Article

"Global Implications of Recent Innovations in U.S. Collective Bargaining"

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Global Implications of Recent Innovations in U.S. Collective Bargaining

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This paper deals with recent innovations in cooperative forms of collective bargaining. The authors begin by reviewing the wide range of highly cooperative approaches to negotiations. They then focus on a fairly comprehensive model, which is termed "target-specific bargaining." Finally, they explore some of the cross-cultural implications associated with applying the new forms of bargaining outside the North American context in two very different countries, Poland and South Africa.

Collective bargaining in North America is increasingly polarized between contentious and cooperative extremes (Walton, Cutcher-Gershenfeld, and McKersie 1994). At one extreme, we find the collapse of negotiations into bitter strikes or even complete escape by employers from the union-management relationship. At the other extreme, we find joint partnerships that encompass decisions on nearly every aspect of business operations. A wide range of domestic and global factors are driving the polarization of the bargaining process, with growing international competition, changing demographics and strategic choices by firms and unions being among the most important factors. This paper is focused on just one of the two extremes — recent innovations in cooperative forms of collective bargaining.

We believe that these innovations have the potential to help drive change in a wide range of worksites — in North America and abroad. We come to this conclusion based on our direct experience in over one hundred settings, as well as through our analysis of larger trends in industrial

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relations. While we have extensive experience with new approaches to collective bargaining, it is important to recognize that there are many different approaches being taken and our experiences are a small subset of the full range of possibilities.

The innovations have many names, including mutual gains negotiations, interest-based bargaining, win-win negotiations and target-specific bargaining. While these various approaches to negotiation share many common features, there are important differences in the focus, scope and end results associated with each. We begin by reviewing the wide range of highly cooperative approaches to negotiation, ranging from a one-time collaborative approach on a single issue to the construction of a full living agreement based on these principles. We then focus on a fairly comprehensive model, which is termed "target-specific bargaining." This approach is notable (and sometimes controversial) for the way it involves a full workforce in the bargaining process and the way that it substantially expands the scope of negotiations. Finally, we explore some of the cross-cultural implications associated with applying the new forms of bargaining outside the North American context.

Underlying the analysis in this paper is a core assumption, which is that labour-management relations are inherently mixed-motive in nature.[1] That is, labour and management will inevitably bring a mixture of common and competing motives or interests to the employment relationship. As such, industrial relations will always feature mechanisms or processes for identifying and pursuing common concerns, as well as mechanisms or processes for surfacing and resolving conflicts. In focusing on cooperative innovations we not only recognize that there are conflictual dimensions to the relationship, but we believe that the very success of the cooperative efforts depends on the capacity to handle highly divisive issues.

INTEREST-BASED BARGAINING: UNDERSTANDING THE RANGE OF INNOVATION

Despite the many terms used to refer to recent innovations in bargaining, there are a set of common principles that link them together. These principles have their roots in what is termed the "principled approach" to negotiations, pioneered by associates of the Program on Negotiation at the Harvard Law School and set out in the book *Getting to Yes* by Robert Fisher, William Ury and Bruce Patton (1991). The principles are also rooted in a set of preventative mediation practices pioneered by the U.S. Federal

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1. This assumption has deep roots in the field of industrial relations. See, for example, Walton and McKersie (1965).

Mediation and Conciliation Service. Finally, there are roots in the rise of employee involvement and quality initiatives, where group problem-solving principles were brought into the workplace on a large scale.

Included among the underlying principles are injunctions to focus on issues, not people; to generate mutually beneficial options; to not jump to solutions before defining a problem; to develop mutually agreeable stand-ards to assess proposed solutions, and to identify a BATNA (Best Alterna-tive To a Negotiated Agreement). Perhaps most important, however, are two key insights. First, there is a general focus on solving problems rather than engaging in an adversarial contest. This involves sharing information and following systematic processes for defining problems, generating op-tions and moving toward potential solutions. Second, there is a focus on interests, not positions. This also steers negotiators away from the trap of a positional contest that either escalates out of control or produces sub-opti-mal outcomes bounded somewhere between each side's opening positions.

The combination of interest-based and problem-solving approaches to negotiations is at the heart of a burgeoning industry in the United States and Canada. This growth involves alternative dispute resolution (ADR) in contexts ranging as diverse as divorce mediation, environmental disputes, product liability, neighbourhood conflicts and peer mediation on elementary school playgrounds. Importantly, there is variation across the approaches in the relative focus on interests and problem-solving as core elements of an alternative approach to negotiations. For example, later in the paper we closely examine one approach — the target specific bargaining model, in which the bargaining process emphasizes problem-solving techniques and does not usually utilize formal list-making around perceived interests (even though attention to underlying interest is implicit in the approach).

