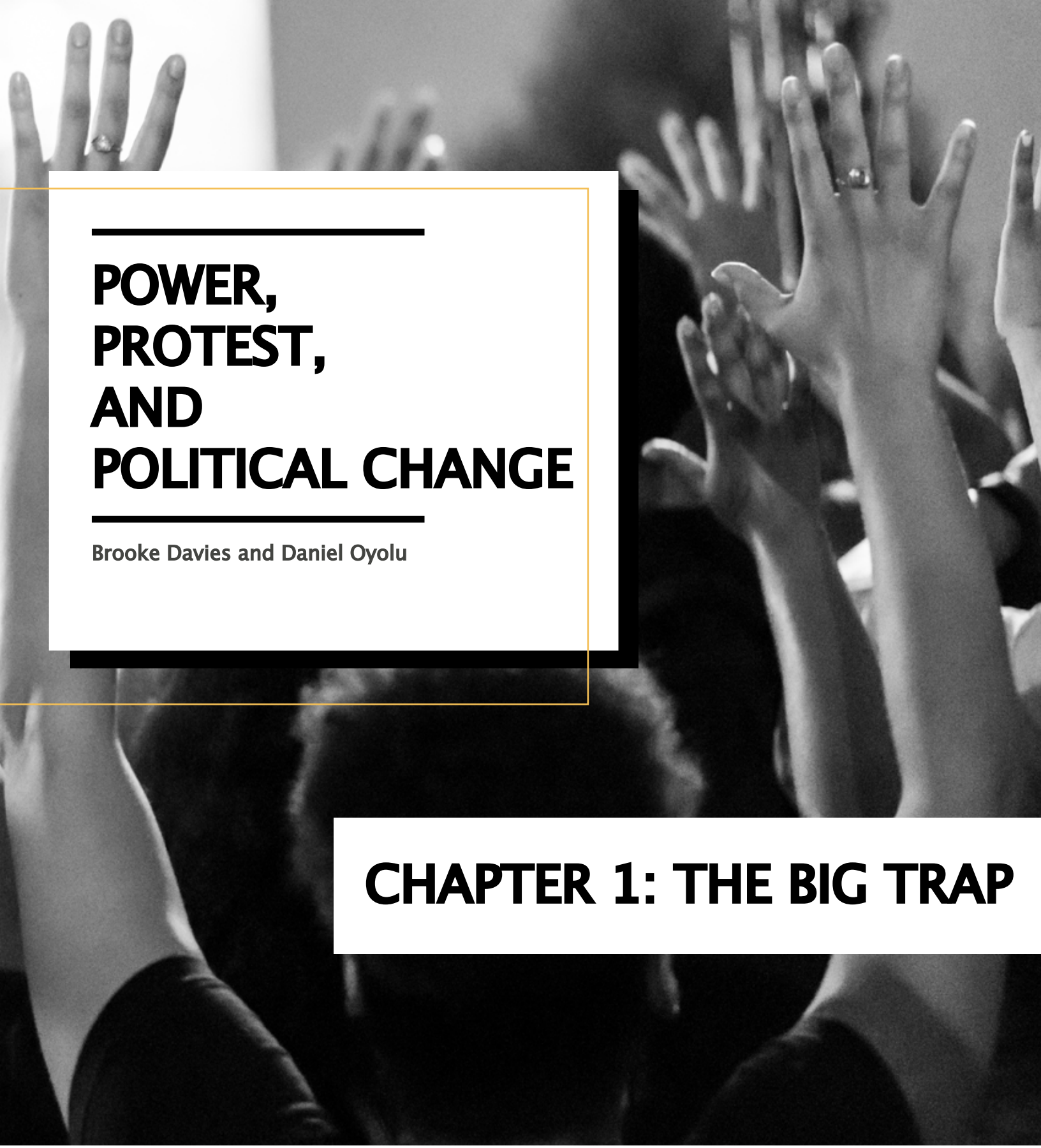

POWER, PROTEST, AND POLITICAL CHANGE

Brooke Davies and Daniel Oyolu

CHAPTER 1: THE BIG TRAP

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GLOSSARY OF TERMS

Allyship – When one person or group enters into a supportive relationship with another person or group to achieve a discrete goal or purpose.

Activist – A person who campaigns, via civil resistance or other means, for political change.

BATNA – Best Alternative to a Negotiated Agreement, or the best course of action should a party decide to no longer negotiate.

Civil Resistance – The act of openly disobeying an unjust, immoral or unconstitutional law as a matter of conscience, and accepting the consequences, including submitting to imprisonment if necessary, to protest an injustice. Also commonly referred to as civil disobedience, nonviolent action, nonviolent conflict, nonviolent struggle, and other variations.

Coalition – A collection of distinct people, parties, organizations, or other entities engaging in joint strategic action under one group or organization.

Decentralization — A type of movement structure where there is no single person in charge, nor one center of power for the movement. Instead, there are various parties involved in the sustenance and maintenance of the power-building process.

Direct Action — The tactics of civil resistance to injustice. More than 250 forms of nonviolent direct action have been identified, including marches, boycotts, picketing, sit-ins, and prayer vigils, to name a few.

Interests – In negotiation theory, interests refer to the "basic needs, wants, and motivations" underlying a party's position or point of view on an issue.

Movement – An organized effort to promote or attain political change.

Negotiation – The process of discussing, compromising, and bargaining with other parties in good faith to persuade them to reach an agreement or resolution to the dispute. Although negotiation is often assumed to be an adversarial process, you can also (and normally do) negotiate with allies and supporters.

Organizer – A person who engages and empowers others with the purpose of increasing the influence of groups historically underrepresented in the policies and decision making that affect their lives.

Pillars of support – The organizations, entities, institutions, and actors that provide

the political leadership with the knowledge, skills, and/or resources to maintain and wield power. They include civil servants, religious groups, media organizations, businesses, and security forces, among others.

Political Leadership – The governing body with the power to produce, implement, and amend laws and policies in a jurisdiction. Also commonly referred to as the authorities, power structure, "haves," and in authoritarian contexts, the "regime."

Power – The ability, whether physical, mental or moral, to affect change.

Protest – In our report, we will refer to "protest" as the direct actions that involve demonstrations of disapproval, exemplified by people present in both on- and offline public spaces.

Our definitions were informed by The King Center's Glossary of Nonviolence, Encyclopedia Brittanica, the Merriam-Webster Dictionary, and Saul Alinsky's seminal work, Rules for Radicals.

INTRODUCTION

The mass protests that erupted across the United States this summer inspired the idea for this project. After the murder of George Floyd, Breonna Taylor, Ahmaud Arbery, and too many other Black Americans, protests across the country swelled by the millions into what we now know to be the largest direct action in the history of this country. Yet despite that unprecedented demonstration of support and power, many activists in the US felt that only piecemeal reforms and lip service were given in response to their demands. Sharing their frustration with the slow pace of progress, we asked ourselves: If you want to make change as an organizer, how do you build power to get into the negotiating room, and then how do you wield that power effectively once you've sat down at the table with your political leadership? How do you overcome that vast power asymmetry between you as one individual and your entire state or national government?

To answer those questions, we looked to both home and abroad. We interviewed organizers across the US, from national movements like Black Lives Matter, the Sunrise Movement, and March for our Lives, to local jail support groups in Charlotte, North Carolina and community services movements in Houston, Texas. We interviewed civil resistance experts at the US Institute of Peace and Freedom House, ambassadors of opposition governments living in exile, high-ranking officials in transitional governments, and activists across six countries, including Yemen, Belarus, Tunisia, Syria, Sudan, and Venezuela. And we poured through theoretical works on negotiation, power, and community organizing, as well as modern case studies. Each struggle we heard and read about had its own unique contexts and histories, but at the end of our research we were surprised by how fundamentally similar these stories were at their core. The same challenges those in the US described to us were and are currently being felt around the world, from movement to movement and country to country.

