

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

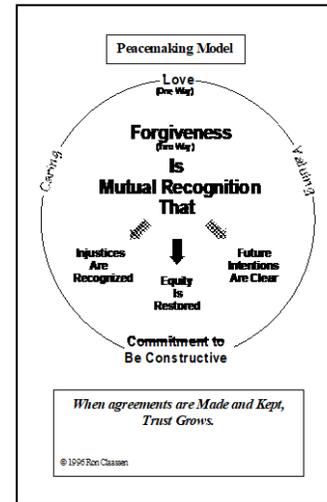
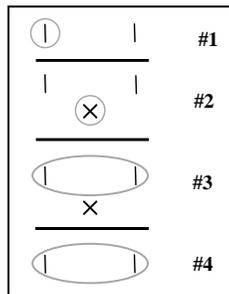
**Table of Contents**

Introduction	2
Three Background Concerns	4
1. Is there any hope for increasing use of #3 and #4 if ones “natural responses” are primarily #2 and #1?	5
2. When a strategy includes a step by step process, what about cultural considerations?	7
3. Are such detailed steps necessary?	11
Overview of Two Cooperative Resolution (#3 and #4) Strategies	13
Reconciling Injustices Introduction	15
Reconciling Injustices (A Step by Step Strategy)	17
Step 1: Introductions, Preparation and Ground Rules	18
Step 2: Recognize the Problem/Hurt/Violation/ Injustice	25
Step 3: Search for Agreements that will:	30
A. Restore Equity	31
B. Clarify Future Intentions	35
Step 4: Craft/Write the Final Agreement	37
Step 5: Closing	38
Step 6: Follow-Up Meeting	39
Reconciling Interests Strategy: Introduction	43
Reconciling Interests (A Step by Step Strategy)	47
Step 1: Introductions, Preparation and Ground Rules	47
Step 2: Identify Interests	53
Step 3: Generate Options	58
Step 4: Evaluate and Choose Options	61
Step 5: Write the Agreement	62
Step 6: Closing	63
Step 7: Follow-Up Meeting	65
The Role of the Leader/Participant in #4	67
The Role of the Mediator in #3	70
Getting Started: Using the Strategies for the First Time	83
Conclusion	84
A Biblical Perspective	86
	90

## INTRODUCTION

*This paper assumes that the reader has read “A Peacemaking Model” and “Four Options Model.” “A Peacemaking Model” describes how people who have experienced a hurt, violation, or injustice between them, move to reconciliation, where trust starts growing between them. The model suggests that whenever injustices or hurt relationships are repaired, a careful examination of what happened will discover some common elements. “Four Options Model” suggests that there are four basic ways that people respond to conflict, but that within these four basic ways there are an infinite number of variations on each of these ways.*

What I plan to do in this paper is to identify two strategies that are designed to be used at #3 or #4. While the other two papers identified some broad categories, this paper will identify very specific steps for each of the two identified strategies. In addition this paper will discuss the spirit and skills necessary to effectively utilize these strategies.



These two strategies are just two of an infinite number of possible strategies that can be used at #3 and #4. I am describing these two strategies because I have found them to be useful to me. Actually, it was as people asked me for specifics about how I have worked at #3 and #4 that I began identifying the specifics in a step by step sequence. In reality, while they are close to what I do, I have probably never actually led a mediation or negotiation using either strategy exactly as it will be written. Since any mediation or negotiation is part science, part art, and part spirit, even when one tries to follow all of the steps exactly as they are written, they look different in each situation.

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

The steps of each strategy have proven to be helpful guides for many novice mediators and for the experienced mediator they have provided a useful tool for reflection, discussion, and comparison.

I will also discuss in this paper how one’s “natural” strategies compare and relate to these step by step strategies. All people learn specific strategies for responding to conflict from their parents, friends, teachers, television, etc. But most people don’t explicitly identify their strategies and the specific steps of their strategies. Most people are not even aware that they respond quite consistently and with specific and predictable steps.

While everyone develops some “natural” strategies, the likelihood of a conflict being resolved at a #4 or #3 increases when at least one of the parties or an involved outsider has a number of backup strategies at their disposal. When the “natural” processes don’t resolve the conflict or repair the relationship, backup strategies can be utilized. Backup strategies increase the likelihood of continued effort at #4 or #3 and decrease the likelihood of consciously or unconsciously escalating to #2 or #1.

One of the problems with utilizing a #2 or #1 is the increased likelihood of power being abused. Since power is such an important factor in all decision-making and peacemaking, a way to reduce the abuse of power of all forms, including sexism and racism, would be to encourage and assist people in gaining a desire for and ability to utilize #3 and #4 more often and more effectively. I think that people are more likely to try #3 and #4 and are more effective at #3 or #4, especially as a conflict escalates, when they have the ability to choose from a number of different strategies, are able to choose

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

an appropriate strategy, are able to describe the steps in the strategy, and to have the skills to utilize the steps effectively.

Elementary schools illustrate these ideas daily. As a teacher’s skills and strategies to utilize #3 and #4 increase, the teacher’s need to utilize #2 and #1 decreases and the number of power contests also decreases. My wife, Roxanne, has been teaching for almost 14 years now and is completing an MA in Peacemaking and Conflict Studies. She has found that as her skills and strategies at #3 and #4 increase, she utilizes #2 and #1 less. She observes adults at school, who have not consciously developed #3 and #4 skills and strategies, regularly getting into power contests with students and as the contest escalates and the need for power increases they are more likely to yell at the student or send them to an outside authority.

This paper identifies two step by step strategies that can be used as backup strategies when a person’s usual or “natural” strategies to do #3 or #4 are not working or helpful?”

### **THREE BACKGROUND CONCERNS**

In this section of the paper I will briefly address three specific concerns:

1. Is there any hope for increasing use of #3 and #4 if ones “natural responses” are primarily #2 and #1?
2. When a strategy includes a step by step process, what about cultural considerations?
3. Are such detailed steps necessary?

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

*1. Is there any hope for increasing use of #3 and #4 if ones “natural responses” are primarily #2 and #1?*

The first strategies we learn are those our parents utilized with each other, with our siblings and especially with us. If we are lucky, we might have acquired some great #3 and #4 strategies and it is also possible we primarily experienced and learned #2 and #1 strategies.

The short answer to the question is yes, there is significant hope for change. Since our responses to conflict are learned, they can be relearned. There are many structures in our society beyond the family that have influence in our lives and the potential for encouraging and assisting us in learning new ways of responding to the conflict we will inevitably face in our lives.

Schools have a significant influence on the conflict resolution strategies we use throughout our lives. A few schools have peer mediation programs and a discipline structure designed to utilize #4 and #3 as much as possible and to use #2 and #1 as little as possible. In these schools students learn strategies to supplement or serve as an alternative to the ones learned at home. They learn some through the curriculum that is taught but more importantly, they learn by observing adults responding to conflict. If students see adults relying primarily on #1 and #2, what students learn from these observations is that even though adults tell children they should resolve their conflicts cooperatively, what adults really believe is that when a person has the ability to utilize #2 or #1 to their favor, that is the right and appropriate thing to do. Students who observe adults valuing #1 and #2 learn to value #1 and #2. Unfortunately this means that those who come to school with #2 and #1 as “natural responses” have these reinforced.

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

The good news is that students learn to value #3 and #4 when they observe adults utilizing #3 and #4 strategies in a wide range of conflict situations including student/student, student/teacher, teacher/teacher, and parent/teacher, even when the adult has the power and could use #1 or #2 to their advantage. Teachers who value #3 and #4 look for all opportunities to teach cooperative strategies. For example, teachers who value #3 and #4 train themselves to utilize student conflict or misbehavior as a time to invite the student to consider resolving the matter utilizing #3 and #4. Teachers, who value #3 and #4, have their students who are reading literature situations and historical events where #1 or #2 was utilized, discuss alternative options and write new endings by substituting #4 or #3 response options. Schools provide hope for increasing the use of #3 and #4.

Faith communities, in addition to families and schools, are important institutions that demonstrate and teach strategies for responding to conflict. Faith communities can provide strong motivation for utilizing #4 or #3. While in secular settings it can be shown that more use of #3 and #4 and less use of #2 and #1 is less stressful and more effective, the religious community has the ability to develop the additional rationale that God wants people to be peacemakers. Faith communities that think God values #3 and #4 will utilize them and educate, encourage and assist members in developing the ability and motivation to use cooperation more and coercion less. Faith communities provide hope.

Other social institutions like our criminal justice system, social services and businesses also have the potential of teaching and demonstrating that #4 and #3 can be utilized very effectively. The criminal justice system has a great opportunity to

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

demonstrate their preference for #3 and #4 and to utilize #2 and #1 only when there are immediate safety concerns or when people are unwilling to search for a cooperative and constructive resolution. In these situations when #2 and #1 are used they can also demonstrate that power need not be abused by using power only in ways that are reasonable, respectful, and restorative. Utilizing #3 and #4 more and using #2 and #1 less reduces the costs of conflict emotionally and financially. Some businesses and agencies are becoming significant sources of hope. For example, the New Zealand juvenile justice system reduced its use of the courts by 75% after changing their system to offer a Family Group Conference prior to court.<sup>1</sup>

In summary, people learn from those around them, including their social institutions, how to respond to conflict. While most people are exposed to some uses of #4 and #3, there is hope that the influence could be stronger if our institutions of family, school, church, etc consciously decided to both teach and model utilizing #4 and #3 as much as possible and relying on #2 and #1 only as backup strategies and using them only in ways that are respectful, reasonable, and restorative.

*2. When a strategy includes a step by step process, what about cultural considerations?*

One concern is that a step by step strategy may not be culturally appropriate. And of even greater concern is that a step by step strategy be culturally appropriate for the dominate culture and imposed on others for whom it is not appropriate.

When one is involved in conflict either as the outsider in a #3 or as a party in #4, the usual response is to “wing it,” to rely on what comes naturally. Sometimes that works

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<sup>1</sup> Judge McElrea reported these findings in a Restorative Justice Conference at Fresno Pacific University in 1995, just six years after legislation was enacted in 1989 making Family Group Conferences the primary

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
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great. One who does this is relying on what is culturally familiar. If the strategy is equally culturally familiar to the others it may work quite well. But when the parties in the conflict are not from the same family, school, religious or ethnic group it is very likely that what comes naturally is different. It is common for people to abandon #4 or #3 in favor of #2 or #1 when the usual and customary or “natural” strategies are not working. When process expectations for how to do #4 or #3 are different and not made explicit, they will likely cause confusion and rather than resolving the problem may actually escalate the conflict. Due to the complexity of the situation in which parties are from different cultures, I am suggesting that a strategy that is not culturally familiar to any of the parties may be very helpful to everyone, provided it is seen as fair.

I struggle with the issues of cultural appropriateness and the concern of imposing my culture on others both as a mediator and educator. One training method that emerged as a way of addressing these concerns is called Ellicitive Training.<sup>2</sup> Ellicitive Training encourages people to identify and examine their traditional or “natural” ways of dealing with conflict, to make them explicit, and build on them. It is a method that has obvious value. The method was developed as a way for people to train across cultures without imposing any particular strategy on another. I value this methodology and utilize its methods.

I also have had people of different cultures, including a group in Vietnam, wanting to know what strategies I have found helpful.<sup>3</sup> Although I knew that many of the

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response and Court the backup response.

<sup>2</sup> John Paul Lederach, *Preparing for Peace: Conflict Transformation Across Cultures*, (New York: Syracuse University Press, 1995), p. 55

<sup>3</sup> I learned from my experience while training in Vietnam that even elicitive training methods can be experienced as a demonstration of superiority and paternalism. I was told by the leader of the NGO training organization that I would not have been invited if I would have said in my methodology statement

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

strategies I was utilizing were significantly different from what my parents and teachers in school had taught me, whether and how to train others, especially of different cultures continued to be a problem for me. It was in that context that I had an experience that significantly influenced my approach since then.

I was invited to participate with a group of about thirty people who were gathering in Los Angeles to consider a variety of conflict situations and possible #4 and #3 responses. I was one of three people in the group whose skin color was very light. This was not a common experience for me since returning from teaching in Nigeria.

I was invited to participate in the Los Angeles meeting because I had been the mediator in a situation that involved police using lethal force against two youth whose families had immigrated to the US from Mexico.<sup>4</sup>

The Los Angeles meeting was a difficult one for me and one that I am extremely grateful for. I heard of many ways that the structures in our churches and society provide those in the dominant culture, including me, access to power to impose our preferences on others. I listened to and began to understand the anger these injustices provoke. It was a life changing experience for me because I was privileged to be among people who would tell me about their real thoughts and feelings. Although their experiences and feelings were very unpleasant for me to hear, it was less so because I

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that I was planning a pure elicitive training. When I asked why I was told, “We’ve had trainers here who refuse to tell us what they use. We are smart enough to do the elicitive part ourselves, what we want from you is your experience and ideas so that we can consider how and if they might be applied in our situation.”

<sup>4</sup> The parents of the one youth had called the police for help and in a very short time their son was dead in the alley with more than thirty bullet wounds. The other youth was killed in similar circumstances. The mothers of the two youth were sisters. Three other Mexican-American youth had been shot and killed by police that same year. The first mediation, which included about fifteen people, led to a larger community meeting. I had also been asked to facilitate a larger meeting in which community members were invited to address the city council members regarding their experiences of police excessive force

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

knew I was with brothers and sisters who were looking for constructive ways of addressing the injustices.

It seemed that each time I spoke I learned more about how what I said reflected a dominate culture view. At one point late in the meeting I was asked why I was not doing more training in their churches and communities. I said, “I don’t want to impose my way or culture on anyone and so I train primarily among those who are most like me.” This turned into a major learning experience for me and is the reason I am telling the story. The response surprised me. A brother put his arm over my shoulders and said, “There you go again, brother Claassen, demonstrating your attitude of superiority and paternalistic ways.” I was confused and asked how I had done that. He said with great feeling and compassion for me, “Don’t you think we are smart enough to sort it out? You tell us what you know and what you think and we will do with it what we think is appropriate. You don’t have the power to impose it on us.” I responded with, “Thank you brother. I feel like I have just been set free.”

My colleague Dalton Reimer has suggested the language of Confessional Training. I find that fits well with my learnings from Los Angeles. Confessional Training is the kind of training that starts by recognizing that the participants already know and have strategies for working at all of the options. I encourage them to compare and contrast their knowledge and experiences with the ideas and strategies I present. My intention in the training is to expose them to the ideas, theory, and strategies I have studied, adapted, utilized and found constructive in my work as a mediator and as one of the parties to the conflict in my family and work settings. I encourage participants to constantly examine the ideas and strategies for fairness, “are they fair to all parties?” If

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

they seem fair, even though they might seem very unfamiliar, I encourage them to “try it out” the step by step strategies and then reflect on how they and others experience the process. I know, of course, they will add, adapt, modify, and incorporate what seems helpful and leave out what doesn’t. In this dynamic exchange I also continue to learn, modify, and adapt new ideas and strategies.

