Conflict Harnessed for the Common Good:
An Integrative Approach to Democratic Deliberation

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ABSTRACT

Deliberative democratic theorists contend that legitimate democratic decision-making must proceed through reasoned and inclusive discussion. Deliberative theories of democracy have been subject to critique, but these critiques generally focus not on whether quality deliberation is desirable but rather on whether it is achievable, as a practical matter.

To address the question of whether and how deliberative ideals might be achieved, and through what method, I examine interest-based or integrative problem-solving as a successful model that might provide such insights. Focusing on three instances of its usage to address complex, multi-stakeholder issues in the labor-management context, I demonstrate how integrative models have enabled participants to overcome historically toxic relationships, incorporate participation by stakeholders with different perspectives and needs, and address tumultuous changes in their fields and institutions.

I then unpack the mechanics of interest-based methodology, beginning by examining its theoretical origins in the work of Mary Parker Follett. Building on that theoretical foundation, I examine how Follett’s theories have been implemented in contemporary interest-based processes, focusing in particular on how Follett’s transformative view of conflict resolution contrasts with the more transactional model promoted by most deliberative democrats. This difference is directly reflected in the techniques used in Folletian conflict resolution processes, which seek to capitalize on the existence of conflict to drive effective and meaningful participation. Follett’s integrative methods, I contend, directly answer many of the critiques of traditional processes of deliberative democracy.

Last, I consider the implications of interest-based methods for political decision-making. These include what types of issues, communities, and participants most lend
themselves to deliberative models of decision-making; the critical role of training and facilitation to the success of deliberative models; and the ways in which process can be used to address the issues of capacity, power, epistemology, and feasibility that have plagued more traditional modes of deliberation when empirically tested. From this analysis, I conclude that interest-based models are worthy of continuing study and implementation in the political context, and I suggest avenues of further potential study and trial implementation.
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Preface

At the outset, I should like to ask you to agree for the moment to think of conflict as neither good nor bad; to consider it without ethical pre-judgment; to think of it not as warfare, but as the appearance of difference, difference of opinions, of interests. . . .

As conflict – difference – is here in the world, as we cannot avoid it, we should, I think, use it. Instead of condemning it, we should set it to work for us.

- Mary Parker Follett (1926a, 30)

This is a strange moment in our political history to be writing, optimistically, about the power of talk to bridge disagreements between those of opposing viewpoints and positions. We have just completed a national election marked by increasingly heated rhetoric on both sides and culminating in a contest close enough that, for the second time in twenty years, the candidate who won the electoral college lost the popular vote (DeSilver 2016). Months after the election is complete, each side continues to investigate the other, trading accusations of foreign interference in the election results and massive voter fraud (Bierman 2017; Ingram 2017). The animosities reflected in the campaign cycle have continued, and even deepened, in the months since the votes were counted. Millions of protesters marched around the country, and in sister protests worldwide, the day after the new president was sworn into office (Booth and Topping 2017). Protests from both sides have continued for months, on a variety of issues (Crowd Counting Consortium 2017).

Animosity between those of differing views has escalated from a war of words to instances of physical violence and even deaths, with a sharp increase in reported hate crimes and frequent reports of violence being preceded or incited by public statements on contested political issues (ProPublica 2017). A candidate for Congress physically assaults a reporter who questions his position on a policy issue, gets elected a few days
later, and pleads guilty to having committed the assault (Marcos 2017). A state lawmaker threatens to call immigration enforcement to deport protesters holding signs in a legislative gallery and threatens to shoot another legislator who objects (Haag 2017). A supporter of one presidential candidate shows up at a baseball field where members of Congress are practicing for the annual intramural game, checks with bystanders to make sure the team practicing is made up of the opposing party, and then opens fire (Shear, Goldman, and Cochrane 2017).

Many of our existing institutions seem to be similarly captured by these forces of conflict. Television news programs feature panels of participants talking over each other simultaneously from their own tiny boxes in a split-screened cacophony (Carvel et al. 2017). Internet sources stream into the echo chambers of social media, feeding on confirmation bias to get a steady stream of “clicks” and “shares” from like-minded readers (Burleigh 2017; El-Bermawy 2016). Colleges and universities find invited speakers with controversial views drowned out by disruptive and even physically violent protests, to the point that some schools have withdrawn speaking invitations citing safety concerns (Hartocollis 2017; Ramaiyer 2017). Attempts by elected officials to hold town hall-style meetings with their constituents descend into shouting and chaos (Foran 2017; Menkel-Meadow 2011; Taylor 2017).

Our discordant and conflict-ridden politics appear to have negative effects on the substance of policy making, as well. At federal and state levels, conflicts among lawmakers result in actual or threatened government shutdowns (when a budget deal cannot be struck), the suspension of longstanding internal rules governing debate and disagreement, and litigation and threats of retribution between branches (Bolton 2017; Eckholm 2016; Tareen 2017). Voters express a lack of confidence in government and political parties (Associated Press-NORC Center for Public Affairs Research 2016). Most troublingly, there is some indication that voters caught up in contentious campaign
rhetoric do not fully understand the positions of the candidates they are voting to support. In one recent example, voters who supported a presidential candidate based on his opposition to the incumbent’s health care policy indicated, on a survey administered shortly after the election, that they actually supported and benefited from that policy and did not want it to be discontinued (Dropp and Nyhan 2017). They simply had not understood that the program the presidential candidate was enthusiastically promising to eliminate was the same as the program they liked and wanted to keep.

In contrast to this evidence of escalating conflict and declining discourse all around me, my personal experiences of conflict over the last several years have been largely positive. In that time, I have served as a participant, facilitator, and/or trainer for a particular method of participatory decision-making called interest-based negotiation (IBN) or interest-based problem-solving, as it was adopted by various institutions and communities engaged in contract negotiation, policy making, and conflict resolution. In those settings, I have seen participants who began from positions of significant disagreement reach mutually agreeable solutions to long-standing problems and strengthen their working relationships going forward. This has been true even when the negotiations followed periods of significant animosity, involved participants who were openly skeptical and dismissive, and addressed complex policy issues constrained by limited resources and power differentials among the various constituencies involved.

From my own experiences, then, the question arises: what makes some methods of discourse between those of differing viewpoints work, while others fail? That is the matter I set out to investigate here, first by examining the theory and application of interest-based problem-solving as it has developed from industrial relations and then by extrapolating its potential lessons for the resolution of conflicts in the political sphere.

My project fits within the larger corpus of work examining deliberative models of democracy, including those theorists who contend that legitimate democratic decision-
making must proceed through reasoned and inclusive discussion. Like those theorists, my work arises from concerns regarding apparent limitations in the ability of our politics to handle disputes among members of the same community who may hail from different backgrounds, hold different doctrinal beliefs, or pursue inconsistent goals.

I therefore begin by surveying the work of deliberative democrats, describing the two schools of thought from which theorists have prescribed deliberation as the appropriate democratic response to policy disagreements between members of a political community and what exactly they mean by deliberation that is democratic in character. I then turn to critiques of deliberative democracy, with the aim of providing a similar survey of the richly developed existing literature.

As I note below, few of these critiques attack the goals of the deliberative democrats – no one seems to be arguing that it would be a bad thing to make policies after conducting a rational and respectful debate among interested parties and incorporating the insights of that debate into the policy decision. Instead, critiques of deliberative democracy raise serious concerns about whether such an idealized model of decision-making could ever actually be achieved. These critiques generally fall into four categories. The first category, capacity, raises concerns about whether enough citizens have the skills and/or the time to participate effectively in deliberative processes, as well as whether cognitive limitations may interfere with the ability of deliberation to bridge gaps between participants. An overlapping but distinct second category involves epistemological concerns, namely that even sufficiently skilled participants are hampered because as a matter of cognitive capability and/or social dynamics, it is difficult or even impossible for them to effectively understand their own positions well enough to articulate those positions and evaluate competing proposals put forth by others. Both of these categories feed into a third concern, regarding whether differentials of power undercut the very legitimacy of deliberative models, to the extent that societal
inequalities extrinsic to the deliberative process will be replicated within that process and thereby deny individuals who already bear the burden of those inequalities an effective opportunity to participate. Last, some objectors contend that there are a significant number of policy issues on which the disparate views of citizens are sufficiently far removed that consensus is not feasible, such that deliberation is simply a waste of time and disagreements should be resolved by alternative means. Consistent with these concerns, deliberative democracy has also been the subject of empirical testing that has revealed significant apprehensions about whether it can work in real-world scenarios, including studies that have found deliberation to increase bias and discord rather than promoting consensus and peaceful coexistence.

Drawing from the existing literature’s apparent concerns regarding whether deliberative ideals are achievable in real-world scenarios, I then turn to the primary focus of my work: a more detailed examination of interest-based problem-solving as a model that has achieved some success and might provide such insights. Here, a methodological note is necessary. In this study, I am primarily concerned with undertaking an analysis of methodologies that have had some success in the resolution of interpersonal conflict, in the hope that that analysis might yield insights that can be of use both to those attempting to improve the quality of democratic decision-making in real-world settings and to those who are attempting to theorize regarding such decision-making. This focus falls within the tradition of American pragmatism, with its particular emphasis on the utility of theory to resolve specific problems, as demonstrated in the work of Mary Parker Follett that is the primary subject of my inquiry here. And, like Follett, my own work is inspired by my personal experiences with conflict resolution and attempts to derive more generally applicable insights from those experiences (and those of others in similar settings).
But in adopting a pragmatic focus, I am necessarily not addressing on many of the complex and interesting questions that have occupied democratic theorists and deliberative democratic theorists. The existing and developing literature reveals a wealth of viewpoints and ongoing controversies on important questions such as the nature of representation, the characteristics that render a political decision legitimate, or even what is meant by the “common good.” To write about the nature of decision-making in a democracy requires the use of language that, as a matter of political theory, is hotly contested. However, for purposes of this work, my endeavor does not attempt a resolution of those disputes, nor would doing so make a substantive difference in the outcome of what I am considering here. In effect, I am holding these concepts steady for purposes of my discussion, rather than interrogating them.

I begin my pragmatic endeavor by examining in detail three specific cases in which interest-based models have been used to address complex, multi-stakeholder issues, drawn from a context in which those methods are most frequently used: labor-management relations. In these cases, I explore how the implementation of interest-based processes has enabled labor and management representatives to overcome historically toxic relationships, incorporate participation by subgroups of administrators and employees with different perspectives and needs, and address tumultuous changes in their fields and institutions. From those case studies, I conclude the interest-based models show sufficient real-world success to merit further examination of how those models might be translated into the political sphere and whether they might address existing critiques of deliberative democracy.

I then unpack the mechanics of interest-based methodology, beginning by examining its theoretical origins in the work of Mary Parker Follett, a political theorist and organizational thinker whose work at the turn of the twentieth century underpins interest-based models in use in labor-management and other contexts today. Building on
that theoretical foundation, I examine how Follett’s theories have been implemented in contemporary interest-based processes, focusing in particular on how Follett’s transformative view of conflict resolution contrasts with the more transactional model promoted by most deliberative democrats. This difference is directly reflected in the steps, methods, tools, and techniques used in Folletian conflict resolution processes, which seek to capitalize on the existence of conflict to drive effective and meaningful participation. Although they are not a panacea or cure-all, Follett’s interest-based methods of problem-solving, I contend, directly respond to several critiques of traditional processes of deliberative democracy and suggest models that can be implemented in more traditional political contexts to aid in the resolution of the disputes endemic to collective life.

Last, I consider the implications of interest-based methods for political decision-making. In particular, I examine the lessons that can be derived from the success of interest-based models. These include what types of issues, communities, and participants most lend themselves to deliberative models of decision-making; the critical role of training and facilitation to the success of deliberative models; and the ways in which process can be used to ameliorate the negative effects of capacity, power, epistemology, and feasibility that have plagued more traditional modes of deliberation when they are empirically tested. From this analysis, I conclude that interest-based models are worthy of continuing study and implementation in the political context, and I suggest avenues of further potential study and trial implementation.
SECTION ONE
Deliberative Models of Democracy

The topic of negotiation is undergoing something of a revival among legal and political theorists and philosophers. In the last several years alone, works on compromise (Gutmann and Thompson 2012; Margalit 2010), settling (Goodin 2012), and constitutional negotiation (Webber 2009), have all addressed the question of how to reach agreement using negotiation concepts in the face of apparently intractable political conflict. These efforts take place against a backdrop of political rancor so notable that it is not surprising to see a major conference held in 2013 at the University of Texas-Austin Law School on the topic “Is America Governable?” Current scholarship focuses substantially on examining and defining the concepts and values that might be able to shape a different, more civil discourse in which decisions can be reached that are acceptable to a larger percentage of citizens than the mere 50% + 1 who may have prevailed in the last deeply partisan election.

The integrative theory of politics I advance in this work falls within the broader context of these deliberative theories, sharing the goal of bringing disparate members of a political community together, in direct communication, to reach mutually agreeable solutions. I therefore begin by surveying the dominant theories of deliberative democracy, both in terms of why they believe democracy should be more deliberative and what they believe represents a deliberative form of democratic decision-making. I then turn to critiques of deliberative democracy, examining the various ways in which deliberative proposals have met with skepticism regarding their practicality and concerns regarding whether deliberation is truly a more legitimate or desirable form of decision-making than other available models.
Chapter One

Deliberative Democracy as a Cure for the Ills of Adversarial, Partisan Politics

Deliberative theories of democracy critique characterizations of politics as a fundamentally adversarial process, with various actors fighting to obtain, retain, and exercise power (Chappell 2012, 3). Understanding politics as adversarial competition, deliberative theorists contend, is too limited both in description and in aspiration. Regardless of whether the focus is on the post-election struggles between elected officials, the contest among competing interest groups, or the operation of a rational choice model, adversarial models of politics assume a citizenry inherently at odds, with political power the object to be won in a zero-sum game played among them. Advocates of deliberative democracy hope to transcend such competition in favor of fostering transformative debate among citizens who learn about and take into consideration each other’s perspectives before arriving at a common solution (Chappell 2012, 2). Doing so, they contend, addresses many of the ills of democracy as it is currently practiced, including apathetic, ill-informed voters; low voter turnout; partisan and inflammatory political discourse; and the exclusion of less powerful groups (Chappell 2012, 4).

Theoretical Foundations

The importance of deliberation to democracy finds its contemporary roots in the disparate work of both John Rawls and Jürgen Habermas.

Rawlsian Deliberation and the Role of Public Reason. In A Theory of Justice (1971), John Rawls posited the use of a thought experiment he called the “original position” as a mechanism for the development of generalizable principles of distributive justice. Specifically, Rawls asked decision makers to imagine themselves behind a “veil of ignorance,” such that they did not know what position they would ultimately occupy in society, what natural skills and capacities they would possess, or even what their
conceptions of good would be. Consciously adopting this position, Rawls contended, would encourage the development of distributive rules that were as fair as possible for all members of society, because a person occupying this original position would be at risk of occupying any place in that society, and would therefore become inclined to ensure fair treatment no matter what the person’s circumstances ultimately turned out to be. In a sense, Rawls was advocating a form of deliberation, namely in that the hypothetical decision maker behind the veil of ignorance was being challenged to reflect, repeatedly, about the implications a particular distributive choice would have for each of the positions that person might ultimately occupy in the society under design.

In his later work, Rawls responded to criticism that the original position was insufficient to address the problem of reaching stable agreements in a pluralistic democracy, in part because of the difficulty of asking any person to truly put aside their own views and fully occupy the original position on behalf of each of the diverse and disparate perspectives of the citizens who make up such a democracy. In Political Liberalism (1993), Rawls put forth a new theoretical construct for deliberation regarding concepts of the good. Unlike the original position set forth in his earlier work, this new model called for deliberation among multiple participants, each representing differing comprehensive doctrines or worldviews espoused by some members of the society to be governed. Through deliberation, Rawls contended, such participants could reach an “overlapping consensus” that each member could reconcile with their own comprehensive doctrine, giving them at least a modus vivendi to coexist and, potentially, more genuine long-term agreement regarding the organization of their collective society.

The overlapping consensus model was designed to permit and respect the coexistence of differing and even inconsistent comprehensive doctrines by asking participants in the deliberation to advocate for a consensus through the promotion of “public reasons,” or rationales that “all might reasonably be expected to endorse” even if
they had different underlying positions regarding comprehensive doctrines (Rawls 1993; Rawls 1997, 116). Thus a participant could have both a private reason that they wanted or would support a particular outcome and a public reason that they shared in the deliberation to sway others of differing underlying doctrines to support that outcome. To Rawls, it was the act of identifying and articulating such a public reason, or a mutually acceptable justification, that demonstrated the necessary respect and reciprocity toward other members of the political community to make an overlapping consensus legitimate and functional (Rawls 1997, 119; Chappell 2012, 24-25).

**Habermas and Communicative Rationality.** If Rawls arrives at deliberation as a practical tool to refine the hypothetical constructs by which he seeks to articulate his theory, Habermas’s path to deliberation begins with the practical and ends in theory, reflecting Habermas’s training as both a sociologist and philosopher and his philosophical orientation as a pragmatist. Habermas’s theory of deliberation in the political sphere arises from his work on how people’s use of language shapes their own identity and the world around them (Chappell 2012, 26-27). For Habermas, the best and highest use of this capability is for discourse in which participants use language to share information and arrive at a mutual understanding. Habermas describes this state as “communicative rationality.” A communicatively rational actor, in contrast to a strategic, self-serving one, seeks to arrive at shared, reasonable goals with the other participants in the discussion. Habermas believes that the only way to do so is to share valid reasons that can be questioned and explored by the other participants, such that the discourse itself creates a shared reality through the exchange of information and the refinement of understanding.

Habermas articulates specific conditions that foster an ideal setting for communicatively rational discourse: (1) inclusion of everyone able to make relevant contributions; (2) equal voice for all participants; (3) freedom to speak honestly, free
from either external constraint or internal deception; and (4) lack of coercion in the process (Chappell 2012, 27). Meeting these conditions, Habermas contends, increases the prospects that the deliberation will be both communicatively rational and will lead to the best argument.

Applying this theory to the political context specifically, Habermas argues that proper, communicatively rational discourse is essential to the legitimacy of democracy (Habermas 1996b). In Habermas’s view, political debates that espouse “presuppositions of rational discourse” are steered, by that value, toward the conditions of communication that permit the collective construction of shared values and views on which a functioning, politically legitimate democracy functions (Habermas 1996a, 12, 26-27). Although his work in this regard remains largely at the conceptual level, rather than trying to articulate the specific institutional mechanisms for its implementation, Habermas does sketch out the idea that deliberative democracy would have two tracks: discourse both in the public sphere writ large and then again in the work of an elected legislature that would translate the public’s discourse, using similar tools, into specific, binding, and valid legislation.

The Advantages of Deliberation

Drawing on these foundations, proponents of deliberative democracy recommend implementation of these discursive ideals as a prescription for various perceived ills in democratic societies. Deliberative theorists see aggregative methods of decision-making (such as voting) as comparatively unsophisticated mechanisms that limit themselves to making a decision based on determining the percentage of the electorate that has a particular preference (Chappell 2012, 101). Shifting to a deliberative model, they contend, turns the focus to the formation and transformation of preferences, which may result in different and better decisions than those that would be reached by simply counting pre-existing preferences. In this way, deliberative democracy seeks to correct
for the “instability, impossibility and ambiguity of aggregative democracy,” particularly in a pluralistic context where consensus likely will not be reached without some transformative mechanism. In this regard, a deliberative model that expands and deepens participants’ consideration of options may result in options that leave them substantively better off than the market-competition style of more traditional models of competing for votes among interest groups (Manin 1987, 356). The model also has autonomy-enhancing benefits for the participants, who can develop civic skills such as free inquiry, tolerance, openness, reasonableness, and common sense through their participation in deliberative processes (Crittenden 2002, 71, 73). Some deliberative theorists, notably Dryzek (2006), also suggest that deliberative models are necessary to address those conflicts that are themselves about conflicting discourses and which can therefore only be effectively addressed by a process that directly engages with discourse and opens up communication between those engaged in otherwise competing discourses. Even where consensus is not possible, deliberative theorists contend that the decisions reached will be of a higher quality because the act of deliberating forces participants to thoroughly examine their own views (in order to explain them), to learn about and consider multiple alternatives (possibly changing their preferences), and to deepen their understanding of the preferences and views of other participants (Chappell 2012; Elster 1998, 2, 11).

