

# The Art of Negotiating the Best Deal

Course Guidebook

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Professor Freeman's insights on negotiation have been featured on Bloomberg TV and in *The New York Times*, *The Washington Post*, *USA TODAY*, and other major media outlets. He is the author of *The Ready and Able Negotiator: How to Get Set for Any Negotiation with I FORESAW IT, the Breakthrough Preparation Tool*. ■

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# The Art of Negotiating the Best Deal

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## Scope:

Few personal and professional skills are as important as negotiation, and fewer still are as seemingly challenging. Most of us feel uneasy about negotiating, yet we know it's crucial. We negotiate whenever we buy a car, work out the terms of a new job, plan a wedding, or resolve a complex business conflict. But that's just the tip of the iceberg; we negotiate continually with family members, friends, colleagues, neighbors, business associates, even our children, and usually we feel hard-pressed to do it well. Further, much of our world is shaped by negotiation, as we realize when we read about talks among politicians, business leaders, or diplomats or hear about a treaty, a Senate bill, a sports deal, a hostage crisis, a merger, or a peace accord. Yet often we feel confused and stressed about negotiating, believing that negotiators are born, not made. In this course, we will see that negotiation is definitely a skill that can be learned, and we'll build on your lifelong experience in doing it. We'll develop a host of principles, skills, techniques, tools, and ideas that can dramatically improve your ability to negotiate, however you feel about the process right now. We won't look only at effective ideas; we'll also strongly consider ways to cope with the many emotional aspects of negotiation that often seem so daunting. And far from fostering a selfish, short-sighted, and calculating approach, we'll instead develop your ability to negotiate with integrity in principled, trustworthy ways.

In the first part of the course, we'll look at basic skills and principles that can help you create and claim wealth wisely and do it in ways that are respectful and gentle on the relationship. We'll consider the role of each side's interests; the critical task of understanding the other negotiator well; and the power of factual research, creative options, rapport, and hidden influences away from the table. We'll explore when *yes* is the right answer and when it isn't. We'll look, too, at the critical challenge of solving the trust problem, which is present in most negotiations. And we'll learn to wisely manage the task of dividing the pie, exploring what to strive for, how to make a first offer, and when to walk away. We will then draw together these and other basic

concepts into a powerful preparation tool that you can use to enhance your readiness and ability to handle any negotiation.

With these ideas and tools in hand, we will explore a variety of advanced topics, including the emotions and psychological challenges of negotiations, cross-cultural negotiations, and negotiations with highly powerful counterparts and with children. We'll find ways to save and improve troubled agreements, and we'll explore a host of powerful and principled persuasion techniques. We'll look at methods for using negotiating skills to find work and to do your work well in a changing economy and approaches to confronting someone effectively.

In our last lectures, we'll see how to practice your skills so that they can help you for years to come. We'll also take a big risk and see how ideas in our course—and almost every other course in the catalog of The Great Courses—come together as partial answers to the trust problem, an issue that stands at the very heart of much more than negotiation. And we'll ask the seemingly odd question of what love, power, and negotiation have to do with one another and why they may be deeply connected after all.

Throughout this course, you'll acquire the ability to go far beyond simply doing well in one-time, arm's-length transactions. The course will challenge you to aspire to a greater vision of what you can achieve with excellent negotiating skills. In fact, having the ability to negotiate well can help you create more justice and prosperity for yourself and others. It can also help you become a better colleague and consumer, leader and family member, citizen and student of history—even, at times, a peacemaker. ■

# The Hopeful Power of Negotiation

## Lecture 1

One way to negotiate is known as *distributive bargaining*. This term refers to competitive negotiating, hard bargaining, and haggling; it's based on the belief that the only way one party in a situation can be happy is at the expense of another. A second approach to negotiation is *interest-based bargaining*; this alternative often lets us find agreements that can satisfy both parties in a negotiation. Interest-based bargaining doesn't always work, but often, it can help you create peace and prosperity that seemed impossible at first. In this lecture, we'll explore three questions related to this approach: (1) Why is interest-based bargaining so valuable? (2) What are its limitations? (3) How can we put it into practice immediately?

### Interest-Based Bargaining

- Interest-based bargaining is an approach to negotiation that lets you be hard on the problem but soft on the other party. In other words, it lets you fight hard for what you really care about, yet do it in a way that allows you to be generous, flexible, and trustworthy toward others. This approach is also valuable because it helps you wisely bridge seemingly unbridgeable gaps and discover hidden opportunities.
- The gist of this approach can be boiled to this summary: Focus on interests, not positions, then reconcile them with creative options. We can explore this statement through the "Parable of the Orange."
  - Two people reach for the last orange in a cafeteria and end up struggling over it. Finally, they decide to cut the orange in half. One person throws the fruit away and makes marmalade from the rind. The other throws the rind away and makes orange juice from the fruit.
  - If either of the two had bothered to ask what the other wanted to do with the orange, they each would have been twice as well off.

- This story can tell us a great deal about interest-based bargaining. At the start of the conflict, the two individuals were so divided that it was as if they were on opposite sides of a canyon. Each took the position: “I want the orange.”
  - Essentially, a *position* is the thing you say you want. It’s your demand, the one and only thing you think will make you happy. Of course, there’s nothing wrong with taking a position—sometimes you have to—but there is a danger of falling into a *positional impasse*, a deadlock over conflicting demands.
  - Positional impasses are driven by a simple dilemma: If the only way to make me happy is to give me something you can’t or won’t give me, then what can I do? I can demand it more loudly, or I can turn the conflict into a test of rights or power. Alternatively, we can agree to a mediocre compromise. But if we simply ask why each of us wants a certain outcome, we move beyond the level of positions to the level of interests.
- An *interest* is the reason you want what you say you want. It’s your underlying concern, deeper need, motivation, or drive.
  - It turns out that at the level of interests, there’s often no conflict at all; the interests of the two parties, though different, may well complement each other. That is, it may well be that there are several ways to satisfy one party’s interest, some of which are easy for the other party to give and vice versa.
  - We call these non-conflicting interests *complementary interests*, and when we find them, it suggests the possibility that we can find a creative option—a nonobvious way to trade or deal—that can help us both.

### Interest-Based Bargaining in the Real World

- The interest-based approach to bargaining has been shown to work in one of the most conflict-ridden regions of the world: the Middle East.

- In 1973, the Yom Kippur War erupted between Egypt and Israel. After several weeks of fighting, the conflict ended in a fragile truce, but for years, the two nations remained on the verge of war. Then, in 1978, President Anwar Sadat of Egypt and Prime Minister Menachem Begin of Israel flew to Camp David to meet with President Jimmy Carter to talk about a possible peace accord.



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- Everyone at the time knew that the conference was a fool's errand. No Arab state had entered an individual peace treaty with the state of Israel. Not surprisingly, on the first day of the conference, the two sides reached an impasse on the status of the Sinai Peninsula, the triangular piece of desert between the two countries. Each leader took the position that his nation wanted the Sinai.
- Continued discussion revealed that Egypt's goal in demanding the Sinai was sovereignty and Israel's was security. Sadat clarified that the Egyptians wanted their flag to fly over the territory and their citizens to be free to settle there; a military presence was not essential. According to Begin, the Israelis wanted a buffer zone, where there would be no military threats.

**One key to breaking through a positional impasse is to find out why both parties are holding firm to their particular positions.**

- Ultimately, it was decided that the Sinai Peninsula would remain Egyptian territory, but it would be a demilitarized zone, thus creating a buffer region to protect Israel. The United States would provide Israel with real-time satellite images to guard against Egyptian troop movements.
- After several more days of difficult talks, the three leaders flew to the White House, where they signed the Camp David Peace Accords, for which all three men eventually won the Nobel Peace Prize. Even more important, that treaty—although it’s certainly been tested in recent years—has never been broken. The two sides did not go back to war even decades later; by some measures, that makes it one of the greatest diplomatic achievements of the 20<sup>th</sup> century.
- One key to achieving this success was focusing on interests, not positions, and satisfying them with creative options. There is also good evidence to suggest that thinking about positions and interests ahead of time can make a big difference in our daily negotiations.
  - In 2010, Professor Karen Walch, a scholar from the Thunderbird School of Global Management, published a three-year study of 250 negotiators. Half of them systematically prepared, thinking intentionally about interests and options, among other things. The others prepared casually, without intentionally focusing on specific factors.
  - Walch found that those who thought systematically about interests and options created more than 11 percent more wealth for themselves than the casual negotiators did. More remarkably, she found that the intentional negotiators also created more than 6 percent more wealth for their counterparts than the casual negotiators did. In other words, they measurably satisfied both sides much better, creating total pies that were more than 17 percent larger.

### **Interest-Based Bargaining in Daily Life**

- A story we might call “Impasse 4.0” helps illustrate how an interest-based approach can work in daily life.

- A software development firm receives a call from an important client, asking if the firm can deliver a custom software order two weeks early. Of course, the software engineers believe it's impossible to meet the request, but the client threatens to pull its business if the development firm doesn't come through. The two companies are stuck in a positional impasse.
- The position of the engineers is that many of the features of the software are interconnected, and it will take time to test them all. The position of the client firm is that it needs the software early to launch and run a telephone marketing campaign.
- With this knowledge, the software firm offers to temporarily provide two employees to manually perform some of the functions that the software will eventually handle. The client company is surprised and gratified that its supplier would even make the offer.
- How can you use interest-based bargaining more effectively and confidently? Follow these simple steps:
  - First, if you can, prepare by thinking carefully about your interests and those of the other negotiator and try to identify some creative options that might satisfy both.
  - In addition, do some research to deepen your understanding of the interests and options.
  - Then, start the talks by taking time to build trust and rapport and set a positive tone. Note that you have real hope that together, you and the other party will find a solution that you're both happy with. That's important, because the other negotiator may be anxious and worried; your encouragement can help foster real hope and collaboration.
  - Instead of talking about your demands or prices early on, ask questions and listen for insights about the other party's interests. For example, you can say, "Let me first listen to understand your

concerns here.” If he or she makes demands, ask the simple question “Why?” or “What do you mean?” As we’ve seen, the more you learn about your counterpart’s interests, the better you can find solutions that serve you both well.

- Regardless of the other party’s willingness to share information, share some information about your own interests. It’s not necessary or wise to reveal everything, but by sharing your interests, you invite the other negotiator to help solve the problem creatively.
- Finally, once you’ve discussed interests, invite a conversation about creative options, first suggesting one or two, then asking the other negotiator to suggest options, too. If you don’t have initial success, try suggesting more options.
- These steps reveal one reason that interest-based bargaining is so valuable: It can help you be pleasantly, powerfully persistent. When the other negotiator says no to the first proposal, most negotiators think they’ve reached the end. But because you’re ready to explore many different ways to satisfy your interests, you can cheerfully propose other ideas or ask for suggestions from the other party.

### Suggested Reading

Carter, Talking Peace.

Fisher, Ury, and Patton, Getting to Yes.

### Questions to Consider

1. Besides “Why do you want it?” what are three other questions you might ask to help you discover your counterpart’s needs?
2. Imagine that you ask some good questions to learn your counterpart’s interests, but he or she refuses to share anything about them with you. What else could you do to discover these interests?

3. Think of a moderately serious conflict between two people that seems unsolvable. What interests does each person in the conflict have, and what creative options might help them solve it? Now think of a moderately serious conflict you've had with someone else that seemed unsolvable. What interests did you each have, and what creative options might have helped you solve it?
4. Where else, besides in a straight business transaction, can you intentionally use the principle of being hard on the problem but soft on the person by focusing on interests?

### Challenge

1. As we said, the key to interest-based bargaining is to focus on interests, not positions, and to satisfy them with creative options. This approach lets you bridge gaps. The next time you're in a difficult conflict or negotiation, see what happens if you slow down, think about your interests, learn about the other person's, and try come up with a few creative ways to satisfy both.

# The Other Negotiator

## Lecture 2

Studies find that new negotiators tend to focus on their own needs, problems, and demands, downplaying those of other parties in a negotiation. But skilled negotiators know that it's essential to understand the other party in order to build trust, avoid needless misunderstanding, discover strengths and weaknesses, and find hidden solutions. In this lecture, then, we'll look squarely at the other negotiator. As we'll see, understanding where the other person is coming from in conflicts, transactions, and negotiations can illuminate almost everything we do in negotiation.

### What Every Negotiator Wants

- Every negotiator has certain desires: respect, the chance to save face, and the opportunity to be heard. Studies find that skilled negotiators spend more time looking for ways to give their counterparts these things than mediocre negotiators do.
- History shows that when parties in a negotiation feel disrespected, ignored, or mistreated, they can act in ways that make little economic sense. For example, in the 1950s, talks were held to negotiate American access to Mexican natural gas fields. But the American offer was considered so insulting that the Mexican government began burning off its own gas, rather than sell access to it to the United States.
- The *ultimatum game* also illustrates this point. Here, players are offered an imaginary \$10,000 if one of them can propose a division of the money that the other will accept. If the second player refuses the offer, then neither player gets anything.
  - Classical economic theory predicts that Player 1 should offer to keep \$9,999 and give \$1 to Player 2. If Player 2 is rational—as economists define the term—then he or she will agree because it's better to have \$1 than nothing.

- In actually playing this game, Player 1 typically offers to divide the money evenly with Player 2, and almost always, the second player agrees. Sometimes, the first player proposes a different split, 60/40, 70/30, or 90/10, and in many of those cases, the second player does not accept, which means that neither player gets any money.
- Even when presented with the economist's point that some money is worth more than no money, the second players are unmoved. They would rather end up with no money than see the first players get more. In fact, studies with the ultimatum game have shown that most people will walk away from what they perceive to be an unfair deal, even if the deal is nominally profitable.
- Such findings don't mean that you must offer the other negotiator a simple compromise that divides everything in half. Instead, this research suggests that something more than just money matters to people and that they will often accept less financially if they feel that they are being treated with respect.

### **Practicing Empathy**

- One implication of research on the ultimatum game is that your awareness of the other party's humanness and his or her intangible needs may be the most important factor in a negotiation. Thus, it's a good idea to try to empathize with your counterparts.
- *Empathizing* means seeing deeply from the other person's perspective. It's not the same thing as a slick salesman's approach because it's about understanding others in their world, not fashioning your own appearance of friendliness.
- The idea here is not to butter people up, hoping that they'll give you something for free. Everyone can see through that approach. Instead, you should try to acknowledge the other person's humanity and understand his or her needs. This is an intrinsically meaningful and important endeavor, even if it profits you nothing.

- Happily, empathizing with others is also an effective way to discover hidden interests, important questions, and creative options and to build leverage and rapport in negotiations.
- One simple but powerful way to practice empathy before an important negotiation is to simply speak in the voice of the other negotiator, as he or she might confide in a close friend. How does the situation look to you now? What are you worried about? Why does that other person (that is, you) seem so difficult? What are your fears, hopes, and needs?
- If you find this work difficult, that discovery itself is valuable. It means that you probably need to understand the other party better; it may even be useful to speak with someone who has been in the counterpart's situation. As you try to empathize, take note of surprises that give you deeper insight into the situation.
- Note that there is a difference between empathizing and sympathizing. With empathy, you gain a great deal of information and learn ways to influence the other party's behavior. With sympathy—or pity—you may find yourself making ruinous concessions.
- In the documentary *The Fog of War*, former Defense Secretary Robert McNamara gives 10 lessons he learned from his service to President John F. Kennedy and Lyndon Johnson. The first lesson is to empathize with your enemy. To illustrate the point, McNamara tells the story of the Cuban missile crisis.
  - For 13 days, the United States and the Soviet Union were locked in a crisis over the presence of Soviet nuclear missiles in Cuba targeted at the United States. As McNamara recounts, in the first days of the crisis in mid-October 1962, the Kennedy government mobilized 140,000 Marines and came under pressure to invade Cuba. Despite his initial cautious response, by October 27, Kennedy was convinced that removal of the missiles could not be accomplished through negotiation; he was poised to authorize an invasion.

- But Tommy Thompson, the former U.S. ambassador to the Soviet Union, urged Kennedy to find an approach that would allow Khrushchev to save face, remove the missiles, and still declare victory. As we know, a U.S. invasion of Cuba—and the possibility of nuclear war—was avoided.
- Empathy does not mean being weak; in fact, it’s a critical task. Indeed, the entire Cold War was governed by a mathematical effort to crystallize empathy using a method known as *game theory*, in which one player intentionally tries to play out how one set of choices will affect the choices of the adversary.

### **Currently Perceived Choice Chart**

- The currently perceived choice chart is a tool advanced by negotiation experts Roger Fisher, William Ury, and Bruce Patton. It’s essentially a grid that quickly helps you to see things from the other’s perspective and use those insights to develop a persuasive response.
- The first task in using the chart is simply to ask: What is the choice my counterpart thinks he or she must make? In the Cuban missile crisis, Kennedy’s counterpart was Khrushchev, and the question he faced was: Shall I agree to withdraw the missiles from Cuba?
- The second question is: Why would your counterpart feel it’s bad to say yes? Again, with Khrushchev, the answers include the risk of losing Cuba to a U.S. invasion and of losing face with the Politburo, the Russian people, and Russia’s allies.
- The third question is: Why would saying no seem like a good idea to your counterpart? In Khrushchev’s case, refusing to withdraw the missiles seemed to protect Cuba from a U.S. invasion, allowed him to maintain a tough reputation and gain respect, likely protected him from losing power, and enabled him to “save” Cuba.
- Completing the chart allows you to discover the other person’s driving interests. Each of Khrushchev’s fears and hopes correlated to the key interest of saving Cuba from a U.S. invasion. With that

insight, a solution started to come into focus: Help Khrushchev, in effect, declare victory by agreeing not to invade if he removes the missiles—an attractive offer because it addresses the needs, fears, and hopes identified in the chart.

### Role Simulation

- Another powerful way to deeply understand the other negotiator is to do a role simulation of your upcoming talks. Studies in negotiation suggest that role simulations help you predict the other person's actions better than any other kind of preparation; help you produce better, more attractive options; and enhance support, trust, and buy-in.
  
- Professor Stuart Diamond of Wharton Business School outlined the following steps for a role simulation:
  - Find a teammate and share all the basic facts of the upcoming negotiation.
  
  - Have your teammate prepare as if he or she were you, while you prepare as if you were the person with whom you're going to negotiate.
  
  - Meet in character and negotiate, making the best case you can for the side you're pretending to be.
  
  - Take occasional breaks to talk about how the negotiations are going, but stay in character. Resume the simulation and conduct it for at least 45 minutes.
  
  - Finally, drop your roles and reflect together on the experience; ask each other what helped and what didn't. Trade and combine your preparation notes.

### Other Effective Tools

- Another powerful tool to develop for negotiations is skill in asking questions, using a method called *funneling*.

- Start by asking simple, open-ended questions, that is, those that do not permit yes-or-no answers. For example, you might say, “Let me just listen first; can you tell me your perspective?” This approach helps you avoid making false assumptions and jumping at wrong answers and helps you learn what the other person is thinking.
- You can then follow up with some narrower but still open-ended questions. For example, you might say, “You said that you’re concerned about upfront costs. Can you tell me more about those concerns?”
- Finally, when you think you have a clear idea of the situation, follow up with closed questions, that is, those that permit yes-or-no, numerical, or one-word answers.
- Some books on negotiation recommend learning to read body language to better understand the other negotiator, but it’s sometimes easy to misread people’s gestures and expressions. The better approach is probably to be observant; “listen” with your eyes and your ears, not so much to “read” the other person but to improve your own attention.
- If you genuinely cannot empathize with the other party or if he or she has grave doubts about your ability to understand, you might try enlisting a third party who empathizes with your counterpart.
  - Interesting examples here come from the book *Religion, the Missing Dimension of Statecraft*. The book demonstrates that it’s possible to improve relations between Westerners and Muslims by intentionally involving clergy.
  - The editors recount a variety of case studies where bringing believers of different faiths together helped to prevent or resolve conflicts by demonstrating deep connections through shared religious values.

- The idea that an ally who “gets” the other side can help you lies behind the old tradition of using a liaison who figuratively and literally “speaks the other’s language.” For negotiations, try choosing a teammate, an agent, or a third party who can show that someone on your side deeply understands your counterpart.

## Suggested Reading

Diamond, *Getting More*.

Johnston, ed., *Faith-Based Diplomacy*.

Johnston and Sampson, eds., *Religion*.

Ury, *Getting Past No*.

## Questions to Consider

1. Think of someone whose political views you strongly disagree with. Now, intentionally speak for at least minute, as cogently as you can, from that person’s perspective, explaining your (that is, his or her) views on a serious controversy and why you, in character, genuinely believe you hold the correct position. Can you speak in this voice so well that another person would think you actually hold that viewpoint? Ask a third person to listen and give you feedback about how genuine your understanding seems to be and how convincing you are in expressing the other viewpoint as your own. Try retaining that outlook a while longer without judgment and see what it’s like to read the news or hear someone on your side argue. Then, see if you have a better understanding of the person you disagree with the next time the two of you talk about political views.
2. Use the insights gained from this exercise to see if you can identify an idea that you and your opposite might both be able to live with. How does your ability to see (not agree with) the other person’s side reveal surprises about his or her interests? What things does the experience prompt you to want to learn about the issue that you hadn’t considered before?

## Challenge

1. The next time you're preparing for an important negotiation, list the other party's likely interests, do research about the other party, and perhaps even play his or her part in a role simulation, seeking to learn your counterpart's needs early on in the talks. What does it take to accomplish those tasks, and what effect does your attempt to empathize have on your results?

## Currently Perceived Choice Chart

Currently perceived choices of: \_\_\_\_\_

\_\_\_\_\_

Question faced: Shall I agree to your proposal to \_\_\_\_\_  
 \_\_\_\_\_ ?

If I say yes

If I say no

~

+

~

+

~

+

Interests:

- 
- 
- 

Proposal:

Chart adapted from *Getting to Yes: Negotiating Agreement without Giving In* by Roger Fisher, William L. Ury, and Bruce Patton (2011).

The currently perceived choice chart is a tool developed by negotiation experts that helps you gain insight into your counterpart's perspective.

# The Art of Skilled Listening

## Lecture 3

The New York Police Department Hostage Negotiating Team has a simple motto: “Talk to me.” Within that motto is the idea that the most powerful negotiating skill of all is highly disciplined, skilled listening. In this lecture, we’ll look at what it takes to go from the way most people normally listen to the kind of listening that can make a profound difference for you and the trained negotiators who rely on it as a critical tool. We’ll also look at specific techniques and principles that can make you much more effective in putting into practice the skills you learn in this course.

### The Value of Listening

- Disciplined, skilled listening is valuable for at least five reasons.
  - It’s one of the best ways to learn the other person’s interests and find a creative solution.
  - One of the most universal interests people have is the desire to be heard. Listening satisfies that interest and costs you nothing.
  - Listening builds trust.
  - Listening helps you cope in the face of a tough negotiation; it centers you and buys you time to think and process what’s going on until your higher brain function kicks in.
  - Finally, listening can help you successfully win the other’s attention and consideration, even if you feel powerless.

### Passive, Dumb, and Active Listening

- In general, we tend to use an ineffective form of listening: *passive listening*. In this mode, you simply nod your head and assume that you understand the speaker—but you don’t. Most of what we think we take in passively does not register. Further, the misunderstanding

and confusion caused by passive listening tend to accompany more insidious problems that can drive conflict.

- Compare passive listening with another form: *dumb listening*. Here, you try to listen without thinking too much or talking too much and, above all, without mentally rehearsing your reply while the other person is talking. Instead, focus squarely on the other person and just take in what he or she is saying.
- Another form of listening is *active listening*. Here, you assume that you don't fully understand, and to help confirm or clarify, you occasionally repeat the gist of what the other person is saying. For example, you might say, "Let me just make sure I'm getting the idea here. Are you saying ...?"
  - You may think that you can't afford to slow down and use active listening in a high-stakes, high-pressure situation, but in fact, the opposite is true: You can't afford not to because you can't afford to misunderstand.
  - Active listening is standard operating procedure in commercial aviation, in space exploration, for doctors and nurses in the surgical theater, and for securities brokers. In almost all high-stakes professions, active listening is the rule.
- Note that in the midst of a heated conflict, people shout because they think the other parties can't hear them—and they're right. When you're in an argument, you can't process what your opponent is saying, and he or she responds by shouting, which in turn, makes you more upset and less likely to hear. You can break this vicious cycle by showing the other party you understand without necessarily agreeing.
- By addressing the profound interest to be heard, you can defuse a situation, buy time, win the confidence of your opponent, and invite him or her to reciprocate and listen to you.

## Active Listening in Domestic Conflict

- In one study, researchers interviewed 135 couples who were about to be married, then followed their lives over the course of the next 12 years. The researchers found that just by referring to the pre-marriage interviews, they could predict with 91 percent accuracy which couples would stay together.
- The behaviors identified as most predictive of a doomed relationship were summed up in a book called *Difficult Conversations*: escalation, negative interpretation, invalidation, and withdrawal. To escape the vicious cycle of fighting caused by these behaviors, couples can use *dialogic listening*, or the “fair fight” rule. In essence, this is a mutual agreement at the beginning of a conversation to actively listen.
- For example, if you start to fight with your partner, you might say, “Before we go any further, let’s establish a simple ground rule: You



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**Marriage counselors routinely coach couples, both before the wedding and when the marriage is troubled, to use active listening or a variation of the fair fight rule.**

say anything you want me to hear for half a minute or a minute. Then, I will repeat the gist of what you're saying. If I'm close to being correct, then it will be my turn to speak, and you'll repeat the gist of what I'm saying. Let's also agree that saying it back doesn't mean we are agreeing; it just means we're trying to understand. Maybe this will help us understand each other enough to solve the problem."

- The fair fight rule tends to deescalate the conflict. Instead of invalidating and negatively interpreting, you're simply listening and showing that you understand without judging. Instead of withdrawing, you're engaging. Because you've both agreed in advance to follow the rule, there's no loss of face in genuinely trying to understand. And knowing that there will soon be a "test" on what your partner is saying tends to make each of you pay much closer attention.

### Other Listening Tools

- An advanced part of active listening is sometimes referred to as *empathic listening* or *mirroring*. Here, again, you occasionally reflect back the feelings you sense the other person is expressing. In some situations, empathic listening can help the other negotiator feel more understood, while it better develops your own understanding.
- Another strategy to foster better negotiation is to use *minimal prompts*, such as "uh-huh," "go on," "hmm," and so on.
- To enhance your attentiveness and invite real sharing, you can also draw from the wisdom of counselors who recommend a listening method that relies on the mnemonic device SOLER: *S*quarely face the other person, *o*pen your posture, *l*ean toward the other person, make *e*ye contact, and *r*elax. The SOLER method helps you demonstrate physically to the other speaker that you are fully engaged.
- Skilled questioning is closely connected to skilled listening. Studies find that excellent negotiators not only listen better, but they interrupt less and ask more questions than mediocre negotiators

do. And often, the simplest questions foster the best listening and learning. In fact, to be a skilled listener summons us to fight the fear of looking stupid by being willing to ask “stupid” questions, such as prompting speakers for details or definitions.

- Often, we face challenges because we don’t want to admit to others that we don’t understand something. But the fear of looking stupid can be dangerous, driving impasse and confusion and leaving us vulnerable to being taken advantage of by others.
  
- This is not to say that you should always reveal ignorance, but it’s a strange fact that the more prepared you are, the more comfortable you tend to be asking stupid question.

### **Listening in the World of Sales**

- It might surprise you to learn that the power of asking simple questions and listening carefully is well known to salespeople. Conventional wisdom holds that salespeople are fast-talking wheeler-dealer types who want to qualify you and close you as quickly as possible. Yet one of the most well-known sales sayings contradicts that point: “Telling isn’t selling.”
  
- Studies show that the more salespeople talk, the less they tend to close sales, and the more salespeople let the customer talk, the more sales they win. For several decades, one of the most widely respected sales methodologies has been one developed by Neil Rackham, a social scientist. Rackham calls his approach “SPIN selling.”
  
- Rackham’s approach teaches salespeople to ask questions and listen early on for four things: the customer’s situation, the customer’s problem, the implications of the problem, and the needs those implications create. It’s a surprisingly slow-paced, customer-focused approach that emphasizes listening carefully to the client.
  
- Rackham has found that by listening for and asking about these things, salespeople not only build trust, rapport, knowledge, and insight, but they also encourage customers to, in effect, explain

how to win the sale. This approach also encourages customers to become more interested in the solution a salesperson is offering and does so in a low-key, humble, no-pressure way.

- Skilled negotiators also watch for clues that their counterparts don't feel heard. Is the person you're speaking to saying the same thing over and over again? Does he or she feel shut down and wary? In addition, negotiators listen even more attentively to criticism and objections, knowing that these things often reveal interests, which reveal potential solutions.

### Suggested Reading

Patterson, Grenny, McMillan, and Switzler, *Crucial Conversations*.

Stone, Patton, Heen, and Fisher, *Difficult Conversations*.

### Questions to Consider

1. Think of someone you've had particular trouble dealing with lately. Are there methods we explored in this lecture that can help you engage with that person more effectively if you introduce them in a low-key way?
2. Who is the best listener you know? How do people feel about that person, and what specific things does he or she do that seem to foster the ability to listen well?
3. The next time you're at a meeting where the discussion seems to be going around in circles, see what happens if you briefly recap what each person is saying and, perhaps, even jot his or her points on the board. What does it take to do that well, and what effect does it have on the discussion?

## Challenges

1. To practice the critical skill of active listening, the next time you're involved in an important conflict or negotiation, see if you can paraphrase the other person's words so accurately that he or she says, "Exactly!" or words to that effect. What does it take to do that two or three times during a conversation, and what effect does it have on the conversation?
2. Try using the fair fight rule in a disagreement with your partner; remember, this is basically an agreement that each of you will try to paraphrase the other in turns.
3. Fight the fear of looking stupid by intentionally asking simple questions in the next conflict or negotiation you encounter; then, listen both dumbly and actively to the answers.

# Knowledge Is Power

## Lecture 4

**W**e've all made the mistake of buying something, thinking that we were getting a good deal, only to discover later that we didn't understand the situation at all. Our natural tendency is to think that skilled negotiating is largely about looking smart and masking any weakness with savvy-sounding talk. But that's not a good strategy. In negotiation, research is critically important. In this lecture, we will explore why most skilled negotiators are strong researchers and how you can harness the power of knowledge in different ways.