In summary, since more and more conflict is across cultures, there is a great need for strategies that are made explicit and open to examination by all parties and utilized only when judged to be fair to all parties. This is one way that a step by step strategy can be respected and valued by all cultures involved.

*3. Are such detailed steps necessary?*

When I first started training I would introduce the Peacemaking Model and the Interests/Positions model and suggest that the trainees develop their own specific steps and methodology. For some this worked well but many would ask me to describe specifically how I would do it. Some accompanied me and took detailed notes. It was about that time that I had another experience that has had significant influence on my training methodology.

Over a three year period, I did some part-time business consulting work with an artist who created hand made clay sculptures (animals primarily), had people duplicate them (also hand formed), and sold them. The business grew and the artist constantly created new and improved designs. One day she announced that she was going to a two day seminar for veterinarians and chiropractors. The participants would start with a skeleton of a horse and with small clay pieces add all of the muscles and other tissue until

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

they built a horse. I thought of her as this free flowing artist who formed her designs with extraordinary freedom. I asked her why she would want to spend so much time on such detail. She explained that it was the thorough knowledge of that detail that gave her the freedom to create her free-flowing designs. People watching her had no idea that this background of detail was influencing her artistic flow.

The Reconciling Injustices and Reconciling Interests step by step detailed strategies that follow are what emerged as I have tried to describe the background and detail of what I do. In reality, I probably never do it exactly as it is scripted but I have confidence that when we follow these steps (based on the fine details like building the horse one muscle at a time), people experience a positive transformation. Having the steps written and available for inspection increases the participant’s confidence in the process and their experience of fairness and reduces the parties’ feelings or thoughts of being manipulated. Sharing the process with the parties not only helps facilitate the process but also makes the mediation an educational experience and increases the likelihood that in their next conflict they will have additional strategies at their disposal.

We have found that for the novice mediator or negotiator, using the script is a helpful way to begin. I encourage the novice mediator or negotiator who is going to utilize the strategy for the first time to tell the other person(s) that this is their first attempt to use the strategy and to give them copies of the strategies so they can approve or modify them and follow along. I encourage the novice to ask if everyone would be willing to follow **all** of the directions in each step and after completing **all** of the steps, help evaluate the process and discuss what was most helpful and what might have been ok to leave out.

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

After doing hundreds of mediations I still prefer following the written strategies. I know that for some it seems that to be artistic one must just let it flow, whatever that means. For me, the experience of artistic flow increases when I know, understand, and have experienced the detail so thoroughly that I am no longer preoccupied with it.

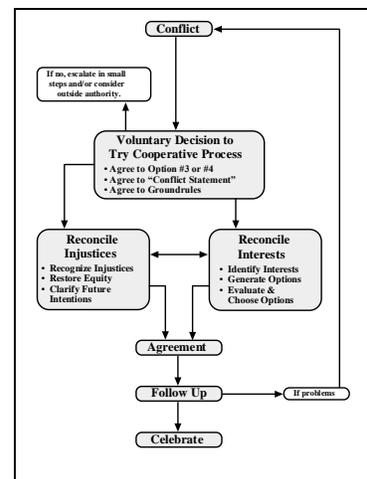
When we are reflective mediators, the detail of the step by step process will continue to change as we gain new insights. I have modified some of the details in the process of this writing.

## **OVERVIEW OF TWO COOPERATIVE RESOLUTION (#3 AND #4) STRATEGIES**

The “Reconciling Injustices” strategy is designed for use when the conflict involves hurts, violations or injustices. The other strategy, “Reconciling Interests” is designed for problem solving when two or more are stuck because of different preferences or even mutually exclusive positions. Both strategies can be used with either the #4 or #3 option. The flow chart gives an overview of how I utilize the strategies.

When a conflict<sup>5</sup> is identified, the parties need to decide if they are willing to utilize a voluntary and cooperative process (#4 or #3) to address the conflict. If they are, to increase the likelihood of a fair and just agreement the parties also develop and/or agree to ground rules they think will help the process to be fair.

If all parties are willing to search for a constructive



<sup>5</sup> A conflict is not just a difference or disagreement. It is when one or more parties have acted on or are threatening to act on their differences or disagreements in ways that block the other or in some way prevent the other from doing something or being seen the way they would like to be seen.

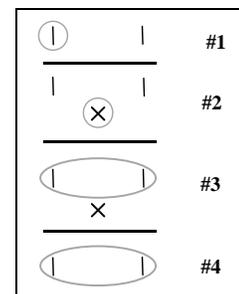
**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

agreement guided by their agreed to ground rules, then the next question is to decide which strategy to use. If the conflict is primarily a violation or injustice, or there is an expression of hurt, then the flow chart suggests using the Reconciling Injustices strategy. If, on the other hand, the parties indicate that they are simply stuck in the conflict because they have expressed positions that are different and they haven’t been able to agree on how to resolve the situation, then the flow chart suggests the Reconciling Interests strategy. In many situations there are some elements of both hurt or violation and different or mutually exclusive positions. The flow chart indicates that one may start on one side and then move to the other when that one is needed. In the full step by step process of each strategy I will describe when it might be helpful to move from one to the other.

If the parties, utilizing one or both strategies arrive at agreements they are generally written and signed. I prefer including at least one follow-up meeting in each agreement.

If the follow-up meeting reveals that the agreements are being kept, the flow chart suggests it is time for a celebration. If the agreements are not being kept, this is a conflict and the parties need to decide if they are willing to use #4 or #3 to try to resolve the conflict. It may be that they will want to use a different strategy or it may be that they will want to use the same strategy but when the new agreements are made, they increase and add detail regarding the accountability part of the agreement.

If the parties do not agree to utilize a #4 or #3 then the back-up options would be #2 or #1. If they are being guided by a Restorative Justice model, they will continue to seek a constructive



**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

and fair agreement by using #2 or #1 only in ways that are respectful, reasonable, and restorative. In this paper I will be addressing only strategies for use in #4 and #3 and while there are an infinite number of strategies, I will be presenting only the two strategies I have found most helpful. I will not be addressing the back-up options (#2 and #1) in this paper.

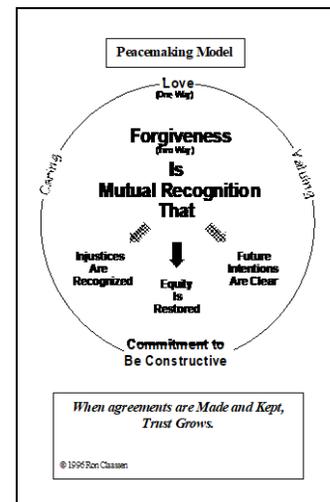
## **RECONCILING INJUSTICES: INTRODUCTION**

The Reconciling Injustices strategy is one particular way to implement the Peacemaking Model. I will assume that the reader has read “A Peacemaking Model.”<sup>6</sup>

The “Reconciling Injustices” strategy has emerged primarily from experiences with victims and offenders of crime and in training volunteer mediators with Victim Offender Reconciliation Program (VORP).<sup>7</sup>

To most people it seems that the victim-offender type conflict would be one of the most difficult types of conflicts to mediate. But, in many ways it is one of the easier conflicts to mediate. The reason is because the victim-offender conflict is

half of a usual conflict. In our VORP we generally start with people who are in clear victim and offender roles. The offender has already acknowledged two very important things: 1) what they did to the victim and 2) that it was wrong. In most conflicts, especially among people who know each other well, even and perhaps especially in cases of hurt and violation, the roles are not so clear. The starting point is often that each views



<sup>6</sup> Ron Claassen, “A Peacemaking Model”, (Fresno, Center for Peacemaking and Conflict Studies, 2003) <http://www.fresno.edu/dept/pacs/docs/APeacemakingModel.pdf>

<sup>7</sup> Ron Claassen was founder and director of VORP of the Central Valley, Fresno County, CA (1982-1999).

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

herself as the one who was harmed and the other as the one who did the harm while of course the other has just the opposite view. Because the roles of the parties in VORP cases are so clear we encourage the novice mediator to start with VORP cases. The starting case for the novice mediator is usually with Juvenile offenders and property offenses. Because of the starting assumptions and because this is usually the only conflict between the victim and offender, the mediation is less likely to get stuck. While it often includes significant emotional intensity in the recognizing the injustices stages, the likelihood of finding agreements on how to restore equity as much as possible and clarify the future is very consistently in the mid to high ninety percent range, even with novice mediators.

In some VORP cases the roles are not so clear and in some cases of violence there are additional factors that require substantial additional training and experience.

There are many conflicts that involve a sense of hurt or violation that are not also violations of law. My wife, who has been using these strategies at school for over 14 years now, finds that most student/student conflicts are primarily ones of hurt and violation. In most conflicts of violation or hurt, each party feels as if he is the victim and the other is the offender, while the other party also feels as if she is the victim and the other party is the offender. It is also quite likely that in these conflicts in which there is a sense of violation or hurt, in contrast to the VORP cases, the parties have a significant history and many experiences of injustice rather than just the one. Because of these factors the mediation is slightly different than the common property VORP case.

The step by step “Reconciling Injustices” process below has been designed to address the hurt and violation case where the roles are not so clear because this is the

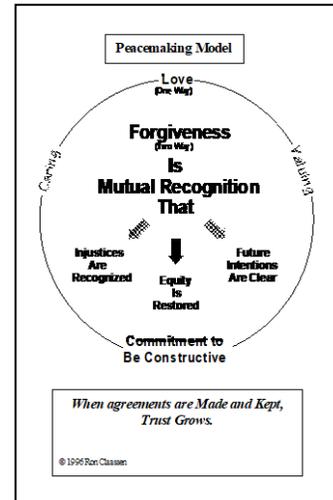
**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

more common conflict. The minor modifications that are needed when working with the clear victim – offender conflict will be obvious.

The Peacemaking Model is a general description of the basic steps that people, who have experiences of violation or hurt between them, move through to make things right again between them. I think there are an infinite number of ways to do the basic elements of the Peacemaking Model.

The “Reconciling Injustices” strategy is just one of the ways of experiencing the basic elements of this model.

Since the Reconciling Injustices strategy is an outgrowth of the Peacemaking Model I am including a copy of the model for easy reference. What follows is the step by step strategy with process suggestions and rationale added.



The abbreviated form can be found in Appendix 1.

Since a mediation, a particular form of #3, is just a facilitated #4, I will include commentary with each strategy that might apply to a negotiation or a mediation. Following the presentation of the detailed step by step strategies, I will add some additional comments on the role of the leader/participant in #4 (negotiations) and on the role of a mediator in #3 (mediations - facilitated negotiations).

## **RECONCILING INJUSTICES (STEP BY STEP STRATEGY)**

The abbreviated form can be found in Appendix 1. The step by step strategy is written as if there are two parties in the negotiation. The process can be modified to accommodate more than two parties. The comments in italics are commentary explaining the rationale behind the step by step strategy and other related information.

The step by step process can be utilized at #4 or #3. Comments will be made that apply to one or both processes.

## **Step 1: Introductions, Preparation & Ground Rules**

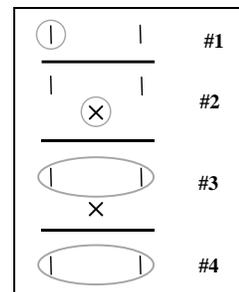
*The order of the items below may need to be changed or the content modified. If the process is new to some of the parties they should have time to look over the entire process in advance or perhaps together before making any agreements on the specific items. It is helpful if all parties have a copy of the process. The structure provides safety and increases hope for a fair process. Some tension and awkwardness is normal in the early stages of the process. Making agreements regarding the process and ground rules reduces the tension some while increasing trust and hope that agreements might eventually be found to address the content of the conflict. In some cases the introduction and ground rules may take no more than 5-10 minutes and in others several hours. Since these agreements and commitments provide the basis for everything that comes later, they are very important and especially if the negotiation gets stuck at some point.*

- 1. Introductions as needed.** *If there are just two parties, and you are one of them, it is not likely that you will need introductions but if the group is larger, introductions may be needed. I generally suggest the parties introduce themselves. This gets everyone talking. It may be helpful to agree on what should be included in the introduction, sometimes ones full name and the name they prefer having others use for them in the meeting. One group that was working on a school racial discrimination issue devoted the entire first meeting to introductions.*
  
- 2. Briefly state conflict that needs to be resolved.** *This should be no more than a short sentence or two. It is not the time for a full discussion of the situation. It is a time to agree “we” have a conflict and to name the basic area. Neutral language is helpful. If an adult and a child are working together, the adult might be tempted to*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*state the conflict as “you have a problem,” while the child might be thinking “you have a problem.” But it is more accurate to say “we have a problem.” In addition, saying “we” feels better and more hopeful, especially to the child or anyone with less power. If the conflict is a clear victim/offender situation it might be stated as “we are here due to the offense that happened on ...” When the conflict is not a clear victim offender situation, one danger is that each person wants to state the conflict as if the other is the offender. When stated that way the other party usually does not agree and it is possible to get stuck before getting started. This is another reason it is helpful to use “we” language and “neutral” language. For example: “We have had some harsh words between us and there is disagreement and confusion preventing us from having a good working relationship.” It is a helpful statement when both parties can say “yes” to the statement. Since most conflict starts with confusion, even though the conflict may have escalated and each party is pretty sure the other is at fault, starting this process with the confusion is helpful. It would be even better if the conflict were being worked on while it was still at the confusion stage and before it escalated and injustice were accumulated.*

**3. Describe and discuss the “four options model” and decide or confirm if all parties want to use #4 or #3.** *The purpose of doing this is to eliminate possible confusion regarding process and to increase commitment to seeking understanding and mutual agreement. It is important to emphasize that while many ideas*



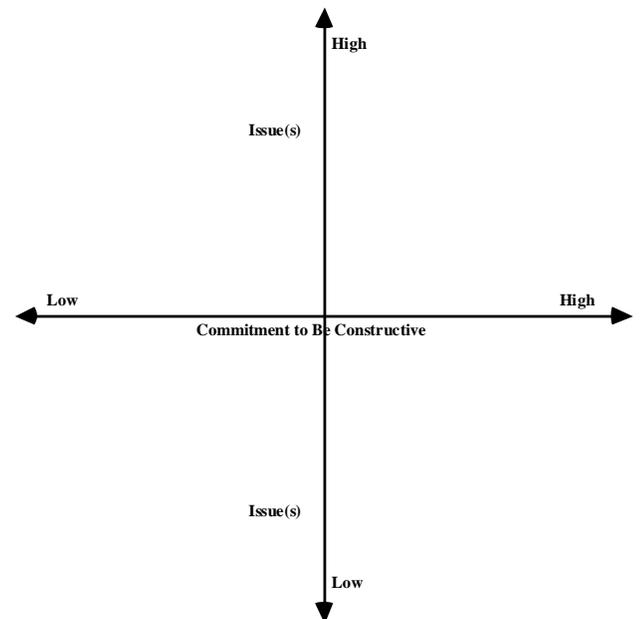
*and possibilities may be discussed, there is no “agreement” until everyone inside the circle agrees. If someone is unsure or if everyone cannot agree, then it might be*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*helpful to discuss the alternative options. This exploration might increase commitment to #4 or #3 or it might clarify that attempting to continue with this process would be a waste of time since one person or more persons is not committed to trying to seek an agreement that will be acceptable to both. If that happens, agreement on the preferred alternative option is helpful.*