Others see the character of the deliberative process itself as intrinsically important, particularly in the sense that citizens who have the opportunity to participate in a process that is appropriately deliberative and open will recognize the resulting collective decision as legitimate, even if they disagree with it substantively (Thompson 2008, 502-03). Thompson, for example, sees conflict on certain issues as inevitable, and deliberative democracy as primarily concerned with how a legitimate collective decision can be reached where no consensus is possible (Thompson 2008, 502). This view is
similar to what Archon Fung describes as the “principle of affected interests,” the idea that political legitimacy is derived from giving those affected by a decision a right of equal participation in it, even if the particular decision goes against them (Fung 2013; Goodin 2007).

**Deliberative Mechanics**

Deliberative theorists address the question of how to implement their theory at both a conceptual and a practical level.

**Conceptual Precursors to Deliberation.** Although some theorists begin from a Rawlsian model of deliberations, and others align with Habermas, they reach significant consensus on the essential characteristics necessary for a process to conform to the deliberative ideal.

In the Rawlsian tradition, Joshua Cohen draws on Rawls' description of public reason as the basis on which deliberative democracies can thrive. In Cohen's view, meaningful implementation of the principle of public reason requires the satisfaction of four operational requirements: (1) that the members of the community are bound only by the results of their deliberation and that the result is legitimate and binding because it was arrived at deliberatively; (2) that the outcome of the deliberation is based on the quality of the reasons offered in support of possible outcomes, rather than other forms of power; (3) that the members of the community are equally able to participate in the deliberation; and (4) that consensus decisions are favored, with majority voting to be used only when necessary (Chappell 2012, 25-26; Cohen 1997). Cohen recognizes that fulfillment of these requirements requires a context in which freely associated members of the community share a commitment to “free deliberation among equals” as the basis for legitimate decision-making, without requiring adherence to a common belief structure, and that those members recognize and respect each other’s capacity for deliberation (Cohen 1997, 72-74).
Gutmann and Thompson (1996; 2004) similarly draw on the concepts of reasonableness and reciprocity inherent in the overlapping consensus model. In their view, a decision is legitimate when it has been reached through “mutual justification—presenting and responding to reasons intended to justify” the decision (Thompson 2008, 504). Essential characteristics of the discussion include “public-spiritedness, equal respect, accommodation, and equal participation” (Thompson 2008, 504).

Dryzek, drawing on Habermas’s notions of rationality implemented and enhanced through acts of communication, defines a system as having deliberative capacity “to the degree it has structures to accommodate deliberation that is authentic, inclusive, and consequential” (Dryzek 2010, 10). Dryzek’s concept of authenticity is concerned both with the ability of the discoursing parties to communicate with those of different viewpoints and its ability to encourage reflection among participants without coercing them to change their views. By inclusivity, Dryzek indicates that all affected persons have the ability and opportunity to participate personally or through representatives. Finally, Dryzek contends, a deliberative system must have consequences, in the sense that its operations contribute to some real outcome such as the adoption of a law or policy or the implementation of a cultural change.

**Implementation of the Deliberative Model.** Deliberative theorists generally do not focus on making all political processes deliberative, but on either adding deliberative processes to complement existing political processes or converting existing processes to more deliberative ones, where it is appropriate to do so. Deliberative theorists do not contend that all political activity must be deliberative, but rather that legitimate decisions must incorporate deliberation and the giving of public reasons (Thompson 2008, 513-14). The practice of deliberation may be distributed among multiple institutions, decentralized to the local level, and may be iterated over multiple stages (Thompson 2008, 514-15).
Deliberation can also serve purposes beyond decision-making, including setting an agenda for subsequent action by representatives, exploration with a goal of increasing participants’ substantive knowledge, recommendations used to guide the actions of officials, and the development and formation of participants' preferences (Chappell 2012, 32-34). Recognizing these additional uses of deliberative methods may provide opportunities to incorporate deliberation alongside or within traditional institutions, such as in the deliberative polls examined by Fishkin, Luskin, and Jowell (2002) or the proposal by Ackerman and Fishkin of a national “Deliberation Day” to permit voters to fully develop and refine their preferences before casting ballots (2004).

Deliberative theorists recognize that context is particularly important, given the number of criteria that must be met for a process to be legitimately deliberative. The social context for deliberation requires a balance between homogeneity and heterogeneity: enough in common for the participants to be able to effectively communicate with each other and to wish to do so, but enough difference for there to be both an actual and a perceived benefit to working through the discussion to reach a resolution (Chappell 2012, 30-31; Dryzek and Braithwaite 2000; Gutmann and Thompson 1996).

Advocates of deliberative democracy recognize that certain topics may be better suited for deliberative models. Specific issues with well-defined options may be the easiest to tackle when the goal is to have a small group of citizens make a binding decision (Chappell 2012, 34-35). More complex issues would likely require the involvement of experts and a longer time frame for participants to develop knowledge and make informed judgments, potentially excluding those who cannot afford the time and effort to participate meaningfully. Issues of the size of the group, its composition, the time it will have to dedicate to the process, the confidentiality of the process, and the
relationship between the deliberative outcome and formal policy or law making all must also be considered and tailored to the question to be undertaken.
Chapter Two

But Will It Actually Work? Deliberative Democracy Critiques and Concerns

The idea that citizens of widely disparate views can come together, learn from each other, and come away both personally transformed and committed to the legitimacy of a collective decision is certainly attractive, particularly in politically turbulent times. Reflecting the appeal of this idea, scholarly reaction to deliberative democracy has primarily focused not on whether it should be achieved, but whether it can be.

In that regard, critics have identified a number of concerns that deliberative democracy, as currently framed, may be too ideal a model for practical implementation. Paralleling the significant practical obstacles to implementation of deliberative democracy are fundamental critiques that undercut the theory’s claim to produce decisions that are either legitimate or more legitimate than the decisions produced by other democratic decision-making models.

These critiques fall loosely into four categories, which I address below: concerns regarding whether citizens have the necessary capacity to participate in deliberation; epistemological objections that developing such capacity may be beyond our abilities cognitively and in our social reality; apprehensions that the same power dynamics existing in society at large will be replicated within the deliberative context or are implicit in theorists’ definition of “deliberation”; and objections based on the view that certain disagreements are simply too fundamental to be feasibly resolved regardless of the quality of the discourse and the skill of participants. Last, empirical testing of deliberative models has revealed significant concerns about whether they can be effectively implemented, with disturbing undercurrents suggesting that poorly implemented deliberation may actually make the conflict and discord with which deliberativists are concerned worse, rather than better.
Do Citizens Have the Necessary Capacity to Deliberate Democratically?

Deliberation of the ideal type that the theorists describe is an intensive, lengthy process. Participants must be gathered who represent the range of different views, preferences, or comprehensive moral doctrines existing in the community, which means that some effort must be made to assay the composition of the community as a whole and then to choose which individuals will participate. Too small a group lacks the necessary diversity of opinions, while too large a group means that most participants will be watching a discussion conducted by others, rather than personally engaging in deliberation (Elster 1998, 2). Organizers could also issue a general invitation for interested participants, but then risk that the volunteers will not run the gamut of necessary views or will be stiflingly homogeneous (Ryfe 2005, 51-54 (addressing problems of participant selection)).

Once an appropriate composition of participants has been identified, if each of those participants is to have the opportunity both to offer justifications for their own positions and to consider the justifications offered by others, time must be set aside for that exchange of ideas to take place, as well as for the ensuing deliberation regarding how the various perspectives might be reconciled or a consensus reached. Even for a simple issue with few options, a meaningful process could take hours or days; more complex issues or more plentiful options would increase the amount of time needed.

Unless the process builds in some form of compensation for participants, this is unpaid time away from work, family, and other obligations. People who have available free time and monetary resources are more likely to be able to participate; even if participants were compensated for their time, that does not necessarily mean the compensation would be sufficient to support participation or even that their other paid employment would permit them to be absent from work without being fired. If the purpose of deliberative democracy is to reach legitimate decisions by creating
meaningful engagement among all affected members of the community, it cannot be implemented in ways that systematically exclude portions of the community. This type of exclusion is particularly troubling where the subject of deliberation is one that particularly affects the absent group (Shapiro 1999, 32). Similarly, to the extent that the persons who are excluded are those who are already structurally disadvantaged, exclusion raises significant legitimacy concerns (Sanders 1997, 352; Young 2001, 679-80).

Participants may also need outside support in order to facilitate their participation. They may need training regarding the process to be used in conducting the deliberation (Thompson 2008, 505-06) or factual background information regarding the subject of the deliberation and the possible options (Chappell 2012, 35-36). Who provides this support, and what stake they have in the issue under consideration, is another site of possible contestation and even of improper influence over the process. Indeed, the very selection of the issue itself, or the framing of possible outcomes (if outcomes are framed to speed the deliberation) carries both the risk and the appearance of biases infecting what is intended to be a free and unrestrained deliberation.

**Do We Have the Ability to Develop the Capacity for Deliberation?**

Some critics of deliberative democracy question our capacity at a deeper, more foundational level. The critiques of capacity described above are serious, but at least potentially solvable through some combination of careful efforts (in selecting and training participants and making expertise available) and the dedication of resources (to support participation in a time-consuming process without giving up necessary employment and other responsibilities). The more foundational strains of critique question whether, regardless of care or resources, it is truly possible for humans to develop the rational capacities assumed by models of deliberative democracy.
The first of these exists in the elitist tradition of critiques of participatory democracy, generally described by the view that the critical capacities of citizens are sufficiently lacking that participatory democracy is pointless at best and risky at worst (Lippmann 1922; Schumpeter 1947). A modern variant of this critique is represented in Jason Brennan’s recent volume, *Against Democracy* (2016), which augments these objections with evidence drawn from current cognitive science. Brennan contends that citizens fall within three broad categories: *hobbits*, who are “mostly apathetic and ignorant,” uninformed about current issues and generally disinclined to participate; *hooligans*, the “rabid sports fans of politics,” who are actively engaged but hold unreflective views and refuse to acknowledge or consider contrary evidence, choosing instead to root for “their” team regardless; and *vulcans*, self-aware and rational actors who are dispassionate in evaluating evidence before determining their positions (4-6).

Based on survey data regarding political knowledge and attitudes, Brennan contends that many potential voters are disengaged hobbits, ignorant of many basic facts regarding current events and political history and uninterested in (and disincentivized from) learning more (14-32). Among voters who are more informed, he locates reckless hooligans who are not well informed, in large part due to their susceptibility to cognitive biases (36-49). Preexisting beliefs and in-group loyalties exert strong influences on how hooligans process new information, with heavy reliance on whether a position is identified with a particular “team,” such as a political party, with which the listener feels a connection. In-group preferences also support communicating with like-minded individuals, rather than seeking out opportunities to converse with those who disagree. Confirmation bias causes information supportive of preexisting beliefs to be more easily accepted, while contradictory information is rejected, and motivated reasoning is used internally to justify what might otherwise be incongruous views.
Citizens attempting to educate themselves about political issues are also susceptible to manipulation by those providing information, through framing effects, peer pressure, deference to authority, and biases that influence our ability to assess probabilities. Thus, although voters generally report a subjective desire to vote in the common interest, rather than in their own selfish interest, there are significant reasons to believe that they are not capable of processing available information well enough to ascertain what would be in the common interest that they are attempting to realize (49-51).

Dean Mathiowetz, writing in the tradition of critical theory, reaches similar concerns about the way in which deliberative conceptions of politics are unwisely founded on tidy conceptions of self-interest framed as the rational pursuit of “calculating self-regard” (2011, 2). Mathiowetz recounts historical uses of the term “interest” dating back to Roman concepts of ownership of real and personal property, through seventeenth-century utilizations of the term as a mechanism for “provoking citizen action toward a contested notion of the state” (105), demonstrating that the concept of interest has a more complex history than modern views would suggest. Viewing interests as some state of affairs that has an a priori existence independent of the inherently political process of “grouping or constituting political subjects” (204) entirely misses the role that making an appeal to interest plays in shaping and reshaping participants’ understanding of their stake and goals in political life. This insight has significant implications for theories of deliberative democracy. On the one hand, understanding that citizens’ interests are not fixed and are instead shaped through discourse could support the potential transformative power of deliberative methods. But a darker possibility is that the changeable nature of interest may be a site of manipulation and instability that could undermine the legitimacy and functioning of a political process reliant on deliberation.
Will Deliberation Be Captured by the Same Power Dynamics Existing Outside the Deliberative Chamber?

The norms of democratic deliberation may also have the effects both of excluding certain citizens and certain types of political problems. To the extent that democratic deliberation proceeds by the giving of generally applicable reasons, and an ensuing debate regarding which policy is best supported by the asserted reasons, participants will be most effective if they are experienced in constructing and articulating those kinds of arguments, and comfortable and willing to do so in a public and potentially contentious setting. Not all members of a community will have the education, experience, or potentially even the language fluency to participate meaningfully in such a process, which effectively excludes a group that itself may be otherwise systematically disadvantaged (Sanders 1997, 348-49). Moreover, differences in cultural background may cause some participants’ contributions to be perceived as outside of acceptable norms, notwithstanding that they are expressing views that should (in a deliberative model) be entitled to equal respect and consideration. Iris Marion Young uses the example of the preference for “rational” over “emotional” speech, with the latter style often dismissed even when the ideas expressed are the same (Talisse 2005; Young 2001; Young 2000; see also Sanders 1997, 370-72 (comparing testimony with deliberation)). Lynn Sanders succinctly articulates this problem as “how do you get more of the people who routinely speak less to take part and be heard and how do you get those who traditionally dominate to listen?” (Fung 2004; Sanders 1997, 353). This is a question that must be answered to implement the equality of participation to which the theories subscribe.

Sanders, in particular, raises grave concerns about the ability of either process design or external supports to overcome these problems. Merely providing childcare or paid time off, or improving public education such that citizens are equally prepared to
present their views will not, she contends, address the fundamental problems (Sanders 1997). Instead, deliberation will be affected by the same structural inequalities that exist outside the deliberative chamber, and, in some instances, deliberative norms will actually prevent a deliberative model from fully grappling with the problems caused by those inequalities.

Not only will biased attitudes affect how and whether the participants hear each other, but if it is a deliberative tenet “to attend to the force of an argument rather than the interests of particular groups,” then how can a deliberative forum take on difficult questions of systematic bias toward groups based on attributes such as race or gender (353)? To the extent that deliberative processes are driving toward a goal of finding common ground, the risk is that “particular perspectives and interests will be effaced, especially [those of] minorities or oppressed groups,” where grappling with those interests would be an obstacle to identifying an otherwise common resolution (361). “In settings where there are gross inequities in power and status,” Sanders contends, “calling for compromise may be perilously close to suppressing the challenging perspectives of marginalized groups” (362). Paragraph break

In Sanders’ view, democratic processes can only be made more accessible to more participants by grappling with power dynamics directly, “explicitly attend[ing] to issues of group dynamics and try[ing] to develop ways to undercut the dominance of higher-status individuals” (367). And in some instances, increasing the inclusion of democratic processes will be accomplished not by pushing toward consensus, but by providing opportunities for participants to give testimony (even in emotionally laden ways) regarding their stories (370-73).

To the extent that deliberation takes place among only some representatives of the community, rather than all members, deliberative democracy also raises serious questions regarding the adequacy and legitimacy of representation (Chappell 2012, 40-
Deliberative theorists see deliberation itself as transformative, whether in the Habermasian sense that the act of discourse shapes identity or the Rawlsian sense in which participants are expected to seriously consider the public reasons offered by proponents of conflicting positions. But if the representative’s view changes, while the views of the underlying constituency (who did not participate in the transformative deliberation) do not, the legitimacy of the representative’s status as the spokesperson for that constituency is jeopardized. Critics of democratic deliberation point to the problem of representation as raising significant questions about the possibility of accountability in a deliberative model (Mansbridge 2003). For this aspect of deliberation to work, it may require either a change in how voters select representatives (for their general interests, judgments, and skills rather than their policy positions) and/or the development of a second-level of discourse in which the representatives and the represented engage in their own transformative dialogue to ensure that the ultimate actions of the representative are appropriately reflective of the constituency (Mansbridge 2003, 521; also Habermas 1996b).

Do We Face Problems that Deliberation Simply Cannot Solve?

The prospects of implementing deliberative democracy depend on mustering the political will to adopt a process that would potentially take power or discretion away from elected officials who currently hold that power (Shapiro 1999, 34). To the extent that deliberation advocates avoid this problem by creating deliberative opportunities that exist outside of and parallel to governmental institutions, without any mechanism to translate those processes into actions, adopting deliberative models does not actually enhance the legitimacy of democratic processes because it does not actually affect governance (Barker, McAfee, and McIvor 2012, 10). It is well and good to say that deliberative democracy may be difficult to achieve, but if it is never actually achieved,
then continuing to study and discuss it would not seem to advance the stated goal of increasing democratic legitimacy.

One of deliberative democracy’s primary features, according to its advocates, is that it provides a method for persons of differing views to interact in a way that is reciprocally respectful, permitting each participant an opportunity for the equal consideration of their views and thereby rendering the resulting decision fair even to those whose views do not ultimately prevail. The theory therefore depends on a certain neutrality, in order that each participant can fully and equally participate and have an opportunity to convince others to adopt a particular position. But to the extent that the model requires participants to show respect to the views of others with whom they fundamentally disagree and to do so through, in its Rawlsian sense, “public reason” formulations, it places substantive limits on the types of arguments that are legitimate to make during the discussion. As Ian Shapiro points out, these limitations are not only not neutral, in the sense that they limit the participation of persons who do not share the deliberative ideal, but the limits appear to have a tendency to favor certain conceptions of the good that are based on tolerance, to the exclusion of other moral or religious doctrines that prioritize ideological conformance (Shapiro 1999, 30-31). If only some arguments and resolutions are legitimate, Shapiro worries, deliberative democracy will not only be unable to solve certain problems, but it will also likely drive people of opposing views apart, raising their consciousness of intractable divides, rather than bringing the community together (31-32).

**How Does the Deliberative Model Fare Under Testing?**

Empirical studies regarding the implementation of deliberative democracy bear out the seriousness of the concerns discussed above. To the extent that researchers have been able to set up and examine deliberative processes based on these models, they have found outcomes far from the prescribed ideal, even extending to examples where the
deliberative exercise seems to have narrowed views and reinforced prejudices rather than leading to the open-mindedness and consensus that its proponents advocate as a benefit of deliberation (Thompson 2008, 499). Participants in some studies report low levels of satisfaction and exhibit frustration, increases in unproductive emotion, and increased power differentials. Participation in politics does not seem to bring us together, but instead to make us enemies in ways that spill over to other aspects of our communal life (Brennan 2016).

Indeed, in a 2008 review of the empirical literature, Dennis Thompson, one of the major contemporary proponents of deliberative democracy, went so far as to suggest that the empirical efforts to examine the theory might be most useful if they were directed at “trying to discover the conditions in which deliberative democracy does and does not work well,” accepting that those conditions “may be quite rare and difficult to achieve” (Thompson 2008, 500). Given Thompson’s leading role in the development of the theory of deliberative democracy, that description of its empirical prospects is far from a ringing endorsement of its potential for practical implementation.

**Can Interest-Based Models Provide an Answer?**

Although the concerns and objections surveyed in this chapter are serious ones, their practical nature points to a potentially fruitful area of further inquiry. If most existing critiques identify the problem as not whether democratic deliberation is desirable, but whether it is possible, then the next logical step would appear to be to look at settings in which deliberation has been successful, in the hope that they might provide insights that can be brought to bear on deliberation in the democratic context.

In the next section, I will undertake such an investigation, focusing on interest-based or integrative models of negotiation developed primarily in the labor-management context. In a sense, my work is similar to that of other political scientists who have begun to examine practitioners’ experience with negotiation in the labor and litigation contexts
to identify techniques that could be used to improve cross-party communication in legislative and other political contexts (Foster, Mansbridge, and Martin 2013; Warren and Mansbridge 2013). However, I go beyond mere examination of the methods of interest-based negotiation and their implementation to engage directly with the theories in which those methods are grounded, theories that began with the work of Mary Parker Follett in the years following World War I.