### The Importance of Research

- Research is important for a number of reasons. First, conducting research gives you perspective; it helps you know what's fair, what's favorable, what's barely tolerable, and what's simply out of the question.
- Second, good research is one of the best protections you have against being mistreated or misled by another negotiator.
  - Top sports agent Bob Woolf made it a practice to routinely trade information with other sports agents about salaries and other compensation athletes received from sports clubs, keeping detailed files he could draw on immediately.
  - He would then go to meetings with general managers and signal his reasonableness and readiness to deal, in part through his knowledge of what the athletes on their payroll received as compensation.
- Good research also helps you listen better and can clue you in to what your counterpart is not saying, which may tell you more than what is actually said. Such preparation may help explain why trial attorneys are much more effective at listening to witness testimony

than other people are; it's because they are extraordinarily well prepared to listen.

- Further, in any negotiation where the stakes are high or the matter is complex, researching the numbers and details can save you from hidden traps and troubles. Calculating your budget, doing what-if projections, and understanding cash flow and other financial issues can reveal whether a deal will work for you—or not.
- Research is one of the best ways to build power when you feel powerless. Imagine that someone offers you \$1,000 for your clunker of a car—far more than the \$500 you can get by scrapping it. But then you learn that you can donate the car to a college for \$2,500 tax break. That knowledge increases your leverage and justifies asking the buyer for 250 percent more than was first offered.
- Research reveals hidden possibilities. Imagine that you'd like to buy an old house, but it costs \$50,000 more than you can afford. Then, your research reveals an obscure tax incentive for preserving historically significant houses—an incentive that will save you \$100,000 in taxes. Buying the house might seem more affordable in that case.
- Perhaps most important, research builds your confidence and credibility. People tend to feel most anxious in a negotiation when they lack information.

### **Researching for Negotiation**

- The starting point for conducting valuable research is asking and answering good questions. Depending on the specific situation, you may want to research answers to such questions as: What does the contract say? What does the correspondence say? What is the history of the relationship? What are the market rates and norms? What is the other negotiator like? What do experts in the field recommend for similar negotiations? There's no single right question to research, but it's best to err on the side of doing too much research than too little.

- The deep and persistent need for information in diplomacy is one of the key reasons that nations devote so much time, energy, and money to intelligence gathering. During the Cold War, the United States devoted a great deal of energy to *Kremlinology*—the effort to understand what was going on behind the walls of the Kremlin—and, thus, better understand and deal with the Soviet Union.
  - *Kremlinology* was put to the fullest test during the Cuban missile crisis; there, our ability or inability to understand and test the truthfulness of the Soviets shaped much of the story.
  - Early in the crisis, Kennedy had a meeting with Soviet Ambassador Dobrynin. Kennedy had just received unmistakable evidence from the CIA that Soviet-made nuclear missiles were being assembled in Cuba, and without revealing this information, he asked Dobrynin if the Soviets were installing missiles there. Dobrynin assured Kennedy that they were not.
  - Kennedy, realizing that the Soviets were lying to him, thanked Dobrynin and ended the meeting. Later, the Kennedy administration presented the evidence to the world to debunk Soviet claims that the United States was driving the conflict.
- Does research help in day-to-day negotiations? The answer is: very much so.
  - Imagine that you have just arrived at the four-star Alpha Hotel, and you overhear the clerk telling guests in front of you that the hotel is overbooked. The clerk tells the other guests that the Alpha will give them a free taxi ride to a nearby peer hotel, cover the difference in cost of a room, and call them the next day if a room opens up at the Alpha.
  - You think that you will face the same problem; thus, before you speak to the clerk, you step out of line and do some research. You call your credit card company and ask for information about industry practices when a four-star hotel overbooks. You might learn that such hotels generally offer one or two free

nights at a nearby peer hotel. Armed with that information, you may be able to get the clerk to make you a similar offer.

### Offbeat Research Methods

- One of the quickest ways to acquire a good deal of rich information is to conduct fact-finding by phone; in other words, call someone who is knowledgeable and can answer your questions reliably. This might be an industry expert, an agent, a lawyer, a professor, or a friend who is experienced in a particular business.
- A related and powerful research method is *information interviewing*. Here, instead of seeking one magic conversation, you call several people you know and ask for referrals. Ask everyone you can get in touch with various research questions to develop a composite picture of the situation. But keep in mind that you may sometimes need to make sure the people you're working with can be discreet.
- A third powerful idea is to play with spreadsheets. For example, you might want to use online tools to calculate your cash flow, estimated taxes, and so on. Such tools allow you to do what-if-scenario calculations to find out how various deals affect the numbers. This sort of research is particularly critical in important financial transactions, such as when you're borrowing money, starting a business, considering a job offer, or buying a house or a car.



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**Skilled negotiators avoid legal traps and other problems by mastering the numbers and details of a deal before any negotiations take place.**

- You can also look for ways to increase your competitive advantage by learning as much as you can about market prices and other terms. For example, if you're negotiating the terms of a new job, look online for salary surveys in your field and location. Don't settle for broad national averages; look for current and specific data.
- You should also try to find ways to do research from the perspective of the other negotiator. For example, if you're negotiating the terms of a job, read websites and blogs written for human resource professionals. Look for material that helps your counterpart negotiate with vendors, job candidates, and suppliers more effectively. This type of research can reveal key facts about your counterpart's strategies, concerns, hiring budgets, and more.
- When you're interviewing other people for information, be careful not to ask questions that might be unethical, improper, or illegal. Trying to find out information about someone's marital status, sexuality, psychological health, and so on may often be inappropriate. It's also a bad idea to ask questions of a third party who might relay those questions back to your counterpart.

### Independent Criteria

- One particularly powerful type of research is discovering information that can serve as an independent criterion. This is anything—such as a benchmark or rule—that both sides feel is fair. It allows you to say, “Don't take my word for it; let's find a reasonable way to agree on what's appropriate in this situation.”
- An independent criterion is powerful for several reasons. First, it's face-saving. It doesn't make the negotiation a test of wills, and it doesn't ask the other person to back down. As we'll see in later lectures, finding ways to help the other person save face or avoid embarrassment is often crucial in negotiations.
- Similarly, an independent criterion is powerful because it helps you reframe, that is, say something important in a positive, palatable way. It allows you to talk about fairness in a much less irritating

way and invites the other person to change his or her mind based on credible information from a source you don't control.

- An independent criterion is also powerful because it helps you address a problem that lurks in most negotiations: the trust problem. Parties in a negotiation wonder how they can rely on the assurances of the other person. An independent criterion offers something that bolsters your credibility in an attractive way.
- There are two kinds of independent criteria. One, called a *fair standard*, is a benchmark from a credible third-party source. Fair standards include expert opinions, documented market values, reliable studies, well-established precedents, scientific reports, court decisions, widely recognized moral standards, and the like. The second kind of independent criterion is a *fair procedure*. These are simple decision rules that both sides find reasonable, such as flipping a coin or taking turns.
- If possible, you should prepare more than one independent criterion in case your counterpart rejects the first one you suggest. It's always helpful to have additional criteria, as well as other strategies, techniques, and principles to draw on, in your toolkit.

### Suggested Reading

Shell, *Bargaining for Advantage*.

Thompson, *The Mind and Heart of the Negotiator*.

## Questions to Consider

1. Studies find that in recent years, car dealerships have become some of the least profitable retailers in the United States. Traditionally, car buyers have done badly in negotiating with dealers, but in the last several years, the situation has changed so powerfully that now dealers are glad to make the same profit margin that grocery stores make. What might account for this sea change? (Hint: The change seems to have started around the time Netscape went public.)
2. What are some independent criteria that diplomats and businesspeople use for important negotiations? Can you think of any independent criteria that won the Nobel Peace Prize?
3. How could you use popular websites and publications, such as eBay or *Consumer Reports*, as independent criteria?

## Challenge

1. Prepare for your next serious negotiation by identifying several good questions to ask and finding specific answers. Note the difference this research makes in your confidence, effectiveness, and poise.

# Negotiating Creatively

## Lecture 5

In our first lecture, we saw the power of interest-based bargaining, and with it, we began to see how options can help you satisfy interests and reveal mutually satisfying agreements. But that's just the start of the story. Strategies exist for developing and using creative options in negotiations that are well worth mastering. In this lecture, then, we'll look at how creative options work, how skilled negotiators identify and harness them, how that ability can revolutionize an industry, and how it can make you much more confident and flexible. We'll also look at special types of creative options that are particularly handy for solving common problems with others and ways to present creative options that build trust and credibility.

### Defining and Using Creative Options

- An *option* is a creative deal term that one side can offer another in a negotiation; it's anything you can trade or any arrangement you might include in a deal that might satisfy at least one party's interest.
- For example, imagine that you are negotiating compensation for a new job. You want a higher salary, but you're already at the top of a prospective employer's salary range. Creative options to suggest might include a performance bonus at the end of the year, a guaranteed raise in six months, better medical benefits, future tuition reimbursements, a company car, and so on.
- One reason options are powerful is that differences imply deals; things one party cares very little about may be valuable to the other. Thus, finding something one party wants that the other can easily give is at the heart of the task of creative bargaining. The implications of this idea can often be remarkable and surprising.
- In a landmark study of mediocre and excellent negotiators, Neil Rackham, an expert on the sales profession, found that excellent

negotiators identify a larger number of options than average negotiators do. Typically, an excellent negotiator considers more than five options per negotiable issue.

- One reason it's helpful to have many creative options is that they allow you to be powerfully and pleasantly persistent. When the other negotiator says no to your first suggestion, you won't be daunted if you have a healthy list of other ideas.

### Brainstorming Techniques

- As you research an issue of concern, keep an eye open for good ideas that may help in your negotiations. For example, as you research new cars you're interested in buying, you may also find creative ways to get a better deal from the salesperson. In turn, those ideas can act as seeds that help you brainstorm other ideas yourself.
- After you finish your research, generate as many options as you can in a fixed amount of time, and to encourage creativity, make sure to include at least a couple off-the-wall ideas. For example, if you're brainstorming options related to hotel rates and extras, your list might include a free helicopter ride from the airport to the hotel. That "crazy" idea might lead you to ask for a limo or taxi ride to your destination.



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**Suggesting creative options for discounts when you make a hotel reservation may save you between 10 and 35 percent off the “rack rate” price of a room.**

- It may also be helpful to brainstorm with a friend once you've explained the situation and the needs of both sides. Set a ground rule that no one can criticize ideas during the initial brainstorming phase; at this stage of the game, you're just exploring the territory of possibilities and don't want to short-circuit the chance of finding something surprisingly useful. Later, you can cherry-pick the best ideas and choose which ones to offer first.
  - Interestingly, some recent studies suggest that you can come up with more compelling ideas if you build into the brainstorming session a period for criticism and discussion.
  - That's noteworthy because many experts champion the idea of establishing a "no criticism" rule. These new studies, however, suggest that debate and criticism, if well managed, can stimulate further thought.

### **Human-Centered Design**

- So far in our course, we've identified several pre-negotiation preparation tasks: (1) Think about your interests and the other negotiator's interests, (2) do some factual and financial research, and (3) brainstorm creative options.
- These tasks are similar to the approach taken by IDEO, a top design firm that has been responsible for such projects as Apple's first mouse and one of the first personal digital assistants. IDEO has created a virtual factory of desirable and viable products, and its secret lies in what it calls *human-centered design*.
  - The human-centered design process begins by having a small team of IDEO designers examine the needs of the people they want to serve with their solution. The team collects stories, reads about future end users, and observes users working with existing products. Then, the team uses a group brainstorming technique called a *deep dive* to develop dozens or even hundreds of possible design features to meet end-user needs.

- In other words, the IDEO human-centered design approach calls for a focus on three initial factors: interests, factual research, and options.
- This approach to coming up with new products highlights the similarities between design and negotiation: Each is a decision process in which participants try to solve a problem requiring them to address different, seemingly conflicting needs simultaneously. Thus, it's not surprising that this top design firm's method should be similar to the work of an excellent negotiator. IDEO's success should encourage us that we're on the right track as we look for ways to resolve conflicts and create elegant, satisfying agreements.

### **Creative Options in Business**

- The power of creative options in negotiation goes far beyond simple examples, such as negotiating for hotel rates. Some businesses, such as Perdue Farms, have been able to eliminate the perception of their products as commodities by offering creative options to their customers.
- The ability to identify creative options seems to be a critical skill that we increasingly need in our professional lives. Experts have observed that the difference between people who survive in the tough world of work and those who don't often comes down to one thing: the ability to find nonobvious ways to serve clients or cut costs and, thus, create value.
- It's also the difference between firms that survive and firms that don't. If you search online using the phrase "innovate or perish," you'll get more than a million hits, most of which are about the pressure businesses face to create new products and services. Studies show that very few companies survive for more than a few decades, which suggests that the pressure to adapt is quite real. Developing creative options may not be an option; it may be essential.
- Neil Rackham makes a similar point about the salespeople of tomorrow. Increasingly, his research finds that customers are not

interested in well-worn pitches about the virtues of a salesperson's product. After all, the customers can find that information quickly on the Internet.

- What customers want most, Rackham finds, are salespeople who can be creative—who can solve customers' problems by tailoring services and product offerings to specific situations.
- That goal takes a different approach than trying to persuade the customer that your product is better than the competition's. It demands attention to the customer's needs and creative responsiveness.

### **Generating Creative Options**

- One powerful way to generate more options is to picture each interest as a deep well filled with water. Every time you drop your bucket into the well, you draw up a new creative option that might satisfy a particular interest.
  - For example, imagine you are a prospective investor and you want a company to pay a high interest rate because you're worried about the risk of repayment, but the company currently can't afford high interest payments.
  - You might brainstorm a variety of options to reduce your risk, such as a personal guarantee by a wealthy third party, collateral, fuller disclosure, membership on the board of directors, or an accountant's letter by an independent auditor.
- A related approach is to consider one interest from each side and ask if specific options are available that might serve both. For example, you may have an interest in career advancement with your employer, which may also have an interest in developing new skills in employees. One creative option that serves both these needs is a training program; in turn, that suggestion may give rise to more ideas—tuition reimbursement, rotation through different departments, attendance at industry conferences, and so on.

- When you're developing options, you're not just coming up with features of a deal that may benefit you, like a child writing a Christmas list. It's just as valuable to generate ideas that may benefit the other side. For example, if you're buying a house, you may want to explore such options as paying more of the deposit upfront, guaranteeing an early closing date, waiving the right to a second walk-through, or buying some of the seller's furniture in return for other concessions.
- The authors of *Getting to Yes* offer several other useful ideas for developing creative options.
  - Look through the eyes of various experts. In a dispute over factory pollution, you might look at the problem through the eyes of government officials, earth scientists, economists, and anthropologists, among others. Those perspectives might produce a host of new ideas, including an agreement to jointly sponsor clearer government regulations, new environmental testing arrangements, a market system for controlling smog, and so on.
  - Watch for specific types of complementary interests that suggest classic creative solutions. For example, negotiators often value time differently. A small seller may want money immediately, while an established buyer may be cash rich. The seller, then, might offer a discount in return for immediate payment. Often, negotiators also have different risk preferences.
- It may also be useful to brainstorm options with the other side during the negotiation itself. To make the process safe from a business standpoint, make it clear at the start that neither party is necessarily committed to the ideas that are generated.
- Another type of creative option is a class of ideas called *contingent agreements*—options that can help you resolve conflicts over future predictions. These appear in many forms, such as performance bonuses, commissions, preferred stock dividends, and so on.

- Still another class of options are known as *trust mechanisms*—arrangements that help you know the other side will keep its promises. For example, buyer and seller might agree to hold in escrow a small portion of the purchase price of a piece of equipment to ensure that it functions as promised.

### Suggested Reading

Austin and Peters, *A Passion for Excellence*.

Fisher, Ury, and Patton, *Getting to Yes*.

### Questions to Consider

1. Think of a negotiation that didn't go well. Rewind the tape to the beginning of the story. What creative options might have helped you do better?
2. Why do excellent negotiators develop so many more creative options than mediocre negotiators do?

### Challenge

1. Brainstorm at least six options related to an issue about which you're concerned, using research and a teammate to enrich your work. Try to generate options to meet different needs, such as time or risk preferences or trust problems.

# Credibility and Rapport

## Lecture 6

**A**s we've begun to sense, there is a natural tension in negotiation: You're trying to collaborate, but often, you and the other party are also in competition. That tension understandably raises questions about how safe it is to deal with you. This *trust problem* is an essential feature of negotiation—one that we neglect at our peril. It's crucial to be thoughtful about ways to deal with the trust problem, including how you approach your counterpart. That means conveying that you are not a villain but someone with whom the other party can identify and deal in reasonable safety. In this lecture, we'll look at the tasks of building rapport, setting tone, and using words wisely in negotiations.

### Intentional Respect

- Showing intentional respect means thoughtfully seeing the other person and acting accordingly. When other people sense that you genuinely respect their values, beliefs, opinions, and feelings, they will forgive you much. When they don't get that sense, they may be deaf, dumb, and blind to anything you have to communicate. Teachers have a saying about this situation: "I don't care what you know until I know that you care." And caring starts with respect.
- Perhaps counterintuitively, you can show respect for others even if you emphatically disagree with them because respect is not about substantive agreement; it's about recognizing the other person's humanity.
- You may utterly disagree with other negotiators, but you don't have to be insulting, trivialize their positions, or make them feel stupid or belittled. Even if you disagree with another negotiator's values, beliefs, and opinions, you can truthfully say that you acknowledge them, know that they matter, and won't tread on them recklessly.

- This approach is how hostage negotiators can respect hostage takers, how diplomats can respect tyrants, and how legislators can respect colleagues with wildly different views. It's not about agreeing but about separating the person from the problem.
- People care so deeply about gaining respect that we have a long, painful history of violence caused by perceived slights. Street violence often explodes because someone feels "disrespected" by someone else. Dueling took place for centuries because one man felt publically humiliated by another. Many wars have been fought in the name of protecting national honor.
- Showing respect and building rapport are among the best strategies for persuading others. One of the greatest interrogators in modern times was a German lance corporal in World War II named Hanns Scharff. During his interrogations of British and American prisoners of war, he gained intelligence by emphasizing rapport and respect. His approach was so unusual and effective that after the war, U.S. Air Force officers asked him to give lectures on his techniques, which became standard practice for interrogators throughout much of the West.
- Don't think that showing respect and building rapport are just cynical games. Instead, ask yourself: If these factors are so important that they can open up conversations between adversaries in war, then how much more likely are they to help when I'm trying to work out relatively simple problems or conflicts?

### **Demonstrating Respect**

- The first step in demonstrating respect to your counterpart is to slow down. Even though we've previously explored the power of using creative options to solve problems, don't get the impression that you should launch right into that task as early as possible. Actually, the opposite is true. Skilled negotiators often say, "Go slow to go fast"; that means taking time to get acquainted before you turn to the task of finding solutions.

- Hostage negotiators know this principle extremely well; one of their first objectives is to slow the process down and build a relationship with the hostage taker. Once a sense of human connection develops, negotiators find that they have a much better chance of resolving the crisis successfully.
- One especially valuable tool here is small talk. And it's not just useful at the outset of negotiations but throughout. One study found that professional negotiators frequently speak personally about themselves and the other negotiator throughout their meetings. In contrast, if they speak personally at all, inexperienced negotiators do so only at the start and end of the negotiation. This finding has two simple implications.
  - First, spend time on personal matters at the beginning of a negotiation and occasionally return to them. A cordial greeting is a good place to start, followed by a simple conversation opener.
  - Second, to foster later collaboration, try to set a constructive, positive tone; greet the other person and try to signal early on that you hope the two of you will be able to collaborate well together.
- A second important way to demonstrate respect and build rapport is to listen. We've seen previously the remarkable power of skilled



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**There is no one right way to start a conversation with another negotiator, but whether you're dealing with a national leader, a person from another culture, or your supervisor, it's customary to start with warm greetings and positive, personal gestures.**

listening: of inviting the other person to talk, paying close attention, asking questions, and paraphrasing.

- One study found that skilled negotiators ask questions, test for understanding, and summarize more than twice as often as average negotiators do. In addition to all its other benefits, listening also has the ability to strengthen rapport, connection, and trust.
  
- Try one of the following approaches early in a negotiation: “Let me start by getting your perspective. What’s important for me to know?” or “Let me listen. Help me better understand the reasons behind your position.” Then later, you might ask, “Am I hearing correctly that ... ?”

### **Sending Collaborative Signals**

- Because you face a trust problem in most negotiations, signaling your sincere desire to be hard on the problem but soft on the person can be particularly valuable, especially early on in your talks. This perspective illustrates your desire to work together to solve the problem and rightly reduces the other person’s wariness. Collaborative signals show that you are not in the negotiation just to get your way and that although you are willing to fight hard for your concerns, you genuinely believe you can do so without hurting the other person.
  - For example, you might say, “I must make sure the deal is strong given the market rates, and security is a concern for my firm. But I’m flexible about how we reach those goals. My firm sees this as the start of a lasting relationship.”
  
  - Here, you are being explicit about your concerns, which signals trustworthiness in its own right because you are being forthright and strong; you are not concealing your motivations in the way a con artist might.
  
- Studies have found that demonstrating the three Cs—concern, competence, and candor—helps greatly to build trust. As we’ve seen, an interest-based approach lets you show real concern for

the other negotiator. Further, preparation is vital to a negotiator—a task that can help you strongly signal competence. Here, notice that candor is actually another welcome sign of integrity. It’s a sign of openness and a sign that you can give constructively by talking about your own interests as you also talk about wanting to collaborate.

### Signaling Your Message

- Yet another way to build rapport is to signal what kind of message you’re about to give. A study by Neil Rackham reported that skilled negotiators give five times as many advance indications of the kind of behavior they are about to use as average negotiators do.
- For example, instead of saying, “How many units are there?” a skilled negotiator might say, “Let me ask you a question: How many units are there?” Instead of saying, “Let’s do X,” a skilled negotiator might say, “Let me make a suggestion: Let’s do X.” Instead of saying, “We can’t,” a skilled negotiator might say, “This may be hard to hear at the moment, but we really can’t.”
- This approach draws the attention of the listener and exerts mild social pressure to listen more closely. It also slows the negotiation down, giving time for speakers to gather their thoughts and for listeners to clear their minds from previous statements. Also, it introduces a formality that tends to reduce antagonism and, thus, keeps the negotiation on a more rational level. It also reduces ambiguity and leads to clearer communication.

### Avoiding Irritants

- Rackham also found that average negotiators frequently use *irritants*, that is assertions that don’t persuade and often annoy the other side. Examples of irritants include: “I’m making you a fair offer,” “I’m being very generous,” and “You’re being ridiculous.”
- Skilled negotiators avoid irritants by reframing—rephrasing an idea using more attractive, constructive, and respectful language. For example, instead of saying, “I’m making you a fair offer,” a

skilled negotiator might say, “Let’s see what’s fair.” Notice that the reframed statement is inviting and collaborative and signals a desire to learn jointly. If the speaker has done adequate research, he or she can offer the invitation without fear.

- Instead of saying, “You’re being ridiculous; I will walk first,” a skilled negotiator might say, “Although I have other offers, I would love to find a way to work with you.” In both statements, the speaker alludes to alternatives to agreement, but in the second, the statement is reframed in a face-saving, inviting way.
- The power of reframing is that it can help anyone win warmly—that is, to do well in the negotiation in a way that doesn’t damage the relationship and may very well strengthen it.

### **The Power of Common Interests**

- Appealing to common interests is one of the most powerful ideas in the field of negotiation—a way to profoundly improve your credibility, rapport, and relationship with your counterpart.
- A common interest is a shared goal or mutual desire to achieve together. Such interests are powerful because they turn wariness into trust, adversaries into partners, and competitors into collaborators. They strongly influence credibility and connection.
- Common interests are different from complementary interests and competing interests. As we’ve seen, the complementary interests of two parties are different but not in conflict and can lead to a mutually satisfying trade. Competing interests are in pure conflict. But with common interests, both sides share the same goal, and both can achieve it if they work together. Rackham found that skilled negotiators discuss common interests more than three times as much as mediocre negotiators.
- To craft an effective appeal to common interests, make sure it is specific, compelling, and not self-serving. For example, you might say, “Look, we’re not enemies here; we’re on the same side. If we

work together, we can ....” If you can finish that sentence with an interest that’s specific, compelling, and not self-serving, you may have found an appeal that’s very persuasive in your negotiation.

### Suggested Reading

Diamond, *Getting More*.

Lewicki, Saunders, and Barry, *Negotiation*.

### Questions to Consider

1. What are two ways that skilled negotiators build rapport and credibility more effectively than mediocre negotiators do?
2. How can you use the principle of being hard on the problem but soft on the person to reframe a hard message you’re tempted to convey to someone you’re unhappy with?
3. Reframe the following irritators to convey a similar idea more persuasively by avoiding self-aggrandizing language and using more detached, respectful, information-based, interest-based, or inquisitive language:
  - “I’m making you a very generous offer.”
  - “We have so many offers that frankly, we don’t need yours at all.”

### Challenges

1. In your next negotiation, try using this sentence: “Look, we’re not enemies here. We’re on the same side. If we work together, we can ....” Then fill in a common interest. See what a difference this approach can make in the conversation.

2. In your next business meeting, see what happens if you take time to speak informally for a while longer than you usually do and at different points in the conversation. Try reframing tough messages to be intentionally respectful.

# Can You Negotiate When Trust Is Low?

## Lecture 7

It's often said that you can't negotiate without trust, but if that's true, then peace accords, international joint ventures, Internet transactions, and many other types of negotiations would be impossible. In each of these situations, we face the trust problem: How does one party know that he or she can rely on the assurances of the other? Once you start to understand the trust problem, you see it everywhere. It's a basic part of the human condition, a fundamental dilemma that's particularly present in negotiations. In this lecture, we'll look at approaches to coping with and overcoming the trust problem.

### Defining *Trust Mechanisms*

- In a sense, we've been grappling with the trust problem throughout our course, and we've seen a number of ways to address this problem, including interest-based bargaining and attempts to build rapport and credibility through actively listening, appealing to common interests, and so on. Another method you can use to foster trust is to offer a trust mechanism.
- A *trust mechanism* is any arrangement that provides reassurance when you're not sure that you can rely on the other person's assurances alone. It's any option or instrument that allows one person to say, in effect, "I'm not sure I can rely only on what the other party says, but if I also have X, I'll feel safe enough to negotiate."
- Trust mechanisms often play a role in situations where trust is harder to find than at any other point in human relations: in time of war.
  - In her remarkable book *Peace Time*, Columbia professor Page Fortna explored a simple and profound question: Does a peace treaty ever really work? To answer that question, Fortna studied every cease-fire agreement and peace accord negotiated by warring countries since 1945. The answer was that peace treaties worked far more often than most people expect.

- Further, Fortna found that the more serious the conflict, the more detailed the peace accord. That alone is surprising; in a bitter battle, why would negotiators work so hard on a document they have every reason to be skeptical about? In fact, it's precisely because of the trust problem that negotiators pour more time and attention into the terms of a treaty.
- Fortna also found that specific kinds of terms in peace treaties tended to work better than others. For example, demilitarized zones and phased withdrawals to the original borders matter significantly, as do credible peacekeepers, joint commissions, and third-party guarantors. In each case, the terms that mattered most were trust mechanisms.

### Categories of Trust Mechanisms

- There are four basic kinds of trust mechanisms: watching solutions, incentives and penalties, bridges, and formalized relationships.
- *Watching solutions* are arrangements that let you keep an eye on the other party so that you can see whether or not he or she is being truthful and is acting in good faith. Watching solutions are ways to retain partial control or to make the conduct of the other person visible, accountable, and clear. These mechanisms include clear rules and boundaries, early-warning mechanisms, reporting requirements, disclosure and due diligence, monitors, phased withdrawals, and power-sharing arrangements.
- A second category of trust mechanisms includes *incentives* and *penalties*. These are carrots and sticks that encourage cooperation. Examples include incentive compensation and bonuses, competition in markets, mutually assured destruction, collateral, and threats of violence.
  - One of the more intriguing and nonobvious penalties is a *solemnizing gesture*—something like “Cross my heart and hope to die.” These gestures mean that the promise maker is staking much of his or her social standing and credibility on the promise. Signers of the Declaration of Independence didn't

just sign the document but pledged to each other “our lives, our fortunes, and our sacred honor.”

- You’ll note that trust mechanisms are often little more than promises themselves. Your supervisor promises you a bonus; you promise to post collateral. But Fortna’s research on peace treaties suggests that the promise of a trust mechanism often strengthens the agreement for both sides in ways that a general promise to behave in a certain way does not.
- A third type of trust mechanism is a *bridge*, that is, the use of intermediaries that can fill the trust gap. A bridge is trusted by both sides. It can help confirm that a deal is fair or reliably support one person’s promise to the other. We encountered some examples of bridges in the form of fair benchmarks when we looked earlier at independent criteria. Other bridges include sponsors, references, insurers, and guarantors.



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**A credit card is an example of a simple trust bridge; a diner makes a promise to pay money to the credit card company, which simultaneously makes a promise to pay almost the same amount to the restaurant.**

- The last type of trust mechanism is a *formalized relationship*, which essentially establishes rules of engagement that guide ongoing conduct. These relationships spell out how and when parties will interact. Often, they ensure that the parties will meet repeatedly, further reducing the risk of any one encounter. Examples of formalized relationships include regularly scheduled meetings, charters, bylaws, alternative dispute resolution clauses, and clear discussion rules.

### **Importance of Trust Mechanisms**

- Most of the terms and conditions in complex contracts are trust mechanisms. We can even point out trust mechanisms in a typical lease, including a deposit, credit check, guarantors, a building superintendent who acts as a monitor, and other formal and informal arrangements.
- As a negotiator, you can use trust mechanisms in several ways. If you're worried about the other negotiator, you can treat your concern as a legitimate interest and develop a list of possible trust mechanisms you would like to have provided, each of which is a creative option.
- You can also offer trust mechanisms to bolster your own credibility, which will satisfy the other negotiator's interest in being reassured. If you think about it, you encounter these sorts of offers all the time in commercial life: "Try it for 30 days free," "Money back if not satisfied," and so on. Merchants use such trust mechanisms to reduce customers' wariness.

### **A Thought Experiment in Trust**

- Imagine that you are a leading citizen of a developing country. Recently, a recession has hit the country's predominantly agricultural economy. In one province, angry, debt-ridden farmers have begun to turn to violence to stave off creditors and government officials who want to repossess their lands. The violence has begun to turn into insurrection; mob rule has made that part of the province almost ungovernable, and the threat of revolt is increasing in other provinces.

