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# Taking Stock of the Kaiser Permanente Partnership Story

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*The success of the 2000 interest-based contract negotiation at Kaiser Permanente (KP) does not mean that future challenges to this approach to negotiation have evaporated. Among the factors that contributed to the success thus far were: establishing buy-in to what was a new approach for many people; effective coordination in a complex environment; deadline pressure; managing internal negotiations; effective leadership; an investment in training; facilitation; creative brainstorming; and establishing ground rules. In addition to reviewing the KP experience, the authors focus on lessons learned and guidelines for future negotiations as well as the role of interest-based processes in an organization's daily routine.*

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**A**t this point, we believe it is appropriate to examine in greater detail the challenges that participants faced in 2000 when they introduced and engaged in interest-based negotiations (IBN) at Kaiser Permanente (KP) as well as key factors that contributed to the success of these negotiations. More than three years have passed since the successful conclusion of the negotiations and the parties now face the challenge of repeating and building on this success when they return to the table in 2005 as well as implementing the ambitious commitments embodied in the agreement. The final

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section in this essay examines these new challenges and comments on the future of IBN at KP and elsewhere.

## **Challenges Facing the Parties in the 2000 Negotiations**

A series of key challenges had to be faced and resolved by the parties, not only satisfactorily but also expeditiously, in order for the negotiations to be completed on schedule.

### ***Establishing Buy-In***

The introduction of IBN principles into any relationship represents a profound shift in the process of collective bargaining. It changes the dynamics of the process and, especially, relations with the negotiators' constituents and principals. Therefore, a critical step in the preparation phase at KP required involving and educating all those who would participate in the new approach. Care had to be taken to assure that everyone bought into the process understood how it would change his or her roles.

A decisive factor in gaining initial buy-in, especially from union leaders, was the credibility that Peter diCicco brought to the process. He had led the effort to bring together the union coalition at KP and consequently was in a position to guide the crucial prebargaining phase. His balancing act required convincing the presidents of the twenty-six local unions that they would do as well or better in national negotiations than by staying with the *status quo* — however, in urging the change, he could not allow expectations to develop that would be difficult to meet in the upcoming negotiations. In diCicco's words:

Early on, I held several two-day meetings with all of the union presidents — a group that you could call my steering committee. When the discussion turned to the key subject of wage increases, I heard: "a large increase — like 10 percent." Now there was no way that we would be able to settle at that level, so my response was: "Let's get realistic." While they would never tell me what their bottom line was, I knew the nurses were counting on at least 5 percent and the other groups 3–4 percent. While I did not have any assurance at that point from management about wage increases, I was pretty sure come the final push we would all be in the same "ballpark."

The buy-in process also required reaching agreement on a new structure for negotiations and overcoming skepticism on the part of many local union leaders and management representatives that IBN principles could work. For management, the key issue centered on the need to maintain flexibility to pay local labor market rates as well as avoiding a system-wide strike. Constructing a framework for national negotiations without a strike deadline met this concern. However, for union leaders, agreeing to negotiate without such a deadline left the role of the strike threat ambiguous at

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best. For them the key question, therefore, came down to whether the IBN principles would allow them to address their members' critical concerns.

In the literature on negotiations, the concept of "best alternative to a negotiated agreement" (BATNA) is key to understanding the trade-offs facing each side. In the case of the national negotiations between KP and the Coalition of Unions, each side possessed a good BATNA, namely the option to withdraw from the negotiations and return to the established approach of bargaining each agreement individually. When the parties started the negotiations for the national contract in March 2000, only two local agreements had expired and were in the process of being renegotiated. So, for most of the unions as well as for management, a return to the *status quo* was a viable alternative if things did not go well with the experiment.

### ***Achieving Effective Coordination***

Several factors guaranteed that keeping everyone "on the same page" would be a major challenge. Consider the complexity: the 2000 negotiation involved eight national and international unions with twenty-six locals and thirty-three separate contracts spread across five regions and eight states, and more than four hundred facilities, requiring the mobilization of four hundred participants.

The parties met this challenge by ensuring that the Common Issues Committee (CIC) served as the main instrument for achieving coordination. The committee cochairs, Leslie Margolin and Peter diCicco, were augmented by forty key union and management officials. Senior mediators facilitated their interactions, John Stepp from RAI and Barbara Pickett from FMCS. The CIC met regularly and reviewed each evening's reports from the various bargaining task groups (BTGs). The facilitator teams, about twenty in number, also met regularly.