And just as we heard the same problems articulated to us over and again, we also heard a need from many of our interviewees to have more access to solutions. Some of our interviewees likened their organizing to "building the plane as we're flying it." Others said that they were only able to exchange ideas and advice during small weekend retreats or over Twitter. Almost all of them, no matter if they had four years of organizing experience or forty, wanted more ideas from fellow activists from around the world.

That is what this report is fundamentally about: **to consolidate the wisdom from activists all over the world on how to overcome the common challenges they face when building power and negotiating with their political leadership, and to put forward our own findings informed by our shared background in dispute resolution, negotiation, and community organizing.**

Of course, the problems and solutions we name are certainly not the only ones available—but they are some of the most common. And they are also some of the newest challenges. We have seen in our research that much of the most beloved literature on building power and negotiating as a movement was written in the mid-20th century, well before the possibil-

ities and perils of social media, before women's leadership in public life emerged as a mainstream idea, and before globalization imposed far-reaching consequences on where power was even located. We live in a new world, with new challenges, and as such we need new ideas for how to overcome them.

To be clear, what this project is not is an Organizing 101 handbook, or an Introduction to Negotiation course. While we will be referencing negotiation and organizing principles throughout, that ground has been well-trodden, and we have provided links to skills trainings, articles, books, and guides on our resources page. In this area we wish to serve merely as aggregators of the best knowledge on organizing and negotiation. What we have reserved for this report is an examination of the greatest challenges organizers face when attempting to prepare themselves for and engage in negotiations with their political leadership to achieve political change, and what to do about it.

Moreover, throughout this report we'll be focusing primarily on a specific subset of nonviolent struggle: direct action, and more specifically street protests, such as marches, demonstrations, sit-ins, and the like. By scoping our findings in this way we do not mean to imply that such direct actions are the most effective ones, or even that direct action is the most effective form of nonviolent struggle. However, we have seen that **protest is increasingly the predominant form of nonviolent struggle in the 21st century.** As of this report's writing, we are living in a world and context that is currently exploding with them. Just this year we have seen high-profile mass protests erupt around the globe, from the US, Lebanon, Mexico, Israel, India, Brazil, and Nigeria, to even long-politically dormant locales like Russia, Belarus, Thailand, and elsewhere. People on every continent are waking up, and they are using protest to announce: **We are here, and we are not going anywhere until you give us what we want.**

While this chapter specifically focuses on the Big Trap, the other chapters available for download include:

1. **Coalitions and Allies;**
2. **Sustainability; and**
3. **Communicating the Message.**

Since we know that every organizer may face only one or several of the challenges addressed above, these chapters were designed to be read separately. As such, if you read the report in full you may feel that some of the information is repeated—and indeed some of it is. However, we think they all contain valuable lessons for anyone seeking to build power and engage in negotiation, and our sincere hope is that anyone can find value in any of them.

One-pagers distilling the need-to-know content of each chapter are also available on the report page and in each one-pager's dedicated chapter.

THE BIG TRAP

When (and When Not) to Negotiate

A ONE-PAGER

Reports can get long. Here's a one-page breakdown of what you need to know:

What is the Big Trap? Over and over in our research we saw a troubling dynamic emerge when movements agreed to negotiate with the political leadership they were trying to move: that the agreement to negotiate, or the act of negotiating, could break the movement's momentum, thereby diminishing the very leverage it needed to successfully assert its interests at the table. Without sustained pressure on the political leadership to agree to the movement's demands, those negotiations would then break down.

Why does this matter? Negotiations can be a core part of a movement's organizing strategy. Dr. Martin Luther King, Jr. to Saul Alinsky, one of the fathers of community organizing, advocated using direct action and protest for the express purpose of sitting down at the negotiation table across from the political leadership with a strong enough hand to get what you want. The Big Trap stands as a cautionary tale: not all offers to negotiate should be pursued or accepted.

Why does this happen, and what should organizers look out for? Sometimes movements simply don't yet have the long-term, durable power to withstand what can sometimes be weeks or months of policy negotiation. But other times, the political leadership a movement is trying to move may use an offer to negotiate as a means to break its momentum. Organizers should look out for signs of intentional slow-walking; offers with strings attached; signs that the offer to negotiate is simply a divide-and-conquer tactic; and signs that an offer to join a government commission, group, or project would just be inclusion in name only.

How do I avoid the Big Trap? In short, preparation. But not in the way you might think. We suggest doing everything possible in the run-up to a negotiation to (1) strengthen your hand at the table and (2) weaken theirs. We suggest doing three things in particular:

1. **Build up your ability to walk away** with little consequence (and weaken theirs).
2. **Prepare internally to negotiate.** Figure out: who is representing you? On what issues can they commit? Do you have a unified negotiation strategy?
3. **Structure the table to your advantage.** Think about how you can set preconditions, the agenda, and even the parties to maximize the chances of negotiating a deal that meets your interests.

THE BIG TRAP

When (and When Not) to Negotiate

"No one can negotiate without the power to compel negotiation. [To build that power] is the function of the community organizer."

–Saul Alinsky, Rules for Radicals

When we asked organizers in the US and around the world about the biggest challenges they faced in previous negotiations, so many named one particular obstacle that we called it the "Big Trap." Wherever they organized, the Big Trap followed a similar pattern:

1. Organizers would build the movement's power through protest and other tactics;

2. Its power would grow to the point that it drew the attention of political leaders afraid of facing the consequences should they continue to ignore or attempt to repress the movement;

3. Those political leaders would extend an offer to negotiate, and the movement would accept;

4. When negotiations began, the movement's protests and direct actions would diminish or dissipate altogether; but

5. Without sustained pressure to negotiate, **those political leaders would no longer see the organizers as stakeholders they had to work with.** The negotiations would lead nowhere, or simply cease.

While certainly a simplification, the story above evokes a tension almost every movement faces: that while engaging in negotiations may help a movement achieve its goals, the very act of doing so may lead to their failure at the table. Agreeing to engage in negotiations can break a movement's momentum, cutting off the organizers' very source of leverage they needed to reach a deal that meets their interests. This is the Big Trap.

CASE STUDY: CHARLOTTE'S TRAP

Like other cities across the country, Charlotte, NC saw a wave of protests and direct action in the wake of George Floyd's murder on a scale it had never before experienced. As a result of the attention the protests received—along with well-publicized videos of Charlotte police brutally cracking down on peaceful protesters—the Charlotte City Council invited the city's most prominent organizers to join a "Safe Communities Committee" to create a proposal for police reform. Elated by the win, and exhausted by weeks of marches met with tear gas and rubber bullets, the protests largely dissipated after the Committee began its work. While the Committee was largely considered an encouraging first step in the negotiation for policy reform, the effort was ultimately a failure. By the end of its work, the City Council refused to implement the Committee's recommendations and instead adopted a series of reforms proposed by the Charlotte police department. The movement was left without both reform and momentum they could lean on to pressure the City Council to implement their reforms. While many of the organizers threatened to go back out onto the streets, they ultimately couldn't turn that threat into a credible one—their momentum had been broken.

Stories like Charlotte's,[1] and those of movements all over the world that have fallen into this trap, implicate a fundamental question all organizers must ask when thinking about engaging in negotiation with their political leaders: will negotiating right now help us reach our goals, or is there more that needs to be done beforehand to increase the likelihood of success at the table? Could negotiating at this point actually keep me from getting what I want?