**4. Describe and discuss the “issues/commitment to be constructive model” and decide or confirm if all parties want to work in the upper right quadrant. One**

*of the purposes of this model is to clarify that utilizing a #4 or #3 process does not mean that one has to give up on the issues that are important in order to be constructive. The model can help illustrate that it is possible to have strong and even mutually exclusive positions and still be committed to being constructive in the process of seeking a mutual agreement on a constructive way to move forward. While most people have a sense of what it would mean to be constructive, it may*



*be helpful clarify what “being constructive” might be like by referring to the charts in Appendix 3 or 4. It is important that all parties agree to be on the constructive side of the continuum. If they cannot agree to be on the constructive side, then it is very possible that a person might use this forum for destructive purposes. In addition to agreeing to being constructive, it is helpful if all parties agree to*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*seriously engage all of the issues as important. This is important because there are times when one party is very upset and the other doesn't see it as a problem at all. This is often the case when the one who doesn't see it as a problem has the power to control the issue. Asking all parties to engage the issue(s) as important is helpful. If an issue is really not an important one it is not likely there would be a conflict related to it since the one who says it is not important could just say, “let's do it your way since it is important to you.” Checking in on this commitment occasionally throughout the process may be helpful, “is everyone still in the upper right hand quadrant.” Since this is a voluntary and cooperative strategy, it will only work when all parties approach it voluntarily and cooperatively. There are several advantages to asking this question up front and throughout the process: a. The agreements are more creative, b. The likelihood of additional injustices being added is reduced, and c. The time is used more efficiently.*

**5. Discuss and decide if all parties can agree to each of the ground rules:**

*Ground rules are not intended to stifle disagreement but to create a safe environment in which disagreements, violations, injustices, etc. can be openly discussed and transformed into new understandings and constructive agreements.*

- **Allow (name of person) to lead the process**
- **Say if process is not fair**

*While these two ground rules are each important on their own, it is also important they are connected since both are addressing the issue of power. The two are addressed together to seek a power balance. The first is an agreement that*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*someone in the group is needed to lead the process and the second is inviting everyone to be judges of fairness to prevent the leader from having a power advantage. This is especially important when doing #4 but is also important for the mediator in #3. The leader has as much authority as the group gives. The second provides all of the other parties a way to also take a lead by raising the fairness issue. The leader in a #3 or #4 must be committed to this power balance and can demonstrate this commitment by periodically checking in with the others to see how “we” are doing on fairness.*

*If there is a problem with fairness, it needs to be stated and adjustments made to re-establish fairness. Usually a short discussion takes care of the problem. If not and if the problem is with the leadership, perhaps another person can take on the leadership. If the problem of fairness raised by one of the parties is how people are talking to each other the leader might just ask if everyone is still committed to the ground rules. In one large group session when someone raised the fairness issue while I was mediator, I asked the question and the one who had been speaking just before the fairness issue was raised said, “I had forgotten. How about if I restate my concern.” He did and when I checked back in with the person who had raised the issue, he was satisfied and we continued. In some cases, if a quick reminder and discussion does not resolve the issue, some options would include adding some additional respected people inside or outside the circle or moving from #4 to #3 so the leader would be outside the circle.*

*The other ground rules clarify some of the fairness issues. In some cases you might want to add more ground rules. In a meeting with police and a family of a*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*teenager who had been killed by police, in our preliminary meetings and negotiation on the arrangements for the meeting, they added no guns, no tape recorders, no press, and several others.*

- **Listen without interrupting**

*The purpose of this ground rule is to insure that each person will be able to express their thoughts without interruption. An exception to this would be if one wanted to raise the fairness issue.*

- **Be as honest as you can**

*This one is helpful since each person is very likely to have a very different perspective on what has happened. If each person has agreed to this ground rule it increases the likelihood of the parties listening to each other without dismissing or devaluing what the other is saying.*

- **No name calling or profanity**

*This ground rule clarifies that there are some limits on how one can express thoughts and feelings. Name calling is rarely heard by the other as a constructive statement. Profanity, although sometimes simply a habit, is usually a way of expressing strong emotion but in a way that may not be very clear or when directed at the other person may not be experienced as constructive. Expression of intense personal thoughts and feelings is important and helpful. Parties are encouraged to express their thoughts and feelings in “I-statements” that accept responsibility for their own strong thoughts and feelings and communicate accurately with the other(s). Some people prefer to write their initial statements*

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

*describing their experience so that they say what they want to say the way they want to say it, without being distracted by the dynamics of the meeting.*

*Acceptable language limits will vary from group to group. While changing one’s natural language of expression is uncomfortable, it is often helpful in this setting.*

*Often the reason for using a formal process like this is because the “natural” ways of talking and working on the conflict have not been helpful and constructive.*

- **Be willing to summarize**

*The purpose of this ground rule is to emphasize that listening and trying to understand the thoughts and feelings of the other(s) is very important in this process. It is helpful to clarify that a summary is not a statement of agreement. Rather, it is an attempt by the listener to convey to the speaker that the listener has heard and understood what the other was saying and as the speaker intended it to be heard.*

*What was actually communicated is a guess until the listener summarizes what he heard. The speaker may then say, “Yes, that is what I said” or the speaker may want to repeat or modify some or all of what was said and try to communicate the thoughts and feelings with different words. Then the listener should be asked to summarize again. This should be repeat as many times as needed until the speaker is satisfied that the other has heard and understood.*

*In Step 2, summarizing is built into the structure of the process. But summarizing is equally important at any time in the process where anyone is concerned if what has been said has been understood as it was intended. This process may feel cumbersome and time consuming at first but observers note that it saves time,*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*increases empathy, and contributes to creative agreements. Agreeing to this ground rule means that one is willing to summarize whenever the process calls for it or whenever another party would like a summary. In a dissolution of a partnership mediation, it took at least 5 attempts before the speaker was satisfied that the other had heard it the way it was intended. In a meeting between spouses, the one kept saying, in a somewhat frustrated yet compassionate tone, “you just don’t get it!!” We kept trying and finally she said, “Now you’ve got it.” Advance preparation and encouragement in the process to exercise patience with each other makes the hard work of abiding by this ground rule possible.*

**Step 2: Recognize the Problem/Hurt/Violation/ Injustice**

*The problem/hurt/violation/injustice language gives all parties options on the starting point they see as appropriate. To one the situation may be just a problem with some recognition of hurt but to another the same situation may be experienced as a serious violation and injustice. **Recognition** is the focus of this part of the process. Although additional recognition will happen throughout the process, when hurt or violation are part of the conflict, it is unlikely that repair can be done or that the future can be discussed meaningfully until what each person experienced is recognized **by the necessary person(s)**. The steps below are written as if there are just two parties. If there are more than two parties, the speaker should be asked who she would like to do the summarizing. The speaker needs to have the opportunity to choose who should listen and summarize. This is very important because the criteria for moving on to the next step is that each party agrees that their problems/hurts/violations and/or injustices have been recognized.*

**Decide who will be Person #1 and Person #2.**

*If one party is the initiator of the meeting or the one raising the problem/hurt/violation/injustice, it might be helpful if that person is Person #1. If it is clear that one party is the offender and the other is the victim, then the victim should decide who will be Person #1. (Some victims choose to have the offender speak first. This gives the victim time to assess the situation and decide, in the light of the offender’s approach, what to say and how vulnerable to be. Some victims prefer to start so they can say what they want to say without being influenced by what the offender says.) If one is more powerful (like a teacher and student with teacher leading the meeting), offer some options to the less powerful: a. Do you want to start? b. Do you want me to start? c. Do you want to flip a coin to decide who starts? If one of the above ideas does not produce agreement on who should start, don’t let this become an issue that prevents proceeding. Flip a coin and allow chance to decide. Remind each other that everyone will have opportunity to speak. (When using this process with clearly identified groups, it may be helpful to have each group identify one or two who will speak for the group and one or two who will be the listeners/summarizers for their group.)*

**1. a. Person #1 describes how s/he experienced the problem/hurt/violation/injustice.**

*The language “describe how you experienced the...” is chosen very deliberately since what is most helpful at this point in the process is a clear I-statement, one that states the thoughts and feelings one has related to a specific experience. (If the instruction to the speaker is, “so what is the problem,” the speaker will most likely make a You-Statement, “the problem is that you...” ) If it is not possible to provide*

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

*training for each party on how to construct an I-Statement, inviting the speaker to “describe your experience” will usually elicit an I-Statement.*

*Some will start with thoughts and others with feelings. The process outlined below is simply to encourage the parties to describe both thoughts and feelings. Another option is to provide the speaker a brief guide for describing the experience: a. Describe your experience (what happened, where, when) and b. Describe your thoughts and feelings at the time of the incident(s) and also include your thoughts and feelings since then, including now. The speaker should be given adequate time to thoroughly describe the experience. In a single incident that is not too intense, this may be very brief but in ongoing relationships and/or more serious violations it may take substantial time. Giving the speaker time to thoroughly describe her/his experience is foundational to everything that follows. It is not likely that next steps in the process will be productive unless this part is given the time parties need. People unfamiliar with this process often express the concern that this could go on and on forever. That is very unlikely if the speaker is asked to “describe your experience” and when the experience is summarized. For some speakers it is tempting to move from describing their experience to judging and condemning the other party. The leader needs to simply ask the speaker to pause at that point, ask the designated listener to summarize, and then ask the speaker again if there is anything else in his experience that he would like to describe.*

**b. Person #2 restates/summarizes until Person #1 says, “Yes, that is what I said.”**

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

*A listener should be designated and told in advance that a summary will be expected. When the experience is of significant length, the speaker may prefer to stop occasionally for a summary or the speaker may prefer to have the listener take notes so that the speaker can speak without interruption. The instruction to the listener is to “summarize, using your own words as much as possible, what the speaker said and wanted you to hear and understand. Do not add your thoughts or feelings at this point.” It may be helpful to remind the listener that summarizing does not mean agreement. It may be helpful to the listener to suggest starting with, “You said that...?” rather than “What I heard you saying was...” Even while the listener is summarizing, the focus is on the experiences, thoughts, and feelings of the speaker. The listener may want some of the original statement repeated or the speaker might want to repeat something that the listener didn’t remember or misinterpreted. This time belongs to the speaker and is not completed until the speaker says, “yes, that is what I said.”*

**c. Person #1 describes feelings or thoughts related to the experienced problem/hurt/violation/injustice, that were not included in the first statement.**

*This is to emphasize that both thoughts and feelings are important and to invite the speaker to include any that were left out in the original statement.*

**Person #2 restates/summarizes until Person #1 says, “Yes, that is what I said.”**

**2. a. Person #2 describes how s/he experienced the problem/hurt/violation/injustice.**

*This is to give the one who was the listener a chance to be the speaker. The process is the same as above. As above, the focus throughout this step should be on the*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*speaker’s experiences, thoughts and feelings. If there are more than two parties or “sides” then each should be given a time and each should designate someone to do the summarizing.*

- b. Person #1 restates until Person #2 says, “Yes, that is what I said.”**
- c. Person #2 describes feelings related to the problem/hurt/conflict/injustice.**
- d. Person #1 restates until Person #2 says, “Yes, that is what I said.”**

*When everyone has been given a chance to speak and be heard, there may or may not be agreement on what happened. If there is agreement on what happened that is helpful but it is not necessary to move on in the process. If there is not agreement at this point, it is unlikely that more time will bring about agreement. In many situations different people observing the same situation describe it in different ways. This is why a police report includes the observations of several witnesses. Getting the full picture may require several perspectives. Don’t give up if there are different perspectives. Agreement at this point is not even a strong indicator of the successful completion of the next steps. If there is not agreement about what happened at this point, it is important to encourage the parties by stating that “it is normal to have different perspectives and agreement is not necessary to move on to the next steps.”*

***It is time to move to Step 3 when each party agrees that the problem/hurt/violation/injustice, as s/he has described it, has been recognized. If one does not think/feel the problem/hurt/violation/injustice has been recognized, that person should describe the parts of her/his experience that have not yet been recognized and the listener should summarize again. When a summary does not catch the real meaning intended by the speaker it is not uncommon for the speaker to say something like, “you***

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

*just don't get it yet.” When this is happening, it may be helpful to remember together everyone's commitment to be constructive and the difficulty of what really summarizing something as the other really said it or intended it to be heard. Then remind everyone that what is needed in this part of the process is to repeat speaking and summarizing as often as needed until each agrees the problem/hurt/violation and/or injustice has been recognized. **Don't move to Step 3 without this agreement.** If you have some doubts or feel someone might just be giving up, it might be helpful to tell everyone that one of the items that you plan to include in the final agreement is, “we listened to each other and we agree that our problems/hurts/violations/injustices have been recognized.” You may do this in the group or in caucus (individual meetings with each of the parties).*

**Step 3: Search for Agreements that will:**

*Step 3 is designed to help the parties search for agreements that will repair the recognized problems/hurts/violations/injustices as much as possible and will prevent them from happening again. But if the parties have not agreed on what happened, they might be feeling, “if we can't even agree on what happened, how can we possibly trust each other enough to make agreements about Restoring Equity and Future Intentions?” It is very helpful to remind everyone that trust is not expected that trust is high at this point in the process and is not needed to make agreements. But, if agreements are made and kept, trust will grow. It is not necessary or expected at this point that trust will be high. If trust was high the parties would not need this process. If agreements are made and kept, trust will grow.*

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

*The Reconciling Injustices process is based on “A Peacemaking Model<sup>8</sup>.” If you haven’t read it I would encourage you to read it to gain an understanding of why this process includes these particular elements. **There are an infinite number of ways to do the Peacemaking Model elements and this process is one way, not the way or the only way.** The order of the steps in this process is just one possible order. While I am describing one particular order, I know those using it will feel free to change the order to suit the situation. In minor victim-offender cases and most school conflict cases, the order as described here usually works quite well for the participants. However, in some more serious cases, the participants often prefer reversing the order of Restoring Equity and Clarifying Future Intentions. One victim in a sexual harassment case said after finally feeling that the injustice had been recognized, “I am not ready to consider how to restore equity yet. Actually it feels good right now. It is clear that he owes me. If we can clarify the future plans, then I would be open to considering how to restore equity as much as possible.”*