In the labour relations context, as in some others, the application of interest-based principles has been complicated given the clear conflicts of interests that are known to exist and the long-standing institutions con-structed to channel the conflicts (Cutcher-Gershenfeld 1994). In some cases, the parties have left many of the traditional elements of negotiations in place, while only applying the interest-based principles to a single issue in a joint sub-committee which then reports back to the main table. In other cases, the parties have completed restructured the traditional institutions, including how issues are generated, who is involved in addressing them at the table, and even how the final agreement is to be ratified. Table 1 summarized a range of possible practices, each of which constitute some form of interest-based or mutual gains negotiations.

As table 1 illustrates, an interest-based and problem-solving approaches can be limited to a single issue or it can be the exclusive way in which all issues are addressed. Wages and other highly distributive issues represent a

TABLE 1

Selected Options for Interest-Based Bargaining
in Labour Negotiations:
Arranged by Degree of Intensity

	Limited	Moderate	Extensive
Substantive scope	Single issue	Selected issues	All issues
Time span	Single session	Multiple sessions	Continuous process
Timing for start of the initiative	Just prior to contract expiration	After opening of negotiations	Long before the opening of negotiations
Neutral third party involvement	Training on key principles	Training and pre-negotiations coaching	Training and direct facilitation during negotiations
Presence of other "outside" parties	None	Non-traditional representatives from labour/ management	Representatives from "customers," "suppliers," government, the community, etc.
Responsibility for process facilitation	Outside consultant	Internal facilitator	Built into norms of bargaining teams
Link to subsequent relations	None	Expectation to use the process again in future bargaining	A foundation for constructing a living agreement with explicit update

Source: adapted from Cutcher-Gershenfeld (1994).

key choice point for parties in this regard, with some parties tackling even these divisive issues with a problem-solving approach. At one extreme, the principle can be applied in a single session as a departure from what is otherwise formal, adversarial negotiations. At the other extreme, the process does not end with the conclusion of negotiations — it serves to guide interactions over the life of the contract and even becomes part of the larger cultures of the employer and the union. Third parties may or may not be involved, and other "outside" parties may also be directly involved, including people with content expertise who are not members either of bargaining committee and even people external to the organization. For example, the application of these principles by contractors and unions in Philadelphia's construction industry involves a strong presence by the major purchasers of construction services in the city — universities, government,

hospitals, etc. Note that we have listed the incorporation of new norms as more "extensive" than a reliance on outside third parties, though this involves a less extensive role on the part of the third party. In terms of timing, the approach can begin long before the opening of negotiations with training and preparations or it can be employed very close to contract expiration as a last-ditched attempt to break from dysfunctional patterns.

We present this table in order to demonstrate that the many approaches to negotiations utilizing new principles are not all equivalent. There is no one right way to practice these principles and experience teaches us that parties vary considerably in the degree to which they are both ready to adopt the new methods. Also, note that the outcomes to be expected as a result of the new methods are a function of just how extensive an approach is employed. Most importantly, we hope that table 1 helps to reinforce the importance about being clear that choices are being made and that these process choices have real consequences for subsequent interactions.

DYNAMICS AND DILEMMAS ARISING DURING INTEREST-BASED/PROBLEM-SOLVING BARGAINING

There are a number of dynamics and dilemmas that arise during interest-based and problem-solving bargaining. Naturally, they vary based on the intensity of the initiative and on a host of other contextual factors. In this section we highlight a few key dynamics and dilemmas — both because they are important to note and because they help to paint a full picture of the process.

First, there is often great confusion about the appropriate use of power in a problem-solving context. Underlying this confusion are often unrealistic or inaccurate expectations on the part of one or both parties about the nature of the process. In fact, some forms of power are eroded by this process — such as a party's ability to impose a solution unilaterally, a party's ability to control negotiations by controlling the source of and access to information, or a party's ability to maintain highly centralized negotiations with few avenues for input from people at lower levels of the organization. Other forms of power are expanded, such as the power to compel action on the basis of data. Thus, parties remain able to compel settlement on issues, but the basis for doing so shifts.

Second, the management of internal differences represents both a great threat to the success of collaborative processes and a key to their success. Where management or union representatives employ these principles without fully educating and involving their constituents, the leaders are at great risk. The methods are designed to generate new and innovative solutions, but these new solutions will likely be rejected by constituents who do not

understand or support the approach in the first place. Alternatively, where a broader mix of constituents are directly involved in the process, many traditional dilemmas around ratification are avoided since there has been a flow of information to, and involvement from constituents throughout the negotiations. This may create new dilemmas, however, such as the increased difficulty faced by either side to "speak with one voice." Ultimately, the very nature of negotiations is transformed.