- The national legislature meets in emergency session, and representatives from every province promise that their governments will contribute money to raise an army to put down the insurrection. The representatives return to their home provinces, but not a single region keeps its promise. The insurrection grows. Finally, businessmen raise money to hire a private army to quell the insurrection.
- This story reflects the situation in the United States in 1786. In that year, Shays's Rebellion broke out in western Massachusetts, and the failure of Congress to raise money to put it down was the triggering event that led to the Constitutional Convention the following year. In other words, the U.S. Constitution is primarily a response to a nearly ruinous trust problem.
- One of the most striking features of the Constitution is that it relies on a host of trust mechanisms to ensure that the states will comply with promises made to the government. The key solution was a stronger federal government.
- But solving that trust problem raised numerous others. How could we have a strong national government without it becoming tyrannical? The solution of the Founding Fathers was another set of trust mechanisms—power-sharing arrangements (checks and balances), along with the creation of the two houses of Congress. The Bill of Rights, ratified in 1791, was also a trust mechanism added to the Constitution to ensure that the federal government wouldn't destroy the basic civil rights of the people.
- The Constitutional Convention was a highly complex, multiparty negotiation in the shadow of an array of serious trust problems. It's a rich example of how intrinsic trust problems can be to a major collaboration and how many different trust mechanisms may be required to solve them.

## “Gentle” Trust Mechanisms

- Trust mechanisms are firm sources of trust, while other methods we’ve explored in the course are soft sources of trust. These include listening, rapport building, empathizing, and so on. The relational costs that trust mechanisms sometimes impose make an additional case for using soft sources of trust. But in many cases, these soft sources are not sufficient. How can we use trust mechanisms without needlessly damaging relationships?
  - One way to use trust mechanisms gently is to suggest those that do double duty or serve other needs, too. For example, in simple transactions, the seller gives the buyer a copy of a receipt. One reason for this is to help each keep good accounts. The older and perhaps more hidden reason is that it protects each from saying that the other failed to pay or deliver. But because receipts are so familiar and have several uses, asking for one is completely inoffensive.
  - Similar customary, multipurpose trust mechanisms include form contracts, confirmation e-mails, advance payments by credit card, and so on.
- Is there a way to use trust mechanisms to actually enhance relationships? One possible mechanism along these lines is the reputation reporting boxes found on such websites as eBay. These seem to increase the safety of both buyers and sellers and may help the two trust each other and connect.
- Such arrangements might be called *solutions hiding in plain sight*. Discussion rules, such as the fair fight rule we discussed in an earlier lecture, are a simple example. Such a rule gives partners a sense that they can talk without being invalidated, insulted, or ignored, but it also opens up communication, helping partners to feel closer to each other.

## Using Trust Mechanisms Effectively

- Because we often feel deep ambivalence about trust mechanisms, it’s wise to avoid overusing them. In a peace treaty or a \$100

million loan agreement, you may need a dozen or more; for lesser agreements, just one or two may be sufficient.

- Keep in mind that every kind of trust mechanism has its limits; thus, using several different kinds can improve the odds that one of them will work. For this reason, lenders often negotiate for a watching solution (due diligence), a penalty (repossession), a bridge (a loan guarantor), and a formalized relationship (regular meetings).
- Finally, note that the more coercive your agreement is, the greater the risk of costly conflict. Thus, for serious arm's-length agreements, it can be wise to include trust mechanisms of varying severity. For example, although lenders can repossess collateral, they often first prefer to ask for further assurances and, perhaps, impose an interest penalty.

### Suggested Reading

Fortna, *Peace Time*.

Gabre-Madhin, "A Commodities Exchange for Ethiopia."

### Questions to Consider

1. Is it true that you can't negotiate without trust? What are some examples of successful negotiations in which distrust was a big part of the story?
2. What is the trust problem, and what are some examples of it in your life and in the news today?
3. What is a trust mechanism, and what are the four types?
4. How many different trust mechanisms can you spot in the U.S. Constitution? In your credit card agreement?

## Challenges

1. Make a list of the kinds of trust mechanisms you encounter in daily life. Consider how you might build one or more of these into your next negotiation.
2. Read the front page of a major newspaper and see how many stories there involve a trust problem and discuss at least one trust mechanism. Choose one news story and consider what other trust mechanisms (and other solutions to the trust problem) might help people better manage the issue discussed.

# Building Leverage

## Lecture 8

**L**everage is the ability to influence events in your favor through relative advantage. It's a bit like a seesaw: the higher yours is, the lower the other person's is. Although it's not the same thing as power, leverage is an important part of the power to get what you want. Understanding and comparing what each side can do if there's no deal is central to gauging how much leverage you have in a negotiation, as well as a key to knowing when to walk away, when to give in, and when to negotiate. In this lecture, then, we'll look at a simple question: If you don't agree with your counterpart, what will each of you do instead?

### Defining *BATNA*

- In their book *Getting to Yes*, Roger Fisher, William Ury, and Bruce Patton introduced an idea that can help us better understand leverage: the “best alternative to a negotiated agreement” (BATNA). An alternative to agreement is what you might do on your own if you cannot reach an agreement with the other side. The best of these choices is your BATNA.
- For example, imagine you're negotiating for a new job with Company X. If those talks don't work out, what will you do instead on your own? You may have another job offer elsewhere, or you may be thinking about going back to school. Each of those choices is an alternative you could pursue instead of reaching an agreement with Company X. By definition, the best one for you is your BATNA.
- Some people assert that BATNA, leverage, and power are all the same thing, but that's an oversimplification, in part because there are ways to acquire power even if you don't have a BATNA. In other words, there may be other sources of influence besides the ability to walk away. Still, it's true that BATNA is usually a good first approximation of your leverage in a negotiation; if you're

desperate and the other negotiator isn't, you'll probably get the lesser of the bargain.

### **Options versus Alternatives to Agreement**

- At first glance, options and alternatives to agreement may sound similar, but they're not. An *option* is a possible deal term, something you can offer the other side or the other side can offer you. In contrast, an *alternative to agreement* is something you will do by yourself if you cannot agree with the other side.
- For example, imagine that a landlord and tenant are negotiating a lease renewal. They might have several options to discuss, including a 5 percent increase for one year, a 3 percent increase each year for two years, and so on. But at the same time, each negotiator has several alternatives to agreement. The landlord could, among other choices, rent the apartment to another tenant, and the tenant could find another place to rent. Alternatives to agreement are what one party might do without the other.
- It's important to keep these two concepts distinct in your mind, in part because most negotiation experts draw the same distinction and in part because understanding the difference can make you more effective.

### **The Importance of BATNA**

- BATNA may be one of the most important ideas in the field of negotiating, although in a sense, it boils down to a simple idea: "You better shop around." If you've had economics training, you have probably encountered this idea in another form: opportunity cost. BATNA makes that important idea much more operational and accessible.
- The better you understand your BATNA, the better you know how to approach a negotiation, when to walk away, when your position is weak, and when you need to take action to build strength. In short, BATNA reveals leverage and perspective.



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**In a dispute about car repairs, a customer can develop several alternatives to litigation: seeking the help of a government agency, withholding payment, seeking allies among other disgruntled customers, and so on.**

- In fact, BATNA is so important that sometimes it can produce an agreement even without a negotiation. If you've ever had a telephone company or a credit card company unilaterally offer you better terms and conditions than your existing contract offers, it's probably because the company is facing increased competition; that is, the company knows that you have greater choice and can walk away. Your BATNA improved without your even realizing it, and you got a better offer as a result.

### **Developing Your BATNA**

- When skilled negotiators gear up for an important negotiation, they intentionally develop their BATNA, using creativity and research. Often, your BATNA is not the most obvious alternative to agreement you have. For example, when you're faced with a conflict, it often seems as if the only solution is litigation. But a

skilled negotiator realizes that litigation is just one choice, and it's wise to explore other possibilities.

- Looking beyond the obvious to discover an effective BATNA is also crucial for entrepreneurs.
  - Many entrepreneurs believe that they're doing well if they can quickly negotiate deals to raise money from investors. But studies and experienced entrepreneurs emphasize that this may be the biggest mistake you can make.
  - A much better approach is one called *bootstrapping*, in which the entrepreneur starts up inexpensively, experiments, makes mistakes at low cost, and shapes the venture until it's ready to put investment money to good use. In effect, bootstrapping is an attractive BATNA for an entrepreneur in talks with early investors.
- Developing your BATNA can make a difference even at the highest levels of diplomacy. Currently, the nations of the world spend more than \$1 trillion per year on their militaries. In large measure, nations do this so that during a conflict, a leader can say, "Although we hope to resolve this matter peacefully, we reserve the right to use all possible alternatives."

### **Your Counterpart's BATNA**

- It's not enough for a nation's leader, an entrepreneur, or any other negotiator to think about his or her BATNA; you also have to think about the other side's BATNA. Underestimating the other side's strength is a good way to be ruined at the bargaining table, but it's also possible to overestimate the other side's BATNA. Often, the other side in a negotiation seems like Godzilla—enormous and intimidating, with overwhelming alternatives to agreement and, therefore, unwilling to negotiate.
- Skilled negotiators strive to avoid either underestimating or overestimating the other side's BATNA by learning as much as they can about it, including their counterparts' best and worst alternatives

to agreement. Diplomats, sports agents, lawyers, and other skilled negotiators devote time to understanding the choices of each side.

- To foster that ability for yourself, try listing out at least five alternatives to agreement you have and, separately, at least five the other side might have. Then, do some research to get a better idea of which your counterpart is likely to rely on. For example, during a billing dispute with a big supplier, you might want to learn whether it has a reputation for litigation or whether it refers disputes to credit agencies, cuts off buyers, or tends to do something else.

### Defining *WATNA*

- Of course, skilled negotiators also think about their worst alternatives to a negotiated agreement (WATNA). This exercise helps you avoid overestimating your strength. It's easy to look at a long list of alternatives to agreement and believe that you are more powerful than you really are, but in fact, you won't be able to use all of those alternatives.
- Further, it's easy to overlook the fact that you may have concerns, especially if your BATNA doesn't work out. For example, if you're negotiating for a new job, your BATNA may seem like an exciting alternative job prospect elsewhere, but if that doesn't come through soon, your WATNA may be continued unemployment.
- Again, understand that the other side probably has a worrisome WATNA, too. That's important, in part because it's often the fear of what will happen if a negotiation isn't successful that motivates your counterpart to make a deal. As the saying goes: "Doubts drive deals."
- Even negotiation counterparts who are seemingly quite powerful also have concerns. You may be negotiating for a job with a company that has 600 other applicants, but once a company makes an offer, it usually doesn't want to restart the job search, bring in more candidates, conduct additional interviews, and so on.

- Understanding the specific situation you face isn't always simple, and it's easy to overplay or underplay one's hand. But keep in mind that we have a natural tendency to project our anxieties and think the other side is strong and we're weak. Skilled negotiators strive to learn as much as they can and bring a measure of equanimity to the talks—a reasonable confidence, grounded in understanding.

### **Avoiding Mistakes**

- Imagine that you're trying to sell your small business to a corporate buyer, and you say, "We have an offer for \$175,000 from another buyer." With that statement, you've just invited the corporation to offer you a barely better deal. Although it can be wise to allude to your BATNA, it's usually unwise to reveal it in detail. A better approach might be for you to say, "I have another offer. I can't say how much, but I can say it's significantly better than what you're offering. I'd love to work with you if I can. Can you do better?"
- Similarly, some suggest that whistleblowers might be wise not to give all their information to the press and prosecutors immediately. As an accused corporation starts to fight back, it may try to fire or ruin the whistleblower, lying about what has been revealed and insisting that there is nothing to the allegations. The corporation may win unless the whistleblower has an ace in the hole: more information to be shared with the prosecutors later on that further proves the case or disproves the claims of the company.
- What if, in spite of all the suggestions in this lecture, you find that you have a very weak or nonexistent BATNA and little hope of developing one? The best thing to do in this situation is to work harder on the parts of the negotiation that you can change. Think more deeply about the interests involved, do more factual and financial research, develop more creative options, and spend more time on rapport building, each of which can be a source of hope and power.
- Finally, when we speak of BATNA, we are sometimes speaking of developing one's ability to fight. As Martin Luther King, Jr.,

demonstrated in his work, it is both possible and wise to fight an implacable counterpart without animosity—to be hard on the problem but soft on the person. Even when you develop leverage, use it in ways that allow you to show respect for the other side and allow your counterpart to change his or her approach without loss of face. As the authors of *Getting to Yes* put it: “Bring them to their senses, not their knees.”

### Suggested Reading

Fisher, Ury, and Patton, *Getting to Yes*.

Zartman, *The 50% Solution*.

### Questions to Consider

1. What is the difference between an option and an alternative to agreement?
2. War is a possible alternative to diplomatic agreement. What are some others that countries consider?
3. One scholar identified 198 kinds of nonviolent tactics—each a kind of alternative to agreement. How many can you think of?
4. Think of the next serious negotiation you’ll likely face. What are some nonobvious alternatives to agreement you might consider that might improve your choices?

### Challenge

1. Do some research or brainstorm to develop five alternatives to agreement related to an issue you must negotiate. Then, identify a BATNA and a WATNA. Also try to identify the other side’s BATNA and WATNA in the same way. Does this enriched understanding of the situation make a difference in the negotiation?

# Basics of Distributive Negotiation

## Lecture 9

**A**fter several lectures, we've developed a set of ideas that will be valuable in any negotiation and that can help you be more creative, tactful, and effective in your talks with others. We said earlier that there are two basic kinds of negotiation, creative and competitive, and we've now reached the point where it's time to explore competitive negotiation directly. In this lecture and the next one, we'll look at four questions related to competitive negotiation, or distributive bargaining: (1) What should you strive for? (2) What should your first offer be? (3) Should you make the first offer? (4) When do you walk away?

### Ambition

- The answer to our first question in distributive negotiation—what should you strive for?—depends in part on whether you're involved in an arm's-length, one-time transaction; an arm's-length, ongoing relationship; or a close relationship. We'll begin by looking at arm's-length transactions.
- The first point to note is that skilled negotiators often intentionally moderate ambition slightly. At least 22 studies have found that it's effective to intentionally, explicitly set your goal before you negotiate.
  - Picture two different negotiators, each getting ready for a negotiation. One says, "I'm going to try to do as well as I can." The other says, "Based on my research, I'm setting an ambitious but realistic goal for myself and I'm going to tell it to someone I'm accountable to."
  - Overwhelmingly, research demonstrates that the second negotiator, the one who identified a specific goal, does markedly better than the negotiator who just hopes to do well.

- Further, moderating ambition is important because studies find that a reputation for greediness tends to backfire.
  - In one study, some negotiators were assigned extremely greedy goals, while others were assigned more moderate goals. In some cases, the greedy negotiators got more, but in almost every case, they faced serious blowback afterwards.
  - In follow-up interviews, their counterparts said that they did not like the greedy negotiators, did not trust them, and would not share a gift with them. When counterparts had the chance to negotiate again with the greedy negotiators, they exacted revenge, driving for hard bargains, being much more defensive, and sometimes reaching no deal at all.
  - Another study found that a reputation for greediness can negate the effectiveness of even expert negotiators.

### Your Best Target

- In a distributive negotiation, begin by setting a best target, that is, the number you actually hope to get. When you're striving for an ambitious result, your best target is a specific, realistic but ambitious outcome. Keep this number confidential.
- Imagine that you're selling a boat and you need to negotiate a price. You do some research and learn that the most anyone is getting for a similar boat is \$100,000. What should your best target be?
  - You might think the answer is obvious: \$100,000. But remember that research recommends against being greedy; thus, the target of \$100,000 is too much. You need a way to intentionally, operationally moderate your ambitions slightly.
  - To do that, use the 5 percent rule: Find out the best you can do, then, as your best target, set a number that's 5 percent lower. In this case, your best target would be \$95,000.

- Keep in mind that the 5 percent rule doesn't always work, and when it doesn't, ignore the rule, but keep the principle: Moderate ambitions slightly.

## Satisficing

- A radically different goal besides an ambitious outcome is captured in the idea of *satisficing*, or achieving a basically acceptable outcome—a “good enough” result. One way to understand it is as something a bit better than your best alternative.
- In his book *The Paradox of Choice*, Barry Schwartz makes the case that one of our biggest problems is *affluenza*—the overwhelming and often paralyzing array of choices we face in consumer society. And indeed, studies find that the more choices we have, the less satisfied we become.
  - Schwartz is alluding to a philosophical dilemma we face, especially in the West: the problem of the hedonic treadmill. The more we strive for perfect happiness, the more dissipated, exhausted, and unhappy we become.
  - Schwartz, echoing ancient and modern wisdom, advises that we get off the hedonic treadmill by satisficing—accepting good enough, not trying to get the absolute best in everything but being content with what is sufficient.
- In many cases, Schwartz may be right, but it's also worth noting that in some situations, satisficing is not an acceptable outcome. Martin Luther King, for example, could not accept an almost trivial civil rights act that passed in 1957. Instead, he led several more years of nonviolent protest that finally helped result in passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965. As an advocate for millions of oppressed minority members, King could not in good conscience practice satisficing with the earlier act.

## Compromise

- Another distributive choice besides greediness, ambition, and satisficing is compromise. In many situations, such as partnerships,

joint ventures, and other ongoing, arm's-length arrangements, an equitable or equal split may make sense.

- We saw the power of fairness in an earlier lecture when we looked at the ultimatum game, in which people turned down money if they felt they were getting an unfair deal. In contrast, a roughly even split communicates the desire to be fair; it also builds trust and simplifies negotiations. Studies often find that a settlement in the middle of the bargaining range creates good will and trust.
- Here, too, though, there can be traps and dangers. In compensation talks, for example, if one employee compromises and another achieves an ambitious result, over time, the ambitious negotiator's gains may accumulate, especially if each gets a percentage raise. Further, founders of joint ventures sometimes agree too hastily to split the profits evenly, and it later turns out that one founder puts more time and energy into the business than another.

### Generosity

- In some situations—perhaps many—the wise course of action is not to be ambitious, to compromise, or even to satisfice but to be generous.
- In his book *Give and Take*, Wharton professor Adam Grant looked at social science research that compares three kinds of people in business life: nice guys, or *givers*, who tend to be generous in their dealings with others; reciprocators, or *matchers*; and aggressive people, or *takers*, who strive to get as much as they can.
- Not surprisingly, research shows that nice guys finish last: Some givers tend to be promoted less, prosper less, and build weaker businesses. Matchers and takers tend to do better. At the same time, however, some givers do best of all. These are people who build a reputation for being generous yet know how to watch for bad behavior and set boundaries. They develop a reputation for being smart and honest.

- To put it another way, research suggests that the generous do best when they have the ability to be savvy as a serpent and harmless as a dove. If you think about it, the skills and principles we've explored already, such as interest-based bargaining and being hard on the problem but soft on the person, can help you combine those powerful qualities. You don't have to use them sacrificially. If you want, they can enable you to be generous and successful.

### **The Dance of Concessions**

- No one approach—ambition, satisficing, compromise, or generosity—is always right, but let's return to an ambitious approach. We've already learned how to set an ambitious best target. What should your first offer be? This brings us to the idea of the dance of concessions—the back-and-forth bargaining between two negotiators that generally leads to a solution or price in the middle.
- In most negotiations, negotiators feel that a concession gives them a psychological sense of satisfaction, respect, and fairness and helps them feel that the other negotiator is more trustworthy, in part because winning a concession creates a feeling of control and autonomy. If you deny another negotiator a concession, he or she may well feel that you are unfairly dictating terms.
- If you go into a negotiation and simply state your best target, the other negotiator will often treat it as a first offer and will then make a counteroffer. If you refuse to dance and insist on getting your best target, the other negotiator will probably refuse. In other words, if you open with your best target, you will almost certainly not get it. How, then, can you wisely build a cushion into your first offer so that you can make concessions and still get your best target?
- The first option here is called the *midpoint strategy*. It's based on this observation: The point midway between two opening offers is not a bad predictor of where the final negotiating settlement will fall. You can harness the midpoint phenomenon into a strategy in which you simply set a first offer that lets you dance toward a midpoint that is your best target.

- In the boat sale we looked at earlier, if your counterpart offers \$70,000, you might add a \$25,000 cushion to your target of \$95,000 for an offer of \$120,000.
- Note that a midpoint strategy can sometimes suggest a first offer that seems too high, and there are some situations, such as salary negotiations, where that may not be a good idea. The strategy can work in a number of situations, but keep in mind that there are other choices, as well.
- Note, too, studies have found that when negotiators start out very high and quickly make large concessions, their counterparts tend to be more satisfied with the final agreement than when negotiators start more conservatively and make grudging concessions.
- A second strategy for setting a first offer is the *independent criteria strategy*. As you may recall, an independent criterion is a benchmark or standard that both sides trust as fair. Considering the boat negotiation again, if an independent source sets the value of the boat at \$100,000, you might open with that amount, knowing that it gives you only a \$5,000 cushion. However, you demonstrate fairness by letting your counterpart know that your offer is based on an independent source.
- Finally, a third strategy is the *soft offer strategy*, in which a seller sets a price range or demonstrates openness to negotiation or a best offer. Such offers signal a strong willingness to negotiate and concede. This strategy can also be used in conjunction with either of the other two strategies—midpoint or independent criteria.

## Suggested Reading

Grant, *Give and Take*.

Lax and Sebenius, *The Manager as Negotiator*.

Schwartz, *The Paradox of Choice*.

Shell, *Bargaining for Advantage*.

## Questions to Consider

1. An article in a leading consumer magazine notes that the mattress you want retails for \$600, but readers have often gotten it from legitimate discount stores in your area for prices ranging from \$300 to \$500. Following the approach we discussed in the lecture for negotiating an arm's-length transaction, what should your best target be?
2. You want to buy a used motorcycle. An advertisement for the model you're interested in notes the price as "\$20,000 or best offer." From your research, you determine that your best target for this arm's-length transaction should be \$18,000. What would the midpoint strategy suggest as a first offer?
3. You're still thinking about that motorcycle. Imagine that two leading motorcycle magazines published recent price surveys showing a fair market price as low as \$17,100. What would an independent criteria strategy suggest as a first offer for this arm's-length transaction?

## Challenge

1. The next time you want to ambitiously negotiate a single issue, such as price, do some research, use the 5 percent rule to set a best target, write the target down, then strategically cushion the target using the midpoint or independent criteria strategy, perhaps including a soft offer. Conduct your negotiations from that point.

# Distributive Negotiation—Twists and Turns

## Lecture 10

In the last lecture, we began looking at the task of distributive negotiation, asking: How do you negotiate how much of the pie each negotiator will get? In this lecture, we'll explore a number of other questions, including: (1) Should you make the first offer? (2) When do you walk away? (3) What should you do in special cases, such as litigation settlements, auctions, or talks with agents? (4) And what if you can't really tell what your best target should be, despite good research?

### Making the First Offer

- One of the most basic mistakes made by many negotiators is making the first offer without information. The danger here is lowballing yourself—asking for less than your counterpart was prepared to first offer. The conventional wisdom in negotiation is: Never make the first offer.
- However, there's a problem with this wisdom. Picture a young couple in a car dealership. They see a car they like, but they look at the sticker price and realize they can't afford it. Then, a car salesman quotes a lower price on the car that sounds great. What the couple doesn't realize is that they have been unwittingly influenced by a phenomenon known as *anchoring*.
  - Anchoring is a psychological phenomenon in which the first number you hear biases your expectations subconsciously. In this case, the manufacturer's suggested retail price that appears on the car is, by design, a high price that no one expects buyers to pay. But by planting that number in buyers' minds, the manufacturer and dealer hope to shift the conversation toward the high end of the range.
  - If you think about it, in any negotiation, the one who makes the first offer, in effect, biases the conversation and, thus, may have an advantage.

- If you go first, you run the risk of lowballing yourself. But if you go second, you run the risk of being anchored. What's the best path? The answer turns on one word: information.
  - If you must negotiate with little information, to avoid lowballing yourself, don't make the first offer; go second. Some experts suggest that it may be wise to counteroffer quickly to offset the anchoring effect of the first offer. Alternatively, you may want to adjourn quickly, then go do some research.
  - Conversely, if you're negotiating with a great deal of information, then to avoid being anchored, you may want to make the first offer.
- The challenge of anchoring and lowballing raises a common question: What do you do in an early job interview when the interviewer asks about your current salary and your expectations?
  - This question from an interviewer essentially asks you to anchor yourself by mentioning a number at the start of the discussion. The question about your current job also asks you to lowball yourself because you generally hope to make more money in a new job. Further, the question is irrelevant. What matters more than how much you currently make are the market rates for the work you will need to do in the new job. For all of these reasons, this question is an example of a *killer question*—one that you answer at your peril.
  - Most experts suggest that you find a polite way to deflect the question. If the interviewer insists, answer the question, but respectfully ask that instead of using your answer as a benchmark, the two of you will rely on market data.
  - With the question about salary expectations, again, avoid it if you can by saying that your expectations are negotiable and you'll consider any reasonable offer. If the interviewer presses you for numbers, state a broad range, adding that you'll know better what's appropriate when you learn more about the job and the market.

## Walking Away

- When do you walk away from a negotiation, such as one for a job? We've already seen the answer: Walk away when your best alternative to a negotiated agreement is better than your counterpart's final offer.
- For example, imagine that you are negotiating the terms of a new job with Acme Corporation. Acme is offering you \$70,000, but you have three other offers, the best of which is \$83,000. When should you walk away from Acme? Assuming that money is the only issue, you should walk away if Acme can't do better than \$83,000. But remember, don't tell Acme the walkaway number; that's an invitation for the company to make an offer that's only slightly better.
- Studies show that skilled negotiators and average negotiators are quite different in the way they approach distributive negotiations. Average negotiators go in with one number in mind—a goal price. Skilled negotiators go in with a range; they know their best target and their worst acceptable price.
  - Of course, skilled negotiators focus on their best targets, but they also know something that mediocre negotiators don't: when to say no.
  - Faced with resistance and pushback, skilled negotiators may concede if necessary to a point, but because they know their walkaway price clearly, they don't settle for just any price. In contrast, mediocre negotiators never know when to quit and can rationalize almost any outcome as a compromise move.
- People sometimes believe that the key to negotiation is to feign indifference—to act as if you are happy to walk away even if you are desperate. It's certainly not a good idea to advertise desperation, but trying to bluff can easily backfire; the other negotiator may call your bluff!
  - Feigning indifference, like bluffing generally, is a high-risk, high-return, short-term gambit. The high return tempts us, but the high risk is real and easy to overlook. Once the other



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**Auctions are designed to give the seller the advantage; for this reason, buyers should approach them with caution.**

negotiator knows that you were bluffing, he or she will be more aggressive and less trusting. In the long run, bluffing may have a corrosive effect on your credibility as a negotiator.

- Perhaps even more important, bluffing is not necessary. Inexperienced negotiators may rely on bluffing as a substitute for homework, but skilled negotiators work to be smart and honest.

## **Auctions**

- An auction is a place where special negotiation principles apply. By design, an auction's purpose is to help the one who's conducting it—the seller—get the maximum amount for the items being sold. The seller does this by gathering a room full of people and asking them to compete with each other. Each person is a prospective negotiation counterparty and, in effect, the seller's potential BATNA.

- Although it's possible to get a bargain at an auction, it's also quite easy to pay top dollar. Rarely do you get the chance to cushion your first offer at an auction. The seller sets the opening. Because you are in competition, you may feel pressure to bid up to your walkaway price. And that's the seller's goal: to find out whose walkaway price is highest.
- One basic principle of an auction is to be clear with yourself going in about what your worst acceptable offer is and, if necessary, take steps that will prevent you from going beyond that. For example, you might bring only a certain amount of cash to the auction, or you might set a limit on an eBay auction and stick to it.
- One auction strategy that may help you avoid paying top dollar calls for making a bold first bid far above the opening price but significantly below your walkaway in the hopes of scaring away other bidders. This strategy is known as a *preemptive bid*.

### Escalation Psychology and Litigation

- The phenomenon known as *escalation psychology* is based on the idea that you've already invested so much, you can't quit. Escalation psychology can drive generals to pour more soldiers into a losing battle and managers to pour more money into a losing project. It can also drive one of the most intensely distributive matters we ever deal with: litigation.
- One way to avoid escalation psychology is to set limits going in. For example, decide to stop a project when the company has spent \$10,000 on it and not spend any more unless you have good reason to believe that you will get a return on that investment. Similarly, with litigation, set limits on how much you will spend on lawyers and roughly how much you will settle for.
- Another way to avoid the traps of escalation psychology is to ask your lawyer to explore *alternative dispute resolution* (ADR). This process offers a variety of ways to resolve disputes without litigation, such as mediation, arbitration, and so on. Often, ADR can help you resolve

conflicts more inexpensively, privately, creatively, and quickly and with more satisfaction than traditional litigation can.

### **Negotiation through Agents**

- Still another special aspect of distributive bargaining arises in negotiations through agents. Studies find that when an agent is introduced, the bargaining range tends to be much narrower and, thus, the room to negotiate competitively tends to be more limited. Someone must pay the agent's fee, and that's money that won't go to the other party.
- Consider, for example, two job candidates, Able and Baker. Each has applied for a job from the Acme Corporation. Able got the interview through a headhunter; Baker, by answering an ad. Acme wants to pay a salary of about \$100,000 for the position, and each candidate wants \$120,000.
  - But Able's headhunter charges 15 percent of the first year's salary. That means that Acme may wind up paying at least \$115,000 for Able's services, but Able will get only about \$100,000 of it.
  - In contrast, because Baker doesn't come through a headhunter, Acme could give Baker significantly more money—say, \$114,000—and still bear a lower overall cost.
- There is also evidence from the real estate industry that agents may favor quick deals to high-priced deals. According to the authors of *Freakonomics*, real estate agents tend to close house sales for clients relatively quickly and tend to close sales for themselves relatively slowly. This difference may be due to the fact that \$10,000 more on the price of the house doesn't give the agent much more commission. The agent does better by brokering the sales of many houses than the sales of only one or two houses for a somewhat higher price.
- These points suggest that when you're working with an agent, you may find that distributive negotiation is more limited and more

urgent than if you work without one, at least in some markets. If you're trying to negotiate salary through a headhunter or house price through a broker, you may find that some of the basic distributive bargaining principles we've explored are somewhat muted.

### Suggested Reading

Levitt and Dubner, *Freakonomics*.

Raiffa, *The Art and Science of Negotiation*.

### Questions to Consider

1. A nationally respected buyer's guide tells you that a used motorcycle like the one you want to buy sells for \$20,000 to \$25,000. What would one wise first offer be if the seller advertises a price of \$24,000?
2. Do you tend to be aggressive, compromising, accommodating, or avoidant when it comes to negotiating such issues as price or salary? What are some upcoming situations where another approach would be wiser?
3. If you wanted to consider alternative dispute resolution, but your attorney claimed that only litigation was worth pursuing, what questions might it be wise to ask to help you better understand the choices?