At the informal level, diCicco worked closely with a core union leadership group consisting of presidents of the large locals. He consulted with them regularly, usually over dinner. Behind this group was the union steering committee, consisting of all the presidents of the local unions. They, in turn, had to keep in touch with their own members and other officers; both those at the national negotiations and those "holding the fort" back at the local level.

The dynamic nature of the process and the lack of linearity are captured in the words of one of the facilitators:

I find it hard to convey the energy that was involved in executing this national agreement. The internal negotiations within the union and management caucuses were incredibly dynamic and time consuming. Then the local negotiations — once they started — were eventful and exhausting and at the end delayed agreement at the main table. Reaching agreement on the basic economic package required a nine-day marathon session. And just when we thought we had reached agreement it was necessary to

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resume national negotiations to resolve outstanding issues. What I would call last minute “theatrics” had us breaking out the champagne and shaking hands three separate times.

### ***Working Against a Deadline***

Most negotiations work against a deadline that serves to motivate the parties to seek closure. In the case of these negotiations, the deadline (with its attendant pressures to settle) had to be created, because this was the first national agreement. When the architects of the process met in March, they set September 1 as a target for reaching agreement. While the process eventually went beyond this date by several weeks, this target date motivated the parties and helped with the task of coordinating all of the different elements of the negotiations.

### ***Managing Internal Negotiations***

John Stepp, in his remarks at the MIT-PON conference in 2003, noted that the “most intense and difficult bargaining” took place within constituencies. Stepp noted that internally, some negotiations slipped into position-based bargaining:

Now the interest-based process held up pretty well across the main table but keep in mind that in Kaiser, with the eight national and international unions, twenty plus locals, and on the management side, some eight different Permanente medical groups, plus the hospital and health plan or eight different employers, all separate economic entities, a tremendous amount of intra-party bargaining took place, and in some instances, it did not look a whole lot like interest-based bargaining.

One reality that made achieving consensus on the union side especially difficult stemmed from the fact that the larger, more powerful locals felt they might be pulled down to levels that the smaller locals had accepted as a *fait accompli*. And the smaller locals were concerned that their interests not be lost amid the larger locals’ (sometimes) louder voices.

How the union handled internal negotiations is captured by this observation by Peter diCicco:

What do you communicate to your members? Well quite frankly, what we communicated to them was what were our goals and what were the areas that we were addressing. We didn’t communicate our positions in the process. What we put out was what our interests were . . . I think one of the big issues that we had in negotiations was how attendance was administered in Southern California. We didn’t say specifically what we were going to get in negotiations. What we said was, we’re going to address this topic in the process of negotiations. And that’s what our members wanted to know. They wanted to know: Are you addressing our concerns?

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Similarly, in his closing remarks at the conference, Richard Barnes, deputy director of FMCS, drew attention to the fact that a new communications model is needed to capture the important tasks that union negotiators require in order to keep their constituents informed. Even before educating constituents regarding the principles of IBN, the parties need a “constituency communication model” in place to get messages across and to collect feedback. As Barnes noted:

You better have [had] a communication, constituency communication model in place before you began to teach [your constituents] the theory of interest-based bargaining. Because there are many constituencies out there. Take the unions at Kaiser; you have all the officials, the elected officials of those unions, then you have all the members, and guess what? They're all influenced by their spouses, and their families. There [are] a lot of different constituencies that you must find some model to communicate up and down the chain. You have first-line supervisors, you have middle managers, you have corporate boards of directors, CEOs, and you have a variety of people that you need to communicate [to] what you're doing in negotiations.

In addition to communicating to constituents, achieving internal consensus represented a key challenge in the 2000 negotiations. At the conference, diCicco addressed the importance of the consensus ground rule for managing internal negotiations:

We set out some ground rules in terms of consensus, how do we reach consensus, what is consensus? We agreed that on any topic we needed a consensus among all the unions. So you can imagine that we ended up with a relatively long list. When you do that process, you end up with trading: I'll agree with you on this if you will agree with me on this one. And this is what nobody sees or hears about and the case study can't possibly capture — the kind of work that takes place in between all of those activities. Not only during the sessions itself, but then obviously between sessions as they take place. And it's not just on the union side.