The management of internal differences can become highly visible. For example, in traditional negotiations all of the communications at the main table may be channelled through a spokesperson, which allows each side to conceal internal differences. In contrast, the extensive use of sub-committees and problem-solving methods (such as group brainstorming) encourages input from everyone, thus revealing many internal divisions. Caucuses are often still used, but not as a means for internal control. Instead, the caucuses serve as a vehicle for internal problem solving. Ineffective management of internal differences will undercut an interest-based process; Effective involvement of constituents will drive success.

Third, the exploration of new approaches to negotiations can not be understood outside of the historical and institutional context. Where there is a long history of mistrust, the process must begin by acknowledging and addressing this history. Where there is a high degree of turnover on one or both sides, the process must attend to the construction of new relationships — which includes anticipating future possible turnover as well. Also, the degree of autonomy of local unions and managers in a given location represents a key enabling or limiting factor.

Fourth, the exchange of information is at the heart of all interest-based processes and this raises a number of core value and competency issues. For management, the full and open sharing of information represents a fundamental challenge to traditional practices. For the union and its members, access to such information calls for new skills, as well as for a high level of responsibility in how it acts on the basis of this information. Similarly, management may be exposed to confidential internal union understandings about splits in the membership and other matters. Further, as leaders from both sides come to share a common information base, there are significant educational challenges to ensure that their constituents also understand the information so that they can understand the subsequent agreements built on that information. With full information exchange we find trust issues not just between labour and management, but also between leader and constituent.

A fifth dynamic that characterizes extensive utilization of interest-based and problem-solving principles is the sheer complexity of the many concurrent forums for dialogue and exchange. Often there are numerous joint task

forces collecting and analyzing data on particular issues, as well as ongoing dialogue at the main table. In traditional negotiations there have always been side-bar meetings between chief negotiators, but these are more easily managed since few people are involved and they are usually off the record. In interest-based and problem-solving bargaining, many people are involved and it is all part of the record.

A sixth set of dynamics and dilemmas spring from gender, class and regional differences, and other social or cultural matters. The open and collaborative nature of most interest-based and problem-solving approaches often run up against the biases and assumptions that people have about the ability and willingness of others to be part of such a process. Sometimes a union leader is unwilling to ever believe the figures provided by a manager. Sometimes a manager finds it hard to trust a union leader to fully process complex information. Sometimes women or other minorities are still not heard, despite the more open format. Even regional differences around issues such as time, dress, language and other matters can be barriers to problem-solving. All of these issues are, of course, present in traditional negotiations, but they take on much greater significance in a process that depends on full and open collaboration.

A final set of dynamics and dilemmas can arise from the many contextual factors that shape interest-based and problem-solving bargaining processes. For example, an open problem-solving approach can take on very different meanings in the public and private sectors since there are so many additional stakeholder groups associated with public sector collective bargaining, not to mention fundamental shifts in philosophy as different political parties come to power. In the private sector, there will be differences between service, construction and manufacturing organizations along many dimensions, such as the way performance is measured and the composition of the workforce. As well, the legal context for negotiations will often be different. The dynamics will vary with the size of the organization and bargaining unit, with much greater complexity in a large organization. Naturally, the degree of economic urgency facing the parties is a key factor: a crisis can serve as a motivating factor, but if it is too intense it has the potential to be completely destablizing. The structure of labour and management is also critical, with the process being much more complex in the case of multiple locations, multiple unions and multiple employers. For example, construction trades negotiations will often feature all three forms of complexity.

This analysis of dynamics and dilemmas is hardly exhaustive, but it should indicate some of the challenges entailed in altering a core institution. In order to illustrate fully what is involved in the shift, however, it will be helpful to review the step-by-step implementation of one approach to interest-based bargaining — the "target-specific bargaining" model.

LESSONS FROM THE FIELD: THE TARGET-SPECIFIC MODEL

The target-specific bargaining (TBS) model is designed to involve a broader mix of people in the bargaining process, to expand the scope of negotiations around a wider range of issues and to utilize a problem-solving approach to these issues, all in the context of full and open information sharing through a jointly developed data base (Power 1991). At its core is the notion of coming to the table not with demands, but with a set of problems to be solved. There are, of course, many other possible models and no one model is right for every setting. The TSB model examined here has been used primarily in small and medium sized bargaining units.

We provide a detailed presentation of this model because it helps to construct a vivid picture of the elements and nature of one possible alternative approach to negotiations. Also, the model has been applied with sufficient frequency to allow for some preliminary analysis of the experience in various settings. Altogether, TSB has been utilized in 108 negotiations, with full data available for this analysis on 73 of these instances (see table 2)[2]. As table 2 suggests, the focus of activity to date has been in manufacturing, health care, schools, colleges and universities, but there have been applications in a broad range of industries. It should be noted that the variation by size reflects the different size of establishments characteristic of the various sectors and industries. In addition, most of the training has taken place in smaller organizations (under 500 employees), but the experience to date is not limited to small organizations.