Examination of Follett’s theory of integrative problem-solving reveals a fundamentally different understanding of conflict than that underlying most theories of deliberative democracy, and that understanding drives a conflict resolution methodology that largely avoids or answers the traditional objections to deliberative models of democratic decision-making I have examined here. Follett’s understanding, developed from her own work resolving conflicts in both corporate and community settings, is deeply pragmatic and humanistic. She sees conflict as inherent in human life, but believes that by acknowledging the inevitability of conflict and seeking to understand its origins, we can unlock creative possibilities to live together in greater harmony. By delving into the interests driving the conflict, Follett’s model empowers participants who might be excluded from more abstract and academic approaches to deliberation and avoids the cognitive blocks associated with more positional and transactional models. With a comprehensive understanding of interests, participants are better able to identify solutions that integrate, or mutually satisfy, as many interests as possible, providing incentives to participate rather than using raw power and leading to more meaningful and stable solutions.
SECTION TWO

Integrative Deliberation

The year was 2014, and the location Madison, Wisconsin, in the wake of an intensive, multi-year effort to defeat Governor Scott Walker’s attempt to prohibit bargaining by public-sector employee unions in the state that had first legalized their operation in 1959 (Bauer and Richmond 2013; Greenhouse 2014). After nearly seventy years of bargaining as a right, union leaders were faced with not just a loss of bargaining power, but a legal prohibition on bargaining at all on any topic other than wages, as to which they could bargain only for cost-of-living increases capped at the rate of inflation (Greenhouse 2014; Umhoefer 2016). Many public employers in the state would use the opportunity to reduce wages and benefits for cost savings and reduce employee protections regarding termination for cause, while unions would see their membership shrink substantially given their reduced ability to protect and advocate for their members (Greenhouse 2014; Umhoefer 2016).

I had been retained by a community college system whose president had used interest-based negotiation (IBN) in his prior service in California. His hope was that IBN could help to fill the vacuum created by the new state law and reestablish positive working relationships between administration, faculty, and staff that had been battered by a long tradition of hard bargaining and the animosity of legislative and court fights over passage of the new law. To the extent that an interest-based methodology could be used, it would have to be as a mechanism for employee engagement in decision-making – interest-based problem-solving rather than negotiation – given that negotiation itself was literally illegal except over a miniscule range of issues.

Skepticism about the utility of this approach was high, particularly among some long-time members and leaders of the unions, who had spent the last three years fighting the law through political and legislative efforts (including weeks of sit-ins at the state
capitol that attracted national media coverage) and court challenges. At the time, an appeal to the Wisconsin Supreme Court from a January 2013 Court of Appeals’ decision upholding the law was still pending, though it would ultimately fail as the prior efforts had (Bauer 2013; Greenhouse 2014). In the end, the administration had asked only that the employee representatives agree to attend a training to learn about interest-based methods, without committing to participate in any such process.

Post training, there was a tentative agreement to proceed with using facilitated, interest-based sessions to begin to develop policies to replace the subjects formerly governed by the (soon-to-be-illegal) collective bargaining agreement. Subsequent trainings were delivered to help constituents understand the process being utilized as well. When I entered the room to begin one such subsequent training, it was to a grim-faced group with negative body language. One participant stood out in particular, given that she had crossed out her pre-printed nametag and hand-written the alias “NORMA” on it in large block letters, evoking Sally Field’s iconic character in the 1979 film Norma Rae, a touchstone among labor organizers for its gritty portrayal of a young woman’s courageous efforts to unionize the textile mill whose inhumane working conditions led to her father’s death. This was not an auspicious sign.

But within two years, the college would adopt interest-based methods so wholeheartedly that it earned a Silver Medal from the International Association of Facilitators for developing a program where over 75 staff members have been trained to facilitate the resolution of conflicts throughout the organization, from operating the shared governance Councils and College Assemblies that address policy at the institutional level to working out inter-departmental or inter-office conflicts (Sorensen and Fritz 2016). And these types of stories abound throughout institutions that have adopted interest-based models, with long histories of contentiousness giving way to workable, collective decision-making even on complex issues. This is true even though
the history of labor-management relations, like that of politics, is fraught with conflict that is sometimes so severe it erupts into physical violence (Chaison 2006; Dray 2011; Murola and Chitty 2001).

In this section, I will examine specific examples of the transformative effect that IBN has had on institutions facing significant stresses in the form of market pressure, resource scarcity, and legal constraints. In these institutions, IBN has had a “conversion” effect, where strong non-believers, raised in and enamored of traditional methods of hard bargaining, become passionate converts to IBN. Their stories of the virtues that they found in the IBN model, and how it helped them manage situations that challenge democratic norms, demonstrate the potential that an examination of interest-based methods may have for realizing some of the values of deliberative democracy.

By beginning my examination with actual implementation of IBN, I join the growing ranks of theorists who have expressed concerns that deliberative democratic theory suffers from its heavy reliance on abstract principles, remaining “relatively unleavened by the direct experience of deliberative practitioners” (Kadlec 2007; Mansbridge et al. 2006, 1). After examining that direct experience in some detail and concluding that it does suggest possibilities for discourse to address complex and controversial policy issues, I return to the underlying theory, beginning with its origins in the work of Mary Parker Follett, and explicating the differences between her views of collective problem-solving and those that underlie the deliberative models discussed above. I also lay out the specific mechanics of integrative problem-solving based on Follett’s theories, as it has developed and been implemented building on Follett’s foundational work.
Chapter Three

**IBN as Cultural Change: Madison and Maricopa**

Deliberative democracy would seem to be a natural fit in higher education, given that institutions of higher education have long committed to the principle of shared governance, in which faculty are recognized as having unique capacity and responsibility to be involved in decisions regarding the institution’s educational mission and operational decisions that affect that mission (AAUP 1966; Miller and Caplow 2003, 3; Mortimer and Sathre 2007, 25). But translating principle into practice can be challenging, and higher education institutions are not immune from cycles of conflict. Here I will examine the experience of two such institutions who recently adopted interest-based problem-solving in order to further their commitment to shared governance: Madison Area Technical College and the Maricopa Community College District. Both institutions turned to IBN in response to crises that rendered their prior methods of structuring interactions between the competing (and often complex) constituencies of administration, faculty, and staff unworkable. Both institutions found that interest-based models provided a path through conflicts they were otherwise unable to solve and changed their institutional culture in ways that supported greater collaboration.

**Origins in a Time of Crisis**

The circumstances that engendered interest in interest-based methods differed between the two institutions, but both institutions faced a breaking point that rendered their prior method of negotiation unworkable.

Madison’s circumstances are discussed above. Decades of bargaining practices were swept away by state legislation (referred to as Act 10) making public-union negotiation largely impermissible, leaving the college with significant gaps in its policies regarding the matters that had once been addressed by now-defunct collective
bargaining agreements, with no established procedure for replacing them. Relationships between the unions and the administration had been contentious, and there had been conflicts between the unions representing different employee groups, but everyone involved was familiar with the existing system and it provided a sense of stability (Sorensen and Fritz 2015, 3).

The legislative and judicial battle over the legitimacy of Act 10 had also heightened conflicts between management and labor, increasing distrust. Many individuals on both sides advocated further escalation of the conflict, whether through the administration unilaterally imposing new policies or the union members resisting administration authority. The college also had to plan for a $2 million deficit, and rumors of drastic actions such as pay reductions and layoffs were rife.

At Maricopa, there was no precipitating legal change. Unlike Wisconsin, Arizona law does not expressly permit public-sector collective bargaining, and the administration’s historical practices of consulting with faculty and employee representatives in “meet and confer” sessions are a creature of tradition and agreement, rather than statutory requirement. For many years, the relationship between the Faculty Association and the administration, at the bargaining table, had been a combative and distrustful one. Each side would come to the negotiation with demands, dig into its own positions, and give little if any ground in the negotiation sessions. We always ended with a contract, but both sides were frustrated.

Then, in April 2010, several members of the faculty came to the leadership of the Faculty Association with information that, they contended, showed financial improprieties by the District’s Chancellor. These faculty urged the leadership to present the information directly to the District’s Governing Board during the time set aside at the Board’s public meeting for a report of the Association. We considered doing so, but in the end concluded that the argument was too weak, taking such an explosive step in public
was too likely to backfire for the institution as a whole, and doing so would further
damage our already tattered working relationship with the administration. The Faculty
Association leadership and the faculty who developed the case for financial impropriety
ultimately therefore met with the Chancellor and his budget staff to present the
information in a private meeting.

At the conclusion of a tense interaction during which his staff explained how the
faculty had reached incorrect conclusions based on incomplete information, he asked, in
frustration, why we had not just asked for the information we needed so that we could do
the analysis correctly. I was present in my capacity as the incoming Faculty Association
President Elect, as well as the chair of the Faculty Association’s team for the negotiating
process, and my response was based on my knowledge of that process. Given the
treatment we received at the negotiating table when we pressed the administration team
for information, I told the Chancellor that we had no reason to believe that any requests
for information would get a positive response in any other context.

Motivation for the Turn to IBN

A different Chancellor might have responded to my observation with anger, and
this Chancellor was already visibly distressed at the accusations of the faculty we had
shared with him. But to his credit, his response was, “What can we do to change this
relationship?” That question prompted the Faculty Association’s research into
techniques to deescalate bargaining conflict and strengthen labor-management working
relationships and led us to IBN.

At Madison, the suggestion to use IBN methods was similarly motivated. It came
from the college’s new president, who had worked with those methods in his prior
institutions and who believed that they could provide a productive model to fill the gap
created by the legal change. President Daniels is also a strong proponent of IBN because
he believes it increases responsibility and productivity, as reflected in his many public
statements at the college in support of it. Currently, Madison’s interest-based problem-solving (IBPS) program website leads with the following quote explaining the institution’s commitment:

    Interest-Based Problem Solving is a shift from an authoritative posture to one of shared authority and responsibility – up and down throughout this organization. I believe this makes us stronger . . . and I believe it is the right thing to do.

    - Dr. Jack E. Daniels III, Madison College President (Madison Area Technical College).

**The Initial Step: Training**

As this was a new process for both institutions, both began by training the participants in IBN theory and methodology. Maricopa engaged the Cornell University School of Industrial and Labor Relations to train both its administration and faculty bargaining teams in the summer of 2010, with the goal of using IBN at the negotiating table beginning in fall of 2010.

At Madison, the administration envisioned designing a new process of shared governance that brought together representatives of all employee unions, a significant change from the prior practice of negotiating with each group separately (Sorensen and Fritz 2015, 3-4). Given the number of people who had to be trained and the need to get policies in place quickly to replace the bargaining agreements, the College embarked on an aggressive schedule of training, beginning with selected leaders from the administration and each employee group in October of 2013 and continuing into the spring of 2013.

**Initial Implementation**

At both institutions, the lessons learned in training were put into effect almost immediately.
At Maricopa, the first IBN-method negotiations began in the fall of 2010, directly following the summer training sessions for both teams. An outside facilitator with expertise in the interest-based negotiation process was hired to facilitate all of the negotiating sessions. This decision was made in part out of recognition that the process was new and that we were likely to need reminders and coaching regarding how to use it. It was also due to concerns that an outside process observer could be needed to check any attempts by individuals on the administration team, who formally outrank members of the faculty team, to assert prerogatives at the negotiation table based on their status or institutional power.

For the first year, the team decided jointly to focus on low-stakes issues in order to focus on practicing IBN methods and building the working relationship that would sustain us in tackling higher-stakes issues in future cycles. Although the process was not without conflict or frustrations, the negotiation process resulted in a number of creative solutions made possible by the sharing of information, where one side would raise a concern or problem and the other would contribute knowledge that led to an effective solution that had not previously been considered.

Madison also began using IBN almost immediately, but in a much more challenging set of circumstances. Most institutions negotiating policies start from some existing framework that they are seeking to revise or improve, as we did in Maricopa, but the change in Wisconsin law had effectively discarded previous policies to the extent those were covered by the previously comprehensive collective bargaining agreements. Madison did not have the luxury of focusing on low-stakes issues to ease into the new process, nor did it have an existing negotiating entity that could be converted to an interest-based methodology. And like most complex institutions, Madison’s internal constituencies did not fall neatly into two sides representing labor and management, but into a whole host of different constituencies with different perspectives and priorities,
including senior administration, middle managers, administrative support staff, tenure-track faculty, and adjunct faculty as well as constituencies defined by function, such as human resources and information technology. The diversity of these perspectives meant that individuals who one might expect to agree, or who even might have been represented by the same union, found themselves at odds in the negotiations in ways that even they sometimes found surprising. Moreover, the options available to resolve the competing perspectives had to fit within the College’s increasingly scarce financial resources.

Madison addressed this challenge by appointing a twelve-member task force to examine shared governance models at other colleges and by developing a structure for shared governance at Madison (Sorensen and Fritz 2015, 4-5). The task force designed a system that combined institutional-level collaboration and more focused working groups. An elected College Assembly is charged with “managing the Shared Governance system and making policy recommendations to the college president.” The College Assembly takes input from seven councils made up of Assembly members and others which work on issues in their substantive area: academics, student affairs, information technology, diversity and community relations, facilities planning and investment, fiscal management and organizational effectiveness, and employee relations and professional development. Elections for the new council were held in September 2014, and it began its work in January 2015, distributing to the councils prioritized lists of issues with the goal of developing recommendations for comprehensive institutional policies by the end of the spring semester in that year. Websites were established to keep the college informed about what issues each council was working on, and, through many hours of hard work, the college managed to get basic policies in place by its deadline.
Institutionalization and Spread of IBN Methodology

At Maricopa, building on the success of the initial training year of IBN, the administration and faculty have continued to use facilitated, interest-based negotiation to conduct their “meet and confer” process. In the intervening years, using that process, the team has resolved contentious issues relating to faculty pay, the use of adjunct faculty, and peer review of tenure-track faculty. As a result of those negotiations, the Maricopa administration agreed to fix inversion of faculty salaries resulting from multiple years of salary freezes and to guarantee that 60% of credits will be taught by full-time faculty, while the faculty developed and implemented Peer Assistance and Review Committees to provide for peer review of tenure-track faculty during their developmental years.

Meanwhile, the Maricopa staff, who conducted their “meet and confer” in separate processes for each staff subgroup, began to express interest in the new process being used by the faculty, and asked if they could use it. Notably, they were willing to use me (a faculty member and leader of the Faculty Association) as a trainer and facilitator for their process, even though relationships between faculty and staff in Maricopa are also historically contentious. This openness to change and faculty involvement demonstrated a willingness to form new, cooperative relationships that carried forward into the implementation of IBN in the staff “meet and confer” process. Like the Assembly Madison created to address the legislative elimination of its prior bargaining structure, the staff “meet and confer” process brings together employee representatives from a broad range of job functions within the institution (with the exception of faculty, who continue to have a separate process), providing both opportunities to address mutual concerns and the need to juggle numerous perspectives and experiences rather than a clear cut duality of options.
In the intervening years, Maricopa has expanded use of IBN outside of the bargaining context to conflict management more widely. Maricopa’s existing internal mediation services have been increased and are conducted by trained mediators using interest-based conflict resolution techniques, while over 1,000 employees have gone through some form of interest-based negotiation training. Most of those employees have no formal involvement with either the faculty or the staff meet and confer processes, but have participated in the training so that they can use interest-based methods to resolve conflicts in their daily activities. The prevalence of this training has affected everyday conversation around Maricopa, with people defaulting to a discussion of interests and possibilities when they are confronted with a problem to be resolved.

Madison has taken even more steps to institutionalize interest-based principles throughout the College. The College has continued to conduct trainings, with the goal of having all administrators, staff, and faculty completing at least basic training in interest-based problem-solving (Sorensen and Fritz 2016, 3-4). A more extensive three-hour training is also available, and any interested person can go through a two-day training on facilitation of interest-based problem-solving. Over 75 staff members have gone through the two-day facilitator training. The proliferation of facilitators means that Madison has many trained individuals who are used not only in the formal shared governance process but are also called in to assist departments throughout the campus in resolving issues as they arise. Departments have used interest-based processes to reach decisions on a variety of operational issues including facilities and budget planning, scheduling classes, selecting distance education tools, and setting recruiting priorities (Sorensen and Fritz 2016, 4). Trained facilitators are often used to lead these sessions so that the department’s manager can participate in the process along with other department members.
Madison has established an internal structure to maintain and support its shared governance and facilitation programs. The College’s IBPS Director serves as the coordinator and works with a core group of IBPS fellows (administrators, faculty, and staff who dedicate four to ten hours per month) who serve as lead facilitators (Sorensen and Fritz 2016, 4-5). Together, these experienced facilitators provide the majority of the trainings and facilitate shared governance meetings. Of the seven councils reporting to the College Assembly, five are facilitated on a regular basis.

Madison is now working on a system of awarding badges to facilitators to reflect their level of experience, with level one corresponding to completion of the training and levels two and three reflecting on experience in conducting facilitations (Sorensen and Fritz 2016, 4). In 2016, Madison received a Silver Medal from the International Association of Facilitators for its efforts in developing and implementing facilitation throughout its campuses.

Assessment of the IBN Model. Although both institutions report positive outcomes from their IBN experiences, they acknowledge that implementation has not been without its difficulties. Participants at Madison have noted the significant time that has been consumed by the process, both in terms of the training and in terms of the decision-making itself (Sorensen and Fritz 2016, 5; Sorensen and Fritz 2015, 4). Even with reminders that sometimes you must “go slow to go fast,” participants can become frustrated and must persist in order to reach results (Sibbet 2008, 37; Sorensen and Fritz 2015, 4). Progress has been slower on larger, more complex policy issues as opposed to intra-department conflicts, increasing the need for leaders in all groups to communicate and demonstrate their ongoing commitment to the new process. People who are invested in the old system also have opportunities for sabotage, and leaders and facilitators have had to learn how to guard against saboteurs and keep them from derailing more productive efforts.
Maricopa’s adoption of interest-based negotiation in its faculty “meet and confer” process was the subject of a formal study using both survey and interview data gathered from participants (Brown 2015). That study found that use of interest-based techniques had positively influenced both the relationship between administration and faculty and the substantive outcome of the issues negotiated (115). Participants also noted the spread to positive effect of interest-based principles throughout the organization beyond the bargaining context. However, administrators demonstrated less enthusiasm for adopting the new process, reflected in some conduct where they (1) sought to use interest-based language to pursue positions in the same way they would have in traditional bargaining, (2) demonstrated reduced understanding of IBN methods, and (3) engaged in less pre-session preparation that limited the substantive work that could be done (109-10). Members of the administrative team also seemed to struggle more than faculty in seeking input and sharing proposals with their constituents, leading to changes in their views from one meeting to another (101-02). Interestingly, even though preparation and commitment to the process appeared to differ somewhat between the two groups, both still reported satisfaction with the substantive outcomes and effect on working relationships, suggesting that IBN methods may be able to make a difference even in non-ideal deliberative circumstances.

**Future of IBN.** Both Madison and Maricopa are still relatively new to the implementation of IBN, with the methodology slowly working its way into both institutional culture and decision-making processes. Each institution has noted instances where a lack of commitment or active opposition could stymie implementation, as in Madison’s experiences with potential saboteurs and Maricopa’s differing levels of preparation between administrative and faculty teams. Nor has implementation of IBN erased all conflict, as in a recent incident in Maricopa with employee representatives of the newly created staff council. These representatives were sufficiently concerned with
the behavior of some of their administrative counterparts that they spoke publicly about those concerns to the District’s governing board, resulting in an independent investigation that recommended changes in the administration’s relationship with employees and commitment to the established negotiation process (Jones 2017; Ryman 2017).

If IBN is to have insights useful to deliberation in the political sphere, then, the question arises whether it is viable as a longer-term approach and, if so, how that approach develops and solidifies. In the next chapter, I turn to a more mature IBN experiment in the labor-management context, one that has been ongoing in the healthcare field for more than twenty years.
Chapter Four

The Long-Term Project:
IBN at Kaiser Permanente

Perhaps the most well-known and thoroughly documented instance of IBN in the labor-management context is the Kaiser Permanente Labor-Management Partnership, which began more than twenty years ago. The partnership arose in a time of significant internal conflict and outside stress and has endured through numerous changes in the health care industry as well as multiple cycles. Its persistence and adaptability stand as a testament to the transformative power of IBN.

Origins in a Time of Stress

In December 1995, union leaders representing a coalition of twenty-seven unions and 55,000 workers traveled to the Dallas airport for an off-the-record meeting, facilitated by expert mediator John Calhoun Wells, with Kaiser Permanente CEO Dr. David Lawrence (Kochan et al. 2009, 2-3). Both sides were facing considerable difficulties. Kaiser, then the nation’s leading health-maintenance organization, was losing more than $250 million and had been advised to divide into smaller entities and adopt cost control measures similar to that of its competitors. Its initial efforts to implement cost cutting measures had included adopting a tougher stance in negotiations with its unions (Kochan et al. 2009, 2, 34). Union members were increasingly concerned with the escalating conflict between labor and management and declines in patient care and employee morale, but were simultaneously worried that escalating the conflict would be to the long-term detriment of both their members and the labor movement generally (Kochan et al. 2009, 3, 34-35; McKersie, Eaton, and Kochan 2004, 15-17).