To be clear, when we're talking about the ques-

tion of whether or not to engage in negotiations, we're asking two interrelated questions: (1) whether to walk through the door in the first instance, and (2) whether a movement is willing and able to withstand the weeks, months, and even years of lengthy negotiations that coming to a deal may require. It's a perhaps obvious but important truth that any negotiation takes time—and negotiation of new policy, be it a new affordable housing ordinance or the overhaul of a state's criminal justice system, will take more. These issues involve a complex web of stakeholders, they can be highly technical, and as such their resolution may balloon into a dozen rounds of negotiation, or more. Organizers should brace to endure long rounds of negotiations, starter agreements, and piecemeal concessions as their policy winds its way through the legislative process. And all the while, they will have to fight to get into—and then stay—in the room.

To do that, organizers will need sufficient leverage, sustained over time, that can hold up against attacks and attempts at delegitimization. **This is the heart of the Big Trap: that a movement is unable to sustain the same level of power—or in negotiation parlance, the leverage—that it needs throughout the negotiation in order to reach a deal that meets its interests.**

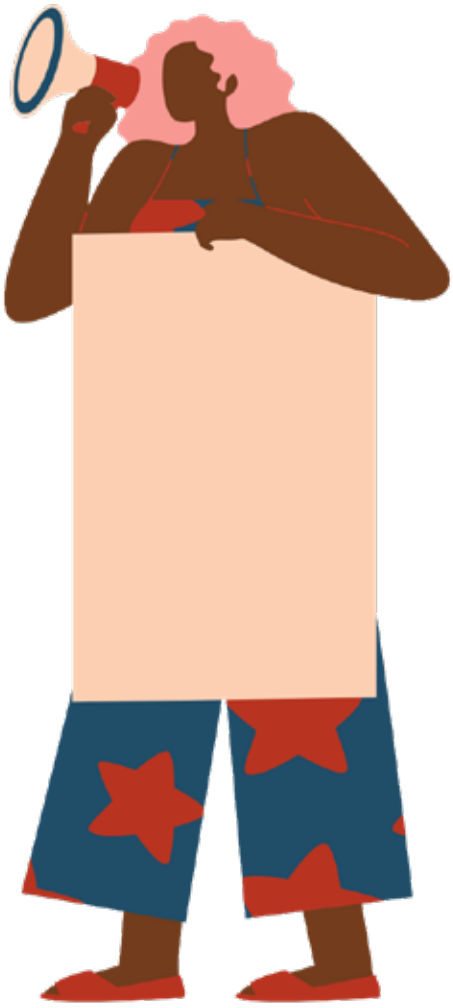
This chapter also assumes that the movement ultimately sees a negotiation as in its interests—which of course is not always true. One strategy organizers can and have chosen is to simply refuse to negotiate, and to attempt to build power for as long as it takes for their political leaders to capitulate. For instance, the Sunrise Movement, a youth-led movement advocating for bolder action on climate change, as a matter of practice does not see a point to negotiating with political leaders when they can just try to vote them out should those leaders say "no" to an ask. Moreover, organizers within Sunrise see it as their job to negotiate more with the public, rather than with their political leaders. Their talks with political leaders are mostly to prove a point to their real audience (the public) about why they should support Sunrise in the fight against the climate crisis.

Moreover, some movements believe it's not even ethically permissible to negotiate for certain rights that should themselves be non-negotiable. Sometimes it is simply not in an organizer's interests to try to "negotiate" a compromise to secure, say, her community's voting or civil rights. Negotiation can feel like giving up on principles that should never be surrendered, or caving to the status quo. As one Black Lives Matter activist put it bluntly: "I don't negotiate with terrorists."[2]

As members of a negotiation and mediation program, we tend to inherently see the value of talking with the other side—at the least to see if a good deal is even possible. We think that negotiation can open doors that were previously closed, create options that benefit each party, and resolve conflict through agreement, rather than attrition. Experts in civil resistance note that negotiation helps (1) address strategic differences within a movement's coalition; (2) shift the loyalties of those in power, the political leadership's "**pillars of support**," to the movement's side; (3) reach a mutually acceptable agreement to end the conflict; and (4) achieve and consolidate smaller wins via changes in policy or political behavior.[3] Civil rights leaders and community organizers from Dr. Martin Luther King, Jr. and Gandhi to Saul Alinsky advocated for negotiation to be a core part of a movement's strategic plan. Two scholars at the US Institute of Peace (USIP) characterized nonviolent resistance's relationship to negotiation well: "if mass mobilization is indeed the nonviolent spear of social change, effective negotiation is the tip of that spear."[4]

However, we also recognize that **there are moments when engaging in negotiation is not only a bad idea, but a trap**. As Gene Sharp, one of the great thinkers on civil resistance, once warned, "grave dangers can be lurking within the negotiation room" when trying to overcome great power imbalances with the political leadership. This is what this chapter is about. It is both a cautionary tale and guide for how to overcome one of the biggest obstacles that movements face around the world when engaging in negotiation.

This chapter is divided into three sections. It first provides a brief outline of the theory behind organizing and negotiation, it then digs into the specific ways that movements can get caught in the Big Trap, and finally it outlines strategies to avoid falling in.



Three Conceptions of Negotiation:

"You may well ask: "Why direct action? Why sit ins, marches, and so forth?" You are quite right in calling for negotiation. Indeed, this is the very purpose of direct action . . . to create a situation so crisis packed that it will inevitably open the door to negotiation. I therefore concur with your call for negotiation. Too long our beloved Southland has been bogged down in a tragic effort to live in monologue rather than dialogue."

–Dr. Martin Luther King, Jr., Letter from a Birmingham Jail

"The Organizer must be able to split himself into two parts—one part in the arena of action where he polarizes the issue to 100 to nothing, and helps to lead his forces into conflict, while the other part knows that when the time comes for negotiation that it really is only a 10 per cent difference [between him and the opposition]—and yet both parts have to live comfortably with each other. Only a well-organized person can split and yet stay together. But that is what the organizer must do."

–Saul Alinsky, Rules for Radicals

"Negotiations are not a substitute for open struggle. There is always the possibility, even the probability that the conflict will not be resolved at this stage. A prerequisite for negotiations is a determination and ability to struggle."

–Gene Sharp, How Nonviolent Struggle Works

PART I: THE THEORY OF ORGANIZING AND NEGOTIATION

Before diving into the specifics of the Big Trap, we think it's useful to start off with a brief theoretical outline of how exactly organizers can think about the relationship between power-building and negotiation. Specifically, this section tackles the question: given that this trap exists, when exactly should movements negotiate, and under what circumstances?

Thinkers and practitioners in community organizing start at the premise that there exists a vast power asymmetry between the political leadership and the organizer: the "haves and the have-nots." Community organizing, they propose, can close the asymmetry—it both builds a movement's power and saps the power of the political leadership. It levels the scales.[5]

In the context of negotiation, power-building can thus be conceived of as *leverage-building*—it is building up your hand at the negotiation table so that you can successfully assert your interests and get the deal you want. And experts on civil resistance note that a movement's biggest source of leverage is its ability to impose political costs on the leaders it wants to extract concessions from—*cessation of direct action* is the thing that political leaders want in exchange for policy change, and it is further action that is hanging over their heads as a consequence to rejecting a deal.

EXPERT NOTE: BATNAS

Roger Fisher and William Ury in their seminal work, *Getting To Yes*, termed the consequences a party will experience as a result of not reaching a deal a "BATNA," or the Best Alternative to a Negotiated Agreement. In theory, the party with the stronger BATNA—who will face the least consequences for saying no—will be able to reach more of their interests at the negotiation table. Thus, power-building can also be understood as BATNA-building. A movement is building its BATNA by sustaining or increasing the power it started with, while also decreasing the other side's BATNA by increasing the consequences of saying no to a deal.