## **Factors Explaining the Successful Outcome**

As we discussed briefly in the previous section, several factors enabled participants to tackle challenges such as establishing buy-in, achieving effective coordination, working against a deadline, and managing internal negotiations. In this section we highlight five of these: effective leadership, training, brainstorming, ground rules, and facilitation.

### ***Effective Leadership and the Importance of Trust***

Two complementary factors contributed to the success of diCicco's and Margolin's leadership. Before engaging in the negotiations at KP, they had successfully led similar but smaller endeavors and, as a result, had earned

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the trust of their own constituents as well as those across the table. Peter diCicco and Leslie Margolin also trusted and respected each other and worked closely together, as both were dedicated to the success of the negotiations. They also enjoyed strong support from staff such as Margaret Peisert and Judith Saunders, as well as strong leaders from management and individual unions. Clearly effective leadership at multiple levels was required.

At the conference, Richard Barnes of the FMCS, remarked on the rarity of such high quality leadership:

There are very few Peter diCiccos and Leslie Margolins and Judi Saunders and Tony Gatelys in the world. I'm going to be very honest with you. There's very few of you folks around. From the standpoint of FMCS when we receive these forty thousand notices annually and the seven thousand cases that we get involved in, we just don't see that kind of leadership very often that's willing to take that risk, to step forward, and to put themselves on the line. Someone asked earlier today, what do we do, what kind of protection can we give to people who step out to lead an interest-based approach — a new collaborative approach with management. And it is dangerous. It's a dangerous environment to be in as an elected union official.

Trust is often mentioned in the bargaining literature as a key element in explaining why some negotiators are able to work productively to reach agreement. Basically, trust emerges between people as they work together; it does not exist between institutions. The commitment of the parties to the concept of partnership, dating back to 1996, and the steady journey of developing a strong working relationship brought the key leaders to the 2000 negotiations ready to take the risks inherent in negotiating their first national agreement.

Margolin's and diCicco's reputations as hard bargainers proved essential to the credibility and trust they enjoyed with their respective constituents. Margolin could adopt a forcing strategy when necessary and it would be received without engendering a negative pushback. For example, toward the end of the process (when impasses often tend to develop in negotiations), Margolin delivered the following message at a meeting of CIC:

The timeline is driven by the need for me to present the final package to the Board on September 13. I need to be able to tell the Board that all local tables have reached agreement, that the union bargaining committees are prepared to recommend ratification to their members, and that ratification is highly likely. If I cannot report this status to the Board, they may decide to redirect funding to other projects.

The working rapport carried over to the extent that Margolin could attend union caucus meetings and provide credible input regarding management's proposals.

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In his remarks, John Stepp gave this element heavy weight in explaining how the process proceeded:

I've been in and around labor relations for well over thirty years and never have I seen leaders play a more effective role than was played in these negotiations. It was truly a beautiful thing to watch.

Of course, substantial risk is involved in staking out new territory. At the conference, Dorine Levasseur, a representative from the Massachusetts Teachers Association, asked the question often posed to union leaders involved in partnerships:

**Levasseur:** What I was really struck by, was just the great risk that you took, Peter. I could only imagine myself, I sort of put myself in that situation and I thought to feel confident enough in your level of credibility was pretty amazing, and to pull that off among eight different unions — it was just mind boggling to think what you had to put out there. I know I would have had sleepless nights over that. So, I admire that and applaud you.

**diCicco:** I have a single philosophy about this. And that is that I conduct myself in a way that I don't retreat from what my function and role is in the process. And that is to advocate the interest of the members that we are out there to represent, and I do that very openly in terms of my counterpart. I can tell you Judi (Saunders), Tony (Gately) [and] everybody in management has no question about what my function and role is, and that is to advocate in their interest. I also have a common — a similar interest in terms of the membership and I don't care where I go within the structure of the unions. So I think in terms of the risk, if I could respond to that part of it, I've never viewed it as a risk and also I've had elected positions all of my life with the exception this particular job. I'm a hired hand, and it's great. Of course at the same time, I'm answerable to the international unions and the day that I am not in tune to that, I'm out. I accept that that's what it is, and we go forward from there. So I never really feel that there is that kind of risk that's involved if you're forthright about what you're doing in all of this.

### ***Training: A Key Investment***

The preparation for the 2000 negotiations started in the early days of the partnership as attested to by Anthony (Tony) Gately, vice president and Regional Medical Group Administrator, the Permanente Medical Group, Northern California:

We started laying the groundwork back in '96 and '97 by getting together. We formed a committee at that time. The group of people who ended up on what we call the CIC, or the Common Issues

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Committee, had worked together, they trained together, they learned about the labor management partnership together. They all went to Saturn and learned together and also we had worked issues together. Taskforces had worked together. The relationships were good.