The union coalition developed a two-phase strategy (Kochan et al. 2009, 37). They were aware of the dire predictions and recommendations made by the management consultant and eager to present an alternative model of doing business that would
address Kaiser’s financial concerns while addressing employees’ concerns about working conditions and patient care. If they could succeed in convincing Kaiser, it would have positive effects not just for their Kaiser-employed members, but for other members in the industry, by providing an alternative to the “non-union, low wage” model being advocated by the management consultants on an industry-wide basis. But the unions also developed a “Plan B”: a public campaign based on the data they had gathered regarding the declines in patient care resulting from Kaiser’s proposed approach, which they would wage during the negotiation sessions in order to increase their bargaining power. The problem with Plan B, they realized, was that it could do “permanent damage” to Kaiser and thereby to members’ employment prospects.

Kaiser management perceived the crisis as similarly serious and destructive (Kochan et al. 2009, 38-39; McKersie, Eaton, and Kochan 2004, 16). They understood that the unions were concerned enough about recent changes to be willing to confront management and that the possibility of public campaigns or strikes would do significant damage to an organization that was already experiencing economic difficulties. Leaders of Kaiser’s medical groups were also concerned about the disruptive effect that strikes or lockouts might have on medical care.

Interviewed after the fact, leaders of both organizations saw the willingness to consider partnership as a reaction to a situation where further conflict was perceived as doing damage to both sides:

**John Sweeney**

What happens? A huge labor-management crisis is created. Suddenly there are 30,000 AFL-CIO members with open contracts in the HMO that labor built. We offer a strategic partnership to CEO David Lawrence to try and end the crisis before it gets out of hand.

After weeks of turmoil, we were not only successful in getting the contracts settled, but our offer to form a partnership was accepted. So sometimes out of crisis and
determined effort comes a willingness to try a better alternative.

David Lawrence

I was willing to try anything at that point because it was clear that the path we were on . . . was a dead end. We were going to be facing labor strife in every corner of our organization. We had 54 labor contracts, 36 unions, and if they go south on us, we have a crisis on our hands – at the same time we were in a fair amount of conflict between the Medical Groups and the Health Plan – what I saw was an organization that was starting to balkanize in very serious ways. A lot of this was being driven by external things and a lot of it was being driven by changes we were trying to make in the organization at a strategic level. (Kochan et al. 2009, 39).

Development of a Partnership

Having arranged both the off-the-record meeting and the assistance of a prominent mediator, the labor leaders prepared to deliver a strong message regarding their concerns, hoping that they would be able to avoid the mutually assured destruction of their Plan B (Kochan et al. 2009, 2-3). To their surprise, Kaiser’s CEO began the meeting not with an aggressive stance of his own, but by frankly laying out his own concerns regarding patient care and increasing internal conflict (Ibid.; McKersie, Eaton, and Kochan 2004, 16-17). Once the two sides realized that their interests were almost completely aligned, an opportunity to transform labor-management relations was revealed.

But even with this promising beginning, making the partnership a reality was not a straightforward project. Kaiser is a very complex organization, comprised of a partnership between the Kaiser Foundation Health Plan and Hospitals, a non-profit that operates a health maintenance organization and twenty-nine medical centers, and several Permanente Medical Groups, for-profit corporations employing more than 13,000 physicians and other health care providers (Kochan et al. 2009, 27-28; McKersie,
Eaton, and Kochan 2004, 14-15). The affiliated organizations operate in eight regions spanning from Hawaii to the Mid-Atlantic, with nearly 10 million overall members. Over 100,000 of Kaiser’s approximately 130,000 workers are represented by more than two dozen different union chapters representing not just different geographic areas but different categories of employees (Kochan et al. 2009, 30-33).

And although both sides agreed that a partnership approach was wise and desirable, that did not mean they were in agreement about how the partnership should work or what it would do. Labor-management partnerships, historically, have taken multiple forms (Kochan et al. 2009, 17-18). They may address issues of workplace administration, such as cooperating on efforts to “improve productivity, product or service quality, and worker satisfaction.” They may focus on the negotiation process by incorporating problem-solving techniques into the negotiation of agreements or in resolving internal disputes in a manner other than the filing of formal grievances. Some partnerships move beyond the traditional subjects of bargaining to provide mechanisms for union leaders to give input into managerial decisions.

Kaiser’s union leaders wanted the latter model, with “consensus decision-making at all levels up and down the organization” (Kochan et al. 2009, 41). National management, eager to avoid the negative consequences of escalating conflict, were interested in a more cooperative relationship. But managers of the medical groups, with whom Kaiser was already in an ongoing conflict, were skeptical of consensus decision-making and suspicious that they were being asked to partner with the unions to calm down labor-management relations so that Kaiser could focus on prevailing in its conflicts with the medical groups. Union members were also skeptical, particularly given that the contracts that were finalized in the wake of the 1995 decision to pursue partnership had significant concessions to management (Kochan et al. 2009, 39).
Indeed, some unions representing about 15% of Kaiser’s unionized workforce refused to participate in the Labor-Management Partnership at all (Kochan et al. 2009, 30, 33, 43-45). One significant union, the California Nurses Association, went so far as to stage a one-day strike and issue an eleven-page public statement critiquing the Partnership as a surrender of union authority in exchange for little if any meaningful participation in management decision-making (Kochan et al. 2009, 43-44).

The Partnership Agreement. Ultimately, negotiating and executing an actual partnership agreement took the next year and a half and the active assistance of a consulting firm with experience in facilitating labor-management partnerships (Kochan et al. 2009, 40). The lead facilitator was John Stepp, whose background included service as a Federal Mediation and Conciliation Service mediator and head of the U.S. Labor Department’s Bureau of Labor-Management Relations and Cooperative Programs. Stepp and his team worked with labor and management leaders to develop a written agreement that specified the purpose of the partnership and how it would operate (Kochan et al. 2009, 40-42, 45-47). The agreement they ultimately reached reflected the organizational complexity of Kaiser. A National Labor-Management Partnership Strategy Group is comprised of representatives of management and the union coalition overseeing working groups in six specific substantive areas (structure, performance sharing, education, benefits, subcontracting, and workplace safety). Regional partnership teams, in turn oversee service area or facility teams for the providers in their region (Kochan et al. 2009, 45-47; Lazes, Katz, and Figueroa 2012, 6-7).

The partnership was empowered to address a broad scope of issues beyond what might fall within a bargaining agreement, expressly including “strategic initiatives; quality; member and employee satisfaction; business planning; and business unit employment issues” (Kochan et al. 2009, 46). Consultation was required if “constituent or institutional interests are even marginally affected,” with mere informing to be used
only “[i]f one party has little, if any interest in the outcome, and no particular expertise on an issue to be decided.” Where either party’s “vital interests” were likely to be affected, consensus decision-making was to be used. If consensus could not be reached, the parties reserved their rights to use the tools they had available prior to the partnership agreement: on mandatory subjects of bargaining, contractual and legal rights would govern; while on non-mandatory subjects, management would have the authority to make a final decision.

The partnership agreement also expressly acknowledged the interests that had motivated the parties’ interests in partnership, including provisions governing “employment and union security,” cooperation in Kaiser’s efforts to market itself to new members, and the protection of proprietary information shared in partnership interactions (Kochan et al. 2009, 46). With these partnership strategies, the agreement articulated ambitious purposes that it hoped to achieve for both labor and management:

- Improve the quality of health care for Kaiser Permanente members and the communities served.
- Assist Kaiser Permanente in achieving and maintaining market leading competitive performance.
- Make Kaiser Permanente a better place to work.
- Expand Kaiser Permanente’s members in current and new markets, including designation as a provider of choice for all labor organizations in the areas served.
- Provide Kaiser Permanente employees with the maximum possible employment and income security within Kaiser Permanente and/or the health care field.
- Involve employees and their unions in decisions.

(Kochan et al. 2009, 46). In 2002, the agreement was amended to add an additional goal: “to consult on public policy issues and jointly advocate when possible and appropriate” (Kochan et al. 2009, 45).
Once the leaders signed off on the terms of the agreement, it was submitted to the membership of the twenty-seven participating unions for a vote. After an educational campaign to inform front-line workers about what the partnership was intended to do, it was approved by 90 percent of members, with a 70 percent election turnout (Kochan et al. 2009, 42).

**Initial Implementation: The Transition**

Recognizing that full implementation of the partnership agreement would not happen overnight, the parties developed a “Pathways to Partnership” plan calling for staged progress toward the goal of participatory decision-making. The plan called for gradual efforts at capacity building, beginning with education and training and moving into more specific topics such as conflict resolution and business education. It also expressly sought to reach an end state where the organization moved from traditional to interest-based models for both operational decision-making and any necessary negotiation:

<table>
<thead>
<tr>
<th>Five Phases of Pathways to Partnership</th>
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<tr>
<td><strong>Traditional</strong></td>
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<tr>
<td>Adversarial</td>
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<tr>
<td>Rule based</td>
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<tr>
<td>Problem settled not solved</td>
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<tr>
<td>Decision-making seldom shared</td>
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(Kochan et al. 2009, 48).
While this gradual approach was being implemented throughout the sprawling and complex organization, the newly formed partnership also sought opportunities to put partnership principles into practice in response to specific, discrete problems (Kochan et al. 2009, 51). By doing so, the partnership hoped to rack up some “early wins” that could bolster support for the program more generally. Two situations provided such an opportunity.

In early 1998, Kaiser found itself in the position of needing to open a new hospital in Southern California, a process that would ordinarily take about two years from initial planning to opening the doors to patients (Kochan et al. 2009, 55-56). The partnership agreed to delegate the planning of the new facility to a “joint task team” composed of doctors, nurses, technicians, managers, and other employees, and to retain the consultants who had assisted in developing the partnership agreement to facilitate the project. The process began by training participants in problem-solving and consensus decision-making and taking them on site visits to other organizations using various models of cooperative management. Participants then held five days of intensive discussions, involving 100 people, regarding how to design the flow of work within the hospital. They then divided into “SWAT” teams assigned to specific processes like technology or vendor contracting. After only eight months, the joint task team delivered a functioning hospital, under budget (Kochan et al. 2009, 57). The hospital itself, which was designed with a focus on making patient care more efficient and coordinated, not only experienced high levels of patient satisfaction but required fewer nursing hours per patient-day compared to other Kaiser hospitals in the area.

At around the same time, the partnership identified another situation that would test the durability of the partnership’s commitment to employment security. A consultant had recommended closure of one of Kaiser’s optical laboratories, for an annual savings of $800,000 (Kochan et al. 2009, 57-61). Kaiser began negotiating with
the union with an eye toward negotiating an orderly shutdown of the lab, but union leaders rejected that approach entirely. Recognizing that they were headed to impasse, both sides requested and obtained permission from their principals to try an interest-based approach and brought in a facilitator from Kaiser's interest-based consulting group. The facilitator guided participants in shifting their inquiry from whether the lab should be kept open to the broader topic of how the performance of the lab could be improved. The facilitator then asked each side to discuss its interests and return to share those interests with the larger group. When the groups heard each other's reports, they began to understand that they were not as far apart as they originally realized. In the words of the key management decision maker, who had not been a proponent of the partnership given the contentious history of labor in his area:

We realized that there was really 80 percent or 90 percent overlap in interests. The differences were all in how we might get there. This was based on the employment security agreement. We had agreed to full employment security, no layoffs, but we could retrain or move people. When we got into the third and fourth days, we began to craft some options. That was when we began to ask, what could solve the problem? The dynamics in the room were changing by then. We had come in on opposite sides of the table, and by this time we were sitting at mixed tables. The relationships were beginning to form.

(Kochan et al. 2009, 59). The joint sessions ultimately generated a list of 250 possible ideas for improvement in operations, and after several more days of facilitated negotiations, participants developed a plan to reorganize the lab for an 18-month trial period, with revenue and cost targets. Union participants, who were now receiving detailed financial information for the same time, took finance classes to increase their understanding of how the business worked so that they could participate actively in setting and meeting performance goals (Kochan et al. 2009, 60-61). Within a year, the lab's gross revenues had increased by 9.8 percent and productivity increased by 8 percent. Employees had received a 2.7 percent payout from an incentive plan built into
the reorganization. Nearly 10 years later, the facility that had been slated for closure had been profitable in every year except the one in which profits were reinvested to expand optical lab operations in the area. And its managers found themselves with a new appreciation for how much union members knew about the business and how that knowledge could be put to good use if opportunities for input were provided:

[The operations of the lab are] very performance focused. I was impressed, and am still impressed, by how much labor knew about the business. They were never allowed to engage fully in improving the business . . . They had ideas, but before, they never surfaced, or if they did, they never went anywhere. It was a learning process for me to engage a knowledgeable workforce, and it was possible because management was ready to listen.

(Kochan et al. 2009, 61).

**Expansion of the Partnership**

As the Kaiser Labor-Management Partnership built up early wins, it made a concentrated effort to build on those wins, establishing a database of project successes that were available to all of its local teams as examples and sources of ideas (Kochan et al. 2009, 61-63). The partnership also increased staff support for the partnership, with a particular focus on training modules including an orientation to the partnership, specific training on interest-based problem-solving methods, and business and leadership training to assist employees who were being invited to have greater involvement in those areas.

But diffusion throughout the entire organization was a slow process, with the use of trial projects meaning, as a practical matter, that some sites had significant experience while others had little or no partnership-related experiences. As the partnership developed, it became clear that it made its greatest inroads into institutional culture by being ready to address institutional challenges as they arose (Kochan et al. 2009, 68-72). By addressing crisis situations, the partnership gave concrete demonstrations of its value
and won over both the reluctant and the unaware. But Kaiser struggled with turning these successes into an overall transformation of institutional culture, such that even regions or units that had seen successes using partnership methods swing back to adversarial relationships between management and employees.

The negotiation of new national employment agreements in 2000 and 2005 provided Kaiser with an opportunity to address these concerns and attempt to embed partnership principles more deeply (Kochan et al. 2009, 88-120). In 2000, the parties began by training each side’s representatives in the principles and methods of IBN. They then deployed neutral facilitators to assist with bargaining itself. In both 2000 and 2005, rather than beginning with a traditional joint session in which each side presented its proposed positions, the parties began by establishing joint task groups to address different topics that were anticipated as part of the negotiation (Kochan et al. 2009, 90-95, 102-08; McKersie, Eaton, and Kochan 2004, 23). Each task force was assigned to investigate and make recommendations to a centralized “common issues committee” composed of labor and management representatives. Facilitators intervened when the parties got stuck, reiterating the IBN methodology of identifying interests and generating options (Ibid.; McKersie et al. 2008, 73-78). When the task forces had completed their work, they reported back to the common issues committee, which used a combination of IBN and traditional bargaining methodologies to finalize new national agreements (Kochan et al. 2009, 92, 110-17; McKersie et al. 2008, 78-87; McKersie, Eaton, and Kochan 2004, 22-23). Both agreements included provisions intended to strengthen and expand the labor-management partnership, as well as provisions addressing labor and management interests in wages, benefits, and administration. Although both negotiations included instances of frustration and conflict, each concluded in a national contract ratified by union members. Participants in both sessions expressed satisfaction
that partnership principles had been used and working relationships strengthened (Kochan et al. 2009, 117-19; McKersie et al. 2008, 75, 89).

Following the 2005 negotiations, Kaiser has focused on spreading the effect of its commitment to partnership through the creation of “unit-based teams” (UBTs) in every department of each of its medical centers (Lazes, Katz, and Figueroa 2012, 7-11). Each team, composed of all members in a “natural work unit,” is charged with working collaboratively on performance and quality to reach Kaiser’s stated goals of being the “best place to work, most affordable, best quality, and best service.” Key members of management and union leaders are tasked as “sponsors” to provide support and mentoring, while team co-leads and members are trained on the goals of the UBT program and the methods of interest-based problem-solving and consensus decision-making. Members also receive specialized training depending on their background, with management trained in how to “manage[] in a partnering environment” and employees trained on being “effective stakeholder[s].” Teams are evaluated on a “path to performance” system that incorporates foundational and transitional phases; the 2010 national agreement set metrics for increasing the percentage of teams that are high-performing (level five).

**Challenges of Partnership Participation**

Even among the Kaiser labor and management leaders committed to the partnership process, there has been an acknowledgement that partnership is sometimes difficult. Taking on new roles in the partnership reduced time available for traditional labor advocacy or management tasks, requiring additional resources and personnel to take over those tasks (Kochan et al. 2009, 136-40). Both sides also found themselves needing significant training in new skills and methods to partner effectively, which consumed both time and resources (Kochan et al. 2009, 138-40). Asking experienced leaders who were used to representing one “side” to take a partnership approach to
issues also required them to navigate often difficult questions of how to balance conflict and cooperation, with constituents who were suspicious and prone to criticize actions they viewed as getting “too cozy” with the other side (Kochan et al. 2009, 136-37, 141-42). There are also continuing pockets of resistance, both active and passive, to the full implementation of partnership techniques. Perhaps most obvious is the continuing refusal of one of Kaiser’s largest individual unions, a nurses union in California, to participate in the partnership based on its philosophy regarding labor-management relations. This union has publicly critiqued the partnership process and attempted to recruit members away from participating unions; its refusal to participate has also limited the effectiveness of UBTs at the facilities where its nurses work (Kochan et al. 2009, 43-44, 99, 128-29, 147-48; Lazes, Katz, and Figueroa 2012, 20). Subsequent disputes within the SEIU, which represented some 60,000 Kaiser employees, led to litigation against Kaiser by dissident union leaders (Eaton and Kochan 2014, 304-05). Kaiser chose to handle conflict negotiations with this union more formally, in order to manage its litigation risk, but other aspects of the partnership, and particularly the UBTs, were by then so pervasive and popular that they could be maintained even in a more acrimonious and litigious setting (Eaton and Kochan 2014, 306-07).

**Outcomes Associated with the Partnership Approach**

As in the early successes described in some detail above, Kaiser has found the partnership approach to be particularly effective in addressing specific problems. The UBT approach adopted in the 2005 agreement has spread this effect more broadly throughout the organization by requiring every unit to spend time consciously considering its unique challenges and using IBN strategies to address those challenges. In particular, units that have fully implemented UBTs have adopted projects that cut costs and improve quality of care by tapping the experiential knowledge of their frontline employees (Lazes, Katz, and Figueroa 2012, 31). The UBT approach plays into
Kaiser’s existing culture of diffuse management and decision-making by units that view themselves as unique, while providing opportunities for the generation of new ideas. A 2012 survey of UBTs at two Kaiser facilities demonstrates the variety of practical, and effective, improvements generated by UBTs: replacing slippery flooring that caused injuries, buying timers for centrifuges to reduce over processing of samples, changing how often and for what public announcements were broadcast throughout the hospital, and streamlining lists of upcoming discharges to focus on those occurring soonest (Lazes, Katz, and Figueroa 2012, 12-30). Kaiser has also established mechanisms for UBTs to share their successes through a “UBT tracker” that other teams can access to generate ideas they could implement (Lazes, Katz, and Figueroa 2012, 31).

Implementing collaboration as a regular part of facility management has had a positive impact on both labor-management relations and patient care (Lazes, Katz, and Figueroa 2012, 12-30). Kaiser’s financial performance has improved steadily since its adoption of the partnership, despite the economic challenges it was facing when it embarked on the partnership approach (Kochan et al. 2009, 214). Kaiser was recently able to use IBN to negotiate complex pension funding issues in a way that satisfied employees and reduced costs (Eaton and Kochan 2014, 305-06). Kaiser managers report less conflict on union issues because issues are resolved effectively through UBT processes (Lazes, Katz, and Figueroa 2012, 32). Employees who are actively involved in the Labor-Management Partnership report higher job satisfaction (Kochan et al. 2009, 224-25).

And the concrete results appear to reinforce commitment to IBN processes, as reflected in the fact that Kaiser has continued to use and expand its partnership programs both in daily management and in subsequent rounds of national contracting. In contrast to bitter, contentious bargaining sessions, IBN sessions seem to invoke an almost religious fervor in participants. Kaiser’s 2000 contract negotiations were likely
among the most complex ever attempted in the labor-management context. Given the number of constituent groups on both the labor and management side and the complexity, difficulty, and importance of the issues, the various task groups who reported back to the common issues committee described their meeting presentation as “incredibly energizing;” everyone “came away from the session on a real ‘high’” (McKersie, Eaton, and Kochan 2004, 26). That high seems to keep those who experience it coming back for more.
Chapter Five

The Integrative Solution: Emphasizing Self-Interest and Converting Conflict to Energy

Based on the foregoing examples, IBN appears to have potential in providing a mechanism for disparate groups making up a larger community to come together both to resolve particular governance issues and to develop productive working relationships that can be used to address future issues. It would seem, then, to provide fertile ground for investigation by those who seek to increase productive deliberation on complex and contested issues in the political sphere.