### Challenge

1. Before your next price negotiation, ask yourself how well you know the market and the facts. If you feel unsure but must negotiate, practice politely deferring to the other negotiator; be prepared to leave the talks and do more homework. Negotiate only if you absolutely have to and if you have reason to believe that there's not much more to learn.

# Measuring Success and Walking Away

## Lecture 11

In this lecture, we will explore a number of questions: What does it mean to succeed in a negotiation? What are the measures of success? What is the purpose of negotiating? And when do we walk away? These questions are so central to negotiation that our ability—or inability—to answer them shapes the course of nations, people, companies, and entire economies for better or worse. By the end of the lecture, we will have developed specific, practical ways to answer these questions that can guide you in any important negotiation you face.

### Case Study in Negotiation<sup>1</sup>

- Imagine that you and your spouse own and operate a small gas station that sells gas from a large oil company called Star Oil. Your station is one of the most successful in the region, but your spouse has some health issues that require immediate rest and relaxation. For this reason, you've decided to sell the business, buy a mobile home, and travel the country.
- A survey in a trade publication tells you that lesser stations in the region have recently sold for between \$150,000 and \$200,000. You want a minimum of \$225,000 to cover the cost of the mobile home (\$100,000), travel expenses (\$50,000), and a nest egg to live on when you return in a year (\$75,000) and need to look for work. Admiral Oil Company has offered you \$175,000, and you're now interested to see what Star Oil will offer.
- From speaking with fellow gas station owners, you learn that Star Oil is in the middle of an acquisition program and is looking to buy several gas stations in the region.

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<sup>1</sup> The case study in this lecture is adapted from Stephen B. Goldberg, "Texoil," Dispute Resolution Research Center and Kellogg Team and Group Research Center, Kellogg School of Management, Northwestern University, <http://www.negotiationexercises.com/Details.aspx?ItemID=76>.

- An executive from the company offers you a package worth a total of \$240,000 that includes \$180,000 upfront and a small oil truck in good condition worth \$60,000; because of federal regulations, the truck can be sold only once every seven years.
- In addition, Star Oil asks that you help keep the station running during a four-month transition period and that you agree to repay the company \$25,000 if the station's performance for the first year after the sale falls below previous results.
- Suppose you accepted the offer; let's now look at the situation nine months into the future.
  - You spent four months working at the station, watching your spouse grow sicker, until the doctor said that he or she was no longer able to travel and might have a complete collapse at any time.
  - You took delivery on the oil truck and found that you had no use for it; in fact, you had to spend \$300 a month to park it on a nearby lot.
  - After you transferred the station to Star Oil, the company hired incompetent station managers and immediately started to lose money. You realize that Star will demand the \$25,000 guarantee money from you in a few months, even though you had no control over the operations.
- Obviously, it turned out that the buyer made an offer that you would have been wise to avoid. The creative option offered to sweeten the deal—the truck—was all but worthless to you and actually cost you money to maintain. Worse, the offer didn't meet your most important interests: your spouse's health and the chance to take the trip. Further, the \$25,000 guarantee gave the buyer an incentive to be casual about managing the station. The offer from Admiral Oil may not have been ideal, but it avoided many of these problems.



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**According to negotiation expert Gavin Kennedy, as many businesses go under because they strike bad deals as those that fail to strike enough deals.**

- In this case study, many people accept Star Oil’s offer and initially say that they are confident they made a wise choice. In fact, as we know, there are many situations in which negotiators reach bad deals, unaware of how bad they are. For example, the convergence of bad deals on Main Street and Wall Street in the years leading up to 2008 resulted in a financial crisis that caused losses of \$50 trillion worldwide.
  - Beyond losses on a global level, it’s a sad fact that most entrepreneurial ventures fail. Often, the founders borrow, invest, hire, and produce based on false assumptions, overly optimistic projections, and too-hasty expansion.
  - The risks and dangers of bad entrepreneurial agreements are so serious that they prompted Barry Nalebuff, a professor of management at Yale, to offer rather surprising advice to young entrepreneurs: Don’t start a new business. According to

Nalebuff, it's possible to get 99 things right and 1 thing wrong in a business deal and find that you are ruined.

- History shows that a bad deal can change the course of people's entire lives. In short, although it's very easy to get to yes, often, yes is the wrong answer. Indeed, sometimes the worst thing you can do is say yes. Yet if you ask businesspeople, diplomats, consumers, and others, they will routinely tell you that they got a good deal, often no matter what the terms are. Why is this so?

### Reasons Behind Bad Deals

- One phenomenon contributing to bad deals may be *deal euphoria*, the irrational tendency to defend and celebrate any deal, no matter how bad. One driver of deal euphoria may be escalation psychology, the tendency to become ever more invested emotionally in seeing something through to the end, no matter what the cost.
- Another reason that people say yes unwisely is fear of deadlock. In a success culture, such as ours, we tend to associate agreement with success and disagreement with failure.
  - For example, consider this headline: "Martha Stewart Fails to Reach Agreement to Renew Partnership with Kmart." This 2009 Bloomberg news article went on to report that Kmart had been hurting Stewart's sales and reputation, and she was about to enter a new agreement with Home Depot.
  - The headline makes it sound as if Stewart failed, but the story itself strongly suggests that she made a wise decision.
- Yet another reason that negotiators often enter bad agreements is because of the myth that a concession is a bargain. A major New York department store used to send out a glossy ad touting its 50 percent off jewelry sale; a \$600 pair of earrings was now selling for just \$300. But then, *Dateline NBC* reported that the store ran this 50 percent off sale 26 days a month, raising its prices during the sale days.

- Each of these traps can mislead you into thinking you're getting a good deal, yet ironically, it's also easy to miss a good deal. According to behavioral economists, a phenomenon called the *endowment effect* can drive negotiators to overvalue their assets simply because they hold them.
  - This effect may cause homeowners to turn down reasonable offers for their houses and end up holding their houses much longer than they had intended.
  - It may also help explain why litigants often misjudge the strength of their cases and wind up doing much worse in court than they could have settled for.

### Measures of Success

- How can we know when it's wise to say yes to an offer? What we need are measures of success, clear guideposts we can refer to when gut feeling alone isn't enough. For our purposes, we can use three measures: We should agree to a deal when it is wise collaboratively, distributively, and relationally.
- First, is the offer good collaboratively? More specifically, does the offer satisfy your interests and the other negotiator's interests, now and in the future?
  - When an offer makes you feel confused and you don't know what to do, simply compare it to your interests. If the offer does not satisfy your key interests, you must seriously consider walking away. Negotiation is a means to your ends, not an end in itself, and your ends are your interests.
  - In the gas station case, we saw that Star Oil's offer clearly did not meet your key interests. In addition to hurting rather than helping your spouse and making your trip impossible, that deal carried a *time bomb*—a feature of an agreement that will cause serious foreseeable problems in the future.
  - Some common time bombs include overlooked likely events, such as low sales, bad weather, poor attendance, or

unexpectedly high costs; perverse incentives, such as rewarding salespeople on the total value of their sales, regardless of whether the sales are profitable; foreseeable bad fit, such as between an entrepreneur and an investor; and extremely one-sided deals.

- As we've seen, it's also wise to consider whether the agreement meets the other negotiator's interests. Fortunately, if you're using interest-based bargaining principles, you already know the importance of seeking an agreement that is hard on the problem but soft on the person. One way to test an offer is by comparing it against the other negotiator's interests as you understand them.
- The second measure of success is this: Is the offer distributively wise? More specifically, how does the offer compare to your best target, on the one hand, and your BATNA, on the other?
  - Again, your best target is your ideal outcome on a given issue; it's the number you actually hope to get. If you're striving to be ambitious, it's an ambitious but realistic amount. The closer you get to it, the better you have done distributively. As we've seen, it pays to intentionally set that goal explicitly in advance and to compare any offer to it to make sure you're not selling yourself short.
  - You also want to compare any offer to your BATNA. The more clearly you understand, develop, and research your BATNA, the stronger your position is, and the more clearly you can test the offer to see whether it meets your minimum requirements.
- The third measure of success is this: Is the offer relationally wise? In other words, is the offer fair compared to independent criteria, and has the relationship suffered or improved through the negotiation?
  - Testing an offer against an independent standard, as we've seen, is an excellent way to tell if it's reasonable.

- The question about how the negotiation has affected the relationship may seem irrelevant in a one-time transaction, but you should still ask yourself: Has each side conducted itself in ways that foster trust and buy-in? Has each side acted ethically and legally? Has each side built rapport and connection? Has either side damaged or enhanced its reputation? As we know, greediness or dishonesty in negotiating may damage a negotiator's reputation or the negotiation outcome, even in one-time transactions.

## Suggested Reading

Lax and Sebenius, *The Manager as Negotiator*.

Shell, *Bargaining for Advantage*.

## Questions to Consider

1. Think of an agreement you reached recently that you wonder about or that you regret, such as a questionable cell phone contract, a weak compensation agreement at work, an expensive real estate purchase, or an expensive settlement. Rewind the tape to the beginning of the story. Now think of the offer(s) you received or gave. How do they look when compared to the measures of success discussed in this lecture? How might you have acted differently if you had kept those measures in mind before and during the talks?
2. What are some of the decision traps you find yourself most often falling into in negotiations and consumer purchases?
3. What are the measures of success?
4. Ang represents management in talks with Balestera, the union representative, over labor wages and benefits for the coming year. Balestera insists on a 15 percent increase in each of the next three years. Ang insists that the company cannot afford more than a 2 percent increase in each of the next three years. After bargaining late into the

night on the eve of a threatened strike, Ang and Balestera finally agree to a tentative contract providing an increase of 5 percent in each of the next three years. For whom—if anyone—is that agreement a success?

### Challenge

1. Compare a major agreement you read about in the news or an important offer for your firm or family to the three measures of success discussed in this lecture. Is the agreement or offer wise by those standards?

# Creative, Distributive, or Both?

## Lecture 12

**W**hen you enter into a negotiation, no one tells you whether it will be a predominantly distributive or creative one. How, then, do you know which method to apply? Will that conversation with your family, your supplier, or someone else require skillful competitive negotiating or interest-based negotiating? In this lecture, we'll bring the two approaches together. Most arm's-length negotiations and even some others have both competitive and creative dimensions. Fortunately, it's possible to handle both aspects effectively, enabling you to achieve the goal of "winning warmly" so that both parties are content, and you're very content.

### A Blended Approach

- In earlier lectures, we've seen the power of both interest-based and distributive negotiation, but each of these approaches in isolation can be somewhat dangerous. A naïve negotiator who focuses solely on the distributive side can produce a weak deal for both sides that misses chances to create wealth. And a naïve negotiator who focuses on the creative side may generate a larger pie but wind up with crumbs.
- As we've discussed, research shows that skilled negotiators can create 11 percent more wealth for their side than mediocre negotiators and 6 percent more wealth for their counterparts. In other words, skilled negotiators create and claim better; they find a way for both sides to do well and for their side to do very well.
- Of course, in many situations, it's better not to worry about the distributive side so much and, instead, to strive for a fair or even generous outcome. As useful as it can be to think about being creative and dividing up wealth, that's a two-dimensional approach that ignores the critical third dimension of relationship. Even in arm's-length transactions, you want to be thoughtful about your approach to ensure that you don't damage the relationship.

- Researchers have found that the key to striking a balance between creating and claiming is systematic preparation. That means being ready for both the creative side and the competitive side of a negotiation.

### **Linear and Nonlinear Bargaining**

- It's interesting to note that it can be unwise to negotiate one issue at a time. Working through agenda items in order fosters a naïvely competitive approach that conceals the potential for making creative trades between topics.
  - Imagine that you're negotiating to buy a business. Your main concern is that the seller won't compete with you after you buy the company. In turn, the seller is badly in need of cash and wants you to pay for the business upfront without any financing.
  - If you tackle the issues one at a time, you may first demand a 10-year noncompete clause, while the seller insists on 2 years. Ultimately, you agree to a compromise of 6 years.
  - Then, you turn to the question of financing. You propose to pay in installments over several years. The seller demands full payment upfront. Finally, you compromise on a 50 percent upfront payment.
  - You both would have preferred a deal that included a 10-year noncompete agreement (your top priority) and full cash payment upfront (the seller's top priority), but you had no chance to discover that more satisfying deal because you discussed and concluded one issue at a time.
  - This *linear bargaining* is dangerous, even though it's common and seems efficient. It kills the chance for creative trades between topics. For this reason, skilled negotiators prepare in different ways to discuss more than one issue out of time, that is, to practice *nonlinear bargaining*.

- One way to practice nonlinear bargaining is to establish a ground rule with your counterpart that nothing is agreed until everything is agreed. Of course, you can reach tentative agreements on a single issue if you wish, but by suggesting this ground rule early on, you can go back and make creative changes or trades if you later discover that it would be mutually beneficial to do so.
- Similarly, a skilled negotiator may refuse to simply concede unilaterally on a single issue and instead suggest a trade. In your negotiation for the business, for example, you might say, “I can’t just give more on the issue of noncompetition, but I’d be willing to consider it if we could do better on the issue of financing.”
- A simple way to remember this point is to keep in mind the phrase “no, but.” “No, I can’t just concede, but I can consider a trade.” This is particularly useful when you encounter a negotiator who uses a classic sharp bargaining tactic called “yes, but.”
  - Here, just as it looks as if you have an agreement, the other negotiator asks for something more.
  - If you don’t know how to respond to this tactic, you invite the other negotiator to keep nibbling. “No, but” signals that you won’t put up with this tactic, but you will consider an exchange.
- Skilled negotiators further prepare for nonlinear bargaining by identifying their priorities and those of the other negotiator in advance.

### **Package Deals**

- One of the best ways to practice nonlinear bargaining effectively and to propose wise, creative trades is to offer a package deal; that is, be ready to suggest a proposal on several topics at the right moment.
  - For informal matters, you may simply jot down your proposal on the back of a napkin. For more important matters, you may want to present it as a letter, a memo, a draft contract, or a term sheet. In the field of negotiations, such proposals are called *single negotiating texts*.

- This text is a single document that includes all the main terms of the proposed agreement. Such documents naturally foster nonlinear bargaining, inviting each side to skip around and make trades between topics.
- A common business example of a single negotiating text is a *term sheet*, in which each of the topics is listed in one column, with a corresponding column showing a summary of the proposal for each topic.
- You can build on the idea of a package offer by introducing a more advanced idea: *multiple equivalent simultaneous offers* (MESOs). The basic idea here is to provide two separate deal proposals. Studies find that when you offer MESOs, the other negotiator tends to trust you more and be more satisfied with the results. You can also build MESOs into a term sheet by offering a choice on a particular issue.

### Adding Distributive Negotiation

- As we've discussed, skilled distributive negotiation requires you to set explicit best targets and walkway targets—in other words, a *range*. You should set those targets for each of the topics so that you know what you're striving for and what you'll settle for on each issue.
- The next step is to craft a package that cushions your favorite topics. Doing so allows you to make concessions and still come out strong on the issues that are most valuable to you.
  - In the purchase of the business, you might prepare to make an offer of a 12-year noncompetition agreement and payments of 50 percent cash at signing and 50 percent in installments.
  - Here, you're cushioning your top priority, which enables you to make concessions and still get your best target of 10 years. You're ready to make faster and greater concessions on your lower-priority topic—financing—which you have not cushioned.

- Note, however, that unless you take into account the creative side, you may get into a distributive struggle that hurts both you and the other negotiator. To avoid this outcome, preface your offer with language that clearly signals a desire to be creative and flexible and to seek a deal that suits both sides.

### Topics, Targets, and Tradeoffs

- The topics, targets, and tradeoffs grid is a simple planning device that helps you prepare for creative and competitive negotiating. It's also a tool that you can refer to during the negotiation itself. To prepare the grid, divide a piece of paper into four columns, as shown below.

Topics	Targets	Tradeoffs BETWEEN Topics	Tradeoffs WITHIN Topics

- The targets section gives you necessary information for the distributive side of the talks, while the two tradeoffs sections give you information for the collaborative side.
  - The topics column is the agenda, the issues to be discussed during the negotiation. The entries in this column help you prioritize the topics and begin to shape the talks.
  - In the targets column, note your ranges for each topic—your best target and your walkaway.
  - In the third column, note your priorities. Again, in the example of the sale of a business, noncompetition would be your first priority and payment terms would be your second. Establishing these priorities allows you to trade the cheap for the dear.
  - In the last column, write down your best creative options, that is, the most promising ways you've thought of to satisfy the interests for each topic.

- Once you've completed the grid, you can play with it, using it to craft several package deals. You can also use the grid to remind you of your worst acceptable offer.

### The Gender Gap in Negotiation

- The ability to convey a respectful tone and win warmly in negotiations may be especially important for women. The pay gap women sometimes face is partly due to sexism, but as Linda Babcock and Sara Laschever discuss in their book *Women Don't Ask*, it also stems from women's sense that they pay a high social cost when they ask for more.
  - When a man asks for a higher salary, studies find that his superiors view him as assertive, confident, and reasonable. When a woman uses the same language to ask for a higher salary, her superiors view her as pushy and aggressive.
  - For this reason, it's not enough to simply tell women to overcome their hesitation and assertively ask for more. But it is possible



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Women may need to be particularly skilled at reframing to overcome negative perceptions and “win warmly” in professional negotiations.

for women to “win warmly” in their professional negotiations by applying negotiation principles to the gender gap.

- Later research by Babcock and by Harvard’s Hannah Riley Bowles suggests that reframing can help women in compensation talks and beyond. The study found, “Women are more likely to be successful if they explain why their request is appropriate, but in terms that also communicate that they care about maintaining good relationships at work.”
- Women are not worse negotiators than men in any sense. A remarkable study of women in legislatures around the world found that in truth, women are probably better by a number of key benchmarks. But when advocating for themselves, women often face a social penalty that men don’t, which is why reframing may be especially useful when women advocate for themselves.

### Suggested Reading

Freeman, *The Ready and Able Negotiator*.

Lax and Sebenius, *The Manager as Negotiator*.

### Questions to Consider

1. What is linear bargaining, and why is it often a bad idea? Why do you suppose so many people use it?
2. What part(s) of the topics, targets, and tradeoffs grid help you negotiate creatively? What parts help you negotiate distributively?
3. Why do you suppose researchers have found that systematic preparation with such tools as the topics, targets, and tradeoffs grid helps negotiators create and claim better than negotiators who do not prepare systematically?

4. Schoal Marketing, a printing, warehousing, and distributing firm, has offered to print catalogs for you at \$0.20 per copy for 500,000 copies, payable in 15 days, and to package and ship parcels at \$2.00 per parcel, also payable in 15 days, if your firm, Bountiful Table, will post \$2,000 upfront. Your research tells you that there are several comparable firms that are willing to negotiate. These firms will print catalogs for prices ranging from \$0.15 to \$0.25 per copy for 500,000 copies, payable from 15 to 90 days, and will package and ship parcels for prices ranging from \$1.75 to \$2.25 per parcel, payable in 15 to 90 days, with deposits of \$0 to \$2,000. Payment terms are most important to you; prices, although important, are a bit less so. Craft a package counteroffer that's competitively and collaboratively wise, using the packaging principles we explored in this lecture.

### Challenge

1. Create a topics, targets, and tradeoffs grid for an upcoming negotiation.

# Hidden Factors That Shape Negotiation

## Lecture 13

**T**hough negotiation can seem like a simple one-on-one matter best done at the conference table, there are several nonobvious influences, such as the setting, scheduling, and influential people outside the negotiation, that can strongly shape your results. These factors may seem like an additional burden at first, but actually, they can be sources of opportunity, influence, and insight that can help greatly when other ideas aren't working. As we've said, no one idea we encounter in this course will always work; thus, it's important to have a rich toolkit of negotiation and conflict management techniques to draw on. In this lecture, we'll explore hidden factors that can enrich your negotiations and improve your chances of discovering satisfying outcomes.

### Setting

- Intuitively, we all know that the setting matters in our interactions with other people; for example, some settings make it easier to say no than others. The same is true with negotiation. Studies find that if you negotiate face to face, you have a much better chance of reaching agreement than if you negotiate exclusively via e-mail. Yet we often find ourselves negotiating in settings that may work against our purposes—when we're tired or rushed or in a formal setting that kills candor.
- It often seems as if we are powerless to change the setting of a negotiation, but that one factor may have a remarkable effect on the talks and may well be one of the first issues worth negotiating. Indeed, in diplomatic talks, it often is.
  - Ralph Bunche took setting seriously when he mediated peace talks between Israeli and Arab negotiators in January 1948. Bunche shrewdly arranged the conference in a hotel on the island of Rhodes. The representatives were stuck together on a cold, isolated island in an unheated hotel with terrible food.

The awful setting gave the negotiators no incentive to delay matters a moment longer than necessary.

- Bunche is not alone in using an uncomfortable setting to foster agreement. Labor mediators, for example, have been known to lock the doors during 11<sup>th</sup>-hour collective bargaining on the eve of a strike deadline and refuse to let anyone go to the bathroom until they reach a settlement.
- Much more commonly, however, negotiators strive for a more comfortable setting. Why is so much business conducted on the golf course, in restaurants, and in other places far beyond the confines of the office or the conference room? One reason is that a relaxing, intimate setting can help alleviate the stress that is built into many negotiations.
- Privacy is another aspect of setting worth thinking about. Indeed, the role of privacy in negotiation has actually taken on historical proportions at times.
  - In 1917, Woodrow Wilson gave a speech to Congress outlining the goals of the United States for entering World War I—the famous Fourteen Points address. One of the most noteworthy and controversial points was Wilson’s insistence on “open covenants of peace, openly arrived at,” with a ban on “private international understandings of any kind.” Wilson was taking direct aim at the secret alliances that different nations had formed on the eve of the war.
  - Critics at the time of Wilson’s address and today have questioned the wisdom and the plausibility of expecting nations to work out their differences publicly, and in practice, of course, both public and private diplomacy are regular parts of modern statecraft. The point is that setting itself can be so important that entire wars can be shaped by it.
  - Other dangers in selecting a private setting for negotiation are that it fosters the perception of underhanded dealings and it

raises the specter that important voices may go unheard. Still, privacy may be essential to wise agreement, as we've seen in such diplomatic negotiations as the Oslo and Camp David peace accords.

- These days, the choices of setting for important negotiations are almost innumerable, including negotiations conducted via Skype, e-mail, and Google Docs. In general, the more the medium allows you to communicate with your counterpart in real time, the more likely you are to reach a creative and mutually satisfying agreement.
  - In other words, the more the setting allows you to make visual, audible, and tactile contact and the more it lets you exchange messages immediately or “synchronously,” the more it invites the kind of connection, comprehension, and cohesion that fosters creativity.
  - As the emotional distance and delay of the setting increase, the chance for misunderstanding seems to grow. For example, studies find that e-mail can sometimes be an effective way to negotiate, but it can also be dangerous if you don't know some basic rules. Because e-mail permits so few cues that convey tone, nuance, and subtlety and because it fosters casual and quick reading, in some cases, this method of communication can produce higher levels of aggression, hostility, and positional bargaining.
  - One suggestion for avoiding problems in e-mail negotiations is to meet in person or speak on the phone for a few minutes before the negotiations begin to build rapport.
- If you find that you get overly nervous or stressed in face-to-face negotiations, you may be better off communicating by phone or in writing. It's also true that in some business cultures, written electronic negotiation is becoming the rule. In these situations, set ground rules that call for a reply within 48 hours and limit the length of e-mails. Be sure to use positive, polite, and encouraging

language in your written communications to avoid sounding harsher than you mean to be.

- Setting also refers to how many people are at the table and what roles they have. Research has found that if two negotiators meet with one negotiator, the twosome may get as much as 33 percent more than they would if only one negotiator had represented them. It's difficult for one negotiator to negotiate against several people at once; if you know that you will be speaking with a team, it may be wise to bring a team with you.
  - If your team consists of the people you're representing, note that you may find it hard to bring a detached and creative approach to the talks. If your team is disciplined and professional, however, you may be able to strengthen your effectiveness.
  - One of the best ways to improve the odds in your favor is to assign roles to each teammate beforehand: note taker, listener, timekeeper, number cruncher, technical expert, and caucus caller.
- Finally, if the talks aren't going well, try changing the setting: Adjourn the formal negotiation and have two of the key parties take a walk; stop the meeting and get some dinner; add technical people and hold a larger meeting. Any change can alter the dynamics of the negotiation.

### Scheduling

- The scheduling of a negotiation is also powerfully important, and part of this task is deciding whether to negotiate before you have another offer in hand. For example, if you have one job offer in hand and you believe you'll have another in a few days, you may want to wait until the second offer comes in so that you're in a better bargaining position for both negotiations. For this reason, it can be wise to negotiate when you will negotiate.
- Scheduling also raises the question of deadlines. Studies find that a deadline can help both negotiators if they know about it early on.

A deadline tends to help negotiators manage their time better and fosters more deliberate discussion. In contrast, keeping a secret deadline without divulging it to the other side can needlessly cause a breakdown and deny the other side the chance to marshal its best offer.

- One of the more insidious aspects of scheduling is the fact that one party may try to use high-pressure tactics to rush a decision. Don't allow yourself to be pressed into negotiating when you're simply not ready. Respectfully ask your counterpart for a delay until you can do your homework.

### Influential Outsiders

- When we negotiate, we typically think of the situation as an isolated, one-on-one conversation, but no negotiation occurs in isolation. Every negotiation is deeply connected to a larger political and social world. Thus, there are many people away from the talks who can influence them, for better or worse. Negotiators who miss this point often suffer for it; negotiators who identify this point often find surprising solutions to their problems.
  - Roger Fisher, one of the authors of the classic negotiation book *Getting to Yes*, once negotiated a treaty on behalf of the United States with 160 other nations. But when work on the treaty was completed in 1982, the president



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**In a marriage, one partner may sometimes reach an agreement in an important negotiation, only to realize that he or she has neglected to consider an influential outsider—the other partner.**

who had sent Fisher to the negotiations, Jimmy Carter, had left office.

- Fisher had little or no relationship with the new president, Ronald Reagan, or with Reagan's senior advisers. The Reagan administration reviewed the treaty and, in effect, put it on a shelf. It wasn't until 1994 that the United States signed a revised version of the treaty, and decades later, it still hasn't been ratified.
- Fisher negotiated well at the table, but because others away from the table profoundly influenced matters, the effect of his negotiating was significantly altered.
- An awareness of who may influence the talks away from the table may transform your effectiveness as a negotiator for the better.
  - In the immediate aftermath of the assassination of John F. Kennedy, Lyndon Johnson called on state governors to contact their senators and asked them to support a treaty that was coming up for a vote as a show of unity in honor of Kennedy's memory.
  - When the vote was held 48 hours later, Johnson won his first victory as president, setting the stage for the future passage of the Civil Rights Act of 1964.
- An understanding of outside influences has practical implications in everyday negotiations.
  - As you prepare for an important negotiation, think about each side's constituents, principals, families, and governments. Consider powerful third parties, such as watchdog agencies, enforcement agencies, prominent publications, and next-door neighbors.
  - This exercise can reveal new interests, research questions, creative options, and potential alternatives to agreement. In short, it adds another dimension to your thinking, enriching your planning for the talks ahead.

## Suggested Reading

Diamond, *Getting More*.

Lax and Sebenius, *3-D Negotiation*.

Watkins, *Breakthrough Business Negotiation*.

## Questions to Consider

1. Think of at least five people—besides you and your counterpart—who could have influenced the talks in a recent and important negotiation or conflict you faced. How might your awareness of these people have helped you in the talks?
2. If you could choose to negotiate your next important transaction anywhere you wanted to and at any hour or on any day you wanted to, what setting and schedule would you choose and why?
3. Think of a form of electronic communication you use frequently. How might this form of communication help or distort your dealings with people you're transacting with, and what other choices might help you make your dealings more satisfying?

## Challenge

1. Try to list at least five influential players away from the talks as you prepare for a negotiation of some consequence. Does this exercise reveal new possibilities or ideas?

# The Power of Preparation—“I Foresaw It”

## Lecture 14

**G**avin Kennedy, an expert on negotiation, once wrote that “preparation is the jewel in the crown of negotiating. Get this right (and merely doing it is not enough), and your performance in the negotiation dramatically improves.” In this lecture, we will begin to tie together many of the ideas of this course to discover the difference between how excellent negotiators and mediocre negotiators prepare. What, specifically, do they do differently when it comes to getting ready for important talks, and why does preparation make such a difference?

### A Cautionary Tale

- In December of 1984, Jean Fontaine, an executive for an Oklahoma plastics company called Pacific Oil, decided to ask his firm’s largest customer, a German firm called Reliant, to renew and extend its existing contract with Pacific Oil a couple of years early. Fontaine’s motivation for the move was his realization that the market would soon be glutted with new supplies of cheap plastic.
  - Over the course of 13 months, Fontaine negotiated with his contact at Reliant, Hauptmann, who presented Pacific Oil with outrageous, one-sided demands. Fontaine continued to make concessions on every point raised by Hauptmann, only to find that his counterpart’s demands escalated.
  - Ultimately, the negotiations reached a tipping point: Pacific Oil was unable to sign the new contract for fear of bankrupting itself, but not signing meant that Reliant would be able to use the concessions it had gained as a starting point in any future contract negotiations.
- The Pacific Oil case is a cautionary tale. In launching the negotiation, Fontaine was unprepared. There were many things he should have learned and thought about beforehand, but he

didn't. After he decided to negotiate, he jotted down some not-so-convincing arguments and expected smooth sailing.

- The frightening part for us is that Fontaine looked ready; he was foresighted, proactive, diligent, and clearly did some homework to discover the coming glut, but he didn't come close to being ready for the talks themselves.
- As a result, Fontaine invited his counterpart to be completely positional and to use a variety of sharp bargaining tactics, thus producing an extraordinarily one-sided deal.

## I FORESAW IT

- I FORESAW IT is a 10-letter mnemonic device that sums up what skilled negotiators do to systematically prepare for important talks. Each letter stands for a word, and each word stands for a question—a question you want to ask and answer before you enter any talks. The words the letters stand for are shown to the right.
- Many of these terms refer to ideas we've already explored; thus, they may seem familiar. And as we'll see, the mnemonic follows a certain logical flow; you can start at the beginning and work your way to the end, or if you like, you can start anywhere and jump around. In fact, as you address one term, you often naturally come up with ideas that belong with

**Interests**

**Factual and financial research**

**Options**

**Rapport, reactions, and responses**

**Empathy and ethics**

**Setting and scheduling**

**Alternatives to agreement**

**Who**

**Independent criteria**

**Topics, targets, and tradeoffs**

another term. However you wish to use it, I FORESAW IT will help in preparation for negotiations.

- The power behind this tool is not that it solves your negotiation problems; instead, it poses questions that allow you to solve the problems yourself.