As two scholars at USIP put it:

> The path to negotiation is paved with leverage gained through civil resistance. What can be called the fundamental bargain in civil resistance cases comes about because actions taken by civil resisters impose costs on and erode the legitimacy of opponents, who in turn may be persuaded to talk and make changes to a policy or institution in return to relief from the pressure of direct action.[6]

Or, as Veronique Dudouet at the Berghof Foundation articulated, "nonviolent struggle is a necessary component [to negotiation], by helping marginalized communities to achieve sufficient leverage for an effective negotiation process."[7]

However, the great twist in a negotiation between a movement and its political leaders—and the crux of the Big Trap—is that

a movement's leverage at the table is at a near-constant risk of waning. Movement power is by its nature fluid, and it is an undeniable reality that people will leave the streets. They will get tired, or frustrated, or even hopeful, and they will stop protesting. And as that direct action fizzles and disappears, so will the movement's ability to effectively assert its interests at the table. **Thus, a movement's ability to impose consequences should the other side say no can diminish as time goes on, while the other side's power remains largely static.** After all, a political leader's source of power is their mandate and position, rather than the number of bodies they can summon to the street. For that reason, movements don't only need power: they also need momentum.

> **PRINCIPLE**
>
> Avoiding the Big Trap thus becomes a game of building momentum to get to the negotiation table, and then sustaining or increasing it throughout the negotiation process so the movement can reach the deal it wants. This is why negotiation can be crucial to a movement's success: at the height of your power, you can cement your position with a deal that gets you what you want before that momentum begins to wane.

So when should movements agree to negotiate? Experts at USIP have found that negotiation has the highest chances for success when movements are at the point where they have most closed the gap of power asymmetry between them and their political leadership. They attribute failure at the negotiation table to a sign that "power is not yet balanced or there is not enough awareness of the issues."[8] Gene Sharp echoed those sentiments, asserting that "opponents will make major concessions only after a considerable period of struggle. That is, after they have recognized the real power of the movement."[9]

But as any seasoned organizer who has waged one campaign after another knows, momentum does not simply rise, peak, and then fall. It sputters, it soars, it plummets, it stagnates. It is not enough to simply prescribe, "negotiate when you are the most powerful." Rather, **we suggest thinking of this question as a threshold: when do you have enough momentum such that you can sustain or increase it throughout the negotiation you will be entering?** Are the scales balanced enough? That is the goal organizers looking to negotiate must meet, and it is the question they must ask themselves every time they are contemplating accepting an offer to negotiate, at the risk of getting caught in the Big Trap if they are wrong.

PART II: GETTING CAUGHT IN THE BIG TRAP

As stated in Part I, building power and momentum is the key to both getting into the room and then remaining in a strong enough position to reach a deal that reaches your movement's interests. However, there are a variety of ways that political leaders may actually break that momentum either before or during a negotiation, thus catching movements in the Big Trap.

To be clear, those political leaders may do so intentionally or unintentionally. Just as there exists bad faith leaders who use (and abuse) negotiation as a tool to break a movement's momentum, an offer extended in good faith can do just as much damage if a movement does not have momentum on its side, or is simply not prepared enough when they reach the table.

In our research, we identified a few key ways that the political leadership can either unintentionally or intentionally break a movement's momentum through negotiation, and thus diminish the leverage the movement needs to get a satisfactory deal. Below we outline what those momentum-breaking tactics may look like, along with a few case studies on how movements have either fallen prey to them or actually turned them to their advantage.

Tactic I: Slow-walking. As stated above, time is not often on a movement's side. In any policy negotiation, the normal wind and grind of turning bill into law may take longer than the attention spans of an organizer's supporters, especially if the movement suffers from problems with legitimacy and commitment. Yet while the lengthy process of political change may be inevitable (and will need to be factored in as the movement decides whether and how to engage in negotiations), political leaders who are less inclined to negotiate in good faith with a movement commonly slow-walk a process to intentionally break the movement's momentum. One expert at USIP noted that it's often a goal of political elites to "demobilize the movement without actually giving up anything, and use simply the process of negotiation as a stalling tactic to break momentum."[10] Satisfied that the job was done, protesters may leave the streets confident that their interests will be met in the negotiation room. Meanwhile, the political leaders may delay and obfuscate with the organizers until they finally leave the table in frustration, forced to rebuild their power on the streets.

Tactic II: Attaching Strings. Organizers should be wary of preconditions that may break their momentum, especially a seemingly enticing offer that may have strings attached. These strings can come either as preconditions to negotiate, or as preconditions to an agreement. Continuing with the example above from Charlotte, a jail support group had long operated on the same block as the city's jail. Organizers co-founded Jail Support after a round of protests in 2016 following the police killing of Keith Lamont Scott in front of his wife and daughter. Jail Support's presence immediately drew the ire of the sheriff's department, which repeatedly dismantled their support headquarters outside of the city's jail. However, its growing popularity in the community had so far allowed it to reconstitute each time. One of Jail Support's co-founders (they/them) recalled how Charlotte officials once reeled in them and

other Jail Support members into a negotiation by promising $500,000 to the group's work. However, once they and the other members sat down to negotiate, the officials changed course and stated that Jail Support could only have the $500,000 if the group moved into the jail itself and ceased their 24/7 operations—a precondition to agreement in direct conflict with both the values and mission of Jail Support. Feeling betrayed, the Jail Support members left the table. However, Jail Support's rejection allowed the city officials to smear the group as unreasonable, and it gave the sheriff a new mandate to attempt to dismantle them.[11]

CONNECTION POINT

Even the Civil Rights Movement was not immune from falling prey to accepting preconditions to enter into a negotiation that ended up bearing little fruit. As Dr. Martin Luther King, Jr. recalled in his *Letter From a Birmingham Jail,* in which he recounted his efforts to negotiate with the business community in Birmingham, Alabama:

> In the course of the negotiations, certain promises were made by the merchants—for example, to remove the stores' humiliating racial signs. On the basis of these promises, the Reverend Fred Shuttlesworth and the leaders of the Alabama Christian Movement for Human Rights agreed to a moratorium on all demonstrations. As the weeks and months went by, we realized that we were the victims of a broken promise. A few signs, briefly removed, returned; the others remained.[12]

CASE STUDY: VENEZUELA

This exact dynamic happened over and again in Venezuela. In Venezuela, the government would often offer to negotiate with the opposition, which had mobilized an enormous protest presence on the street. However, as a precondition to negotiation, the government would require the opposition leaders to agree to stop the protests. After the leaders called off the protests and people left the streets, the government would ensure that any talks dragged on and on, making it impossible for the opposition leaders to hold onto their momentum.[13]

Another example of a common precondition to negotiation that the political leadership may ask is for a lack of transparency. They may demand that a negotiation be off the record, or that the negotiators sign non-disclosure agreements. Organizers should be wary of these requests if it does not meet their interests. For instance, an organizer may wish to hold that political leadership accountable for what was said in the meeting itself. If they make a particularly outrageous ask, organizers cannot bring that statement back to their movement to help sustain the pressure on the political leadership if they have agreed to staying silent.