Why would union and management leaders choose to adopt a process that involves more people, addresses more issues, requires sharing information and demands extensive problem solving? Typically, the shift comes after a crisis, such as a bitter strike or a competitive shock. While training events may provide additional motivation to explore the ideas, the parties do not usually come to training in the absence of prior motivating events. In some cases, parties even seek out the methods in order to be consistent with core values that they hold. For example, one school district adopted the method in order to bargain in ways that are consistent with the values they were attempting to uphold in the classroom.

The TSB process involves a high degree of third-party facilitation throughout the negotiations. The process begins with a training component, which is carried out by the facilitator(s). This training and the involvement of the

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2. These data have been maintained by two of the co-authors of this paper, Don Power and Maureen McCabe-Power, for all sessions where they have provided facilitation assistance to TSB initiatives. The data presented represents a preliminary analysis of the data that could be coded within the time frames involved in preparation for this paper. Further analysis will be undertaken in subsequent papers.

TABLE 2

Target Specific Bargaining Experience to Date: Cases by Size and Industry

Industry	Firm Size				
	Small (under 100 employees)	Medium-Small (100-500 employees)	Medium-Large (500-1000 employees)	Large (over 1000 employees)	Total
Manufacturing	2	11	9	4	26
Health Care	6	11	2	1	19
Transportation	1	2	—	—	3
Retail	—	1	—	3	4
Service	2	—	—	2	3
Government	—	1	—	—	1
Utilities	1	—	—	—	1
Schools	2	3	—	1	6
Colleges and Universities	4	2	2	2	10
Total	17	31	13	12	73

facilitators are both vitally important to the success of the process. Typically, union and management bargaining committee members are trained together in a three-day session. During the day and a half, the first focus is on an explanation of the process itself, beginning with a historical perspective. The second half of the training constitutes the skill training necessary to successfully negotiate a contract using the TSB model. The skill training includes exercises in problem-solving techniques such as brainstorming, consensus decision making, Pareto charting, and cause and effect. The training also explores issues encountered when engaged in information driven problem solving with a review of data collection, presentation and use. Without exposure to and training in these techniques, the participants will not be successful at TSB.

The timing for the delivery of the training is set out in table 3. As the table suggests, most of the training takes place at least three months prior to the opening of negotiations — with half of these instances involving training that occurs six months in advance. However, in a number of cases the training occurred within three months of the start of negotiations and there were even some cases where the training was initiated after bargaining had begun. Clearly, the process is more complicated where there is less lead time.

TABLE 3

Target Specific Bargaining Experience to Date Training Timing and Size

Timing of Training	Firm Size			
	Small (under 100 employees)	Medium-Small (100-500 employees)	Medium-Large (500-1000 employees)	Large (over 1000 employees)
Training over 6 months prior to opening of negotiations	5	10	5	5
Training between 3 and 6 months before negotiations	5	9	5	6
Training under 3 months prior to the opening of negotiations	6	3	2	1
Training initiated after the beginning of bargaining	1	9	1	—
Total	17	31	13	12

It is important to note that the TSB process is not about arguing over positions or demands and trade-offs in the interest of who has more power and/or is a more effective negotiator, but rather is about learning of the problems people are experiencing in the work place. Then, through the use of a jointly determined data base and problem-solving techniques, jointly solving those problems, always getting back to the employees with the answer. The answer may not be what the employee had hoped for, but experience has shown that an answer with reasons is a refreshing change for many people. Often the traditional bargaining process is far removed from individual workers. Their issues, if taken to the bargaining table at all, are often traded off or dropped in the negotiation process. TSB ensures a response.

Altogether, TSB involves seven steps. These are presented below in the same way that they might be presented to parties undergoing TSB training. Note that the actual negotiations do not begin until Step Six, reflecting the extensive preparations associated with this process.

Step One, the Problem Seeking Process, involves union and management bargaining committee members separately meeting with their constituents in order to learn of the problems each group is experiencing in the workplace. The TSB process does not deal with proposals or wants from either side, but instead focuses on solving problems people are experiencing in the work environment. The approach therefore represents and expansion of bargaining rights, as it is not restricted to mandatory subjects of bargaining. Workplace problems are sought from the union, as well as from the management side, by the respective bargaining committees. Specific forms are utilized for this step of the process and are detailed in terms of asking people to identify the problem (not what they want the solution to be) and the reasons why they believe the problem exists. People are also invited (but not required) to indicate their names and where they work in the organization in order to ensure that a response to the problem is forthcoming from the bargaining committees at the conclusion of the negotiations.[3]

Step Two, the Problem Assembly Process, is procedural in nature. This step involves the separate listing of problems for both parties (either manually or on computer) including the reasons listed for the problem, and placing these lists at a central source — usually with the facilitator(s). Confidentiality is maintained by the central source during this step by not disclosing the developing lists to the opposite party.