### A Case Study in Crisis

- Imagine that your parents, your sister, and you made weekend reservations at the four-star Omega Hotel in Chicago to attend a wedding nearby on Sunday evening. You booked using an American Express card and got a confirmed reservation for one room with a double bed for your parents, a single bed for your sister, and a folding bed for yourself. The cost of the room was \$99 per night, or approximately \$200 for the entire weekend.
- Once you arrive at the hotel, while standing in line at the registration counter, you overhear incoming guests ahead of you being told that the rooms they reserved are still occupied by the previous guests, and those guests have chosen to extend their visit one more night. Apparently, the city of Chicago prohibits the hotel from evicting guests in such a situation.
- The clerk tells the new guests that the Omega will give them a free taxi ride to a nearby four-star hotel, the Whitman, where they will receive a similar room at the same rate. The guests will be called the next day if rooms become available at the Omega.
- You have a strong feeling that you will have the same problem; you may end up spending your weekend packing and repacking, moving back and forth between two hotels, and not even getting compensation for the inconvenience. Before reaching the desk, you ask your family to step out of the line, explaining that it would be wise to systematically prepare in case there's a problem with your room, too.

- The I FORESAW IT plan below shows each of the questions associated with this mnemonic device and your potential answers in the Omega hotel situation. You and your family can use this plan to discover possible solutions and to test any offer you receive to make sure it satisfies your needs.

<b>I FORESAW IT Plan: Omega Hotel</b>		
<b>Interests</b>	What are your interests?	Convenience/proximity to the wedding, desire to avoid unpacking and repacking, some compensation, fair and respectful treatment
	What are the other side's interests?	Hotel: Reputation, repeat business, compliance with the law, reasonable cost control  Clerk: Look good to the boss, keep customers reasonably happy, avoid abuse, keep his or her job
	What common interests do you share?	Fair outcome, quick resolution, civil and polite interaction
<b>Factual and financial research</b>	What research can you do before the negotiation?	Go online to look at other hotels; ask Chicago relatives for advice; talk to other guests; check with Chicago's tourist board about the law; call a travel advisor to learn about industry standards

<b>Options</b>	What creative options can you come up with?	Stay at the Whitman for two nights; receive a cash settlement and find your own hotel room; ask for a free upgrade when a room is available; ask the Omega to cover all meal and transfer costs; ask for frequent flyer miles to defray the cost of the flight home
<b>Rapport, reactions, and responses</b>	How can you build rapport and connections? How can you prepare yourself to respond to negative reactions?	Set a friendly tone in speaking with the clerk; ask respectfully to speak to someone with appropriate authority
<b>Empathy and ethics</b>	How does the situation look from the other party's point of view?	Clerk may be open to helping but stressed by confrontations with angry customers; you can help by discreetly offering choices
<b>Setting and scheduling</b>	How can you optimize the setting and schedule for the negotiation?	Speak quietly to the clerk at a moment when other guests aren't present

<b>Alternatives to agreement</b>	What will you do if the deal doesn't go through?	Stay at another hotel without the Omega's help, complain to the CEO, stay with relatives, write bad reviews on the Internet, complain to travel organizations
	What will the other party do if the deal doesn't go through?	Refuse your requests, lose your family as customers, perhaps lose other guests as customers, rely on you and other guests to show up if and when current occupants leave
<b>Who</b>	Who outside this negotiation has influence?	Your relatives, the bride and groom, competing hotels, the city of Chicago, American Express, other guests, the clerk's boss
<b>Independent criteria</b>	What objective standards or trustworthy benchmarks can you identify?	Industry standard reported by American Express
<b>Topics, targets, and tradeoffs</b>	What is your summary of the key points and creative/competitive aspects of the negotiation?	Refer to your topics, targets, and tradeoffs grid

- In the real-life situation on which this case study is based, the family members stepped away from the desk and did some quick research that revealed powerful insights. They also generated 15 creative options, 1 of which worked. Empathy played a role in that the family negotiator thought about the situation from the clerk's point of view, which helped him develop a fair and creative

proposal and present it with patience and compassion. The trust he built with the clerk prompted her to call her boss at home and urge him to approve the family’s proposal.

- In the end, the family received two rooms at the Whitman Hotel for two nights, a \$640 value, for \$198. The agreement satisfied both sides’ interests and was achieved with kindness and respect.
- If we test the agreement out using the three measures of success we saw in Lecture 11, we find that it was a brilliant success: It satisfied the interests of both parties; it was favorable; and it was a fair deal handled fairly.

### Suggested Reading

Freeman, *The Ready and Able Negotiator*.

Lax and Sebenius, *3-D Negotiation*.

Lewicki, Barry, and Saunders, “Pacific Oil Company.”

### Questions to Consider

1. What does the I FORESAW IT mnemonic stand for?
2. If time permitted you to use only three letters of the I FORESAW IT mnemonic, which would you choose? What might be the pros and cons of using those three letters?
3. Which parts of I FORESAW IT do you find you naturally gravitate to, and which parts seem most foreign, novel, and outside your comfort zone? What is one thing you might do to help you think about those less comfortable parts before your next important negotiation?

## Challenge

1. Sketch out an I FORESAW IT plan before your next important negotiation. Note how it helps you solve your negotiation problems for yourself.

# Handling Sharp Tactics and Ethical Issues

## Lecture 15

In some cases, negotiation seems to invite trickery and to tempt negotiators to cut corners on their standards. In this lecture, we'll explore practical ways to anticipate and defeat specific negotiation traps. The good news is that you already know how to cope with many tricks and traps by using the I FORESAW IT preparation mnemonic. Your I FORESAW IT plan can serve as a first line of defense whenever you face sharp bargaining tactics. Although it doesn't help overcome every gambit you'll face, it can often give you real guidance. We will complement its power with some other basic ideas to further enhance your effectiveness in the face of questionable negotiating tactics.

### Nibbling

- Some of the most common sharp bargaining tactics include the following: nibbling; limited authority; commitment tactics; threats, lies, and intimidation; time tactics (delay and rushing); and doubletalk. We'll look at each of these tactics in turn, starting with nibbling.
- *Nibbling* is a tactic in which the negotiator continues to ask for more and more, often implying that you are very close to an agreement and there is just one more thing left to add. In fact, as mentioned in a previous lecture, some refer to this gambit as “yes, but” tactics.
- You've probably seen nibbling numerous times. Even children practice nibbling tactics at bedtime, asking to stay up for five more minutes, then five minutes more.
- Recall the I FORESAW IT mnemonic and ask yourself if any of the letters reminds you of a concept that may offer protection from nibbling. The most compelling answer here is the letter *A*, which stands for *alternatives to agreement*. One of the best ways to defuse and defeat nibbling tactics is to find an excellent best alternative to



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**If you spend too much time thinking about sharp tactics, you might start to think that everyone is pulling one of these stunts on you, but skilled negotiators and salespeople get good results without resorting to games.**

a negotiated agreement. You might, for example, show a vendor or dealer an ad from a competitor offering a lower price.

- Excellent factual research and independent criteria can also help in defeating nibbling tactics—the letters *F* and *I* in I FORESAW IT. Sharing your research on going rates, blue book values, expert valuations, catalog listings, and the like can tacitly shift the conversation to reasonable standards.
- As we've seen, when a negotiation is not going well, it may be a good idea to change who you are negotiating with, the setting and schedule for negotiation, or the options you're discussing. In addition, in some cases, instead of conceding to another party's "yes, but," you can insist on trading. Say something like: "I can't just give you more money, but if you can make me happier on other fronts, I might be willing to consider a different price."

### Limited Authority

- A second sharp bargaining tactic is *limited authority*, in which the negotiator says that he or she doesn't have permission to give you the targets you're asking for. There's nothing intrinsically wrong with limiting a negotiator's latitude to agree to a deal, but in practice, some organizations and negotiators use such limitations in a manipulative way.
- During peace talks, a diplomat may accept concessions but then claim that he or she has no authority to reciprocate. A car salesperson may encourage you to think you have a deal, then claim that the manager won't approve it.
- Limited authority relies on the counterintuitive truth that often in negotiation, weakness is a form of strength.
  - For example, a weak leader of a poor country might claim that he or she has no authority while appealing to the power of the U.S. president to grant almost any concessions.
  - The strange reality that a powerful figure can be vulnerable to this tactic may explain why CEOs and presidents often try to stay away from the bargaining table. It may also explain why many companies use human resource (HR) representatives to negotiate terms with new employees, then give them little bargaining room when it comes to salary.
- To counter the limited authority tactic, try to determine the other party's authority early on in the conversation. Ask, for example, "Are you empowered to commit your organization?" If the answer is no, the negotiator may have no authority beyond conveying a message, and there's little point in trying to carry out the negotiation.
- Again, one solution is to change who you are negotiating with. To do this in a face-saving way, first build the relationship and discuss authority, then invite the other negotiator to include a more senior person. Getting this concession may take some negotiation in its

own right; you might appeal to industry norms, the interests of the negotiating organization, or alternatives to agreement.

- Make sure to ask about topics the other negotiator does have authority to discuss. In 2009, a national survey of HR executives found that most had instructions not to agree to higher salary offers, but they did have authority to make other concessions, such as on moving expenses, vacations, and start dates. Most candidates, however, didn't ask about other options. Asking about what the other negotiator does have authority to discuss can open up real opportunity for agreement.

### **Commitment Tactics**

- *Commitment tactics* are related to limited authority. Here, the other negotiator says that he or she has promised not to make the concession you request or will suffer some clear penalty. For example, you might hear, "I promised my wife I would sleep on the couch for a month if I sold this crib for less than \$100."
- To be successful, a commitment tactic must be credible and clear. Once a negotiator has claimed a commitment, it's hard to back down without losing face. Thus, the basic rule for dealing with commitment tactics is to help the other negotiator find a face-saving way to get out of it.
- One approach is simply to ignore the tactic; sometimes, the other negotiator will quietly drop the commitment and start making concessions. You might also try changing who you're negotiating with.
- In addition, developing alternatives to agreement may help. You might state that you'll walk away and make a purchase elsewhere. You might also share new factual research or a specific independent criterion that the other negotiator can cite as a reason for changing the commitment.

## Other Sharp Tactics

- Bluff and bluster (threats, lies, and intimidation) can make any negotiation miserable, and we'll explore these tactics in more detail in a later lecture. Note, however, that one of your best protections is role-playing worst-case scenarios. Have someone on your team take on the role of the other side, using threats, bluffs, and aggressive language to help you prepare emotionally for such tactics.
- *Delay* and *rushing* are sharp tactics that use the clock in manipulative ways. Sometimes, a negotiator will try to slow down the talks until you become desperate to reach an agreement. Conversely, other negotiators will try to rush you to say yes without knowing enough to make a wise decision. In either of these situations, remember that the schedule for the talks and the deadline are themselves negotiable issues.
  - One way to speed things up is by offering a creative way to satisfy the supposed interest behind the other side's delay: "If you can't make the meeting because you can't find a flight, we can meet by video conference." You can also change the incentives for delay by developing your critical options and alternatives to agreement: "If we can reach an agreement soon, my firm may be able to make the deal more attractive for you."
  - If another negotiator is rushing you before you have time to think, negotiate for more time. Often, it's enough to simply ask for more time; in other situations, you may need to trade for it.
- With *doubletalk*, a negotiator or salesperson may try to capitalize on your fear of looking stupid or admitting you don't understand something. But as we know, using I FORESAW IT summons you to do your homework. We've also learned in this course that negotiation is not about thinking on your feet or being smart but about being humble, eager to learn, and unwilling to fake it. You can short-circuit the doubletalker's tactics by simply saying, "I don't understand" and asking for clarification.

## Ethical Dilemmas

- In anonymous surveys of 700 executives, researchers from Harvard and Ohio State universities found that respondents overwhelmingly disapproved of misrepresentation in negotiation, that is, bluffing and lying. These data suggest that experienced negotiators tend to see the risks and costs of such practices. It's worth noting that not everyone holds the view that negotiation is about being tough, savvy, and cunning. Although some negotiators prosper using dirty tricks and manipulation, others do as well or better without it.
  
- In his excellent book *Bargaining for Advantage*, Wharton professor Richard Shell notes that negotiators tend to fall into one of three categories: (1) poker players ("negotiation is a game"), (2) idealists ("do the right thing even if it hurts"), and (3) pragmatists ("what goes around comes around").
  - If you take a poker player view, there is no such thing as unethical bluffing because it's just part of the game. As Shell points out, however, one problem with the poker view is that it assumes everyone has the same perspective, which they don't. Poker players may suffer if others dislike their attitude. Further, a poker player may face legal problems in some cases if he or she bluffs too much in a negotiation.
  
  - The idealist approach may leave negotiators vulnerable to exploitation, which raises additional problems when an idealist represents someone else. Keep in mind, though, that idealists need not be naïve, unprepared, or incapable of advocating for their own interests.
  
  - The pragmatist is more cautious about ethically questionable conduct, such as bluffing, but only to the extent that it costs more in the long run than he or she gains in the short run. Thus, a pragmatist may sometimes choose to bluff and use other questionable tactics.

- Beyond the techniques we've explored for responding to sharp bargaining tactics, what can you do to cope with unethical tactics by the other side?
  - As Shell notes, you can build relationships and trust and reduce the temptation for short-term cheating by avoiding one-time transactions when possible.
  - More generally, rely on recommendations, referrals, and introductions through your relational network to reduce the likelihood that you will deal with others who are unscrupulous. And consider asking for trust mechanisms when lying or other unethical behavior seems possible.

### Suggested Reading

Menkel-Meadow and Wheeler, eds., *What's Fair*.

Shell, *Bargaining for Advantage*.

### Questions to Consider

1. Imagine that in the next few months, you will face several negotiations that will have an important effect on your future. Which approach discussed in this lecture do you think you'll take and why? Will you see each negotiation as a poker game; will you tend to feel that you should do the right thing in each negotiation even when it hurts; or will you tend to be pragmatic, believing that "what goes around comes around"?
2. Imagine that a nurse at the hospital tells you that your suffering relative can't have more pain medication for another few hours because the nurse has no authority to dispense more of that medication without a doctor's approval, and the doctor will not be available for several hours. Using the principles we've explored for dealing with sharp tactics (and, perhaps, earlier principles we've explored for reframing), how might you reply?

3. Imagine that a negotiator throws a killer question at you at the start of the talks, asking, “What is your best offer right now?” Using the principles we’ve explored for dealing with sharp tactics (and, perhaps, earlier principles we’ve explored for reframing), how might you reply?
4. Why do you suppose that the more experience a negotiator has in business life, the less he or she tends to approve of bluffing tactics in negotiation?

## Challenges

1. To prepare for a serious negotiation, have a friend role-play with you, presenting you with some sharp tactics. Use I FORESAW IT to help you spot wise ways to respond.
2. To make sure ethical problems don’t catch you unaware, think now about which ethical school you feel most comfortable with. Before a specific negotiation, jot down likely ethical traps you or the other negotiator may face.

# Using Persuasion Tools and Winning Buy-In

## Lecture 16

In this lecture, we'll focus on persuasion tools—simple, powerful ideas and approaches that can help you get past *no* and turn a negotiation impasse into a more constructive discussion, that is, strategies that can help you transform a difficult counterpart into an agreeable and committed one. As we'll see, many of these tools draw on an understanding of interests and options. Others rely on proven influencing principles and time-honored ways to win a real hearing. None requires dishonesty or subterfuge but quite the opposite; each has the ability to be soft on the person but hard on the problem.

### “You’re Right”

- One of the best ways to win credibility, attention, and consideration for your ideas is to show upfront that you genuinely agree with something the other person says or thinks. Truthfully saying, “You’re right” demonstrates that you respect others, see the reasonableness of their perspectives, affirm their concerns, and will not run roughshod over them. It also lets you connect their beliefs to your point.
- The challenge here is to put aside the natural temptation to disagree, disapprove, rebut, or argue with your counterpart. Instead, the idea is to intentionally listen carefully for anything he or she says or cares about that you can truly affirm. You can then build on what the other person already believes to make your point. Note, however, that this approach takes discipline.
- Saying “You’re right” doesn’t mean that you have to agree with everything or even most of what the other person says. It doesn’t mean that you automatically foreclose your own argument or are simply buttering someone up. Instead, you’re looking for ground on which you can build an argument, showing that at least to some degree, you’re in sync with the other person’s thinking. Thus, it’s

much easier—and less threatening—for your counterpart to hear you out and consider your ideas.

### **“Help Me Serve Your Interests”**

- In 1944, Ted Roosevelt, son of the former president, was a brigadier general serving in the U.S. Army. By all accounts, Roosevelt was a heroic and capable leader who was cool under fire. Unfortunately, he was a friend of someone who was *persona non grata* with senior officers, who in turn held Roosevelt guilty by association. For this reason, by 1944, he had been sidelined with a desk job.
  - Roosevelt knew that the military was planning the D-Day invasion, and he wanted to be on one of the first landing craft, but his commanding officer turned down his request for a number of reasons: Roosevelt had been injured in combat; was not liked by senior officers; faced the risk of getting killed in action; and as a general, should not be on the front lines.
  - Finally, Roosevelt wrote a letter to his commander, reiterating his request. In short, he argued that the military needed his presence among the first wave of troops to land on Omaha Beach to steady the other soldiers so that they could perform under fire.
  - Against his better judgment, Roosevelt’s commander agreed to the request, which turned out to be a brilliant choice. Ted Roosevelt so proved himself on Omaha Beach that he was awarded the Congressional Medal of Honor for his service.
- The “help me serve your interests” approach is powerful because it speaks directly to the listener’s felt needs, connecting your requests to his or her goals. It’s particularly effective when you’re working with people who are overseeing you.

### **“If We Agree; If We Disagree”**

- A persuasion tool called “If we agree; if we disagree” works like this: You first state why your proposal is good from the other person’s perspective, that is, what specific interests it serves. Then,

you tactfully but clearly show why saying no would hurt the other person's interests and might actually create concerns or problems.

- This strategy builds on an idea that skilled negotiators know well: Doubts drive deals. Often, one of the reasons we say yes is that we're worried about what will happen if we don't and we're left without an agreement. When you say, "If we disagree," you're bringing forth the power of that point: "There are real concerns that you may not have considered. Let me tactfully bring them to your attention."
- At the same time, you're also saying, "If we agree, this course of action will be good for you. Don't worry about my needs right now. Let me show you why my suggestion serves your needs."

### Storytelling

- The magic sentence "Let me tell you a story" seems to have the power to command attention in groups around the world. For some reason, people seem to find stories powerfully attractive. Indeed, studies find that 35 percent of our conversation with friends involves exchanging stories.
- Further, most nonfiction writers rely heavily on the power of story. What's known as *creative nonfiction* is based on the idea of stringing together multiple stories, mostly in novelistic form, to craft a more engaging narrative. Speakers note that public speaking also amounts to connecting stories together with principles in between. Great teachers, such as Confucius, Aesop, and Jesus, as well as great leaders, such as Lincoln and Reagan, were all highly skilled storytellers.
- Storytelling is powerful for a number of reasons. It engages listeners, almost like a movie, creating a vivid and memorable experience. It has the ability to cut tension and to humanize situations. It also illustrates ideas in a way that invites listening and allows listeners to draw their own conclusions. In contrast, telling your listeners facts often prompts them to argue.

- There is also evidence that the human mind is wired to grasp stories more quickly, easily, deeply, and lastingly than it can grasp abstraction. Research suggests that stories produce greater learning than factual presentations do.
- To use stories persuasively, try to think ahead of time about stories that relate to likely objections your counterpart may raise. If possible, tell stories using a clear narrative direction; try to make your stories simple to follow, with vivid, concrete language.

### **Asking Questions and Listening Actively**

- A demonstration involving questions about the authorship of Shakespeare's plays shows the persuasive power of asking questions and listening actively. Participants in the demonstration usually start out quite confident that Shakespeare was the author of the plays attributed to him. However, with just a few humble and respectful questions and a little additional information, their confidence level in their answers decreases by about 25 or 50 percent.
- In previous lectures, we've seen the power of questioning and listening to reduce conflict and foster creativity. But this exercise shows that these same skills can be a powerful influence strategy. By asking simple, direct questions and recapping the answers, you can shape and direct a conversation. Further, you can use a humble approach that allows you to challenge a seemingly certain fact without offending listeners, without being aggressively argumentative, without committing yourself to a position, and without losing face.
- This humble approach is at the heart of several kinds of leadership and persuasion.
  - For example, Neil Rackham has championed this approach for salespeople. In essence, Rackham teaches them to ask about a customer's situation and problems, the implications of the situation, and finally, the needs it creates. As the customer answers these questions, he or she starts to identify specific needs and becomes open to solutions from the salesperson.



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Every trial lawyer knows that asking good questions can shape a jury's opinion.

- Similarly, skilled teachers spend a great deal of time developing questions. Like salespeople, they know that the one who asks the questions shapes and guides the conversation. If the questions are good, they draw out from the students the lessons the teacher wants them to learn and promote student buy-in.
- Facilitators also know how to influence others with questions and listening. By crafting simple, powerful questions and reflecting back what they hear, they can guide a group to consensus and even action when others think those outcomes are impossible.
- What kind of questions can help you persuade others in a negotiation or conflict?
  - Start by asking a broad question that gets the other person talking about the situation as he or she sees it: “What do you think? What’s going on? How do things seem to you on this topic?”

- A useful follow-up question is one that probes deeper: “What’s the problem?” Or, if the other person has given you a strong position, “How do you know this is the answer?”
- Notice the power of using softening phrases that signal deference and humility, such as, “Help me understand here” or “Just so I’m sure I’m getting this.” Notice, too, that when you ask questions, the burden of proof is always on the other person. That’s possible because you’re not taking a strong position; you’re just asking to understand your counterpart’s.
- By repeating the other’s answer and legitimately asking for clarification, you can test and quietly challenge that answer and help the other person see possible problems with it.
- To introduce contrary information in a humble, face-saving way, raise it as a question, saying, “I’m confused because I’ve read that X is true. Help me reconcile that with what you’re saying.”

### **Demonstrating Generosity**

- Beyond the methods we’ve considered so far, it’s worth concluding with one of the most important of all: the power of genuine generosity, trustworthiness, and concern for others.
  - As we’ve seen before, in his book *Give and Take*, Wharton professor Adam Grant observes that there are three kinds of people—takers, matchers, and givers—and of the three, certain types of givers tend to be the most successful.
  - These givers tend to have a much higher level of goodwill and trustworthiness and reputations for honesty. The networks they develop tend to be stronger, and they have more persuasive ability than others.
- Grant’s work suggests that there’s a unique power to something you already knew when you were a child and may well still practice: the power of genuine decency and largeness of spirit. Grant observes

that the reputation for compassion ultimately may be one of the most persuasive faculties we have.

- It's important to note that we can't be calculative about this. We can't resolve to be nice so that we eventually profit. The idea is simply that genuine humanity may be more persuasive than other factors or strategies.
- Look for ways to genuinely share some of your own doubts, fears, anxieties, and experiences in negotiations, not as a sign of weakness but as a way to humanize and connect. The other side is probably more worried and fearful than you think. Your vulnerability, matched with preparation, can be disarming and can foster a credibility that you might not otherwise enjoy.

### Suggested Reading

Greenblatt, *Will in the World*.

Rackham, *SPIN Selling*.

Shahan and Waugh, eds., *Shakespeare beyond Doubt?*

### Questions to Consider

1. Imagine that you are beginning a "stress" interview; the interviewer hands you a pen and says, "Sell me this pen." Using one or more of the persuasion techniques we explored in this lecture, how might you reply?
2. Why is it that asking simple questions and actively listening can be so influential? What specific advantages do these approaches have over argument?
3. Consider the following statements. For each, see if you can find a zone of truth—that is, a legitimate basis for truthfully replying, "You're right."
  - Paper is thick.

- Heathens are shameless.
- It's good to shout "Fire!" in a crowded movie theater.

## Challenges

1. Practice using the phrase "Let me tell you a story." See if introducing a story in the middle of a conversation or disagreement helps you in your efforts to persuade.
2. See what happens if you intentionally avoid direct argument in your next bull session and, instead, use simple questions and active listening to shape the discussion.

# Managing Emotions and Psychological Traps

## Lecture 17

**T**he negotiations that matter most to us often raise serious emotional stakes. These negotiations become even more complex and dangerous because of the presence of surprising psychological dynamics. In this lecture, we will look at a number of specific, useful ways to cope with the emotions and the psychological dynamics present in difficult negotiations and, thus, improve the odds of turning the talks into something much better than a blowup or breakdown. Specifically, we will look at the power of role-playing, discussion rules, warning sandwiches, and the intentional use of anger. And we'll see how key ideas we've encountered earlier may help us cope in fresh ways.

### Role-Playing

- One of the best ways to manage anxiety over negotiations is to engage in role-playing. With a good partner, you'll often find yourself overwhelmed in the initial role-playing session, but that's fine. The time to safely have the experience of being overwhelmed is before the real negotiation. You may also find it helpful to discuss strategies with your partner during and after the role-play or even to reverse roles.
- Role-playing allows negotiators to do much the same work that top athletes do when they visualize their performance before the event itself. Studies suggest that when athletes visualize their performance, their bodies physiologically experience it as if it had actually happened and acquire enhanced muscle memory that can translate into better performance. Negotiators can get the same benefit.
- Earlier in the course, we discussed a simple, powerful way to role-play using a method created by Professor Stuart Diamond of Wharton. In essence, brief a teammate about the upcoming talks, have your teammate prepare for the negotiation from your perspective, and you prepare from your counterpart's perspective.

Then, meet your teammate in character for a mock negotiation. Take occasional debriefing breaks, but resume and continue for 45 minutes before dropping your roles to reflect on the experience.

- We can take that useful approach one step farther, using a method called I FORESAW IT 2.0, developed in collaboration with role-playing expert Soren Malmborg. In essence, you prepare to play yourself, and your teammate prepares to play the counterparty. You each separately create a partial I FORESAW IT plan for your assigned roles, focusing on the talks from your character's perspective. Then, you role-play.
  - In creating the I FORESAW IT plans, you intentionally skip such items as empathy and the other side's alternatives to agreement. The role-play itself will flesh out those items, and you will eventually swap plans with your teammate.
  - After you and your teammate prepare your separate plans, meet in character, pretend to negotiate for a few minutes, pause to debrief in character, resume, pause to debrief, resume one more time, and debrief.
  - I FORESAW IT 2.0 and the role-play exercise together probably take about 25 percent more time to do than a basic I FORESAW IT plan does, but they may produce even more remarkable advantages than either approach alone. Your teammate becomes a realistic stand-in, embodying informed insights about your counterpart.
  - Further, if you take the exercise seriously, you may well be able to capture the emotional reality you'll face, including real arguments, facts, and tactics that your counterpart may raise or employ.

### **Dealing with Lies and Intimidation**

- As we saw earlier, threats, lies, and bluffs are classic sharp bargaining tactics, but they deserve special attention because of their inordinate ability to cause stress and anxiety.

- Factual research is a critical protection against dissembling. As we've seen, studies show that we are not good at spotting lying from body language, but we can certainly identify lying if we've done research to get the facts. Another way to identify lying is to ask questions to which you already know the answers. If your counterpart gives you misleading information, you know that you must proceed with caution.
- If you have reason to suspect that the other side will use threats, lies, or intimidation, again, it's a good idea to role-play the negotiation. Ask your teammate to push you even harder than you expect your actual counterpart will and play out the conversation until you feel ready for tough tactics.
- It's also important to develop a deep understanding of the alternatives to agreement—yours and your counterpart's. The other side may want you to believe that it is strong and you are weak, but even if that seems to be true, the other negotiators may have hidden concerns.

### Killer Questions

- Role-playing can be especially important to help you anticipate killer questions. By design, a killer question short-circuits and cripples your ability to negotiate a fair and favorable outcome.
- A key to dealing with killer questions is preparing to politely sidestep them. If you're not ready to do that, you're vulnerable to being taken advantage of. Again, role-play replies that avoid these questions. Keep in mind that you don't have to answer every question, and you don't have to reveal everything you know or care about. It's no reflection on your integrity, sincerity, or desire to collaborate to politely say, "With respect, I can't talk about that subject now. I'm sure we'll reach a fair outcome when the time comes."
- With regard to questions about salary in employment interviews, if your interviewer insists on an answer, you might reply: "To show good faith, I'll tell you what I'm expecting [or currently

earning]. But I ask that we rely on fair market data as our final benchmark rather than using the information I give you now. Is that acceptable?” Later, if the interviewer tries to use your disclosure against you, you can remind him or her of the earlier agreement and share additional salary research that you’ve done.

## Discussion Rules

- One useful step for managing strong emotions in negotiations is to set discussion ground rules. Two particularly helpful rules to propose are: (1) The parties won’t interrupt each other, and (2) the parties will be civil and will avoid harsh language.
  - These rules may seem trivial, but as we’ve seen, in difficult negotiations and conflicts, real listening is generally hard to maintain. Agreeing in advance to pay attention to the other party—not to interrupt—is a step toward actual listening.
  - The second rule, requesting civility, can also help reduce pressure and tension, assuring both sides that the conversation won’t turn ugly.
  - A third rule you might propose is that each side will occasionally recap what the other is saying.
- If your counterpart routinely ignores your requests, that’s a sign that it may be time to take a break. The conversation is becoming riskier, and the other negotiator is demonstrating that he or she can’t be counted on to abide by even a simple process agreement. In this case, you might say, “It seems as if we’re struggling to hold to the



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**Another way to cope with difficult emotions in a negotiation is to involve an impartial third party who can play a mediating role.**

discussion rules we agreed to. Maybe we should take a break to make sure that our conversation is constructive.”

### **A Warning Sandwich**

- In some negotiation situations, there will be times when anger is appropriate, and you need to be ready to say no. How do you communicate a clear warning about a particular topic without provoking your counterpart? What is the difference between a warning and a threat? The answer is to create a *warning sandwich*.
- The recipe for this sandwich is simple: Start by saying something positive, constructive, and truthful. Next, say something negative, worrisome, and truthful. Finally, say something positive, constructive, and truthful again.
- This approach allows you to communicate something difficult in a way that doesn't provoke anger and reduces the chance that the other person will dig in and push back. It lets you warn without threatening, and that's important because when people feel threatened, they fight.
- The power of the warning sandwich is partly that it lets you signal reluctant but strong willingness to act in a way that's credible and worrisome. But more important, it lets you do that even as it helps the other person save face. It starts and ends with respect and concludes with an invitation to negotiate creatively.
- There's no guarantee that a warning sandwich will always work, and you should use it only as a last option when gentler approaches have not been effective. Use it to bring the other negotiator back from the edge when nothing else is working.