But integrative, interest-based approaches have been largely dismissed in the democratic deliberation literature. Perhaps its most prominent detractors are Amy Gutmann and Dennis Thompson, who dismiss integrative possibilities in the legislative context in the introduction to their work in *The Spirit of Compromise*:

> While integrative approaches can be productive, legislative opportunities to achieve win-win solutions that serve the public without any sacrifice are rarely available. Legislators are much more likely to find themselves confronting conflicts that cannot be resolved without sacrifice on all sides. If they want to make gains over the status quo, they will have to give up something of value. They will not have the luxury of hoping for the pure win-win solutions that some negotiation theorists promise. They will just have to compromise (Gutmann and Thompson 2012, 16).

To the extent that Gutmann and Thompson reject integrative models as too optimistic, based on the prospect that there will be some “pure win-win solution” that does not require sacrifice, they fail to understand correctly either the theory or the method of integrative bargaining. What distinguishes integrative bargaining from the distributive bargaining that Gutmann and Thompson hope to make more deliberative is a focus on *transforming* the dispute through the dialogue, rather than simply improving the manner in which the parties to the negotiation resolve the transaction over which they
are bargaining. I now turn to a more thorough explication of the integrative model and its theoretical underpinnings, in order to demonstrate that difference.

Mary Parker Follett and the Goal of Integration

Biographical Information. Mary Parker Follett (1868-1933) was a political theorist, management consultant, and social worker whose thinking on conflict, power, and related concepts laid the groundwork for the development of interest-based negotiation, as well as the larger field of organizational development (Child 2013, 74-78; Cutcher-Gershenfeld 2014, 150-51; Tonn 2003, 1). Follett was born in Quincy, Massachusetts and graduated from Radcliffe College. During her time at Radcliffe, Follett’s studies ranged widely from law and government, philosophy and humanities, and to economics, history, and psychology. Follett studied for a year at Newnham College, Cambridge under the private tutelage of Henry Sidgwick in history and political theory, and while at Cambridge also wrote The Speaker of the House of Representatives, a study of how past Speakers effectively asserted influence and that taught her the value of interdisciplinary academic research (Follett 1896; Tonn 2003, 5).

Reflecting the scope of her educational interests, Follett’s writings and lectures ranged widely, and a comprehensive analysis of her corpus would go beyond the scope of this study. Instead, I will focus here on her analysis of the main concepts underlying interest-based negotiation – conflict, power, and integration. Follett developed her foundational statements of these concepts in a series of papers delivered to the Bureau of Personnel Administration in January, 1925.

The Bureau of Personnel Administration Lectures

Conflict and Integration. Follett’s opening lecture, entitled “Constructive Conflict,” reinterprets conflict from being an undesirable and unpleasant circumstance to being merely the manifestation of differences among people. Since differences are continually and inevitably with us, Follett suggests we ought to seek ways to put conflict
to good use. She analogizes conflict to the force of friction in the physical world. The mechanical engineer, she notes, generally prefers to minimize friction when possible, but also turns friction to his advantage by using it to transmit power through belts and pulleys. We, too, she argues, should attempt to make conflict work for us (Follett 1926a, 30-31). Handled constructively, “[c]onflict as the moment of the appearing and focusing of difference may be a sign of health, a prophecy of progress” (Follett 1926a, 34).

Follett asserts that conflict can be managed either through domination, compromise, or integration. Domination, essentially the successful assertion of power over another, she dismisses as an effective short-term approach but not only ineffective in the long run but also clearly unsatisfactory to the dominated party (Follett 1926a, 31-35). Her further thoughts on the nature and use of power she saves for her final paper in the series and will be discussed in detail below.

Compromise, though popular, Follett ultimately condemns. The idea that all sides should give up something they want for the sake of peace, or of just getting on with things, is appealing insofar as it entails in some sense equal sacrifice. However, compromise is also troubling because, by definition, we are giving up, at least in part, having our desires (or interests) met. This lack of satisfaction of desire she believes ultimately will leave parties dissatisfied with the compromise and sows the seeds of upheaval at the next opportunity to test, or undermine, the compromise. Neither domination nor compromise resolves conflict in a way that creates the possibility for the desires of all parties to be met because they do not result in stable solutions (Follett 1926a, 31-36).

The third way of resolving conflict, integration, creates new possibilities for developing agreements that can satisfy the desires of all parties. Follett illustrates integration through numerous examples, of which I will share only two.
First is her classic example of the Harvard library window (Follett 1926a, 32). Imagine two library patrons sharing a small reading room. One patron wants the window open; the other wants it shut. An integrative solution to the conflict would find a way to satisfy the desires of both patrons. On the surface, compromise would appear to be the only approach given there is no managerial or other power for one patron to assert over the other. But what would the compromise be? Open the window only half way? Alternate opening and closing the window at regular intervals? These compromises merely split the difference and spread the dissatisfaction to both parties.

An integrative approach “involves invention, and the clever thing is to recognize this, and not to let one’s thinking stay within the boundaries of two alternatives which are mutually exclusive” (Follett 1926a, 33). In this case, the patrons could agree to open the window in the vacant room next door. Why is this not a compromise? Because the patrons desired not to have the window opened or closed, *per se*, but rather, in the case of one patron not to have the breeze directly upon her, and in the case of the other patron not to have a stuffy room. The parties wanted the window definitively open or closed as only a means to satisfying their desires. Both parties’ desires are integrated together because they are both satisfied by the agreement.

Second is her example from the actual experience of a Dairymen’s Co-operative League. Workers were required to deliver cans to a creamery platform, and some workers had to haul the cans downhill to arrive at the platform and others had to haul the cans uphill to unload the cans. The workers argued vehemently about who got to unload at the platform first (those hauling uphill or downhill), and as a result of being unable to resolve the problem, nearly dissolved the League – a compromise of sorts that would clearly fail to satisfy the antecedent interests of the parties in having a League in the first place. After bringing in outside assistance, a third-way was discovered – namely, to move the platform so as to allow both groups of workers to unload their cans.
simultaneously. This solution satisfied the underlying desires of the workers, as they simply wanted not to have to wait to unload; they did not affirmatively desire to be the first to unload (Follett 1926a, 32-33).

Follett was optimistic about the potential for conflict to be resolved constructively through integration, but she was far more pragmatic and practical about conflict than idealistic. “I do not say that there is no tragedy in life,” Follett declared, recognizing that integration was not always possible. But she did insist that integration was more often possible than we might realize and that our penchant for compromise often obscured integrative solutions (Follett 1926a, 36). She was also committed to the notion that solutions must ultimately pass the test of experience in order to be satisfactory, and so we must adopt an experimental mindset in crafting and adopting integrative agreements (Follett 1926a, 34).

Integration: Rules and Roadblocks. Follett’s practical bent is further demonstrated by her specific rules for how to bring about integration between parties’ interests (Follett 1926a, 36-45). First, she recommends, we must layout the whole conflict for all to see, including all of the interests of the parties. This practice results in evaluation of the interests by the parties, and this tends to incline parties simultaneously to “revaluate” their own interests in light of the totality of interests. This moment of reevaluation is key to creating an integrative agreement, because this creates the opportunity for “the interests to fit into each other,” that is, for us to see our own interests in a new light and to value them accordingly (Follett 1926a, 38-39).

Second, apply the “method of breaking up wholes.” By breaking down complex demands into their simplest parts, parties can more easily create integrative solutions accommodating those parts that are genuinely desired and not merely linked but irrelevant to the interest. Follett provides the example of the boy who claimed to want a college education, but upon his father’s death had to work instead. Upon reflection, the
boy’s true desire was to get an education *simpliciter*, not to go to college to get an education, so by “breaking up wholes” he was able to see a way to satisfy his true interest compatible with his work constraints.

This method also entails what Follett refers to as “examination of symbols.” People entertain expansive concepts that take on symbolic importance to them without being defined sufficiently well to understand how the desire can be met. She provides the real-life example of a woman who wished she was “going to Europe.” This could symbolize any number of desires, none of which necessarily require actually going to Europe. Aside from the ambiguity inherent in the phrase (i.e., Is the “going” important? Or is experiencing Europe the desire?), what is it about “going to Europe” that is desirable? It could be the culture, the people, the food, escape from the monotony, etc. Going to Africa or South America could perhaps meet these interests, but we cannot know without unpacking what is meant by the symbol. In this case, the woman’s underlying desire was discovered to be that she wanted to meet different and interesting people, and she was able to accept a local job teaching summer school with interesting students and colleagues (Follett 1926a, 40-42).

Third, and finally, accept “circular response.” One part of circular response is that we anticipate the response of other parties and often act in ways to bring about an outcome that changes which desires obtain and are therewith integrated. For example, if one spouse prefers to go for a drive on Sunday afternoons as a couple, and the other spouse prefers to go on a walk, the spouse who prefers to drive might suggest playing tennis on Sunday morning so that the spouse who normally prefers walking on Sunday afternoon would be fatigued and desire to drive instead. Another part of circular response is that we must take steps to prepare the other party to respond in a way conducive to reconciliation. Circular response, then, is the recognition that we anticipate the responses of others and prepare others to be receptive to our responses. But it is also
more. It is the recognition that “I can never fight you, I am always fighting you plus me. I have put it this way: that response is always to a relation. I respond not only to you, but to the relation between you and me.” This dynamic cannot be avoided and must be embraced for conflict to be resolved constructively (Follett 1926a, 42-45).

Of the various impediments to integration, the first Follett enumerates is that “[i]t requires a high order of intelligence, keen perception and discrimination, more than all, a brilliant inventiveness.” Another impediment is that Western culture tends to instill a taste for dominating others, as the excitement and drama that can entail entices. A third impediment is our propensity to argue or agree at a theoretical level without ensuing discussion and agreement at the level of concrete action. A fourth impediment is our sometimes careless use of language that enflames emotions or generally makes parties disagreeable, as demonstrated by the difference between saying “Let’s reconsider” instead of “I wish to give you my criticism.” A fifth impediment to integration is the inappropriate influence of leaders (whether intended or otherwise). Finally, and most important, Follett believed our greatest impediment to integration was a lack of training and practice. She insisted, however, that this training must not be to instill a virtue of open-mindedness, since for integration to work you must have regard both for your own views and for the views of others, and you must truly believe the solution you adopt to have integrated the interests. “Mushy people are no more good at this than stubborn people,” she observed (Follett 1926a, 45-49).

Power. Follett’s thoughts on power are found primarily in her lecture by the same name, but the foundations for that lecture are presented in the earlier lectures “The Giving of Orders” and “Business as an Integrative Unity.” Power, control, and authority, Follett suggests, are highly interrelated concepts. Power is merely “the ability to make things happen;” control is “power exercised as means toward a specific end;” and authority is “vested control.” She cautions that power does not mean strength, as the
invalid often exercises power over the household (Follett 1926b; Follett 1926c; Follett 1926d, 98-99).¹

Power, in and of itself, Follett believes, like conflict, is inherently neither good nor bad. Instead, she argues that there are two different types of power, and that one works better than the other. When we think of power, it is typically what she refers to as power-over, or power exercised to control a person or group. Contrast this against power-with, “a jointly developed power, a co-active, not a coercive power.” Power-over loses salience when the end one seeks is integration – mutual satisfaction of desires or interests – and power-with gains importance (Follett 1926d, 101). Power-with builds as a result of circular response, the reality that our actions influence the actions/responses of others and that when we respond we do so both to the action and the relationship with the person acting (Follett 1926d, 104-07).

While integration is one means of reducing the influence of power-over, another is to rely upon what she terms the law of the situation (Follett 1926c, 58-64; Follett 1926d, 105-07). In “The Giving of Orders,” Follett notes that when a supervisor gives an order to a subordinate, the supervisor often suffers the pushback, resentment, and oppositional mindset that follows, and this is counterproductive to the goal meant to be achieved by the person in authority. But giving the subordinate no direction is also unhelpful. The integrative solution, she suggests, is for the parties to take their orders “from the situation” rather than from each other. Parties should approach the situation as though it were a problem to be studied and solved by people of equal authority. Then, the study of the problem will reveal the “order” inherent in the situation.

One example she provides is the child who is ordered by his mother to fetch a pail of water (for some unnamed purpose, but let us say so that she may use the water in

¹This distinction, I believe, forecasts a much later distinction by political scientist Joseph Nye differentiating “hard power” from “soft power” (1990).
preparing dinner). The child replies that he will not fetch the water, but nevertheless rises to retrieve the water anyway. Follett contends the child resists the command from his mother, but accedes to the law of the situation (there will not be dinner without water). If the mother had, instead of exercising her authority by issuing an order to her child, engaged the child as an equal and together discovered that dinner could not be prepared without water, and that the mother was engaged in other dinner preparations while the child was not, both she and the child would have accepted that the situation required him to get the water, and no order was ever issued by one person to another.

A third way in which Follett believes power-over can be reduced is through the use of facts and expertise (Follett 1926d, 105-06). Facts neutralize the power of false assumptions and empty fictions and at the same time “reduc[e] the area of irreconcilable controversy.” Experts, while not always able to supply facts (as when experts disagree), still reduce the scope of irreconcilable controversy for while they may not agree on positive facts, they might well agree that certain proposals or options are not possible or advisable.

Finally, power-over can be subdued by making our organizations into “functional unities” (Follett 1926c; Follett 1926d, 106-07). By a functional unity Follett means that all people within an organization should be empowered to perform their (clearly delineated) function and to accept the concomitant authority and responsibility. In this way power-with is enhanced, individual capacities are increased, and power-over has diminished utility.
Chapter Six

From Political Theory to Business Administration:
The History of Interest-Based Negotiation

Follett herself began the transition from political theorist to “business consultant” when she delivered the Bureau of Personnel Administration lectures in January, 1925 at the behest of the Bureau’s director, Henry C. Metcalf (Graham 1995, 17-19). For the next eight years she used her training and insights as a political theorist to help businesses driven by her fervid belief that “the basis for understanding the problems of political science is the same as the basis for understanding business administration—it is the understanding of the nature of integrative unities” (Follett 1926e, 190). After her passing in 1933, little was made of her work, and despite the tacit influence her ideas has had on the fields of management and organizational development, and despite her being hailed as “the prophet of management” by no less a management luminary than Peter Drucker, Follett’s thinking and writing has not penetrated the general consciousness (Child 2013, 74-75; Graham 1995, 17-19).

However, Follett’s theories and works were not completely forgotten. Follett’s pioneering thinking in the area of conflict resolution influenced what was to become the seminal work in the field of negotiation – Walton and McKersie’s *A Behavioral Theory of Labor Negotiations* – that went on to serve as the authoritative text in the field (Kochan 1991, ix-xiv; Kochan and Lipsky 2003, 15-19). Walton and McKersie’s work shifted thinking about labor negotiations from an institutional economics perspective to a social/behavioral paradigm that emphasized the sub-processes that must be addressed to make negotiation work for the parties so engaged. This new paradigm described four sub-processes: distributive bargaining, integrative bargaining, intra-organizational bargaining, and attitudinal structuring.
Distributive bargaining is the sub-process by which parties approach a bargaining situation through the lens of a zero-sum game, as used by rational choice theorists. There is some set amount of a good to be distributed, and every unit the first party gets is a unit the second party does not get. When engaged in distributive bargaining, parties seek to maximize advantage through various tactics, and those vary dependent upon the degree of interdependence present in their relationship (e.g., workers and managers are in long-term relationships and will use tactics that might not be effective when haggling at a flea market) (Walton, Cutcher-Gershenfeld, and McKersie 2000, 259-85).

Integrative bargaining is the sub-process by which parties approach a bargaining situation as joint problem-solving so as to expand the amount of the good to be distributed and to make each party “a winner.” Integrative bargaining, analytically, relies upon something like integration as Follett conceptualizes it. Parties to an integrative bargain eschew compromise as unnecessary sacrifice and instead seek to satisfy the interests of all parties as it relates to the problem. Sometimes interests dovetail enough to allow integration within the narrow confines of the issue being addressed. At other times, integration can be elusive within that single issue and only by broadening the scope of the problem to include multiple issues and concomitantly more interests can an integrative solution be achieved.

Intra-organizational bargaining is the sub-process that accounts for the dynamics present when parties to the bargain act as representatives of groups or organizations. Representatives very often must negotiate within their own group or organization to achieve approval regarding the bargained for agreement. Often the only ones within their group or organization privy to all the details of the bargain and the experiences and dynamics with the other bargainers, representatives must employ various tactics to convince their constituents that the deal negotiated should be accepted. Moreover, intra-organizational bargaining happens throughout the bargaining process, not just at the
end with regard to the final agreement. In the case of distributive bargaining, target points (where the parties would like to end up), resistance points (where the parties will likely refuse the agreement), and other forms of rational choice analysis must be done with constituents prior to and throughout the bargaining process. In the case of integrative bargaining, constituents’ interests must be determined, and they must measure the acceptability of proposed solutions against the degree to which those interests are satisfied.

The final sub-process, attitudinal structuring, acknowledges that the relationship between the bargaining parties matters to achieving the outcome most desired. Lack of trust, poor communication to constituents, and other factors contribute to failure to reach agreement, even when a deal is otherwise possible. This acknowledgement of the importance of managing relationships reflects Follett’s concept of circular response and her dictum that “I respond not only to you, but to the relation between you and me” (Follett 1926a, 42-45).

Since *A Behavioral Theory of Labor Negotiations*, the use of IBN has greatly expanded. Also referred to as mutual gains, integrative, principled, or win-win negotiation, the interest-based approach to negotiation gained popularity in 1981 with the publication of Roger Fisher and William Ury’s *Getting to Yes* (Barrett 2004, 209-11; Cohen-Rosenthal and Burton 1993). Defined as an “[a]ct of back-and-forth communication focused on reconciling interests with the goal of reaching an agreement,” IBN has spread beyond the realm of labor negotiations into the public and private sector and throughout various industries (Barrett 2004, 209-37; Yarn 1999, 228).

**The Process of Interest-Based Negotiation**

The General Model. The contemporary development of integrative bargaining based on the principles elucidated by Follett has resulted in various frameworks for discussing the process for using IBN. Major thought leaders in the field of negotiation
who offer hands-on negotiation training use different models – Harvard University’s Project on Negotiation teaches one proprietary process, Cornell University’s School of Industrial and Labor Relations teaches another. Both of these models, as well as various others, share common characteristics and a general understanding of the contours of a process based on the integrative process model developed in *A Behavioral Theory of Labor Negotiations* (Barrett and O’Dowd 2005, 65-89; Cutcher-Gershenfeld 2003, 141-60; Fisher, Ury, and Patton 2011, 17-96; Walton and McKersie 1991, 126-43). Moreover, since the interest-based process is one where the participants are ultimately in control, it makes sense the process would vary from use to use, with, for example, tasks assigned to a certain step of the process getting addressed in a different step. Consider the instance of Kaiser, where the partnership continually broke new ground and processes were invented and modified as needed to approach problems using interest-based principles.

In general, however, any instantiation of IBN will bear a family resemblance to the model discussed below. Here I provide a basic overview and understanding of this model to provide a general sense of its essential components and the steps in the process while overlooking some nuances and additional steps that might be appropriate for actual use in various situations. After explaining the model, I will conclude by clarifying how various aspects of the process thus described counter or otherwise address the concerns raised about the viability of deliberative democratic processes in terms of capacity, epistemology, power, and feasibility.

**Facilitation and Training.** IBN commonly uses a facilitator trained both in neutral facilitation generally and in the specific features and techniques of interest-based processes. Facilitation, generally, can be defined as the process of helping groups to arrive at mutually acceptable outcomes. This understanding comes from the Latin *facilis* (“easy”) but also from *facere* (“do, make”). The aspiration, therefore, is for facilitators to make agreements easy. Various other definitions of facilitation capture these
fundamental features. Fisher, Ury, and Patton offer a process-oriented definition of facilitation: “Someone at the meeting needs to facilitate – to keep the meeting on track, to make sure everyone gets a chance to speak, to enforce any ground rules, and to stimulate discussion by asking questions” (63). However, others who view facilitation more in terms of its potential to transform people and relationships offer more expansive definitions. As the International Association of Facilitators (IAF) describes facilitators in its Statement of Values and Code of Ethics,

> Facilitators are called upon to fill an impartial role in helping groups become more effective. We act as process guides to create a balance between participation and results...