*Sometimes it is obvious to the parties what order would be most helpful. If it is not obvious which should be first, it works quite well to do them together. When parties get stuck, the Reconciling Interests process, a problem solving process, can be very helpful in deciding how to Restore Equity and Clarify Future Intentions.*

## **A. Restore Equity**

*In clear Victim-Offender conflicts, Restoring Equity is a combination of something that can be done (often referred to as restitution) and letting go of what is left (often referred*

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<sup>8</sup> Ron Claassen, “A Peacemaking Model”, (Fresno, Center for Peacemaking and Conflict Studies, 2003)

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*to as grace but also referred to as forgiveness by some.) The grace portion is at the total discretion of the victim both on whether to let go and when to let go. This part is not negotiated. So Restore Equity for the purposes of this process refers to the tangible part of the repair that can be done and only includes the grace portion if the victim requests that it be included. Many victims report that when the offender recognizes the injustice, restores equity as much as possible, clarifies constructive future intentions, and then keeps these agreements, the grace part happens quite naturally. Some victims offer this grace portion (often referred to as forgiveness) even before any process gets started. For some it comes quickly, for some it is a much longer process, and for some it may never happen. The grace portion is totally at the discretion of the victim. I prefer to reserve the word forgiveness for the discovery that is made when the process is completed, the agreements are made and kept and acknowledged as having been kept. The mutual recognition of the transformation that is experienced or discovered is forgiveness.*

*For those conflicts where each party feels as if s/he is the victim and the other is the offender, Restoring Equity is still a combination of something that can be done and some that is let go. The difference is that in these conflicts, there is often something that each party can do to repair things as much as possible and some letting go that will be left to each.*

*If you decided to do the work on Restoring Equity and Future Intentions together, then you will ask each person to write down some ideas, taking into consideration the experiences*

Restore Equity	Clarify Future

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

*of all parties, that will make things as right as possible and will prevent the problems/hurts/violation/injustices from happening again. You might suggest that they divide their paper into two sections, restore equity and future intentions. They can write them in separate columns or they can just write all of their ideas and then later sort out which restore equity and which clarify the future.*

- 1. Ask each person to write down privately what is needed to make things as right as possible now. Be specific: i.e., repay loss, apologize, talk to friends, etc.**

*The purpose of this step is to give each party time to think independently and write down, in the light of having heard each other describe the experiences, what is needed or what can be done to restore equity as much as possible. One of the reasons for working independently first is to recognize that one is likely to be more verbal and assertive. By working independently first, each can create and develop their own ideas. Each should be encouraged to write ideas based on what was heard in the Recognizing the Injustice part of the meeting. In some cases this might include what one needs and in others what one can do, and in others it might include both. It is most helpful if each person contributes several ideas, even if some of them will not likely be used. One suggestion is to ask each person to contribute at least three ideas.*

- 2. On a large pad of paper write each suggestion so everyone can see. Under Restore Equity, alternate**

Restore Equity	Clarify Future

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

**writing one idea from each person until all ideas are listed.**

*The purpose of writing on the large pad is so the information that has been generated is equally shared with all parties. If it is written on a small piece of paper, not everyone can see equally well what is written. Writing the ideas in a single list (rather than identifying each person’s ideas) also helps develop the idea that these are now “our” ideas, rather than yours or mine. Another value of writing them on a large pad is to ease the tension of saying them directly to each other by directing eye contact to the pad.*

*If you are doing restore equity and clarify future together, ask for one idea and decide together if it should be under Restore Equity (RE) or Clarify Future (CF). Alternate until all suggestions are listed. If one thinks the idea should be under RE and the other under CF, put it under both.*

**3. Choose the options that will help restore the equity/balance for all parties.**

*Make a check mark by each idea both agree should become part of the final agreement. (Putting a check mark by those you want to keep rather than crossing out the ideas you will not use feels a little better to the one who contributed the ideas not being used.) If you get stuck and can’t agree, ask each to make a new list including only those things that they think will be acceptable to all parties. Then write the new ideas on a new sheet and after all ideas are listed put a check mark by the agreed upon items. If this does not help the parties get unstuck, use the Reconciling Interests process to help with the problem solving on how to restore equity and clarify the future.*

**4. Evaluate the chosen options: are they reasonable, related, respectful, and restorative for all parties? Modify the agreement if necessary.**

*This step provides additional criteria for evaluating which options are appropriate. Some people might be willing to accept agreements that do not meet these higher standards. The importance of these criteria becomes clearer when placing each on a continuum. If an agreement is on the opposite side of the continuum, unreasonable, unrelated, disrespectful, and intended to stigmatize or ostracize, most people would consider that abusive. I think the leader or mediator has an obligation to raise these criteria and invite each party to speak to them. In some situations it would be important to do this in a caucus or some other safe setting.*

**5. Write the agreed upon options in the agreement.**

*The purpose of writing the agreement is to reduce the likelihood that each will have a different memory of the agreement. If the agreement is not written and each has a different memory of what has been agreed to, it is very likely that each will think the other is not keeping the agreement. When this happens, trust is diminished because each thinks the other is not keeping the agreement.*

*It is not essential to write the agreement for each person to be committed to keeping the agreement but many report that signing an agreement does add to their commitment in addition to clarifying obligations and expectations. When in doubt about whether or not to write the agreement, write it. See Appendices 5-7 for sample agreement forms.*

**B. Clarify Future Intentions**

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

*Agreements that Clarify Future Intentions address what will create a better future for each individual as well as clarifying future relationship for the parties. This agreement generally includes a statement regarding intentions related to non-repetition of the offense(s) as well as what accountability might be helpful to encourage each party to keep the agreement(s). In addition it is helpful to clarify expectations regarding how they will relate to each other in the future. If they rarely see each other, what are their expectations if they do meet. If they see each other frequently, the first agreement might clarify expectations between the time of the agreement and the first follow-up meeting. At the follow-up meeting the expectations might be discussed again and perhaps modified until the next follow-up meeting. If agreements are made and kept, trust will grow and the time may come when there is no need for clarification beyond any normal relationship.*

- 1. Ask each person to write down privately what agreements need to be made to clarify expectations and create a better future.**

*The purpose of this step is to give each party time to think independently about and write down, in the light of having heard each other describe the experiences, what is needed to clarify future intentions. One of the reasons for working independently first is to recognize that one party is likely to be more verbal and assertive. By working independently first, each can create and develop their own ideas. Each party should be encouraged to write ideas based on what was expressed and heard in the Recognizing the Injustice part of the meeting. Many ideas are more helpful than just*

Restore Equity	Clarify Future

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

*one or two ideas. Ideas should include what to do if a similar problem/hurt/violation/injustice arises. In a case of mutual harassment and battery between two girls, we created what became two typed pages of specific plans covering a wide range of concerns including “the look,” friends saying things about the other, seeing the other laughing with a group, walking out of class, etc.*

**2. Write each suggestion on a large pad so everyone can see.**

**In a single column under Clarify Future, write one idea from each until all are listed.**

*The purpose of writing on the large pad is so the information that has been generated is equally shared with all parties. If it is written on a small piece of paper, not everyone can see equally well what is written.*

**3. Choose the options that will clarify the future and that are acceptable to all parties.**

*Place a check mark by each idea everyone agrees should become part of the final agreement. If you get stuck and can't agree, ask each to start over by making a list of **only** those things that each thinks will be acceptable to all parties. Repeat #2 and #3. If this does not help the parties get unstuck, use the Reconciling Interests process to do the problem solving on how to clarify future intentions.*

**4. Evaluate the chosen options: are they reasonable, related, respectful, and restorative for everyone? Modify the agreement if necessary.**

**5. Write the agreed upon options in the agreement.**

**Step 4: Craft/Write the Final Agreement.**

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*You might want to use a form (see Appendices 5-7) and fill in the blanks if the form works for your situation or you might want to create your own form for the agreement. In a reconciling injustices process it is important to include in the agreement that everyone agrees that the injustices were recognized as well as including the agreements for restoring equity and clarifying future intentions. One value of including the recognizing injustice part is that later when you read back the agreement, if not everyone agrees that the injustices were recognized, then this will give another chance to be sure that that part of the process is completed.*

*Experiences of transformation and the discovery of forgiveness are more likely when everyone acknowledges that the injustices have been recognized and agreements have been made to restore equity and clarify the future intentions,*

## **Step 5: Closing**

### **1. Identify date/time/place for the first follow-up meeting. Write it in the agreement.**

*To avoid a possible new disagreement, agree in advance that if the parties do not agree on a date for a follow-up meeting, you will use the earliest date suggested. One purpose of follow-up meeting(s) is to increase voluntary accountability. A follow-up meeting provides an occasion for acknowledging if agreements have been kept, or not. If agreements have been kept trust will grow and if they haven't, the meeting is an occasion to decide if new and additional agreements would be helpful, if the current agreement needs some modification, if more people need to be included to increase accountability, or if a different option needs to be pursued.*

- 2. Read the agreement back and make changes as necessary until everyone agrees it reflects accurately and completely the agreements that have been made.**

*Before reading the agreement, suggest that everyone consider what might go wrong with the agreement as it is written. Add detail as needed. Ask each if the agreement is respectful, restorative, related, and reasonable. Reading the agreement back gives everyone a chance to hear the agreements again and to clarify or modify them as needed.*

- 3. Sign the agreement. Give a copy to each party.**

*It is not essential for each person to sign the agreement to be committed to keeping the agreement but many report that signing the agreement does add to their commitment. It also gives each person one more chance to say if there is something in the agreement that is not acceptable or if something has been left out. In a racial discrimination case the victim was ready to sign and stopped. He said, “there is one more thing.” Everyone listened, an agreement covering that concern was negotiated and added, and then it was signed and celebrated.*

*It is important for each party to have a copy of the agreement so that no one is relying only on their memory regarding who is to do what and when, etc.*

- 4. Celebrate. Congratulate each other for hard work and cooperative spirit.**

*Sometimes it is clear that a celebration is in order. For some this is a handshake and for others it includes eating together. In some cases it is too early to celebrate more than that an agreement was made. In these cases, the agreements need to be in place for a while and need to have been kept for a while before the parties will be*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*ready to celebrate. In some cases, the “celebration” will need to be done in the light of the injustice or hurt that was experienced.*

## **Step 6: Follow-Up Meeting**

*The purpose of the follow-up meeting is to recognize together if the agreements that were made have been kept. If they have been kept, there is often a spontaneous celebration. If the agreements were not kept, either in part or completely, it provides an opportunity to make adjustments or new agreements.*

*There is usually resistance to a follow-up meeting. It is not uncommon for parties to say that they don't need the follow-up meeting perhaps because they are too busy or some other very good reason. However, when the follow-up meeting is not scheduled and kept, there are many possible negative outcomes. Sometimes one party has interpreted the agreement somewhat differently from the other and without a meeting simply assumed the other was not keeping the agreement. As a result the trust between them would be diminished. Sometimes the agreements have been kept by each but without a meeting to acknowledge that the other has been keeping them, a trust building opportunity is lost. Sometimes the agreement was not reasonable or realistic and without a follow-up meeting there is no built-in time to recognize this and to attempt to re-do the agreement. The likelihood of an agreement working well for each individual and for their relationship is higher if follow-up is scheduled.*

*The process at the follow-up meeting is very simple.*

- 1. Read agreement.**
- 2. Ask, are all agreements being kept?**

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*This can be done verbally or it can be written.*

*In a business situation with two key employees who had seriously considered separating prior to the mediation, and who didn't want to be in the same room together without me, we had made some agreements on a few minor items in the first meeting. When I came back for the next week, I had to get them from their offices to come to the conference room. The tension was still very high so we decided to start this way: Each person agreed to write privately on a piece of paper: #1 - Do I think I have been keeping the agreement? Yes or No. #2 - Do I think that the agreements have been kept by the other person? Yes or No. When each was finished writing, they put their papers out for each to see. They said yes, yes. Trust grew and provided enough encouragement to make more agreements and continue working together. The next time I came back they were in the conference room when I arrived and they said, we already did the yes/yes thing. As far as I know, they are still working together.*

*The reason for asking if the agreements have been kept is because if they have been kept, trust will grow and this is a chance to recognize that and build on it.*

*But, if even one of the parties thinks the agreement has not been kept, the agreement will be viewed as unsuccessful, trust will be diminished and unless something is done to work at exploring what happened, the effort will to resolve the issue cooperatively will be abandoned. And it is possible that all of this happened just because of a misunderstanding that was not discussed and clarified. Or, it might be because the agreement was not reasonable and needs to be renegotiated.*

**3. If no (some or all of the agreements were not kept), identify what was not kept and discuss the options?**

*Ask person saying “no” to identify the part of the agreement that was not kept and to describe how it was not kept. Ask other person to summarize until person says, “Yes, that is what I said.” Ask, does the agreement suggest what to do? And/or ask, does the agreement need to be modified? And/or ask, should we treat this as a new problem/hurt/violation and/or injustice? If yes, start by confirming the introductory commitments and ground rules, decide which process to use, and complete all of the steps in the process. Include more accountability structure in the next agreement. One way to include more accountability is to agree to include more people who are respected persons in each party’s life in the next follow-up meeting.*

**4. If yes, celebrate as appropriate. Recognize that “Trust grows when agreements are made and kept.”**

*In one victim offender meeting, the victim suggested that if the very complex year long agreement was kept, there should be a celebration and offered to bring pie. The offender offered to bring the ice cream. A year later we celebrated.*

**Some Summary Comments**

It is important to keep in mind that these strategies are very helpful for people who have decided to try to work cooperatively (#3 or #4). No strategy will help people find a cooperative resolution if even one of the parties does not want to. That is why the preliminaries, including each party’s commitment to be constructive, are an essential part of the process.

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

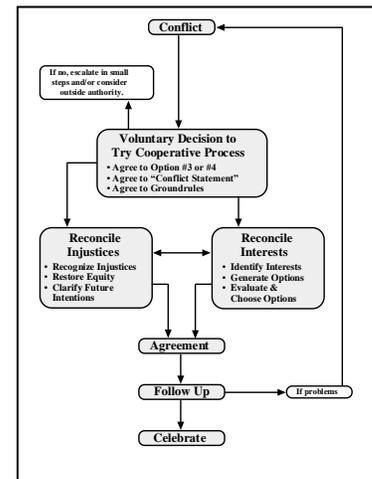
The Reconciling Injustices strategy that we have just examined in detail, as stated earlier, is designed to assist people who have experienced a conflict that includes a hurt, violation or injustice and who want to find a way to make things as right as possible between them. Some conflicts do not include hurt or violations and are just problems that need a mutually agreeable resolution. For example, when a family decides to go on a vacation together, each member of the family often has often has a different idea about where to go and what to do. This kind of conflict, if worked with in its early stages before it is allowed to escalate, can benefit from a problem solving strategy.