In establishing the timeline for the 2000 negotiations, considerable time and resources were allocated early on for training all participants in the concepts and skills of IBN. This preparation proved critical for giving everyone a thorough grounding in the theory and practice of what for many was a very different approach to bargaining. This baseline of training also gave the facilitators a reference point for their interventions into the process. For example, when a BTG or a local negotiation would get stuck, the advice from the third parties would be, "Let's go back and reexamine interests, options, etc."

A significant perspective on training is captured in this comment by diCicco:

One of the great struggles we continue to have is how much time do you invest on the front end to train people in this and how does it pay off at the back end? And it's a struggle. It is very difficult to convince busy people that it is an investment worthwhile to take the time up front. I think we would do more and better training in our next round of this thing. The payoff really was exponential on the back end of it because we put them through the training, worked them through the exercises, and we got them really in a mindset that this was not a classic adversarial environment but rather one where we need to work together. We took the time to begin to build the initial relationships that paid off on the long-term and it really did. When those bargaining task groups really got into full swing, they did an incredible job in being able to isolate the issues, define the priorities, and begin to boil down and come up with how we might be able to address them in ways that both sides could support.

### ***Brainstorming: The Heart of the Process***

The BTGs generated a rich menu of ideas. The parties endeavored to be as creative as possible, to take a "blue-sky" approach. Individuals were encouraged to bring forward items that might not be feasible in the short run but would trigger possible initiatives at a later date (and a storehouse of ideas that could be drawn upon in the years following the agreement).

The case study describes some of the creative concepts and programs that the parties fashioned during the 2000 negotiations. It is worth noting two other ideas that emerged from the work of the BTGs that are in the process of being developed: providing medical insurance for uninsured parents of employees and allowing workers to contribute vacation time to other employees who are on long-term medical leave.

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At the joint MIT-PON conference last year, a very significant exchange occurred between Roger Fisher and diCicco on how to make the exploration phase of negotiations as productive as possible:

**Fisher:** I have this hypothesis that decision making in [a] conflict situation like this is easier if people who are formulating the decision know they are not now committing to it. They have the freedom to brainstorm, and those who are making commitments have the advantage that other people have generated this idea and recommended it and produced it. I wasn't clear from your discussion of all these committees at what stage the people who are doing the work, generating possible answers, were protected from the risk that they're not getting committed.

**diCicco:** It was a prerequisite to what we did. I mean that was the license when we chartered them. We made it very clear that they were chartered to come up with these ideas and that they should go forward, they should feel free to just get everything out there that they felt that they needed to and try to work it through. And then it came back to the Common Issues Committee. That's where the decision makers were, but keep in mind that the representatives from the Common Issues Committee were in the committees with them. We made a conscious decision to not let them chair those committees. In fact, we started out by not having any chairs. Everybody came in with equal status, and we had some of the Common Issue members that were there who had just [the same] status with everybody else but I think it was an upfront understanding that they had a blue sky mandate.

### ***Ground Rules***

The "without prejudice" nature of the undertaking helps explain the willingness of the parties to embark on this high-risk venture. Each side could opt out and return to the existing schedule for negotiating the many, many contracts. This fallback induced those with doubts to try the interest-based approach for, as one put it, "What do we have to lose?" Of course, once they were into the process it was not easy to terminate. Hundreds of participants had invested countless hours, and as bargaining proceeded and momentum developed, most wanted to go the full route. But the feeling of having an "out" was quite important for getting the parties into the process.

### ***Facilitation***

The expertise present in the consultants from RAI and the mediators from FMCS represented substantial human capital. Starting with the training sessions and running through the signing of the agreements, the role of facilitation was crucial in helping the parties move away from their accustomed approach (adversarial) and employing effectively the principles and practices of IBN. One member of a BTG put it this way in a debriefing session following negotiations:

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The facilitators kept the process going. We all put on our traditional masks at the outset — the facilitators helped us to put them on the table and get to work. As it was a new process, the facilitators helped tremendously. We would have had a much more difficult time if we did not have the facilitators who understood the process.