### **Managing Strong Emotions**

- The ability to say no in ways that won't damage the relationship is critical in negotiation, although it may be difficult when emotions are running high. It's helpful here to remember the principle of being hard on the problem but soft on the person.

- Another way to manage strong emotions is to think about setting and scheduling. Choosing a more private time and place for a difficult encounter may give you and your counterpart a better opportunity to settle the issue.
  
- One reason negotiations bring out strong emotions is that they are often connected with shame and guilt. Even a doctor who has valid defenses in a malpractice suit may feel remorse about the outcome for a patient. This brings us to the idea of offering an apology and seeking forgiveness.
  - Most attorneys would never advise their clients to offer an apology, but curiously, a number of studies have found that when hospitals and doctors do so and take action to ensure that a mistake doesn't happen again to others, plaintiffs tend to settle for much less money. It's true that apologizing can be risky, and in some cases, it may not help. But forgiveness is probably worth seeking more often than you think.
  
  - Seeking forgiveness is not about groveling; it's about respect and truthfulness. You can still advocate for yourself—perhaps even do better—once you've acknowledged the elephant in the room and dealt with it.
  
- As we've seen, there are several psychological traps to watch out for in intense negotiations, including escalation psychology, deal euphoria, the fear of deadlock, anchoring, and others. To manage these traps, it can help to intentionally use the measures of success we've previously identified; compare the offer to your interests, your BATNA, your best targets, and independent criteria. Separately, it can also help to be accountable to others who are less emotionally invested in the talks; it may even be wise to change negotiators to mitigate emotional involvement in decision-making.

## Suggested Reading

Bolton, *People Skills*.

Ury, *Getting Past No*.

———, *The Power of a Positive No*.

## Questions to Consider

1. What is I FORESAW IT 2.0, and why might it be even more effective than basic systematic preparation?
2. What is the fair fight rule, and what might be a subject of average importance that you could practice it on? Once you get comfortable with it, how might you use the fair fight rule to discuss politics, religion, or another subject that tends to create strong feelings? How might you use it to help you have a difficult conversation about an important matter that you've been avoiding?
3. What are the elements of a warning sandwich, and when is a good occasion to use it? When would it be a bad idea to use a warning sandwich?
4. Imagine that a difficult business colleague asks you, "What are you doing Friday morning?" You recognize this as a killer question because you don't know why your colleague is asking. If you say you're free, you might be pressed to take on a difficult and unpleasant assignment; however, you don't want to needlessly offend your colleague or lie. In the past, you've answered, "Why do you ask?" but that always brings the reply "Oh, just curious." How might you wisely respond this time?

## Challenge

1. Role-play a negotiation with a teammate who will be particularly hard on you, asking killer questions and pressing you extremely aggressively. For your part, try to establish some discussion rules; engage in active listening; use the principle of bringing counterparts to their senses, not their knees; and if your counterpart is implacable, present a warning sandwich. Then debrief.

# Negotiating with Godzilla and the Devil

## Lecture 18

One of the most challenging negotiating problems is dealing with someone who seems overwhelmingly powerful—a Godzilla who can squash you, ignore you, or dictate terms. When you're faced with a Godzilla, should you try to negotiate at all? Similarly difficult is dealing with someone who seems evil. Should you negotiate with enemies who have sworn to destroy you? Sometimes the answer is simple: You may have to fight your enemy, or you may have to accept a weak deal from Godzilla. But there are ways to decide whether and how to negotiate with those who seem like devils and ways to negotiate, influence, and even lead Godzillas. In this lecture, we'll explore answers to those challenges.

### You versus Godzilla

- One simple and powerful way to improve your ability to deal with Godzilla is to make moves away from the table, that is, instead of dealing directly with Godzilla when you are weak, gather strength by first doing a series of prior negotiations with others that make you stronger, more attractive, or both.
- In his excellent book *Breakthrough Business Negotiation*, former Harvard Business School professor Michael Watkins presents a story about a small real estate developer named Claire, who is trying to create a shopping mall. She has been having trouble negotiating with BargainMart, a huge discount retailer that Claire wants as an anchor tenant.
  - Claire has one month left on an option to develop the parcel of land. The local government advertises its willingness to give tax breaks and improvements for business development but so far hasn't done much. A bank has tentatively agreed to lend Claire money, and a number of satellite tenants are interested in renting space if BargainMart commits. But Claire has problems.

- Though early talks with BargainMart went well, its lead negotiator, Eric, started to increase pressure on Claire. He demanded a very low rent and freedom to transfer the lease to another firm. He also wanted his company to have the option to use the space any way it wished, including to sublet—clauses that would cause the bank to cancel its loan and scare off the satellite tenants. Claire feels even more pressure because she has skipped talking to BargainMart’s rival, ValueShops.
- Professor Watkins recommends that Claire make a series of moves away from the table, asking herself two questions: (1) “What deals can I make with others that can help me offer more attractive options to BargainMart and improve my alternatives to agreement?” (2) “In what order should I make those deals so that one might help me do the next one and so on?”
  - Claire decides to first negotiate with the local government. She makes a compelling case that the new mall will improve sales and property tax revenues and increase local employment. In return, the local government agrees to provide the tax breaks and improvements it has advertised to business developers.
  - Claire next negotiates with the landowner, telling him about the new government deal and asking him to extend the option deadline and lower the rent. She points out that the government improvements will increase the value of the land and offers to share savings from the tax breaks. Again, she achieves agreement.
  - Claire then negotiates for a lower interest rate and more flexibility to make concessions with BargainMart from her bank. Her argument is that the improvements, tax breaks, and rent reductions she has won will increase projected cash flow for the mall.
  - Next, Claire turns to the top satellite stores, asking them to rent space in the mall even if she must make more concessions to

the anchor tenant. In return, they will receive lower rents and a financially stronger mall.

- Claire also approaches ValueShops to discuss the possibility that one of its stores might serve as an anchor tenant. She mentions that she is in negotiations with BargainMart, but if those talks fall through, she would be interested in further discussions. ValueShops is strongly interested and makes an attractive offer to serve as anchor tenant.
- Finally, Claire returns to Eric of BargainMart. Thanks to the agreements she has worked out, she can offer BargainMart a lower rent and permission to transfer the lease in some cases. In return, she'd like Eric to agree to a limited right to sublet.
- As Watkins notes, by making a series of moves away from the table, Claire made her position stronger and more attractive. BargainMart is still strong, but it's no longer a Godzilla.
- Notice that I FORESAW IT can help you plan moves away from the table. Claire identified outside players *who* could help her and identified key *interests* for each, in addition to her own interests. Her *factual research* helped her master the financial effects of different deal terms. In each case, she crafted creative *options*, and she *scheduled* the meetings so that each success increased her chances with the next player. She similarly thought about ways to improve her *alternatives to agreement*.

### Other Godzilla Strategies

- Another useful principle for dealing with Godzillas is to avoid all-or-nothing deals with them. Walmart, for example, famously offers suppliers huge orders that, overnight, can transform their businesses. But once a supplier becomes dependent on these orders, Walmart may demand price cuts in each succeeding round of talks, which can cripple or destroy a small firm. A number of companies have had to shift their manufacturing to Asia, just to accommodate Walmart.

- As Peter D. Johnston writes in his book *Negotiating with Giants*, Tom Droog faced this challenge to his sunflower seed business when a Walmart buyer struck a deal with Droog's salesman to sell the seeds in some of its stores. One year later, seed sales to Walmart had reached \$1 million annually.
- Walmart had already struck a tough bargain, and Droog's company was making little profit and knew that Walmart could easily apply pressure to cut prices further. Thus, Droog requested a 15 percent increase, saying that without it, he would cancel further sales to Walmart. The superstore agreed to an 8 percent increase, but Droog walked away.
- Droog's decision wasn't difficult because he was making little money and feared that Walmart would totally dominate his business. Happily, six months later, Walmart called back and offered a 15 percent increase.
- In a sense, Droog's power came from basic negotiation principles. He knew his interests, knew the details of his business, and foresaw time bombs in continuing the Walmart deal. And he knew that his BATNA was acceptable because he had done the math and clearly visualized it.
- In fact, most entrepreneurs would be wise to follow Droog's example. Conventional wisdom holds that an entrepreneur should raise as much money as possible as quickly as possible to make the business a success. But studies show that one of the most likely causes of failure for entrepreneurs is raising too much capital too soon.
- Entrepreneurs need time to make mistakes and change their business models early on, at low cost, before they've made major financial commitments to a flawed idea. Further, when they raise money too early, entrepreneurs must give away a large part of the business because it's unproven and risky. The lesson here is: Raise too much money too early, and you could be

wedding yourself to a Godzilla who can dominate your company and make it hard for you to learn things or change direction.

- Even if you have no authority in a room full of Godzillas, you can still use basic negotiation to be powerfully influential. As a junior negotiator, you can exercise process leadership that can help a group reach wise decisions. You do this by offering to facilitate discussions, setting ground rules, and acting as a negotiation coach. These actions help bring out the wisdom and well-debated consensus of the group.
  - Note that when you offer to facilitate a group, you are putting yourself in a politically dangerous place. People may blame you for whatever happens at the meeting.
  - If you decide to play this role, treat the meeting as a negotiation—prepare well for it and do some I FORESAW IT planning. Keep in mind, too, that your greatest strengths will be in your ability to practice and model simple skills: listening, asking questions, focusing on interests and options, and enforcing discussion rules.

### You versus the Devil

- The quintessential argument against negotiating with evil people is the experience of British Prime Minister Neville Chamberlain conceding much of Czechoslovakia to Hitler in October 1938. The British appeasement strategy proved disastrous when Hitler abrogated the treaty and invaded Poland the following year. But it's still not wise to set an absolute prohibition against negotiation with enemies.
- Harvard negotiation professor Robert Mnookin makes this point in his book *Bargaining with the Devil*. Although you shouldn't always negotiate with evil people, you should probably at least engage them more often than you might think. We naturally tend to demonize those we don't know, understand, or agree with, and that tendency kills the possibility for learning new things and, sometimes, for defusing a seemingly intractable conflict.

- Although negotiating with “villains” may be possible and even useful in some situations, it’s still true that moral disasters can arise from such negotiations.



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- Negotiation can help legitimize the villain.

- Negotiation can undermine the strength of internal

opposition. One of the tragedies of Chamberlain’s appeasement was that it snuffed out whatever hope the Nazis’ domestic opponents had for resisting Hitler.

- Negotiation can give the villain attention in the media and elsewhere. With evil leaders of nations, it can give the villain time to delay military intervention while building strength.

- Negotiation can potentially set a dangerous precedent or a perverse incentive. Well-meaning charities have found that when they’ve sought to save people from modern slavery by buying their freedom, that action can sometimes encourage slave dealers to enslave others.

- Striking a deal can give a villain a public relations victory at little cost. There is some evidence that dictators readily sign human rights agreements—knowing that they will not permit outsiders to hold them accountable—so that they can claim to be respectable.

- As Mnookin argues, all these risks mean that you need to devote special care and attention when planning to negotiate with villains.

**Police hostage negotiators have learned that the longer they can keep the subject talking, the greater chance they have that the crisis will end peacefully.**

Set strong accountability checks, limit your own authority, rotate negotiators, and stay in close communication with your constituents. You may also need to use special arrangements to ensure that your counterparty is not making false promises.

- But there is a danger, too, in ruling out negotiation with others we deeply disdain. If the desire for peace means anything, it must mean at least considering the possibility of talking with our enemies.

### Suggested Reading

Caro, *The Passage of Power*.

Dolnik and Fitzgerald, *Negotiating Hostage Crises with the New Terrorists*.

Johnston, *Negotiating with Giants*.

Mnookin, *Bargaining with the Devil*.

Watkins, *Breakthrough Business Negotiation*.

### Questions to Consider

1. Should a dictator be permitted to sign a human rights accord if he's likely to refuse to allow observers to monitor his compliance? Should he be denied the chance to sign it if the denial would give him a propaganda victory? If you were advising diplomats who are weighing these choices, what would you recommend?
2. What does it mean to make moves away from the table, and how might the I FORESAW IT preparation mnemonic help you plan them? Why do moves away from the table help you negotiate with a Godzilla more effectively?

### Challenge

1. In preparation for your next negotiation, consider what moves away from the table you can make. Can you line up a series of advance negotiations that will strengthen your position for the main event?

# Cross-Cultural Negotiation

## Lecture 19

Cultural differences add another layer of difficulty to conflicts and negotiations. It may seem as if cultural differences are just the stuff of high diplomacy and international business, but we all face them, perhaps much more frequently than we realize. Different departments within the same company, different professions working on the same project, colleagues and neighbors from different regions, even different relatives in the same extended family—all exhibit cultural differences. In this lecture, then, we will look at specific traps, principles, and tools that can help us negotiate well in the face of cross-cultural confusion.

### Problems in Cross-Cultural Negotiations

- Social scientists have learned that there are three particularly typical problems that arise with cross-cultural negotiations: self-selection, attribution, and ethnocentrism.
  - *Self-selection* is the belief that someone else means what you understand.
  - *Attribution* is the belief that the motivation behind someone else's behavior is obvious.
  - *Ethnocentrism* is the belief that your way is the right way.
- In 1969, President Richard Nixon asked visiting Japanese Prime Minister Sato if he would do an important economic favor for the United States, to which Sato replied, "I will try my best." But later, Sato declined to do the favor. Nixon was furious, convinced that the prime minister had lied to his face. There is some speculation that the misunderstanding soured the Nixon administration toward Japan for years to come.

- What was the problem here? Nixon assumed that Sato meant what Nixon understood; thus, Nixon couldn't understand why Sato would later refuse.
- But in fact, Japanese communication tends to be much more indirect than American communication; social scientists call Japan a *high-context culture* that relies on subtle, context-specific, face-saving cues that Americans often miss. To someone who is Japanese, the comment, "I will try my best" is a clear but polite indication that the answer is probably no.
- Similarly, in 1970, Chinese Communist Party Chairman Mao Zedong tried to signal that he was open to diplomatic talks with United States by allowing himself to be photographed with an American journalist on the reviewing stand at Tiananmen Square. To Mao, such an unusual appearance with a Westerner in such a prominent place clearly signaled a change in Chinese attitudes toward the West. But as Henry Kissinger put it, the signal was "so oblique that our crude Occidental minds completely missed the point."

### The Tip of the Iceberg

- When we deal with people from a different culture, we notice their behavior—the tip of the iceberg. But hidden below the surface are values and history to which we are usually oblivious, things that shape and direct much of that behavior.
- With this model in mind, we can ask three questions related to negotiations: (1) How should we deal with conflict? (2) Is disagreement bad or good? (3) How long should we take to deal with conflict?
  - In answer to the first question—how should we deal with conflict?—a stereotypical American might answer, "Solve it; be nice." But someone from another culture may answer, "Debate the issues."

- For the second question—is disagreement bad or good?—an American might answer that it’s impolite, but other cultures may view disagreement as natural and interesting.
- Finally, Americans seek to handle conflict quickly, but again, those from other cultures may believe it’s worthwhile to spend some time on conflict.
- Why are these stereotypical answers so diametrically opposed? The answers start to emerge when we compare hidden cultural values and histories.
  - American culture is shaped by the fact that many of its founders came from a Protestant tradition. Among the key features of Protestantism are its emphases on the individual believer and on the importance of simplicity in matters of faith. These values may contribute to a quintessential American belief in clear, direct speech as a hallmark of honesty. In practice, they mean that Americans tend to prefer succinct and explicit communication between equals.
  - In contrast, other cultures, such as France, have histories of Catholicism, which emphasizes community, hierarchy, intercession, and rich artistry. Such a background may lead to less emphasis on simplicity and directness.
  - In addition, American culture can tend toward emotional reserve, and American negotiators may expect their counterparts to be similarly reserved. But again, other cultures are more comfortable with emotional expressiveness, and negotiators from these cultures may passionately argue their points.
  - Yet another difference stems from differences in the political origins of America and other countries. The United States is the first country that was literally negotiated into existence through the U.S. Constitution and other founding documents. Our veneration for that history can be seen in our fondness for political consensus. Other countries, however, may have

histories punctuated by revolution and violence. In contrast to the American tradition of negotiation, they may have traditions of confrontation.

- Finally, America's tradition of immigration and its understanding of the Enlightenment may lead to a common belief in problem-solving and improvement; Americans love to talk about reinventing themselves and have a fondness for hard work, practicality, and efficiency. Other cultures may not have a tradition of striving. Further, they may believe that one works to live, not lives to work. For that reason, urgency in conversation or serious discussion is often seen as unappealing.
- All this tells us that learning about the other side's history and values can be just as important as your other negotiation preparations. You don't need to make yourself a master of other cultures, but some cultural understanding will enable you to be less surprised or confused when you witness what seem to be "violations" of rules you hold dear.

### Common Cultural Differences

- One of the most common points of cultural confusion stems from different approaches to time. The rule in some cultures is to be punctual. Under this rule, negotiators from more relaxed cultures can seem guilty of trying to use delaying tactics. Other cultures live by the rule "People before punctuality." Under this rule, those from punctual cultures may seem uptight or guilty of trying to pressure others into a hurried deal.
- A second common difference turns on communication styles. Some cultures live by the rule "Be direct." To those from a low-context, direct culture, someone from a high-context, subtle culture can seem evasive, inscrutable, or dishonest. But to someone from a high-context, subtle culture, such as that in many Asian countries, a direct culture can seem blunt, rude, arrogant, and greedy.

- A third common cultural difference involves different attitudes toward the negotiation relationship itself.
  - Some business cultures, such as that in the United States, emphasize a transactional approach and see negotiation as an engineering task that should anticipate and solve most of the likely problems that will arise, reducing everything to a detailed agreement that the parties will follow closely.
  - Other cultures take a much more relational approach to negotiation, viewing agreement as a serious relationship that will change as circumstances change, without strong reliance on detailed terms and conditions.
  - Those from a transactional culture may think that a relational culture makes changes too quickly, without regard to the prior agreement. To those from a relational culture, a transactional culture can seem overweening and foolish—too locked into details to accept the inevitability of change. When someone from the transactional culture insists on holding to the language of the contract, his or her resentment can seem baffling and misplaced. Additionally, the transactional culture’s eagerness to get down to business can seem greedy, impersonal, and shortsighted.
- Perhaps the most important cultural differences lie in our different attitudes toward conflict itself. As we’ve seen, some cultures, such as American culture, tend to favor a problem-solving approach. Others favor a more confrontational approach, while still others favor a face-saving approach. On this topic, we sometimes make broad generalizations, but they can serve as a starting point for deeper understanding.

### **Coping with Conflict**

- An interest-based bargaining approach may help bridge cultural gaps, especially those related to conflict. As you’ll recall, interest-based bargaining means focusing on underlying needs, not positions, and satisfying those needs with creative options.

- Because interest-based bargaining is a problem-solving approach, it appeals to Americans, but this approach also welcomes argument, disagreement, and criticism, precisely because these actions reveal the interests of the counterparty. Thus, counterintuitively, an interest-based bargaining approach can also work well in a confrontational culture.
- In a face-saving culture, interest-based bargaining works because it strongly emphasizes an approach that is hard on the problem but soft on the person.
- Any time you face cultural differences, you face a meta-conflict. You feel pressure to act according to “strange” values and, thus, violate your own values, or you feel pressure to act according to your own values and, thus, violate the values of others. But consider the underlying interests here: You want to cooperate and retain your integrity.
  - A culturally alert negotiator bridges that seemingly unbridgeable gap by intentionally striving to understand the other party’s intentions, history, and values and, in this way, pay real respect to his or her counterpart.
  - At the same time, a culturally alert negotiator responds creatively in ways that do little violence to his or her own principles.
- Beyond basic cultural misunderstandings, negotiators who cross borders have some other issues to think about as well, including the need to work with a different legal system, political regime, and business culture.

### Dealing with Cultural Differences

- As part of your general preparation, try to understand your counterpart’s cultural rules, history, and values.

- If you have no time to prepare, strongly consider bringing with you a go-between or expert in the other culture who can translate the behavior, not just the language.
- As always, look for ways to be hard on the problem but soft on the person—and ways to practice mindful and intentional respect. It's fine to learn what gestures are insulting or what terms of address to use, but a posture of humility and an openness to learning probably count for more.
- Don't try to ape the other person or assume that he or she is totally different; instead, slow down, build the relationship, share information, and listen carefully.
- Finally, expect misunderstanding. Treat frustration as a light that signals a possible cultural confusion, rather than a personal insult.

### Suggested Reading

Bernstein, *Fragile Glory*.

Foster, *Bargaining across Borders*.

Morris, *The Fog of War*.

Salacuse, *The Global Negotiator*.

### Questions to Consider

1. Why might a French person and an American disagree over how to deal with a dispute concerning contract language? What cultural rules do they each tend to follow, and why?
2. You're about to visit a country where people routinely ask for money to carry out their duties. If you follow the rule "When in Rome, do as the Romans," you may end up doing something you feel is corrupt. But if you take the view "East is east and west is west, and never the twain shall meet," you simply won't deal with anyone. Can you think of a third

approach you might take that would let you stay true to your values and engage constructively—and safely—with people in this country?

3. What cultural assumptions might create confusion and intensify conflict in some of the great apparent controversies of our day, such as conflicts over the environment, science, the Middle East, or the future of higher education?

### Challenge

1. Consider how you can apply the insights into cultural differences gained in this lecture to a culture in which you negotiate regularly, such as within your extended family or among other departments at work.

# Negotiating with Children

## Lecture 20

**B**efore you have children, you have the idea that they don't always do as they're told, but after you have children—even wonderful children—you start to appreciate the real truth of that statement. You find that you spend much of the day dealing with pushback, positional impasses, haggling, irrational conflict, and other aspects of negotiation. For this reason, learning to negotiate with children is not a topic for parents only. As we've seen, one of the most frequent negotiation problems we encounter is how to negotiate with difficult people, and many of the ideas that can help parents negotiate better with children can also help any negotiator work better with counterparts who seem unwilling to listen to reason.

### Interest-Based Bargaining with Children

- The stop-go game is a simple example of an interest-based solution to a common parent-child problem. In the game, the child is allowed to control the parent's actions in a difficult situation, such as getting hair brushed or having a bandage removed, by dictating when the parent should stop and go.
- Knowing how to use an interest-based approach and other negotiating skills with children is a good idea for number of reasons, including the fact that children are natural negotiators who are especially skilled at using sharp bargaining tactics.
- What about the objection that children should do as they're told without getting anything in return? Doesn't negotiating with children invite us to coddle and spoil them? Won't it embolden them and make them feel they are equal to us rather than our children? Don't children need a sense of limits and discipline?
- These questions are all valid, but throughout this course, we've seen that it's possible to fight well for your key concerns without

either giving away too much to your counterpart or making the other person feel diminished, humiliated, or impoverished.

### **Natural Horsemanship**

- We rightly want our children's respect—for their sake as much as ours—and there are times when we must have the immediate and final say. When a child is about to walk into traffic, he or she must know that “Stop!” means stop immediately. Similarly, when children behave badly, they must know that they will face consequences so that they don't repeat the behavior. Much of the time, however, a strict authoritarian approach tends to work against our purposes.
- This is the wisdom of *The Horse Whisperer*, a book and movie based in part on the life of Buck Brannaman, one of the world's leading experts on horse training. Brannaman uses an approach that is radically different from the conventional wisdom for handling horses: *natural horsemanship*.
- This approach is based on Brannaman's realization that training horses would be much easier if he learned the motivations behind their behavior. This thinking should sound familiar. As we saw in our first lecture, one of the most important things a skilled negotiator does is find out what the other person wants and why. If that approach can work with hostage takers and horses, then perhaps it can help us lead our children.

### **Positive Discipline**

- Many of the ideas Brannaman uses with horses and interest-based negotiators use with counterparties are similar to a set of ideas recommended by child development experts called *positive discipline*. This approach teaches parents to be firm and understanding with the help of empathy and limited choices. Again, all these approaches share the central insight that you can be hard on the problem but soft on the person.

- An interest-based approach can signal that we respect our children and can give them safety and buy-in, even as we set clear limits. Beyond this, an interest-based approach works because it is far less coercive than more authoritarian parenting strategies.
  - Any counterparty who feels coerced is more likely to also feel resentful, diminished, and resistant. Think about it: When a child is grabbing a toy, shouting, and making demands, we call those actions childish, but really, the child is acting coercively, and playmates and parents alike resent it.
  - Because we're trying to raise adults, not children, using a method that breaks that cycle and influences without coercion can not only change behavior but also teach thoughtfulness.



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- One simple example of an interest-based approach with young children is just to lovingly say no. For example, “I can’t let you watch TV all afternoon, but I understand that you’re bored, and I can give you a couple of other choices of things to do.” Here, parents set clear limits even as they remind children of their love.
 

**Offering a child a choice—would you like to set the table or help wash the dishes?—results in a greater sense of buy-in and more favorable outcomes for the parent.**
- Of course, a child may throw a fit in response. In negotiation, we know this behavior as positional bargaining, coupled with a noisy sharp bargaining tactic. If the child persists, the parent can

disengage: “I can’t let you shout like that. I’ll give you a little while to calm down, and when you’re ready to talk, we can decide which choice is best for you.”

- This interest-based approach also works with children who have special needs and can be adjusted to suit different ages. One additional advantage of interest-based negotiating with children is that it fosters a sense of the child’s autonomy and empowerment—without diminishing your authority—even as it fosters a greater sense of trust in you, signaling that you understand the child’s interests and are open to addressing them reasonably.

### Other Approaches with Children

- As most parents know, incentives, such as stickers or candy, can be surprisingly effective in everything from potty training to helping children learn their numbers and letters. Further, most child educators find that within limits, incentives don’t create the impression in children that there must be a reward for every good behavior.
- Another negotiating skill that works with children is an idea we saw earlier: “if we agree; if we disagree.” Here, you explain how saying yes to your offer will satisfy the listener’s interests and how saying no to your offer may mean that his or her interests won’t be satisfied. With a child, you might say, “If you do your homework now, you can watch TV for 30 minutes before you go to bed; if you don’t, you won’t have time for TV before bedtime.”
- A related set of negotiating concepts that can be particularly valuable in working with children is asking questions and listening. You can foster better language skills, a better relationship, and better conversation using these methods.
  - Actively listening to young children helps them hear what you say and know that they are making sense. In conflict and negotiations with small children, it can be calming, empowering, and respectful to get down to their level, make

eye contact, and invite them to talk. It can also help to recap what the child says.

- Don't try this approach while the child is in full meltdown mode because it probably won't be effective. Wait until the child calms down, then ask questions in a gentle voice and use active listening.
  - Like many distressed adults, small children may have difficulty answering open-ended questions, such as "Can you tell me why you're upset?" In these situations, it may helpful to frame questions as choices: "Are you angry because of X or Y?"
  - Here, too, you can be hard on the problem but soft on the person, dealing with the problem without attacking the child's feelings or character: "It's OK to feel angry or sad about not watching your favorite show, but it's not OK to throw your toy at the TV." Then, you can gradually turn to options, asking the child to suggest ideas to help solve the problem.
  - As a child gets older, active listening can foster fuller conversation by signaling that it's safe to share difficult issues with you because you truly understand them.
- By the time children are three, they can learn a variety of creative approaches for coping with fights with siblings and friends. These options include sharing, taking turns, trading, using a fair process ("eeny, meeny"), starting another activity, and practicing generosity. You can foster this kind of creative problem solving by putting up a simple picture chart to help children remember and practice these options.

### **Teaching Children to Negotiate**

- Children of all ages value negotiation skills training, and many schools have introduced negotiation training programs with remarkable success. Independent researchers have found that such

programs may improve the social and academic chances of children who are at risk of failure.

- As children get older, they need more autonomy and have greater language skills, but they may struggle to use those skills effectively without whining, shouting, or shutting down. Teaching older children some basic negotiation skills and practicing with them can help them avoid these negative behaviors.
- By the time children are in second grade, you can explicitly teach them interest-based negotiation using a technique called the *Five W's*. Here, they learn to ask each other five questions during a conflict:
  - What's our problem?
  - Where are you coming from?
  - Where am I coming from?
  - What are some possible win-win solutions?
  - Which one shall we choose?
- Try teaching these questions to a child, demonstrating them, and inviting the child to practice by playacting a pretend conflict with you. Once children know the questions, you can challenge them to try out the technique the next time they encounter a problem with another child, then have a debriefing to see how it worked.
- As children get older, you can increasingly encourage them to negotiate selected conflicts at home.
  - Imagine that your daughter wants to stay up late to watch a movie Friday night, but you're concerned that she'll be too tired for Saturday morning soccer. She uses a variety of childish tactics that start to wear you down. What can you do?
  - Of course, one choice is to simply lay down the law, and sometimes, that is the right choice. But you might also

try interest-based negotiation. Try taking a break from the conversation, then appealing to your child's interests: "Remember when you stayed up late last month and said you were too tired to play a good game the next day? I'm concerned you'll have the same problem. Let's see how we can make it better."

- Older children may also benefit from simple negotiation challenges, such as repeating back exactly what they hear in a conversation or role-playing the fair fight rule. When children are old enough, you can also teach them the I FORESAW IT preparation mnemonic or even encourage them to watch this course. Learning negotiation skills can be valuable preparation for the adult world.

### Suggested Reading

Brown, *How to Negotiate with Kids*.

Meehl, *Buck*.

Nelsen, Foster, and Raphael, *Positive Discipline for Children with Special Needs*.

### Questions to Consider

1. What is positive discipline? What is natural horsemanship? What principles do these approaches have in common with interest-based bargaining?
2. Your teenaged daughter wants you to give her the car keys to let her go to a party at the home of a friend whose parents have a large liquor cabinet and who may be away. You could simply say no, but you know she'll feel angry, isolated, and infantilized. You could simply say yes, but you fear she could wind up driving home drunk or feeling pressured by other partygoers' irresponsible behavior. How might you use negotiation principles to work with her to come up with a wiser choice?

3. Now, imagine that your teenager's other parent disagrees with you about how to handle this situation. You could simply insist on your approach, but you fear that your fellow parent will undermine you and countermand your approach or simply become angry. You could defer to the other parent, but you think a different approach to the situation may be unwise. How might you use negotiation principles to work things out with your fellow parent? When and where should you conduct this negotiation?
4. What are three advantages to using negotiation principles to engage with a child? What is one situation where it's an unwise idea to use them?

### Challenge

1. If you have small children, try teaching them the stop-go game to solve a recurring conflict in your home. If you have older children, try teaching them one or more of the negotiation techniques you've learned in this course and discuss how they can apply the techniques in their lives. If you have no children, try taking a *Horse Whisperer* approach with a difficult colleague, in which you intentionally listen more, coerce and argue less, and attempt to be hard on the problem but soft on the person.