Step Three, the Joint Problem Review and Explanation Meeting, involves two stages. Stage one is the review process with the facilitator(s), where each party separately presents its proposed problems with explanations to the facilitator(s). The facilitators then ask questions, point out inconsistencies and generally get each team to better frame its problems and to seek further information if necessary. When this stage is completed, for both parties separately, the facilitator(s) will then bring the parties into a joint session.

The second stage of Step Three requires both management and union teams to explain each of their problems to the other side and answer any questions for point of clarification. During this step the parties are not allowed to criticize the other side's problem list. Once the explanation has been completed it is time for the parties jointly to determine the information needed to solve each problem posed by the other side.

Step Four, the Information Needs and Format Request Meeting, is the first joint work of the committee. From now on union and management

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3. This is consistent with a general focus on full circle and ongoing communication, which are also important outcomes of this process.

are working on and solving problems together. All of the problems now belong to the joint committee and are no longer thought of as belonging to one side or the other. The first task for the joint committee is to identify a list of classifications or categories into which the problems will be placed. This is necessary in order to organize the problems in such a way that like problems can be solved at the same time. Similar problems will require similar data and some problems will flow naturally from one to another. Once the categories have been jointly determined, all problems will be assigned to the correct category.

Then, jointly, through the use of brainstorming, data required to solve all the problems in each category are identified. It is important to note that, at this stage, all of the information deemed necessary to solve the problem must be provided, a key issue for the parties to consider before committing to this process. The format into which the data is to be converted for reporting and use is also determined by the joint committee. Once all this is completed, union/management teams of two or four people are assigned to each problem set and their task is to gather and arrange data for use in bargaining, validate the data and make recommendations about its use where necessary. Working schedules for the data gathering teams are set and published by the joint committee. An agreement must also be reached on the use of "outside experts." These are people perhaps internal to the organization which generated the problems, but not a part of the bargaining committee, or people totally external to the organization, who may serve as an important resource to the problem-solving process.

Step Five constitutes the final stage prior to the actual negotiations. During this Data Gathering phase the various data gathering teams are submitting information to a central location where it is being duplicated in sufficient quantity to compile a working bargaining manual for each person on the joint bargaining committee. This manual will contain all problems, within the categories, and the explanations and data necessary to solve the problems. At this stage the parties will further review the agreed upon operating procedure and problem-solving methods to be used in negotiations. Final agreement will also be reached on the use of sub-committees, negotiation site, dates and time frames and the facilitator(s)' role during actual negotiations.

Step Six is the actual Negotiation Process. The first order of business in negotiating is to set the joint bargaining agenda by sequencing the order of discussion by categories. The parties will solve all the problems listed in each grouping through the negotiation process in order. A further subdivision of the problems will be made by the parties so that related union and management problems within a grouping can be broken out by relationship and solved. With the assistance of a facilitation team the parties

will discuss and solve each problem from each category in sequence using problem-solving methods. The following problem-solving techniques are used as component parts of a total process from problem identification through problem-solving to ratification, implementation and follow-up: brainstorming process; data collection, recording, presentation, and utilizing; interest-based discussions and problem-solving; cause and effect process; and consensus process.

Negotiation represents a three-pronged problem-solving process which the facilitation team will use with the parties during the negotiation process. The three steps involved represent increasingly more complex problem-solving processes, which may be selected by the facilitators at the appropriate time when the complexity of the problem demands. It has been observed that most problems will be solved through the use of constructive facilitated discussions when the parties have their respective problems well framed and documented with supporting data. It is sometimes necessary for the facilitators to move the problem under discussion to a more complex, detailed process where the parties will explore, in a more formalized process, union or management group interests versus joint interests. The problems may be moved to the cause and effect process, when the problems of the parties need to be broken down into the smallest component part, by cause.

Note that the TSB process allows no trade-offs and requires that each problem submitted be answered. This is a sharp departure from traditional norms in North American collective bargaining. A consensus process serves to create solutions which all parties can support, even though the level of support may vary.

The negotiation process requires that when the parties reach final agreement on each item, they must then determine if a change is also necessary in the contract language. If so, the change is then crafted with an additional statement clarifying the intent of the new language. Where the solution to the problem does not require a language change, the solution will be recorded in a separate document entitled "Noncontract Solutions," which is neither grievable nor arbitrable.

Step Seven, the Ratification and Follow-up Process, involves the parties returning to their respective constituent bodies and presenting the results of the negotiations. This presentation consists of management and union bargaining team members taking back answers to each problem submitted by the respective constituent and explaining the answer supported by the joint data base. Many companies and unions hold joint explanation meetings, then break into separate union and management groups for the purpose of union ratification and/or management acceptance.