The Sunrise Movement's tactics during the Biden presidential campaign's climate roundtable demonstrate why transparency may be an important interest for a movement. When the Sunrise Movement's co-founder Varshini Prakash was asked to attend President-elect

> *"One ought not to agree to the opponent's demands for a major restriction of the resisters' activities before negotiations. For example, some opponents may demand a halt to protests or resistance, or even to calls for resistance, as a precondition for negotiations."*
>
> *Gene Sharp, How Nonviolent Struggle Works*

Joe Biden's roundtable, she began a practice of reporting back every day to the movement what was said over a mass Slack channel. By doing so, the movement was able to express its outrage or dissatisfaction in real-time about particular proposed policies, or about certain negotiators in the room whose policies were out of step with the movement's. They were actively holding the roundtable's participants accountable, day-by-day. That could not have happened if Varshini had to sign a non-disclosure agreement.[14]

Tactic III: Divide and Conquer. Another way that political leadership can break the momentum of protest movements is by attempting to divide and conquer the movement's different coalition members, if the movement is composed of two or more groups. They can do so in three ways:

1. By attempting to delegitimize one or more coalition members, and then **choosing to negotiate with the groups** they deem most "palatable" or likely to meet their interests.

2. By agreeing to negotiate with all coalition members, but then using negotiation to **pit those members against each other**.

3. By **coopting coalition member leaders** to their side with financial and/or political enticements.

CASE STUDY: DISINCENTIVIZING COOPTATION

In some fraught contexts, coalition groups that worry the other side may attempt to coopt specific negotiators or a group within the coalition through offers of political positions or financial incentives have created internal mechanisms within the coalition that would prevent such defections. For example, in one country context, negotiators for a prominent coalition signed a terms of reference stating that none of them would be able to hold political office as a result of the negotiations. By doing so, the negotiators expressly built into the structure of their coalition a safeguard against cooptation.[15]

Tactic IV: Inclusion in Name Only. Like the Safe Communities Committee above, protest movement leaders invited onto a group, commission, or other project in the name of further negotiation should be wary of its actual power to enact change. It's not unlikely that such a project may, either by happenstance or design, end up having less power than the movement initially envisioned it would. And while protest movement leaders are busy working on that project, and then realizing its limitations, their actual leverage may fizzle out. Organizers should be sure that such a group will have the ability and power to achieve their goals before signing on.

Yemen's Technical Advisory Group (TAG) is an example of such a risk. In Yemen, women led the country's 2011 revolution. They constituted a clear majority on the streets, and they were a powerful force in the country's National Dialogue Conference meant to draft a list of principles that would be consolidated into a final constitution. Despite that leadership, after war finally broke out in 2014 and the process broke down, women were largely sidelined. And while some groups to this day are still organizing to be given a seat at the negotiation table, others have agreed to join the UN Envoy to Yemen's Technical Advisory Group (TAG). The TAG was pitched as a direct line to the UN Envoy for women and youth, yet some have expressed concerns that the group has never found a foothold in the Envoy's ear.[16]

In each of these instances, the political leadership either by accident or intention broke the momentum the movement they were negotiating with. As a result, the organizers were left in a lose-lose scenario: they could no longer get the deal they wanted, and they had to return to a less powerful movement that now needed more time and resources to regain its momentum. Organizers should look out for these warning signs whenever given an offer to negotiate and ask: do I run the risk of sacrificing my momentum such that I'll no longer be effective? Are there preconditions, strings, or other structural disadvantages that I must get rid of before engaging in negotiation?

PART III: AVOIDING THE BIG TRAP

This chapter has talked at length about how to get caught in the Big Trap—how negotiation can slow the very momentum that got a movement into the room in the first place, sometimes aggravated by bad actors looking to abuse the process. This section outlines a few ways movements can avoid getting caught in that trap. We've already mentioned a few—the importance of identifying whether a movement has enough momentum to withstand negotiation, or how to identify signs the other side may be using negotiation to break that momentum—but this part will be diving into the specifics of how to do so.

PRINCIPLE

Our core finding is that much of avoiding the Big Trap involves doing the right preparation work before the negotiation, so that your momentum can be maintained during the negotiation.

By preparation, we don't mean simply reading up on the issues you'll be negotiating or on the party you'll be facing across the table—although doing so is certainly important, and we mention it briefly below. Rather, negotiation theory and practice both implore negotiators to actively improve their position at the table before they even sit down. This can mean shoring up and expanding a coalition, crafting a media campaign to turn public opinion towards the proposals you are going to put forward in the negotiation, or cultivating allies close to the other side who can help push the political leadership towards the deal you want. Negotiation experts like Harvard Business School Professor James K. Sebenius have termed this preparatory legwork "zoomed-out" negotiation—it is about moving the pieces on the chessboard in your favor even before you sit down to play.[17]

Moreover, preparation is all the more critical for movements, who often have less time on their side, fewer resources to lean on, and more to lose from not reaching a deal than the political leaders they'll be facing across the table. The right preparation helps minimize the amount of time spent at the negotiation table and maximize the chances that the deal the movement walks away with is one that meets its interests. And crucially, it can mitigate the ability of bad actors to manipulate the process and catch movements in the Big Trap.

In short, preparation gives movements the ability to walk in with the strongest hand possible. It's why history's best strategists—from seasoned US diplomats to Sun Tzu—emphasize over and over the importance of making moves away from the table.

We have broken down the preparatory work movements can do before a negotiation into three categories:

Don't just skillfully play the negotiating game you are handed; change its underlying design for the better.

–James K. Sebenius, Professor of Business Administration at Harvard Business School

Every battle is won or lost before it is ever fought.

–Sun Tzu, The Art of War

Tactics at the table are only the cleanup work. Many people mistake tactics for the underlying substance and the relentless efforts away from the table that are needed to set up the most promising possible situation once you face your counterpart. When you know what you need and you have put a broader strategy in place, then negotiating tactics will flow.

–Charlene Barshefsky, former US Trade Negotiator

1. How a movement can **maximize its own BATNA** and minimize the other side's;

2. The critical **internal preparation** work that must be done within the movement to shore up strength from the inside-out; and

3. How to actually **set up the negotiation** to the movement's advantage.

The section below will expand on these three categories in turn.

Building Your BATNA (and Weakening Theirs)

Building Your BATNA. As stated above, a BATNA in negotiation parlance is your "Best Alternative to a Negotiated Agreement." It is your best course of action if you don't reach a deal. In the context of community organizing, a movement's BATNA is continued struggle, it is going back out to the community to continue organizing actions that will once again pressure the political leadership to agree to the movement's demands. As such, the strength of a movement's BATNA will depend on how well it can move those political leaders from the streets, versus from the negotiation table. If a movement's public support or presence on the streets or coalition collapses in the course of the negotiation, so does its BATNA. It has gotten caught in the Big Trap.

This is where the preparation comes in. Organizers should take a hard look at their movement's structure and strengths and evaluate: what are the ways that my movement best pressures my political leaders to say yes to an ask? Is it the number of people I can summon to the streets in a direct action, or my relationship with the press? Is it my support among the voting public, or my relationships with other leaders in the community or political leadership?

After identifying those core advantages, movements should actively work before a negotiation to strengthen and expand on them. One example from a movement in Houston can prove instructive on how exactly to go about doing this:

CASE STUDY: BUILDING BATNAS IN HOUSTON

Alán de León, an organizer with MoveTexas in Houston, has had trouble moving a city council in which the vast majority of power is vested in the mayor's seat, who retains sole ability to put items on the council's agenda. To get into the room to propose legislation—and to make sure the mayor listens—Alán has not only demonstrated his community's strength through protest and direct action, but through coalition-building. Alán has brought on board a web of city and county officials who support his policies, who belong in the mayor's inner circle, and who can push the mayor behind closed doors to come to Alán's side on an issue. He has effectively been able to access rooms that were previously closed to him via allies close to the mayor. In his words:

> "Having city council members basically be activists with you is a good way to build power because it makes you more serious, makes you look like you've done your due diligence . . . [s]o when you're in a meeting with Mayor Turner, city council member A is in favor of [your policy], member B is in favor. It makes your community look bigger and more powerful, it includes not just community voices but public officials."