> As group facilitators, we believe in the inherent value of the individual and the collective wisdom of the group. We strive to help the group make the best use of the contributions of each of its members. We set aside our personal opinions and support the group’s right to make its own choices. We believe that collaborative and cooperative interaction builds consensus and produces meaningful outcomes (IAF 2004).

Sam Kaner, a prominent consultant and thinker in the field of facilitation, argues in his seminal work on the subject that the role of a facilitator “is to support everyone to do their best thinking” (Kaner 2014, 31). He believes this can only be achieved if the facilitator encourages full participation, promotes mutual understanding, fosters inclusive solutions, and cultivates shared responsibility (Kaner 2014, 23-40). Encouraging full participation attempts to overcome participant censorship self-imposed through risk-aversion and apprehension about potential negative reaction from other members of the group through helping to draw out reticent participants. In an environment that practices the value of full participation, participants become more assertive and are better able and more inclined to share their thinking or simply to think aloud, and participants actively encourage each other to behave in these ways. Correspondingly, such an environment actively discourages unconstructive behaviors
like private sidebars between participants, aggressive argumentation and posturing, and the deployment of sarcasm, as these behaviors tend to hinder full participation.

Facilitators promote mutual understanding to help participants overcome their entrenched positions on issues so that they may better understand other participants’ interests and ultimately come to sustainable and mutually satisfactory agreements. One way facilitators achieve this end is to ensure they behave impartially, validate all perspectives (without agreeing with any), and show equal concern and respect to all participants – in this way, participants may grow less defensive because they will have “confidence that someone understands them,” and thus that others may understand them as well. Mutual understanding is the basis for the reciprocal acknowledgement that all of the participants have interests that matter and further serves as the basis for participants to reexamine and revise their own thinking (Kaner 2014, 23-40).

Fostering inclusive solutions complements and reinforces mutual understanding, as it seeks to instill a sense that positive-sum outcomes are achievable by generating creative ideas to meet the needs of all participants. Inclusive solutions can only be achieved by travelling through what Kaner refers to, appropriately, as the “Groan Zone” (Kaner 2014, 3-22). In Kaner’s model of group dynamics, group discussion begins with the enunciation of commonly held opinions on the topic at hand and proceeds to the sharing of increasingly different perspectives – a phase of the group dynamics he refers to as divergent thinking. When the group passes from sharing opinions and perspectives to engaging with them through listening, questioning, and learning, they have arrived in the Groan Zone, and this period typically produces a great deal of consternation, defensiveness, emotional expression, and general discomfort as participants must “struggle in order to integrate new and different ways of thinking with their own” (Kaner 2014, 18). A skilled facilitator can act to make sure that this period remains constructive by ensuring full participation and promoting mutual understanding, and in addition the
facilitator can help participants to appreciate the value of this stage in the process, that this period is normal, and is in fact desirable, as after the period ends participants will be prepared to engage in convergent thinking that will winnow down the discussion into an agreement.

Finally, facilitators cultivate a sense of shared responsibility for the success of the process. Facilitators are not primarily enforcers of rules and norms, though that is part of their role. A truly effective process, one that leads to a truly satisfactory agreement, can only be created and sustained by the participants themselves. Among other things, cultivating a sense of shared responsibility means that the facilitator must act to neutralize the distorting effects of power or authority on the process. And this can only be done if the process itself expressly acknowledges this role of the facilitator and all participants in the process agree to be bound by those rules. So empowered, the facilitator can encourage those with a tendency to wield power (consciously or not) to recognize what they are doing and to provide alternative, constructive routes to getting their interests met. Similarly, the facilitator can encourage those who are disengaged to recognize that their deference to power (political or epistemic) may not result in the necessary inclusion of their voice and perspective, and so the creative, integrative solution that must emerge from the process may elude the group. Shared responsibility ultimately creates a sense of ownership for the process and its outcome, and that sense of ownership acts to neutralize the use of power by virtue of making its exercise counterproductive (Kaner 2014, 23-40).

The process used to facilitate IBN encompasses the general facilitation functions endorsed by Kaner and the IAF for facilitation of other kinds of group planning and decision-making. However, IBN facilitation supplements these functions in several important ways. Extrapolating from Walton and McKersie’s prescription for successful integrative negotiations, Macneil and Bray contend that IBN facilitators must also
motivate the parties to participate in the process and must actively build trust (Macneil and Bray 2013, 704-06). Through deploying “attitudinal structuring tactics,” such as emphasizing common ground, enforcing standards of conduct, and reminding participants of their shared fate, participants can be motivated to overcome any initial reticence, which should be encouraged as lackluster participation will undermine the process. Trust is also an asset to negotiation, and a foundation of trust between the participants, between the facilitator and the participants, and between the participants and their respective constituents will support and sustain the process.

Walton and McKersie themselves raised concerns about bringing about the right psychological states to induce trust, closely related to Follett’s notion that circular response requires us to prepare the other party to accept reconciliation. Walton and McKersie note psychological studies that the absence of trust in group dynamics leads to a litany of problematic behaviors including defensiveness, not sharing and/or distorting information and communication, unwillingness to experiment, and impaired cognitive functioning.

The use of a neutral facilitator and joint training of the participants in the IBN process both serve to increase the level of trust. A neutral facilitator encourages the parties to respect the ground rules and the interest-based process itself. As guardian of the process, the facilitator gains the trust of the parties by even-handed facilitation and rule enforcement. Once even untrusting parties are comfortable that the process can be trusted, they may begin to take risks and exhibit behaviors to one another that demonstrate their trustworthiness, thus increasing trust in each other as well as the process.

The IBN process strongly encourages (and most users, like the Federal Mediation and Conciliation Service, require) that the parties to negotiation, and sometimes constituents, be trained together (Barrett and O’Dowd 2005, 113-14; Chaykowski et al.)
This joint learning sets the stage for increased trust as during the training the parties ask questions, develop skills, and learn about each other both during the training proper and through informal interaction—all in a context outside the negotiating room. Inviting key constituents, such as influential thought leaders and skeptics, serves as a means of helping constituents to understand the process and to manage their expectations (Chaykowski et al. 2001, 18-22). Frequently the facilitator is also the trainer, but even if not, facilitators often provide on-the-spot training as participants may require refreshers at difficult moments or lack skill in how to implement a sub-process. This emphasis on training also aligns with Follett’s recommendation for overcoming obstacles to integration.

Joint training creates the best likelihood of reaching valued agreements; it reduces distrust on the part of the parties with less power in the relationship (because they do not automatically assume the new process is a ploy by the party with greater power); and shared learning humanizes people and provides a common understanding to begin the working relationship. IBN shifts the emphasis from being adversaries to being advocates for interests. Joint training is also a critical process move that “familiarizes people with IBN principles, . . . builds cohesion and prepares negotiators” so that they “know what to expect” (Kolb 2004, 41).

Joint training should include an explanation of the process, practice with understanding interests and the skills to uncover interests through active listening, and how to ask questions without invoking defensiveness and other competitive behaviors. Participants should be given an opportunity to then use the process on either a real problem with a sufficiently small scope appropriate to the length of the training or an appropriate scenario provided by the trainer/facilitator. Joint training also should allow an opportunity for the trainer/facilitator to meet with the parties separately, including key constituents and thought leaders from their constituency who are not designated
negotiators, so that all concerns can be aired and addressed that may not have been raised while the other party was present.

While training and facilitation are often provided by the same person, the skill set of a trainer may not translate into the skill set of a facilitator. According to Hogan (2002), trainers often have a stronger sense of ego that can interfere with the role of facilitation, since trainers see their role as content experts delivering information and developing skills in alignment with that expertise (31-33). Facilitators often need to train, both through joint-training and on-the-spot training, and a low-ego approach to training is perfectly compatible with the roles and values of facilitation.

**Process.**

1. **Pre-Negotiation Preparation**

   Sometimes referred to as pre-bargaining, pre-negotiation, or merely preparation, this step ensures several ends are met. First, it explains the IBN process to the parties and discerns whether it is appropriate to meet their needs and expectations (and the needs and expectations of their constituents). If the goal is to make everyone best friends, or conversely if the goal is only to cut a deal in the next three hours, then IBN is likely not the best tool. Similarly, if power dynamics and disparities are too great and cannot be ameliorated by the urgency of the situation which caused the parties to seek a change in their process initially, this may not be the right time for an interest-based approach. Finally, if the constituents represented refuse to accept this approach to negotiation (after the process has been explained to them) that might be viewed as unacceptably “soft” or otherwise inapposite, then more pre-work might have to be done to educate their constituencies about the merits and workings of this approach, including the opportunity for full-fledged training. Spending time on developing a mandate from constituencies to support an interest-based approach will make the job of negotiators easier in the sense that they will be better able to focus on developing solutions that meet
all the interests rather than also needing to allocate disproportionate attention to addressing constituent behaviors designed to undermine their representatives who in their eyes are not driving hard enough bargains.

Second, the parties must set the agenda and agree on what information may be needed to address those issues. Ideally, issue agendas are framed in a manner that allows for exploration of the issue and invites dialogue and creativity rather than disagreement. So, if the problem being addressed is whether to approve the use of medical marijuana on college campuses, for instance, the issue might be usefully framed as “What are the best ways to ensure that students with legally prescribed medical marijuana can use it when they most need it?” This framing would invite participants to learn about the legal uses of medical marijuana, when people with covered afflictions might need to use it, the impact of marijuana use on student learning, health, and safety, and the like. A less useful framing would be “Should medical marijuana be allowed on college campuses?” This framing invites a positional, yes-or-no mindset where people take a position and then defend it. This framing reduces the likelihood of finding a solution that works for everyone because the listening and learning required to do so is cut off by the need to make your position the winning one.

Once the agenda is decided, the parties must decide whether any of the issues require additional data or information in order for the negotiation to proceed. If so, subcommittees are formed to gather the data consisting of members from different constituencies represented in the negotiation. This is done for two reasons – (1) to give the parties an opportunity to work together and build collegial relations and (2) to ensure that the information gathered is considered valid by the parties. This joint inquiry approach to information gathering helps reduce the likelihood that the parties will talk past each other because they do not share a mutual understanding of the relevant facts.
Third, the parties must establish ground rules. Ground rules are group norms related to behavior, process, and culture designed to keep the consensus-building environment in place, especially in the face of heightened stress and emotion (Maiese 2004). Among various ground rules the parties might adopt include those addressing respectful communication, the frequency and length of the negotiating sessions, and whether food will be provided during the sessions. Ground rules in and of themselves provide an environment more likely to support integration for the negotiators because these norms can be used to curtail non-cooperative behavior in other participants, thus reducing the likelihood of defensiveness.

The development of ground rules also provides the new group an opportunity to apply its newly learned interest-based skills to the problem of creating standards of conduct that the group wishes to take shared responsibility for enforcing. These standards are generated by the participants, and they are agreed upon by consensus using the process that will be described below. In a sense, the facilitator helps the group to form its own nomos (in both the formal and informal senses) because the ground rules are most often not articulated with great specificity (e.g., show respect), and so the facilitator helps to develop a cultural standard over many interactions about what the group considers to be unacceptable violations of any particular standard. There is another sense in which the establishment and observance of ground rules may be appropriately thought of as nomos, and that is in relation to physis. Absent nomos, negotiating parties are prone to behaviors that trigger natural, yet unhelpful, psychological responses (e.g., the fight, flight, or freeze response). This taming of the physis by the nomos is yet another way in which IBN takes seriously our natural emotional minds and seeks to harmonize it with our rational minds.

Fourth, and finally, the parties prepare opening statements. These statements are meant to set the tone for the negotiation, and they should reflect the reasons each of
parties represented chose the interest-based process to solve the problem(s) at hand. They should be honest statements, made constructively to help the parties better understand each other. For instance, an opening statement might go as follows,

The Associated Students are glad to be here today. We believe the issue of medical marijuana on campus is too important to be left to the typical back-and-forth shouting that social issues often invoke. We are looking forward to working with you all to figure out a way forward on this issue.

A different statement among the stakeholders might be,

As a concerned parent and officer of the Parents’ Association, I must say frankly that I’m not thrilled about discussing this. I doubt it is a good idea to let medical marijuana onto campus, but I also know this issue continues to come up and the only way to address it completely is try to find a way to make it work for everyone. If that’s possible, then I’m willing to participate in figuring it out.

A third statement might be,

I represent the Campus Police. We have serious concerns about allowing gateway drugs on campus, and especially in the dorms. If those concerns can be met, then we don’t want to stand in the way of people using their prescription medicine. We hope there’s a way to do that, in fact, because we don’t want to be the bad guys here.

All of these statements are useful to participants, as they help us to understand the motives and interests of the parties. They also give us a starting point for learning even more. The Associated Students appear eager to talk about the issue, while the Parents’ Association seems resigned to the fact that this needs to be addressed once and for all, and that means neutralizing the issue by making all the stakeholders happy. The Campus Police appear to have concerns about gateway drugs, dorms, and their image. All of these interests, and those yet to be discovered, will need to be considered as the process continues and potential solutions are crafted.
2. Negotiation Process

The opening session handles some mundane organizational tasks, such as seating arrangements, location of restrooms, and the like, but every item addressed, whether substantive or mundane, is an opportunity for the facilitator to model values and behaviors that are likely to contribute to group cohesion and generally productive group dynamics. The IAF Statement of Values and Code of Ethics guides some of this, but so do group norms or ground rules, that, if not previously developed, are also developed in the opening session.

The first step of the negotiation is to clarify the issue being addressed. (If there are multiple issues being addressed, then the sequence of steps in the negotiation process are repeated for each issue.) The purpose here is to fully explore the problem, share information, learn what needs to be known but currently is not, and to define the problem. Without a full sharing of information, the problem may not be defined appropriately to generate integrative solutions at the final step. This step will also inevitably be revisited as the process continues, since new ideas, dead ends, and unforeseen opportunities might present the need for additional information and/or redefinition of the problem. In any case, the problem should be framed as “a problem to be solved” and not simply a statement to focus the parties on their relationship as joint problem solvers.

This first step of the process comports with Follett’s advice to present all the information, to recognize the relationship is part of the process, to recognize that careful use of language (what we might call framing) matters, and to approach the issue as a problem presented by the situation. This step of the process begins a recursive discussion attempting to define the problem the parties wish to solve. The discussion might begin with a sense of what brought the parties to the table, such as a “neighborhood noise” problem. The parties then share their experiences, histories, positions, and interests
related to the problem, and through engaged listening parties begin to learn and understand more about the nature of the problem and about each other. Ultimately, the parties agree to a working definition of the problem, framed as an open-ended problem-solving question, so as to focus the parties on trying to answer the question and to keep them in a problem-solving mindset.

The second step is to identify the parties’ interests. Often parties quite naturally come to a negotiation with one or more preconceived notions about how to address the problem being discussed. These notions are called positions, and though positional thinking leads to a host of anti-collaborative behaviors, positions are also useful to the extent that they can be unpacked to learn about the underlying interests that the position ostensibly serves. Parties may ask questions to learn about the interests of others and are encouraged to do so to increase mutual understanding and to focus the parties on the subjective parameters of a potential solution. This focus on interests rather than positions is a multi-step process that keeps participants from latching onto a single desired “solution” too early. Recognizing that interests are inherently subjective, they are not subject to critique, even if another participant believes they are based on errors of fact. As the process continues, the participants will have opportunities to learn about the interests of others in relation to the concrete problem being addressed and all participants will work together to weigh and balance the sometimes competing interests and to determine whether any may be adapted or eliminated as their shared understanding of the problem develops.

The third step is to search for alternate solutions and their consequences. This step emphasizes creativity, or Follett’s “invention,” as it assumes that if obvious solutions existed then the need to negotiate would be obviated. Activities such as brainstorming are typically employed in this stage to generate alternatives. Then, only after the brainstorming period has ended, the alternatives are examined thoroughly for their
anticipated consequences. They are not yet evaluated as desirable or otherwise; the anticipated outcomes are merely projected. This step requires parties to evaluate the alternatives presented against their interests to determine if any of the solutions – individually or in some combination – satisfy their interests. Each party may not arrive at their interest maximizing solution, and instead only reach their interest satisficing solution. If there is room to improve one party’s outcomes by modifying the possible solution being considered without hurting the other parties' outcomes (i.e., if the possible solution being considered is not Pareto-optimal), such changes may be made. If parties do not agree upon an acceptable solution, return to steps one and/or two may be necessary to find the integrative solution.

This step also encompasses evaluating the alternatives against agreed upon objective standards to determine the appropriateness of the alternative. An objective standard is a standard that exists outside the control of the participants, applies to all of the participants, and is practical. One example of an objective standard might be an appraisal when trying to make a real estate deal. Another might be reference to free speech jurisprudence when trying to design a civility policy for citizen speech at city council meetings.

The fourth and final step is to reach consensus on a decision, solution, or course of action. For some negotiations, no agreement will result, or agreement will be reached on only a limited basis. Another feature implied in the original model is that agreement must be reached or no agreement can be made. One modern enhancement to the process requires consensus decision-making, which can be defined as a process seeking the lack of major objections to an agreement (Yarn 1999, 122). Major objections provide parties to the potential agreement with a veto over its final adoption. Entering into an interest-based negotiation with the understanding that it is a consensus-based decision-making process also reduces risk and increases trust by lowering the stakes of sharing

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information and of communicating. Voting, an expression of power by more numerous factions, is eschewed.

3. Productive Circularity

Although the process outlined above appears to proceed in a set of tidy steps, from pre-negotiation through four stages of negotiation itself, as implemented it proceeds through a more complicated and discursive dance among the parties. It is not at all uncommon, in latter stages of the decisional process, for the group to realize that it must return to and repeat an earlier step. As discussion continues the parties may realize that they now see facts as relevant they did not gather in their pre-negotiation process and that they should charge a subgroup of participants to investigate the newly important information and report back or jointly engage an outside expert to attend and answer questions. As participants begin to discuss potential solutions, they may react in ways that suggest the presence of an interest that did not arise in the prior inventory, and the conversation may turn away from the solutions to a deeper exploration of the interest that is being discovered, so that it may be considered once the group returns to examining options to address all relevant interests. The need to return to a prior step may be noted by a facilitator, but is just as often identified by one of the participants, drawing on the joint training regarding IBN process and terminology. Participants may need time to “loop out” or engage in intra-organizational bargaining, speaking with others who share their interests, including any formal constituency that they may have (if they are the selected representatives of a group such as a union), and then to bring information gleaned from those communications back to the table. Even once a decision has been reached, it may be adopted provisionally and subjected to a continuous improvement process, sometimes captured by the mantra Plan-Do-Act-Check, under which a change is planned, tested, implemented, and then revisited in case it is not
working as planned or can be improved, so that further cycles of decision-making can be had (American Society for Quality 2004).

This practice of working the process in a manner that is more circular than linear calls back to Follett’s concept of circular response, the sense in which our interactions with each other lead to influencing both each other’s actions and our relationship to each other (Follett 1926d, 104-07). As we work through the process in a series of spirals, returning to the applicable step in an ever tightening circle leading toward a point of consensus, our actions are shaped by the recognition that as we work on the issue, we are developing our understanding of the issue, our own interests regarding that issue, and how our interests relate to those of other participants, in ways that transform our understanding of the conflict, our relationship to it, and the possible solutions that would address it.
SECTION THREE

Integrative Politics

In the preceding section, I examined IBN in the labor-management context as a specific implementation of the integrative model of problem-solving developed by Mary Parker Follett and honed by subsequent negotiation practitioners. As the examples of Madison College, the Maricopa Community College District, and the Kaiser-Permanente health care system demonstrated, IBN in practice is capable of bringing large and disparate groups of stakeholders together to reach mutually acceptable solutions to shared policy problems. It does so by deploying a systematic, discursive approach to the problem at hand, beginning with a thorough exploration of the parties’ interests and building toward solutions that address all interests, seizing on opportunities to transform both the dispute and the parties’ relationship through that process of joint exploration.

