.

Delbert Africa, MOVE's negotiator, in this incident confirmed
Washington's analysis but added a missing piece. He said Washington was
right. MOVE would keep escalating the stakes until someone paid attention
to their basic concern—that is as long as their fundamental issue, freeing
the political prisoners, is being ignored, MOVE would not rest.

Joel Todd

A major intervenor was a young white attorney, Joel Todd. He had rep-
resented Jerry Africa, one of the imprisoned "political prisoners" in his
trial and became friendly with the group. He was well connected with the
city's political structure.

By October of 1977, the Phase II stand-off was four months old. Costs
were mounting for both sides, and MOVE supporters asked Todd to help
them reach a settlement. Todd agreed. His goal was to avoid violence. He
saw the conflict as between MOVE and the city and felt neighborhood was
not a party. He began carrying messages back and forth between the MOVE
headquarters and the city manager's office. He quickly defined each side's
primary issue. MOVE wanted release of its "political prisoners." The city
wanted a face-saving way out of the crisis, preferably by removing MOVE
from the neighborhood.

Todd began to build an agreement with the following terms:

1. MOVE members would submit to orderly arrest procedures concern-
ing the outstanding weapons and riot charges. Procedures would allow wit-
nesses to be present to assure that MOVE members would not be
brutalized, and arrests would be timed so some adult members would
always be in the house to care for the children and animals. Both sides
agreed on these procedures.

2. Those arrested would be released without posting bail. MOVE wanted a written guarantee. The city would only give oral assurances.

3. MOVE would permit a weapons search and health inspection of its premises. Both sides agreed.

4. MOVE would vacate its premises. MOVE disagreed with this.

These provisions were labeled "surrender terms" by the press. They met the city's basic issue, but the five months of negotiations did not touch MOVE's concern about its "political prisoners." While Todd felt MOVE was so strongly committed to that issue that "they would die for it," he saw it as an unacceptable demand where no resolution was possible.

This narrow view of what could be negotiated may trace back to Todd's intervention goal: to avoid violence. A conflict resolution ethical maxim suggests that when one's sole intervention goal is to avoid violence, one tends to support the status quo power relationship. That appears to have taken place here.

Todd defined his intervention style as that of message carrier. He asked each party what their position was and carried that information to the other party. He felt it was not appropriate for him to help the parties reality test their positions or to help them reexamine their needs and those of the other party in order to invent new solutions. He may have been encouraged in this approach by MOVE's insistence that "only MOVE negotiates for MOVE."

MOVE finally broke off negotiations when an imprisoned member was beaten. The city obtained a court order to evict MOVE by blockading them and "starving them out." Todd and others obtained a stay, and Todd tried to arrange a face-to-face negotiation session with MOVE leadership, the judge, and the city manager. The barricaded MOVE leadership refused to trust an offer of "safe passage" to the courtroom where the negotiations were scheduled. Finally, they agreed to let their imprisoned leaders negotiate for the group. That session ended in failure, and the city began the blockade in earnest. Phase III had begun.

Phase III Interventions

By cordoning off a predominantly black group, cutting off food and water, and fortifying the police positions, the city made MOVE a cause celebre, resulting in a flurry of unsuccessful interventions to head off the clash. Radio personalities were suggested as interveners. Comedian/activist Dick Gregory met with MOVE once before abandoning his efforts.

City Wide Coalition

The stage was now set for a more successful intervention. MOVE supporters approached Walt Palmer. Palmer was an established businessman and civil rights activist with many connections. His goals of intervention were to avoid violence and to produce a settlement that met the needs of both parties. He too defined the parties as MOVE and the city. He saw a major power imbalance. More pressure needed to be applied to get the city to bargain seriously.

To alter the power relationships, he organized the City Wide Coalition for Human Rights (CCCHR). CCCHR's religious and business committees organized those segments of the black community to bring pressure on the city. The community task force conducted major demonstrations and the legal task force researched the snarled legal issues. A communications committee distributed information to the press and defined the situation as a human rights issue. They even brought the issue before the United Nations.

Palmer chose Oscar Gaskins, a black civil rights attorney, to negotiate. Gaskins obtained a power of attorney from MOVE to represent it in negotiations; this gave him credibility as MOVE's attorney-negotiator.

Impasse Broken

In his negotiations with the city manager's office, Gaskins was the first intervenor to negotiate MOVE's prisoner issue. City representatives, while privately agreeing that the charges upon which the prisoners were convicted were questionable, felt they could not compromise the legal system by releasing prisoners under pressure. Gaskins created a solution that met the interests of both parties. He suggested the prisoners be allowed to appeal their sentences. The superior court could then release them on their own recognizance. They were likely to be acquitted on appeal, and if not, most of their sentence had been served already. Both parties agreed.

Agreement

After breaking this impasse, Gaskins was able to negotiate settlements on the other issues. The city took the additional step of agreeing to commit themselves in writing to release, without bail, those MOVE members submitting to arrest. MOVE agreed to allow health and firearm inspections,

clean the premises, and vacate within 90 days. They also agreed for Gaskins to represent them in court rather than appear personally, to avoid confrontations.