Alán's strategy also reflects a finding in Dispute Systems Design literature, that in situations of great power asymmetry, convincing the more powerful side that

"their perception of the organization is incorrect" can be an effective way to level the playing field between the two actors. By cultivating relationships with the people and organizations the mayor trusts and respects, Alán is in part demonstrating to him that his perception of the policies and of Alán's organization isn't entirely accurate. Alán is thus leveling the playing field and improving his BATNA in the process.[18]

Alán was able to build his BATNA by cultivating key relationships with people in City Council—he boosted his credibility, gained access to doors that were previously closed, and most importantly, he gained key supporters he could go back to should the negotiation with the mayor break down. And when the time came to sit down with the mayor, he knew that Alán was not just advocating for himself; he had the robust support of City Council behind him.

Of course, cultivating key relationships like Alán did in Houston to build your BATNA is just one of the many preparatory strategies organizers can take before sitting down to negotiate. Others can be (but are not limited to):

1. *Preparing for the worst.* Organizers can prepare a direct action specifically for the scenario that the other side says no. Doing so will get all of the logistical and organizing legwork out of the way so that the movement can deploy that action immediately after negotiation. It also reframes the negotiation for the organizer's supporters from a "win," to a potential launchpad into further direct action. The movement is essentially setting up its ability to say in the room: "give us a yes, or there will be ten thousand people at your doorstep tonight."

2. *Going public.* Organizers can prepare a media strategy to generate public backlash—and political consequences—in case the political leadership says no. In doing so, they should think through: what and where can I get my message out that will impose the biggest consequence? How can I best generate public backlash for saying no?

3. *Preparing to change the players.* It's possible that there are other political leaders who could give organizers what they want, or who can push the political leaders they need to say yes. Preparing to change the players is building a BATNA because it's giving the organizer the ability to say: ok, if not them, then this other person can get me what I want without having to go back to the streets. Organizers should ask before going into a negotiation: who else can I talk to and negotiate with that can get me the policy I want, or can pressure that political leader to change course? And how can I build that relationship beforehand?

4. *Preparing to expand the base of support.* It's likely that there are community members who are invested in the reform the movement is negotiating for, but who are not yet engaged in the movement itself. Organizers can use a "no" to activate those who would be outraged at the political leaders for refusing to a deal. Organizers should ask: who would be potentially angry that this political leader seems to be dug in on not doing what I want? How can those people and organizations be reached ahead of time in order to make sure they are watching what the political leadership does?

Of course, these are not the only ways organizers can build their BATNA in preparation to negotiate. Just this year we have seen a staggering number of innovative and creative tactics coming from protests around the world, and

linked resources to classic and new tactics can be found on this report's webpage.

Weakening Their BATNA. In the example given above, Alán and MoveTexas did not just improve his movement's BATNA; he successfully weakened the mayor's BATNA in the process by making his alternative to reaching a deal less attractive. By gaining support from City Council members, he was also taking their support from the mayor, leaving him more isolated than he started. As Alán 's strategy demonstrates, closely related to the work to building a BATNA is to work to weaken the other side's BATNA as well.

Looking to the other side of the table, the strength of a political leader's BATNA depends on the consequences they will face from their constituents for saying no to a deal. If political leaders see that the movement is not strong enough to successfully imperil their reelection prospects, to turn public opinion against them, or impose some sort of other political headache, then they have a fairly strong BATNA—as in, they can just afford to say no to a deal and move on with their regular business.

So how can organizers go about weakening the other side's BATNA in advance of a negotiation? In the literature, experts recommend starting with an evaluation of the other side's "**pillars of support**," and then developing a strategy to undermine them. We define "pillars of support" as the organizations, entities, individuals, and actors that provide the political leadership with the knowledge, skills, and/or resources to maintain and wield power. In short, they are the groups and individuals upon which the political leadership relies for its mandate, and for its literal ability to function.

> *By themselves, rulers cannot collect taxes, enforce repressive laws and regulations, keep trains running on time, prepare national budgets, direct traffic, manage ports, print money, repair roads, keep food supplied to the markets, make steel, build rockets, train the police and the army, issue postage stamps or even milk a cow. People provided these services to the ruler through a variety of organizations and institutions. If the people stop providing these skills, the ruler cannot rule.*
>
> *–Statement from a movement in Serbia*

Community organizing theory often prescribes this strategy as a general framework to go about power-building. As Peter Ackerman and Jack Duvall of the International Center on Nonviolent Conflict put it, "At the heart of developing a campaign strategy is analysis of the opponent's sources of support . . . and then the application of tactics to weaken and splinter these regime pillars." However, we think a strategy to attack the pillars of support can also be an instructive and important part of the preparatory strategy for a negotiation.

There are a variety of ways to attack a regime's pillars of support, no matter how entrenched. The most common form of course is the theory of **noncooperation**: for protesters to identify the ways they themselves are complicit in a regime's pillars of support, and to then withdraw their participation in that support. Tactics like strikes and boycotts fall into this category.[19]

And while noncooperation tactics like economic boycotts have been in the organizer's toolbox since the Montgomery boycotts and Gandhi's salt protests, organizers are innovating for the digital age. In Hong Kong, protesters have developed a mobile phone app that color codes grocery store products as coming from "yellow" pro-democracy businesses or

"blue" pro-government businesses.[20] Belarus has developed a similar app, so supporters of the movement can protest with their wallets. [21]

In Alán's case, for example, part of the mayor's pillars of support was the express or tacit support of his agenda by the City Council. By bringing City Council members to his side, and by turning some into vocal supporters for cite and release, that legitimation the mayor relied upon in part had been taken away from him.

We've also seen from international cases how protest and direct action before and during a negotiation can be leveraged to weaken the other side's pillars of support, and thus its BATNA:

CASE STUDY: ATTACKING THE PILLARS OF SUPPORT IN SUDAN

In Sudan, months of sustained protests that spanned the country beginning in December 2018 finally led the military to oust the country's longstanding dictator, President Omar al-Bashir, in April 2019. However, the military initially refused to hand over power to the protesters to form a democratically elected civilian government, instead opting for a Transitional Military Council (TMC). Instead of leaving the streets after achieving their initial goal of removing al-Bashir from power, protesters immediately organized a mass sit-in outside of the military headquarters on April 11th, easily the largest sit-in protest the country had ever seen. Protests also continued throughout the country beyond the capital.[27]

At first, the TMC ignored the protester's primary demands and refused to cede power, instead hoping to wait them out. When ignoring them did not dissipate the movement, the military then cut off cell towers to stop the protesters from rapidly sharing and growing their efforts; however, the protesters just began organizing across neighborhoods on foot and passing out flyers. When the cellular and internet blackout had obviously failed, members of the military resorted to its last tool. On June 3rd, military officials stormed the sit-in in the middle of the night, killing hundreds of protesters and injuring even more. However, even their violence could not stop the protesters, and largely only fueled their resolve. By June 30th, the protests had swelled into the millions. Finally, after months of attempting to wait for the protests to wane, the TMC offered to negotiate.[28]

While the protest's leadership, a broad coalition of civil society organizations, unions, political parties, and neighborhood committees under the banner of the Forces for Freedom and Change (FFC) agreed to negotiate, they did not declare victory. In fact, the protesters remained on the streets expressly for

the purpose of sustaining the pressure on the military and the power of their leadership while they were negotiating for a power-sharing arrangement. They were preparing for the moment when they needed to use their presence and the sit-in to ramp up the pressure on the military to agree.