Returning to the political sphere, in this final section I consider the implications of IBN’s success for the challenges of democracy and democratic deliberation. Comparing IBN’s integrative methodology with that posited by the deliberativists in the abstract, I explain how integrative methods grapple with the problems of capacity, epistemology, power, and feasibility arising from deliberation in practice. Drawing on those insights, I articulate several potential lessons for the implementation and theory of deliberative and participatory models of democratic decision-making. Finally, I touch on areas of potential future exploration, beyond the scope of this work, that are suggested by my analysis.
Chapter Seven

Avoiding the Pitfalls of a Transactional Model

As the foregoing summary reflects, the discursive model of integrative problem-solving is very different than the ideal discourse described by many theorists of deliberative democracy. This is particularly true of deliberativists coming from the Rawlsian tradition, where the emphasis on the giving of public reasons generates a process in which participants exchange justifications, grounded in generalizable principles, to support their preferred policy positions (Thompson 2008, 513-14). Even deliberativists grounded in Habermasian discourse theory, who acknowledge and welcome the transformative power of talk, often do not specify exactly how talk can be productively deployed to transformative effect.

Contemporary IBN methods based on Follett’s theories, in contrast, prescribe a methodology by which participants from a broad variety of backgrounds and perspectives can come together in a dialogue that transforms both the disputants and the dispute. These specific strategies, I contend, meaningfully address many of the critiques and concerns that plague the more transactional or less specified discursive methods propounded by deliberativists. Returning to the taxonomy of those critiques laid out in my introductory chapters – capacity, epistemology, power, and feasibility – I will examine how integrative models address these challenges to deliberative success.

Capacity

In one sense, integrative problem-solving provides no comfort to those who are concerned about the capacity of the general public to engage in deliberative discourse. That is the sense in which capacity concerns are based on the time and resources that deliberation consumes and the practical ability of average persons to expend their limited resources on that participation. Integrative problem-solving is time consuming, so much so that a repeated motto is “we need to go slow to go fast” (Sibbet 2008, 37).
The emphasis on taking the necessary time to prepare and then to work the problem is essential to the functioning of the integrative method, because the time-consuming steps of training, preparing, and working through interests and possibilities, often in a series of meetings over a period of weeks or months, are necessary to identify the prospect of integrative solutions. But in this regard, interest-based methods are not materially worse than other deliberative methods of democratic decision-making. Moreover, to the extent that integrative decision-making can deliver both high levels of participant satisfaction and substantively useful outcomes, it may be more likely to garner resource support than deliberative models that cannot show such results. Finally, when compared to non-deliberative methods of decision-making, it is not clear that the costs imposed by an interest-based approach are excessive. Non-deliberative approaches may be quick (although they often are not), but they will rarely succeed in meeting all or most relevant interests, and their unsatisfactory solutions will be revisited repeatedly as power dynamics shift. Moreover, to the extent that interest-based models provide beneficial secondary effects as discussed below, those effects may justify the commitment of additional time and resources.

In a deeper sense, integrative problem-solving’s emphasis on interests rather than positions upends traditional concerns about the comparative capacity of participants to engage effectively in democratic discourse, particularly concerns about inequality of capacity. In a more transactional model of discourse, the capacity to deliberate requires substantive knowledge of the intricacies of policy positions, coupled with the ability to assess, articulate, and defend those positions. In an integrative model, the capacity that participants bring to the table is their innate understanding of their own interests in the problem under discussion. Knowing one’s own interests does not require any special educational background, and the group (with the guidance of the facilitator) will work together to examine and explore all participants’ interests before
proceeding to develop solutions (and again if needed as the discussion proceeds). Because the process focuses on interests and options, rather than positions, people with relevant experience who will be personally affected by the decision become key sources of information and insight. In a way, this is similar to the testimony approach that Sanders posits as an alternative that addresses concerns regarding power, although, unlike Sanders, it uses this more testimonial approach in the pursuit of potential consensus and not just improved participation for its own sake (Sanders 1997, 370-73).

IBN also incorporates joint training, from the outset, to ensure that all participants have the necessary understanding of the process, increasing the likelihood that all participants will share a common, adequate level of training that builds capacity in the relevant sense. The IBN methodology proceeds by a series of relatively straightforward steps that can be clearly explained to persons from a broad range of backgrounds, and shared training empowers all participants to call the group’s attention back to the agreed-upon process and any ground rules, providing a mechanism for even less-experienced participants to keep the process in check and open to all. IBN’s thorough attendance to issues of group dynamics (Sanders 1997, 367) reflects a concern that process must be managed in order to be inclusive.

Integrative methods rely more heavily on inter-subjective validity – whether the potential solutions will meet the interests of the participants as the participants understand them – thereby emphasizing the relevance of the experiences and knowledge of participants and deemphasizing the need for outside experts. As the process proceeds, if knowledge of extrinsic facts is needed, IBN methodology counsels that the parties work together to identify the information that is needed and then to seek that information, or to agree upon an expert, and to bring the information or expertise back to be considered and incorporated. This joint inquiry process reduces the neutrality concerns that plague
models where “experts” are brought in to provide background information, identify issues, or even prescribe policy options that are used to shape the discussion.

**Epistemology**

With regard to the ability of even well-trained participants to develop deliberative capacity, IBN’s insistence that the parties build up from an understanding of underlying interests to possible solutions, rather than beginning by arguing competing positions, again does significant and important work. For the apathetic hobbits (to use Brennan’s terminology), framing the discussion in terms of their personal interests may do more to inspire direct involvement than discussions over abstractions that may seem irrelevant to their lives. A focus on how those interests could actually be met also serves as a pleasant contrast to the apparently ceaseless and unproductive combat that seems to characterize so much of our current political discourse and may be one of the factors discouraging more active participation in political life.

For the hooligans, swept up in waves of team spirit and the undertow of cognitive biases, the shift from positions to interests moves the conversation into new territory in which their views may be less congealed, such that new information may be considered and the conflict transformed. Politically active partisans likely know the slogans of the team with which they identify, generally in abstract forms (in Follett’s terms, “symbols”) such as “the right to bear arms is fundamental,” “we must take action to protect the planet,” or “repeal Obamacare now.” By asking participants to identify their interests in the issue under consideration, the conversation turns to more concrete and personal matters on which there are fewer political slogans in play, leading to better prospects for independent thought.

Delving below the level of positions to explore interests also offers the prospect of discovering a greater variety of perspectives among members of the same team. Among those who subscribe to the abstract view that the right to bear arms is fundamental, we
may find lifelong hunters and hobbyists, persons anxious to protect their personal safety, and others concerned with resisting government oppression. The planet protectors may express preferences regarding spending time in nature, concerns about health issues associated with air or water quality, or economic concerns about how changes in climate will affect farming or tourism. The Obamacare foes may be concerned that they cannot afford mandatory insurance, believe that their personal circumstances do not require health insurance, worry that increased government regulation will reduce their health care choices, or think that a governmental single-payer system would be more effective in ensuring access to care. The variety of underlying interests in play offers opportunities for members of the same “team” to begin to understand that they are not necessarily always aligned, while also providing potential areas where participants may discover that there are interests that are either shared or not inconsistent between those who came to the process prepared to disagree.

I have watched these discoveries take place in real time, and they are remarkable to witness. Once the participants start to see past the positional mode of thinking with which they usually enter, it is as though they cannot speak quickly enough to express all the new ideas and possibilities that are unlocked in their minds. Their behavior towards each other changes also. Not only do they start to communicate in language that emphasizes areas of commonality, but their body language begins to reflect increasing feelings of connection. Like the group tasked by Kaiser with examining possible options for the optical lab (Kochan et al. 2009, 59), they go from sitting in segregated groups to mixed seating, without any intervention on my part as facilitator. It is as though the shift from the old language of positions on which they hold views they find hard to consider or change to the new language of interest frees them from the cognitive biases and blocks associated with their well-established patterns of thinking.
Power

The primacy of interest in an integrative problem-solving model levels the playing field among participants in a way that also ameliorates the concern that deliberative democracy is likely to exclude participation by individuals with less formal education, less language facility, or less comfort speaking in a public setting. Because the model requires respectful consideration, without passing judgment, of all interests put forth by participants, it is a much easier model to accommodate participation by a broad range of individuals than the more rigidly stylized, academic debate to which some other deliberative methods aspire. Emotional considerations and narrative contributions are expected, as these are natural modes in which to communicate about one’s own personal interests in an issue. IBN anticipates that emotions will play a key role in negotiations (Fisher and Shapiro 2005; Fisher, Ury, and Patton 2011). Rather than trying to make the process as emotionless as possible, IBN attempts to manage emotions so that they can be harnessed to do good where possible and released with minimal harm to the process where they cannot.

This tendency to embrace all aspects of the human experience as relevant and acceptable in conflict resolution is reflected in the examples of which Follett was fond, many of which were recounted in the preceding description of her views. Follett saw conflict as an essential feature of collective life, no less important to resolve in the intimacy of the home or the familiarity of the office than in the grandest edifices of government. She was prone to explaining her views in terms accessible to broad audiences, not shying away from an example because it seemed too mundane or domestic. Simply put, integrative models are much more accommodating of humanness, both providing opportunities for the expression of participants’ interests in all of their messy and emotional reality and drawing on their lived experiences and intrinsic capabilities to empower their participation.
Facilitation and training also play key roles in managing power dynamics in an integrative model. The pre-negotiation steps of joint training and creation and agreement to ground rules provide opportunities to obtain participants’ commitments to norms that include supporting participation by all members. Both the facilitator and the participants can then call back as needed to those initial commitments to keep the process on track, including to manage assertions of power that could derail the collaborative nature of the process. Capable facilitators can intervene to draw out voices that are being unheard or to investigate and surface conflicts and discomforts that may be visible through non-verbal cues. When a participant struggles to make a point understood, facilitators can use active listening techniques to help the participants express themselves. Probing, supportive questions can clarify without overriding the participant’s own meaning.

Integrative problem-solving can also serve to lessen the impact of extrinsic power dynamics on the substantive outcomes of the decision-making process. All negotiated decisions take place “in the shadow” of the alternatives to a negotiated agreement, in the sense that parties necessarily evaluate the possible negotiated outcome in comparison to what they might be able to obtain through another mode such as government action (through the legislative, executive, or judicial branch), exertion of economic power, or even the use of physical force (Mnookin and Kornhauser 1979). In negotiation theory, we talk about BATNA (the best alternative to a negotiated agreement) or WATNA (the worst) as a means of helping participants to frame and evaluate the options presented to them (Fisher, Ury, and Patton 2011).

Integrative problem-solving does not ignore the reality that the stakeholders with interests in the problem may have unequal power and options outside of the negotiation, but nonetheless seeks to help the parties realize that even those with greater power may benefit from adopting the “power-with” approach advocated by Follett. Even a party who
has significant ability to exercise “power-over” outside of the negotiated context may have reasons to refrain from doing so. Exercising power is costly. Power can be spent in the sense that it is effectively used up and not available for future needs, and expending power often requires the expenditure of material resources, as in the case of paying lawyers, lobbyists, or campaigners to influence government action or hiring security to lock out striking workers. It is also possible that power balances will shift in the future, meaning that the now-powerful group has an incentive to conserve relationships and support principles of fair treatment that it might need if its fortunes are later reversed. “Power-with” preserves and deepens relationships, generates more stable solutions (because they serve more interests), and opens up creative possibilities that can lead to the creation of options that do more to meet the powerful parties’ interests than the position they had thought to force outside of negotiations. IBN also avoids some of the power-related concerns articulated by Sanders because, unlike the deliberative models to which she was reacting, it does not treat certain perspectives or issues as off-limits or outside acceptable norms (Sanders 1997, 352-53). And by focusing on consensus regarding solutions that meet all articulated interests, it seeks to avoid the potential of oppressive compromise that replicates or magnifies structural inequalities (Follett 1926a, 31-36; Sanders 1997, 362).

In the integrative model, training expressly addresses and educates participants on this view of power, to help them begin understanding the potential downsides of choosing force over consensus and to open their minds to the possibility of other modes of interacting. As the negotiation begins in earnest, the facilitator works with the parties to tease out interests and begin to brainstorm possibilities, helping the parties to jointly investigate whether an integrative solution is available. And even when a perfectly integrative solution is not available, the parties are often able to craft an agreement that meets many of their interests – which is often a better solution for both the powerful and
the comparatively powerless than they would have realized through a more combative, win-lose (or lose-lose) process such as an election, lawsuit, or strike. They are also likely to leave the process with a strengthened working relationship that will serve them well in the future as new issues arise and power dynamics shift.

Last, proponents of integrative models, because they seek to transform the participants’ understanding of themselves and their conflict, must be attentive to the issues of representativeness that have been raised as a concern regarding deliberative democracy. This concern is addressed in two ways. First, participants in the process are selected with the goal of ensuring representation of the various stakeholders who are likely to have an interest in the issue under study, and those participants are asked to think broadly and deeply about the interests at stake in an effort to avoid omissions (Susskind and Ozawa 2012). Second, the process is staged such that there are opportunities for the participants in the room to gather information from absent individuals to inform the process, whether in the form of inquiring about interests or looping out to provide updates and discuss potential agreements. Other members of the relevant community may be invited to participate as observers, from which they may develop a greater understanding of both the process and the solutions it has developed, a strategy used by Kaiser in its most recent rounds of contract negotiations to counter concerns about representation of rank-and-file members (Eaton and Kochan 2014, 305-06). Continuous improvement processes can be built into agreements to provide a mechanism to check that the agreement reached in the room will be workable in the larger community, another mechanism to ensure that the deliberative process does not stray too far from representing the needs of the community for which it was developed and to encourage adoption of the experimental mindset Follett prescribes.
Feasibility

With regard to the concern that deliberative democracy cannot solve certain problems, because the divisions among disputants are too deep and some of their views are deemed unacceptable by the model itself, integrative decision-making again approaches the challenge by redefining the relevant field of conflict management. Rather than beginning by fighting out who has the better reasons to support their positions, the process begins by compiling a comprehensive inventory of all interests at stake, without disqualifying any interest on the grounds that it is insufficiently rational or because it is based in either a doctrinal or factual view that not all participants could share. Interests are then examined and unpacked, looking beyond the initial framing of the interest to the underlying “why” – an exercise that often finds straightforward, generally relatable interests lurking underneath broader statements that might have appeared idiosyncratic or doctrinal.

Even when the underlying interest truly is a unique one that not all participants could accept, the process of generating options nonetheless can often find a way to accommodate that interest without doing any harm to the more generally understood and common interests. An example I regularly use in training to illustrate how this works begins in an office, where there is a conflict regarding the kinds of lights to be used. One participant complains that they do not like the lights being used because those lights give that person migraines. That person’s interest, they disclose, is to avoid migraines. Another participant says that their interest is to keep the monsters away. Why is that an interest related to the lights? There are monsters in the desk drawers, the participant replies, and these particular lights keep the monsters in the drawers. Finding a resolution to this conflict does not require us to investigate whether monsters exist, or live in the drawers, or would do harm if they escaped. Instead, we might simply agree to lock the drawers and change the lightbulbs, or any one of a variety of solutions that
assuage the monster-fearing participant while alleviating the migraines. Because we are searching creatively for solutions that meet interests, we do not need to criticize or challenge the interests of others – we can simply try to work with them. Moreover, we will spend enough time examining interests and considering possible solutions that the parties often develop a new or different understanding of their own interests, such that an interest that seemed like an obstacle when first raised will have become more understandable or understood differently, such that it can be more easily reconciled with the other interests in play (Bazerman and Hoffman 2003, 267-68). Even if only a partial solution can be reached, improved relationships among the parties may render them better able to resolve the remaining issues in other ways (such as through the assertion of power or rights) without destroying their ability to live collectively.

As to the other aspect of feasibility, the lack of political will to change existing political structures that benefit incumbents, the integrative model’s secret weapon is its track record of success. Particularly in a time of conflict and impasse, success is valuable and addictive. Kaiser’s early implementation of IBN provides a good example – while the agreement to try this new method was tentatively reached, it only truly began to take hold when it had such shockingly good results: in saving an optical lab destined for closure and opening a new hospital in a fraction of the expected time (Kochan et al. 2009, 59). Similarly successful experiments in integrative politics could have a similar trickle-up effect, building a network of support for deliberative approaches to problems that appear otherwise intractable.
Chapter Eight

Lessons of Integration for Political Decision-Making

Beyond the ways in which integrative models address the critiques levied against traditional models of deliberative democracy, integration theory and practice have other implications for the problem of increasing productive deliberation in democracy.

Deliberative Democracy Should Aim Higher

Some deliberative democratic theorists have oddly low expectations. Thompson, for example, devotes a significant portion of his work to describing the intrinsic value of deliberation as a mutually respectful mode of making decisions, which he believes should reassure those who disagree with the outcome that at least the disadvantageous decision was adopted by a legitimate means (Thompson 2008, 502). Gutmann and Thompson devote an entire volume to the value of seeking compromise, rejecting at the outset the prospect that difficult collective problems can be solved without everyone giving up something important (Gutmann and Thompson 2012, 16). Sanders, based on her concerns that compromises will be oppressive in ways that reinforce existing structural inequalities, advocates improving democratic participation through testimony for its own sake, without attempting a collective resolution of the problems raised by that testimony (Sanders 1997, 370-73).

With that sales pitch, why would anyone want to participate in a deliberative process? If you are going to lose anyway, why not lose quickly at the ballot box or not bother to vote at all? Why give up your evenings and weekends to have people explain to you, ever so respectfully, why they do not and will never agree with you? What comfort is it that you lost your home or job or medical care through a theoretically legitimate process? While testimony can be informative and cathartic, would someone giving testimony perhaps also want some effort to be made to address the problems explored in that testimony? And if you believe you have power, why would you bother to
compromise and get less than you could demand through a method of decision-making in which you can control the outcome?

Integration offers the prospect of more. Focusing on the panoply of interests at stake in a problem unlocks artificially binary positions and reveals an array of options available to meet the relevant interests. When we push past positional thinking and its rigidity to explore the interests underlying those positions, we can engage with what is really at stake, opening the dialogue to testimony in all its forms and permitting participants to be transformed sufficiently to be open to new solutions. Pushing past positions also enables participants to engage in mutual exploration of options, without prejudgment of what is “right,” “wrong,” or even “possible/impossible,” thereby opening up the possibilities of true consensus, as opposed to compromise. Sometimes that exploration will result in a truly integrative solution in which all interests can be met without material sacrifice. When that happens, it is generally because interests have been unpacked to their most fundamental level, where they can be recombined to include both areas in which interests align (we both want to work in the library) and areas in which interests differ and can both be accommodated (we want fresh air and no breezes). When it does not, knowing what interests are at stake still permits the parties to craft a solution that at least meets as many of the interests as can be accommodated simultaneously. Given that we know these outcomes are possible, we should strive to achieve them and hold out these possibilities as motivation to encourage involvement and experimentation with deliberative democracy.

**Deliberative Democracy Should Also Aim Lower**

Conversely, the track record of integrative problem-solving counsels that, in advocating deliberative democracy, we need not overreach in order to contribute. Integrative methods are more successful in certain settings. Concrete problems are well-suited to integration, because the stakeholders can be identified and assembled, the
interests inventoried with reasonable accuracy, and potential solutions can be judged against the nature of the problem and the interests to be met. To the extent our collective life requires the resolution of more abstract principles or up or down votes on choices that are truly binary, integrative models would not be as helpful. However, as described in the following example, even an integrative approach that fails (in the sense of not resulting in conclusive legislation resolving all open policy issues) may nonetheless succeed by providing concrete and meaningful results.

Integration encourages us to consider how much our collective life truly requires the conclusive resolution of these types of questions. Are we better served as a polity by reaching a final agreement on moral abstractions or by finding ways to live together in mutual respect and harmony despite our lack of agreement? In her study *Civic Fusion*, experienced public policy mediator Susan Podziba provides a compelling example of how facilitated discussion can be used by adherents of fundamentally opposing and fixed views to find a way to live together and deescalate violence, even on an issue as contentious as abortion (Podziba 2012, 75-96). Podziba was one of a team of two mediators who worked with a group of pro-life and pro-choice activists for a period of over six years in the wake of the Brookline, Massachusetts clinic shootings. These talks began in secret and under threat, with participants recounting death threats made against anyone who would dare “meet with the devil.”

The talks themselves were intense. Unsurprisingly, they did not lead to either side changing its views on the issue of abortion itself or agreeing to policies regarding whether and when it should be permitted. But the shared experience of exploring their disagreement in depth built relationships of mutual respect and care that enabled the participants to take concrete steps to achieve peaceful coexistence without sacrificing their principles:
The talks among the leaders of the pro-life and pro-choice movements in Massachusetts contributed to a shift in the public rhetoric and increased security. As a result of their talks, each leader took actions that contributed to that shift. [A pro-life leader] dissuaded a supporter of justifiable homicide from coming to Massachusetts to attend the [Brookline clinic shooter’s] trial. [A pro-choice leader] alluded to support and concern on the pro-life side at the first memorial of the shootings. The leaders toned down letters and op-eds submitted by their movements. The pro-life participants warned [one of the pro-choice leaders] and contacted the FBI about a credible physical threat to her.