Tony Gately also addressed this driver of the process:

The facilitation had to stay focused on interests and not positions. What's really important is that not every facilitator was a "ten" on a scale of one to ten, so there had to be some changes made here and there, but we couldn't accept mediocrity. There had to be outstanding facilitation and frankly the facilitators had to be able to extend themselves, which they did, and be passionate and do very well. So I'm really stressing that facilitation is very critical.

Later, during the discussion period of the conference, Gately expanded on the importance of facilitation:

I cannot emphasize too much the importance of strong facilitation. Envision the first day when we all walked into a conference room; there were thirty or so of us and we had a topic area, blank sheets on the wall, chart pads, and that was it; the facilitation started. A lot of the writing on the chart pads was actually done by the facilitators or those working for the facilitators. All of the interests went up there; all the options went up and then they organized it, and brought it back.

We worked for two days, we would go away for two or three days, and come back again for two or three. We didn't do it for fifteen consecutive days. It was fifteen days, maybe five different sessions of three or two days each. That allowed the facilitators and key negotiators between the meetings to do a lot of heavy-duty organizing and making sure that every word that was up on the chart pad showed up on that final piece of paper. If it [the issue] was about workforce planning, they made sure we would talk in specifics about segments of workforce planning and then they wrote the document and we would approve it. We would do a lot more than wordsmithing. When we made the report-out in front of three hundred fifty people, everyone saw the 95 percent they all had agreed to; there might have been the last 5 percent of what we couldn't agree to. Heavy facilitation goes beyond your traditional facilitation. It's really taking the ideas and organizing them and writing a document and making it real.

## **Lessons Learned and Guidelines for Future Negotiations**

The people at KP recognize that they have just begun the journey of using interest-based concepts in national negotiations. At the MIT-PON conference, a number of issues were identified that bear on the success of future negotiations.

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Most probably, the next negotiation will occur in a very different economic climate, making it harder to identify mutual interests than was the case in 2000. Another difference is that at least one of the key bargainers, Margolin, will not be present throughout since she has a new role, coordinating regional operations, and in this capacity reporting to new CEO and Chairman of the Board George Halvorson.

The point is that substantial advance planning is always required to ensure that knowledgeable representatives are in place and that the requisite orientation has occurred. If anything, the preparation period going into the 2000 negotiations was relatively short, and given the reality that many of the individuals who will participate in the next round of bargaining will not have participated in the 2000 negotiations, training in the concepts of IBN will need to be scheduled for a sizeable number of participants. Identifying participants and engaging them early enough represents a priority for KP and the union, as well as a key task for any parties engaging in large-scale IBN for the first time or for that matter in any negotiation committed to using IBN concepts and tools.

### ***Broadening the Representation of Participants***

Many participants in the 2000 negotiations agreed that physicians should play a more prominent role in future negotiations, and the number of middle managers (especially those with operating responsibilities) should also be expanded. One participant explained:

We need to involve more local middle managers. Their involvement would make it easier to take back the recommendations. The unions represented front-line workers, whereas managers involved were at the regional or higher level.

And at the conference, Tony Gately reaffirmed the point:

We needed more people in the bargaining task groups that were first-line managers. We had many first-line staff but we needed more front-line managers. Next time we're going to do that. We also didn't have physicians and we're debating what to do next time to get physician input in our task groups.

What these observations suggest is that all stakeholders should be represented at the negotiation table, as their interests and the specifics of their concerns will necessarily be embodied in the relationships and agreements that emerge. By contrast, in traditional bargaining, physicians and managers relinquish this authority to "professional bargainers" and labor relations representatives.

### ***Structuring the Process***

Regarding the structure of committees and the role of the chief negotiators, several lessons have emerged from the experience of the 2000 negotiations:

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- The chief negotiators needed to be in direct contact with all levels of the negotiations (in 2000, they were asked by the consultant not to attend the BTG meetings).
  - To the extent that sidebar discussions occurred, then a wider slice of key leaders needed to be involved in this process. As noted by Peter diCicco:

We had in advance prescribed a sidebar committee. It was made up of our key union leadership as well as some of the management key leaders. We never used that. What happened was that myself and Leslie Margolin, along with John Stepp, would go off into a room as a sidebar group, and we would try to work through as we were listening to things and how they were happening on how we could bring the pieces together. It was an absolute mistake. When we finally, towards the end of the process, took the step back and brought those final issues to the group as a whole, we actually got them settled there faster than we did in the smaller group. Now that's not to say that there isn't a value in a sidebar committee. I think there is and I think it's essential in order to bring these things together as we're going through the process, but it should be a [more] broader-based one than we had.