Moreover, the FFC were keenly aware of the direct power at their backs. Whenever the military gave them an unfavorable counteroffer or rejected their demands, the FFC delegates would leave the military headquarters, physically go to the sit-in just outside its doors, and tell the crowd that the military had refused to cooperate. The crowd would then respond with outrage at the military's intransigence, chanting and demanding their cooperation. That physical, visceral leverage of their bargaining power allowed the FFC to negotiate a power-sharing arrangement for a transitional government from April to August 2019 that largely met their core demands.[29]

The staying power of the protesters—and their deep engagement and commitment to the process—demonstrated to the military that the only way they could get the protestors off the streets was to reach a deal with the protesters' representatives. In short, they had a terrible BATNA, because the protesters had undermined the other pillars of support they had attempted to use to disperse them. They found alternative methods to get around internet blackouts, and the crackdown created such a backlash that even the military's ranks began to fracture. During the June 3rd massacre, some younger military officers reportedly even turned their own guns on their fellow soldiers to protect the protesters from harm.

That ability to withstand such tactics—and the backlash their use generated—sent the military one, resounding message: **those tools you normally rely on to control us aren't as strong as you think they are.**

This is the power of building your own BATNA and weakening the other side's, often at the same time, in preparation to negotiate. It can flip the script on who has the stronger position at the table, switching from the mayor to MoveTexas, and from the military to the might of a million protesters.

However, it takes organizers thinking carefully about (1) where they can build up their own unique strength as a movement, and (2) which pillars on the other side they are capable of eroding. The strength of each side's BATNA also deserves careful evaluation when movements are deciding whether or not to negotiate at all. If an organizer knows that the movement may not be able to withstand months of lengthy policy talk, or that it could not actually impose the consequences it needs to on the political leadership it's negotiating with, then that is a strong red flag that negotiation may not serve a helpful purpose at the moment—and that it may even be a trap.

Internal Preparations to Negotiate. As we discuss in Chapter 2, "Coalitions and Allies," modern movements are often decentralized, they rely heavily on intersectional support, and

their underlying structure may only be organized around various loose coalitions of different organizations, if that. While such decentralization brings with it several benefits—one being mass mobilization—that type of structure runs into trouble when the time comes to negotiate. Movements may not need a head on the streets, but a table can only handle so many seats.

That's why, especially in this current era of movement structure, organizers need to do extra preparation work to figure out (1) their representation in the room, and (2) whether those representing them in the room are actually prepared to do the technical work of negotiating policy and dealing with the players in the room.

Representation in the room. While we touch on the question of representation and structure more in the chapter, "Coalitions and Allies," it deserves a brief mention here. As movements prepare to negotiate, they must think carefully about the following set of questions and considerations:

1. **Who is representing them**. Are there particular parts of the coalition that must be in the room? Are there member organizations that would leave if they weren't given representation, or who are especially sensitive about being given a voice? And how might the representation be selected such that more traditionally marginalized voices, like women and people of color, are given as much of a voice as others?

2. **On what issues those representatives can commit**. Movements must think carefully before going into the room about what they are authorizing their representatives to commit to agreement on. Do you want to give your representatives a chance to say yes to a deal on the spot? Do you want them to have to come back to the larger movement first before saying yes? Are there some issues that are just no-go's, and some that they can concede? These are all critical questions the movement must answer for itself before stepping into the negotiation room—not doing so is a recipe for disaster if the representatives commit to a deal the larger movement is outraged by and would refuse to accept.

3. **Whether the movement has a unified negotiation strategy**. One of the great liabilities of a decentralized movement structure is that the various members, organizations, and leaders making up that movement may have many different ideas about how to approach the negotiation itself—think one movement, thirteen different proposals for how to structure a cite-and-release ordinance. Not only would the movement be rendered incapable of actually negotiating as a bloc, that disorganization is something savvy political leaders can take advantage of, as discussed above. It is absolutely essential that before walking into the negotiation room, the movement is unified around one idea for what exactly it wants, and how exactly it is going to go about negotiating for it.

4. **How those representatives will deliberate**. If there is more than one person in the room from the movement—say five—how will they come to agreement on a proposal? Will they vote? Does it need to be by consensus? Does one person have final say, and the rest are just advisory? And moreover, it may be that the movement wants to be kept in the loop about what is happening in the negotiation—or in fact might want to be consulted on particular issues. How are those representatives going to communicate back, on what topics, and for what level of commitment?

CASE STUDY: EGYPT'S CRISIS

Like the other revolutions during the 2011 Arab Spring, Egypt's protest movement was largely decentralized and leaderless, an organically grown outpouring of outrage and hope for a better future after President Mubarak's fall. However, after Mubarak stepped down and transition negotiations began, the movement suffered from what has been called "a deep crisis of political representation." The protesters could not agree on who would represent them or what their goals were. That crisis fractured the movement into a variety of competing visions, dismantled the collective strength of the protesters, and ended up creating a vacuum through which more organized political entities like the Muslim Brotherhood were able to slip through.[30]

As noted briefly above, figuring out these issues of representation and strategy are particularly important. Showing vulnerability on this front leaves open an avenue for the political leadership to use the divide and conquer techniques mentioned in the previous part. If they find that one faction is more open to a proposal than another, or more inclined to be coopted into a formal role within the institution, a savvy political leader is going to take advantage of that weakness to break the movement's momentum.

Preparing to meet the issues and players. It may sound like an obvious suggestion, but it is absolutely fundamental that negotiators for the movement go into the room understanding the issue and the players inside and out. We are raising the issue anyway, however, because in our research and in the literature we realized that movements do not always do this crucial preparatory work. Here are the two most important places to start:

The Issues. One area to prepare for is of course the issues being negotiated themselves. Experts have named a troubling dynamic that when movements get into the negotiation-room, or the time comes to work with other groups or more established political parties, a movement's negotiators can often be put at a disadvantage by those who are more adept at negotiating and writing policies those organizers were originally pushing for. As one expert at USIP explained, "a lot of activists who are incredibly skilled in developing mobilizing frames, don't also have the skillset or training or experience to now sit down and have an in-depth negotiation about what new political institutions or new laws are going to look like. And so in the negotiation phase, you see a lot of activists tend to be sidelined at that phase" by the political elites who know what to push for and how to get it passed.[22] And once those elites coopt the process, that movement will likely not see the transformative change it originally advocated for, because the actors now involved in the negotiation phase may not share the same interests as the movement. To this expert, and across the literature, there is a plea that organizers make sure to always be the biggest expert in the room, no matter what that room is.

The players. As much as the negotiators need to know the issues, they also need to know the actual players in the room. And most importantly on this front, negotiators for the movement must have a deep understanding of the other side's interests: what they want, what they don't want, what they would accept instead of what they want. Having that information is the bedrock of any negotiation—it *will* go nowhere if neither understands what the other wants. Period. This also includes a deep understanding of the other's pillars of support—what is keeping them from saying no? Why do they feel confident in their ability to walk away, and how might the negotiators undermine that confidence in the room by leaning on their own BATNA?

As stated above, if a movement's representation lacks a deep understanding of both of these elements, organizers should take pause and reevaluate whether or not they are truly prepared to walk into the room with the strongest hand possible.

Structuring the Table. In addition to building (or weakening) BATNAs, and preparing to negotiate internally, organizers can also walk in with a stronger hand by structuring the table to their advantage. A negotiation table's structure includes a few key elements: the organizations, interests, and institutions represented in the room; the actual individuals serving as negotiators, who bring with them their own knowledge levels and temperaments; the timing of the negotiation, including breaks and set number of sessions; the agenda; the ability to communicate outside the room; any concessions already made; and any rules already established that govern how the negotiation will proceed.