Some conflicts can benefit from using both strategies. If the family vacation problem was allowed to escalate until at least one family member said things to another that were hurtful or demeaning to another, then in addition to problem solving there would be a need to deal with the hurt and violation.

Another occasion when a problem solving strategy is very helpful is when parties using the Reconciling Injustices strategy, get stuck when trying to decide how to restore equity or clarify the future intentions.

When this happens, the problem solving strategy, Reconciling Interests is often helpful.

The flow chart shows how to integrate the two strategies.



## **RECONCILING INTERESTS: INTRODUCTION**

The “Reconciling Interests” step by step strategy is based on the work of Ury and Fisher. Their book, *Getting to Yes*, describes an amazingly effective problem solving model. Whereas the Peacemaking Model is designed to work with situations in which people have experienced a hurt, violation and/or injustice, their model is intended to deal

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

with situations in which the participants are stuck in what appear to be mutually exclusive positions.

The central key to their strategy is to encourage people to not bargain over their positions but to look at their interests, the underlying reasons why they take a particular position in the first place. Their model includes four main points:<sup>9</sup>

1. Separate the people from the problem
2. Focus on interests , not positions
3. Invent options for mutual gain
4. Insist on using objective criteria

*1. Separate the people from the problem.* It is very common for people in conflict to allow the relationship with the people get in the way of dealing with the problem. Their model suggests one way of dealing with this is to separate the people from the problem. “Separating the people from the problem is not something you can do once and forget about; you have to keep working at it. The basic approach is to deal with the people as human beings and with the problem on its merits.”<sup>10</sup> In another book, Fisher and Brown focus on how to work with this relationship. They suggest adopting an unconditionally constructive strategy in regard to the people.<sup>11</sup>

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<sup>9</sup> Roger Fisher and William Ury, *Getting to Yes: Negotiating Agreement Without Giving In*, (New York: Penguin Books, 1991) pp. 15 – 94.

<sup>10</sup> *Ibid.*, p. 39.

<sup>11</sup> Roger Fisher and Scott Brown, *Getting Together: Building Relationships As We Negotiate*, (New York: Penguin Books, 1989) p. 38.

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

2. *Focus on interest, not positions.* A position is a particular way a person wants something to be done or a decision to be made. Interests are the underlying reasons why the person takes a position in the first place. Even when the positions of both parties are mutually exclusive it is not uncommon to find that most if not all of the underlying interests are not. When most, if not all, of the interests are not mutually exclusive, if the parties are willing to search for new and creative options, they are usually able to develop a new position that satisfies most if not all of the interests of both.

Example: Suppose that Roxanne, my wife, and I are starting a vacation at a mountain cabin. In the early evening my wife announces that she would like to have the door open and I say I would like to have it closed. These are our positions. Our interests are the reasons why we take these positions. She wants the door open to let the cool air in and I want the door closed to keep the mosquitoes out. (She doesn't have to worry about mosquitoes if I am close because they are all attracted to me.) So **our** interests are to let cool air in and keep mosquitoes out. There are many ways to accomplish these interests other than the stated positions. For example we could open the door and close the screen door. We could close the door and open windows that are screened. And there would be others. This illustrates that while our stated positions might be mutually exclusive, the interests are not and if we are willing, it is possible to *invent options for mutual gain*, options that will meet the interests of both.

3. *Invent options for mutual gain.* One of the keys to finding a satisfactory solution for all parties is to search for options that provide mutual gain. The parties in this strategy

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

have to be willing to search for options that satisfy the interests of the other party as well as their own. To do this each party has to understand not only their own interests but also the interests of the other party.

4. *Insist on using objective criteria.* Deciding on the basis of one party’s will or ability to dominate over the other is often a costly and ineffective way to decide. The decision is likely to be a better one if it satisfies as many of the interests (a type of objective criteria) of both parties as possible. In addition to interests, they suggest looking at outside criteria, especially when the conflict and decision to be made is similar to ones that have been made in the past. To use our Four Options language, they are suggesting a non-binding #2 in which the outside authority might be another agreement, a wise person, or other outside and objective criteria. In a contract dispute the parties might look at similar contracts to see what is included or how it was interpreted in similar situations. Another way of utilizing outside objective criteria is to consult with people who are widely considered to be wise and knowledgeable by people who work in the field of the dispute.

After reading *Getting to Yes* I began to utilize the basic elements of their model in a wide range of situations. In some cases I found that the parties willingness to do problem solving was blocked by hurts/violations and/or injustices between them. Simply asking them to separate the people from the problem was not enough. I found it helpful in those cases to use the Reconciling Injustices strategy to address the hurt/violation/injustice and then use the Reconciling Interests strategy to deal with the problem solving.

When others asked specifically how I utilized the *Getting to Yes* elements, I began to identify and write each step. The step by step strategy that emerged is what I call, “Reconciling Interests.”

## **RECONCILING INTERESTS (STEP BY STEP STRATEGY)**

The abbreviated form can be found in Appendix 2. Since a mediation, a particular form of #3, is just a facilitated #4, I will include commentary that might apply to a negotiation or a mediation. Following the presentation of the detailed step by step strategy, I will add some additional comments on the role of the leader/participant in #4 (negotiations) and on the role of a mediator in #3 (mediations - facilitated negotiations).

In some cases the entire process may be completed in one meeting which takes only a few minutes to an hour but in some complicated cases it might take many meetings and days, weeks or months to complete.

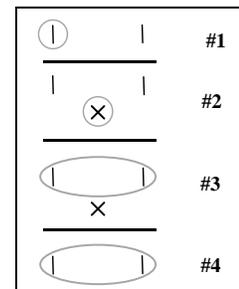
The introductory part of the process, Step 1, is very similar to Step 1 of the Reconciling Injustice strategy. The changes are due to the context, this being a problem solving process in which it is assumed that there are not significant hurts, violations, or injustices.

***Step 1: Introduction & Ground Rules*** *The order of the items below may need to be changed or the content modified. If the process is new to some of the parties they should have time to look over the entire process in advance or perhaps together before making any agreements on the specific items. It is helpful if all parties have a copy of the process. Agreement to use a particular structure provides safety and increases hope for*

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

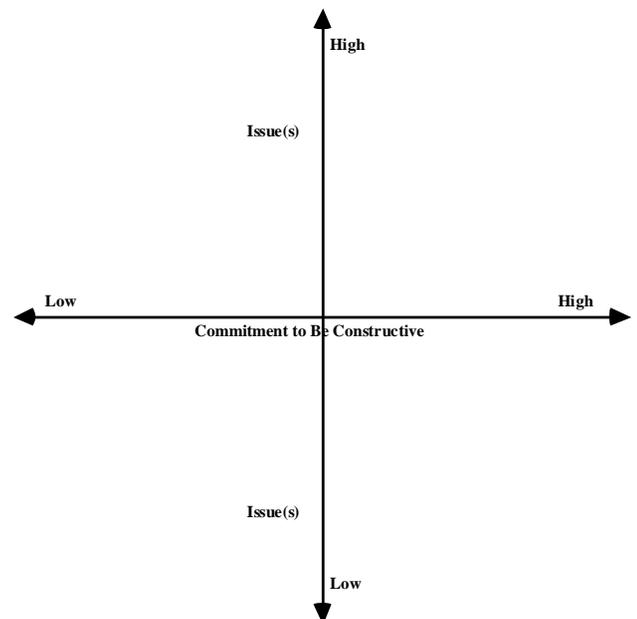
*a fair process. Some tension and awkwardness is normal in the early stages of the process. Making agreements regarding the process and ground rules reduces the tension some while increasing trust and hope that more agreements might eventually be found to address the content of the conflict. In some cases the introduction and ground rules may take no more than 5-10 minutes and in others several hours. Since these agreements and commitments provide the basis for everything that comes later, they are very important and especially if the negotiation gets stuck at some point.*

- 1. Introductions as needed.** *If there are just two parties, and you are one of them, it is not likely that you will need introductions but if the group is larger, introductions may be needed. I generally suggest the parties introduce themselves. This gets everyone talking. It may be helpful to agree on what should be included in the introduction. Sometimes, in addition to giving ones full name, it is helpful to give the name they prefer having others use for them in the meeting.*
  
- 2. Briefly state conflict that needs to be resolved.** *This should be no more than a short sentence or two. It is not the time for a full discussion of the situation. It is a time to agree “ we” have a conflict and to name the basic area. It is a helpful statement when both parties can say “yes” to the statement. Since most conflict starts with confusion, even though the conflict may have escalated, starting this process by naming the confusion is helpful. It would be even better if the conflict were being worked on while it was still at the confusion stage and before it escalated.*



3. **Describe and discuss the “four options model” and decide or confirm if all parties want to use #4 or #3.** *The purpose of doing this is to eliminate possible confusion regarding process and to increase commitment to seeking mutual understanding and agreement. It is important to emphasize that while many ideas and possibilities may be discussed, there is no “agreement” until everyone inside the circle agrees. (If there is any doubt, this is a good time to decide who should be inside the circle. In one business situation the boss thought only the two employees should be inside the circle but they wanted the boss to be inside the circle with them.) If someone cannot agree to use #4 or #3, then it might be helpful to discuss their concerns including possibly using one of the other options. This discussion and exploration might address the concerns and increase commitment to #4 or #3 or it might clarify that attempting to continue with either of these would be a waste of time since one or more persons is not committed to trying to make the process work. If that happens, agreement on the preferred alternative option is helpful.*

4. **Describe and discuss the issues/commitment to be constructive model and decide or confirm if all parties want to work in the upper right quadrant.** *One of the purposes of this model is to clarify that utilizing a #4 or #3 process does not mean that one has to give up on the issues that are important in order to*



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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*be constructive. The model can help illustrate that it is possible to have strong and even mutually exclusive positions and still be committed to being constructive in the process of seeking a mutual agreement on a constructive way to move forward.*

*While most people have a sense of what it would mean to be constructive, it may be helpful clarify what “being constructive” might be like by referring to the charts in Appendix 3 or 4. It is important that all parties agree to be on the constructive side of the continuum. If they cannot agree to be on the constructive side, then it is very possible that a person might use this forum for destructive purposes. In addition to agreeing to being constructive, it is helpful if all parties agree to seriously engage all of the issues as important. This is important because there are times when the issue presented by one party is not viewed by the other as a problem at all. This is often the case when the one who doesn’t see it as a problem has the power to control the issue. Asking all parties to engage the issue(s) as important is helpful. If an issue is really not an important one it is not likely there would be a conflict related to it since the one who says it is not important could just say, “let’s do it your way since it is important to you.” Checking in on this commitment occasionally throughout the process may be helpful and that can be done by simply asking, “is everyone still in the upper right hand quadrant?” Since this is a voluntary and cooperative strategy, it will only work when all parties approach it in the upper right hand quadrant. There are several advantages to asking this question up front and throughout the process: a. The agreements are more creative, b. The likelihood of one side feeling overpowered is reduced, and c. The time is used more efficiently.*

**5. Discuss and decide if all parties can agree to each of the ground rules:**

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*Ground rules are not intended to stifle disagreement but to create a safe environment in which disagreements and conflicts can be openly discussed and transformed into new understandings and constructive agreements.*

- **Allow (name of person) to lead the process**
- **Say if process is not fair**

*While these two ground rules are each important on their own, and it is also important they be connected since both are addressing the issue of power. The two are addressed together to seek a power balance. The first is an agreement that someone in the group is needed to lead the process and the second is inviting everyone to be judges of fairness to prevent the leader from having a power advantage. The second provides all of the parties a way to also take a lead by raising the fairness issue. The leader can demonstrate the power balance periodically checking in with the others to see how “we” are doing on fairness.*

*If there is a problem with fairness, it needs to be stated and adjustments made to re-establish fairness. Usually a short discussion takes care of the problem. If not and if the problem is with the leadership, perhaps another person can take on the leadership. If the problem is with how people are talking to each other it might be helpful to include some addition respected people inside the circle or outside the circle.*

*The other ground rules clarify some of the fairness issues. In some cases you might want to add more ground rules.*

- **Listen without interrupting**

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*The purpose of this ground rule is to insure that each person will be able to express their thoughts without interruption. An exception to this would be if one wanted to raise the fairness issue.*

- **Be as honest as you can**

*This one is helpful since each person is very likely to have a very different perspective on what the problem really is. If each person has agreed to this ground rule it increases the likelihood of the parties listening to each other without dismissing or devaluing what the other is saying.*

- **No name calling or profanity**

*This ground rule clarifies that there are some limits on how one can express their thoughts and feelings. Name calling is rarely heard by the other as a constructive statement. Profanity, although sometimes simply a habit, is usually a way of expressing strong emotion but in a way that may not be experienced as constructive. Expression of intense personal thoughts and feelings is important and helpful. Parties are encouraged to express their thoughts and feelings in “I-statements” that accept responsibility for their own strong thoughts and feelings and communicate accurately with the other(s). Acceptable limits will vary from group to group. While changing one’s natural language of expression is uncomfortable, it is often helpful in this setting. Often the reason for using a formal process like this is because the “natural” ways of talking and working on the conflict have not been helpful and constructive.*

- **Be willing to summarize**

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*The purpose of this ground rule is to emphasize that listening and trying to understand the thoughts and feelings of the other(s) is very important in this process. A summary is not a statement of agreement. Rather, it is an attempt by the listener to convey to the speaker that the listener has heard and understood what the other was saying and as the speaker intended it to be heard. What was actually communicated is a guess until the listener summarizes what was heard. The speaker may then say, “Yes, that is what I said” or the speaker may want to repeat or modify some or all of what was said and try to communicate the thoughts and feelings with different words. Summary is needed until the speaker is satisfied that the other has heard and understood. Summarizing is important at any time in the process where anyone is concerned if what has been said has been understood as it was intended. This process may feel cumbersome and time consuming at first but it saves time, increases empathy, and contributes to creative agreements. Agreeing to this ground rule means that one is willing to summarize whenever the process calls for it or whenever the leader or another party would like a summary.*

**Step 2: Identify Interests**

**1. Ask for a brief description of the problem or conflict.**

- **person A describe; person B summarize**
- **person B describe; person A summarize**

*Before starting the description it is important to identify who will summarize. If there are more than two persons in the meeting, the speaker should choose who will summarize.*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*Since this problem solving process is focused primarily on the identification of interests and ways to meet those interests, the description of each perspective is not as central to this process. Since it is a problem solving process and not one dealing with hurt or violation, inclusion of feelings is not needed. It is likely that the description of the problem will include the persons initial position on how to resolve the conflict. Most likely the parties will identify mutually exclusive positions (if you do one, you cannot do the other). If they agreed on a position they would not have a conflict. The fact that they do not agree is why a process is needed, to help them get unstuck. So it is important to not get discouraged when the positions stated make the search for a mutually agreeable solution seem impossible. Do not attempt to keep talking until there is agreement. For the sake of efficiency, you may want to set a time limit of 2-3 minutes per person or side in minor conflicts and maybe up to 15 minutes per side in more complex conflicts. It is helpful to ask each person who will speak to describe “your experience and perspective” on the conflict. When a person describes their personal experience and perspective, the statement will be an “I Message” rather than a “You Message.”<sup>12</sup> .*

*It is sometimes helpful to open up some time for questions for clarification. It is not a time to attempt to correct the content of the other speaker(s). It is not a time to try to “sell” one’s position. It is only a time to seek understanding of each other’s positions.*

**2. Ask each person to privately list their interests.**

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<sup>12</sup> Thomas Gordon, P. E. T.: *Parent Effectiveness Training*, (New York: Plume, Penguin Books, 1970), p. 115 – 120.