### ***Coordinating the Process***

In a postmortem session after the 2000 negotiations, the parties agreed that a more humane scheduling of the sessions, specifically, eliminating long and late-evening meetings would be advisable — at times the parties found it difficult to remain creative, with a tendency to shift back into traditional bargaining habits. This may be a debatable point for other negotiators, recognizing that preferences can differ. For some relationships, late-night, intensive negotiation sessions help build relationships that might not occur with a more structured, business-like schedule. Yet, Tony Gately spoke with conviction about this point:

Avoid the late night stuff. A couple of times we went deep into the night or the early morning doing some of our work and we probably ought to practice life-work balance, which was one of our challenges we did not always meet.

### ***Internal Communication***

KP management recognizes the need for improved internal communication so that supervisors learn about developments in negotiations at the same time that internal union briefings are taking place. A management official comments:

Management can do a much better job of communicating. We heard numerous times from managers that they were learning about the bargaining from their labor partners at a medical center

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level. So the communication flow is much better on the labor side. So it's up to us on the management side to learn from the hundred years or more of history that labor has and when we conduct ourselves in large group sessions interest-based bargaining that we should perform better; and it's not to get one step up on labor, it's to manage ourselves so that we have better discussions as we go to a table.

### ***Sustainability and Portability***

These two concepts are closely related. Portability envisions that the principles and practices of IBN can be carried into operations on a day-to-day basis. The journey of the new relationship between KP and the Coalition of Unions started first with a partnership concept implemented at the strategic level, and then the parties proceeded to negotiate the national agreement three years later. Sustaining the partnership and the principles of IBN requires their being embedded into the organization on an ongoing basis — this is the current and overriding priority at KP.

Considerable progress in this journey has been made as a result of the 2000 negotiations, indeed, the creative work of the BTGs can be seen as having created a very important asset that can now be utilized to enhance relationships at the operating level of the organization.

In addition to the issues resolved in the 2000 agreement, the work of the BTGs set the stage for addressing a range of mutual concerns during the life of the five-year agreement as well as providing a reference point for the next negotiations. Consider the following observations from a manager:

I would fully expect that in the next contract negotiations, instead of getting brand new Bargaining Task Groups with seven new subjects, that we would go to the earlier set and realize "how far we have come" in terms of recommendations that were put in place. This should be the priority for the next contract, rather than starting all over again. We don't want to lose sight of much of the work that the Bargaining Task Groups put in place as we move forward, and as we need to begin to develop other recommendations.

But this task, changing the culture in basic ways, takes time as the following quote, taken from a debriefing session held several months after the completion of the 2000 negotiations, illustrates: "When I went back to work, the skill of listening wasn't there, so I felt frustrated. I feel this process (IBN) needs to be taken out broadly."

The task of taking IBN concepts and implementing them into day-to-day operations is substantial. In contract negotiations, the parties are on an equal footing (that is the premise of the National Labor Relations Act), whereas at the workplace the relationship is typically much different, with management normally desiring to maintain control by exercising its authority to make decisions, and union representatives often adopting the view

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that their main function is to represent the interests of their members by challenging the initiatives of management. To envision a full sharing of power between operating managers and employees and their union representatives strikes many as quite revolutionary.

A significant premise of the partnership at KP is that it can only be sustained if it can show results, and by necessity this means a sharing of power and a joining of talents and resources in a variety of working parties and problem-solving groups. Adopting a consultative style by managers may not be sufficient. For management to make a decision and then to say, "We will discuss it with the union to get their reaction before implementing it," probably does not go far enough measured against the vision of the partnership. A true partnership requires involvement when problems are not yet clearly understood, with the parties embracing a joint approach to decision making.

## Summary

The purpose of this article has not been to describe all the efforts underway at KP to make the partnership a reality at the level of the workplace. However, it should be noted that a new dispute resolution system is in the process of being implemented (embodying the principles of IBN) and extensive efforts are underway to embed the partnership into the culture of the workplace. The ultimate test will be whether, by the time of the next negotiations (2005), little doubt exists regarding the value of IBN — because the organization is practicing these ideas on a daily basis. This is the only way in which IBN will succeed and not fall victim to the possible indictment that it is just another "fad."