# Negotiating Work and the Workplace

## Lecture 21

In a world where work is increasingly done by computers or outsourced overseas, employees can no longer get by with just being average; employers require top performance. What does it take to find and keep a job in such a demanding environment? Surprisingly, one powerful answer is to negotiate it. In this lecture, we'll discuss how to use the negotiating skills you've already learned to be more creative, informed, and effective as a job seeker and an employee. We'll also explore special negotiating techniques that are particularly well-suited for the workplace and see how you can apply your skills to create greater opportunities for yourself.

### Information Interviewing

- Many people start a search for work with traditional methods: answering ads, sending out resumes, interviewing on campus, and searching the Internet. But studies find that these methods are actually ineffective, especially in tough economic times. A different method that relies on three of the keys of effective negotiating—credibility, preparation, and listening—is *information interviewing*.
- With this approach, job seekers have a series of conversations in which they ask people for information, not a job. This is an indirect, counterintuitive approach that allows the job seeker to learn from his or her interviewees. Surprisingly, the information interviewing process can open doors that often remain hidden in conventional job searches.
- Studies find that about 75 percent of all jobs in the United States are filled through connection, referral, and internal promotion. That may seem like bad news at first, especially if you don't think you have a wide network. But if you connect that finding to information interviewing, you can discover hidden paths to excellent work through your contacts and referrals. As you talk with them, they will, in effect, coach and direct you toward your ideal job and

eventually connect you with someone there who can seriously consider you.

- The basic task here is to write a list of 30 to 100 people who might know something useful about your interest in a specific type of work. Do some basic reading about the field, then contact the person you feel most comfortable speaking with and politely ask him or her if you can chat for 15 minutes or so about your interest in that line of work.
  - When you meet, start by asking broad questions, such as: “Tell me about the field,” “Tell me about your work in the field,” and “What do you like and dislike about this line of work?” You might also ask about special credentials or qualifications and whether anyone in the field does well without those prerequisites.
  - Share some information about yourself and ask whether your interviewee thinks you would enjoy the work and be good at it. Ask about special problems or challenges currently facing the field. Finally, ask your interviewee whether he or she can refer you to others from whom you can learn more.
  - Jot down your notes, send a thank-you note within 24 hours, and follow up on any suggestions you were given, especially recommendations to speak to others. If you run out of referrals, contact the next person on your original list and continue the process.
  - Over a few weeks or months, you’ll find that your notes give you a rich, nuanced map of where the best work is, key trends and needs, whom to contact, what to talk about, and how your skills and experience can be a good fit for your chosen field.
- Information interviewing is closely connected to negotiation in numerous ways: It helps uncover your *interests* and those of others; it’s a rich form of *factual research*; it provides opportunities to learn about hidden *options* and *alternatives*; it allows you to *role-*

*play* with people who may be similar to future interviewers; it helps you *empathize* with future interviewers; and it's a way to build credibility from contacts and referrals *who* can help you later. In short, information interviewing taps into most of the I FORESAW IT plan.

- In addition to helping you apply negotiation principles to the task of finding a job, information interviewing can also help you be more effective in negotiations with colleagues and prospective clients if you're already employed. Information interviewing on the job can give you early warning about upcoming layoffs, reveal changing needs within the company, and prepare you for conversations with key decision makers. It builds your relationships with colleagues, who will come to trust and respect you for using this approach.
- Information interviewing can also be used to create paying work for yourself where none currently exists. You do this by identifying your own interests and those of employers in the fields you're exploring, then generating creative options for jobs or projects.
  - For example, imagine that you are fluent in Spanish and English, and you're looking for a job in social media marketing. You may also be interested in sports but have noticed that smaller regional sports teams don't seem to understand social media.
  - You may also have learned that sports management organizations don't generally have Spanish speakers on staff, don't use the web much, and don't seem to be looking for help. All this information suggests a not-so-obvious job prospect: international social media designer in sports marketing.
  - With some additional factual research, you can brainstorm more options to develop the idea. In particular, find out whether anyone else is doing similar work in the industry. If so, that knowledge may strengthen your case that this unfamiliar work is valuable and other firms pay to have someone do it. If

no one is doing the work, you may have discovered a hidden opportunity that could give one firm an advantage over others.

- Test your ideas with further information interviewing, using the insights of others to refine your thinking. With this groundwork, you can then develop one or more proposals to pitch to someone in authority at the firm you'd like to work for. When you meet that person, you can speak to his or her interests using your skills as a negotiator.

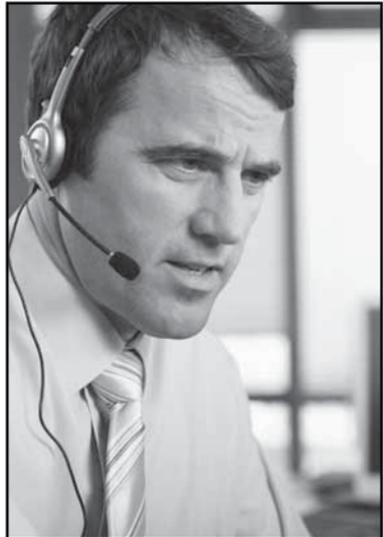
### Negotiation Marketing

- In most negotiations, you start with a specific counterpart, and your task is to craft an offer that will satisfy both you and the other party. But with *negotiation marketing*, you seek the ideal counterpart—the one who will most likely feel that what you have to offer meets his or her interests. In those situations, your chances of reaching agreement are much higher. Like a target marketer, you're trying to identify and reach those who are most likely to be attracted to your offer and buy it.
- In a sense, this is exactly what skilled salespeople do before sales calls. They “qualify” a prospect by determining in advance whether he or she is likely to be interested in the product. Unlike a salesperson who just knocks on doors, the goal here is to target your prospects. But you can use negotiation tools to help you do that with your firm's prospective clients, customers, and donors more effectively and use each success to help you win others.
- The key to negotiation marketing is to identify the *interests* of your ideal prospect, then use *factual research* to identify real-world prospects who most likely fit that description.
  - You also improve the odds by anticipating your prospect's likely *reactions*—culling out those who may react badly—developing good *responses* to reasonable questions, and deciding the *schedule* of whom to contact first.

- You further enhance your credibility by drawing on contacts *who* can introduce you to prospects and *independent criteria* that can help you make your case.
- Again, the I FORESAW IT tool helps you combine sales, marketing, and negotiation skills to create a winning strategy.

### Negotiation for Managers

- A story from the book *The Manager as Negotiator*, written by Harvard professors David Lax and James Sebenius, illustrates the power of negotiation insights for workplace managers and leaders.
  - Bob Furz was an executive for a British air conditioning manufacturing firm with factories in several South American countries. Each factory manufactured its own version of the firm's air conditioners; Furz sensed that this approach was wasteful and unprofitable.
  - Appealing to the interests of the board of directors and to his detailed research, Fruz won a limited mandate to more efficiently manufacture just a few updated models in one central South American factory. But he had limited authority at the plant, and engineers, salespeople, and managers there resented his plan and dragged their heels.
  - To make his vision work, Fruz made a series of sequential deals with different players,



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**You can use negotiation tools to prequalify prospective clients for your firm, just as successful salespeople target their prospects.**

convincing one country's plant to expand and cut prices, another to accept central production, and so on. Over time, the changes Furz negotiated began to produce real cost savings and contributed to the firm's success. His star rose with the board until, eventually, he was named CEO.

- As Lax and Sebenius note, Furz's success illustrates that a manager often needs to negotiate continually. Here, Furz applied several principles we've seen before, making moves away from the table through a sequence of deals that satisfied different players' interests and gave him assets he could use in the next negotiation.
- Often, our workplaces are rule-driven and rigid, and we seem to be in no position to engage in creative bargaining. It's also true that creative negotiation won't work well in strict bureaucratic situations. One approach that may work, however, is what we might call negotiating by thinking *inside the box*.
- Some of the key interests anyone in a bureaucracy has are to honor the rules and consistently apply the policy to demonstrate fairness and firmness. Thus, to ask an administrator to vary the rules—to think “outside the box”—may be a risky request.
- To think inside the box, you need to think like the administrator. That means learning the rules, mission statement, and policies of the organization; studying its language; and asking the right questions, such as: “What exactly does this term mean? What categories can my request legitimately fit in? Is there an overarching policy that can justify my request even if the specific rule doesn't? If the rule doesn't allow X, Y, or Z, can we talk about W?”
- If you look at a bureaucratic constraint the way a bureaucrat sees it, you may be able to find a face-saving, legitimate way to help the bureaucrat help you.

## Suggested Reading

Bolles, *What Color Is Your Parachute?*

Lax and Sebenius, *The Manager as Negotiator*.

## Questions to Consider

1. What is information interviewing? What basic steps would you tell a friend to follow if he or she wanted to learn about information interviewing?
2. What are three simple, powerful things you could ask someone in an information interview that might help you discover a career that's right for you or useful insights for an upcoming negotiation? Who are five well-placed people you could call this week to have such conversations?
3. In the lean startup method of entrepreneurship, entrepreneurs are advised to downplay business plans; instead, they should talk to many prospective customers about their business ideas and, later, offer these customers a prototype to buy. What does that approach have in common with information interviewing, and why do experts in entrepreneurship and vocational counseling recommend similar approaches in place of more traditional methods? What power does this common approach tap into that other approaches lack?
4. An official at a government agency tells you that he or she has no authority to give you any of the creative options you suggest. How might you use a thinking-inside-the-boxes approach to achieve greater success in negotiating with this official?

## Challenges

1. Make a list of contacts you could interview to enrich your job search or your performance at your current job. Identify ways that interviewing colleagues could improve your ability to negotiate on future issues.

2. To find new clients or customers for your firm, try negotiation marketing, using I FORESAW IT to help you gear up for the task. You may want to enroll a colleague in the process.
3. Conduct research to understand what a competitor, an administrator, or a prospective employer needs and does and use that insight to develop attractive offers for your own firm and the firm you hope to serve.

# Healing the Troubled Deal

## Lecture 22

Sometimes, agreements are so flawed or so badly implemented that they can make a situation worse. As we saw in an earlier lecture, one way to guard against this possibility is to test an offer against established measures of success. But before and after the handshake, there are other ways to make bad agreements better and to avoid implementation problems. In short, there are ways to heal the deal. In this lecture, then, we'll look at ways to identify and fix time bombs in a proposed deal, to turn an acceptable deal into a better one, to turn a paper deal into a genuine collaborative relationship, and to anticipate conflicts and plan to resolve them amicably.

### A Time Bomb Detector

- In an earlier lecture, we saw that it's sometimes easy to enter a deal that has time bombs, that is, gaps or deal terms that can cause serious foreseeable problems later on. Just being on the lookout for time bombs can help, but you can also make use of another tool that can help you spot and defuse them: the WINLOSE mnemonic. This mnemonic is spelled out below.

**What If**  
**Numbers**  
**Lawyers**  
**Other Side's Expectations**

- First of all, one of the most important things you can do to spot time bombs is to worry. That is, ask yourself, "What if X happens?" Think in advance about worst-case scenarios and play out how the deal might work if bad things happen. Strategy experts call this activity *scenario planning*.
  - You might think that looking at worst-case scenarios puts too much emphasis on the negative, and that's a fair point. But

experienced businesspeople know that an overly optimistic attitude can destroy a new venture.

- Further, anticipating worst-case scenarios is wise in any serious negotiation—not just those that revolve around business—including family travel plans or a new car purchase.
- The next letter of the WINLOSE mnemonic, *N*, stand for *numbers*. The idea here, as we saw earlier, is that it's a good idea to master the numbers in a transaction and use them to answer serious questions about the implications of a deal.
  - To a businessperson, that means looking at accounting statements or spreadsheets, testing them for weaknesses, and asking specific questions: Will the business have enough cash? What if mailing costs are high? How do we make money and when?
  - To a consumer, number mastery means understanding credit card interest charges, cell phone calling charges, medical insurance deductibles, and so on.
- The next letter in WINLOSE, *L*, stands for *lawyers*, who truly can help you negotiate better, in part because they are trained to spot time bombs that non-lawyers might be unaware of. Experienced lawyers often are also wise business counselors who know where problems are commonly found and how to fix them.
  - A deal in principle is often missing answers to significant questions. For example, you may decide that you want to partner with your best friend in a business venture. A good lawyer will ask what the plan is if one of the partners gets sick and can't work and may recommend that you buy insurance to cover that risk.
  - Even if you don't hire a lawyer, the *L* in WINLOSE reminds you of the importance of understanding legal terms and fine print, such as those found in cell phone contracts and credit card agreements.

- Finally, *OSE* stands for *other side's expectations*. That is, are you a good match with the counterparty to the deal, and does your vision of the agreement mesh well with what the other negotiator has in mind?
  - This question gets at the fact that many negotiation “love affairs” end up producing terrible marriages because the two sides are simply incompatible or have different expectations. One partner wants to dominate the business, while the other expects an equal say in its operation. Sometimes, such conflicts create needless trouble that could have been avoided by either foregoing the marriage or working them out beforehand.
  - More generally, *OSE* reminds you to slow down and get a better sense of what your counterpart has in mind.

### **Second-Look Meetings**

- Another way to improve on a fairly promising tentative deal is to hold a *second-look meeting*. The idea here is that there may be hidden ways to help one or both sides do better without hurting anyone and that by taking a second look, you might discover it.
- A second-look meeting builds on the fact that it's easy to miss optimal trades. We naturally want to rush to a conclusion and celebrate any deal. But a second look can help you identify additional ways to save money or time or to improve the deal in other ways.
- In practice, many negotiators simply don't want to do more negotiating once they reach an agreement. In addition, if one side is unfamiliar with the idea, an invitation to a second-look meeting might sound like a trick or make it seem as if you want to renege. To counter this problem, explain that you're willing to commit to the first deal; you're looking only to see whether you can make the deal better for at least one side without hurting anyone.

### **Partnering**

- Even a carefully negotiated contract doesn't guarantee that all aspects of an agreement will go smoothly. In the construction

industry, for example, it's common for a contractor and a developer to wind up in litigation over some alleged performance breach, even though both sides carefully negotiated the terms. In response to this, the Construction Industry Institute has recommended an idea called *partnering*.

- Partnering is based on the insight that the terms of a contract and the relationship of those who work together to perform it are two separate factors. Partnering seeks to bridge the separation by going beyond legal formalities and building the working relationship. In this model, the partners take some early steps to make sure everyone understands the agreement, its goals, and the process for solving problems and measuring progress.
- Partnering draws in part on the work of Ian Macneil, a law professor who championed the idea that contracts must focus on relationships and be adaptable to change. Such a relational approach makes sense because no contract can anticipate every future event; thus, it pays to build in a relational “shock absorber” that can help the parties adjust without bitterness or resentment. That may be especially important in dealings between two cultures that are prone to misunderstand each other.



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**By the late 1980s, litigation over construction contracts had become so frequent that an industry research organization convened a task force to find ways to reverse the trend.**

- Soon after a contract is signed, key figures from both sides meet informally for a day or two with a facilitator. The facilitator leads the group through team-building exercises and helps develop communication arrangements for the future. The group also creates a charter, in which all the key stakeholders commit to a mission statement of common goals and a set of guiding principles and values. Finally, the group works out a dispute resolution plan that begins with low-level processes and works its way up to higher levels if necessary.

### **Alternative Dispute Resolution**

- As we saw briefly in an earlier lecture, alternative dispute resolution (ADR) offers a variety of ways to solve problems that are less expensive and more satisfying than traditional litigation.
- One example is *mediation*, in which an impartial third party helps the primary parties negotiate. Another is *arbitration*, in which an impartial third party who isn't a judge hears the two sides' cases and decides who wins what.
- Even parties to the best agreements can run into conflicts later on; thus, it may be a good idea to agree to a clause that spells out how you'll try to work out problems without litigation. An *ADR clause* simply spells out what ADR processes you'll use if a dispute arises.
- Some contracts also have provisions that make litigation riskier and more costly for the loser. For example, a contract might specify that in the event of litigation, the loser pays the winner's legal fees.
- ADR shows up in many types of negotiations. Such clauses are especially common in international contracts because judges may be reluctant to enforce foreign judgments but more willing to help if both sides have submitted to arbitration. Standard brokerage agreements also require arbitration.

## Avoiding Negotiation

- Let's conclude with an odd question: Are there ways to avoid negotiation altogether and, thus, avoid some of the problems we've seen in this lecture? In a sense, much of our world is filled with them.
- In his theory of the firm, Nobel Prize-winning economist Ronald Coase essentially argued that the thing that defines the ultimate size of a firm is the cost of negotiation, or as economists put it, *transaction costs*. When renting the truck, outsourcing customer service, or hiring the law firm becomes too expensive and hard to negotiate, a firm will bring the task in-house; it will buy the truck, hire workers, or hire in-house counsel. In a sense, an organization is a way to avoid ongoing negotiation.
- Another way to avoid negotiation is to rely on social norms. Robert Ellickson, a Yale law professor, has found that groups of people often evolve such norms for solving problems. Indeed, it's possible that one of the main virtues of culture is that it helps people get along without having to negotiate every problem.
- A final way to solve problems without negotiation is to utterly absorb or dominate the other party. Indeed, much of human history is the story of one nation or tribe choosing to enslave, annihilate, or absorb another people, eliminating the need to negotiate.

### Suggested Reading

Gage, *The Partnership Charter*.

Mnookin, Peppet, and Tulumello, *Beyond Winning*.

Ury, Brett, and Goldberg, *Getting Disputes Resolved*.

### Questions to Consider

1. What does WINLOSE stand for? What is a time bomb? How does the WINLOSE mnemonic help you spot time bombs?

2. What is partnering?
3. What are three advantages most forms of alternative dispute resolution have over litigation?
4. What is one way you might convince a skeptical negotiation counterpart to seriously consider having a second-look meeting?

## Challenges

1. The next time you're considering a cell phone contract, a car lease, a credit card, or another detailed contract, use the WINLOSE mnemonic to see if you can spot potential time bombs.
2. Invite someone you're negotiating with to try a second-look meeting and explain briefly why it might help.
3. Invite a potential partner to create a partnership charter with you, with the help of a facilitator.
4. Consider whether serious agreements you negotiate should include an ADR clause; if so, ask your lawyer to draft one.

# Why the Trust Problem Is Fundamental

## Lecture 23

This lecture ties together much of what we've explored about negotiation in the course, but it also takes a more in-depth look at an idea we began to consider practically in an earlier lecture and have been implicitly grappling with throughout: the trust problem. As we said, this problem boils down to the question: How do I know that it's safe to deal with you and that your assurances are reliable? Is it possible that this problem stands at the very heart of much more than negotiation—the social sciences, the humanities, the sciences, and even more?

### Clarifying the Problem

- Our world is remarkably different from the narrow, violent one of our ancestors. Today, many of us are part of organizations with hundreds of employees. We're each part of a nation with millions of citizens. We travel freely around the globe, and we don't find it odd that strangers who are worlds apart can negotiate.
- Yet the trust problem remains with us. We see it in the headlines as failed peace treaties, failed environmental agreements, financial crises, crime, war, and more. Many of our most profound successes and failures are stories of our response to the trust problem.
- Notice that we're talking here about the trust problem, not trust as such. As we saw in a previous lecture, it's not true that without trust, we can't collaborate. Trust is one possible response to the trust problem, but there are many other constructive ones, too. And that's good news; when trust alone is low or uncertain, there may still be wise ways to collaborate, which is why our mastery of the trust problem is so important and why it's important to go beyond mere discussions of trust.
- As important as trust is, it can't be the whole story. Telling citizens of a corrupt society to be more trusting would do little to help

them win justice. Conversely, telling a poor, honest woman in the developing world who has no access to credit that she should be more trustworthy would do nothing to help her. Often, the problem isn't that people lack integrity but that other people can't recognize it. These are trust problems.

- Many of the trust problems we face are difficult and require us to be savvy as a serpent and harmless as a dove. The key lies in seeing the challenge plainly—not necessarily as a call to trust, though trusting others can be wise, nor to be trustworthy, though being trustworthy is always wise, but to solve the trust problem.
- We've been building that ability all along. As we've seen, at the heart of negotiation is a tension between the negotiators' desire to collaborate and their desire to compete. That's why in much of our work as negotiators, we're trying to allay the other negotiators' fears that we're out to get them and cope with our own fears that the other negotiators are out to get us. Because we've been grappling with it all along, we're now in a position to see the importance of the trust problem in many different fields more fully.

### **The Trust Problem in Business**

- We might argue that solving the trust problem is central to the existence and success of every business. That's because the central task of a business is to create and fulfill valuable promises and because a business itself is little more than a collection of promises and an ongoing effort to manage them. And where there are promises, there are trust problems.
- Consider a business's balance sheet—a snapshot description of all the business consists of at any given moment. Every asset—cash, accounts receivable, inventory, and so on—is little more than a promise, and if one of those promises proves false, the business suffers or goes under.
- Economists theorize that promises and the trust problem are so interwoven in the life of business that a firm is little more



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Science attempts to address the trust problem through an array of procedures that make up the scientific method.

than a *nexus of contracts*—a web of promises between different stakeholders. How the business makes sure those promises are worth something is its central task.

- But business is just one example of a field that the trust problem profoundly shapes. Most fields—the social sciences, the humanities, and the hard sciences, too—deeply grapple with the trust problem and its implications.

### The Trust Problem in Economics

- Much of economics is founded on the ideas of Adam Smith. In his famous book *The Wealth of Nations*, Smith suggests that people are self-seeking and that the free market can channel their self-seeking toward wealth-creating cooperation. It does this by giving them incentives to serve others well and penalties for failing to.

- Yet Smith was also concerned with the question: How is it that people so often tend to cooperate with one another? In an earlier work, *The Theory of Moral Sentiments*, Smith argues that people have a native, universal tendency to commiserate with one another—to identify with the pain of others and to reach out to help them when possible.
- Although they may seem contradictory, Smith’s two books can be seen as complementary explanations of how we collaborate in the face of the trust problem. As one scholar recently argued, “The two books present different mechanisms through which self-interest is restrained.”
  - In *The Theory of Moral Sentiments*, Smith argues that basic human empathy accounts for our collaboration.
  - But because it’s also true that people can be self-seeking, an institutional answer—market incentives—is important, giving people further reasons to be cooperative.
- Smith seems to suggest that often, a soft reliance on human compassion overcomes the trust problem, but he also suggests that sometimes it doesn’t, and we need other arrangements. We’ve seen before that there is a vast array of answers to the trust problem, and Smith explores some of the important ones. In contrast, economics emphasizes only one category of solutions—those that rely on self-interest.

### **An Integrative Approach**

- What if, instead of the normal economics project, we put the trust problem closer to the center of things, cultivating our understanding not merely of self-seeking behavior but of the many traps and possibilities for collaboration in the face of it? What if we seek an approach that integrates the insights of the many fields that grapple with the trust problem? Focusing on the trust problem, rather than “rational wealth maximization,” may give us a more practical, ethical, and profound understanding of the human project.

- For example, how can we solve the challenge of sharing something valuable, such as fish in a lake, grazing land for sheep, or clean air? One solution is to create private property rights, but is that the only solution?
  - Elinor Ostrom, a political scientist, studied many peoples around the world to see how they solve such *common pool resource problems*. Surprisingly, they've done so without using private property. Their solutions differed, but they generally shared the resource among themselves, relying on a mix of simple rules that became norms and a customized set of trust mechanisms.
  - Ostrom's work illustrates the value of humble inquiry into the trust problem that transcends a single discipline. Imagine what would happen if we brought the best insights from different fields together into ongoing conversation and collaboration. One way to do that would be to create a new field of study devoted to the trust problem—perhaps a field called *epistonomics*.
- The need for finding insights into the trust problem is great. How do warring nations overcome trust problems and negotiate reliable cease-fire agreements? How do international joint-venture partners collaborate reliably? How do we collaborate to solve such problems as global warming and hunger?
- Think of any serious human problem or important achievement, and you are likely looking at a trust problem. We lose none of the value of individual fields of inquiry and gain much if we integrate their wisdom into a shared search for understanding of this central question. And in our work on the subject of negotiation, we've made a bold leap toward doing just that.

### Summarizing Our Course

- We can sum up most of the ideas we've explored in this course in five words, and you already know the first three: I FORESAW IT. But as powerful and far-reaching as I FORESAW IT is, there's

something not entirely satisfying about such a cognitive approach to negotiation; after all, negotiation is, to a large degree, an emotional and social process. Thus, there are two other words that can help us capture much of what I FORESAW IT lacks: humble inquiry.

- In his book by that title, former MIT business professor Edgar Schein defines *humble inquiry* as “drawing someone out ... asking questions ... [and] building a relationship based on curiosity and interest in the other person.” We’ve seen that those are, in many cases, the tasks of a skilled negotiator.
- Skilled negotiators neither avoid conflict and discussion nor try to totally control them. Instead, they ask questions and show a rare, remarkable, and credible quality: humbleness. We no longer think about humbleness much, but as we’ve seen, skilled negotiators rely on it a great deal.
  - Skilled negotiators use dumb and active listening; they ask stupid questions; and they seek to persuade by bringing their counterparts to their senses, not their knees. They are open to learning and share credible information. They cultivate reputations for being smart and honest and are thoughtful about their goals.
  - These negotiators certainly know how to produce ambitious results, but they also know how to work out an even compromise when it makes sense to do so; they sometimes choose to satiate or to be generous and, thus, avoid the hedonic treadmill.
- To help you achieve similar results in negotiation, here are some ideas for developing your skills further:
  - Take on one or more of the negotiating challenges in this course. To hone your skills, practice by doing a planned negotiation once a week for the next eight weeks.
  - Teach someone else to negotiate using the I FORESAW IT mnemonic.

- Watch for concepts from this course in the news and in other courses.
- Skim a good book about negotiating.
- Observe excellent negotiators and ask them about their approaches.
- Review completed negotiations with a friend or colleague. Talk over and assess the terms you agreed to (or walked away from) using our measures of success. Then chat about what helped, what didn't, what surprised you, and what course concepts you might want to use more fully in your next negotiation.

### Suggested Reading

Ellickson, *Order without Law*.

LeBlanc and Register, *Constant Battles*.

Ostrom, *Governing the Commons*.

Smith, *The Wealth of Nations*.

———, *The Theory of Moral Sentiments*.

### Questions to Consider

1. What is the difference between saying “Trust is important” and saying “Solving the trust problem is important”? Why might understanding ways to solve the trust problem be more important to serious negotiations and world conflicts?
2. In what sense is a business largely made up of promises, and how do businesses rely on solutions to the trust problem to survive and prosper?
3. What is the Adam Smith problem, and how does an understanding of the trust problem offer one plausible solution to it?

4. What is the prospective subject of epistemology about?
5. In what ways does Elinor Ostrom's Nobel Prize-winning work on common resource problems illustrate how epistemology might illuminate complex human problems?
6. What is humble inquiry, and how does it capture much of what we've considered in this course?
7. What are three ways you could practice and develop your negotiating skills this week?

# Confrontation, Love, and Negotiation

## Lecture 24

In our final lecture, we'll look at what might seem to be an odd question: Does negotiation have anything to do with love? This question seems odd because, after all, negotiation seems to be focused on satisfying your own needs, and love is focused on concern for others. But as we know, negotiation arises in love all the time. And in this lecture, we'll see that deep concern for others can illuminate and enhance everything we've talked about in this course; we'll also learn that negotiation and conflict management skills can help us love better.

### Confrontation

- Confrontation is a situation in which you need to get someone else—perhaps a partner who is being difficult—to change unilaterally. One way to win unilateral change without damaging a relationship draws on an insight we've seen throughout this course: being hard on the problem but soft on the person.
- Imagine that you're a manager of a new cell phone operation with about 20 employees. You need to meet a key deadline in four months, and for that, you need a critical piece of software. You're depending heavily on your programmer, Bob, but several female employees have accused him of using foul and sexist language. Concerned, you decide to confront Bob.
  - You call Bob into your office and tell him, "I've heard that you've been using bad language toward several female colleagues, and I have to ask you to change your attitude and stop it."
  - In response, Bob gets angry, accusing you of failing to listen to his side of the story. Ultimately, he quits, leaving you without a replacement and with the deadline still looming.

- Confrontation is usually challenging no matter how you approach it, but the good news is that there's a way to confront someone effectively, enabling you to win changes in behavior without crippling the relationship. In essence, this *principled confrontation* boils down to five steps: (1) get perspective, (2) start with humility, (3) thoughtfully confront, (4) focus on the future, (5) get perspective.
  
- Rushing into a confrontation is usually a prescription for disaster. The emotions are too raw, the risks of misjudgment are too great, and the chances for saying the wrong thing are too high. For these reasons, the first task in principled confrontation is to slow down and decide whether the situation is worth a confrontation at all or whether it's a small matter that you can overlook.
  - You might seek advice from someone wise who can confirm or correct your judgment and coach you for the confrontation ahead.
  
  - Of course, it's also a good idea to prepare well, gathering facts and role-playing the encounter. Preparing also means finding your best alternative, so that you know what you'll do if the person refuses to change his or her behavior.
  
  - Finally, it's a good idea to remember the last time someone confronted you. That memory may help you confront someone else without seeming arrogant or condescending.
  
- Next, schedule the conversation in private and start it with humility. Raise the topic briefly and factually, without pre-judgment. In the situation with Bob, you might say, "I've heard more than one person say that you've used strong, troubling language in speaking to some of the women in the office. What's going on?" Notice that you're simply raising the issue here and asking about it. Bob can't say that you're biased or unfair; you're just seeking important information.
  - Then, it's time to practice humility another way, by listening. Here, you're signaling open-mindedness, fairness, and respect, and you may well learn things that will help you see the

situation better. If Bob denies everything or adds shocking new facts, you can ask follow-up questions.

- If you're not sure what to do next, you can simply ask for more time to think about the situation and, perhaps, schedule another meeting.
- The next step is to thoughtfully confront, making sure to emphasize the other person's behavior, not his or her character, attitude, or personality. In short, you want to focus on the problem, not the person.
  - One way to frame the message without provoking needless resentment is to rely more on *I* statements than *you* statements: "Bob, I expect professional language and conduct in the office. It's fine to express anger if necessary but not in a way that's demeaning to others."
  - Of course, in many instances, the person you're confronting may become defensive. You can cope by using active listening to show that you understand, but then correct any mistaken conclusions he or she may jump to.
  - You may need to be ready to repeat your message several times and in different ways. Some psychologists say that it takes 4 to 10 repetitions for a confrontational message to get through.
- As you focus on the future, you should press for concrete, measurable change, not vague assurances: "Bob, what can we do about this situation now to be sure things change starting today? Let's think about some ideas." Inviting Bob's participation may encourage his buy-in to the solution. Note, however, that you're not making trades or deals; this is a confrontation, not a negotiation.
  - To encourage the person to think of change as worthwhile, talk about your sincere hopes for the future: "Bob, if things change, I'm confident you have a good future here. I wouldn't be talking with you if I didn't think so."