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*Making this private list of interests and then combining them into a common list, is at the center of this process and needs to be given adequate time. The steps that follow will only be successful if the combined list of interests includes all or at least a significant number of interests of all parties. **Interests** are the **reasons why** you take **a position**. Interests are the things that are important in this conflict. A thorough list of interests is the key to the effectiveness of this process. Sometimes in the initial step of describing the problem a person will include some rationale for taking a particular position. The rationale provided is what we are now calling **interests** and can be a starting point in helping a person to identify her interests. Another way to help identify interests is to ask each person to take a piece of paper and write their initial position (a specific way to deal with the problem) at the top of the page, draw a line under the position, and then list at least three and preferably ten reasons **why** one prefers this position. This list of reasons **why** is his list of interests. (A quality list of interests will increase the likelihood of successfully completing the process and finding mutually satisfactory agreements. A problem that can occur is when one does not really answer the question **why** and just restates the position in different words. When this happens it is possible to repair it by simply asking the question **why** again and replacing the position with the reason **why**.)*

- 3. Make a single list (in full view of everyone) writing one interest from each until all of the interests generated privately are on the common list.**

*It is important to write the list so that everyone can see it. I prefer to write on a large pad of paper or use a computer and projector so that the interests can be saved*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*and are less likely to be accidentally be erased. When listing the interests I prefer to mix the list so that one cannot notice at a glance who contributed which interest.*

*The reason for this is that the process will work best when the list becomes “our” list rather than “her” list and “my” list. To create the common list I prefer taking one item from one and then one item from the other and writing them in a single column without identifying in any way who contributed which interest. Often people have some of the same interests and when this happens it is helpful to simply acknowledge that the interest is already on the list and ask for another. Do not list duplicates. One party may choose not to include all interests on their private list, or some additional interests may come to mind as the list is generated. If any important interests have been left out, that will become obvious in #5 below.*

**4. As a group, identify any interests that are mutually exclusive.**

*Interests are mutually exclusive if it would be **impossible** to do both. It is common for the initial positions to be mutually exclusive (that is why the process is needed) and for the interests to not be mutually exclusive. If none are mutually exclusive, and this is often the case, move on to #5 below. If, however, some are mutually exclusive then there are several ways of proceeding. In one case the parties decided that the mutually exclusive interests were insignificant in relation to the others and decided to simply ignore them and cross them off the list. Another option is to ask the ones who put them on the list to each identify “**why**” it is important and then take off the original statements and put the new “**why’s**” in their places on the list. Then explore if the new ones are mutually exclusive. Usually they are not. If some are still mutually exclusive, another option is to negotiate agreements for the ones that*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*are not mutually exclusive and then ask outside authority (#2) to decide on those that are mutually exclusive. In most situations the parties arrive create a list that has no mutually exclusive interests, meaning that it would not be impossible to create some options that would satisfy all of the interests. I have worked one group with three very opposing positions. They generated 10 large pad sheets of interests and were amazed when they discovered that none of their interests were mutually exclusive. When the group affirms that none of the interests are mutually exclusive, that generates energy and hope that some acceptable solution will be found. Now that it seems possible, the next question is if it would be acceptable.*

- 5. Ask each person, “if a solution(s) could be found which addresses and/or satisfies all of the listed interests, will that solution(s) be acceptable and resolve the conflict?”**

*This is the time for each person to carefully inspect the list and ask herself if some way could be developed to meet of the interests, would that be acceptable. This is a crucial time for two reasons. First, since the list includes the interests of the other party, it means that each is expressing openness to attempting to meet not only their own interests but also those listed by the other party. Second, a “yes” means that all of a person’s important interests are included and that if a solution could be found that met these interests, even though it most likely will be different from his initial position, it will be acceptable. These two commitments are huge and pave the way for the completion of the process. (If you go on without this step, it is very possible that a solution will be found after considerable work but then one party will say it is not acceptable. While this new problem can be worked with, it often*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*damages goodwill in the group. It is my preference to identify this concern earlier if possible to prevent this from happening.)*

*If everyone says yes, you will notice a change in feeling. Together you have a set of criteria which you have agreed on to guide the process of generating options. You are ready now to move on to Step 3 with renewed hope and confidence. All that is needed now is for the parties to be creative enough to figure out how to address options that will meet all of the interests.*

*If someone says no, it must mean that not all of her interests are on the list. It is also possible that when a person looks at the list she will realize that even if a solution could be found that would meet the listed interests, it would not be acceptable because one or more of her interests are not yet on the list. So if a person says “no,” ask the person to identify the interest(s) that would address the concern. Add as needed to the list and then ask questions #4 and #5 again. Continue until all say “yes.”*

*Now that everyone has agreed that if a solution could be found that would meet all of the interests it would be acceptable, the energy level is usually high to get started with the creative process.*

**Step 3: Generate Options**

- 1. Ask each person to work privately to develop a list of options (at least three) to address all of the interests.**

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*This is a time for creative thought. Sometimes it is helpful to change locations or perhaps each person goes to a separate place. Sometimes it is helpful to end the meeting and have people spend time between meetings preparing their list. I find it helpful to suggest the following rule: If you want to put one option on the list to address some or all of the interests, you must suggest at least three options. The reason for requiring more than one is because the first option that comes to mind is often the one the person brought into the meeting and which was not acceptable to the other party.*

*Options are specific ways to meet or accomplish the interests. Options might meet part or all of the interests. The language of options rather than solutions is chosen to indicate that this is the point to look at many possible solutions. The language of options rather than solutions seems to leave more room for creativity and more openness to having ones idea adapted and changed later by the group. The language also creates the expectation that not all of the options will become part of the final solution. At this point there is a need for creative thought that includes ideas that are very practical and those that are highly unlikely but would be good if they could be done. Humorous ideas are welcome. Sometimes one’s humorous idea just provides comic relief but sometimes it also contains an idea that stimulates another idea for someone else. Sometimes what seems unlikely to one later sparks an idea for another.*

*Everyone should create options that address all of the interests on “our list,” not just the ones that he put on the list. The goal is to create options that will meet the interests of the other party as well as one’s own. The subtitle of “Getting to Yes” is*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*“Negotiating Agreement Without Giving In.” The most important things to each party in the conflict, the underlying interests, are what one does not give up. But each is open to changing the particular way of accomplishing those interests. This is not magic but it almost seems like it. It is an amazing process to observe.*

**2. List all options in full view. Create a single list. Be careful not to evaluate or criticize or praise any option during this step.**

*It is most helpful to make this list, as the list of interests, on a large pad of paper or computer with a projector. It is important that all parties can see what is being written. This is important as one way of sharing power. The one who is contributing the idea to the list is the one who decides if the way it is written is acceptable. The one who is writing the list should always check in with the contributor to see if the way it is written is OK.*

*The first task is to get all of the ideas that are on each person’s private list, onto the common list. Again, I prefer making a single list without differentiating who put which item on the list. I usually alternate taking one from one and then one from the other. It is not uncommon for one to say, “that was one of my ideas” in response to an item listed by another party. This is a good sign when it happens.*

*It is important that evaluation of the options wait until the next step. So it is helpful to remind each person that this is not the time to say “I like it,” “I don’t like it,” “that is a lousy idea,” or make any other comment. If ideas are criticized as they are contributed, it is likely that the final list will not contain each person’s most creative or vulnerable ideas. Rolling ones eyes or other negative body language is*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*equally detrimental. The criteria that is going to be used to evaluate is not “if I like it” but “does it meet or accomplish all of the interest?”*

**Step 4: Evaluate and Choose Option(s)**

**1. Evaluate the options based on whether they meet all of the interests.**

*After some individual thought, this is a time to work together to identify which interests are accomplished with each of the options. It is helpful to have the list of options and the list of interests displayed side by side so everyone can participate in the process of searching for options that accomplish the interests. It is not uncommon at this point for none of the options to accomplish all of the interests. It is also not uncommon for one of the parties to think that one of the options meets certain interests when another doesn't think it does. This is a time for conversation and listening to each other. This is a time when having those who disagree summarize the each other's comments will be very helpful. This is a time when emotion often surfaces as each considers accepting a new way of accomplishing his interests and very likely a way that is different from his initial position that carried some strong feelings. Summarizing slows the process and invites each to consider not only her interests but to empathize with the other. It is a time to remember together that each has agreed that if an option can be created that meets all of the interests, it will be acceptable. If there are interests that are not addressed by the options, ask each party to work individually to focus on identifying some additional options that do cover the identified interests. If all interests are addressed, move on to #3.*

- 2. Craft one or more solutions that meet all of the interests (at least as many as possible) by selecting, modifying, adapting and combining the options generated. If more than one acceptable solution is identified, set priorities or select one through negotiation or chance.**

*This is a time for crafting one or more possible solutions by fine tuning an option, modifying an option, or combining several options into one. The solution might be a single option or a series of options combined into a sequence to create a solution. Sometimes several possible solutions emerge that are all acceptable to all parties. In this case it is necessary to select one or to prioritize them. The value of prioritizing them is that one of them might seem possible at the time of the agreement but in the implementation process it may be discovered that it cannot be done as it was designed. In that case it is helpful if there are backup solutions that have been agreed on by everyone in advance. Sometimes the solution requires the cooperation of someone or group or agency that is not present in the meeting. It is helpful to have backup solutions in place as alternatives if needed.*

### ***Step 5: Write the Agreement***

*One reason for writing the agreed upon solution is to reduce the likelihood that each will soon have a different memory of the agreement. When each has a different memory it is very likely that each will think the other is not keeping the agreement. When in doubt about whether or not to write the agreement, write it. Even in relatively simple conflict situations, it is helpful to write the solution to prevent the likelihood of different memories destroying what otherwise was a good agreement. In addition, the process of writing the final agreement, with all of the details added,*

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

*reduces the potential for leaving out some important part. It takes a lot of energy to complete this final stage but is worth the effort. For example: One church I was working with had arrived at agreement and was ready to celebrate. They agreed to help write the details of the agreement. Two hours later we had the celebration. If we had celebrated prematurely, it is very likely the agreement would not have worked for them and different memories of the agreement might have even created a worse situation.*

**Step 6: Closing**

- 1. Identify date/time/place for the first follow-up meeting. Write it in the agreement.**

*Agree in advance that if the parties do not agree on a date for a follow-up meeting, you will use the earliest date suggested. One purpose of follow-up meeting(s) is to increase voluntary accountability. A follow-up meeting provides an occasion for acknowledging if agreements have been kept, or not. **If agreements have been kept trust will grow** and if they haven't, the meeting is an occasion to decide if new and additional agreements would be helpful, if the current agreement needs some modification, or if it is time to try another of the four options.*

- 2. Read the agreement back and make changes as necessary until everyone agrees it reflects accurately and completely the agreements that have been made.**

*Before reading the agreement, suggest that everyone listen with three considerations in mind: 1. Does the agreement meet all of the interests, or at least all of the most important interests? 2. What might go wrong with the agreement as it is written? 3.*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*Is the agreement respectful and reasonable for all parties? Reading the agreement back gives everyone a chance to hear the agreements again and to clarify or modify the agreements as needed.*

**3. Sign the agreement. Give a copy to each party.**

*Sometime before signing, ask each party if the agreement and process has really be a #4 or #3 as it was intended to be. “Do you really agree or do you feel it was really a #1 in the end, one being overpowered by the other?” If it was a #1 it is not too late to address the issue, perhaps using the Reconciling Injustices process and then try again. If everyone agrees it was a #3 or #4, the acknowledgement increases each persons commitment to the agreement.*

*While it is not essential for each person to sign the agreement to be committed to keeping the agreement, many report that signing the agreement does add to their commitment. It also gives each person one more chance to say if there is something in the agreement that is not acceptable or if something has been left out. For many signing the agreement is a ritual act that adds value to the agreement.*

*It is important for each party to have a copy of the agreement so that no one is relying only on their memory regarding who is to do what and when, etc.*

**4. Celebrate. Congratulate each other for hard work and cooperative spirit.**

*Sometimes it is clear that a celebration is in order. For some this is a handshake and for others it may be eating together or some other form of celebration. In some cases this is too early to celebrate anything more than that an agreement was made. In these cases, the agreements need to be in place for a while and need to have been*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*kept for a while before the parties will be ready to celebrate. It might be a good time to note that trust grows some when we are willing to make agreements and it continues to grow as agreements are kept. It is equally true that trust diminishes when parties are unwilling to make agreements or if the agreements that are made are not kept.*

**Step 7: Follow-Up Meeting**

*The purpose of the follow-up meeting is to recognize together if the agreements that were made have been kept. If they have been kept, there is often a spontaneous celebration. If the agreements were not kept, either in part or completely, it provides an opportunity to make adjustments or new agreements.*

*There is usually resistance to a follow-up meeting. It is not uncommon for parties to say that they don't need the follow-up meeting because they are too busy or for some other very good reason. However, when the follow-up meeting is not scheduled and kept, there are many possible negative outcomes. Sometimes one party has interpreted the agreement somewhat differently from the other and without a meeting, the one simply assumed the other was not keeping the agreement. As a result the trust between them was diminished. Sometimes the agreements have been kept by each but without a meeting to acknowledge that the other has been keeping them, a trust building opportunity is lost. Sometimes the agreement was not reasonable or realistic and without a follow-up meeting there is no attempt to re-do the agreement. The likelihood of an agreement working well for each individual and for their relationship is higher if follow-up is scheduled.*

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

*The follow-up process is very simple.*

- 1. Read agreement.**
- 2. Ask, “are all agreements being kept?”**

*This can be done verbally or it can be written.*

- 3. If no (some or all of the agreement were not kept), identify what was not kept and discuss the options?**

*Ask person saying “no” to identify the part of the agreement that was not kept and to describe how it was not kept. Ask other person to summarize until person says, “Yes, that is what I said.” Ask, does the agreement suggest what to do? And/or ask, does the agreement need to be modified? And/or ask, should we treat this as a new problem/hurt/violation and/or injustice? If it is to be treated as a new conflict, start by confirming the introductory commitments and ground rules and complete all of the steps in the process. Include more accountability structure and or people in the final agreement..*

- 3. If yes, celebrate as appropriate. Recognize that “Trust grows when agreements are made and kept.”**

*In one case two business partners and two investors were dividing up the remaining assets of their business. At one time they had been good friends who enjoyed being together and with high trust in each other but due to a series of events they now had little trust in each other and didn't enjoy being together. They had all been civil with each other but the business had lost a lot of money. They each came into the meeting with fairly clear ideas about how to divide up the remaining assets. But*

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

*after they listened to each other they realized for the first time that one of the investors had mortgaged his home and was in danger of losing his home. They decided to give all of the remaining assets to that investor. At the follow-up meeting they all knew they had done the right thing and they recognized this with thoughtful and sincere handshakes and all went away sad about the losses they had suffered and glad about doing the right thing in the division of the remaining assets.*

## **THE ROLE OF THE LEADER/PARTICIPANT IN A #4 NEGOTIATION**

The assumption behind these comments is that the leader/participant is interested in finding a mutual agreement, one that all parties in the negotiation think is fair, just, and equitable. The leader is not seeking this role to gain a power advantage over the other person(s).