Clearly, key choices and challenges are ahead for the partnership and these can be framed as a series of questions:

- When the chief bargainers change in the future, how will their successors establish the kind of trust that diCicco and Margolin developed?
- In 2005, will management and labor leaders have the same clear picture of their adversarial past that motivated them to find a better way to bargain in 2000? Or will this be a distant memory not shared personally by those who will shape the new negotiations? If so, will they need a visible reminder of what the alternative would look like?
- How will the partnership promote and institutionalize IBN into day-to-day practices at KP?
- What if the negotiations in 2005, as seems likely, occur in a different economic climate, where mutual interests may be much harder to find than in the first agreement? Will IBN be able to handle this challenge?
- Will the partnership succeed in delivering performance-based pay that is self-funded?

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- How will the requirement for each participant to contribute six to nine cents per hour to the costs of the partnership affect morale, commitment, and a sense of ownership?
  - And finally, will the partnership enable KP to provide market-leading quality and affordable health care that will meet the long-run interests of all the key stakeholders? Specifically, will restructuring health care delivery through teams that are truly “partnered” have enough impact to convince the skeptics?

One spur to showing results will be driven by a development that initially was seen as a setback. The California Nurses Association, representing about eight thousand registered nurses at KP in Northern California, chose not to be a part of the partnership. Peter diCicco feels that this fact of life will keep the partnership “honest.” Having a militant union with a very different ideology looking over the shoulder of the partnership will require the partnership to demonstrate that the experiment underway is far preferable to their prior historic arrangement (i.e., traditional labor-management relations).

But given the reality that IBN as presently practiced is not a perfect instrument, and given the possibility that a return to traditional labor-management relations can occur, a fundamental transformation between KP and the Coalition of KP Unions is still very much a “work in progress.” The parties have broken new ground with the 2000 negotiations, and the wide-ranging agenda that the parties tackled as well as the results of that negotiation are truly impressive. Now, on a day-to-day basis, the parties are testing the proposition that a labor-management partnership can deliver better organizational outcomes and not just better contracts for the members. And in this regard, they are grappling with the important questions about how to deliver better medical care at lower costs and in the process enhancing job satisfaction and employment security for all employees.

And along the way, negotiation scholars and practitioners can benefit from learning about the very hard-won lessons embodied in the 2000 negotiations and the unfolding partnership between KP and the coalition.

## **The Future of Interest-Based Negotiations**

Having raised the bar by envisioning the power of interest-based ideas to transform an organization, the question can be asked: Is this vision realistic generally? To underscore this challenge, Peter diCicco views the change at KP as an “operating” rather than a “labor relations” strategy. This formulation focuses attention on the fundamental transformation that is envisioned by the architects at KP and the Coalition of KP Unions.

The concept of social capital also helps put in perspective the investment in relationship building that the parties have inaugurated. By involving four hundred labor and management officials in the 2000 negotiations,

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and by setting up hundreds of working parties throughout the organization to address the problems of the business, the network of joint activity has been expanded significantly.

Against this possibility must be set the reality that both management and union leaders often revert to “type.” New managers who are recruited may prefer to maintain control and to keep the initiative for decisions in their hands. Similarly, labor leaders may worry more about their political future and as a result emphasize their representation rather than their collaborative role. This possibility is implied by data in the FMCS survey by Cutcher-Gershenfeld and Kochan (2002), cited in the introduction (“Interest-Based Negotiations in a Transformed Labor–Management Setting”) to this special series. Specifically, approximately 20 percent of the U.S. respondents in all sectors indicated that they had experienced some type of backlash from their union or management constituents or principals in using IBN (Cutcher-Gershenfeld and Kochan 2002).

At the joint MIT-PON conference, Richard Barnes reported that too often the parties approaching negotiations come to FMCS with little lead time, asking to be immersed immediately in the procedures of IBN. They view IBN as a “quick fix” rather than as a first step in the transformation of their relationship and culture of their organization. A Canadian study using thirty-eight examples found that IBN produced more mutual gains and more innovation, but fewer union gains and more union concessions (Paquet, Gaetan, and Bergeron 2000). Quite importantly, when union gains and mutual gains are summed, the totals are nearly equal to total union gains under non-interest-based negotiations in this study. So this finding is not a death knell if IBN provides a foundation for building better future relationships.