The talks were a life-changing experience for each of these six women, who, over time, came to love and care for each other. They used to joke about how in another world they would be friends. They discovered many unique similarities. They were passionate activists, they were public leaders who managed organizations of passionate activists, they cared a great deal about women and women’s health, and they agreed that fewer unwanted pregnancies were better for society.

There was a painful recognition of the great gap between the pro-life and pro-choice participants. Yet, it was this gap, the pain it caused, and a shared struggle to understand that energized their bonds of civic fusion. Ultimately, the mutual affection that grew among the pro-life and pro-choice leaders enabled them to transcend their differences to connect across their common humanity. These bonds moved them to take actions that reduced the violent rhetoric of the abortion debate in Massachusetts.

Among the actions the group elected to take was a lengthy joint statement setting out each side’s worldview, describing the talks, and communicating the lessons they learned. Although the talks had initially been conducted in secrecy, the participants came to believe that communicating about what they had done and what they had learned would help the community to move forward and heal from the past violence, laying a groundwork for both coexistence and the potential for resolution of policy questions in the future. In their own words, from that article as published, the experience was both personally and relationally transformative:
These conversations revealed a deep divide. We saw that our differences on abortion reflect two worldviews that are irreconcilable. If this is true, then why do we continue to meet? First, because when we face our opponent, we see her dignity and goodness. Embracing this apparent contradiction stretches us spiritually. We’ve experienced something radical and life-altering that we describe in nonpolitical terms: “the mystery of love,” “holy ground,” or simply “mysterious.” We continue because we are stretched intellectually, as well. This has been a rare opportunity to engage in sustained, candid conversations about serious moral disagreements. It has made our thinking sharper and our language more precise.

We hope this account of our experience will encourage people everywhere to consider engaging in dialogues about abortion and other protracted disputes. In this world of polarizing conflicts, we have glimpsed a new possibility: a way in which people can disagree frankly and passionately, become clearer in heart and mind about their activism, and, at the same time, contribute to a more civil and compassionate society.

Deliberative democrats would do well to remember that, just because deliberation cannot “solve” every issue, does not mean that it lacks value. Overcoming bias and distrust, in and of itself, can have positive effects on our ability to interact in more traditional political forums like legislatures (Foster, Mansbridge, and Martin 2013; Warren and Mansbridge 2013).

Moreover, to the extent that some issues remain for resolution in other forums, the integrative process can better situate the parties to seek resolution in those forums. Using the abortion talks as an example, participants reported having engaged directly on policy issues and identifying areas of agreement around policies concerning adoption, teen pregnancy, sex education, and welfare benefits for single mothers (Podziba 2012, 86-87). Given that their priority was to calm the violence and rhetoric endangering their community, they decided not to focus on these policy issues during their talks, but their exploration of the issues identified potential areas for legislative agreements in the
future. They also spent time discussing substantive policies on which they did not agree to increase their understanding of the ways in which their positions differed. To the extent integrative models provide this kind of increased understanding of interests in play (both our own and others’), they likely increase the ability of participants to reach the types of compromises or bargained agreements that may be the best solutions available, even if they must do so through a subsequent, non-integrative process. Where integration can help us to do so, it is worth the effort.

**We Need Not and Cannot Avoid Difficult Conversations**

As reflected in the description of the multi-year abortion talks, participants in the integrative model can engage in a direct and sustained matter with deep-seated beliefs and difficult emotions, standing in marked contrast to deliberative models that equate the giving of mutually acceptable reasons with respectful dialogue. The overlapping consensus model, in particular, seeks stability by asking participants to avoid talking about the parts of their views that they know others do not share, and focusing instead on offering reasons that might be more mutually agreeable (even if insincere) (Rawls 1997, 116). A similar theme runs through Madison’s discussion of diminishing the effect of factions in *Federalist 10*: the more violent passions of each faction are to be calmed by hiding them from the decisional process, first by dissolving their influence in larger republics and then by filtering them through chosen representatives who whose higher wisdom and patriotism will override more partisan impulses (Madison, Hamilton, and Jay 1788, 40-46). It is as though this approach fears that, if we do not repress our differences, they will overwhelm and destabilize us. Based on current events, there is real reason to fear this prospect, as conflict escalates and we appear intent on ripping ourselves apart. As is true in so many other areas of life, repression does not appear to be working very well.
Follett encourages us to set aside our fear and welcome conflict instead. Since conflict is an inevitable manifestation of the differences between people that will be with us always, we should consider whether it can be brought to bear for our collective good, much as friction can be used as a form of productive physical energy (Follett 1926a, 30-31). Young makes a similar point, encouraging deliberative models that emphasize the understanding of difference, which in turn permits us to assess the resources available to us collectively (Young 1996, 126).

Only once we truly understand the conflict we face (by understanding the different interests that underlie it) can we begin doing the hard work of investigating whether and how those interests can be mutually addressed. And given that Follett was engaged in this analysis in the wake of the Great War’s shocking devastation, she understood that the stakes of failing to resolve our differences were very high. A particularly chilling passage makes her thinking in that regard clear:

> We have thought of peace as passive and war as the active way of living. The opposite is true. War is not the most strenuous life. It is a kind of rest cure compared to the task of reconciling our differences. From war to peace is . . . from the futile to the effective, from the strategic to the active, from the destructive to the creative way of life . . . .

> The world will be regenerated by the people who rise above these passive ways and heroically seek, by whatever hardship, by whatever toil, the methods by which people can agree (Follett 1918, 357-58).

But in Follett’s view, this hard work is essential, because only a peace that truly addresses the interests generating the conflict can be meaningful and sustainable. As we consider the adoption of deliberative models, we should ask whether they are committed to rise above passive avoidance to do the deep work of finding true common ground.

**We Cannot Do It Alone**

Given the difficulty of this work, it is unsurprising that integrative models incorporate ongoing support for the participants in the form of training and facilitation.
These are essential to the success of the model. As anyone who has attended a “town hall” meeting that has turned into a raucous protest can understand, an unstructured process can quickly go off the rails (Foran 2017; Taylor 2017). And yet, deliberative democrats can be remarkably unspecific in how they anticipate that the mechanics of a deliberative process will unfold, beyond perhaps the initial framing of a structure and some ground rules to be announced by the person who is nominally “in charge” of the proceedings. Deliberation would benefit from two insights of integrative problem-solving in how to make such a process work, even in the face of passionate disagreement.

First, training is essential to obtaining meaningful commitment to the structure and rules of the deliberative process. Training goes beyond simply announcing the rules that will be followed to actually explaining why the process is designed the way it is and what the participants stand to gain by working the process as designed. Understanding why a rule exists not only incentivizes compliance, but it also begins to communicate values of inclusion and respect from the very outset of the proceedings. Participants are not merely players in a script they did not write and may not understand; it is essential to the process that they can fully participate and that they are being trained so that all of them can effectively do so. The process commitments obtained at the end of the training process are thus informed ones, empowering the participants to regulate their own behavior and assisting both the facilitator and other participants in enforcing the ground rules by referencing their shared understanding of the process and the ground rules they created and to which they agreed.

Second, and perhaps most important, integrative models do not depend on the participants being able both to participate in and to administer the decisional process. Skilled facilitation enables the participants to fully engage in the challenging work of exploring the interests that motivate their own positions and fully attending to and addressing the interests of others. As the participants move from their inventory of
interests to the discovery and creation of solutions, the facilitator helps the parties to set aside pre-existing positional thinking and open themselves to new and innovative options. Last, as the participants begin circling in on possible agreements by evaluating and selecting among the options they have generated, the facilitator assists with clarifying the agreement under consideration and encouraging the parties to persist and overcome impasses. At each stage, the facilitator uses a variety of strategies, including serving as the process expert (and giving reminders when necessary); modeling expected behavior (both in action and in express explanations and on-the-spot training); increasing mutual understanding through supportive questioning; offering synthesizing comments where a conversation has been broad ranging; helping people reluctant to talk to find their voices; working separately with individuals or sub-groups locked in unproductive conflict; and defusing tensions through process reminders, strategic breaks, and affirmations of the appropriate role of both positive and negative emotions.

A description provided by a management official who participated in early IBN efforts at Kaiser provides several examples of how facilitation works and how it is experienced by participants in the process:

To do this process, you need a knowledgeable facilitator who knows when to challenge, when to allow people to go off process, when to keep them on process. It is not easy, and it takes constant skills of facilitation, reminding people that “that was a position,” or “that was an interest,” or “are we coming up with solutions that are meeting everyone’s interests?” And if someone didn’t like a particular solution, are they taking responsibility for finding another solution? Individuals who serve as facilitators need to be thoroughly knowledgeable about the interest-based process in order to be able to do all of this.


Facilitation is materially different from the moderation common in many facilitative models. The National Issues Forum (NIF) provides one such example. I was recently asked to moderate an NIF-based session at a national conference on civic
engagement in colleges and universities. After years of experience empowering participants to define and resolve their own conflicts in an integrative context, the differences were startling. All of the work that we would do in an integrative process had already been done for us. A starter video presented a prepackaged set of facts regarding the issue we were to consider, and experts had prescribed a menu of solutions, without providing their underlying reasoning or any opportunity for us to discuss or question them. The ground rules were similarly pre-baked and not subject to discussion, and time limits were strictly prescribed. There was no joint training of participants. The moderator’s role had effectively been limited to pressing play on the video, handing out the papers, keeping time, some minor prodding of participants, and taking notes (though, in this particular instance, due to unique circumstances, that part of the role was eliminated). The participants’ role, in turn, was focused on trying to find reasons to support one of the menu of available policy solutions, none of which they seemed to find particularly desirable. And even though the people attending the conference are all professionally engaged in and committed to improving democratic discourse, some were clearly frustrated and dissatisfied with the experience (in the nicest possible way). The process bore a close similarity to a market research focus group – let’s find out what people are thinking so we can make changes to capture their approval. Facilitation, as opposed to mere moderation, permits a more active and robust process and frees the participants to delve more deeply into the problem at hand, with resulting solutions that are correspondingly better at addressing the interests and needs at stake.
Chapter Nine

Joint Inquiry in Pursuit of Deliberative Models

Assuming that I have made a convincing case for the advantages integrative approaches could have for deliberation in the democratic political context, how would we begin? In this concluding chapter, I touch briefly on some of the areas of future development and study suggested by my analysis. In the spirit of the joint inquiry process used by participants in an integrative process, I intend here to sketch topics on which those of us who wish to improve democratic decision-making and deliberation might explore in furthering our search for mutually agreeable and workable solutions.

Implementing Integration

Unlike a labor-management setting in which the potential stakeholders are easily identifiable and may already fall into organized groups with elected or appointed leaders, the political sphere is larger and more amorphous. The problems to be resolved in the political context may be harder to identify and define than those addressed by labor-management processes, which often focus on the revision of specific pre-existing contractual or policy procedures. Moreover, as in any shift in political process, existing institutions are likely to be resistant to letting decisions be made by new methods they do not control.

As with IBN’s evolution in the labor-management setting, implementing integrative politics would likely be a matter of seizing opportunities as they arose. These opportunities could come in the form of existing deliberative processes that are experiencing difficulty or open to experimentation; with the election of leaders familiar with IBN in a business setting; or with an institution such as a political subdivision, neighborhood, school, or community organization facing a difficult and divisive problem.

Choosing such a specific issue as the locus of implementation draws on the particular strength of integrative models in addressing matters that have concrete and
imminent effects on the participants. Integration draws its strength from the potential options revealed when interests are fully understood, and participants have the most knowledge of their interests regarding matters that directly affect them. In these contexts, integration is most likely to deliver on its promise of finding better and more lasting solutions, thereby demonstrating its potential to participants who may themselves become proponents of the model in other contexts. I have seen this among the many individuals I have trained over the years, who have gone on from participating in a single instance of IBN to advocate for its use in other institutions and settings with which they are involved.

And if the integrative process is able to identify a mutually agreeable solution, even if the process has not been given the authority to enact that solution in a binding manner, the availability of a pre-packaged solution is likely to be very tempting to those officials who do have the authority to adopt it by legislative or executive action. By accepting the solution proposed by the integrative process, those officials can conserve their own resources for conflict on issues that may not be so easily resolved. A recent example of this phenomenon took place in Arizona, where factions from widely disparate ideological backgrounds came together to develop a plan to overhaul the state’s fiscally challenged public safety pension system (Arizona Capitol Times 2016; Chieppo 2016; Gilroy, Constant, and Randazzo 2016; Robb 2016). Seasoned political commentators expressed shock that a group composed of “public employee unions and libertarian wonks” could “blaze[] new ground on a difficult and emotional topic that is producing paralysis around the country,” describing the complex resulting proposal as “paradigm busting” (Robb 2016). But the participants described how they were able to break through their prior conflicts by focusing on their interests and evaluating potential solutions based on whether they would meet those interests (Constant, Randazzo, and Gilroy 2016). Like the Kaiser management and union leaders who met in secret in the
Dallas airport in 1995, the participants in the public safety pension talks found – to their shock – that exploration of their interests revealed the meaningful common ground on which a solution could be built (Arizona Capitol Times 2016). Although implementation of the solution required both the passage of legislation and an amendment to the state constitution, the availability of a solution agreeable to major interest groups was sufficient to facilitate the necessary legal formalities, with the legislature passing enabling legislation and referring an amendment for popular consideration, and more than 70% of voters approving the constitutional amendment at a special election (Arizona Secretary of State 2016; Chieppo 2016). Satisfaction with the process was sufficiently high that a similar collaborative approach was used the subsequent year to examine and amend a separate and also struggling pension fund for corrections officers (Gilroy, Randazzo, and Constant 2017). Although the deliberative process lacked formal power, it was nonetheless able to have its proposals implemented, demonstrating the power of deliberative processes that run parallel to governmental institutions to achieve measurable results. Moreover, the adoption of the process in a subsequent legislative cycle to tackle a similar problem supports the thesis, advanced above, that integrative models can build support through their ability to deliver workable solutions.

**Evaluating Deliberation**

The specificity of integrative methods may also provide valuable insights for empirical efforts to study deliberative democracy. In this work, I have described the specific methods of integrative problem-solving in detail and explained how and why they work to address the concerns of capacity, epistemology, power, and feasibility that have arisen from other efforts to implement deliberative democracy. Process matters.

This insight suggests that efforts to assess the prospects of deliberative democracy empirically would benefit from particular focus on the impact that the method of deliberation has on the quality and results of the deliberative process. I have
taken the position that skilled facilitation is particularly important to the success of integrative methods, and that is a proposition that could be empirically tested through a research design that specifically isolated and measured the effects of different types of moderation and facilitation. Other areas of potential empirical inquiry into methods could include how to train participants for effective participation, how to investigate and share factual information to support constructive dialogue, what factors increase the likelihood that a solution developed in a deliberative process will be implemented (if more formal implementation is required), and what becomes of integrative solutions in the months and years following their initial development.

The integrative model I have advocated here is also highly dependent on repeated, in-person interactions, generally stretching over a series of sessions that may take months or years. Not every problem can be approached that way; many issues require more rapid resolution or cannot marshal the resource investment that would be required, while others involve people who are not located in the same place and cannot participate in an in-person process. Some problems may be best addressed through hybrid processes, using integrative models combined with or followed by other modes, much as the Kaiser negotiators did when negotiating their contracts subsequent to the adoption of IBN. If integration is to be as useful as it can be to the quality of democratic deliberation, then another productive area of inquiry would be the extent to which its methods can be modified to work in other settings. Can the process be done more quickly while avoiding the trap of positional thinking? Does a fast process still provide the improved relationships and understanding that are a key benefit of even those integrative sessions that do not find a complete solution? How can we solve problems that reach across broader physical ranges, such that interested parties cannot sit in the same room and talk face-to-face? Do new developments in technology-enabled
communication provide meaningful substitutes for in-person work, or do these digital modes of relation fall flat?

**Rethinking Representation**

The centrality of interests to integrative problem-solving also has implications for representation. Throughout the integrative process, the participants are asked to focus on interests – what interests are at stake, what solutions might be possible, and which solutions meet as many interests as possible while doing minimal damage to the interests they do not meet. To some extent, this will always require participants to learn about the interests of persons not in the room. Even a group that seems to be unified around a common interest, such as a union with voluntary membership, will find noteworthy variations among its members in terms of their interests and the intensity and priority they assign to those interests. Moreover, as the representative engages in a transformative process, the constituents do not, so the challenge for the representative increases as the process grows longer. A representative of even a closely aligned group, then, must endeavor to survey the interests of group members and bring those back for consideration in the process, in order for the process to achieve solutions that will meet the needs of the representative’s group. And this process of constituent involvement must proceed on a regular basis so as to convey the changes the interests undergo as the transformative process does its work. Although this aspect of constituent engagement is often challenging, the representative’s ability to perform this function is aided by the fact that the representative her- or himself is likely to have overlapping interests with other members of the group, and members of the group are likely to already understand and believe that they share interests, giving the representative a reservoir of existing trust to draw on when asking group members to reveal strongly held personal preferences and to consider alternative methods of meeting their needs.
It is not clear that a representative elected through more traditional aggregative methods would be able to either engage with constituents to learn their interests and explore solutions or effectively represent the interests of their constituents in an integrative process. The structure of American elected government is strongly tied to geography. The overwhelming majority of representatives are elected from a specific physical area, be it a city council ward, state legislative or congressional district, or state. Even the country’s national leader is elected using a system that filters the popular vote through an electoral college comprised of representatives of states. Leaving aside the extent to which the drawing of the lines of these districts is itself a hotly contested battle for relative power, the reality of modern life is that only a small portion of the matters addressed by government are ones on which people’s interests are likely to be more closely aligned with their physical neighbors than with those of fellow citizens scattered throughout the city, state, or nation. And even issues that appear to have a strong geographical locus may have strong affects outside their narrow area. While I may have an interest in the quality of the neighborhood school my children attend, what and how those children learn (in terms of academic knowledge as well as character and values) will affect people who are not my neighbors. The newly constructed highway that brings pollution and noise to my backyard may be necessary to permit people living in another part of the state or country to have access to healthcare or economic opportunity.

Moreover, even where interests are tied to geography, they are likely not uniform within the constituency making up a geographic district, which is likely to comprise individuals in different socio-economic circumstances; holding a variety of different jobs; living in a range of urban, suburban, and rural settings; and with a variety of racial or ethnic backgrounds, genders and sexual orientations, and religious and political beliefs. That one representative could adequately assess and present all their interests seems unlikely, particularly as the size of the district grows.
While political scientists have recently begun to examine whether the conflict resolution strategies developed by negotiation practitioners could decrease polarization and impasse among elected representatives (Foster, Mansbridge, and Martin 2013; Warren and Mansbridge 2013), this examination has generally assumed that those representatives would continue to be drawn from geographic districts, with the attendant contestation of district lines and single-member, winner-take-all elections that are often won by narrow margins. Making full use of integration’s lessons may require critical engagement with this assumption, and provides additional insights for consideration in the developing literature addressing alternative models of selection that emphasize the alignment of the voters' views (rather than their geographic location) with that of the representative, such as multi-member districts and preferential or ranked-choice voting (Erdman and Susskind 2008, 118-19). The essential role that understanding interests plays in effective problem-solving provides both an additional impetus to study new methods of selecting representatives and a metric for use in evaluating the likely effect of proposed new methods.

Building Civic and Personal Capacity

Finally, but perhaps most important, this study suggests a further area of productive research regarding the effect of integrative problem-solving on our collective life. A recurring theme in my own experiences in integrative bargaining, in training others to do so, and in facilitating the resolution of complex disputes and policy development is that of personal transformation. Both during and after the negotiation process, participants speak with wonder of how what they have learned through the process has changed the way they interact with others outside of the negotiating room. They report productive conversations with otherwise withdrawn or combative teenagers, de-escalation of conflicts with intimate partners, and successful resolution of difficult workplace interactions. I have also seen participants who began tentatively and needed
to be drawn into the discussion go on to hold leadership roles in the workplace and in their associations and to expand their involvement in political and non-profit work.

Among the most deeply concerning objections to democratic participation is that engagement in politics may actually make our lives worse, deepening conflicts and making enemies of neighbors who were previously able to coexist (Brennan 2016, 235-45). If interest-based methods can not only find ways for preexisting enemies to coexist, but can also encourage meaningful participation in other areas of communal life and teach conflict resolution skills that transfer to participants’ private lives, then this possibility seems to merit optimistic and thorough exploration.
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