Controversy

MOVE complied with much of the agreement. They cleaned the building and allowed a health inspection, which passed. A firearms inspection found only inoperative weapons. Controversy arose over the outstanding charges. MOVE thought they would be dropped. Gaskins felt they would be routinely processed and MOVE would receive probation. The district attorney talked about the seriousness of the charges. He started requiring MOVE members to appear in court which Gaskins and MOVE felt violated the agreement. The DA changed his mind and felt he was legally bound to compel MOVE to attend court.

Even more difficult was the requirement for MOVE to relocate within 90 days. Many groups tried to find MOVE rural retreats to practice their back-to-nature concepts. At one point they were ready to move to a farm in New Jersey donated by a black farmer.

However, during the 90-day period, MOVE got the impression from a conversation with the farmer that he wanted to use them for slave labor. They refused his offer. No one interceded to rectify the problem.

The city took the strict position that MOVE had to be out in 90 days. MOVE insisted the city should help them find quarters. While private groups suggested some locations, MOVE found them all lacking. Finally, the city solicitor was quoted in the newspaper that as soon as the MOVE premises were vacated the city would bulldoze it. This incensed MOVE members, who felt they could continue to use their property for other than residential purposes.

Although Gaskins was available to argue MOVE's position in court, no one was available to oversee this growing collection of accusations and misunderstandings. Finally, at the end of the 90-day period the judge declared MOVE had broken the agreement. He deputized the police to forcibly evict MOVE and arrest its members.

After allowing Palmer and a few others to make last minute appeals for MOVE to surrender, the police moved in. A gunfight broke out in which one policeman died. Other police and fire-fighters were injured before MOVE members were finally brought out of the house. One was severely beaten in front of TV cameras. Newspapers reported that the agreement failed because MOVE refused to vacate.

Observations

CCCHR's task was enormous. Many participants sacrificed over six months of their lives to achieve the agreement. Palmer's activist and street background gave him credibility and an ability to communicate with MOVE. He and Gaskins could cajole, confront their positions, and reality test. They interpreted each party's positions in a way the other could hear.

Their empowerment strategy was effective. The broad community attention forced the city to bargain more seriously. Its effect may also have gone the other way, also. The city may have perceived Palmer and Gaskins, with their community backing, as more able to assure that their clients would abide by their commitments.

Palmer and Gaskins' indirect "shuttle diplomacy" style made reaching an agreement easier, since it buffered public officials from MOVE's outbursts. However, when the full agreement is reached through indirect negotiations it may give parties an opportunity to disavow certain provisions. Jerry Africa, a MOVE's spokesman, refers to the written agreement as "Gaskins' agreement" not theirs.

A key element was Gaskins' ability to expand the issue when the parties were deadlocked. He found a solution to the prisoner issue which met MOVE's goals and maintained the city's concern for the dignity of the law. He may have been able to interject this solution because he saw his role as wider than a neutral message bearer. He was an advocate for one party.

Reasons for Failure

The agreement may have failed because one or both sides scuttled it. Another possibility is that no one was in charge of the implementation period. Intervenors were too exhausted from the ordeal of reaching agreement to retain vigilance over this key period. In a situation where trust was so low and verbal dueling so high, postagreement oversight is a crucial issue.

Another problem may have been misperceptions of MOVE's decision-making structure. Most intervenors, including Palmer and Gaskins, thought the MOVE spokespeople they worked with either could bind MOVE, or would have to have the group in the Powelton house ratify the decisions. Jerry Africa, one of the three "political prisoners," states that MOVE operated on a consensus process that involved all members—whether present or not. If he, in prison, disagreed with a commitment made by MOVE negotiators in the house, then the commitment was not binding on any MOVE member. Whether this interpretation is true is unknown, but it underlines

the need for intervenors to obtain a clear understanding of the extent to which negotiators can bind their group.

The failure to involve all parties was also crucial. Since the neighborhood was not included in the negotiation, the city ended up adopting the most extreme neighborhood position—removing MOVE. That became a fixed position. The neighborhood's absence prevented the parties from considering a more moderate approach, such as MOVE remaining while complying with health codes and basic standards of courtesy.

The police were left out. Their ongoing clashes with MOVE set up a dynamic similar to two warring gangs. After each rumble, one gang wants to avenge the wrongs from the last clash. Ultimately, police harbored resentment from the death of one of their members in the shoot-out. Nothing in the agreement or the aftermath was designed to defuse their hostility. Untreated police resentment may have contributed to the violence in 1985.

While MOVE and CCCHR viewed MOVE as a political organization, the city responded with traditional law enforcement tactics. Unlike a criminal group which might respond to punishment and deterrence, a group that sees itself as a revolutionary political movement might even be strengthened, attract more publicity, and galvanize support from confrontation and challenge. The presence of the media made it difficult for the city to meet MOVE's demands without losing face, even though privately they may have seen merit in MOVE's position.