The entire TSB process takes about two and one half months, but not in consecutive days. The negotiations are typically scheduled for between five days and two weeks, depending upon the size of the organization and the number of problems to be solved.[4] As table 4 indicates, the average number of facilitation days is 21.5 — which represents a very high level of third-party involvement in negotiations. Table 4 is also broken out by bargaining unit size, which indicates that larger bargaining units typically involve a greater number of facilitation days.

TABLE 4

Target Specific Bargaining Experience to Date
Bargaining Dynamics and Size

Bargaining dynamics	Firm Size				
	Small (under 100 employees)	*Medium-Small (100-500 employees)*	*Medium-Large (500-1000 employees)*	*Large (over 1000 employees)*	*Overall Average*
Facilitation Days During Problem Seeking Process	2	2	2	2	2
Facilitation Days During Formatting of Negotiations	5	6	7	7	6.25
Facilitation Days During Data Base Development	1	1	2	2	1.5
Days of Facilitation During Actual Negotiations	5	10	12	15	10.5
Days of Facilitation During Post-Negotiations Follow-up	1	1	1	2	1.25
Total Facilitation Days*	14	20	24	28	21.5

* Note that total facilitation days are the same as total bargaining sessions since the facilitators are present for all bargaining sessions.

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4. Negotiations are usually scheduled for consecutive days, however, and are scheduled between 8:00 a.m. and 4:00 p.m. on company time, excluding Saturdays, Sundays and holidays.

The last stage of the process is the Follow-up, which consists of two parts. The first part involves the joint bargaining team taking responsibility, during the life of the contract, for orienting the new union and company officials who administer the contract in the common understanding reached during negotiations. The second part requires that the negotiation committee reconvene every three months. During these meetings the joint committee will assess the progress in carrying out both their contractual and noncontractual commitments. Table 5 lists the experience to date with these post-settlement activities.

TABLE 5

Target Specific Bargaining Experience to Date
Post-Bargaining Activities

Post-bargaining activities	Firm Size			
	Small (under 100 employees)	Medium-Small (100-500 employees)	Medium-Large (500-1000 employees)	Large (over 1000 employees)
Number of Quarterly Follow-up Sessions	8	7	3	3
Construction of a Living Agreement	8	3	–	2

As table 5 suggests, 21 of the parties are now conducting quarterly follow-up sessions. In addition, 13 of the cases now feature what could be termed living agreements. Note, however, that table 5 should be interpreted with caution since the possibility of follow-up sessions depends on how long ago the contract was settled.

CROSS-CULTURAL IMPLICATIONS

The TBS model and even the broader mix of practices described in this paper all have emerged in the U.S. context since the early 1980s. Thus, a key question concerns their applicability to other countries with distinct legal systems, institutional contexts and national cultures. In exploring these cross-cultural implications, we will draw on some experience in providing training on these principles in two highly contrasting countries,

Poland and South Africa. In the South African case we will draw on a series of training and negotiation experiences by two of the authors,[5] while the Polish examples will draw on a series of training sessions conducted by the third author.[6] Also, we will conclude this section with reflections on cross-cultural dynamics that arise even when this training is provided in the United States.

Perhaps the most salient cross-cultural issue arises out of values and assumptions that guide mutual gains approaches to negotiations. In particular, these approaches rest on assumptions that all or most employees have important ideas to contribute to the bargaining process, that they should be empowered to play a role in this process and that the process represents a framework to guide interactions more generally (not just a semi-annual event). In order to understand the cross-cultural implications of these assumptions, it is helpful to highlight experiences with TSB training provided in South Africa prior to the collapse of apartheid.

From the outset, the process stood in profound contrast to the bulk of the daily experiences of the black trade unionists. They were being accorded a say in corporate strategic issues in a country where they did not even have the right to vote or own property. The acceptability of these concepts was helped since they were mostly applied in companies that were owned by foreign multinationals companies and were hence less bound by apartheid principles. Additionally, the collaborative approach was reinforced given the normative pressures associated with the Sullivan Principles (for American firms) and the pressures from the EEC and the United States around progressive employment practices.

Still, there were complex dynamics. For example, there is a strong tradition of consensus decision-making among the black trade unionists in order to all speak with one voice, while management is used to a highly hierarchical and status oriented structure. Hence, there was not much tolerance the first time that the trade unionists in one negotiations took a 13 hour caucus in order to achieve full consensus on an issue. Similarly, the scheduling of bargaining sessions is itself culturally bound. For example, most workers in South Africa do not own cars and so bargaining has to be organized around unreliable bus schedules and in recognition of very real dangers on the streets after dark. Even a concept that would seem straightforward, such as a union meeting to ratify a contract, takes on a very different meaning when there is no union hall for a meeting. Instead, full-scale meetings in South Africa have to be on company premises or at a

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5. The two co-authors are Don Power and Maureen McCabe-Power.