The leader/participant is the one who has accepted the role of leading the steps of the negotiation. The most likely reason for using a step by step strategy is because the informal or natural ways of discussing and negotiating did not resolve the matter. Using a step by step strategy is another attempt to try to resolve the matter at #4 rather than escalating to a #3, #2 or #1 process. Since escalation often happens unconsciously, the encouragement in this paper is for those in conflict to become conscious about process, to make it explicit, and to only escalate deliberately and only when needed.

It is possible and sometimes very effective for a person who is familiar with these strategies to informally lead the parties through one of the strategies without making it explicit. However, a danger with doing it informally is that somewhere along the way

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

the other parties might feel manipulated or overpowered. To prevent these concerns and to increase the educational value of the process, my bias is in the direction of making the process (#4, #3, #2, or #1) and specific strategy (reconciling interests or injustices) explicit.

One way to make the process explicit is to look at the four options model together, describe the options, and invite the participants to decide if they can agree to use option #4. Clarifying which option will be used prevents the additional confusion of different participants attempting to use different options and in the confusion unconsciously escalating the conflict to a #1. Without explicit agreement to utilize a cooperative process, the likelihood of using #4 is reduced.

One way to make the specific strategy explicit is to have copies of the step by step strategy for everyone to examine together. Participants should be asked if the strategy looks like it is fair to all parties.

After choosing option #4 and agreeing to use a particular strategy, one of the persons, usually the one who is more familiar with the process, is chosen and agrees to be the leader while also being a participant.

The role of the leader is to help the process move from step to step in a timely and orderly fashion. The leader helps the parties maintain their focus on the task of each step in the process and ensures that all of the steps are covered. It is time to move on to the next step when the parties agree to move on. The leader insures that all parties feel safe to participate and that all parties are invited and given full opportunity to participate.

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

The leadership role is not to give the leader a particular power advantage in the negotiation to advance his cause. A very important step in balancing the power is when everyone agrees to the ground rule that everyone has a responsibility and privilege to monitor fairness and to raise the issue if at any time it seems that the process is not fair. If or when they do this, the leader must stop the process, welcome the comment (this takes significant commitment to the values underlying this process) and focus on fairness the concerns related to fairness until that is resolved. It is important that the leader volunteer to allow some else to lead the group. If a leader does this it usually demonstrates the leader’s commitment to a fair process and the leader is re-affirmed.

If at any point the fairness issue cannot be resolved or if parties are not following the step by step strategy, the leader’s responsibility is to raise the question, “Do we all still want to try to resolve this matter at #4 and do we still want to follow this strategy?” If the answer is yes to both questions, the leader (or new leader) simply helps them refocus on the process and strategy. If one or both answers is no, then the leader encourages the parties to decide if they want a different step by step strategy or if they want to move to #3, #2, or #1. While #2 and #1 are potential options, the minimum escalation would be to move to a #3.

It is also possible that in the very early stages, after an examination of the four options and the step by step strategies, the parties decide that they would prefer to have an outside facilitator/mediator and move to #3 rather than negotiating at a #4 with a leader/participant. If the group decided to use the #3 option, then they will need to decide on who will be the facilitator/mediator. It might be that the leader, who was also a participant, agrees to step out of the circle and only be a facilitator or perhaps the group

would prefer someone who is known and respected or perhaps they prefer someone who is unfamiliar with them.

## **THE ROLE OF A MEDIATOR IN A #3 MEDIATION**

While the focus of this paper is on the two strategies, I have suggested that the strategies are equally applicable to #4 and #3. To utilize the strategies at #4 one of the participants needs to be designated as the leader. To utilize the strategies at #3, a leader who is not a party in the conflict needs to be designated. It is common to call this leader a mediator. Many of the responsibilities of the mediator are the same as that of the leader who is also a party in the conflict.

A role of the mediator is to be an advocate for all parties, for the best possible resolution the parties can create, and for one that is respectful, reasonable, and restorative for all of the parties.

As mentioned before, there are an infinite number of ways to do #3. The strategies outlined above are just two of those ways. To utilize the strategies at #3 instead of #4 requires a few adjustments and clarification of the role of the outside X which might be one or more persons working together (after this I will refer to the X as the mediator).

The role of the mediator is to help the process move from step to step in a timely and orderly fashion. The mediator helps the parties maintain their focus on the task of each step in the process and ensures that all of the steps are covered. It is time to move on to

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

the next step when the parties agree to move on. The mediator insures that all parties feel safe to participate and that all parties are invited and given full opportunity to participate.

The role of the mediator is to be a non-anxious presence who leads a step by step process to assist the parties in their attempt to arrive at a mutual agreement. The main difference from #4 is that the mediator leads the process rather than one of the parties in the conflict leading the process. The matter to be decided belongs to the parties in the conflict, not the mediator. While the final decision or agreement is just between the parties, the mediator role can vary from being quite involved in both process and content to process leadership only to process leadership only as needed. While my personal preference is to be a mediator who focuses on process more than content, any of these roles is legitimate if the parties know and have decided on the role of the mediator. I think the mediator has an obligation to inform the parties of the role she will assume in the mediation and allow the parties to choose the mediator who will assume the role they prefer.

Some mediations are initiated by agreement of the parties. Some mediations are initiated by one of the parties and some are initiated by an outside agency. One of the roles of the mediator, in those mediations which are not initiated by agreement of the parties, is to meet with all parties separately in preliminary meetings to help them understand the process and decide if they want to participate in process. One important role of a mediator is to only bring those people together who have decided to voluntarily participate in the #3 process.

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

In many mediations, even those agreed to by the parties, because the parties are often not familiar with mediation, my preference as the mediator is to start in the role of process leader and make changes as the mediation progresses and as the parties prefer.

While it is not essential, my preference as a mediator is to meet with each of the parties, or at least each side if there are more than two parties in the conflict, in a preliminary meeting (often this meeting is referred to as an individual meeting). Even in mediations which are initiated by the parties, the parties have a right to know how I view the role of the mediator and to decide if that meets with their approval. This preliminary meeting is a time to clarify the role of the mediator and also a time for preparation and education. Following is a description and checklist of what I generally do in a preliminary meeting. Appendix 8 is an outline or abbreviated form of the Preliminary Meeting Checklist and Appendix 9 is a script for the Preliminary Meeting.

### **Preliminary Meeting Checklist**

*The purpose of the preliminary meeting is to listen to the party’s perspective of the matter, to disclose the philosophy and strategies of the mediator, to invite voluntary participation, and prepare the parties to work at #3.*

*In some cases the parties have already agreed to work together at #3. But sometimes the role of the mediator includes helping the parties decide if they even want to try #3. The mediator may inform the parties of the process, educate them to one or more possible strategies, and/or invite them to help design the process. In some cases the parties have asked for, or been assigned, a mediator to lead the process. They want a fair and unbiased process and trust that a person who is a trained mediator will carry out*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*this assignment. Sometimes the mediator knows one of the parties and the other parties need an opportunity to learn to know the mediator and decide if the mediator could lead a fair process. Some people prefer a mediator who is unknown to them and others prefer a known and trusted person.*

A preliminary meeting is usually with each party or side separately and usually includes the following:

*You may want to change the order of the items below. Sometimes a party wants to immediately tell the mediator their story or perspective on the conflict. Another party might not want to tell the mediator anything about the conflict until she/he hears about the mediation process and make a decision if the proposed process is fair and deemed to be potentially helpful. Some parties are more interested in gaining a sense of whether the mediator could be fair before telling anything and others seem to decide if the mediator could be fair based on how the mediator responds to the telling of the story. All of this means that the mediator must be flexible. So the outline below is perhaps better viewed as a check list of items to be covered sometime throughout the course of the individual meeting.*

**1. Introductions**

*If the mediator does not know the parties the introductions might include some background of the mediator and an opportunity for the parties to ask questions of the mediator’s experience, education or other relevant background information. It is often helpful for the mediator to learn to know some of the background of the parties if they are not already know.*

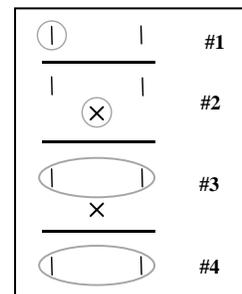
**2. Listen to their experience.** (You may want a time limit.)

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*Invite the party(s) to describe their experience surrounding the matter. The mediator listens to understand this party’s perspective, not to decide who is right or wrong. There is significant value in summarizing the most important parts. The reason for summarizing is to be sure that the mediator has heard what the speaker has intended. A mediator will find that if his summaries are motivated by a desire to really hear and understand the experience of the party, his attempts to summarize will be welcomed. If the mediator, on the other hand, is summarizing just because the process calls for it, the party might even become upset with the summary. There is no way to fake this.*

**3. Draw and/or describe the four options model.**

*The purpose of doing this is to eliminate possible confusion regarding process and to increase commitment to seeking mutual understanding and agreement. It is important to emphasize that while many ideas and possibilities may be discussed, there is no agreement until everyone inside the circle agrees. This may also raise the question, “who should be inside the circle?” Sometimes it is very clear and sometimes this needs substantial discussion.*



**4. Use the model to discuss the role of the Mediator.**

*It is helpful to distinguish the difference in roles between the “X” in #2 and in #3. It is also helpful to look at #4 and #1 to describe what we will not be doing in #3. It may be helpful (especially with those familiar with mediation and/or in more serious and complex cases) to describe the continuum between #2 and #4 to*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

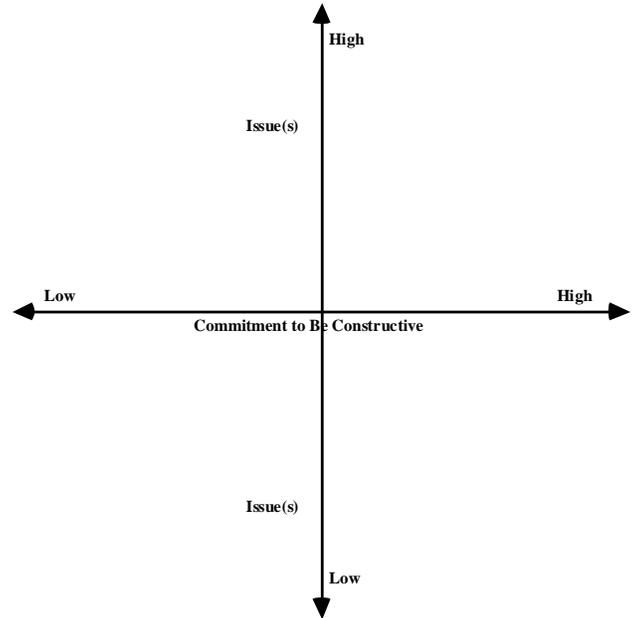
*recognize different mediation styles and to discuss your preferred starting point.*

*They may wish to express a style preference. In discussion it will become clear if there is a good fit for this mediation.*

**4. Draw and discuss the Issues/Commitment**

**to be Constructive Model**

*It is usually helpful start by describing the issues continuum and indicating that a mediation process is designed to deal with the issues. Just because a person wants to use a #3 or #4 does not mean that she is being asked to give up on the issues that are important. In fact, the mediation process will work best when all parties are willing to seriously engage the issues.*



*Being willing to be high on the issues that are important is essential. The horizontal continuum is designed to remind us that whenever we work on the issues, we will give the other parties a message about our willingness to be constructive. It is clear that the best agreements are found when all parties are willing to work in the upper right hand quadrant.*

**5. List and discuss ground rules**

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*Ground rules are not intended to stifle disagreement but to create a safe environment in which disagreements and conflicts can be openly discussed and transformed into new understandings and constructive agreements.*

- **Allow mediator to lead the process**
- **Say if process is not fair**

*While these two ground rules are each important on their own, and it is also important they be connected since both are addressing the issue of power. The two are addressed together to seek a power balance. The first is an agreement that the mediator will be given the authority to lead the process and the second is inviting everyone to be judges of fairness to prevent the leader, or any participant, from misusing power. The second provides all of the other parties a way to temporarily take the lead by raising the fairness issue. The leader can demonstrate the power balance periodically checking in with the others to see how “we” are doing on fairness.*

*If there is a problem with fairness, with the leader or anyone in the group, it needs to be stated and adjustments made to re-establish fairness. Usually a short discussion takes care of the problem. If not, it might be helpful to call for a caucus and discuss the problem in separate meetings and create a proposal to re-establish fairness. (The process of re-creating fairness will most likely include, recognizing the problem, re-establishing equity through apology or other ways, and creating a plan to prevent the problem from re-occurring - The Peacemaking Model). If it is not possible to find a way to re-create fairness and if the problem is with the leadership, it is time for another mediator to take on the leadership. The*

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Two Step by Step Peacemaking Strategies” by Ron Claassen**

*mediator’s position should always be to stand aside if their leadership is creating a fairness issue. Letting everyone know this in advance is important. If the problem is with how people are talking to each other an agreement might include some addition respected people inside or outside of the circle to increase accountability.*

*The other ground rules clarify some of the fairness issues. In some cases you might want to add more ground rules. For example: in a meeting with police and a family of a teenager who had been killed by police, we added no guns, no tape recorders, no press, and several others.*

- **Listen without interrupting**

*The purpose of this ground rule is to insure that each person will be able to express their thoughts without interruption. An exception to this would be if one wanted to raise the fairness issue.*

- **Be as honest as you can**

*This one is helpful since each person is very likely to have a very different perspective on what the problem really is. If each person has agreed to this ground rule it increases the likelihood of the parties listening to each other without dismissing or devaluing what the other is saying.*