There are already a good number of books and articles that have covered the ground on how best to set up a table. In particular, Harvard Business School Professor James K. Sebenius and David A. Lax have provided significant contributions to the practice of manipulating a negotiation's structure away from the table, calling it the "third dimension" of negotiation.[23] However, these tactics' importance is such that we have provided an outline of their and other's main takeaways below:

Preconditions are an effective way to get something out of the negotiation before negotiators even go in. It's a "win" that you can secure without having to spend the time in the negotiating room to get it. Here are just a few of the preconditions we have heard being used around the world and in the US in the course of our research:

1. In Sudan, the protesters demanded that the military agree to investigate the June 3rd massacre mentioned above before any negotiation on transitional governance takes place. The military agreed to investigate, and the protesters commenced the negotiations.

2. Jail Support in Charlotte has demanded that any city official who wants to talk to them first work a shift at the jail support itself, in order for them to see through the organizers' eyes the problems and challenges they face every day.

3. In Belarus, the Coordination Council formed to lead the opposition to President Lukashenko has demanded that he release all political prisoners before they sit down to any negotiation.

Preconditions can also be a powerful communications tool. They can show resolve, clarify a movement's priorities, and help counter any narratives that the protesters are being unreasonable. By putting political prisoners first, for example, the Coordination Council in Belarus—the main group attempting to negotiate President Lukashenko's exit from power—is signaling both to its constituency and to the world that it is committed to the freedoms and liberties it said it wants to promote.

Framing the negotiation is important to setting up the story or narrative you are telling both yourself and your movement about what this negotiation is about, and about what your goals are. Organizers can frame these talks as simply the beginning of a process, emphasizing the need to remain on the streets to put pressure on the political leadership, rather than negotiation as the end goal itself. Gene Sharp, in his seminal work, *How Nonviolent Struggle Works*, urges organizers to have a basic strate-

gy for a nonviolent struggle ready should negotiations break down, and to frame that strategy as the consequences for the other side not agreeing to an ultimatum. As he put it, "The ultimatum may be part of a plan of escalation of resistance. The ultimatum may also be intended to demonstrate that the nonviolent group made a final effort at a peaceful resolution, and give it an aura of defensiveness, even as it prepares for militant nonviolent struggle."

Organizers should also look to establish a framing with the other side that is aligned with their overarching goal for the negotiation. As Harvard Business School professor Deepak Malhotra put it:

> The frame, or psychological lens, through which the parties view the negotiation has a significant effect on where they end up. Are the parties treating the interaction as a problem-solving exercise or as a battle to be won? Are they looking at it as a meeting of equals, or do they perceive a difference in status? Are they focused on the long term or the short term? Are concessions expected, or are they seen as signs of weakness? Effective negotiators will seek to control or adjust the frame early in the process—ideally, before the substance of the deal is even discussed.

Setting the agenda is another way to structure the negotiation table to your advantage and make sure that the issues you care most about are given their due time and consideration. To Sebenius and Lax, simply creating a list of unresolved issues and ticking them off one at a time is guaranteed to leave value on the table. Instead, they suggest setting up an agenda that allows you to work with your counterpart to facilitate trades—as in, you get favorable treatment on the issue you care most about, in return for giving favorable treatment on the issue the other side does. That way, everyone is able to maximize their interests.[24]

Setting the table is also a way to structure a negotiation to your advantage even before you sit down at the table, because who is actually at the table can make a world of difference to the outcome of a negotiation. Some officials may be more willing to take a collaborative stance towards the negotiation, more able to see potential for trades and less dug-in about maximizing their value at all cost. Organizers who have the power to dictate which officials they want to work with—and don't want to work with—should push hard to get their preferred people at the table. In the Sudanese negotiations, for example, FFC negotiators have successfully pushed to remove negotiators from the military's side whom they saw as harmful to the process's success.[25] Organizers who are doubtful about particular individuals' intentions and abilities to successfully negotiate in good faith should consider refusing to negotiate until that person is swapped for someone else.

Moreover, organizers should make sure that their own side of the table is set up as advantageously as possible. Sebenius and Lax have found that negotiators who can bring broad coalitions to the table are able to weaken the other side's best alternative to a negotiated agreement, or BATNA. Moreover, if all partners in a coalition are given a voice in the room, they are likely to feel more ownership over any outcome reached.[26] One way to set the table in a coalitional space is to use quotas: each partner could be given an equal allocation of seats, or perhaps an allocation according to size or strength. Doing so can also help give traditionally underrepresented voices more space in the room. In Yemen, for example, women were enormously influential in the National Dialogue Conference mentioned above because the political parties involved had to include at least 30% women in their delegations.

EXPERT NOTE: 3-D NEGOTIATION

Setting the agenda and the table are two ways to play on Sebenius and Lax's "third dimension" of negotiation, but their central message is much broader: "Don't just skillfully play the negotiation game you are handed; change its underlying design for the better."[31] They propose that negotiators structure a negotiation that will allow you to claim more value for your side, but also create value for all sides. They urge negotiators to find complementary parties and issues and ask: "What uninvolved parties might highly value elements of the present negotiation? What outside issues might be highly valued if they were incorporated into the process?"

Flip the script. One tactical idea from Gene Sharp was to intentionally go into a negotiation knowing that the power structure will most likely negotiate in bad faith. Movements can then use that bad faith action as a way to delegitimize the regime and reveal its true colors as an uncaring and distant power worth mobilizing against. One way to do this is to highly publicize an ask to negotiate. As Sharp put it, negotiations can "help to put the opponents in the wrong in the eyes of all concerned and bring sympathy to the nonviolent group." Dr. Martin Luther King Jr. coined this strategy as forcing the leadership into a "decision dilemma": you make the political leadership either agree to a reasonable ask to negotiate, or say no and reveal itself as unreasonable.

CONCLUSION

As we have noted, there are quite a few benefits to negotiation. However, it is also a tool that can be abused by the political leadership to break a movement's momentum. If extended an offer to negotiate, organizers must think carefully about the potential risks, and to act accordingly to make sure that if they walk into the room, they can viably walk out of it with both a win and their movement intact.

Endnotes

1 Based on interviews in the course of our research.
2 From an interview with that organizer.
3 *See, e.g.,* Anthony Wanis-St. John and Noah Rosen, *Negotiating Civil Resistance,* USIP (2017); Charles Butcher and Isak Svensson, *Manufacturing Dissent: Modernization and the Onset of Major Nonviolent Resistance Campaigns*, 60(2) J. Conflict Res. 311, 314 (2014).
4 Wanis-St. John and Rosen, *supra* note 2 at 7.
5 *See, e.g.*, Dr. Martin Luther King, Jr., Letter from a Birmingham Jail (1963); Saul Alinsky, Rules for Radicals (1971); Gene Sharp, the Politics of Nonviolent Action (1973).
6 Wanis-St. John and Rosen, *supra* note 2 at 7.
7 Veronique Dudouet, *Nonviolent Resistance in Power Asymmetries*, Berghof Foundation 239 (2008).
8 Nadine Bloch and Lisa Schirch, *Unit 8: Sequencing Nonviolent Action and Negotiation Tactics for Sustainable Solutions*, in SNAP: an Action Guide 143 (2018). *See also* Maria J. Stephan and Jonathan Pinckney, *Nonviolent Action and Peacebuilding: Contradictory or Complementary?,* USIP (Jan. 27, 2020) *at* https://www.usip.org/blog/2020/01/nonviolent-action-and-peacebuilding-contradictory-or-complementary.
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