6. The co-author is Joel Cutcher-Gershenfeld. Note that these comment build on the analysis presented in Cutcher-Gershenfeld, Sterniczuk, and Chalykoff (1993).

rented off-site location — which may constrain union internal interactions but may aid joint collaboration.

Of course, the scope and structure of negotiations varies considerably across countries. For example, in Poland, most workplaces feature a complex mix of evolving union and management organizations. On the union side, there is typically one or more groups of workers allied with the Solidarity organization. As well, one or more of the former communist unions will often have attempted to re-invent itself during the 1980's when Solidarity was banned. In the present period we now have the Solidarity unions trying to reclaim this plant level presence at the same time as they are attempting to be coordinated as a governing party in the country. On the management side, there was initially fundamental confusion over just what the function and role of a supervisory board of directors was. Some of these supervisory boards found themselves having to manage the day to day business since basic capabilities such as accounting or marketing didn't exist and, in some cases, blatant corruption persisted from the communist era. In other cases, the supervisory boards were guilty of disruptive micro-management. Further, while the supervisory boards were initially cautious in their actions, they have become much more aggressive, including mandating reductions in the work force, selling of businesses and other restructuring efforts. This prompted some union leaders in training sessions to share their frustration at having overthrown communism only to encounter capitalism. Given the ambiguity of roles and the new conflicting relations, concepts of mutual gains interactions are needed more than ever but seem even harder to put into practice. Interestingly, with the collapse of apartheid, the rise of trade union led political parties, and the restructuring of basic principles around property ownership and public services, many of the same dilemmas are likely to arise in South Africa.

Beyond the issues of formal roles and power relations, there are a number of less visible but no less important issues arising from cultural patterns of interaction. For example, in Poland there are strong cultural norms which support a level of courtesy and politeness that connotes chivalry on the surface. However, when a genuine disagreement is revealed it becomes absolute and relations on all other matters are cut off. The concept is that "if I am in disagreement with you on one issue, then we are in disagreement on all issues." For example, a union leader in a tractor factory reported not having had any conversations whatsoever with his management counterparts for the previous three months — and no intentions to change matters — based on a misrepresentation of some key information by management. When providing mutual gains training, there was great concern over a process that would uncover core interests since some of these involve direct conflicts which are normally only acknowledged indirectly (given the risks when a fundamental disagreement is surfaced).

Cultural norms are also a key dimension, of course, in South Africa. Sometimes these norms can reinforce and support mutual gains principles. For example, the union in one case was unwilling to place any demand on the table that it didn't think could be justified or documented by them as reasonable. This has roots in a strong South African ethic which is typically stated as "my word is my bond," which means that a negotiator would never overstate demands at the table. This ethic has roots in the view that "If you know that I will only tell you the truth than I anticipate that you will listen when I speak" — though it is important to note that the ethic is eroding with Western influence. This is a case where a cultural tradition reinforces and extends the mutual-gains approach, so long as it can persist in the face of Western influences. In early training, when the U.S. trainers were still building experience with mutual gains approaches, they sometimes demonstrated a North American tendency to use the tabling of issues as a way to gather information and open dialogue — even though this is not strictly in accordance with target specific principles. In the South African context, the participants rejected such tactics and hence were even more strict with the principles than the trainers.

There is an interesting contrast to note between Poland and South Africa, which centers on the role of women. In the Polish case, women represented a substantial proportion of union and management participants in labour-management training sessions — often occupying top leadership positions. This is one legacy of a socialist economy where career opportunities were more available to women than in many Western countries. By contrast, for example, in one case in South Africa there was one female steward who was the only female employee in the union, with all other training participants and the entire unionized workforce being male. Although she was involved in the training, she was on pregnancy leave during negotiations when the union refused contract language calling for equal pay for equal work by women. Thus, there are still many complicated issues associated with the almost complete absence of women in most large manufacturing organizations.[7] As an example of the implications the male dominated structure in South Africa, consider the experience of one of the co-authors of this paper who was the only female participant in an arctic survival exercise with a group of South African trade unionists. Virtually all of her comments were completely ignored during the discussion — despite the fact that she was the only one in the group who had ever seen snow. Afterwards they were surprised and perhaps even offended to have

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7. Given the work arrangements with workers staying in hostel/dormitories during the week and returning to homelands on weekends, the introduction of women raises many deeper social issues.

this pointed out to them. It will be interesting, of course, to trace patterns along these lines in post-apartheid South Africa.

Thus, the use of collaborative bargaining methods in which people's ideas are respected takes on very powerful social meanings in the context of a culture as divided as South Africa. However, it is not just a case of the Target Specific approach being a powerful intervention. We also saw that South African union norms around honesty and consensus drove an even more robust use of some aspects of the model, while managers had to take a much larger leap of faith than U.S. counterparts in order to support the process. In the Polish case, we saw that the interest-based principles are constrained since there are deep norms that explicitly restrain the open exploration of interests.