Many questions need to be answered about the use of IBN in the workplace. At the conference, experienced practitioners raised some very tough questions, including the following:

- What does one do when one side is ready to use IBN and the other is opposed?
- What are the special skills and relational talents required for the “shadow negotiations” referenced by Deborah Kolb in this issue, and how can people learn them, particularly if they are “invisible” to most observers? What we have described as leadership, trust, exceptional facilitation, and mutual commitment can be seen as “shadow” skills. How can others ensure their presence in their negotiations?
- How does one apply the ideas of IBN to distributive issues? A frequently asked question regarding IBN is whether it can apply to the negotiation of money items. Or, stated in the language of negotiations theory: Are there distributive issues that are difficult to deal with via IBN and therefore must be handled in a more traditional manner? If dollar amounts

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are known and limited, how can the parties generate different options and maximize joint gains with respect to economic issues? Aren't there some issues that are "win-lose" in nature?

This last question was one of the first posed at the MIT-PON conference:

**Dorine Lévasseur** (of the Massachusetts Teachers Association): The thing that struck me early on reading the case actually was the discussion about how the money issues were handled, particularly the compensation issue and I think it's in that arena that I found in the IBB process that we really often get to the level of much more traditional bargaining, and I'm interested in hearing more about that and how that worked. What really jumped out at me was that upfront, [KP] agreed to put some substantial amount of money on the table. From our point of view, often those of us in the field at MTA, we very often are concerned that a push towards interest-based bargaining is a process of "letting us down nicely" as opposed to it really being about interest and about negotiating a fair agreement.

**diCicco:** I do not, however, believe that the outcome or the success of the outcome would have been a great deal different had the amount of money on the table been significantly less. If we were into really troubling circumstances, I'm not sure what would have happened. I suspect that our 92 percent ratification vote, that's 92 percent of the people voted "yes" of those people who voted, which is quite astounding; that may have come in at 70 percent instead of at 90 percent, and I will tell you as a bargainer, I will take 70 percent also, which is a pretty good thing in terms of a union constituency expression. But I don't think we will be tested on that in this coming round. I don't think the environment is as it was then. There was an awful lot of concession bargaining that had preceded this round of bargaining. Our position in the industry and the area required Kaiser to come forward and be ready to make some moves in a number of areas.

I think it was a question of how you apply what was available. One of the big issues was do we have market-based wage increases or do we have general across-the-board increases? Kaiser's interest and concern was clear; they needed to have at least a base line that was market-based. We said we won't disturb that but we want to look at across-the-board increases, we don't want to go on market surveys, which is what they had been using before. Now the question of how do you do that was what we had to deal with at the bargaining task groups, and we came up with, quite frankly, a balanced approach. We ended up with across-the-board increases, and we also delegated a piece of it that could be used to address those areas where they were market gaps and that had to be done in the local area. So there were solutions to all of those issues, and I don't think the fact that the volume of dollars that was there would have changed the success of the outcomes because we were dealing in that particular environment. The next one will be a different environment, and we will have to figure out how we handle it from there.

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For parties contemplating a move to IBN in their next round of bargaining, attention should be drawn to the sequence that the parties followed at KP, namely testing and building a partnership on a day-to-day basis before embarking on a new approach to negotiating labor agreements.

This strategy has been a standard, widely accepted tenet for starting joint labor-management efforts. It is common to begin with a principle or written rule that essentially says, "None of the changes that will be implemented will infringe or modify terms and conditions of existing collective bargaining agreements." This helps gain support of both management and labor leaders who are skeptical of joint efforts and fear those efforts will erode hard-won gains or managerial control. Yet, as RAI consultants pointed out, the dilemma that all partnerships face at some point is that if they want to tackle the critical issues facing the business and the workforce, they have to find an appropriate and effective way of integrating their joint efforts into the collective bargaining process and the provisions of their labor agreements. This is often the first test of a partnership. Those who can foster the development of their partnership by embracing IBN in a way that gains the support of elected union officials with bargaining responsibilities and key managers who control bargaining strategy and decision making within management will be able to move their joint effort to the next phase in the transformation of the enterprise.

### References

- Cutcher-Gershenfeld, J. and T.A. Kochan. 2002. *Taking stock: Collective bargaining at the turn of the century*. MIT Sloan School of Management Working Paper.
- Paquet, R., I. Gaetan, and J.G. Bergeron. 2000. Does interest-based bargaining (IBB) really make a difference in collective bargaining outcomes? *Negotiation Journal* 16 (3): 281-296.