- But you also need to be ready to warn and escalate if the other party is unwilling to change. In your preparation, you should have identified the most credible and least coercive things you can do that will get his or her attention. In Bob's case, you might note that his behavior will be brought up in reference checks from future employers.
- The goal here is to win the other person's commitment to specific action, with a plan to follow up to assess the change. With that in hand, you can end with a handshake.
- Finally, you should return to the first step—get perspective—by debriefing with your confidante, reviewing the conversation, identifying corrections you may need to make, and following up with the other person if necessary to clarify points of confusion.

### **Mindfulness, Love, and Power**

- Throughout this negotiation training, we've looked at practical ways to foster greater mindfulness and harmony where at first it seems that the negotiators are completely at odds. We talked about asking stupid questions; going slow to go fast; being hard on the problem but soft on the person; bringing others to their senses, not their knees; and so on.
- We've looked intentionally for ways to go below the surface of conflicts and disagreements and discover hidden unities and harmonies. In negotiation, we approach conversations with intentionality, seeking to learn both before and during the talks. We don't always agree, but we seek to disagree without anger. And even when we find ourselves fighting the other side, we cultivate the ability to do so in ways that require the least coercion necessary.
- To further build trust, we sometimes look for ways to surrender a measure of control to others. When we are advocating for ourselves, we try to moderate our ambitions at least slightly, seeking a just and justifiable outcome, recognizing that the other person needs a profit margin and that a reputation for greediness tends to backfire.



**Many aspects of meditative prayer are similar to skillful negotiation practices: dumb listening, a willingness to notice thoughts without judgment, and the ability to proceed slowly.**

And we're open in other situations to intentionally compromising, satisficing, or even sacrificing.

- In all of these ways and others, it can seem superficially as if we are merely developing negotiating skills that can serve us individually, and in a sense, that's true. But there is a deeper aspect to this work—the practical ability to see beyond ourselves to the other person and discover hidden connections. That's prudent in a world where we may not be as disconnected as we first think.
- Curiously, practices within many meditative and prayer traditions parallel practices used by skilled negotiators. Specifically, the person meditating or praying practices a kind of dumb listening, seeks to notice his or her own thoughts without judgment, proceeds slowly and quietly, and is comfortable with silence. In fact, these practices may be an additional way, besides preparation and role-

playing, to help you remain calm in difficult negotiations and confrontations.

- Mindfulness, meditation, and prayer all speak to an idea that seems far removed from the work of conflict management and negotiation but may actually be at the very heart of the matter: the idea of deep compassion or love.
- As we've said, love seems utterly foreign to such situations as business negotiation. In that realm, we often talk about hard bargaining, nuts and bolts, brass tacks, and other terms that fit nicely in a solid, mechanistic, Newtonian universe of separate beings. But both ancient teachings and modern science suggest that we may be missing something about reality and ourselves when we insist on emphasizing our separateness and hardness.
  - There's a sense in which we are always negotiating with ourselves, and the negative qualities we sometimes see in others are, as often as not, reflections of our own negative qualities. That's an idea as modern as the psychotherapeutic notion of projection. But it's also as old as ancient wisdom: "Judge not lest you be judged, for wherever you judge another, you judge yourself for you know you do the same things."
  - Further, the way we treat others seems, in many ways, to ultimately redound to us, for better or worse; this idea is found in such Eastern ideas as Karma and in the Judeo-Christian tradition that you reap what you sow. In a sense, it is we ourselves we are punching, gentling, haggling, lovingly confronting, and making peace with.
- Of course, we can go too far with all this talk of compassion and empathy. Martin Luther King himself said, "Love without power is sentimental and anemic." Fortunately, if you think about it, much of what we have looked at in this course has been about the wise acquisition and use of power. How can we reconcile these two conflicting ideas? How can we understand the interaction of love and power?

- The answer may be found in the rest of Dr. King’s quote: “Power at its best is love implementing the demands of justice, and justice at its best is power correcting everything that stands against love.” At its best, principled negotiation can be part of the larger task of winning warmly, of combining power and love, of fighting for justice, and of loving our neighbors as ourselves.

### Suggested Reading

Donald, *Lincoln*.

Oates, *Let the Trumpet Sound*.

Sande, *The Peacemaker*.

### Questions to Consider

1. What are the six basic steps of principled confrontation?
2. What aspects of our course cultivate power? What aspects of our course cultivate and are enhanced by love? How might you combine power and love through negotiation in a difficult problem you are facing?

## Bibliography

Aristotle. *Rhetoric*. Stanley Frost, 2013. A classic treatise on how to persuade.

Austin, Nancy, and Thomas J. Peters. *A Passion for Excellence: The Leadership Difference*. Grand Central Publishing, 1989. Particularly noteworthy is chapter 2, “No Such Thing as a Commodity.”

Babcock, Linda, and Sara Laschever. *Ask for It: How Women Can Use Negotiation to Get What They Really Want*. Bantam, 2008. Groundbreaking research-based look at the negotiation side of the pay gap.

———. *Women Don't Ask: The High Cost of Avoiding Negotiation— and Positive Strategies for Change*. Princeton University Press, 2003. A groundbreaking and thought-provoking book about how and why women negotiate less and get less in salary negotiations than men. Based on original research, the authors found that women even do worse when negotiating with other women than men do when negotiating with men. An important book that demonstrates that the pay gap is partly due to sexism, partly due to other insidious factors that make it harder for women to negotiate for themselves at work.

Bernstein, Richard. *Fragile Glory: A Portrait of France and the French*. Plume, 1991. A telling and rich account of French culture and sensibilities at a time when France was more prosperous and unhappy than it had been in many years.

Bolles, Richard. *What Color Is Your Parachute? A Practical Manual for Job-Hunters and Career-Changers*. Rev. ed. Ten Speed Press, 2013. A classic guide to job seeking, this work was rated by the Library of Congress as one of the 100 most important books of the 20<sup>th</sup> century. Practical, engaging, witty, wise, and annually updated. It contains a profound essay at the end entitled “How to Find Your Mission in Life.”

Bolton, Robert. *People Skills: How to Assert Yourself, Listen to Others, and Resolve Conflicts*. Touchstone, 2009. Offers valuable suggestions about managing conflict, including ways to use active listening during difficult confrontations.

Brown, Peter, and Steven Gaines. *The Love You Make: An Insider's Story of the Beatles*. NAL Trade, 2002. Includes a number of telling and painful accounts of Beatles manager Brian Epstein's negotiations.

Brown, Scott. *How to Negotiate with Kids ... Even if You Think You Shouldn't: 7 Essential Skills to End Conflict and Bring More Joy into Your Family*. Viking Adult, 2003. A good introduction to negotiation and ways to apply it to family life.

Caro, Robert A. *The Years of Lyndon Johnson*. Vol. II: *Means of Ascent*. Vintage, 2011. Caro's biography of Johnson may be without parallel among political biographies in its scope, depth, insight, and drama—a *Citizen Kane*-like work. Much of Johnson's story is shocking and disturbing, yet Caro never descends to simple moralism on the one hand or detached, bloodless description on the other. We get instead a portrait comparable to the work of the great portrait painters of old. Johnson emerges, by turns, as troubled, unconscionable, inspired, crooked, driven beyond belief, funny,ameleon-like, and perhaps the most incisive and astute political figure of the century. *Means of Ascent* recounts how Johnson stole the 1948 Texas Senate race. It includes a profound depiction of the inner processes of government at midcentury and, thus, inevitably adds deep color and perspective on the uses and misuses of negotiation in that rarified field. Caro has said that his goal for the biography was not to lionize or condemn Johnson but to help Americans understand how power really operates in American public life, and the four-volume series does that and more.

———. *The Years of Lyndon Johnson*. Vol. IV: *The Passage of Power*. Vintage, 2008. Caro's remarkable account of Lyndon Johnson's critical first year as president; recounts both Johnson's venal corruption and his brilliant statesmanship. The book's account of Johnson's work to save his presidency in its first week and his efforts to pass the Civil Rights Act of 1964 is an

education in brilliant negotiating—far more effective, in truth, than what John Kennedy’s administration demonstrated in domestic affairs.

Carter, Jimmy. *Talking Peace: A Vision for the Next Generation*. Puffin, 1995. President Carter’s book on conflict management. Written with young readers in mind. Includes a readable and telling account of the Camp David Peace Accord talks.

Cloud, Henry, and John Townsend. *Boundaries: When to Say Yes, When to Say No—To Take Control of Your Life*. Running Press Miniature Editions, 2004. Explores ways to thoughtfully and wisely say no and reasons why doing so is often the most loving thing you can do.

Cooter, Robert G., Jr., and Thomas Ulen. *Law and Economics*. 6<sup>th</sup> ed. Prentice Hall, 2011. A well-crafted textbook that explores ways economists try to extend their system of thought and their faith assumptions to matters of justice and public policy. Within limits, a bracing and thought-provoking perspective that can shed light on legal issues and questions of property, scarcity, and sharing. Past a point, though, conflating law and economics is dangerous and questionable. Are justice and efficiency really largely the same thing? Some in the law and economics movement assert that they are, with dangerous implications in some cases.

Craig, Michael. *The 50 Best (and Worst) Business Deals of All Time*. Career Press, 2000. Includes some memorable cases of great and awful business deals, including Sony’s disastrous deal to hire Jon Peters and a deal that saved McDonalds by, in effect, turning it into a real estate company. Very much about “deals” in the business sense of the term, with numerous discussions of noteworthy mergers and acquisitions.

Diamond, Jared. *Guns, Germs, and Steel: The Fates of Human Societies*. W. W. Norton and Co., 1999. Highly popular consideration of why white people dominate the world. (Short answer: geographic advantages favored their ancestors.) Relevant to us because it describes at length how common it was for our forbearers to annihilate or enslave one another—a deep basis for a trust problem if ever there was one.

Diamond, Stuart. *Getting More: How You Can Negotiate to Succeed in Work and Life*. Three Rivers Press, 2012. A colorful, rich book on negotiation, with a general emphasis on seeking mutual gains. Contains many telling stories and novel insights about the critical importance of appreciating the people in the talks.

Dolnik, Adam, and Keith Fitzgerald. *Negotiating Hostage Crises with the New Terrorists*. Praeger Paperback, 2007. Explores the idea that it is possible to successfully negotiate with the more violent and seemingly craven breed of modern terrorists. Applies interest-based and other negotiation techniques and recounts cases in which, surprisingly, the approach has worked and cases in which it hasn't. Includes an account of German interrogator Hans Scharff.

Donald, David Herbert. *Lincoln*. Simon & Schuster, 2011. Portrays Lincoln as a canny politician, statesman, and manager of a conflict almost beyond human imagination. Perhaps most noteworthy is Lincoln's capacity to deal with hostility from allies and enemies alike without bitterness. He embodies to an extraordinary degree the qualities of kindness and power we aspire to in the course.

Ellickson, Robert. *Order without Law: How Neighbors Settle Disputes*. Harvard University Press, 1991. A provocative and widely assigned exploration of a fundamental question for law, economics, sociology, and negotiation: Can people get along without law? Built on a telling account of a summer spent talking to ranchers and farmers about how they actually deal with one another when cattle eat farmers' wheat.

Fisher, Roger, William L. Ury, and Bruce Patton. *Getting to Yes: Negotiating Agreement without Giving In*. Rev. ed. Penguin Books, 2011. One of the most acclaimed and widely read negotiation books of all time, this cogent, clear, readable work is a cornerstone of modern negotiation training that popularized the idea of interest-based bargaining. I am deeply indebted to its authors.

Fitzgerald, F. Scott. *The Great Gatsby*. Reissue ed. Scribner, 2003. The closing sentence of this novel articulates poetically the danger of the hedonic treadmill that ultimately killed Gatsby and tempts us all.

Fortna, Virginia Page. *Peace Time: Cease-Fire Agreements and the Durability of Peace*. Princeton University Press, 2004. Brilliant study of literally every cease-fire agreement and peace accord since 1945. Using an empirical approach that applies a variety of social science analytical tools, the book draws specific, nonobvious, and often surprising conclusions about the extent to which peace accords actually work, what works in peace negotiations, and what doesn't work.

Foster, Dean Allen. *Bargaining across Borders*. McGraw-Hill, 1995. One of the leading books on cross-cultural negotiations.

Freeman, Seth. *The Ready and Able Negotiator: How to Get Set for Any Negotiation with I FORESAW IT, the Breakthrough Preparation Tool*. Handshake Press, 2013. Written by the course instructor, this book is a brief, practical, illustrated guide to getting ready to negotiate using the I FORESAW IT mnemonic. Part I reviews the mnemonic letter by letter. Later parts explore how to apply the mnemonic to advanced negotiation challenges and how to use I FORESAW IT 2.0 to role-play. Specific challenges are included to further develop your negotiating skills with the mnemonic's help.

Frost, Robert. "Mending Wall." In *The Norton Anthology of American Literature*. 7<sup>th</sup> ed. Edited by Nina Baym et al. W. W. Norton and Co., 2007. A profound consideration of trust mechanisms and our ambivalence about them. We hate them and need them; deny we want them and seek them. Something wants a wall down, but what? The answer is partly our longing for connection but also partly the fact that hunters threaten our land to "have the rabbit out of hiding." Thus, the narrator plays a game of sleight of hand, inviting the reader to think he hates walls because he sees how oppressive they are. Only on second reading do you notice that the narrator asks to rebuild his wall.

Gabre-Madhin, Eleni. "A Commodities Exchange for Ethiopia." TEDGlobal, 2007. An inspiring talk on how the exchange helped solve the trust problem that had partially triggered the Ethiopian famine.

Gage, David. *The Partnership Charter: How to Start out Right with Your New Business Partnership (or Fix the One You're In)*. Basic Books, 2004.

A practical guide to creating better partnerships by going beyond the terms of a partnership contract and building a stronger, clearer, more committed relationship.

Goodwin, Doris Kearns. *Lyndon Johnson and the American Dream*. St. Martin's Griffin, 1991. Paints a portrait of Johnson as a cunning influencer of men. Includes a telling account of his extraordinary preparation for key conversations with Senate colleagues and a description of his deep and in some ways tragic faith in his ability to get anyone to agree with him—even Ho Chi Min if Johnson could just get him into the room. Johnson's conduct as a politician is fascinating, occasionally edifying, but far more often disturbing because of the Machiavellian way in which he approached politics.

Grant, Adam M. *Give and Take: A Revolutionary Approach to Success*. Viking Adult, 2013. Wharton professor Adam Grant explores whether nice guys finish first or last and finds that the answer is both: Although some who give generously in their professional lives do worse than others, those who give generously while being “savvy as a serpent, harmless as a dove” do better than others. Drawing on a wide variety of social science research and telling case histories, Grant makes the case that a self-centered, aggressive approach may work to a point but ultimately tends to backfire, as does a “you-scratch-my-back, I'll-scratch-yours” approach.

Greenblatt, Stephen. *Will in the World: How Shakespeare Became Shakespeare*. W. W. Norton and Co., 2010. A celebrated and Pulitzer Prize-winning speculation about how William Shakespeare of Stratford might have written the plays and sonnets. The book starts with the observation that we know next to nothing about Shakespeare and attempts to shed light on whether and how he wrote the plays. The first line of the first chapter is telling: “Let us imagine . . . .” And so the book does, quite eloquently at times, for several hundred pages. Read it together with *Shakespeare beyond Doubt?* (Shahan and Waugh, below) for a solid introduction to the Shakespeare authorship question, with Greenblatt making a widely embraced case for Shakespeare and a team of other scholars making the case that reasonable doubt exists.

Hamilton, Alexander, James Madison, and John Jay. *The Federalist Papers*. Acheron Press, 2012. Includes famous essays on the nature and value of a strong federal government and ways to ensure it won't become tyrannical.

Hechter, Michael, and Christine Horne, eds. *Theories of Social Order: A Reader*. Stanford Social Sciences, 2009. A valuable collection of essays on why and how people get along.

Holy Bible (New International Version). Zondervan, 2011. Source for much of the power of Martin Luther King's nonviolent movement, a reference point for Mahatma Gandhi, and a foundational source for the idea and value of being hard on the problem but soft on the person. Many other ideas from the course also find connection here.

Hoyt, Austin. "The Richest Man in the World: Andrew Carnegie." *American Experience*. PBS, 1997. *American Experience* is a beautifully produced series of documentaries about key figures in American history; its treatment of Andrew Carnegie has moral depth, rich storytelling, and nuanced character development worthy of such a complex figure. Includes the story of Carnegie's odd mistake of selling his holdings to J. P. Morgan for considerably less than they were probably worth.

Johnston, Douglas, ed. *Faith-Based Diplomacy: Trumping Realpolitik*. Oxford University Press, 2003. Johnston and others make the case that religion can actually be a balm and a bridge between seemingly irreconcilable cultures enmeshed in serious conflict.

Johnston, Douglas, and Cynthia Sampson, eds. *Religion, the Missing Dimension of Statecraft*. Oxford University Press, 1995. As in *Faith-Based Diplomacy*, Johnston and others argue for the place of religion in addressing cultural conflict.

Johnston, Peter D. *Negotiating with Giants: Get What You Want against the Odds*. Negotiation Press, 2012. A useful and practical book that offers a wide variety of cases and ideas to help seemingly weak negotiators find power in their dealings with formidable counterparts.

Kennedy, Gavin. *Field Guide to Negotiation: A Glossary of Essential Tools and Concepts for Today's Manager*. Harvard Business School Press, 1994. One of the most pithy, funny, and incisive works on the subject. Its dictionary format encourages browsing. It usually offers a new insight every time you pick it up for a moment or two.

Lax, David A., and James K. Sebenius. *3-D Negotiation: Powerful Tools to Change the Game in Your Most Important Deals*. Harvard Business Review Press, 2006. A useful guide to complex negotiation.

———. *The Manager as Negotiator*. Free Press, 1987. The first half of this guide to negotiation explores basic elements of the skill; the second half explores complex applications. The work is erudite and insightful, with some interesting case studies similar to those one might use in a business school class. I drew a great deal from the book when I first created my business school course on negotiation and still refer to it.

LeBlanc, Steven, and Katherine Register. *Constant Battles: The Myth of the Peaceful, Noble Savage*. St. Martin's Press, 2013. A troubling and telling exploration of what archaeology tells us about the violent lives our ancestors lived.

Levitt, Steven D., and Stephen J. Dubner. *Freakonomics: A Rogue Economist Explores the Hidden Side of Everything*. William Morrow, 2005. Highly popular, the book contains more than one provocative study that bears on the trust problem and negotiation, including the Bagel Man's natural experiment trusting customers and evidence that real estate agents rush buyers and sellers to close.

Lewicki, Roy, Bruce Barry, and David Saunders. *Negotiation: Readings, Exercises, and Cases*. 6<sup>th</sup> ed. McGraw-Hill/Irwin, 2009. The single best business school-style case study in the field of negotiation; it recounts a disastrous negotiation in which one party—Fontaine—simply fails to prepare effectively and pays a severe price for it.

Lewicki, Roy, David Saunders, and Bruce Barry. *Negotiation*. 6<sup>th</sup> ed. McGraw-Hill/Irwin, 2009. A widely read textbook on negotiation written by some of the leaders in the field.

Madison, James. “Notes on the Confederacy, Vices of the Political System of the United States.” In *Letters and Other Writings of James Madison, 1769–1793*. RareBooksClub.com, 2012. Madison’s warning that the trust problem was destroying the new republic. A call to action that helped lead to the Constitutional Convention and the replacement of the old Articles of Confederation with a far more elaborate set of trust mechanisms—the Constitution.

McLean, Bethany, and Peter Elkind. *The Smartest Guys in the Room: The Amazing Rise and Scandalous Fall of Enron*. Portfolio Trade, 2004. Companion to the movie by the same name, a study of the shocking conduct that led to the collapse of Enron, one of the most powerful and respected companies in America.

Meehl, Cindy, director. *Buck*. Cedar Creek Productions, 2011. A touching, moving, and profound look at Buck Brannaman, one of the inspirations for the movie *The Horse Whisperer*.

Menkel-Meadow, Carrie, and Michael Wheeler, eds. *What’s Fair: Ethics for Negotiators*. Jossey-Bass, 2010. Edited and written by top figures in the field, this book includes a searching look at ethical questions faced by negotiators. It discusses an interesting study led by Harvard and Ohio State that asked 700 executives what behaviors they considered appropriate in business negotiation.

Milgrom, Paul, and John Roberts. *Economics, Organization and Management*. Prentice Hall, 1992. A widely used textbook on organizational economics, with a clear, cogent review of transaction cost economics and the theory of the firm, among other topics.

Mnookin, Robert. *Bargaining with the Devil: When to Negotiate, When to Fight*. Simon and Schuster, 2010. A thoughtful and nuanced consideration of the case against and for negotiating with enemies and tyrants.

Mnookin, Robert H., Scott R. Peppet, and Andrew S. Tulumello. *Beyond Winning: Negotiating to Create Value in Deals and Disputes*. Belknap Press, 2004. An excellent, groundbreaking case for applying an interest-based negotiation approach to legal negotiation and representation.

Morris, Errol, director. *The Fog of War: Eleven Lessons from the Life of Robert S. McNamara*. Sony Classics, 2003. Worthy of the Academy Award it won for best documentary, this work contains shocking, unforgettable, and lasting insights about the nature and traps of modern international conflict. McNamara is an intriguing figure—by turns candid and opaque, humbled and arrogant. Watch it with a friend and you'll find his stories of World War II, the Cuban missile crisis, and Vietnam virtually guarantee a long and intense conversation afterwards.

Nelsen, Jane, Steven Foster, and Arlene Raphael. *Positive Discipline for Children with Special Needs: Raising and Teaching All Children to Become Resilient, Responsible, and Respectful*. Harmony, 2011. A surprising and hopeful look at ways to be firm and loving with special needs children without being authoritarian or coddling. Draws on insights that parallel a principled negotiator's focus on being hard on the problem but soft on the person.

Neustadt, Richard Elliott. *Presidential Power: Politics of Leadership from F.D.R. to Carter*. John Wiley and Sons, 1980. A modern classic that documents the extent to which even a president must rely largely on persuasion, negotiation, and consensus building to get things done.

Oates, Stephen. *Let the Trumpet Sound: The Life of Martin Luther King, Jr.* HarperCollins, 1982. An inspiring biography of the great civil rights leader, with revealing accounts of his efforts to use nonviolent force to achieve civil rights for African Americans. Nonviolence was, in a sense, a creative move away from the table that helped shift the power balance at the negotiation table.

Orwell, George. "Politics and the English Language." In *The Norton Reader: An Anthology of Nonfiction*. 13<sup>th</sup> ed. Edited by Linda Peterson et al. W. W. Norton and Co., 2011. A classic and profound essay that eloquently warns

readers about “desk murderers” whose writings blandly justify horrific political conduct. Also includes a valuable set of rules for how to avoid writing in an artful, banal, and dull way that fosters cruelty, obfuscation, and deceit.

Ostrom, Elinor. *Governing the Commons: The Evolution of Institutions for Collective Action*. Cambridge University Press, 1990. Brilliantly researched, this work demonstrates that there are creative and successful ways people around the world cope with common pool resource problems without relying on private property rights. Ostrom won a Nobel Prize for this and other works on the subject.

Patterson, Kerry, Joseph Grenny, Ron McMillan, and Al Switzler. *Crucial Conversations: Tools for Talking When Stakes Are High*. McGraw-Hill, 2002. A clear, succinct, and practical look at how to talk about tough matters safely.

Pink, Daniel. *A Whole New Mind: Why Right-Brainers Will Rule the Future*. Riverhead Trade, 2006.

Rackham, Neil. *SPIN Selling*. McGraw-Hill, 1988. A widely read and followed guide to negotiation based on thousands of interviews with salespeople and thousands of observed sales calls. One of the first books to empirically test and challenge many of the conventional beliefs about salesmanship. It revealed several surprises about what excellent salesmanship really requires.

Rackham, Neil, and John Carlisle. “The Effective Negotiator. Part I: The Behaviour of Successful Negotiators.” *Journal of European Industrial Training* 2(6): 6–11. Milestone study comparing excellent and mediocre negotiators.

Raiffa, Howard. *The Art and Science of Negotiation*. Belknap Press, 1985. By turns theoretical and case-based, this work explores progressively complex negotiations with the aid of game theory and other analytical tools.

Rees, Laurence. *World War II behind Closed Doors: Stalin, the Nazis and the West*. British Broadcasting Corporation, 2009. A telling and dramatic account of the negotiations that shaped the war and, by extension, the modern world.

Salacuse, Jeswald W. *The Global Negotiator: Making, Managing and Mending Deals around the World in the Twenty-First Century*. Palgrave Macmillan, 2003. Salacuse is a particularly incisive and valuable writer on negotiation, and this work is one of the best on cross-cultural negotiation.

Sandberg, Sheryl. *Lean In: Women, Work, and the Will to Lead*. Knopf, 2013. Highly popular and provocative, this book urges women to overcome the fear of going against the social penalty they often face for legitimately seeking a seat at the table. Includes some good negotiation guidance for women. As I note in the course, though, it's also possible for women (and men) to win warmly without taking on quite so much of the social cost they face for asking. But as a father of two future women, I strongly support books, such as this one, that summon women to seek just compensation and power in business life.

Sande, Ken. *The Peacemaker: A Biblical Guide to Resolving Personal Conflict*. Baker Books, 2004. A profound and spiritually grounded exploration of negotiation, confrontation, and other conflict management methods from a biblical perspective.

Schwartz, Barry. *The Paradox of Choice*. HarperCollins e-Books, 2009. A groundbreaking exploration of the problem that more choice may create less happiness.

Shahan, John M., and Alexander Waugh, eds. *Shakespeare beyond Doubt? Exposing an Industry in Denial*. Llumina Press, 2013. A point-by-point critique of a book called *Shakespeare beyond Doubt: Evidence, Argument, Controversy*, edited by Paul Edmondson and Stanley Wells. Taking the orthodox position, the work of Edmondson and Wells claims to prove that the author of the great plays and sonnets was Stratford's William Shakspere. (*Shakspere* is the way the man in question wanted his name spelled in real-life matters.) *Shakespeare beyond Doubt?* makes the case that the first book is riddled with logical and factual errors and that there is reasonable doubt

that Shakspere actually wrote anything at all. *Shakespeare Beyond Doubt?* makes no attempt to propose an alternative candidate and does not assert that there is no case for Shakspere—only that the case is weak.

Shell, G. Richard. *Bargaining for Advantage: Negotiation Strategies for Reasonable People*. Penguin Group, 2006. One of the best single-volume books on how to negotiate, with a fine mix of social science research and engaging stories. Emphasizes an information-based approach and pays close attention to the ways in which your personality affects your bargaining temperament.

Smith, Adam. *An Inquiry into the Nature and Causes of the Wealth of Nations*. Amazon Digital Services. A classic, groundbreaking book that first seeks to answer a simple question: Why are the poor of England able to afford shoes when the poor of France are not, and why is the extension of wealth to the poor a good thing? The idea that the poor should prosper seems noncontroversial today, but in 1776, it was quite controversial. In *The Wealth of Nations*, Smith makes the case that wealth for the many is a good thing and that protectionism—or mercantilism—stifles such growth. He then argues generally (though not absolutely) for free markets as a key to growth. In the course of his exploration of the idea, he explains why markets encourage cooperation even though people can be quite self-seeking. Economists have embraced this latter point with special fervor and, in a sense, rightly so because Smith arguably was primarily concerned with the problem of cooperation—that is, the trust problem. But read together with Smith's prequel, *The Theory of Moral Sentiments*, *The Wealth of Nations* becomes part of a larger answer—a partial solution to the question of how it is that people get along when they are tempted to take advantage. In that sense, *The Wealth of Nations* is not a narrow plea for free markets but an exploration of one side of the trust problem and of one particular set of trust mechanisms—the ones that make a market function; it presents part of a nuanced understanding of the trust problem and its wealth-creating solutions.

———. *The Theory of Moral Sentiments*. Digireads.com, 2011. Smith's prequel to *The Wealth of Nations*, this work explores the extent to which human empathy and compassion help explain human cooperation, among other things. Reveals a side of Smith's thinking that most people aren't

aware of and suggests that Smith was a nuanced and sophisticated thinker about the human condition.

Stanton, Frederik. *Great Negotiations: Agreements That Changed the Modern World*. 2<sup>nd</sup> ed. Westholme Publishing, 2010. Excellent account of historic negotiations, such as Franklin's negotiations with the French and Tallyrand's surprising success representing defeated France at the Congress of Vienna in 1815.

Stone, Douglas, Bruce Patton, Sheila Heen, and Roger Fisher. *Difficult Conversations: How to Discuss What Matters Most*. Penguin Books, 2010. A thoughtful, rich look at how to talk about tough matters safely.

Thompson, Leigh. *The Mind and Heart of the Negotiator*. 5<sup>th</sup> ed. Prentice Hall, 2011. A widely read textbook on negotiation, written by one of the leaders in the field.

Ury, William. *Getting Past No*. Bantam, 2007. A particularly rich, clear, succinct, and profound look at ways to deal wisely with others who at first seem difficult or impossible to deal with.

———. *The Power of a Positive No*. Bantam, 2007. A valuable exploration of ways to set limits without being disagreeable or hard on the relationship.

Ury, William L., Jeanne M. Brett, and Stephen B. Goldberg. *Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict*. Jossey-Bass, 1988. A practical, clear, valuable work on alternative dispute resolution arrangements and how to use them.

Wasserman, Noam. *The Founder's Dilemmas: Anticipating and Avoiding the Pitfalls That Can Sink a Startup*. Princeton University Press, 2012. A valuable study of the key negotiation traps faced by entrepreneurs.

Watkins, Michael. *Breakthrough Business Negotiation: A Toolbox for Managers*. Jossey-Bass, 2002. A rich, clear, well-illustrated look at a number of advanced insights about negotiation and the source for the BargainMart

case we explored as an illustration of the power of making moves away from the table.

Woolf, Bob. *Friendly Persuasion: My Life as a Negotiator*. Putnam Adult, 1990. Insightful advice and stories by one of the deans of modern sports agency.

Zartman, William. *The 50% Solution: How to Bargain Successfully with Hijackers, Strikers, Bosses, Oil Magnates, Arabs, Russians, and Other Worthy Opponents in This Modern World*. Anchor Press, 1976. An early and good collection of memorable negotiation cases.