- **No name calling or profanity**

*This ground rule clarifies that there are some limits on how one can express their thoughts and feelings. Name calling is rarely heard by the other as a constructive statement. Profanity, although sometimes simply a habit, is usually a way of*

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*expressing strong emotion. Expression of intense personal thoughts and feelings is important and helpful but using profanity to express them may add confusion or when directed at the other person may be clear but not be experienced as constructive. Parties are encouraged to express their thoughts and feelings in “I-statements” that accept responsibility for their own strong thoughts and feelings and communicate accurately with the other(s). Acceptable limits on language will vary from group to group. While changing one’s natural language of expression is uncomfortable, it is often helpful in this setting. The reason for using a mediation process is because the “natural” ways of talking and working on the conflict have not been helpful and constructive.*

- **Be willing to summarize**

*The purpose of this ground rule is to emphasize that listening and trying to understand the thoughts and feelings of the other(s) is very important in this process. A summary is not a statement of agreement. Rather, it is an attempt by the listener to convey to the speaker that the listener has heard and understood what the other was saying and as the speaker intended it to be heard. What was actually communicated is a guess until the listener summarizes what was heard. The speaker may then say, “Yes, that is what I said” or the speaker may want to repeat or modify some or all of what was said and try to communicate the thoughts and feelings with different words. Summary is needed until the speaker is satisfied that the other has heard and understood. Summarizing is important at any time in the process when anyone is concerned if what has been said has been understood as it was intended. This process may feel cumbersome and time consuming at first*

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

*but observers note that it saves time, increases empathy, and contributes to creative agreements. Agreeing to this ground rule means that one is willing to summarize whenever the process calls for it or whenever another party would like a summary.*

- **Anyone may call for a caucus**

*A caucus is a time for the mediator to meet with each party or side separately. The time allotted to each side should be approximately equal. I prefer not using caucus. However, there are times when a caucus is very helpful. A mediator might want a caucus to check in with the sides on fairness or any other concern. If the mediation seems stuck, a caucus might give each some separate time to consider or create some additional options. Agreeing to this ground rule means that everyone has the power to call for a caucus whenever it seems it might be helpful. Sometimes it can be used somewhat like a time-out or a time just to gain a little time to think about what is happening in the process.*

**7. Describe a mediation process and possible strategies.**

*A mediation usually includes the following:*

- \* **Preliminary Meetings**

*This is what we are doing now.*

- \* **Joint Meeting**

*This is what we will do if everyone agrees to move forward with the mediation.*

*The joint meeting will include the following:*

- Mediator Monologue**

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

*This is the time that the mediator confirms with the parties  
together what they have agreed to in the preliminary meetings.*

*See Appendix 10 for a sample script of a Mediator Monologue.*

**Describe Overview of Two Strategies**

*Reconciling Interests or Reconciling Injustice .*

*Identify Interests*

*Recognize Injustice*

*Generate Options*

*Restore Equity*

*Choose Optimum Solution*

*Clarify Future Intentions*

**\* Set Follow-up Meeting, Write and Sign Agreement, Celebrate**

*A date will be set for a follow-up meeting. One purpose of follow-up  
meeting(s) is to increase voluntary accountability.*

*The agreement will be written. Before signing it there will be a time to  
consider what might go wrong with the agreement. Each will be asked if  
the agreement is respectful and reasonable for all parties.*

*Before signing each party will be asked if the agreement and process has  
really been a #3, meaning do you really agree or do you feel it was really  
a #1 in the end, one being overpowered by the other. Many report that  
signing the agreement adds to commitment to keeping it. It also gives  
each person one more chance to say if there is something in the agreement  
that is not acceptable or if something has been left out. For many signing  
the agreement is a ritual act that adds value to the agreement.*

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

*Each party will be given a copy of the agreement so that no one is relying only on their memory regarding who is to do what and when, etc.*

*Sometimes it is clear that a celebration is in order. For some this is a handshake and for others it may be eating together or some other form of celebration. In some cases it is too early to celebrate anything more than that an agreement was made. In these cases, the agreements need to be in place for a while and need to have been kept for a while before the parties will be ready to celebrate. It might be a good time to note that trust grows some when we are willing to make agreements and it continues to grow as agreements are kept. It is equally true that trust diminishes when parties are unwilling to make agreements and/or if the agreements that are made are not kept.*

**\* Follow-up Meeting(s)**

*A follow-up meeting provides an occasion for acknowledging if agreements have been kept, or not. **If agreements have been kept trust will grow** and if they haven't, the meeting is an occasion to decide if new and additional agreements would be helpful or if the current agreement needs some modification. It is also possible that the follow-up meeting will be a more appropriate time for celebration.*

**8. Attempt to create “conflict statement.”**

*It is helpful to try out a very brief conflict statement but only after listening to the perspective of the party and hearing back from them that “you got it,”. If you do this before summarizing and hearing back, “you got it,” the party might get angry and*

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

*even start looking for another mediator. However, after listening to their perspective and after some dialogue regarding the purpose and process of the mediation, the statement will be welcomed. The intent of a conflict statement is to find a one or two sentence statement that uses language that both sides of the conflict can agree with. In the beginning it is a “fishing” experience. For example, if the conflict is between co-workers and the other has been described to you in the initial statement as inefficient and incompetent, you might try, “So would it be reasonable to say that the two of you don’t agree on the most effective and efficient way of doing some of your work tasks?” The person might give you a thoughtful yes or perhaps a clear no with a clarification, “we agree but s/he just can’t do it.” Then you might try on, “So the two of you don’t agree on what quality of work is acceptable?” If I don’t get a yes pretty soon, I drop it and come back to it later or after I have talked to the other person. If I do get a yes, I try the same statement out with the other person. If both say yes, then I use this statement in the opening of the mediation.*

**9. Invite their cooperative, voluntary, and constructive participation.**

*This is a time for a quick overview of what they would be agreeing to if they said they wanted to go ahead with the mediation. You might want to review each step and ask for agreement to each step separately or all together.*

**10. Provide hope.**

*It is not uncommon for a party to ask, “Do you think there is any hope for this to work.” Even if not asked, this is a good time to make a brief statement of hope. I often respond with “In my experience, when parties agree to be constructive and try a process like this they are usually able to do it.” (Only say this if it is true for you.)*

## **11. Discuss Next Steps**

*If there is agreement to proceed with mediation, discuss best times and places for meeting. It is best if a mediation is held at a convenient time for all parties and at a place that is considered safe and appropriate by all parties.*

*If there is not agreement to move ahead with a mediation, discuss resistance and alternatives. Ask the question why not and then explore if there are ways to deal with the concerns so that the “no” can become a “yes.” If not, discuss the alternatives. A way to do this is to look again at the Four Options Model and consider the alternatives that are left, #2 and #1, if one decides not to utilize #3. (This assumes that they have already eliminated #4.) Sometimes the preference is that the conflict would just go away but when looking seriously at the alternatives #3 looks like it is worth reconsidering. If #2 is chosen, discuss what options are available from informal and non-binding arbitrations with known arbitrators to formal and binding arbitrators with professional arbitrators and finally the court.*

## **Getting Started: Using the Strategies for the First Time**

The role of the leader/participant or mediator is to be an advocate for all parties, for the best possible resolution the parties can create, and for one that is respectful, reasonable, and restorative for all of the parties.

Novice or experienced leader/participants and mediators who are interested in experiencing these strategies for the first time, are encouraged to consider following this procedure:

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

1. Tell the parties that you have not used these strategies before and invite them to assist you in the following the process and assessing its usefulness in the end.  
Give them a copy of the strategy you decide to use.
2. In your first mediation, use the scripts for the Preliminary (Individual) Meetings (Appendix 9) and Mediator Monologue (Appendix 10) or, after reading the descriptions above and the scripts several times; use the outlines as a checklists.  
See Appendix 8 for an abbreviated outline.
3. Follow each step in the strategy of Reconciling Injustices or Reconciling Interests.  
Give a copy of the strategy to each party and encourage them to assist you in deciding if a step is completed before moving on to the next step.
4. Invite the parties to assist you in evaluating the process.

## **CONCLUSION**

People first learn to respond to conflict from their experience with parents, other family members and friends. These learned strategies become their natural and customary or cultural ways. For some these ways are very constructive and work well in a wide range of settings. For others the strategies they have learned do not work in a constructive way for them in many if not most settings. One of the suggestions of this paper is that people examine the strategies they use to deal with conflict and determine if and/or when they are satisfied with their natural strategies.

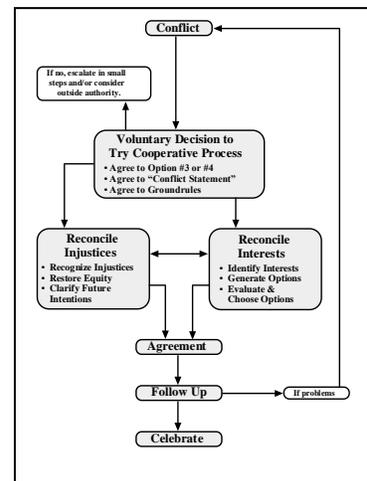
While most people are quite predictable in how they respond to a conflict, they rarely have identified the sequence they follow in step by step process that is available for examination and duplication. One of the reasons for making a step by step process

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

explicit is so that it can be examined and all parties can determine if they think the process is a fair one.

Many people find themselves in conflict primarily with people who are from a similar cultural background. In these settings everyone “knows the rules,” even if they haven’t been made explicit. But when one is in conflict with persons from a different culture, the question becomes, “whose ‘rules’ do we follow?” This paper suggests that people in conflict across cultures agree to follow a process that both consider fair, even though both may find the process unfamiliar and neither may find the process entirely comfortable. One of the reasons for writing this paper is to make the “rules” for the Reconciling Injustices and Reconciling Interests process explicit and available for examination.

Since “power” is a major factor in conflict of all types and among all people whether within a culture or across cultures, power is a factor that will have significant influence over both the process of a conflict response and the outcome. As outlined in the “Four Options” paper, people who have more power have a choice to make regarding whether they will utilize the power they have to attempt to control the conflict



or to encourage use of a fair process. The “Four Options” paper suggests that those who have more power can choose to not utilize it to control others and can decide to aim for a mutually agreeable decision or resolution (#3 or #4). But even then, there are times when the person with more power who does want to seek a mutually agreeable solution gives up because their “usual or natural strategies” don’t work to bring about agreement and he

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

resorts to use of power. This paper has offered two strategies that can be learned and utilized as backup strategies when the “usual and natural strategies” to try to find agreements are not working. I am suggesting that a person who would like to seek a cooperative resolution or decision will be more likely to be able to do that when she has back-up strategies and when those are made explicit and available to all to determine fairness.

Finally, it is important to keep in mind that these are strategies are designed for people who have decided to try to work cooperatively (#3 or #4). No strategy will help people find a cooperative resolution if even one of the parties does not want to find a cooperative resolution. That is why an essential part of the process in each strategy is for each party to make a commitment to #3 or #4.

It is my hope that these strategies will encourage and assist people in attempting and utilizing #3 and #4 more and decreasing the use of #2 and #1.

## A Biblical Perspective

God’s vision for people to live together in peace with justice seems to be elusive, even to those who call themselves the people of God. We see people in our churches fighting against each other and hurting each other, if not physically then by words and actions that lead to more harsh words and actions and finally result in people separating and using distance to keep the “peace.” This is not *Shalom*, the kind of peace that results from right relationships.

It is clear that God has called us, those who call ourselves the children of God, to be Peacemakers.

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

Matt 5:9 “Blessed are the peacemakers, for they will be called children of God.”<sup>13</sup>

Most of us, who call ourselves the people of God, would not argue that God has called us to be peacemakers, yet we find it difficult to put it into practice. We might find it comforting to note that even God had a difficult time and sometimes needed to be reminded and helped.

Exodus 32: 14 “And the LORD changed his mind about the disaster that he planned to bring on his people.”

In some instances people in the church take others in the church to the court. While it is not a new problem, it is clear that God’s vision of peace with justice would call for us to find cooperative ways to resolve our issues and injustices without needing to resort to the secular courts.

Matt 5: 23,24 “So when you are offering your gift at the altar, if you remember that your brother or sister has something against you, <sup>i</sup> <sup>24</sup>leave your gift there before the altar and go; first be reconciled to your brother or sister, and then come and offer your gift.”

ICor 6: 1 “When any of you has a grievance against another, do you dare to take it to court before the unrighteous, instead of taking it before the saints?”

God has showed us how to make peace and has given us the ministry of reconciliation, both in reconciling people with God and to each other.

II Cor 5 16-19 “From now on, therefore, we regard no one from a human point of view; even though we once knew Christ from a human point of view, we know him no longer in that way. <sup>17</sup>So if anyone is in Christ, there is a new creation: everything old has passed away; see, everything has become new! <sup>18</sup>All this is from God, who reconciled us to himself through Christ, and has given us the ministry of reconciliation; <sup>19</sup>that is, in Christ God was reconciling the world to himself, not counting their trespasses against them, and entrusting the message of reconciliation to us.”

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<sup>13</sup> All Biblical quotes from the NRSV

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

Philippians 4:2,3 “I urge Euodia and I urge Syntyche to be of the same mind in the Lord. <sup>3</sup>Yes, and I ask you also, my loyal companion, help these women, for they have struggled beside me in the work of the gospel, together with Clement and the rest of my co-workers, whose names are in the book of life.”

I think that often people of God do want to be peacemakers but just don’t know how to go about it.

When I was the director of the Victim Offender Reconciliation Program I would often ask people this question, “If you were given the opportunity to be a mediator with a victim and an offender, would you have a plan to follow to help them reconcile? What would you do first, what next and so on to help them work through the violation and injustice to find reconciliation?” Most would say that although they want to be peacemakers, say aren’t sure what they would do and would be uncomfortable being in the position of that mediator. It is not because they don’t value peacemaking but because they don’t know what to do.

The purpose of this paper has been to describe two specific strategies in step by step sequences that could be used to assist those who want to be peacemakers. While everyone has some “natural” strategies already, these strategies could be added, to help people be peacemakers.

In one of my classes I assign people to “try out” these strategies. They are to look around them at home, school, work, church, and in their neighborhood for unresolved conflict and invite the disputants to help them do their assignment. Most people who are asked agree to “help out” the student who has the assignment. Even though they agreed to “help out” the student, they participate in a process that results in agreements that

**“Strategies for Peacemaking: Reconciling Injustices and Reconciling Interests,  
Two Step by Step Peacemaking Strategies” by Ron Claassen**

significantly improve their relationships. Almost without exception, the participants express significant gratitude to the mediator and the mediator is energized, amazed, and “blessed” by observing and participating in a peacemaking process.

As people of God, we have all been given an assignment to be peacemakers. It is my hope that these strategies will contribute to helping us in doing our assignment, becoming ministers of reconciliation.

“Blessed are the Peacemakers.”

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