Differing styles of expressing conflict may have been a factor. MOVE's rhetoric was laden with violent threats to neighbors, public officials, and all who opposed them. One never knew to what extent the threats were real. Some suggest the line between "talking" and "fighting" is different between street-black and middle class black and white culture. To the middle class angry words, heat, confrontation, insults and threats will inexorably lead to violence. In street black culture, however, there is a clear separation. "Talking" is verbal: "fighting" is physical. A "fight" begins when someone within the context of an angry quarrel begins to make a provocative move. MOVE talked but did not physically provoke confrontation.

1978-1982

Ten MOVE members were convicted on conspiracy counts related to the police officer who was killed in the shoot-out. Charges were dropped against the officers who beat the captured MOVE leader. Once again, freeing

prisoners became MOVE's main articulated issue. MOVE dispersed to other cities. Mayor Rizzo was succeeded by a moderate who in turn was succeeded by Philadelphia's first black mayor, Wilson Goode.

Many MOVE members left Philadelphia and established settlements in New York and Virginia. In the early 1980s the city, processing outstanding warrants, extradited MOVE members back to Philadelphia. A group settled on Osage Avenue in a house owned by John Africa's sister. During this period MOVE spokesperson Jerry Africa pressed MOVE's position with anyone in authority he could reach. MOVE insisted it was subject to consistent abuse of the legal process; it was being persecuted and imprisoned for its belief rather than actions.

Once again, a lifestyle conflict arose in the new Osage Avenue neighborhood. Problems such as sanitation, collecting animals, and cutting flea collars off neighbors' pets created friction. By October 1983, verbal harassment was added to the list.

The new neighborhood was black, middle class. It was the heart of the political coalition that had elected Mayor Goode and trusted him to find a solution to the MOVE problem.

Memories of 1978

All parties involved seemed to operate on assumptions about the others they had "learned" in 1978. The city, and many potential intervenors, thought they had learned:

1. MOVE is an untrustworthy bargainer,
2. MOVE will violate any agreement,
3. MOVE is more interested in confrontation than settlement,
4. Therefore, it is unproductive to negotiate with MOVE.

MOVE thought it had learned:

1. The city is an untrustworthy bargainer,
2. The city will violate any agreement,
3. The city is more interested in destroying MOVE than settlement.
4. Therefore, if it is possible to negotiate with the city at all, it is only when it is subject to broad pressure from an aroused public.

Building Crisis on Osage Avenue

When Jerry Africa's negotiations led nowhere, MOVE began trying to call attention to their cause using the same techniques that had succeeded

in 1978. They barricaded their house, mounted loud-speakers in front, and began harassing the neighborhood.

Neighbors appealed to the city for help, and the city took a wait-and-see attitude. No broad-based coalition to support a negotiation process arose. Generally, Philadelphians trusted the new liberal black administration to find a reasonable solution to the problem.

Most people saw the issue of freeing ten people convicted of killing a police officer to be an unreasonable demand. Some intervenors unsuccessfully involved in the 1978 event advised the mayor that negotiation was impossible. However, Bennie Swans of the Crisis Intervention Network, planned a promising approach. His agency had good street contacts with MOVE. He felt that MOVE was really after an orderly process by which each of the ten cases could be reviewed. He envisioned persuading MOVE to change its political tactics. Rather than provoke the neighbors, it might try to form coalitions with them. An initial bargaining point might be for MOVE to forgo disturbing people with their loud-speakers if the neighbors would join them in protesting the imprisonment issue.

Since the Crisis Intervention Network was city funded, Swans sought clearance from the city manager's office to pursue negotiations. He was turned away, as were others who tried to intervene. The city had already decided MOVE was a police matter. Even if the broad decision to negotiate had not already been made, Swans' plan probably would have met with city resistance. It amounted to building a political coalition directed at changing city policy. That strategy might have jeopardized the agency's city funding.

There were a few other attempts to intervene. MOVE participated in all, but none of the third parties could enlist the city in dialogue.

MOVE continued its harassment, and the neighbors grew more resentful. When they finally appealed for help from the state and threatened physical retaliation, the city's conflict avoidance policy became unworkable. They had to do some thing quick and dramatic. They evacuated the neighborhood and began the assault. Once again last-minute attempts were made to defuse the crisis. MOVE received the delegations. The city did not and went ahead with the armed assault.

A partial explanation of the severity of the police assault may be the unresolved hostilities between MOVE and the police dating back to the 1978 period. Police were not a party to that agreement, and no follow-up work was done to defuse those tensions.

An investigative commission issued a report condemning the assault as being excessively violent and bungled. A local grand jury was formed and issued no indictments against any public officials. Mayor Goode was

reelected to serve a second term. Meanwhile, Ramona Africa, sole survivor of the Osage bombing, was convicted and served time in the state penitentiary on riot related charges.

MOVE still exists in Philadelphia. While John Africa died in the inferno, some coherency still exists in the group. Its grievances are still the same—freedom for its "unjustly imprisoned" members. Now the stakes are higher. The history of clashes that result in violence, followed by punishment of MOVE members and exoneration of city officials is an even greater barrier to building the trust needed for a settlement.