Based on these and similar experiences in other countries, we find ourselves involved in a complicated, negotiated exchange of practices and ideas. The concepts may take root in a different culture, but they are inevitably transformed in the process. In some cases, aspects of the mutual gains approach are more complicated and in other cases they are reinforced and extended. Importantly, this variation has applications even within a given country since there is often great cultural variation within different sub-groups of a population or different regions of a county.

CONCLUSION

Alternative approaches to collective bargaining represent an important and fascinating development in U.S. labour relations. In reviewing current practice, we see that there are a wide range of possible alternative approaches to bargaining — though all feature a common focus on problem solving in ways that are attentive to underlying interests. We hope that this analysis of available options is helpful to scholars and practitioners in distinguishing among initiatives all of which use similar names.

One particular approach has been presented here — target specific bargaining — as an illustration of an alternative approach that involves substantial changes in the traditional bargaining process and for which systematic data has been collected on its use. In the analysis of the data, we saw that the process had applicability in a wide range of industries and sectors, training occurred at many different points prior or after the start of bargaining, that extensive facilitation was required, and that larger firms required a greater measure of facilitation time.

Finally, turning to the cross-cultural implications of alternative approaches, we saw that elements of the process could be enhanced or complicated in the context of different cultures. This included the implications of different

formal structures for negotiations, informal norms around communications, and many other factors. These experiences lead us to be cautious about the transferability of any one model in its pure form, but to be optimistic about the broader applicability of the principles.

Underlying the issue of cross-cultural transferability is a larger question concerning the adaptability and flexibility of social institutions oriented around collective bargaining. We suspect that many innovations in negotiations can be found in economies throughout the world. We believe that information about these many alternative approaches to bargaining will be increasingly available in a global basis. Thus, this paper is part of what we hope to be a broader international dialogue on transformation and change in the institutions of industrial relations. Too often, the industrial relations community is seen as the protector of the status quo. Through broader dialogue we hope that we can instead become a community that fosters continuous learning and improvement about the institutions within which we live.

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RÉSUMÉ

Conséquences générales des innovations récentes en matière de négociation collective aux États-Unis

La négociation collective aux États-Unis se polarise de plus en plus sur les extrêmes de conflit et de coopération. À un extrême se trouve

l'effondrement de la négociation en grèves acharnées voire même la fuite des employeurs devant les relations syndicales-patronales. À l'autre extrême se trouve le partenariat conjoint qui touche les décisions sur presque tous les aspects du fonctionnement des affaires. Plusieurs facteurs domestiques et internationaux provoquent cette polarisation du processus de négociation. Les plus importants sont: l'accroissement de la concurrence internationale, les changements démographiques, et les choix stratégiques des entreprises et des syndicats. Ce texte ne porte que sur un de ces deux extrêmes, notamment les innovations récentes de négociation de forme coopérative.

On soutient que ces innovations peuvent faciliter des changements dans les lieux de travail variés, autant aux États-Unis qu'ailleurs. Cette conclusion est basée sur des expériences personnelles dans plus de cent contextes, ainsi que sur l'analyse des tendances globales en relations professionnelles. Toutefois, il est important de comprendre la grande variété des pratiques d'innovation possibles et les nombreux dilemmes et complexités qui sont liés aux initiatives récentes.

Les innovations portent plusieurs noms, dont la négociation de gain mutuel, la négociation d'intérêt, la négociation gagnant-gagnant et la négociation à cible spécifique. Bien que toutes ces approches à la négociation partagent des caractéristiques communes, il existe des différences importantes dans le centre d'intérêt, la possibilité et les résultats associés à chaque approche. En premier lieu, on examine la grande variété des approches de négociation de forme coopérative. Ceci peut varier d'une approche commune et ponctuelle afin de régler un seul problème à la construction d'un accord compréhensif durable fondé sur ces principes. Ensuite, on étudie en particulier la négociation à cible spécifique, qui est un des modèles les plus compréhensifs et les plus utilisés. Cette approche est remarquable car elle implique la totalité de la main-d'œuvre dans le processus de négociation, et elle élargit considérablement la portée des négociations. Enfin, on explore quelques implications multiculturelles liées à l'application de nouveaux modèles de négociation ailleurs qu'aux États-Unis.

La prémisse principale de cette analyse est que les relations syndicales-patronales apportent inévitablement un mélange de motifs et d'intérêts communs et concurrents dans les relations du travail. Les relations du travail en soi auront toujours des mécanismes ou des processus pour faire sortir et résoudre les conflits. En se concentrant sur les innovations de forme coopérative, on reconnaît non seulement les dimensions conflictuelles de ces relations, mais on soutient que le succès même des efforts coopératifs dépend de la capacité de régler les questions qui entraînent énormément de division.